

SENATE BILL No. 1366

June 3, 2008, Introduced by Senators GEORGE, VAN WOERKOM, KAHN and BIRKHOLZ 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 2006 PA 451.

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
9 dispensing of a controlled substance pursuant to a prescriber's

1 order which, in the professional judgment of the pharmacist, is
2 lawful. The pharmacist shall be guided by nationally accepted
3 professional standards including, but not limited to, all of the
4 following, in making the judgment:

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

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

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

10 (d) Unusual dosages.

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

13 (2) Except as otherwise provided in this section, a
14 practitioner, in good faith, may dispense a controlled substance
15 included in schedule 2 upon receipt of a prescription of a
16 practitioner licensed under section 7303 on a prescription form. A
17 **IN COMPLIANCE WITH 21 CFR 1306.12, A** practitioner ~~shall not~~ **MAY**
18 issue more than 1 prescription for a controlled substance included
19 in schedule 2 on a single prescription form.

20 (3) In an emergency situation, as described in R 338.3165 of
21 the Michigan administrative code, a controlled substance included
22 in schedule 2 may be dispensed upon the oral prescription of a
23 practitioner if ~~the~~ the prescribing practitioner promptly fills out a
24 prescription form and forwards the prescription form to the
25 dispensing pharmacy within 7 days after the oral prescription is
26 issued. Except for a terminally ill patient whose terminal illness
27 the pharmacist documents pursuant to rules promulgated by the

1 administrator, a prescription for a controlled substance included
2 in schedule 2 shall not be filled more than ~~60~~90 days after the
3 date on which the prescription was issued. A prescription for a
4 controlled substance included in schedule 2 for a terminally ill
5 patient whose terminal illness the pharmacist documents pursuant to
6 rules promulgated by the administrator may be partially filled in
7 increments for not more than 60 days after the date on which the
8 prescription was issued.

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

22 (5) A controlled substance included in schedule 5 shall not be
23 distributed or dispensed other than for a medical purpose, or in
24 any manner except in accordance with rules promulgated by the
25 administrator.

26 (6) If a prescription is required under this section, the
27 prescription shall contain the quantity of the controlled substance

1 prescribed in both written and numerical terms. A prescription is
2 in compliance with this subsection if, in addition to containing
3 the quantity of the controlled substance prescribed in written
4 terms, it contains preprinted numbers representative of the
5 quantity of the controlled substance prescribed next to which is a
6 box or line the prescriber may check.

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

18 (8) Notwithstanding subsections (1) to (5), an animal control
19 shelter or animal protection shelter registered with the department
20 of agriculture pursuant to 1969 PA 287, MCL 287.331 to 287.340, or
21 a class B dealer may acquire a limited permit only for the purpose
22 of buying, possessing, and administering a commercially prepared,
23 premixed solution of sodium pentobarbital to practice euthanasia on
24 injured, sick, homeless, or unwanted domestic pets and other
25 animals, if the animal control shelter or animal protection shelter
26 or class B dealer does all of the following:

27 (a) Applies to the administrator for a permit in accordance

1 with rules promulgated under this part. The application shall
2 contain the name of the individual in charge of the day to day
3 operations of the animal control shelter or animal protection
4 shelter or class B dealer's facilities and the name of the
5 individual responsible for designating employees who will be
6 practicing euthanasia on animals pursuant to this act.

7 (b) Complies with the rules promulgated by the administrator
8 for the storage, handling, and use of a commercially prepared,
9 premixed solution of sodium pentobarbital to practice euthanasia on
10 animals. A record of use shall be maintained and shall be available
11 for inspection.

12 (c) Certifies that an employee of the animal control shelter
13 or animal protection shelter or class B dealer has received, and
14 can document completion of, a minimum of 8 hours of training given
15 by a licensed veterinarian in the use of sodium pentobarbital to
16 practice euthanasia on animals pursuant to rules promulgated by the
17 administrator, in consultation with the Michigan board of
18 veterinary medicine as these rules relate to this training, and
19 that only an individual described in this subdivision or an
20 individual otherwise permitted to use a controlled substance
21 pursuant to this article will administer the commercially prepared,
22 premixed solution of sodium pentobarbital according to written
23 procedures established by the animal control shelter or animal
24 protection shelter or class B dealer.

25 (9) The application described in subsection (8) shall include
26 the names and addresses of all individuals employed by the animal
27 control shelter or animal protection shelter or class B dealer who

1 have been trained as described in subsection (8)(c) and the name of
2 the veterinarian who trained them. The list of names and addresses
3 shall be updated every 6 months.

4 (10) If an animal control shelter or animal protection shelter
5 or class B dealer issued a permit pursuant to subsection (8) does
6 not have in its employ an individual trained as described in
7 subsection (8)(c), the animal control shelter or animal protection
8 shelter or class B dealer shall immediately notify the
9 administrator and shall cease to administer any commercially
10 prepared, premixed solution of sodium pentobarbital until the
11 administrator is notified that 1 of the following has occurred:

12 (a) An individual trained as described in subsection (8)(c)
13 has been hired by the animal control shelter or animal protection
14 shelter or class B dealer.

15 (b) An employee of the animal control shelter or animal
16 protection shelter or class B dealer has been trained as described
17 in subsection (8)(c).

18 (11) A veterinarian, including a veterinarian who trains
19 individuals as described in subsection (8)(c), is not civilly or
20 criminally liable for the use of a commercially prepared, premixed
21 solution of sodium pentobarbital by an animal control shelter or
22 animal protection shelter or class B dealer unless the veterinarian
23 is employed by or under contract with the animal control shelter or
24 animal protection shelter or class B dealer and the terms of the
25 veterinarian's employment or the contract require the veterinarian
26 to be responsible for the use or administration of the commercially
27 prepared, premixed solution of sodium pentobarbital.

1 (12) A person shall not knowingly use or permit the use of a
2 commercially prepared, premixed solution of sodium pentobarbital in
3 violation of this section.

4 (13) This section does not require that a veterinarian be
5 employed by or under contract with an animal control shelter or
6 animal protection shelter or class B dealer to obtain, possess, or
7 administer a commercially prepared, premixed solution of sodium
8 pentobarbital pursuant to this section.

9 (14) Notwithstanding subsections (1) to (5), an animal control
10 shelter registered with the department of agriculture pursuant to
11 1969 PA 287, MCL 287.331 to 287.340, may acquire a limited permit
12 only for the purpose of buying, possessing, and administering a
13 commercially prepared solution of an animal tranquilizer to sedate
14 a feral, wild, difficult to handle, or other animal for euthanasia,
15 or to tranquilize an animal running at large that is dangerous or
16 difficult to capture, if the animal control shelter does all of the
17 following:

18 (a) Applies to the administrator for a permit in accordance
19 with the rules promulgated under this part. The application shall
20 contain the name of the individual in charge of the day to day
21 operations of the animal control shelter and the name of the
22 individual responsible for designating employees who will be
23 administering an animal tranquilizer pursuant to this act.

24 (b) Complies with the rules promulgated by the administrator
25 for the storage, handling, and use of a commercially prepared
26 solution of an animal tranquilizer. A record of use shall be
27 maintained and shall be available for inspection by the department

1 of agriculture.

2 (c) Certifies that an employee of the animal control shelter
3 has received, and can document completion of, a minimum of 16 hours
4 of training, including at least 3 hours of practical training, in
5 the use of animal tranquilizers on animals from a training program
6 approved by the state veterinarian, in consultation with the
7 Michigan board of veterinary medicine, and given by a licensed
8 veterinarian pursuant to rules promulgated by the administrator, in
9 consultation with the Michigan board of veterinary medicine as
10 these rules relate to this training, and that only an individual
11 described in this subdivision or an individual otherwise permitted
12 to use a controlled substance pursuant to this article will
13 administer the commercially prepared solution of an animal
14 tranquilizer according to written procedures established by the
15 animal control shelter.

16 (15) Notwithstanding subsections (1) to (5), an animal
17 protection shelter registered with the department of agriculture
18 pursuant to 1969 PA 287, MCL 287.331 to 287.340, may acquire a
19 limited permit only for the purpose of buying, possessing, and
20 administering a commercially prepared solution of an animal
21 tranquilizer to sedate a feral, wild, difficult to handle, or other
22 animal for euthanasia, if the animal protection shelter does all of
23 the following:

24 (a) Applies to the administrator for a permit in accordance
25 with the rules promulgated under this part. The application shall
26 contain the name of the individual in charge of the day to day
27 operations of the animal protection shelter and the name of the

1 individual responsible for designating employees who will be
2 administering an animal tranquilizer pursuant to this act.

3 (b) Complies with the rules promulgated by the administrator
4 for the storage, handling, and use of a commercially prepared
5 solution of an animal tranquilizer. A record of use shall be
6 maintained and shall be available for inspection by the department
7 of agriculture.

8 (c) Certifies that an employee of the animal protection
9 shelter has received, and can document completion of, a minimum of
10 16 hours of training, including at least 3 hours of practical
11 training, in the use of animal tranquilizers on animals from a
12 training program approved by the state veterinarian, in
13 consultation with the Michigan board of veterinary medicine, and
14 given by a licensed veterinarian pursuant to rules promulgated by
15 the administrator, in consultation with the Michigan board of
16 veterinary medicine as these rules relate to this training, and
17 that only an individual described in this subdivision or an
18 individual otherwise permitted to use a controlled substance
19 pursuant to this article will administer the commercially prepared
20 solution of an animal tranquilizer according to written procedures
21 established by the animal protection shelter.

22 (16) The application described in subsection (14) or (15)
23 shall include the names and business addresses of all individuals
24 employed by the animal control shelter or animal protection shelter
25 who have been trained as described in subsection (14)(c) or (15)(c)
26 and shall include documented proof of the training. The list of
27 names and business addresses shall be updated every 6 months.

1 (17) If an animal control shelter or animal protection shelter
2 issued a permit pursuant to subsection (14) or (15) does not have
3 in its employ an individual trained as described in subsection
4 (14)(c) or (15)(c), the animal control shelter or animal protection
5 shelter shall immediately notify the administrator and shall cease
6 to administer any commercially prepared solution of an animal
7 tranquilizer until the administrator is notified that 1 of the
8 following has occurred:

9 (a) An individual trained as described in subsection (14)(c)
10 or (15)(c) has been hired by the animal control shelter or animal
11 protection shelter.

12 (b) An employee of the animal control shelter or animal
13 protection shelter has been trained as described in subsection
14 (14)(c) or (15)(c).

15 (18) A veterinarian, including a veterinarian who trains
16 individuals as described in subsection (14)(c) or (15)(c), is not
17 civilly or criminally liable for the use of an animal tranquilizer
18 by an animal control shelter or animal protection shelter unless
19 the veterinarian is employed by or under contract with the animal
20 control shelter or animal protection shelter and the terms of the
21 veterinarian's employment or the contract require the veterinarian
22 to be responsible for the use or administration of the commercially
23 prepared solution of an animal tranquilizer.

24 (19) A person shall not knowingly use or permit the use of an
25 animal tranquilizer in violation of this section.

26 (20) This section does not require that a veterinarian be
27 employed by or under contract with an animal control shelter or

1 animal protection shelter to obtain, possess, or administer a
2 commercially prepared solution of an animal tranquilizer pursuant
3 to this section.

4 (21) As used in this section:

5 (a) "Animal tranquilizer" means xylazine hydrochloride or
6 other animal tranquilizing drug as approved by the United States
7 food and drug administration and by the state department of
8 agriculture for use as described in this section.

9 (b) "Class B dealer" means a class B dealer licensed by the
10 United States department of agriculture pursuant to the animal
11 welfare act, 7 USC 2131 to ~~2147, 2149, and 2151 to~~ 2159 and the
12 department of agriculture pursuant to 1969 PA 224, MCL 287.381 to
13 287.395.