

HOUSE BILL No. 5732

March 31, 2004, Introduced by Rep. Whitmer and referred to the Committee on Insurance.

A bill to amend 1978 PA 368, entitled
"Public health code,"
by amending sections 17708, 17751, and 17763 (MCL 333.17708,
333.17751, and 333.17763), as amended by 1997 PA 153.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 17708. (1) "Preceptor" means a pharmacist approved by
2 the board to direct the training of an intern in an approved
3 pharmacy.

4 (2) "Prescriber" means a licensed dentist, a licensed doctor
5 of medicine, a licensed doctor of osteopathic medicine and
6 surgery, a licensed doctor of podiatric medicine and surgery, a
7 licensed optometrist certified under part 174 to administer and
8 prescribe therapeutic pharmaceutical agents, a licensed
9 veterinarian, or another licensed health professional acting
10 under the delegation and using, recording, or otherwise

1 indicating the name of the delegating licensed doctor of medicine
2 or licensed doctor of osteopathic medicine and surgery.

3 (3) "Prescription" means an order for a drug or device
4 written and signed or transmitted by other means of communication
5 by a prescriber to be filled, compounded, or dispensed.
6 Prescribing is limited to a prescriber. An order transmitted in
7 other than written form shall be recorded or written and
8 immediately dated by the pharmacist, and that record constitutes
9 the original prescription. In a health facility or agency
10 licensed under article 17 or other medical institution, an order
11 for a drug or device in the patient's chart constitutes for the
12 purposes of this definition the original prescription. Subject
13 to section 17751(2), prescription includes, but is not limited
14 to, an order for a drug, not including a controlled substance as
15 defined in section 7104 except under circumstances described in
16 section ~~17763(g)~~ **17763(f)**, written and signed or transmitted by
17 other means of communication by a physician prescriber licensed
18 to practice in a state other than Michigan.

19 (4) "Prescription drug" means 1 or more of the following:

20 (a) A drug dispensed pursuant to a prescription.

21 (b) A drug bearing the federal legend "CAUTION: federal law
22 prohibits dispensing without prescription".

23 (c) A drug designated by the board as a drug that may only be
24 dispensed pursuant to a prescription.

25 Sec. 17751. (1) A pharmacist shall not dispense a drug
26 requiring a prescription under the federal act or a law of this
27 state except under authority of an original prescription or an

1 equivalent record of an original prescription approved by the
2 board.

3 (2) A pharmacist may dispense a prescription written and
4 signed or transmitted by other means of communication by a
5 physician prescriber in a state other than Michigan, but not
6 including a prescription for a controlled substance as defined in
7 section 7104 except under circumstances described in section
8 ~~17763(g)~~ **17763(f)**, only if the pharmacist in the exercise of
9 his or her professional judgment determines all of the
10 following:

11 (a) That the prescription was issued pursuant to an existing
12 physician-patient relationship.

13 (b) That the prescription is authentic.

14 (c) That the prescribed drug is appropriate and necessary for
15 the treatment of an acute, chronic, or recurrent condition.

16 (3) A pharmacist or a prescriber shall dispense a
17 prescription only if the prescription falls within the scope of
18 practice of the prescriber.

19 (4) A pharmacist shall not knowingly dispense a prescription
20 after the death of the prescriber or patient.

21 Sec. 17763. In addition to the grounds set forth in part
22 161, the disciplinary subcommittee may fine, reprimand, or place
23 a pharmacist licensee on probation, or deny, limit, suspend, or
24 revoke the license of a pharmacist or order restitution or
25 community service for a violation or abetting in a violation of
26 this part or rules promulgated under this part, or for 1 or more
27 of the following grounds:

1 ~~(a) Employing the mail to sell, distribute, or deliver a~~
2 ~~drug that requires a prescription when the prescription for the~~
3 ~~drug is received by mail.~~

4 **(a)** ~~-(b)-~~ Adulterating, misbranding, or substituting a drug
5 or device knowing or intending that the drug or device shall be
6 used.

7 **(b)** ~~-(c)-~~ Permitting the dispensing of prescriptions by an
8 individual who is not a pharmacist, pharmacist intern, or
9 dispensing prescriber.

10 **(c)** ~~-(d)-~~ Permitting the dispensing of prescriptions by a
11 pharmacist intern, except in the presence and under the personal
12 charge of a pharmacist.

13 **(d)** ~~-(e)-~~ Selling at auction drugs in bulk or in open
14 packages unless the sale has been approved in accordance with
15 rules of the board.

16 **(e)** ~~-(f)-~~ Promoting a prescription drug to the public in any
17 manner.

18 **(f)** ~~-(g)-~~ In addition to the prohibition contained in
19 section 7405(1)(e), dispensing a prescription for a controlled
20 substance as defined in section 7104 that is written and signed
21 or transmitted by a physician prescriber in a state other than
22 Michigan, unless the prescription is issued by a physician
23 prescriber residing adjacent to the land border between this
24 state and an adjoining state who is authorized under the laws of
25 that state to practice medicine or osteopathic medicine and
26 surgery and to prescribe controlled substances and whose practice
27 may extend into this state, but who does not maintain an office

1 or designate a place to meet patients or receive calls in this
2 state.