# HOUSE BILL No. 4017

January 27, 2005, Introduced by Rep. Kahn and referred to the Committee on Health Policy.

A bill to amend 1978 PA 368, entitled

"Public health code,"

by amending sections 17757 and 17757a (MCL 333.17757 and 333.17757a), section 17757 as amended by 1986 PA 304 and section 17757a as amended by 1993 PA 305, and by adding section 17753.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

**SEC. 17753. (1) WITHIN 1 YEAR AFTER THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED THIS SECTION, THE BOARD, IN COOPERATION WITH THE MICHIGAN MEDICATION SAFETY COALITION AND THE MICHIGAN PHARMACISTS ASSOCIATION, SHALL DEVELOP, IMPLEMENT, AND ADMINISTER A QUALITY ASSURANCE PROGRAM DESIGNED, AT A MINIMUM, TO IDENTIFY, DOCUMENT, ASSESS, AND PREVENT PRESCRIPTION MEDICATION ERRORS THAT OCCUR IN PHARMACIES OR THAT ARE ATTRIBUTABLE, IN WHOLE OR IN PART,**

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**TO THE PHARMACY OR ITS PERSONNEL, A PHARMACIST, OR A DISPENSING PRESCRIBER. THE QUALITY ASSURANCE PROGRAM SHALL ASSIST PHARMACIES, PHARMACISTS, AND DISPENSING PRESCRIBERS TO TAKE APPROPRIATE ACTION TO PREVENT PRESCRIPTION MEDICATION ERRORS OR TO PREVENT RECURRENCE. THE QUALITY ASSURANCE PROGRAM MAY INCLUDE A PEER REVIEW COMMITTEE APPOINTED BY ANY OF THE FOLLOWING:**

**(A) THIS STATE.**

**(B) AN ESTABLISHED PROFESSIONAL STANDARDS REVIEW ORGANIZATION QUALIFIED UNDER FEDERAL OR STATE LAW.**

**(C) A FOUNDATION, ORGANIZATION, OR GROUP OF PROFESSIONALS AND EXPERTS NOMINATED BY THE MICHIGAN MEDICATION SAFETY COALITION AND THE MICHIGAN PHARMACISTS ASSOCIATION AND APPROVED BY THE BOARD.**

**(2) A PERSON, ORGANIZATION, OR ENTITY MAY PROVIDE INFORMATION, DATA, OR RECORDS TO A PEER REVIEW COMMITTEE APPOINTED UNDER SUBSECTION (1). INFORMATION AND RECORDS GENERATED FOR AND MAINTAINED AS A COMPONENT OF THE QUALITY ASSURANCE PROGRAM ARE CONSIDERED PEER REVIEW DOCUMENTS, ARE CONFIDENTIAL, AND SHALL BE USED ONLY FOR THE PURPOSES OF PEER REVIEW. IN THE ABSENCE OF MALICE, A PERSON, ORGANIZATION, OR ENTITY IS NOT CIVILLY OR CRIMINALLY LIABLE FOR PROVIDING INFORMATION, DATA, OR RECORDS PURSUANT TO THIS SECTION OR FOR ANY ACT OR COMMUNICATION IN THE USE OF THE INFORMATION PROVIDED PURSUANT TO THIS SECTION.**

**(3) THE DEPARTMENT, IN CONSULTATION WITH THE BOARD, MAY PROMULGATE RULES TO IMPLEMENT THIS SECTION, INCLUDING, BUT NOT LIMITED TO, STANDARDS, POLICIES, AND PROCEDURES FOR THE IMPLEMENTATION AND ADMINISTRATION OF A QUALITY ASSURANCE PROGRAM. THE BOARD MAY REQUIRE EACH PHARMACY LICENSED UNDER THIS PART TO**

**IMPLEMENT A QUALITY ASSURANCE PROGRAM.**

**(4) A PHARMACIST SHALL PROVIDE, UPON REQUEST, TO THE PURCHASER OF A PRESCRIPTION DRUG INFORMATION ABOUT HOW TO CONTACT THE BOARD OR THE QUALITY ASSURANCE PROGRAM DIRECTLY IF HE OR SHE HAS A COMPLAINT REGARDING THE DISPENSING OF HIS OR HER PRESCRIPTION OR BELIEVES THAT A PRESCRIPTION MEDICATION ERROR MAY HAVE OCCURRED.**

**(5) AS USED IN THIS SECTION, "PRESCRIPTION MEDICATION ERROR" MEANS A PREVENTABLE EVENT THAT OCCURRED WHILE THE MEDICATION IS IN CONTROL OF THE HEALTH CARE PROFESSIONAL OR HEALTH FACILITY THAT MAY CAUSE OR LEAD TO INAPPROPRIATE MEDICATION USE OR PATIENT HARM. A PREVENTABLE EVENT MAY BE RELATED TO ANY STEP RELATED TO THE HEALTH PROFESSION AND ITS PROCEDURES OR SYSTEMS, INCLUDING, BUT NOT LIMITED TO, THE PRESCRIBING, COMPOUNDING, DISPENSING, OR DISTRIBUTION OF A PRESCRIPTION; THE ORDERING OR COMMUNICATION OF THE PRESCRIPTION TO THE DISPENSING PRESCRIBER; THE LABELING, PACKAGING, OR NAMING OF THE PRESCRIPTION; THE MONITORING OF THE USE OF A PRESCRIPTION; AND THE EDUCATING OF THE PATIENT REGARDING THE PRESCRIPTION.**

Sec. 17757. (1) Upon a request made in person or by telephone, a pharmacist engaged in the business of selling drugs at retail shall provide the current selling price of a drug dispensed by that pharmacy or comparative current selling prices of generic and brand name drugs dispensed by that pharmacy. The information shall be provided to the person making the request before a drug is dispensed to the person. A person who makes a request for price information under this subsection shall not be obligated to purchase the drug for which the price or comparative prices are

requested.

(2) A pharmacist engaged in the business of selling drugs at retail shall conspicuously display the notice described in subsection (3) at each counter over which prescription drugs are dispensed.

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

NOTICE TO CONSUMERS

ABOUT PRESCRIPTION DRUGS

Under Michigan law, you have the right to find out the price of a prescription drug before the pharmacist fills the prescription. You are under no obligation to have the prescription filled here and may use this price information to shop around at other pharmacies. You may request price information in person or by telephone.

Every pharmacy has the current selling prices of both generic and brand name drugs dispensed by the pharmacy.

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

A generic drug may not be dispensed by your pharmacist if your doctor has written "dispense as written" or the initials "d.a.w." on the prescription.

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

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

**IF YOU BELIEVE THAT A PRESCRIPTION MEDICATION ERROR MAY HAVE OCCURRED IN THE DISPENSING OF YOUR PRESCRIPTION, YOU MAY CONTACT THE MICHIGAN BOARD OF PHARMACY OR THE QUALITY ASSURANCE PROGRAM.**

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

(5) A copy of the notice required under subsection (2) shall be provided to each licensee by the department. Additional copies shall be available if needed from the department. A person may duplicate or reproduce the notice if the duplication or reproduction is a true copy of the notice as produced by the department, without any additions or deletions whatsoever. **THE DEPARTMENT MAY CONTINUE TO DISTRIBUTE COPIES OF THE NOTICE WITHIN ITS POSSESSION UNTIL THE DEPARTMENT'S STOCK IS EXHAUSTED OR UNTIL 1 YEAR AFTER THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED SECTION 17753, WHICHEVER IS SOONER.**

(6) The pharmacist shall furnish to the purchaser of a prescription drug at the time the drug is delivered to the purchaser a receipt evidencing the transactions, which contains the following:

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

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

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

(d) The quantity dispensed, if applicable.

(e) The name and address of the pharmacy.

(f) The serial number of the prescription.

(g) The date the prescription was originally dispensed.

(h) The name of the prescriber.

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

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

(7) Subsection (6)(a), (b), and (c) may be omitted by a pharmacist only if the omission is expressly required by the prescriber. The pharmacist shall retain a copy of each receipt for 90 days. The inclusion of subsection (6) on the prescription container label is a valid receipt to the purchaser. Including subsection (6) on the written prescription form and retaining the form constitutes retention of a copy of the receipt.

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

Sec. 17757a. (1) Upon a request made in person or by telephone, a dispensing prescriber engaged in the business of selling prescription drugs shall provide the current selling price of a drug dispensed by that dispensing prescriber or comparative current selling prices of generic and brand name drugs dispensed by that dispensing prescriber. The information shall be provided to the person making the request before a prescription drug is dispensed to the person. A person who makes a request for price information under this subsection is not obligated to purchase the

prescription drug for which the price or comparative prices are requested.

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

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

NOTICE TO CONSUMERS ABOUT PRESCRIPTION DRUGS

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

You may choose to have the prescription filled by your doctor or the pharmacy of your choice. Your doctor may not force you to have the prescription filled by the doctor. Your doctor cannot charge you for medications marked "sample." Ask your doctor or pharmacist if a lower-cost generic drug is available to fill your prescription. A generic drug contains the same medicine as a brand name drug and is a suitable substitute in most cases. If you have questions about the drugs which have been prescribed for you, ask your doctor or pharmacist for more information. To avoid dangerous drug interactions, let your doctor and pharmacist know about any other medications you are taking. This is especially important if you have more than 1 doctor or have prescriptions filled at more than 1 location.

**IF YOU BELIEVE THAT A PRESCRIPTION MEDICATION ERROR MAY HAVE OCCURRED IN THE DISPENSING OF YOUR PRESCRIPTION, YOU MAY CONTACT THE MICHIGAN BOARD OF PHARMACY OR THE QUALITY ASSURANCE PROGRAM.**

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

(5) A copy of the notice required under subsection (2) shall be provided to each dispensing prescriber by the department. Additional copies shall be available if needed from the department. A person may duplicate or reproduce the notice if the duplication or reproduction is a true copy of the notice as produced by the department, without any additions or deletions. **THE DEPARTMENT MAY CONTINUE TO DISTRIBUTE COPIES OF THE NOTICE WITHIN ITS POSSESSION UNTIL THE DEPARTMENT'S STOCK IS EXHAUSTED OR UNTIL 1 YEAR AFTER THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED SECTION 17753, WHICHEVER IS SOONER.**

Enacting section 1. Sections 17757 and 17757a of the public health code, 1978 PA 368, MCL 333.17757 and 333.17757a, as amended by this amendatory act, take effect upon the implementation of the quality assurance program required under section 17753 of the public health code, 1978 PA 368, MCL 333.17753, as added by this amendatory act, and receipt by the secretary of state of written notice from the Michigan board of pharmacy that the quality assurance program is operational.