

# HOUSE BILL No. 5103

August 24, 2005, Introduced by Rep. Caswell and referred to the Committee on Health Policy.

A bill to amend 1978 PA 368, entitled  
"Public health code,"  
by amending section 7333 (MCL 333.7333), as amended by 2001 PA 231.

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

1           Sec. 7333. (1) As used in this section, "good faith" means the  
2   prescribing or dispensing of a controlled substance by a  
3   practitioner licensed under section 7303 in the regular course of  
4   professional treatment to or for an individual who is under  
5   treatment by the practitioner for a pathology or condition other  
6   than that individual's physical or psychological dependence upon or  
7   addiction to a controlled substance, except as provided in this  
8   article. Application of good faith to a pharmacist means the

1 dispensing of a controlled substance pursuant to a prescriber's  
2 order which, in the professional judgment of the pharmacist, is  
3 lawful. The pharmacist shall be guided by nationally accepted  
4 professional standards including, but not limited to, all of the  
5 following, in making the judgment:

6 (a) Lack of consistency in the doctor-patient relationship.

7 (b) Frequency of prescriptions for the same drug by 1  
8 prescriber for larger numbers of patients.

9 (c) Quantities beyond those normally prescribed for the same  
10 drug.

11 (d) Unusual dosages.

12 (e) Unusual geographic distances between patient, pharmacist,  
13 and prescriber.

14 (2) Except as otherwise provided in this section, a  
15 practitioner, in good faith, may dispense a controlled substance  
16 included in schedule 2 upon receipt of a prescription of a  
17 practitioner licensed under section 7303 on a prescription form. A  
18 practitioner shall not issue more than 1 prescription for a  
19 controlled substance included in schedule 2 on a single  
20 prescription form.

21 (3) In an emergency situation, as described in R ~~338.3165~~  
22 **338.3164** of the Michigan administrative code, a controlled  
23 substance included in schedule 2 may be dispensed upon the oral  
24 prescription of a practitioner if, the prescribing practitioner  
25 promptly fills out a prescription form and forwards the  
26 prescription form to the dispensing pharmacy within 7 days after  
27 the oral prescription is issued.

1           (4) EXCEPT AS OTHERWISE PROVIDED UNDER SUBSECTION (5), IF A  
2 DISPENSING PHARMACIST IS UNABLE TO SUPPLY THE FULL QUANTITY CALLED  
3 FOR IN A WRITTEN OR AN EMERGENCY ORAL PRESCRIPTION FOR A CONTROLLED  
4 SUBSTANCE INCLUDED IN SCHEDULE 2, HE OR SHE MAY PARTIALLY FILL THAT  
5 PRESCRIPTION AS LONG AS HE OR SHE MAKES A NOTATION OF THE QUANTITY  
6 SUPPLIED ON THE FACE OF THE WRITTEN PRESCRIPTION OR WRITTEN RECORD  
7 OF THE EMERGENCY ORAL PRESCRIPTION. THE REMAINDER OF THE  
8 PRESCRIPTION MAY BE DISPENSED WITHIN 72 HOURS AFTER THE FIRST  
9 PARTIAL DISPENSING. IF THE REMAINDER OF THE PRESCRIPTION IS NOT OR  
10 CANNOT BE DISPENSED WITHIN THE 72 HOURS, THE PHARMACIST SHALL  
11 NOTIFY THE PRESCRIBER. AFTER THE 72-HOUR PERIOD, A PHARMACIST SHALL  
12 NOT DISPENSE A FURTHER QUANTITY WITHOUT A NEW PRESCRIPTION.

13           (5) Except for a terminally ill patient whose terminal illness  
14 the pharmacist documents pursuant to rules promulgated by the  
15 administrator, OR FOR A PATIENT IN A LONG-TERM CARE FACILITY WHOSE  
16 STATUS AS A LONG-TERM CARE FACILITY PATIENT IS DOCUMENTED BY THE  
17 PHARMACIST PURSUANT TO RULES PROMULGATED BY THE ADMINISTRATOR, a  
18 prescription for a controlled substance included in schedule 2  
19 shall not be filled more than 60 days after the date on which the  
20 prescription was issued. A prescription for a controlled substance  
21 included in schedule 2 for a terminally ill patient whose terminal  
22 illness the pharmacist documents pursuant to rules promulgated by  
23 the administrator OR FOR A PATIENT IN A LONG-TERM CARE FACILITY  
24 WHOSE STATUS AS A LONG-TERM CARE FACILITY PATIENT IS DOCUMENTED BY  
25 THE PHARMACIST PURSUANT TO RULES PROMULGATED BY THE ADMINISTRATOR,  
26 may be partially filled in increments, INCLUDING INDIVIDUAL DOSAGE  
27 UNITS, for not more than 60 days after the date on which the

1 prescription was issued. THE TOTAL QUANTITY OF SCHEDULE 2  
2 CONTROLLED SUBSTANCES DISPENSED IN ALL PARTIAL FILLINGS UNDER THIS  
3 SUBSECTION AND SUBSECTION (4) SHALL NOT BE MORE THAN THE TOTAL  
4 QUANTITY PRESCRIBED. FOR EACH PARTIAL FILLING UNDER THIS  
5 SUBSECTION, THE PHARMACIST SHALL RECORD, ON THE BACK OF THE  
6 PRESCRIPTION OR ON ANOTHER APPROPRIATE RECORD THAT IS UNIFORMLY  
7 MAINTAINED AND READILY RETRIEVABLE, ALL OF THE FOLLOWING  
8 INFORMATION:

9 (A) DATE OF THE PARTIAL FILLING.

10 (B) QUANTITY DISPENSED.

11 (C) REMAINING QUANTITY AUTHORIZED TO BE DISPENSED.

12 (D) IDENTIFICATION OF THE DISPENSING PHARMACIST.

13 (6) ~~-(4)-~~ A practitioner, in good faith, may dispense a  
14 controlled substance included in schedule 3, 4, or 5 that is a  
15 prescription drug as determined under section 503(b) of the federal  
16 food, drug, and cosmetic act, ~~chapter 675, 52 Stat. 1051, 21~~  
17 ~~U.S.C.~~ USC 353, or section 17708, upon receipt of a prescription  
18 on a prescription form or an oral prescription of a practitioner. A  
19 prescription for a controlled substance included in schedule 3 or 4  
20 shall not be filled or refilled without specific refill  
21 instructions noted by the prescriber. A prescription for a  
22 controlled substance included in schedule 3 or 4 shall not be  
23 filled or refilled later than 6 months after the date of the  
24 prescription or be refilled more than 5 times, unless renewed by  
25 the prescriber in accordance with rules promulgated by the  
26 administrator.

27 (7) ~~-(5)-~~ A controlled substance included in schedule 5 shall

1 not be distributed or dispensed other than for a medical purpose,  
2 or in any manner except in accordance with rules promulgated by the  
3 administrator.

4 (8) ~~-(6)-~~ If a prescription is required under this section,  
5 the prescription shall contain the quantity of the controlled  
6 substance prescribed in both written and numerical terms. A  
7 prescription is in compliance with this subsection if, in addition  
8 to containing the quantity of the controlled substance prescribed  
9 in written terms, it contains preprinted numbers representative of  
10 the quantity of the controlled substance prescribed next to which  
11 is a box or line the prescriber may check.

12 (9) ~~-(7)-~~ A prescribing practitioner shall not use a  
13 prescription form for a purpose other than prescribing. A  
14 prescribing practitioner shall not postdate a prescription form  
15 that contains a prescription for a controlled substance. A  
16 prescriber may transmit a prescription by facsimile of a printed  
17 prescription form and by electronic transmission of a printed  
18 prescription form, if not prohibited by federal law. If, with the  
19 patient's consent, a prescription is electronically transmitted, it  
20 shall be transmitted directly to a pharmacy of the patient's choice  
21 by the prescriber or the prescriber's authorized agent, and the  
22 data shall not be altered, modified, or extracted in the  
23 transmission process.

24 (10) ~~-(8)-~~ Notwithstanding subsections (1) to ~~-(5)-~~ (7), a dog  
25 pound or animal shelter licensed or registered by the department of  
26 agriculture pursuant to 1969 PA 287, MCL 287.331 to 287.340, or a  
27 class B dealer may acquire a limited permit only for the purpose of

1 buying, possessing, and administering a commercially prepared,  
2 premixed solution of sodium pentobarbital to practice euthanasia on  
3 injured, sick, homeless, or unwanted domestic pets and other  
4 animals, if the dog pound or animal shelter or class B dealer does  
5 all of the following:

6 (a) Applies to the administrator for a permit in accordance  
7 with rules promulgated under this part. The application shall  
8 contain the name of the individual in charge of the day to day  
9 operations of the dog pound or animal shelter or class B dealer's  
10 facilities and the name of the individual responsible for  
11 designating employees who will be practicing euthanasia on animals  
12 pursuant to this act.

13 (b) Complies with the rules promulgated by the administrator  
14 for the storage, handling, and use of commercially prepared,  
15 premixed solution of sodium pentobarbital to practice euthanasia on  
16 animals. A record of use shall be maintained and shall be available  
17 for inspection.

18 (c) Certifies that an employee of the dog pound or animal  
19 shelter or class B dealer has received, and can document completion  
20 of, a minimum of 8 hours of training given by a licensed  
21 veterinarian in the use of sodium pentobarbital to practice  
22 euthanasia on animals pursuant to rules promulgated by the  
23 administrator, in consultation with the Michigan board of  
24 veterinary medicine as these rules relate to this training, and  
25 that only an individual described in this subdivision or an  
26 individual otherwise permitted to use a controlled substance  
27 pursuant to this article will administer the commercially prepared,

1 premixed solution of sodium pentobarbital according to written  
2 procedures established by the dog pound or animal shelter or class  
3 B dealer.

4       **(11)** ~~-(9)-~~ The application described in subsection ~~-(8)-~~ **(10)**  
5 shall include the names and addresses of all individuals employed  
6 by the dog pound or animal shelter or class B dealer who have been  
7 trained as described in subsection ~~-(8)(e)-~~ **(10)(C)** and the name of  
8 the veterinarian who trained them. The list of names and addresses  
9 shall be updated every 6 months.

10       **(12)** ~~-(10)-~~ If a dog pound or animal shelter or class B dealer  
11 issued a permit pursuant to subsection ~~-(8)-~~ **(10)** does not have in  
12 its employ an individual trained as described in subsection ~~-(8)(e)-~~  
13 **(10)(C)**, the dog pound or animal shelter or class B dealer shall  
14 immediately notify the administrator and shall cease to administer  
15 any commercially prepared, premixed solution of sodium  
16 pentobarbital until the administrator is notified that 1 of the  
17 following has occurred:

18       (a) An individual trained as described in subsection ~~-(8)(e)-~~  
19 **(10)(C)** has been hired by the dog pound or animal shelter or class  
20 B dealer.

21       (b) An employee of the dog pound or animal shelter or class B  
22 dealer has been trained as described in subsection ~~-(8)(e)-~~ **(10)(C)**.

23       **(13)** ~~-(11)-~~ A veterinarian, including a veterinarian who  
24 trains individuals as described in subsection ~~-(8)(e)-~~ **(10)(C)**, is  
25 not civilly or criminally liable for the use of a commercially  
26 prepared, premixed solution of sodium pentobarbital by a dog pound  
27 or animal shelter or class B dealer unless the veterinarian is

1 employed by or under contract with the dog pound or animal shelter  
2 or class B dealer and the terms of the veterinarian's employment or  
3 the contract require the veterinarian to be responsible for the use  
4 or administration of the commercially prepared, premixed solution  
5 of sodium pentobarbital.

6 (14) ~~-(12)-~~ A person shall not knowingly use or permit the use  
7 of a commercially prepared, premixed solution of sodium  
8 pentobarbital in violation of this section.

9 (15) ~~-(13)-~~ This section does not require that a veterinarian  
10 be employed by or under contract with a dog pound or animal shelter  
11 or class B dealer to obtain, possess, or administer a commercially  
12 prepared, premixed solution of sodium pentobarbital pursuant to  
13 this section.

14 (16) ~~-(14)-~~ As used in this section, "class B dealer" means a  
15 class B dealer licensed by the United States department of  
16 agriculture pursuant to the animal welfare act, ~~Public Law 89-544,~~  
17 ~~7 U.S.C. 2131 to 2147, 2149, and 2151~~ 7 USC 2131 to 2159 and the  
18 department of agriculture pursuant to 1969 PA 224, MCL 287.381 to  
19 287.395.