SUBSTITUTE FOR

HOUSE BILL NO. 4683

A bill to amend 1978 PA 368, entitled

"Public health code,"

(MCL 333.1101 to 333.25211) by adding sections 16204c, 16204d, and 16228.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

SEC. 16204C. (1) THE LEGISLATURE FINDS THAT THE USE OF CONTROLLED SUBSTANCES IS APPROPRIATE IN THE MEDICAL TREATMENT OF CERTAIN FORMS OF INTRACTABLE PAIN, AND THAT EFFORTS TO CONTROL DIVERSION OR IMPROPER ADMINISTRATION OF CONTROLLED SUBSTANCES SHOULD NOT INTERFERE WITH THE LEGITIMATE, MEDICALLY RECOGNIZED USE OF THOSE CONTROLLED SUBSTANCES TO RELIEVE PAIN AND SUFFERING.

(2) THE LEGISLATURE FINDS ALL OF THE FOLLOWING:

(A) THAT SOME PATIENTS IN THIS STATE WITH INTRACTABLE PAIN, INCLUDING, BUT NOT LIMITED TO, THOSE PATIENTS WITH CANCER AND

WITH NONMALIGNANT PAIN SYNDROME, ARE UNABLE TO OBTAIN FROM THEIR HEALTH CARE PROVIDERS SUFFICIENT PAIN RELIEF THROUGH THE PRESCRIPTION OF CONTROLLED SUBSTANCES, ESPECIALLY CONTROLLED SUBSTANCES INCLUDED IN SCHEDULE 2 UNDER SECTION 7214, DUE TO THE CIRCUMSTANCES DESCRIBED IN SUBDIVISION (B).

(B) THE REGULATORY SCHEME OF OFFICIAL PRESCRIPTION FORMS CREATED IN SECTIONS 7333 AND 7334 IS PERCEIVED IN SOME CASES TO DISCOURAGE THE APPROPRIATE USE OF OPIOIDS IN THE TREATMENT OF PATIENTS DESCRIBED IN SUBDIVISION (A).

(3) BASED ON THE FINDINGS DESCRIBED IN SUBSECTIONS (1) AND (2), THE LEGISLATURE STATES THAT THE OFFICIAL PRESCRIPTION FORM PROGRAM ENACTED IN SECTIONS 7333 AND 7334 WAS CREATED TO PREVENT THE ABUSE AND DIVERSION OF CONTROLLED SUBSTANCES INCLUDED IN SCHEDULE 2 UNDER SECTION 7214 AND NOT TO PREVENT OR INHIBIT THE LEGITIMATE, MEDICALLY RECOGNIZED USE OF THOSE CONTROLLED SUBSTANCES TO TREAT PATIENTS WITH CASES OF INTRACTABLE PAIN, ESPECIALLY LONG-TERM TREATMENT. IT IS THE INTENT OF THE LEGISLATURE TO PERMIT AND FACILITATE ADEQUATE TREATMENT FOR INTRACTABLE PAIN BY LICENSED HEALTH PROFESSIONALS, INCLUDING, BUT NOT LIMITED TO, THE PRESCRIPTION OR DISPENSING OF CONTROLLED SUBSTANCES INCLUDED IN SCHEDULE 2 UNDER SECTION 7214, WHEN MEDICALLY APPROPRIATE.

(4) AS USED IN THIS SECTION:

(A) "CONTROLLED SUBSTANCE" MEANS THAT TERM AS DEFINED IN SECTION 7104.

(B) "INTRACTABLE PAIN" MEANS THAT TERM AS DEFINED IN SECTION 16204A.

(C) "OFFICIAL PRESCRIPTION FORM" MEANS THAT TERM AS DEFINED IN SECTION 7107.

SEC. 16204D. (1) THE DEPARTMENT OF CONSUMER AND INDUSTRY SERVICES, IN CONSULTATION WITH THE DEPARTMENT OF COMMUNITY HEALTH, SHALL DEVELOP, PUBLISH, AND DISTRIBUTE AN INFORMATIONAL BOOKLET ON INTRACTABLE PAIN. THE DEPARTMENT OF CONSUMER AND INDUSTRY SERVICES SHALL INCLUDE AT LEAST ALL OF THE FOLLOWING IN THE INFORMATIONAL BOOKLET:

(A) THE DEFINITION OF INTRACTABLE PAIN CONTAINED IN SECTION 16204A.

(B) PAIN MANAGEMENT EDUCATIONAL CURRICULA AND CONTINUING EDUCATIONAL REQUIREMENTS OF INSTITUTIONS PROVIDING HEALTH CARE EDUCATION RECOMMENDED BY THE ADVISORY COMMITTEE ON PAIN AND SYMPTOM MANAGEMENT UNDER SECTION 16204A.

(C) OTHER INFORMATION CONSIDERED RELEVANT OR USEFUL BY THE DEPARTMENT OF CONSUMER AND INDUSTRY SERVICES.

(2) THE DEPARTMENT OF CONSUMER AND INDUSTRY SERVICES, IN CONJUNCTION WITH THE CONTROLLED SUBSTANCES ADVISORY COMMISSION CREATED IN ARTICLE 7, SHALL DEVELOP AND CONDUCT AN EDUCATIONAL PROGRAM FOR HEALTH PROFESSIONALS WHO ARE LICENSED UNDER PART 73 TO PRESCRIBE OR DISPENSE, OR BOTH, CONTROLLED SUBSTANCES. THE DEPARTMENT OF CONSUMER AND INDUSTRY SERVICES SHALL INCLUDE, AT A MINIMUM, ALL OF THE FOLLOWING IN THE EDUCATIONAL PROGRAM:

(A) INFORMATION ON THE HISTORY AND PURPOSE OF THE OFFICIAL PRESCRIPTION FORM PROGRAM CREATED IN SECTIONS 7333 AND 7334.

(B) INFORMATION ON HOW THE DEPARTMENT OF CONSUMER AND INDUSTRY SERVICES COLLECTS, PROCESSES, AND COMPILES OFFICIAL PRESCRIPTION FORM INFORMATION.

(C) INFORMATION ON HOW THE DEPARTMENT OF CONSUMER AND INDUSTRY SERVICES PROCESSES ALLEGATIONS OF WRONGDOING AGAINST LICENSEES UNDER THIS ARTICLE AND ARTICLE 15, INCLUDING, BUT NOT LIMITED TO, HOW THE PERMANENT HISTORICAL RECORD IS MAINTAINED FOR EACH LICENSEE, HOW AND WHY A REVIEW OF THE PERMANENT HISTORICAL RECORD IS DONE, AND HOW THE DECISION IS MADE TO ISSUE A FORMAL COMPLAINT AGAINST A LICENSEE.

(D) INFORMATION ON THE DISCIPLINARY PROCESS, INCLUDING A LICENSEE'S RIGHTS AND DUTIES IF AN ALLEGATION OF WRONGDOING IS FILED AGAINST THE LICENSEE OR IF SOME OTHER CIRCUMSTANCE OCCURS THAT CAUSES OR REQUIRES THE DEPARTMENT OF CONSUMER AND INDUSTRY SERVICES TO REVIEW A LICENSEE'S INDIVIDUAL HISTORICAL RECORD.

(E) OTHER INFORMATION CONSIDERED RELEVANT OR USEFUL BY THE DEPARTMENT OF CONSUMER AND INDUSTRY SERVICES OR THE CONTROLLED SUBSTANCES ADVISORY COMMISSION, ESPECIALLY INFORMATION THAT WOULD ADDRESS THE FINDINGS AND STATEMENTS OF INTENT CONTAINED IN SECTION 16204C.

SEC. 16228. (1) FOR AN INVESTIGATION INVOLVING THE PRESCRIPTION OF A CONTROLLED SUBSTANCE, THE DEPARTMENT MAY ESTABLISH AN AD HOC REVIEW PANEL TO PROVIDE THE DEPARTMENT WITH EXPERT INFORMATION REGARDING A SPECIFIC HEALTH PROFESSION OR HEALTH SPECIALTY OR A SPECIFIC HEALTH CARE TREATMENT OR PROCEDURE AS IT RELATES TO THE INVESTIGATION. THE DEPARTMENT SHALL ESTABLISH AN AD HOC REVIEW PANEL UNDER THIS SUBSECTION AS FOLLOWS:

(A) THE DEPARTMENT SHALL TRIENNIALLY ESTABLISH A POOL OF 10 PHYSICIANS, 5 OF WHOM ARE ALLOPATHIC PHYSICIANS LICENSED UNDER PART 170 AND 5 OF WHOM ARE OSTEOPATHIC PHYSICIANS LICENSED UNDER PART 175.

(B) FOR EACH AD HOC REVIEW PANEL, THE DEPARTMENT SHALL APPOINT 3 PHYSICIANS FROM THE POOL ESTABLISHED UNDER SUBDIVISION (A).

(2) THE AD HOC REVIEW PANEL SHALL PROVIDE THE INFORMATION DESCRIBED IN SUBSECTION (1) TO THE DEPARTMENT DURING THE INVESTIGATION PROCESS AND BEFORE A FORMAL COMPLAINT IS ISSUED.

Enacting section 1. This amendatory act takes effect October 1, 1998.