

HOUSE BILL No. 4937

May 13, 2009, Introduced by Reps. Segal, Corriveau, Johnson, Simpson, Melton, Haugh, Slavens, Young, Marleau, Mayes and Meadows and referred to the Committee on Health Policy.

A bill to amend 1978 PA 368, entitled
"Public health code,"
(MCL 333.1101 to 333.25211) by adding section 16280.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SEC. 16280. (1) EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION,
2 BEGINNING JULY 1, 2010, A PRESCRIBER SHALL ELECTRONICALLY TRANSMIT
3 EVERY PRESCRIPTION FOR A PRESCRIPTION DRUG WRITTEN IN THIS STATE IN
4 A MANNER THAT COMPLIES WITH THE ELECTRONIC PRESCRIPTION DRUG
5 PROGRAM ESTABLISHED FOR PRESCRIBERS UNDER THE MEDICARE IMPROVEMENTS
6 FOR PATIENTS AND PROVIDERS ACT OF 2008, PUBLIC LAW 110-275. A
7 PRESCRIBER SHALL OFFER THE PATIENT A WRITTEN RECEIPT OF THE
8 INFORMATION TRANSMITTED ELECTRONICALLY TO THE PHARMACY. THE RECEIPT

1 SHALL INCLUDE THE PATIENT'S NAME, THE DOSAGE AND DRUG PRESCRIBED,
2 AND THE NAME OF THE PHARMACY WHERE THE ELECTRONIC PRESCRIPTION WAS
3 SENT AND SHALL INDICATE THAT THE RECEIPT CANNOT BE USED AS A
4 DUPLICATE ORDER FOR THE SAME PRESCRIPTION DRUG. NOTHING IN THIS
5 SECTION INTERFERES WITH THE RIGHT OF A PATIENT TO CHOOSE A PHARMACY
6 OR WITH THE PRESCRIBING DECISION AT THE POINT OF CARE. IF THE
7 PHARMACY TO BE USED BY THE PATIENT FOR WHOM THE PRESCRIPTION IS
8 WRITTEN IS NOT ABLE TO RECEIVE ELECTRONICALLY TRANSMITTED
9 PRESCRIPTIONS AS PROVIDED IN THIS SUBSECTION, THE PRESCRIBER SHALL
10 WRITE THE PRESCRIPTION UTILIZING ELECTRONIC PRESCRIPTION TECHNOLOGY
11 AND DO 1 OF THE FOLLOWING AS DIRECTED BY THE PATIENT:

12 (A) PRINT OR OTHERWISE PROVIDE THE PATIENT WITH A PAPER COPY
13 OF THE ELECTRONIC PRESCRIPTION.

14 (B) TRANSMIT THE ELECTRONIC PRESCRIPTION TO THE PHARMACY BY
15 FACSIMILE OR OTHER MEANS OF ELECTRONIC TRANSMISSION, IF THAT
16 TRANSMISSION IS OTHERWISE ALLOWED UNDER THIS ACT.

17 (2) NOTHING IN THIS SECTION DIMINISHES OR MODIFIES ANY
18 REQUIREMENTS OR PROTECTIONS PROVIDED FOR IN THE PRESCRIPTION OF
19 CONTROLLED SUBSTANCES AS OTHERWISE ESTABLISHED BY THIS ACT. A
20 PRESCRIBER AND A PHARMACY SHALL COMPLY WITH APPLICABLE STATE AND
21 FEDERAL CONFIDENTIALITY AND DATA SECURITY REQUIREMENTS AND
22 APPLICABLE STATE RECORD RETENTION AND REPORTING REQUIREMENTS WITH
23 REGARD TO ELECTRONICALLY TRANSMITTED PRESCRIPTIONS UNDER THIS
24 SECTION.

25 (3) A PRESCRIBER WHO VIOLATES THIS SECTION IS SUBJECT TO THE
26 FOLLOWING:

27 (A) FOR HIS OR HER FIRST OFFENSE, THE DEPARTMENT SHALL REQUIRE

1 HIS OR HER ATTENDANCE AT A MANDATORY EDUCATION PROGRAM OR COURSE
2 ESTABLISHED BY THE DEPARTMENT IN THE ELECTRONIC TRANSMISSION OF
3 PRESCRIPTIONS AS REQUIRED UNDER THIS SECTION.

4 (B) FOR HIS OR HER SECOND OFFENSE, THE DEPARTMENT SHALL
5 REQUIRE THE PRESCRIBER TO SUBMIT A REPORT EXPLAINING THE REASONS HE
6 OR SHE IS UNABLE TO FULLY COMPLY WITH THE REQUIREMENT TO
7 ELECTRONICALLY TRANSMIT PRESCRIPTIONS AS REQUIRED IN THIS SECTION.
8 THE PRESCRIBER SHALL SUBMIT THE INFORMATION REQUIRED UNDER THIS
9 SUBDIVISION IN THE TIME PERIOD ESTABLISHED BY, AND IN THE FORMAT
10 REQUIRED BY, THE DEPARTMENT.

11 (C) FOR HIS OR HER THIRD OFFENSE, THE DEPARTMENT SHALL REQUIRE
12 THE PRESCRIBER TO PAY AN ADMINISTRATIVE FINE OF \$100.00.

13 (D) FOR HIS OR HER FOURTH OFFENSE, THE DEPARTMENT SHALL
14 REQUIRE THE PRESCRIBER TO PAY AN ADMINISTRATIVE FINE OF \$200.00.

15 (E) FOR HIS OR HER FIFTH OR SUBSEQUENT OFFENSE, THE PRESCRIBER
16 IS SUBJECT TO THE ADMINISTRATIVE PENALTIES PRESCRIBED IN SECTIONS
17 16221 AND 16226.

18 (4) BEGINNING WITH THE FIRST FULL RELICENSURE PERIOD AFTER THE
19 EFFECTIVE DATE OF THIS SECTION, A BOARD THAT REQUIRES EVIDENCE OF
20 ATTENDANCE AT EDUCATIONAL PROGRAMS AS A CONDITION TO LICENSE
21 ISSUANCE OR RENEWAL FOR A PRESCRIBER UNDER THIS ARTICLE SHALL
22 REQUIRE EACH APPLICANT FOR LICENSURE OR LICENSE RENEWAL TO COMPLETE
23 AS PART OF THE EDUCATIONAL PROGRAMS REQUIRED AN APPROPRIATE NUMBER
24 OF HOURS OR COURSES IN THE ELECTRONIC TRANSMISSION OF PRESCRIPTIONS
25 AS REQUIRED UNDER THIS SECTION.

26 (5) AS USED IN THIS SECTION:

27 (A) "CONTROLLED SUBSTANCE" MEANS THAT TERM AS DEFINED IN

1 SECTION 7104.

2 (B) "PRESCRIBER" MEANS THAT TERM AS DEFINED IN SECTION 17708,
3 OTHER THAN A LICENSED VETERINARIAN.

4 (C) "PRESCRIPTION" MEANS THAT TERM AS DEFINED IN SECTION
5 17708.

6 (D) "PRESCRIPTION DRUG" MEANS THAT TERM AS DEFINED IN SECTION
7 17708.