

SUBSTITUTE FOR
HOUSE BILL NO. 4999

A bill to amend 1978 PA 368, entitled
"Public health code,"
by amending sections 7405, 16192, 16201, 16349, 17708, 17751, and
17763 (MCL 333.7405, 333.16192, 333.16201, 333.16349, 333.17708,
333.17751, and 333.17763), sections 7405, 17708, and 17763 as
amended by 2012 PA 209, section 16192 as amended by 2013 PA 268,
section 16201 as amended by 1988 PA 462, section 16349 as added
by 1993 PA 79, and section 17751 as amended by 2014 PA 525.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 7405. (1) A person **SHALL NOT DO ANY OF THE FOLLOWING:**

2 (a) ~~Who~~ **IF THE PERSON** is licensed by the administrator under
3 this article, ~~shall not~~ distribute, prescribe, or dispense a
4 controlled substance in violation of section 7333.

5 (b) ~~Who~~ **IF THE PERSON** is a licensee, ~~shall not~~ manufacture a

1 controlled substance not authorized by his or her license or
 2 distribute, prescribe, or dispense a controlled substance not
 3 authorized by his or her license to another licensee or other
 4 authorized person, except as authorized by rules promulgated by
 5 the administrator.

6 (c) ~~Shall not refuse~~ **REFUSE** an entry into any premises for
 7 an inspection authorized by this article.

8 (d) ~~Shall not knowingly~~ **KNOWINGLY** keep or maintain a store,
 9 shop, warehouse, dwelling, building, vehicle, boat, aircraft, or
 10 other structure or place ~~that is frequented by persons using~~
 11 controlled substances in violation of this article for the
 12 purpose of using controlled substances ~~or that is used for~~
 13 keeping or selling controlled substances in violation of this
 14 article.

15 (e) ~~Who~~ **IF THE PERSON** is a practitioner, ~~shall not dispense~~
 16 a controlled substance under a prescription written and signed;
 17 written or created in an electronic format, signed, and
 18 transmitted by facsimile; or transmitted electronically or by
 19 other means of communication by a physician prescriber, ~~or~~
 20 dentist prescriber, **OR VETERINARIAN PRESCRIBER** licensed to
 21 practice in a ~~another~~ **ANOTHER** state, ~~other than Michigan,~~ unless the
 22 prescription is issued by a physician prescriber, ~~or~~ dentist
 23 prescriber, **OR VETERINARIAN PRESCRIBER** who is authorized under
 24 the laws of that state to practice dentistry, medicine, ~~or~~
 25 osteopathic medicine and surgery, **OR VETERINARY MEDICINE** and to
 26 prescribe controlled substances.

27 (2) A person who violates subsection (1) is subject to the

1 penalties prescribed in section 7406.

2 Sec. 16192. (1) A licensee or registrant shall report to the
3 department a change in name, ~~or~~ mailing address, **OR ELECTRONIC**
4 **MAIL ADDRESS IF THE LICENSEE OR REGISTRANT HAS PROVIDED AN**
5 **ELECTRONIC MAIL ADDRESS UNDER SUBSECTION (4)**, not later than 30
6 days after the change occurs.

7 (2) The department may serve a notice of hearing or a
8 complaint on an applicant, licensee, or registrant in an action
9 or proceeding for a violation of this article, article 7, or
10 article 8 or a rule promulgated under this article, article 7, or
11 article 8 by regular mail and by certified mail, return receipt
12 requested, to the applicant's, licensee's, or registrant's last
13 known address, by serving the notice on the applicant, licensee,
14 or registrant, or by making a reasonable attempt to serve the
15 notice on the applicant, licensee, or registrant. For purposes of
16 this subsection, if service is by mail, service is effective 3
17 days after the date of mailing, and nondelivery does not affect
18 the validity of the service if the nondelivery was caused by the
19 refusal of the applicant, licensee, or registrant to accept
20 service.

21 (3) A license or registration is not transferable.

22 (4) **IF THE DEPARTMENT IS REQUIRED OR PERMITTED UNDER THIS**
23 **ARTICLE TO DELIVER OR SERVE A NOTICE OR OTHER COMMUNICATION TO A**
24 **LICENSEE OR REGISTRANT BY MAIL, THE DEPARTMENT MAY DELIVER OR**
25 **SERVE THE NOTICE OR COMMUNICATION BY ELECTRONIC MAIL RATHER THAN**
26 **BY FIRST-CLASS MAIL IF THE LICENSEE OR REGISTRANT HAS PROVIDED AN**
27 **ELECTRONIC MAIL ADDRESS TO THE DEPARTMENT; AUTHORIZED THE**

1 DEPARTMENT IN WRITING TO DELIVER OR SERVE NOTICES AND
 2 COMMUNICATIONS TO THE LICENSEE OR REGISTRANT AT THE ELECTRONIC
 3 MAIL ADDRESS; AND AGREED IN WRITING THAT THE LICENSEE OR
 4 REGISTRANT CONSENTS TO THE SERVICE OF ANY NOTICE OR COMMUNICATION
 5 SENT TO THE ELECTRONIC MAIL ADDRESS THAT THE DEPARTMENT WOULD
 6 OTHERWISE SERVE BY MAIL.

7 Sec. 16201. (1) A LICENSEE OR REGISTRANT SHALL RENEW THE
 8 license or registration ~~shall be renewed by the licensee or~~
 9 ~~registrant~~ on or before the expiration date as prescribed by
 10 rule. The department shall mail a notice to the licensee or
 11 registrant at the last known address on file with a board, **OR MAY**
 12 **SEND THE NOTICE BY ELECTRONIC MAIL TO A LICENSEE OR REGISTRANT**
 13 **DESCRIBED IN SECTION 16192(4)**, advising of the time, procedure,
 14 and fee for renewal. Failure of the licensee or registrant to
 15 receive notice under this subsection does not relieve the
 16 licensee or registrant of the responsibility for renewing his or
 17 her license or registration.

18 (2) A license or registration not renewed by the expiration
 19 date may be renewed within 60 days ~~of~~ **AFTER** the expiration date
 20 ~~upon~~ **ON** application, payment of renewal ~~and~~ late renewal fees,
 21 and fulfillment of any continued competency or continuing
 22 education requirements set forth in this article or rules
 23 promulgated under this article. The licensee or registrant may
 24 continue to practice and use the title during the 60-day time
 25 period.

26 (3) If a license or registration is not renewed within 60
 27 days ~~of~~ **AFTER** the expiration date ~~pursuant to~~ **UNDER** subsection

1 (2), the license or registration ~~shall be~~ **IS** considered null and
2 void. The licensee shall not practice or use the title and a
3 registrant shall not use the title. Except as otherwise provided
4 by rule, a person may be relicensed or reregistered within 3
5 years ~~of~~ **AFTER** the expiration date ~~upon~~ **ON** application, payment
6 of the application processing, renewal, and late renewal fees,
7 and fulfillment of any continued competency or continuing
8 education requirements in effect ~~at the time of~~ **ON** the expiration
9 date, or ~~which~~ **THAT** would have been required had the individual
10 renewed his or her license or registration ~~pursuant to~~ **UNDER**
11 subsection (1). A temporary license or registration may be issued
12 under section 16181 pending the results of action taken under
13 this subsection.

14 (4) Except as otherwise provided in this article or by rule,
15 a person may be relicensed or reregistered more than 3 years
16 after the expiration date ~~upon~~ **ON** application as a new applicant,
17 meeting all licensure or registration requirements in effect at
18 the time of application, taking or retaking and passing any
19 examinations required for initial licensure or registration, and
20 payment of fees required of new applicants.

21 (5) The expiration or surrender of a license or registration
22 does not terminate the board's authority to impose sanctions on
23 the licensee or registrant whose license or registration has
24 expired or been surrendered.

25 Sec. 16349. Fees for a person licensed or seeking licensure
26 to engage in the practice of veterinary medicine or licensed or
27 seeking licensure to practice as a veterinary technician under

1 part 188 are as follows:

2	(a)	Application processing fees:	
3	(i)	Veterinarian.....	\$ 20.00 \$ 25.00
4	(ii)	Veterinary technician.....	10.00 15.00
5	(b)	Examination fees:	
6	(i)	Veterinary technician, complete.....	130.00
7	(ii)	Veterinary technician, per part.....	65.00
8	(c)	License fees, per year:	
9	(i)	Veterinarian.....	50.00 70.00
10	(ii)	Veterinary technician.....	20.00 40.00
11	(d)	Temporary license fees:	
12	(i)	Veterinarian.....	25.00
13	(ii)	Veterinary technician.....	10.00
14	(e)	Limited licenses, per year:	
15	(i)	Veterinarian.....	25.00
16	(ii)	Veterinary technician.....	10.00
17	(f)	Examination review.....	20.00

18 Sec. 17708. (1) "Preceptor" means a pharmacist approved by
 19 the board to direct the training of an intern in an approved
 20 pharmacy.

21 (2) "Prescriber" means a licensed dentist, a licensed doctor
 22 of medicine, a licensed doctor of osteopathic medicine and
 23 surgery, a licensed doctor of podiatric medicine and surgery, a
 24 licensed optometrist certified under part 174 to administer and
 25 prescribe therapeutic pharmaceutical agents, a licensed
 26 veterinarian, or another licensed health professional acting
 27 under the delegation and using, recording, or otherwise
 28 indicating the name of the delegating licensed doctor of medicine

1 or licensed doctor of osteopathic medicine and surgery.

2 (3) "Prescription" means an order by a prescriber to fill,
 3 compound, or dispense a drug or device written and signed;
 4 written or created in an electronic format, signed, and
 5 transmitted by facsimile; or transmitted electronically or by
 6 other means of communication. An order transmitted in other than
 7 written or hard-copy form ~~shall~~ **MUST** be electronically recorded,
 8 printed, or written and immediately dated by the pharmacist, and
 9 that record constitutes the original prescription. In a health
 10 facility or agency licensed under article 17 or other medical
 11 institution, an order for a drug or device in the patient's chart
 12 constitutes for the purposes of this definition the original
 13 prescription. Subject to section 17751(2) and (5), prescription
 14 includes, but is not limited to, an order for a drug, not
 15 including a controlled substance as defined in section 7104
 16 except under circumstances described in section 17763(e), written
 17 and signed; written or created in an electronic format, signed,
 18 and transmitted by facsimile; or transmitted electronically or by
 19 other means of communication by a physician prescriber, ~~or~~
 20 dentist prescriber, **OR VETERINARIAN PRESCRIBER** licensed to
 21 practice dentistry, medicine, ~~or~~ osteopathic medicine and
 22 surgery, **OR VETERINARY MEDICINE** in a ~~ANOTHER~~ state. ~~other than~~
 23 ~~Michigan.~~

24 (4) "Prescription drug" means **A DRUG TO WHICH** 1 or more of
 25 the following **APPLY**:

26 (a) ~~A-**THE**~~ drug **IS** dispensed pursuant to a prescription.

27 (b) ~~A-**THE**~~ drug ~~bearing~~ **BEARS** the federal legend "CAUTION:

1 federal law prohibits dispensing without prescription" or "Rx
2 only".

3 (c) ~~A~~**THE** drug **IS** designated by the board as a drug that may
4 only be dispensed pursuant to a prescription.

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

10 (2) Subject to subsection (5), a pharmacist may dispense a
11 prescription written and signed; written or created in an
12 electronic format, signed, and transmitted by facsimile; or
13 transmitted electronically or by other means of communication by
14 a physician prescriber, ~~or dentist prescriber, OR VETERINARIAN~~
15 **PRESCRIBER** in a ~~ANOTHER~~ state, ~~other than Michigan,~~ but not
16 including a prescription for a controlled substance as defined in
17 section 7104 except under circumstances described in section
18 17763(e), only if the pharmacist in the exercise of his or her
19 professional judgment determines all of the following:

20 (a) Except as otherwise authorized under section 5110,
21 17744a, or 17744b, **IF THE PRESCRIBER IS A PHYSICIAN OR DENTIST,**
22 that the prescription was issued pursuant to an existing
23 physician-patient or dentist-patient relationship.

24 (b) That the prescription is authentic.

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

27 (3) A pharmacist or a prescriber shall dispense a

1 prescription only if the prescription falls within the scope of
2 practice of the prescriber.

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

5 (5) A pharmacist shall not dispense a drug or device under a
6 prescription transmitted by facsimile or created in electronic
7 format and printed out for use by the patient unless the document
8 is manually signed by the prescriber. This subsection does not
9 apply to a prescription that is transmitted by a computer to a
10 facsimile machine if that prescription complies with section
11 17754.

12 (6) After consultation with and agreement from the
13 prescriber, a pharmacist may add or change a patient's address,
14 dosage form, drug strength, drug quantity, directions for use, or
15 issue date with regard to a prescription. A pharmacist shall note
16 the details of the consultation and agreement required under this
17 subsection on the prescription and shall maintain that
18 documentation with the prescription as required in section 17752.
19 A pharmacist shall not change the patient's name, controlled
20 substance prescribed unless authorized to dispense a lower cost
21 generically equivalent drug product under section 17755, or the
22 prescriber's signature with regard to a prescription.

23 (7) A prescription that is contained within a patient's
24 chart in a health facility or agency licensed under article 17 or
25 other medical institution and that is transmitted to a pharmacy
26 under section 17744 is the original prescription. If all other
27 requirements of this part are met, a pharmacist shall dispense a

1 drug or device under a prescription described in this subsection.
2 A pharmacist may dispense a drug or device under a prescription
3 described in this subsection even if the prescription does not
4 contain the quantity ordered. If a prescription described in this
5 subsection does not contain the quantity ordered, the pharmacist
6 shall consult with the prescriber to determine an agreed-upon
7 quantity. The pharmacist shall record the quantity dispensed on
8 the prescription and shall maintain that documentation with the
9 prescription as required in section 17752.

10 Sec. 17763. In addition to the grounds set forth in part
11 161, the disciplinary subcommittee may fine, reprimand, or place
12 a pharmacist licensee on probation, or deny, limit, suspend, or
13 revoke the license of a pharmacist or order restitution or
14 community service for a violation or abetting in a violation of
15 this part or rules promulgated under this part, or for 1 or more
16 of the following grounds:

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

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

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

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

1 (e) In addition to the prohibition contained in section
2 7405(1)(e), dispensing a prescription for a controlled substance
3 as defined in section 7104 that is written and signed; written or
4 created in an electronic format, signed, and transmitted by
5 facsimile; or transmitted electronically or by other means of
6 communication by a physician prescriber, ~~or dentist prescriber,~~
7 **OR VETERINARIAN PRESCRIBER** in a ~~ANOTHER~~ state, ~~other than~~
8 ~~Michigan,~~ unless the prescription is issued by a physician
9 prescriber, ~~or dentist prescriber,~~ **OR VETERINARIAN PRESCRIBER** who
10 is authorized under the laws of that state to practice dentistry,
11 medicine, ~~or osteopathic medicine and surgery,~~ **OR VETERINARY**
12 **MEDICINE** and to prescribe controlled substances.

13 Enacting section 1. Section 16349 of the public health code,
14 1978 PA 368, MCL 333.16349, as amended by this amendatory act,
15 applies to licensing fees required to be paid after December 31,
16 2018.

17 Enacting section 2. This amendatory act takes effect 90 days
18 after the date it is enacted into law.

19 Enacting section 3. This amendatory act does not take effect
20 unless House Bill No. 4408 of the 98th Legislature is enacted
21 into law.