SENATE BILL No. 869

October 12, 1993, Introduced by Senator EHLERS and referred to the Committee on Health Policy.

A bill to amend sections 17745 and 17757a of Act No. 368 of the Public Acts of 1978, entitled as amended

"Public health code,"

section 17745 as amended by Act No. 281 of the Public Acts of 1992 and section 17757a as added by Act No. 333 of the Public Acts of 1990, being sections 333.17745 and 333.17757a of the Michigan Compiled Laws; and to add sections 7303a, 17745a, and 17746.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

Section 1. Sections 17745 and 17757a of Act No. 368 of the Public Acts of 1978, section 17745 as amended by Act No. 281 of the Public Acts of 1992 and section 17757a as added by Act No. 333 of the Public Acts of 1990, being sections 333.17745 and 333.17757a of the Michigan Compiled Laws, are amended and sections 7303a, 17745a, and 17746 are added to read as follows:

SEC. 7303A. (1) A PRESCRIBER WHO HOLDS A CONTROLLED SUBSTANCES LICENSE MAY ADMINISTER OR DISPENSE A CONTROLLED SUBSTANCE LISTED IN SCHEDULES 2 TO 5 WITHOUT A SEPARATE CONTROLLED SUBSTANCES LICENSE FOR THOSE ACTIVITIES.

(2) BEFORE PRESCRIBING OR DISPENSING A CONTROLLED SUBSTANCE TO A PATIENT, A LICENSED PRESCRIBER SHALL ASK THE PATIENT ABOUT OTHER CONTROLLED SUBSTANCES THE PATIENT MAY BE USING. THE PRESCRIBER SHALL RECORD THE PATIENT'S RESPONSE IN THE PATIENT'S MEDICAL OR CLINICAL RECORD.

(3) A LICENSED PRESCRIBER WHO DISPENSES CONTROLLED SUBSTANCES SHALL MAINTAIN ALL OF THE FOLLOWING RECORDS SEPARATELY FROM OTHER PRESCRIPTION RECORDS:

(A) ALL INVOICES AND OTHER ACQUISITION RECORDS FOR EACH CONTROLLED SUBSTANCE ACQUIRED BY THE PRESCRIBER FOR NOT LESS THAN 5 YEARS AFTER THE DATE THE PRESCRIBER ACQUIRES THE CONTROLLED SUBSTANCE.

(B) A LOG OF ALL CONTROLLED SUBSTANCES DISPENSED BY THE PRESCRIBER FOR NOT LESS THAN 5 YEARS AFTER THE DATE THE CONTROLLED SUBSTANCE IS DISPENSED.

(C) RECORDS OF ALL OTHER DISPOSITIONS OF CONTROLLED SUBSTANCES UNDER THE LICENSEE'S CONTROL FOR NOT LESS THAN 5 YEARS AFTER THE DATE OF THE DISPOSITION.

(4) THE REQUIREMENT UNDER SECTION 7303 FOR A LICENSE IS WAIVED IN THE FOLLOWING CIRCUMSTANCES:

(A) WHEN A CONTROLLED SUBSTANCE LISTED IN SCHEDULES 2 TO 5 IS ADMINISTERED ON THE ORDER OF A LICENSED PRESCRIBER BY AN

INDIVIDUAL WHO IS LICENSED UNDER ARTICLE 15 AS A PRACTICAL NURSE, A REGISTERED PROFESSIONAL NURSE, OR A PHYSICIAN'S ASSISTANT.

(B) WHEN A CONTROLLED SUBSTANCE LISTED IN SCHEDULES 2 TO 5 IS DISPENSED ON THE ORDER OF A LICENSED PRESCRIBER IN A METHADONE TREATMENT PROGRAM LICENSED UNDER ARTICLE 6 OR A HOSPICE RENDERING EMERGENCY CARE SERVICES IN A PATIENT'S HOME AS DESCRIBED IN SECTION 17746 BY A REGISTERED PROFESSIONAL NURSE OR A PHYSICIAN'S ASSISTANT LICENSED UNDER ARTICLE 15.

Sec. 17745. (1) ~~A~~ EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION, A prescriber who wishes to dispense prescription drugs shall obtain from the board a drug control license for each location in which the storage and dispensing of PRESCRIPTION drugs occur. A drug control license is not necessary if the dispensing occurs in the emergency department, emergency room, or trauma center of a hospital licensed under article 17 or IF THE DISPENSING involves only the issuance of complimentary starter dose drugs.

~~(2) A dispensing prescriber shall comply with the contents, quality, labeling, and container specifications for prescriptions dispensed as provided in sections 17722(a) and (b), 17756, and 17761. A dispensing prescriber, except a dispensing prescriber who dispenses only complimentary starter dose drugs, shall comply with the consumer notice requirement of section 17757a. A dispensing prescriber, except a dispensing prescriber who dispenses only complimentary starter dose drugs, shall comply with the requirements for labeling, records, receipts, pharmaceutical housing inspections, and invoices of R 338.479, R 338.479a,~~

~~R 338.480, R 338.482(1) and (3), R 338.493f, and R 338.3153 of the Michigan administrative code in the same manner that a pharmacist is required to comply with those requirements.~~ A DISPENSING PRESCRIBER SHALL DISPENSE PRESCRIPTION DRUGS ONLY TO HIS OR HER OWN PATIENTS.

(3) A dispensing prescriber shall include in a patient's chart or clinical record a complete record, including PRESCRIPTION drug names, DOSAGES, and quantities, of all PRESCRIPTION drugs dispensed directly by the dispensing prescriber or indirectly under his or her delegatory authority. IF PRESCRIPTION DRUGS ARE DISPENSED UNDER THE PRESCRIBER'S DELEGATORY AUTHORITY, THE DELEGATEE WHO DISPENSES THE PRESCRIPTION DRUGS SHALL INITIAL THE PATIENT'S CHART, CLINICAL RECORD, OR LOG OF PRESCRIPTION DRUGS DISPENSED. IN A PATIENT'S CHART OR CLINICAL RECORD, A DISPENSING PRESCRIBER SHALL DISTINGUISH BETWEEN PRESCRIPTION DRUGS DISPENSED TO THE PATIENT AND PRESCRIPTION DRUGS PRESCRIBED FOR THE PATIENT. A DISPENSING PRESCRIBER SHALL RETAIN INFORMATION REQUIRED UNDER THIS SUBSECTION FOR NOT LESS THAN 5 YEARS AFTER THE INFORMATION IS ENTERED IN THE PATIENT'S CHART OR CLINICAL RECORD. ~~Subject to subsection (4), except in a public health program that does not have an on-site pharmacy, if a dispensing prescriber delegates the authority to dispense prescription drugs, he or she shall do all of the following:~~

~~(a) Allow the delegatee to dispense prescription drugs only under the control and personal charge of the dispensing prescriber.~~

~~(b) Be physically present at the time the prescription drugs are dispensed.~~

~~(c) Immediately before the prescription drugs are dispensed, personally perform a final inspection of the type of prescription drug, labeling, dosage, and amount of prescription drugs dispensed.~~

~~(4) The exception for public health programs that do not have an on-site pharmacy created in subsection (3) by the amendatory act that added this subsection does not apply after January 1, 1994.~~

~~(5) A dispensing prescriber shall dispense prescription drugs only to his or her own patients.~~

~~(6) Before dispensing a drug to a patient, a dispensing prescriber who intends to charge for dispensing the drug shall give a written prescription to the patient and shall instruct the patient that he or she may elect to have the prescription filled by the dispensing prescriber or the patient's pharmacy of choice.~~

~~(7) If a dispensing prescriber intends to charge for dispensing a drug to a patient, the dispensing prescriber shall inform the patient of that fact before dispensing the drug to the patient. The dispensing prescriber also shall list the charge for dispensing the drug as a separate item on the patient's bill.~~

(4) ~~(8)~~ A dispensing prescriber ~~who dispenses complimentary starter dose drugs~~ shall store ~~the complimentary starter dose~~ PRESCRIPTION drugs under conditions that will maintain

their stability, integrity, and effectiveness and will assure that the ~~complimentary starter dose~~ PRESCRIPTION drugs are free of contamination, deterioration, and adulteration. ~~The board may periodically inspect locations from which complimentary starter dose drugs are dispensed.~~

~~(9) As used in this section and section 17750:~~

~~(a) "Complimentary starter dose" means prescription drugs packaged, dispensed, and distributed in accordance with state and federal law that are provided to a dispensing prescriber free of charge by a manufacturer or distributor and dispensed free of charge by the dispensing prescriber to his or her patients.~~

~~(b) "Public health program" means 1 of the following:~~

~~(*i*) A local health department.~~

~~(*ii*) A migrant health center or a community health center as defined under sections 329 and 330 of subpart I of part C of title III of the public health service act, 42 U.S.C. 254b and 254c.~~

~~(*iii*) A family planning program designated by the department of social services as a provider type 23 under the social welfare act, Act No. 280 of the Public Acts of 1939, being sections 400.1 to 400.119b of the Michigan Compiled Laws, and verified by the department of public health.~~

(5) A DISPENSING PRESCRIBER SHALL STORE PRESCRIPTION DRUGS IN A SUBSTANTIALLY CONSTRUCTED, SECURELY LOCKABLE CABINET. ACCESS TO THE CABINET SHALL BE LIMITED TO INDIVIDUALS AUTHORIZED TO DISPENSE PRESCRIPTION DRUGS IN COMPLIANCE WITH THIS PART AND ARTICLE 7.

(6) UNLESS OTHERWISE REQUESTED BY A PATIENT, A DISPENSING PRESCRIBER SHALL DISPENSE A PRESCRIPTION DRUG IN A SAFETY CLOSURE CONTAINER THAT COMPLIES WITH THE POISON PREVENTION PACKAGING ACT OF 1970, PUBLIC LAW 91-601, 84 STAT. 1670.

(7) A DISPENSING PRESCRIBER SHALL DISPENSE A DRUG IN A CONTAINER THAT BEARS A LABEL CONTAINING ALL OF THE FOLLOWING INFORMATION:

(A) THE NAME AND ADDRESS OF THE LOCATION FROM WHICH THE PRESCRIPTION DRUG IS DISPENSED.

(B) THE PATIENT'S NAME AND RECORD NUMBER.

(C) THE DATE THE PRESCRIPTION DRUG WAS DISPENSED.

(D) THE PRESCRIBER'S NAME.

(E) THE DIRECTIONS FOR USE.

(F) THE NAME AND STRENGTH OF THE PRESCRIPTION DRUG.

(G) THE QUANTITY DISPENSED.

(H) THE EXPIRATION DATE OF THE PRESCRIPTION DRUG OR THE STATEMENT REQUIRED UNDER SECTION 17756.

(8) IN ADDITION TO MEETING THE REQUIREMENTS OF THIS PART, A DISPENSING PRESCRIBER WHO DISPENSES CONTROLLED SUBSTANCES SHALL COMPLY WITH SECTION 7303A.

(9) THE BOARD MAY PERIODICALLY INSPECT LOCATIONS FROM WHICH PRESCRIPTION DRUGS ARE DISPENSED.

(10) THE ACT, TASK, OR FUNCTION OF DISPENSING PRESCRIPTION DRUGS SHALL BE DELEGATED ONLY AS PROVIDED IN SECTION 16215 AND THIS PART.

(11) AS USED IN THIS SECTION, "COMPLIMENTARY STARTER DOSE" MEANS PRESCRIPTION DRUGS PACKAGED, DISPENSED, AND DISTRIBUTED IN

ACCORDANCE WITH STATE AND FEDERAL LAW THAT ARE PROVIDED TO A DISPENSING PRESCRIBER FREE OF CHARGE BY A MANUFACTURER OR DISTRIBUTOR AND DISPENSED FREE OF CHARGE BY THE DISPENSING PRESCRIBER TO HIS OR HER PATIENTS.

SEC. 17745A. (1) AS USED IN THIS SECTION:

(A) "PUBLIC HEALTH PROGRAM" MEANS 1 OF THE FOLLOWING:

(*i*) A LOCAL HEALTH DEPARTMENT.

(*ii*) A MIGRANT HEALTH CENTER OR A COMMUNITY HEALTH CENTER AS DEFINED UNDER SECTIONS 329 AND 330 OF SUBPART I OF PART C OF TITLE III OF THE PUBLIC HEALTH SERVICE ACT, 42 U.S.C. 254b AND 254c.

(*iii*) A FAMILY PLANNING PROGRAM DESIGNATED BY THE DEPARTMENT OF SOCIAL SERVICES AS A PROVIDER TYPE 23 UNDER THE SOCIAL WELFARE ACT, ACT NO. 280 OF THE PUBLIC ACTS OF 1939, BEING SECTIONS 400.1 TO 440.119B OF THE MICHIGAN COMPILED LAWS, AND VERIFIED BY THE DEPARTMENT OF PUBLIC HEALTH.

(*iv*) A METHADONE TREATMENT PROGRAM LICENSED UNDER ARTICLE 6.

(*v*) A RURAL HEALTH CLINIC.

(*vi*) A HOSPICE RENDERING EMERGENCY CARE SERVICES IN A PATIENT'S HOME AS DESCRIBED IN SECTION 17746.

(B) "RURAL HEALTH CLINIC" MEANS THAT TERM AS DEFINED IN SECTION 1861 OF PART C OF TITLE XVIII OF THE SOCIAL SECURITY ACT, CHAPTER 531, 49 STAT. 620, 42 U.S.C. 1395x.

(2) IN A PUBLIC HEALTH PROGRAM WITHOUT AN ON-SITE PHARMACY, A DISPENSING PRESCRIBER MAY DELEGATE THE DISPENSING OF PRESCRIPTION DRUGS ONLY TO THE FOLLOWING INDIVIDUALS:

(A) A REGISTERED PROFESSIONAL NURSE LICENSED UNDER PART 172.

(B) A PHYSICIAN'S ASSISTANT LICENSED UNDER PART 170 OR PART 175, IF THE DISPENSING PRESCRIBER IS RESPONSIBLE FOR THE CLINICAL SUPERVISION OF THE PHYSICIAN'S ASSISTANT.

SEC. 17746. A PHARMACY MAY ESTABLISH A MEDICATION BOX EXCHANGE PROGRAM FOR HOSPICE EMERGENCY CARE SERVICES RENDERED IN PATIENTS' HOMES, PURSUANT TO THIS SECTION AND RULES PROMULGATED UNDER THIS SECTION. THE PHARMACIST IN CHARGE OF THE PHARMACY SHALL BE RESPONSIBLE FOR DEVELOPING, IMPLEMENTING, AND COORDINATING THE PROGRAM IN CONJUNCTION WITH THE MEDICAL DIRECTOR OF THE HOSPICE PROGRAM. THE PHARMACIST IN CHARGE OF THE PHARMACY SHALL BE RESPONSIBLE FOR OBTAINING PRESCRIPTIONS FROM THE HOSPICE MEDICAL DIRECTOR FOR THE DRUGS DISPENSED FROM A MEDICATION BOX. THE BOARD MAY PROMULGATE RULES TO IMPLEMENT THIS SECTION.

Sec. 17757a. (1) Upon a request made in person or by telephone, a dispensing prescriber ENGAGED IN THE BUSINESS OF SELLING PRESCRIPTION DRUGS shall provide the current selling price of a drug dispensed by that dispensing prescriber or comparative current selling prices of generic and brand name drugs dispensed by that dispensing prescriber. The information shall be provided to the person making the request before a PRESCRIPTION drug is dispensed to the person. A person who makes a request for price information under this subsection is not obligated to purchase the PRESCRIPTION drug for which the price or comparative prices are requested.

(2) A dispensing prescriber engaged in the business of selling PRESCRIPTION drugs shall conspicuously display the notice described in subsection (3) in the location within the dispensing prescriber's practice where the dispensing occurs.

(3) The notice required under subsection (2) shall be in substantially the following form:

NOTICE TO CONSUMERS ABOUT PRESCRIPTION DRUGS

Under Michigan law, you have the right to find out the price of a prescription drug before the doctor provides a prescription drug directly to you. You are under no obligation to have the prescription filled here and may use this price information to shop around.

~~Before your doctor dispenses a prescription drug to you, your doctor must provide you a written prescription and inform you that you~~ YOU may choose to have the prescription filled by your doctor or the pharmacy of your choice. Your doctor may not force you to have the prescription filled by the doctor. Your doctor cannot charge you for medications marked "sample."

Ask your doctor or pharmacist if a lower-cost generic drug is available to fill your prescription. A generic drug contains the same medicine as a brand name drug and is a suitable substitute in most cases.

If you have questions about the drugs which have been prescribed for you, ask your doctor or pharmacist for more information.

To avoid dangerous drug interactions, let your doctor and pharmacist know about any other medications you are taking. This is especially important if you have more than 1 doctor or have prescriptions filled at more than 1 location.

(4) The notice required under subsection (2) shall also contain the address and phone number of the board and the department. The text of the notice shall be in at least 32-point bold type and shall be printed on paper at least 11 inches by 17 inches in size. The notice may be printed on multiple pages.

(5) A copy of the notice required under subsection (2) shall be provided to each dispensing prescriber by the department. Additional copies shall be available if needed from the department. A person may duplicate or reproduce the notice if the duplication or reproduction is a true copy of the notice as produced by the department, without any additions or deletions.

~~(6) A dispensing prescriber shall furnish to the purchaser of a prescription drug at the time the drug is delivered to the purchaser a receipt of the transaction. The receipt shall contain all of the following information:~~

~~(a) The brand name of the drug, if applicable.~~

~~(b) The name of the manufacturer or the supplier of the drug, if the drug does not have a brand name.~~

~~(c) The strength of the drug, if significant.~~

~~(d) The quantity dispensed, if applicable.~~

~~(e) The name and address of the dispensing prescriber.~~

~~(f) The serial number of the prescription.~~

~~(g) The date the prescription was originally dispensed.~~

~~(h) The name of patient for whom the drug was prescribed.~~

~~(i) The price for which the drug was sold to the purchaser.~~

~~(7) A dispensing prescriber shall retain a copy of each receipt for 90 days. The inclusion of the information required under subsection (6) on the prescription container label is a valid receipt to the purchaser. Including the information required under subsection (6) on the written prescription form and retaining the form constitute retention of a copy of the receipt.~~

~~(8) The board may promulgate rules to implement this section.~~

Section 2. This amendatory act shall not take effect unless Senate Bill No. 870

of the 87th Legislature is enacted into law.