

SUBSTITUTE FOR
HOUSE BILL NO. 5260

A bill to amend 1978 PA 368, entitled
"Public health code,"
by amending sections 7333, 7401, 7403, 7407, 7521, 16204b,
16204c, and 16204d (MCL 333.7333, 333.7401, 333.7403, 333.7407,
333.7521, 333.16204b, 333.16204c, and 333.16204d), section 7333
as amended by 1993 PA 138, sections 7401 and 7403 as amended by
2000 PA 314, section 7407 as amended by 1993 PA 80, section 7521
as amended by 2000 PA 302, section 16204b as added by 1998
PA 422, and sections 16204c and 16204d as added by 1998 PA 423,
and by adding section 7333a; and to repeal acts and parts of
acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 7333. (1) Except as otherwise provided in this
2 section, ~~and section 17766b,~~ a controlled substance included in
3 schedule 2 ~~or an androgenic anabolic steroid as defined in~~

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1 ~~section 17766a~~ shall not be dispensed without the ~~written~~
2 prescription of a practitioner licensed under section 7303 on ~~an~~
3 ~~official~~ A prescription form. A PRACTITIONER SHALL NOT ISSUE
4 MORE THAN 1 PRESCRIPTION FOR A CONTROLLED SUBSTANCE INCLUDED IN
5 SCHEDULE 2 ON A SINGLE PRESCRIPTION FORM.

6 (2) In an emergency situation, as ~~defined by rule of the~~
7 ~~administrator~~ DESCRIBED IN R 338.3165 OF THE MICHIGAN ADMINIS-
8 TRATIVE CODE, a controlled substance included in schedule 2 ~~or~~
9 ~~an androgenic anabolic steroid~~ may be dispensed upon THE oral
10 prescription of a practitioner. ~~if, except as otherwise provided~~
11 ~~in this section and section 17766b, the prescribing practitioner~~
12 ~~promptly fills out an official prescription form and, until~~
13 ~~January 1, 1995, forwards the first and second copies of the~~
14 ~~official prescription form or, beginning January 1, 1995, for-~~
15 ~~wards the official prescription form to the dispensing pharmacy~~
16 ~~within 72 hours after the oral prescription is issued, in compli-~~
17 ~~ance with section 7334(6). A prescription for an androgenic ana-~~
18 ~~bolic steroid other than methyltestosterone, testosterone, or~~
19 ~~fluoxymensterone, whether that methyltestosterone, testosterone,~~
20 ~~or fluoxymensterone is prescribed alone or in combination with~~
21 ~~any other drug for which an official prescription form is not~~
22 ~~required, or for a controlled substance included in schedule 2~~
23 ~~shall not be refilled.~~ Except for a terminally ill patient whose
24 terminal illness the pharmacist documents pursuant to rules
25 promulgated by the administrator, a prescription for ~~an androge-~~
26 ~~nic anabolic steroid other than methyltestosterone, testosterone,~~
27 ~~or fluoxymensterone, whether that methyltestosterone,~~

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1 ~~testosterone, or fluoxymensterone is prescribed alone or in~~
2 ~~combination with any other drug for which an official prescrip-~~
3 ~~tion form is not required, or for~~ a controlled substance
4 included in schedule 2 shall not be filled more than ~~5~~ 60 days
5 after the date on which the prescription was issued. A prescrip-
6 tion for a controlled substance included in schedule 2 for a ter-
7 minally ill patient whose terminal illness the pharmacist docu-
8 ments pursuant to rules promulgated by the administrator may be
9 partially filled in increments for not more than 60 days after
10 the date on which the prescription was issued.

11 ~~-(3) The following are not required to be on an official~~
12 ~~prescription form:~~

13 ~~(a) A controlled substance included in schedule 2 or an~~
14 ~~androgenic anabolic steroid that is ordered for and administered~~
15 ~~to a patient in a hospital licensed by the department of public~~
16 ~~health or the department of mental health. An off-site pharmacy~~
17 ~~receiving a prescriber's order pursuant to this subdivision shall~~
18 ~~record the order as required by section 17708(3) and shall retain~~
19 ~~that record as if it were an official prescription form.~~

20 ~~(b) A controlled substance included in schedule 2 or an~~
21 ~~androgenic anabolic steroid that is ordered for and administered~~
22 ~~to a patient on the premises of a licensed health facility or~~
23 ~~agency other than a hospital. An off-site pharmacy receiving a~~
24 ~~prescriber's order pursuant to this subdivision shall record the~~
25 ~~order as required by section 17708(3) and shall retain that~~
26 ~~record as if it were an official prescription form.~~

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1 ~~(c) A controlled substance included in schedule 2 or an~~
2 ~~androgenic anabolic steroid that is administered to a patient in~~
3 ~~the private practice office of a licensed physician, dentist, or~~
4 ~~podiatrist.~~

5 ~~(d) A controlled substance included in schedule 2 or an~~
6 ~~androgenic anabolic steroid that is administered to an animal by~~
7 ~~a licensed veterinarian in a veterinarian's office, animal~~
8 ~~clinic, animal hospital, zoo, or on the premises of the animal's~~
9 ~~domicile, and a commercially prepared, premixed solution of~~
10 ~~sodium pentobarbital administered to an animal for the purpose of~~
11 ~~euthanasia.~~

12 ~~(e) A prescription issued by a practitioner residing adja-~~
13 ~~cent to the land border between this state and an adjoining state~~
14 ~~who is authorized under the laws of that state to practice a~~
15 ~~health profession and whose practice may extend into this state,~~
16 ~~but who does not maintain an office or designate a place to meet~~
17 ~~patients or receive calls in this state.~~

18 ~~(f) A prescription for methyltestosterone, testosterone, or~~
19 ~~fluoxymensterone, alone or in combination with any other drug for~~
20 ~~which an official prescription form is not required.~~

21 ~~(g) A controlled substance described in section~~
22 ~~7214(c)(iv).~~

23 (3) ~~—(4)—~~ Unless dispensed directly by a practitioner, other
24 than a pharmacist, to an ultimate user, a controlled substance
25 included in schedule 3 or 4 that is a prescription drug as deter-
26 mined under section 503(b) of the federal food, drug, and
27 cosmetic act, chapter 675, 52 Stat. ~~—1040—~~ 1051, 21 U.S.C. 353,

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1 or section 17708, shall not be dispensed without a ~~written~~
2 PRESCRIPTION ON A PRESCRIPTION FORM or AN oral prescription of a
3 practitioner. ~~The~~ A prescription FOR A CONTROLLED SUBSTANCE
4 INCLUDED IN SCHEDULE 3 OR 4 shall not be filled or refilled with-
5 out specific refill instructions noted by the prescriber. ~~The~~
6 A prescription FOR A CONTROLLED SUBSTANCE INCLUDED IN SCHEDULE 3
7 OR 4 shall not be filled or refilled later than 6 months after
8 the date of the prescription or be refilled more than 5 times,
9 unless renewed by the ~~practitioner~~ PRESCRIBER in accordance
10 with rules promulgated by the administrator.

11 (4) ~~(5)~~ A controlled substance included in schedule 5
12 shall not be distributed or dispensed other than for a medical
13 purpose, or in any manner except in accordance with rules promul-
14 gated by the administrator.

15 (5) ~~(6)~~ If a ~~written~~ prescription is required under this
16 section, the ~~written~~ prescription shall contain the quantity of
17 the controlled substance ~~or androgenic anabolic steroid~~ pre-
18 scribed in both written and numerical terms. A ~~written~~ pre-
19 scription is in compliance with this subsection if, in addition
20 to containing the quantity of the controlled substance ~~or andro-~~
21 ~~genic anabolic steroid~~ prescribed in written terms, it contains
22 preprinted numbers representative of the quantity of the con-
23 trolled substance ~~or an androgenic anabolic steroid~~ prescribed
24 next to which is a box or line the prescriber may check.

25 (6) ~~(7)~~ A prescribing practitioner shall not use a pre-
26 scription form for a purpose other than prescribing. ~~A~~
27 ~~prescribing practitioner shall not postdate an official~~

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1 ~~prescription form. A prescribing practitioner shall not sign an~~
2 ~~official prescription form on a day other than the day the pre-~~
3 ~~scription is issued.~~ A PRESCRIBING PRACTITIONER SHALL NOT POST-
4 DATE A PRESCRIPTION FORM THAT CONTAINS A PRESCRIPTION FOR A CON-
5 TROLLED SUBSTANCE. A PRESCRIBER MAY TRANSMIT A PRESCRIPTION BY
6 FACSIMILE OF A PRINTED PRESCRIPTION FORM AND BY ELECTRONIC TRANS-
7 MISSION OF A PRINTED PRESCRIPTION FORM, IF NOT PROHIBITED BY FED-
8 ERAL LAW. IF A PRESCRIPTION IS ELECTRONICALLY TRANSMITTED, IT
9 SHALL BE TRANSMITTED DIRECTLY TO THE PHARMACY, AND THE DATA SHALL
10 NOT BE ALTERED, MODIFIED, EXTRACTED, VIEWED, OR MANIPULATED IN
11 THE TRANSMISSION PROCESS.

12 (7) ~~-(8)-~~ Notwithstanding subsections (1) to ~~-(7)-~~ (4), a
13 dog pound or animal shelter licensed or registered by the depart-
14 ment of agriculture pursuant to ~~Act No. 287 of the Public Acts~~
15 ~~of 1969, being sections 287.331 to 287.340 of the Michigan~~
16 ~~Compiled Laws~~ 1969 PA 287, MCL 287.331 TO 287.340, or a class B
17 dealer may acquire a limited permit only for the purpose of
18 buying, possessing, and administering a commercially prepared,
19 premixed solution of sodium pentobarbital to practice euthanasia
20 on injured, sick, homeless, or unwanted domestic pets and other
21 animals, if the dog pound or animal shelter or class B dealer
22 does all of the following:

23 (a) Applies to the administrator for a permit in accordance
24 with rules promulgated under this part. The application shall
25 contain the name of the individual in charge of the day to day
26 operations of the dog pound or animal shelter or class B dealer's
27 facilities and the name of the individual responsible for

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1 designating employees who will be practicing euthanasia on
2 animals pursuant to this act.

3 (b) Complies with the rules promulgated by the administrator
4 for the storage, handling, and use of commercially prepared, pre-
5 mixed solution of sodium pentobarbital to practice euthanasia on
6 animals. A record of use shall be maintained and shall be avail-
7 able for inspection.

8 (c) Certifies that an employee of the dog pound or animal
9 shelter or class B dealer has received, and can document comple-
10 tion of, a minimum of 8 hours of training given by a licensed
11 veterinarian in the use of sodium pentobarbital to practice
12 euthanasia on animals pursuant to rules promulgated by the admin-
13 istrator, in consultation with the Michigan board of veterinary
14 medicine as these rules relate to this training, and that only an
15 individual described in this subdivision or an individual other-
16 wise permitted to use a controlled substance pursuant to this
17 article will administer the commercially prepared, premixed solu-
18 tion of sodium pentobarbital according to written procedures
19 established by the dog pound or animal shelter or class B
20 dealer.

21 (8) ~~-(9)-~~ The application described in subsection ~~-(8)-~~ (7)
22 shall include the names and addresses of all individuals employed
23 by the dog pound or animal shelter or class B dealer who have
24 been trained as described in subsection ~~-(8)(c)-~~ (7)(C) and the
25 name of the veterinarian who trained them. The list of names and
26 addresses shall be updated every 6 months.

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1 (9) ~~—(10)—~~ If a dog pound or animal shelter or class B
2 dealer issued a permit pursuant to subsection ~~—(8)—~~ (7) does not
3 have in its employ an individual trained as described in subsec-
4 tion ~~—(8)(c)—~~ (7)(C), the dog pound or animal shelter or class B
5 dealer shall immediately notify the administrator and shall cease
6 to administer any commercially prepared, premixed solution of
7 sodium pentobarbital until the administrator is notified that 1
8 of the following has occurred:

9 (a) An individual trained as described in subsection
10 ~~—(8)(c)—~~ (7)(C) has been hired by the dog pound or animal shelter
11 or class B dealer.

12 (b) An employee of the dog pound or animal shelter or class
13 B dealer has been trained as described in subsection ~~—(8)(c)—~~
14 (7)(C).

15 (10) ~~—(11)—~~ A veterinarian, including a veterinarian who
16 trains individuals as described in subsection ~~—(8)(c)—~~ (7)(C), is
17 not civilly or criminally liable for the use of a commercially
18 prepared, premixed solution of sodium pentobarbital by a dog
19 pound or animal shelter or class B dealer unless the veterinarian
20 is employed by or under contract with the dog pound or animal
21 shelter or class B dealer and the terms of the veterinarian's
22 employment or the contract require the veterinarian to be respon-
23 sible for the use or administration of the commercially prepared,
24 premixed solution of sodium pentobarbital.

25 (11) ~~—(12)—~~ A person shall not knowingly use or permit the
26 use of a commercially prepared, premixed solution of sodium
27 pentobarbital in violation of this section.

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1 (12) ~~—(13)—~~ This section does not require that a
2 veterinarian be employed by or under contract with a dog pound or
3 animal shelter or class B dealer to obtain, possess, or adminis-
4 ter a commercially prepared, premixed solution of sodium pento-
5 barbital pursuant to this section.

6 (13) ~~—(14)—~~ As used in this section, "class B dealer" means
7 a class B dealer licensed by the United States department of
8 agriculture pursuant to the animal welfare act, Public Law
9 89-544, 7 U.S.C. 2131 to 2147, 2149, and 2151 to 2159 and the
10 department of agriculture pursuant to ~~Act No. 224 of the Public~~
11 ~~Acts of 1969, being sections 287.381 to 287.395 of the Michigan~~
12 ~~Compiled Laws~~ 1969 PA 224, MCL 287.381 TO 287.395.

13 SEC. 7333A. (1) THE DEPARTMENT SHALL ESTABLISH, BY RULE, AN
14 ELECTRONIC SYSTEM FOR MONITORING SCHEDULE 2, 3, 4, AND 5 CON-
15 TROLLED SUBSTANCES DISPENSED IN THIS STATE BY VETERINARIANS, AND
16 BY PHARMACISTS AND DISPENSING PRESCRIBERS LICENSED UNDER PART 177
17 OR DISPENSED TO AN ADDRESS IN THIS STATE BY A PHARMACY LICENSED
18 IN THIS STATE. THE RULES SHALL PROVIDE AN APPROPRIATE ELECTRONIC
19 FORMAT FOR THE REPORTING OF DATA INCLUDING, BUT NOT LIMITED TO,
20 PATIENT IDENTIFIERS, THE NAME OF THE CONTROLLED SUBSTANCE DIS-
21 PENSED, DATE OF DISPENSING, QUANTITY DISPENSED, PRESCRIBER, AND
22 DISPENSER. [THE DEPARTMENT SHALL REQUIRE A VETERINARIAN,
23 PHARMACIST, OR PRESCRIBING DISPENSER TO UTILIZE THE ELECTRONIC DATA
24 TRANSMITTAL PROCESS DEVELOPED BY THE DEPARTMENT'S CONTRACTOR. A
25 VETERINARIAN, PHARMACIST, OR DISPENSING PRESCRIBER SHALL NOT BE
REQUIRED TO PAY A NEW FEE DEDICATED TO THE OPERATION OF THE
ELECTRONIC MONITORING SYSTEM AND SHALL NOT INCUR ANY ADDITIONAL
COSTS FOR THE TRANSMISSION OF DATA TO THE DEPARTMENT.] THE
26 RULES PROMULGATED UNDER THIS SUBSECTION SHALL EXEMPT BOTH OF THE
27 FOLLOWING CIRCUMSTANCES FROM THE REPORTING REQUIREMENTS:

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1 (A) THE ADMINISTRATION OF A CONTROLLED SUBSTANCE DIRECTLY TO
2 A PATIENT.

3 (B) THE DISPENSING FROM A HEALTH FACILITY OR AGENCY LICENSED
4 UNDER ARTICLE 17 OF A CONTROLLED SUBSTANCE BY A DISPENSING PRE-
5 SCRIBER IN A QUANTITY ADEQUATE TO TREAT A PATIENT FOR NOT MORE
6 THAN 48 HOURS.

7 (2) THE DEPARTMENT MAY PROVIDE DATA TO ALL OF THE
8 FOLLOWING:

9 (A) A DESIGNATED REPRESENTATIVE OF A BOARD RESPONSIBLE FOR
10 THE LICENSURE, REGULATION, OR DISCIPLINE OF PRACTITIONERS, PHAR-
11 MACISTS, OR OTHER PERSON WHO IS AUTHORIZED TO PRESCRIBE, ADMINIS-
12 TER, OR DISPENSE CONTROLLED SUBSTANCES AND WHO IS INVOLVED IN A
13 BONA FIDE SPECIFIC INVESTIGATION INVOLVING A DESIGNATED PERSON.

14 (B) A STATE, FEDERAL, OR MUNICIPAL OFFICER WHOSE DUTY IS TO
15 ENFORCE THE LAWS OF THIS STATE OR THE UNITED STATES RELATING TO
16 DRUGS AND WHO IS ENGAGED IN A BONA FIDE SPECIFIC INVESTIGATION
17 INVOLVING A DESIGNATED PERSON.

18 (C) A STATE-OPERATED MEDICAID PROGRAM.

19 (D) A PROPERLY CONVENED GRAND JURY PURSUANT TO A SUBPOENA
20 PROPERLY ISSUED FOR THE RECORDS.

21 (E) A PRACTITIONER OR PHARMACIST WHO REQUESTS INFORMATION
22 AND CERTIFIES THAT THE REQUESTED INFORMATION IS FOR THE PURPOSE
23 OF PROVIDING MEDICAL OR PHARMACEUTICAL TREATMENT TO A BONA FIDE
24 CURRENT PATIENT.

25 (F) A PERSON WHO RECEIVES DATA OR ANY REPORT CONTAINING ANY
26 PATIENT IDENTIFIERS OF THE SYSTEM FROM THE DEPARTMENT SHALL NOT

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1 PROVIDE IT TO ANY OTHER PERSON OR ENTITY EXCEPT BY ORDER OF A
2 COURT OF COMPETENT JURISDICTION.

3 (3) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION, REPORT-
4 ING UNDER SUBSECTION (1) IS MANDATORY FOR A VETERINARIAN, PHARMA-
5 CIST, AND DISPENSING PRESCRIBER. HOWEVER, THE DEPARTMENT MAY
6 ISSUE A WRITTEN WAIVER OF THE ELECTRONIC REPORTING REQUIREMENT TO
7 A VETERINARIAN, PHARMACIST, OR DISPENSING PRESCRIBER WHO ESTAB-
8 LISHES GROUNDS THAT HE OR SHE IS UNABLE TO USE THE ELECTRONIC
9 MONITORING SYSTEM. THE DEPARTMENT SHALL REQUIRE THE APPLICANT
10 FOR THE WAIVER TO REPORT THE REQUIRED INFORMATION IN A MANNER
11 APPROVED BY THE DEPARTMENT.

12 (4) IN ADDITION TO THE INFORMATION REQUIRED TO BE REPORTED
13 ANNUALLY UNDER SECTION 7112(3), THE CONTROLLED SUBSTANCES
14 ADVISORY COMMISSION SHALL INCLUDE IN THE REPORT INFORMATION ON
15 THE IMPLEMENTATION AND EFFECTIVENESS OF THE ELECTRONIC MONITORING
16 SYSTEM.

[(5) THE DEPARTMENT, IN CONSULTATION WITH THE CONTROLLED
SUBSTANCES ADVISORY COMMISSION, THE MICHIGAN BOARD OF PHARMACY, THE
MICHIGAN BOARD OF MEDICINE, THE MICHIGAN BOARD OF OSTEOPATHIC
MEDICINE AND SURGERY, AND APPROPRIATE MEDICAL PROFESSIONAL
ASSOCIATIONS, SHALL EXAMINE THE NEED FOR AND MAY PROMULGATE RULES
FOR THE PRODUCTION OF A PRESCRIPTION FORM ON PAPER THAT MINIMIZES
THE POTENTIAL FOR FORGERY. THE RULES SHALL NOT INCLUDE ANY
REQUIREMENT THAT SEQUENTIAL NUMBERS, BAR CODES, OR SYMBOLS BE
AFFIXED, PRINTED, OR WRITTEN ON A PRESCRIPTION FORM OR THAT THE
PRESCRIPTION FORM BE A STATE PRODUCED PRESCRIPTION FORM. IN
EXAMINING THE NEED FOR RULES FOR THE PRODUCTION OF A PRESCRIPTION
FORM ON PAPER THAT MINIMIZES THE POTENTIAL FOR FORGERY, THE
DEPARTMENT SHALL CONSIDER AND IDENTIFY THE FOLLOWING:

(A) COST, BENEFITS, AND BARRIERS.
(B) OVERALL COST-BENEFIT ANALYSIS.
(C) COMPATIBILITY WITH THE ELECTRONIC MONITORING SYSTEM
REQUIRED UNDER THIS SECTION.

(6) THE DEPARTMENT SHALL REPORT ITS FINDINGS UNDER SUBSECTION
(5) TO THE MEMBERS OF THE HOUSE AND SENATE STANDING COMMITTEES
HAVING JURISDICTION OVER HEALTH POLICY ISSUES AT LEAST 120 DAYS
BEFORE THE TIME THE ELECTRONIC MONITORING SYSTEM REQUIRED UNDER THIS
SECTION BECOMES OPERATIONAL.]

17 [(7)] THE DEPARTMENT, ALL LAW ENFORCEMENT OFFICERS, ALL OFFI-
18 CERS OF THE COURT, AND ALL REGULATORY AGENCIES AND OFFICERS, IN
19 USING THE DATA FOR INVESTIGATIVE OR PROSECUTION PURPOSES, SHALL
20 CONSIDER THE NATURE OF THE PRESCRIBER'S AND DISPENSER'S PRACTICE
21 AND THE CONDITION FOR WHICH THE PATIENT IS BEING TREATED.

22 [(8)] THE DATA AND ANY REPORT CONTAINING ANY PATIENT IDENTIFI-
23 ERS OBTAINED THEREFROM IS NOT A PUBLIC RECORD, AND IS NOT SUBJECT
24 TO THE FREEDOM OF INFORMATION ACT, 1976 PA 442, MCL 15.231 TO
25 15.246.

[(9) AS USED IN THIS SECTION, "DEPARTMENT" MEANS THE DEPARTMENT
OF CONSUMER AND INDUSTRY SERVICES.]

26 Sec. 7401. (1) Except as authorized by this article, a

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27 person shall not manufacture, create, deliver, or possess with
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1 intent to manufacture, create, or deliver a controlled substance,
2 a prescription form, ~~an official prescription form,~~ or a coun-
3 terfeit prescription form. A practitioner licensed by the admin-
4 istrator under this article shall not dispense, prescribe, or
5 administer a controlled substance for other than legitimate and
6 professionally recognized therapeutic or scientific purposes or
7 outside the scope of practice of the practitioner, licensee, or
8 applicant.

9 (2) A person who violates this section as to:

10 (a) A controlled substance classified in schedule 1 or 2
11 that is a narcotic drug or a drug described in section
12 7214(a)(iv) and:

13 (i) Which is in an amount of 650 grams or more of any mix-
14 ture containing that substance is guilty of a felony punishable
15 by imprisonment for life or any term of years but not less than
16 20 years.

17 (ii) Which is in an amount of 225 grams or more, but less
18 than 650 grams, of any mixture containing that substance is
19 guilty of a felony and shall be imprisoned for not less than 20
20 years nor more than 30 years.

21 (iii) Which is in an amount of 50 grams or more, but less
22 than 225 grams, of any mixture containing that substance is
23 guilty of a felony and shall be imprisoned for not less than 10
24 years nor more than 20 years.

25 (iv) Which is in an amount less than 50 grams, of any mix-
26 ture containing that substance is guilty of a felony and shall be
27 imprisoned for not less than 1 year nor more than 20 years, and

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1 may be fined not more than \$25,000.00, or placed on probation for
2 life.

3 (b) Either of the following:

4 (i) A substance described in section 7214(c)(ii) is guilty
5 of a felony punishable by imprisonment for not more than 20 years
6 or a fine of not more than \$25,000.00, or both.

7 (ii) Any other controlled substance classified in schedule
8 1, 2, or 3, except marihuana is guilty of a felony punishable by
9 imprisonment for not more than 7 years or a fine of not more than
10 \$10,000.00, or both.

11 (c) A substance classified in schedule 4 is guilty of a
12 felony punishable by imprisonment for not more than 4 years or a
13 fine of not more than \$2,000.00, or both.

14 (d) Marihuana or a mixture containing marihuana is guilty of
15 a felony punishable as follows:

16 (i) If the amount is 45 kilograms or more, or 200 plants or
17 more, by imprisonment for not more than 15 years or a fine of not
18 more than \$10,000,000.00, or both.

19 (ii) If the amount is 5 kilograms or more but less than 45
20 kilograms, or 20 plants or more but fewer than 200 plants, by
21 imprisonment for not more than 7 years or a fine of not more than
22 \$500,000.00, or both.

23 (iii) If the amount is less than 5 kilograms or fewer than
24 20 plants, by imprisonment for not more than 4 years or a fine of
25 not more than \$20,000.00, or both.

1 (e) A substance classified in schedule 5 is guilty of a
2 felony punishable by imprisonment for not more than 2 years or a
3 fine of not more than \$2,000.00, or both.

4 ~~(f) An official prescription form or a counterfeit official~~
5 ~~prescription form is guilty of a felony punishable by imprison-~~
6 ~~ment for not more than 20 years or a fine of not more than~~
7 ~~\$25,000.00, or both.~~

8 (F) ~~(g)~~ A prescription form or a counterfeit prescription
9 form ~~other than an official prescription form or a counterfeit~~
10 ~~official prescription form~~ is guilty of a felony punishable by
11 imprisonment for not more than 7 years or a fine of not more than
12 \$5,000.00, or both.

13 (3) A term of imprisonment imposed under subsection (2)(a)
14 or section 7403(2)(a)(i), (ii), (iii), or (iv) shall be imposed
15 to run consecutively with any term of imprisonment imposed for
16 the commission of another felony. An individual subject to a
17 mandatory term of imprisonment under subsection (2)(a) or section
18 7403(2)(a)(i), (ii), (iii), or (iv) is not eligible for proba-
19 tion, suspension of that sentence, or parole during that manda-
20 tory term, except to the extent that those provisions permit pro-
21 bation for life, and shall not receive a reduction in that manda-
22 tory term of imprisonment by disciplinary credits or any other
23 type of sentence credit reduction.

24 (4) The court may depart from the minimum term of imprison-
25 ment authorized under subsection (2)(a)(ii), (iii), or (iv) if
26 the court finds on the record that there are substantial and
27 compelling reasons to do so. In addition, if any of the

1 following apply, the court may depart from the minimum term of
2 imprisonment authorized under subsection (2)(a)(ii), (iii), or
3 (iv) if the individual has not previously been convicted of a
4 felony or an assaultive crime and has not been convicted of
5 another felony or assaultive crime arising from the same transac-
6 tion as the violation of this section:

7 (a) The person is within the jurisdiction of the circuit
8 court under section 606 of the revised judicature act of 1961,
9 1961 PA 236, MCL 600.606, or section 4 of chapter XIIA of the
10 probate code of 1939, 1939 PA 288, MCL 712A.4.

11 (b) The person is being sentenced under section 18(1)(n) of
12 chapter XIIA of the probate code of 1939, 1939 PA 288,
13 MCL 712A.18.

14 (5) As used in this section:

15 (a) "Assaultive crime" means a violation of sections 81 to
16 90 of the Michigan penal code, 1931 PA 328, MCL 750.81 to
17 750.90.

18 (b) "Plant" means a marihuana plant that has produced coty-
19 ledons or a cutting of a marihuana plant that has produced
20 cotyledons.

21 Sec. 7403. (1) A person shall not knowingly or intention-
22 ally possess a controlled substance, a controlled substance anal-
23 ogue, ~~or an official prescription form~~ or a prescription form
24 unless the controlled substance, controlled substance analogue,
25 ~~official prescription form,~~ or prescription form was obtained
26 directly from, or pursuant to, a valid prescription or order of a
27 practitioner while acting in the course of the practitioner's

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1 professional practice, or except as otherwise authorized by this
2 article.

3 (2) A person who violates this section as to:

4 (a) A controlled substance classified in schedule 1 or 2
5 that is a narcotic drug or a drug described in section
6 7214(a)(iv), and:

7 (i) Which is in an amount of 650 grams or more of any mix-
8 ture containing that substance is guilty of a felony and shall be
9 imprisoned for life except as otherwise provided in this
10 subparagraph. A person convicted of violating this subparagraph
11 may be punished as provided by law by imposing a sentence of
12 imprisonment for any term of years but not less than 25 years if
13 any of the following apply:

14 (A) The person is within the jurisdiction of the circuit
15 court under section 606 of the revised judicature act of 1961,
16 1961 PA 236, MCL 600.606, or section 4 of chapter XIIA of the
17 probate code of 1939, 1939 PA 288, MCL 712A.4.

18 (B) The person is being sentenced under section 18(1)(n) of
19 chapter XIIA of the probate code of 1939, 1939 PA 288,
20 MCL 712A.18.

21 (ii) Which is in an amount of 225 grams or more, but less
22 than 650 grams, of any mixture containing that substance is
23 guilty of a felony and shall be imprisoned for not less than 20
24 years nor more than 30 years.

25 (iii) Which is in an amount of 50 grams or more, but less
26 than 225 grams, of any mixture containing that substance is

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1 guilty of a felony and shall be imprisoned for not less than 10
2 years nor more than 20 years.

3 (iv) Which is in an amount of 25 grams or more, but less
4 than 50 grams of any mixture containing that substance is guilty
5 of a felony and shall be imprisoned for not less than 1 year and
6 not more than 4 years, and may be fined not more than \$25,000.00
7 or placed on probation for life.

8 (v) Which is in an amount less than 25 grams of any mixture
9 containing that substance is guilty of a felony punishable by
10 imprisonment for not more than 4 years or a fine of not more than
11 \$25,000.00, or both.

12 (b) Either of the following:

13 (i) A substance described in section 7214(c)(ii) is guilty
14 of a felony punishable by imprisonment for not more than 10 years
15 or a fine of not more than \$15,000.00, or both.

16 (ii) A controlled substance classified in schedule 1, 2, 3,
17 or 4, except a controlled substance for which a penalty is pre-
18 scribed in subdivision (a), (b)(i), (c), or (d), or a controlled
19 substance analogue is guilty of a felony punishable by imprison-
20 ment for not more than 2 years or a fine of not more than
21 \$2,000.00, or both.

22 (c) Lysergic acid diethylamide, peyote, mescaline, dimethyl-
23 tryptamine, psilocyn, psilocybin, or a controlled substance clas-
24 sified in schedule 5 ~~—~~ is guilty of a misdemeanor punishable by
25 imprisonment for not more than 1 year or a fine of not more than
26 \$2,000.00, or both.

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1 (d) Marihuana ~~—~~ is guilty of a misdemeanor punishable by
2 imprisonment for not more than 1 year or a fine of not more than
3 \$2,000.00, or both.

4 ~~—(e) An official prescription form, is guilty of a felony~~
5 ~~punishable by imprisonment for not more than 1 year or a fine of~~
6 ~~not more than \$2,000.00, or both.—~~

7 (E) ~~—(f) A prescription form other than an official pre-~~
8 ~~scription form,~~ is guilty of a misdemeanor punishable by impris-
9 onment for not more than 1 year or a fine of not more than
10 \$1,000.00, or both.

11 (3) The court may depart from the minimum term of imprison-
12 ment authorized under subsection (2)(a)(ii), (iii), or (iv) if
13 the court finds on the record that there are substantial and com-
14 pelling reasons to do so. In addition, if any of the following
15 apply, the court may depart from the minimum term of imprisonment
16 authorized under subsection (2)(a)(ii), (iii), or (iv) if the
17 individual has not previously been convicted of a felony or an
18 assaultive crime and has not been convicted of another felony or
19 assaultive crime arising from the same transaction as the viola-
20 tion of this section:

21 (a) The person is within the jurisdiction of the circuit
22 court under section 606 of the revised judicature act of 1961,
23 1961 PA 236, MCL 600.606, or section 4 of chapter XIIA of the
24 probate code of 1939, 1939 PA 288, MCL 712A.4.

25 (b) The person is being sentenced under section 18(1)(n) of
26 chapter XIIA of the probate code of 1939, 1939 PA 288,
27 MCL 712A.18.

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1 (4) As used in subsection (3), "assaultive crime" means a
2 violation of sections 81 to 90 of the Michigan penal code, 1931
3 PA 328, MCL 750.81 to 750.90.

4 Sec. 7407. (1) A person shall not knowingly or
5 intentionally:

6 (a) Distribute as a licensee a controlled substance classi-
7 fied in schedule 1 or 2, except pursuant to an order form as
8 required by section 7331.

9 (b) Use in the course of the manufacture or distribution of
10 a controlled substance a license number ~~which~~ THAT is ficti-
11 tious, revoked, suspended, or issued to another person.

12 (c) Acquire or obtain possession of a controlled substance
13 by misrepresentation, fraud, forgery, deception, or subterfuge.

14 (d) Furnish false or fraudulent material information in, or
15 omit any material information from, an application, report,
16 ~~official prescription form,~~ or other document required to be
17 kept or filed under this article, or any record required to be
18 kept by this article.

19 (e) Make, distribute, or possess a punch, die, plate, stone,
20 or other thing designed to print, imprint, or reproduce the
21 trademark, trade name, or other identifying mark, imprint, or
22 device of another or any likeness of any of the foregoing upon a
23 drug or container or labeling thereof so as to render the drug a
24 counterfeit substance.

25 ~~(f) Knowingly and intentionally give, permit, or obtain~~
26 ~~access to information submitted to the department of commerce~~

1 ~~under section 7334, except as otherwise authorized by this~~
2 ~~article.~~

3 (F) ~~(g)~~ Possess counterfeit prescription forms, except as
4 an agent of government while engaged in the enforcement of this
5 part.

6 (2) A person shall not refuse or knowingly fail to make,
7 keep, or furnish any record, notification, order form, statement,
8 invoice, or other information required under this article.

9 (3) A person who violates this section is guilty of a
10 felony, punishable by imprisonment for not more than 4 years, or
11 a fine of not more than \$30,000.00, or both.

12 Sec. 7521. (1) The following property is subject to
13 forfeiture:

14 (a) A prescription form, ~~official prescription form,~~ con-
15 trolled substance, an imitation controlled substance, a con-
16 trolled substance analogue, ~~an androgenic anabolic steroid,~~ a
17 counterfeit androgenic anabolic steroid, or other drug that has
18 been manufactured, distributed, dispensed, used, possessed, or
19 acquired in violation of this article or section 17766a.

20 (b) A raw material, product, or equipment of any kind that
21 is used, or intended for use, in manufacturing, compounding, pro-
22 cessing, delivering, importing, or exporting a controlled sub-
23 stance, a controlled substance analogue, ~~an androgenic anabolic~~
24 ~~steroid,~~ a counterfeit androgenic anabolic steroid, or other
25 drug in violation of this article or section 17766a; or a raw
26 material, product, or equipment of any kind that is intended for
27 use in manufacturing, compounding, processing, delivering,

1 importing, or exporting an imitation controlled substance in
2 violation of section 7341.

3 (c) Property that is used, or intended for use, as a con-
4 tainer for property described in subdivision (a) or (b).

5 (d) Except as provided in subparagraphs (i) to (iv), a con-
6 veyance, including an aircraft, vehicle, or vessel used or
7 intended for use, to transport, or in any manner to facilitate
8 the transportation, for the purpose of sale or receipt of prop-
9 erty described in subdivision (a) or (b):

10 (i) A conveyance used by a person as a common carrier in the
11 transaction of business as a common carrier is not subject to
12 forfeiture unless it appears that the owner or other person in
13 charge of the conveyance is a consenting party or privy to a vio-
14 lation of this article.

15 (ii) A conveyance is not subject to forfeiture by reason of
16 any act or omission established by the owner of that conveyance
17 to have been committed or omitted without the owner's knowledge
18 or consent.

19 (iii) A conveyance is not subject to forfeiture for a viola-
20 tion of section 7403(2)(c) or (d), section 7404, or
21 section 7341(4).

22 (iv) A forfeiture of a conveyance encumbered by a bona fide
23 security interest is subject to the interest of the secured party
24 who neither had knowledge of nor consented to the act or
25 omission.

1 (e) Books, records, and research products and materials,
2 including formulas, microfilm, tapes, and data used, or intended
3 for use, in violation of this article or section 17766a.

4 (f) Any thing of value that is furnished or intended to be
5 furnished in exchange for a controlled substance, an imitation
6 controlled substance, ~~an androgenic anabolic steroid,~~ a coun-
7 terfeit androgenic anabolic steroid, or other drug in violation
8 of this article or section 17766a that is traceable to an
9 exchange for a controlled substance, an imitation controlled sub-
10 stance, ~~an androgenic anabolic steroid,~~ a counterfeit androge-
11 nic anabolic steroid, or other drug in violation of this article
12 or section 17766a, or that is used or intended to be used to
13 facilitate any violation of this article or section 17766a
14 including, but not limited to, money, negotiable instruments, or
15 securities. To the extent of the interest of an owner, a thing
16 of value is not subject to forfeiture under this subdivision by
17 reason of any act or omission that is established by the owner of
18 the item to have been committed or omitted without the owner's
19 knowledge or consent. Any money that is found in close proximity
20 to any property that is subject to forfeiture under subdivision
21 (a), (b), (c), (d), or (e) is presumed to be subject to forfei-
22 ture under this subdivision. This presumption may be rebutted by
23 clear and convincing evidence.

24 (g) Any other drug paraphernalia not described in subdivi-
25 sion (b) or (c).

26 (2) As used in this section:

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1 ~~—(a)— "Androgenic anabolic steroid" means that term as~~
2 ~~defined in section 17766a.—~~

3 (A) ~~—(b)—~~ "Counterfeit androgenic anabolic steroid" means
4 that term as defined in section 17766a.

5 (B) ~~—(c)—~~ "Imitation controlled substance" means that term
6 as defined in section 7341.

7 Sec. 16204b. ~~—(1)—~~ The legislature finds that the treatment
8 of ~~intractable~~ pain is an appropriate issue for the legislature
9 to consider, and that the citizens of this state would be well
10 served by the enactment of legislation that accomplishes all of
11 the following:

12 (a) Provides more and better information to health care con-
13 sumers regarding the medical treatment of ~~intractable~~ pain,
14 health care coverage and benefits for the treatment of
15 ~~intractable~~ pain, and the education of health professionals in
16 pain and symptom management.

17 (b) Provides for the appointment of an advisory body to
18 study and make recommendations on model core curricula on pain
19 and symptom management for the institutions in this state provid-
20 ing health care education, continuing education for health pro-
21 fessionals on pain and symptom management, and the integration of
22 pain and symptom management into the customary practice of health
23 care.

24 (c) Educates health professionals about the ~~official pre-~~
25 ~~scription form program and the~~ disciplinary process for state
26 licensees and registrants, including, but not limited to, how the

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1 department of consumer and industry services processes
2 allegations of wrongdoing against licensees and registrants.

3 ~~(2) As used in this section:~~

4 ~~(a) "Intractable pain" means that term as defined in section~~
5 ~~16204a.~~

6 ~~(b) "Official prescription form" means that term as defined~~
7 ~~in section 7107.~~

8 Sec. 16204c. (1) The legislature finds that the use of con-
9 trolled substances is appropriate in the medical treatment of
10 certain forms of ~~intractable~~ pain, and that efforts to control
11 diversion or improper administration of controlled substances
12 should not interfere with the legitimate, medically recognized
13 use of those controlled substances to relieve pain and
14 suffering.

15 (2) The legislature finds ~~all of the following:~~ ~~(a) That~~
16 THAT some patients in this state with ~~intractable~~ pain are
17 unable to obtain from their health care providers sufficient pain
18 relief through the prescription of controlled substances, espe-
19 cially controlled substances included in schedule 2 under
20 section 7214. ~~, due to the circumstances described in subdivi-~~
21 ~~sion (b).~~

22 ~~(b) The regulatory scheme of official prescription forms~~
23 ~~created in sections 7333 and 7334 is perceived in some cases to~~
24 ~~discourage the appropriate use of opioids in the treatment of~~
25 ~~patients described in subdivision (a).~~

26 (3) ~~Based on the findings described in subsections (1) and~~
27 ~~(2), the legislature states that the official prescription form~~

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1 ~~program enacted in sections 7333 and 7334 was created to prevent~~
2 ~~the abuse and diversion of controlled substances included in~~
3 ~~schedule 2 under section 7214 and not to prevent or inhibit the~~
4 ~~legitimate, medically recognized use of those controlled sub-~~
5 ~~stances to treat patients with cases of intractable pain, espe-~~
6 ~~cially long-term treatment.~~ It is the intent of the legislature
7 to permit and facilitate adequate treatment for ~~intractable~~
8 pain by licensed health professionals, including, but not limited
9 to, the prescription or dispensing of controlled substances
10 included in schedule 2 under section 7214, when medically
11 appropriate, AND TO ENABLE REGULATORY AND LAW ENFORCEMENT AGEN-
12 CIES TO PREVENT THE ABUSE AND DIVERSION OF CONTROLLED SUBSTANCES
13 BY CREATING AN ELECTRONIC MONITORING SYSTEM.

14 (4) As used in this section, ~~:(a) "Controlled~~
15 "CONTROLLED substance" means that term as defined in section
16 7104.

17 ~~-(b) "Intractable pain" means that term as defined in sec-~~
18 ~~tion 16204a.~~

19 ~~-(c) "Official prescription form" means that term as defined~~
20 ~~in section 7107.~~

21 Sec. 16204d. (1) The department of consumer and industry
22 services, in consultation with the department of community
23 health, shall develop, publish, and distribute an informational
24 booklet on ~~intractable~~ pain. The department of consumer and
25 industry services shall include at least all of the following in
26 the informational booklet:

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1 ~~—(a) The definition of intractable pain contained in section~~
2 ~~16204a.—~~

3 (A) ~~—(b)—~~ Pain management educational curricula and continu-
4 ing educational requirements of institutions providing health
5 care education recommended by the advisory committee on pain and
6 symptom management under section 16204a.

7 (B) ~~—(c)—~~ Other information considered relevant or useful by
8 the department of consumer and industry services.

9 (2) The department of consumer and industry services, in
10 conjunction with the controlled substances advisory commission
11 created in article 7, shall develop and conduct an educational
12 program for health professionals who are licensed under part 73
13 to prescribe or dispense, or both, controlled substances. The
14 department of consumer and industry services shall include, at a
15 minimum, all of the following in the educational program:

16 ~~—(a) Information on the history and purpose of the official~~
17 ~~prescription form program created in sections 7333 and 7334.~~

18 ~~—(b) Information on how the department of consumer and indus-~~
19 ~~try services collects, processes, and compiles official prescrip-~~
20 ~~tion form information.—~~

21 (A) ~~—(c)—~~ Information on how the department of consumer and
22 industry services processes allegations of wrongdoing against
23 licensees under this article and article 17, including, but not
24 limited to, how the permanent historical record is maintained for
25 each licensee, how and why a review of the permanent historical
26 record is done, and how the decision is made to issue a formal
27 complaint against a licensee.

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1 (B) ~~—(d)—~~ Information on the disciplinary process, including
2 a licensee's rights and duties if an allegation of wrongdoing is
3 filed against the licensee or if some other circumstance occurs
4 that causes or requires the department of consumer and industry
5 services to review a licensee's individual historical record.

6 (C) ~~—(e)—~~ Other information considered relevant or useful by
7 the department of consumer and industry services, or the con-
8 trolled substances advisory commission, especially information
9 that would address the findings and statements of intent con-
10 tained in section 16204c.

11 Enacting section 1. Sections 7334 and 17766b of the public
12 health code, 1978 PA 368, MCL 333.7334 and 333.17766b, are
13 repealed effective upon promulgation of the rules required under
14 section 7333a and receipt by the secretary of state of written
15 notice from the director of the department of consumer and indus-
16 try services that the electronic monitoring system required by
17 section 7333a is operational. The notice to the secretary of
18 state shall include a statement that the department of consumer
19 and industry services is able to receive data from at least 80%
20 of those required to report under section 7333a and is able to
21 respond to requests for data from persons authorized to make such
22 requests and to review and utilize the data.

23 Enacting section 2. Sections 7333, 7401, 7403, 7407, and
24 7521 of the public health code, MCL 333.7333, 333.7401, 333.7403,
25 333.7407, and 333.7521, as amended by this amendatory act, take
26 effect upon the promulgation of the rules required under section
27 7333a and receipt by the secretary of state of written notice

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1 from the director of the department of consumer and industry
2 services that the electronic monitoring system required by sec-
3 tion 7333a is operational. The notice to the secretary of state
4 shall include a statement that the department of consumer and
5 industry services is able to receive data from at least 80% of
6 those required to report under section 7333a and is able to
7 respond to requests for data from persons authorized to make such
8 requests and to review and utilize the data.

9 Enacting section 3. This amendatory act does not take
10 effect unless House Bill No. 5262 of the 91st Legislature is
11 enacted into law.