

HOUSE BILL No. 5260

October 17, 2001, Introduced by Reps. George, Woronchak, Howell, Julian, Richardville, Stewart, Basham, Raczkowski, Vander Veen, Scranton, Patterson, Ehardt, Jelinek, Voorhees, Shulman, Plakas, Anderson, Shackleton, Vear, Stamas, Pappageorge, Meyer, Kuipers, Middaugh, Hummel, Gilbert, Allen, Kowall, Kooiman, Cassis, Pumford, Cameron Brown, Sanborn, Newell, Van Woerkom, DeVuyst, Birkholz, Faunce and Neumann and referred to the Committee on Health Policy.

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~~ SCHEDULES 2, 3, 4, AND 5 or an androgenic anabolic

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

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

1 testosterone, or fluoxymensterone, whether that
2 methyltestosterone, testosterone, or fluoxymensterone is pre-
3 scribed alone or in combination with any other drug ~~for which an~~
4 ~~official prescription form is not required,~~ or for a controlled
5 substance included in schedule 2 shall not be filled more than
6 ~~5~~ 180 days after the date on which the prescription was
7 issued. A prescription for a controlled substance included in
8 schedule 2 for a terminally ill patient whose terminal illness
9 the pharmacist documents pursuant to rules promulgated by the
10 administrator may be partially filled in increments for not more
11 than 60 days after the date on which the prescription was
12 issued.

13 ~~(3) The following are not required to be on an official~~
14 ~~prescription form:~~

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

22 ~~(b) A controlled substance included in schedule 2 or an~~
23 ~~androgenic anabolic steroid that is ordered for and administered~~
24 ~~to a patient on the premises of a licensed health facility or~~
25 ~~agency other than a hospital. An off-site pharmacy receiving a~~
26 ~~prescriber's order pursuant to this subdivision shall record the~~

1 ~~order as required by section 17708(3) and shall retain that~~
2 ~~record as if it were an official prescription form.~~

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

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

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

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

23 ~~(g) A controlled substance described in section~~
24 ~~7214(c)(iv).~~

25 ~~(3) -(4)- Unless dispensed directly by a practitioner, other~~
26 ~~than a pharmacist, to an ultimate user, a controlled substance~~
27 ~~included in schedule 3 or 4 that is a prescription drug as~~

1 determined under section 503(b) of the federal food, drug, and
2 cosmetic act, chapter 675, 52 Stat. ~~1040~~ 1051, 21 U.S.C. 353,
3 or section 17708, shall not be dispensed without a ~~written~~
4 PRESCRIPTION ON A PRESCRIPTION FORM or AN oral prescription of a
5 practitioner. ~~The~~ A prescription FOR A CONTROLLED SUBSTANCE
6 INCLUDED IN SCHEDULE 3 OR 4 shall not be filled or refilled with-
7 out specific refill instructions noted by the prescriber. ~~The~~
8 A prescription FOR A CONTROLLED SUBSTANCE INCLUDED IN SCHEDULE 3
9 OR 4 shall not be filled or refilled later than 6 months after
10 the date of the prescription or be refilled more than 5 times,
11 unless renewed by the ~~practitioner~~ PRESCRIBER in accordance
12 with rules promulgated by the administrator.

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

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

1 (6) ~~-(7)-~~ A prescribing practitioner shall not use a
2 prescription form for a purpose other than prescribing. ~~-A~~
3 ~~prescribing practitioner shall not postdate an official prescrip-~~
4 ~~tion form. A prescribing practitioner shall not sign an official~~
5 ~~prescription form on a day other than the day the prescription is~~
6 ~~issued.~~ A PRESCRIBING PRACTITIONER SHALL NOT POSTDATE A PRE-
7SCRIPTION FORM FOR A CONTROLLED SUBSTANCE.

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

19 (a) Applies to the administrator for a permit in accordance
20 with rules promulgated under this part. The application shall
21 contain the name of the individual in charge of the day to day
22 operations of the dog pound or animal shelter or class B dealer's
23 facilities and the name of the individual responsible for desig-
24 nating employees who will be practicing euthanasia on animals
25 pursuant to this act.

26 (b) Complies with the rules promulgated by the administrator
27 for the storage, handling, and use of commercially prepared,

1 premixed solution of sodium pentobarbital to practice euthanasia
2 on animals. A record of use shall be maintained and shall be
3 available for inspection.

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

17 (8) ~~-(9)-~~ The application described in subsection ~~-(8)-~~ (7)
18 shall include the names and addresses of all individuals employed
19 by the dog pound or animal shelter or class B dealer who have
20 been trained as described in subsection ~~-(8)(c)-~~ (7)(C) and the
21 name of the veterinarian who trained them. The list of names and
22 addresses shall be updated every 6 months.

23 (9) ~~-(10)-~~ If a dog pound or animal shelter or class B
24 dealer issued a permit pursuant to subsection ~~-(8)-~~ (7) does not
25 have in its employ an individual trained as described in subsec-
26 tion ~~-(8)(c)-~~ (7)(C), the dog pound or animal shelter or class B
27 dealer shall immediately notify the administrator and shall cease

1 to administer any commercially prepared, premixed solution of
2 sodium pentobarbital until the administrator is notified that 1
3 of the following has occurred:

4 (a) An individual trained as described in subsection
5 ~~-(8)(c)-~~ (7)(C) has been hired by the dog pound or animal shelter
6 or class B dealer.

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

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

20 (11) ~~-(12)-~~ A person shall not knowingly use or permit the
21 use of a commercially prepared, premixed solution of sodium pen-
22 tobarbital in violation of this section.

23 (12) ~~-(13)-~~ This section does not require that a veterinar-
24 ian be employed by or under contract with a dog pound or animal
25 shelter or class B dealer to obtain, possess, or administer a
26 commercially prepared, premixed solution of sodium pentobarbital
27 pursuant to this section.

1 (13) ~~(14)~~ As used in this section, "class B dealer" means
2 a class B dealer licensed by the United States department of
3 agriculture pursuant to the animal welfare act, Public Law
4 89-544, 7 U.S.C. 2131 to 2147, 2149, and 2151 to 2159 and the
5 department of agriculture pursuant to ~~Act No. 224 of the Public~~
6 ~~Acts of 1969, being sections 287.381 to 287.395 of the Michigan~~
7 ~~Compiled Laws~~ 1969 PA 224, MCL 287.381 TO 287.395.

8 SEC. 7333A. (1) THE DEPARTMENT SHALL ESTABLISH, BY RULE, AN
9 ELECTRONIC SYSTEM MONITORING SCHEDULE 2, 3, 4, AND 5 CONTROLLED
10 SUBSTANCES DISPENSED BY PHARMACISTS AND DISPENSING PRESCRIBERS
11 LICENSED UNDER PART 177. THE RULES SHALL PROVIDE AN APPROPRIATE
12 ELECTRONIC FORMAT FOR THE REPORTING OF DATA INCLUDING, BUT NOT
13 LIMITED TO, PATIENT IDENTIFIERS, THE NAME OF THE DRUG DISPENSED,
14 DATE OF DISPENSING, QUANTITY DISPENSED, PRESCRIBER, AND
15 DISPENSER. THE ADMINISTRATOR, IN CONJUNCTION WITH THE DEPART-
16 MENT, SHALL DETERMINE THE APPROPRIATE CONTROLLED SUBSTANCES AND
17 CONTROLLED SUBSTANCES SCHEDULES TO MONITOR. THE RULES SHALL
18 EXEMPT BOTH OF THE FOLLOWING CIRCUMSTANCES FROM THE REPORTING
19 REQUIREMENTS:

20 (A) THE ADMINISTRATION OF A CONTROLLED SUBSTANCE DIRECTLY TO
21 A PATIENT.

22 (B) THE DISPENSING FROM A HEALTH FACILITY LICENSED UNDER
23 ARTICLE 17 OF A CONTROLLED SUBSTANCE BY A DISPENSING PRESCRIBER
24 IN A QUANTITY ADEQUATE TO TREAT A PATIENT FOR NOT MORE THAN 48
25 HOURS.

26 (2) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION,
27 REPORTING IS MANDATORY FOR A PHARMACIST, VETERINARIAN, AND

1 DISPENSING PRESCRIBER. THE DEPARTMENT MAY ISSUE A WRITTEN WAIVER
2 FOR USE OF THE ELECTRONIC SYSTEM DESCRIBED IN SUBSECTION (1) TO
3 ANY PHARMACIST, VETERINARIAN, OR DISPENSING PRESCRIBER WHO ESTAB-
4 LISHES GROUNDS FOR INABILITY TO USE THE ELECTRONIC SYSTEM.

5 Sec. 7401. (1) Except as authorized by this article, a
6 person shall not manufacture, create, deliver, or possess with
7 intent to manufacture, create, or deliver a controlled substance,
8 a prescription form, ~~an official prescription form,~~ or a coun-
9 terfeit prescription form. A practitioner licensed by the admin-
10 istrator under this article shall not dispense, prescribe, or
11 administer a controlled substance for other than legitimate and
12 professionally recognized therapeutic or scientific purposes or
13 outside the scope of practice of the practitioner, licensee, or
14 applicant.

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

16 (a) A controlled substance classified in schedule 1 or 2
17 that is a narcotic drug or a drug described in section
18 7214(a)(iv) and:

19 (i) Which is in an amount of 650 grams or more of any mix-
20 ture containing that substance is guilty of a felony punishable
21 by imprisonment for life or any term of years but not less than
22 20 years.

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

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

5 (iv) Which is in an amount less than 50 grams, of any mix-
6 ture containing that substance is guilty of a felony and shall be
7 imprisoned for not less than 1 year nor more than 20 years, and
8 may be fined not more than \$25,000.00, or placed on probation for
9 life.

10 (b) Either of the following:

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

14 (ii) Any other controlled substance classified in schedule
15 1, 2, or 3, except marihuana is guilty of a felony punishable by
16 imprisonment for not more than 7 years or a fine of not more than
17 \$10,000.00, or both.

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

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

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

26 (ii) If the amount is 5 kilograms or more but less than 45
27 kilograms, or 20 plants or more but fewer than 200 plants, by

1 imprisonment for not more than 7 years or a fine of not more than
2 \$500,000.00, or both.

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

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

9 ~~(f) An official prescription form or a counterfeit official~~
10 ~~prescription form is guilty of a felony punishable by imprison-~~
11 ~~ment for not more than 20 years or a fine of not more than~~
12 ~~\$25,000.00, or both.~~

13 (F) ~~(g)~~ A prescription form or a counterfeit prescription
14 form ~~other than an official prescription form or a counterfeit~~
15 ~~official prescription form~~ is guilty of a felony punishable by
16 imprisonment for not more than 7 years or a fine of not more than
17 \$5,000.00, or both.

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

1 mandatory term of imprisonment by disciplinary credits or any
2 other type of sentence credit reduction.

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

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

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

20 (5) As used in this section:

21 (a) "Assaultive crime" means a violation of sections 81 to
22 90 of the Michigan penal code, 1931 PA 328, MCL 750.81 to
23 750.90.

24 (b) "Plant" means a marihuana plant that has produced coty-
25 ledons or a cutting of a marihuana plant that has produced
26 cotyledons.

1 Sec. 7403. (1) A person shall not knowingly or
2 intentionally possess a controlled substance, a controlled
3 substance analogue, ~~or an official prescription form~~ or a pre-
4 scription form unless the controlled substance, controlled sub-
5 stance analogue, ~~official prescription form,~~ or prescription
6 form was obtained directly from, or pursuant to, a valid pre-
7 scription or order of a practitioner while acting in the course
8 of the practitioner's professional practice, or except as other-
9 wise authorized by this article.

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

11 (a) A controlled substance classified in schedule 1 or 2
12 that is a narcotic drug or a drug described in section
13 7214(a)(iv), and:

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

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 XIIIA 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 XIIIA of the probate code of 1939, 1939 PA 288,
27 MCL 712A.18.

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

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

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

14 (v) Which is in an amount less than 25 grams of any mixture
15 containing that substance is guilty of a felony punishable by
16 imprisonment for not more than 4 years or a fine of not more than
17 \$25,000.00, or both.

18 (b) Either of the following:

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

22 (ii) A controlled substance classified in schedule 1, 2, 3,
23 or 4, except a controlled substance for which a penalty is pre-
24 scribed in subdivision (a), (b)(i), (c), or (d), or a controlled
25 substance analogue is guilty of a felony punishable by imprison-
26 ment for not more than 2 years or a fine of not more than
27 \$2,000.00, or both.

1 (c) Lysergic acid diethylamide, peyote, mescaline,
2 dimethyltryptamine, psilocyn, psilocybin, or a controlled sub-
3 stance classified in schedule 5 — is guilty of a misdemeanor
4 punishable by imprisonment for not more than 1 year or a fine of
5 not more than \$2,000.00, or both.

6 (d) Marihuana — is guilty of a misdemeanor punishable by
7 imprisonment for not more than 1 year or a fine of not more than
8 \$2,000.00, or both.

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

12 (E) ~~(f) A prescription form other than an official pre-~~
13 ~~scription form,~~ is guilty of a misdemeanor punishable by impris-
14 onment for not more than 1 year or a fine of not more than
15 \$1,000.00, or both.

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

26 (a) The person is within the jurisdiction of the circuit
27 court under section 606 of the revised judicature act of 1961,

1 1961 PA 236, MCL 600.606, or section 4 of chapter XIIIA of the
2 probate code of 1939, 1939 PA 288, MCL 712A.4.

3 (b) The person is being sentenced under section 18(1)(n) of
4 chapter XIIIA of the probate code of 1939, 1939 PA 288,
5 MCL 712A.18.

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

9 Sec. 7407. (1) A person shall not knowingly or
10 intentionally:

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

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

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

19 (d) Furnish false or fraudulent material information in, or
20 omit any material information from, an application, report,
21 ~~official prescription form,~~ or other document required to be
22 kept or filed under this article, or any record required to be
23 kept by this article.

24 (e) Make, distribute, or possess a punch, die, plate, stone,
25 or other thing designed to print, imprint, or reproduce the
26 trademark, trade name, or other identifying mark, imprint, or
27 device of another or any likeness of any of the foregoing upon a

1 drug or container or labeling thereof so as to render the drug a
2 counterfeit substance.

3 ~~-(f) Knowingly and intentionally give, permit, or obtain~~
4 ~~access to information submitted to the department of commerce~~
5 ~~under section 7334, except as otherwise authorized by this~~
6 ~~article.~~

7 (F) ~~-(g)~~ Possess counterfeit prescription forms, except as
8 an agent of government while engaged in the enforcement of this
9 part.

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

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

16 Sec. 7521. (1) The following property is subject to
17 forfeiture:

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

24 (b) A raw material, product, or equipment of any kind that
25 is used, or intended for use, in manufacturing, compounding, pro-
26 cessing, delivering, importing, or exporting a controlled
27 substance, a controlled substance analogue, an androgenic

1 anabolic steroid, a counterfeit androgenic anabolic steroid, or
2 other drug in violation of this article or section 17766a; or a
3 raw material, product, or equipment of any kind that is intended
4 for use in manufacturing, compounding, processing, delivering,
5 importing, or exporting an imitation controlled substance in vio-
6 lation of section 7341.

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

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

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

19 (ii) A conveyance is not subject to forfeiture by reason of
20 any act or omission established by the owner of that conveyance
21 to have been committed or omitted without the owner's knowledge
22 or consent.

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

26 (iv) A forfeiture of a conveyance encumbered by a bona fide
27 security interest is subject to the interest of the secured party

1 who neither had knowledge of nor consented to the act or
2 omission.

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

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

26 (g) Any other drug paraphernalia not described in
27 subdivision (b) or (c).

1 (2) As used in this section:

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

4 (b) "Counterfeit androgenic anabolic steroid" means that
5 term as defined in section 17766a.

6 (c) "Imitation controlled substance" means that term as
7 defined in section 7341.

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

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

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

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

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~~

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.

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

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

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

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

25 ~~-(a) The definition of intractable pain contained in section~~
26 ~~16204a.~~

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

5 (B) ~~-(c)-~~ Other information considered relevant or useful by
6 the department of consumer and industry services.

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

14 ~~-(a) Information on the history and purpose of the official~~
15 ~~prescription form program created in sections 7333 and 7334.~~

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

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

26 (B) ~~-(d)-~~ Information on the disciplinary process, including
27 a licensee's rights and duties if an allegation of wrongdoing is

1 filed against the licensee or if some other circumstance occurs
2 that causes or requires the department of consumer and industry
3 services to review a licensee's individual historical record.

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

9 Enacting section 1. Sections 7111, 7112, 7113, 7334, and
10 17766b of the public health code, 1978 PA 368, MCL 333.7111,
11 333.7112, 333.7113, 333.7334, and 333.17766b, are repealed.

12 Enacting section 2. This amendatory act does not take
13 effect unless Senate Bill No. _____ or House Bill No. 5262
14 (request no. 03602'01 *) of the 91st Legislature is enacted into
15 law.