

Act No. 85
Public Acts of 2005
Approved by the Governor
July 19, 2005
Filed with the Secretary of State
July 19, 2005
EFFECTIVE DATE: July 19, 2005

STATE OF MICHIGAN
93RD LEGISLATURE
REGULAR SESSION OF 2005

Introduced by Reps. Whitmer, Byrum, Waters, Plakas, Anderson, Stewart, Phillips, Zelenko, Kolb, Kooiman, Meyer, Hummel, Newell, Adamini, Brown, Gaffney, Hunter, Farrah, LaJoy, Kathleen Law, Bieda, Wojno, Clack, Condino, Vagnozzi, Taub, Accavitti, Garfield, Gleason, Caswell, Shaffer, Hoogendyk, Nofs, Stahl, Huizenga, Farhat, Palsrok, Gillard, Dillon, Byrnes, Caul, Cushingberry, Elsenheimer, Espinoza, Gonzales, Gosselin, Hansen, Hildenbrand, Jones, Kehrl, Lemmons, III, Lemmons, Jr., Marleau, Mayes, McDowell, Moore, Mortimer, Palmer, Pavlov, Pearce, Sheltroun, Alma Smith, Spade and Murphy

ENROLLED HOUSE BILL No. 4405

AN ACT to amend 1978 PA 368, entitled "An act to protect and promote the public health; to codify, revise, consolidate, classify, and add to the laws relating to public health; to provide for the prevention and control of diseases and disabilities; to provide for the classification, administration, regulation, financing, and maintenance of personal, environmental, and other health services and activities; to create or continue, and prescribe the powers and duties of, departments, boards, commissions, councils, committees, task forces, and other agencies; to prescribe the powers and duties of governmental entities and officials; to regulate occupations, facilities, and agencies affecting the public health; to regulate health maintenance organizations and certain third party administrators and insurers; to provide for the imposition of a regulatory fee; to provide for the levy of taxes against certain health facilities or agencies; to promote the efficient and economical delivery of health care services, to provide for the appropriate utilization of health care facilities and services, and to provide for the closure of hospitals or consolidation of hospitals or services; to provide for the collection and use of data and information; to provide for the transfer of property; to provide certain immunity from liability; to regulate and prohibit the sale and offering for sale of drug paraphernalia under certain circumstances; to provide for the implementation of federal law; to provide for penalties and remedies; to provide for sanctions for violations of this act and local ordinances; to provide for an appropriation and supplements; to repeal certain acts and parts of acts; to repeal certain parts of this act; and to repeal certain parts of this act on specific dates," by amending sections 17708, 17751, and 17763 (MCL 333.17708, 333.17751, and 333.17763), sections 17708 and 17751 as amended by 1997 PA 153 and section 17763 as amended by 2004 PA 536.

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

(2) “Prescriber” means a licensed dentist, a licensed doctor of medicine, a licensed doctor of osteopathic medicine and surgery, a licensed doctor of podiatric medicine and surgery, a licensed optometrist certified under part 174 to administer and prescribe therapeutic pharmaceutical agents, a licensed veterinarian, or another licensed health professional acting under the delegation and using, recording, or otherwise indicating the name of the delegating licensed doctor of medicine or licensed doctor of osteopathic medicine and surgery.

(3) “Prescription” means an order for a drug or device written and signed or transmitted by other means of communication by a prescriber to be filled, compounded, or dispensed. Prescribing is limited to a prescriber. An order transmitted in other than written form shall be recorded or written and immediately dated by the pharmacist, and that record constitutes the original prescription. In a health facility or agency licensed under article 17 or other medical institution, an order for a drug or device in the patient’s chart constitutes for the purposes of this definition the original prescription. Subject to section 17751(2), prescription includes, but is not limited to, an order for a drug, not including a controlled substance as defined in section 7104 except under circumstances described in section 17763(e), written and signed or transmitted by other means of communication by a physician prescriber licensed to practice in a state other than Michigan.

(4) “Prescription drug” means 1 or more of the following:

(a) A drug dispensed pursuant to a prescription.

(b) A drug bearing the federal legend “CAUTION: federal law prohibits dispensing without prescription”.

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

Sec. 17751. (1) A pharmacist shall not dispense a drug requiring a prescription under the federal act or a law of this state except under authority of an original prescription or an equivalent record of an original prescription approved by the board.

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

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

(b) That the prescription is authentic.

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

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

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

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

(a) Permitting the dispensing of prescriptions by an individual who is not a pharmacist, pharmacist intern, or dispensing prescriber.

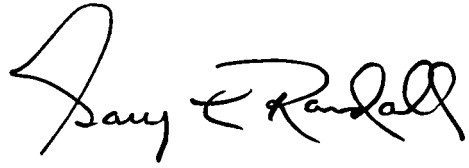
(b) Permitting the dispensing of prescriptions by a pharmacist intern, except in the presence and under the personal charge of a pharmacist.

(c) Selling at auction drugs in bulk or in open packages unless the sale has been approved in accordance with rules of the board.

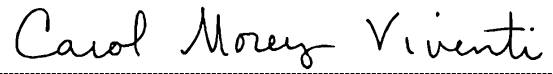
(d) Promoting a prescription drug to the public in any manner.

(e) In addition to the prohibition contained in section 7405(1)(e), dispensing a prescription for a controlled substance as defined in section 7104 that is written and signed or transmitted by a physician prescriber in a state other than Michigan, unless the prescription is issued by a physician prescriber who resides adjacent to the land border between this state and an adjoining state or resides in Illinois or Minnesota and who is authorized under the laws of that state to practice medicine or osteopathic medicine and surgery and to prescribe controlled substances and whose practice may extend into this state, but who does not maintain an office or designate a place to meet patients or receive calls in this state.

This act is ordered to take immediate effect.



Clerk of the House of Representatives



Secretary of the Senate

Approved _____

Governor