

# SENATE BILL No. 270

March 23, 2017, Introduced by Senators BIEDA, SHIRKEY, GREGORY, ROCCA, CONYERS, HERTEL, ANANICH, KNOLLENBERG, NOFS, SCHUITMAKER, HOOD and KOWALL and referred to the Committee on Health Policy.

A bill to amend 1978 PA 368, entitled  
"Public health code,"  
by amending section 7303a (MCL 333.7303a), as amended by 2016 PA 379, and by adding section 16203.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Sec. 7303a. (1) A prescriber who holds a controlled substances  
2       license may administer or dispense a controlled substance listed in  
3       schedules 2 to 5 without a separate controlled substances license  
4       for those activities.

5       (2) EXCEPT AS OTHERWISE PROVIDED IN RULES PROMULGATED UNDER  
6       SECTION 16203, BEGINNING MARCH 31, 2018, A LICENSED PRESCRIBER  
7       SHALL NOT PRESCRIBE A CONTROLLED SUBSTANCE LISTED IN SCHEDULES 2 TO

1 5 UNLESS THE PRESCRIBER IS IN A BONA FIDE PRESCRIBER-PATIENT  
2 RELATIONSHIP WITH THE PATIENT FOR WHOM THE CONTROLLED SUBSTANCE IS  
3 BEING PRESCRIBED.

4 (3) ~~(2)~~—Before prescribing or dispensing a controlled  
5 substance to a patient, a licensed prescriber shall ask the patient  
6 about other controlled substances the patient may be using. The  
7 prescriber shall record the patient's response in the patient's  
8 medical or clinical record.

9 (4) ~~(3)~~—A licensed prescriber who dispenses controlled  
10 substances shall maintain all of the following records separately  
11 from other prescription records:

12 (a) All invoices and other acquisition records for each  
13 controlled substance acquired by the prescriber for not less than 5  
14 years after the date the prescriber acquires the controlled  
15 substance.

16 (b) A log of all controlled substances dispensed by the  
17 prescriber for not less than 5 years after the date the controlled  
18 substance is dispensed.

19 (c) Records of all other dispositions of controlled substances  
20 under the licensee's control for not less than 5 years after the  
21 date of the disposition.

22 (5) ~~(4)~~—The requirement under section 7303 for a license is  
23 waived in the following circumstances:

24 (a) When a controlled substance listed in schedules 2 to 5 is  
25 administered on the order of a licensed prescriber by an individual  
26 who is licensed under article 15 as a practical nurse or a  
27 registered professional nurse.

(b) When methadone or a methadone congener is dispensed on the order of a licensed prescriber in a methadone treatment program licensed under article 6 or when a controlled substance listed in schedules 2 to 5 is dispensed on the order of a licensed prescriber in a hospice rendering emergency care services in a patient's home as described in section 17746 by a registered professional nurse licensed under article 15.

(6) AS USED IN THIS SECTION, "BONA FIDE PRESCRIBER-PATIENT RELATIONSHIP" MEANS A TREATMENT OR COUNSELING RELATIONSHIP BETWEEN A PRESCRIBER AND A PATIENT IN WHICH ALL OF THE FOLLOWING ARE PRESENT:

(A) THE PRESCRIBER HAS REVIEWED THE PATIENT'S RELEVANT MEDICAL OR CLINICAL RECORDS AND COMPLETED A FULL ASSESSMENT OF THE PATIENT'S MEDICAL HISTORY AND CURRENT MEDICAL CONDITION, INCLUDING A RELEVANT, IN-PERSON, MEDICAL EVALUATION OF THE PATIENT.

(B) THE PRESCRIBER HAS CREATED AND MAINTAINED RECORDS OF THE PATIENT'S CONDITION IN ACCORDANCE WITH MEDICALLY ACCEPTED STANDARDS.

(C) THE PRESCRIBER HAS A REASONABLE EXPECTATION THAT HE OR SHE WILL PROVIDE FOLLOW-UP CARE TO THE PATIENT TO MONITOR THE EFFICACY OF THE USE OF A CONTROLLED SUBSTANCE AS A TREATMENT OF THE PATIENT'S MEDICAL CONDITION.

(D) IF THE PATIENT HAS GIVEN PERMISSION TO THE PRESCRIBER, THE PRESCRIBER HAS NOTIFIED THE PATIENT'S PRIMARY CARE PHYSICIAN, IF ANY, OF THE PATIENT'S MEDICAL CONDITION.

SEC. 16203. BY 1 YEAR AFTER THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED THIS SECTION, THE DEPARTMENT IN

1 CONSULTATION WITH THE MICHIGAN BOARD OF MEDICINE, THE MICHIGAN  
2 BOARD OF OSTEOPATHIC MEDICINE AND SURGERY, THE MICHIGAN BOARD OF  
3 DENTISTRY, THE MICHIGAN BOARD OF PODIATRIC MEDICINE AND SURGERY,  
4 THE MICHIGAN BOARD OF OPTOMETRY, AND THE MICHIGAN TASK FORCE ON  
5 PHYSICIAN'S ASSISTANTS, SHALL PROMULGATE RULES DESCRIBING THE  
6 CIRCUMSTANCES UNDER WHICH A BONA FIDE PRESCRIBER-PATIENT  
7 RELATIONSHIP IS NOT REQUIRED FOR PURPOSES OF PRESCRIBING A SCHEDULE  
8 2 TO 5 CONTROLLED SUBSTANCE UNDER SECTION 7303A(2). THE RULES MUST  
9 INCLUDE AN ALTERNATIVE REQUIREMENT FOR PRESCRIBING A SCHEDULE 2 TO  
10 5 CONTROLLED SUBSTANCE WHEN A BONA FIDE PRESCRIBER-PATIENT  
11 RELATIONSHIP IS NOT REQUIRED BY THE RULES PROMULGATED UNDER THIS  
12 SECTION.

13 Enacting section 1. This amendatory act takes effect 90 days  
14 after the date it is enacted into law.