

SENATE BILL NO. 340

May 22, 2019, Introduced by Senator VANDERWALL and referred to the Committee on Health Policy and Human Services.

A bill to amend 1978 PA 368, entitled
"Public health code,"
by amending sections 17707, 17708, 17709, 17739, 17741, 17742,
17748, 17751, and 17752 (MCL 333.17707, 333.17708, 333.17709,
333.17739, 333.17741, 333.17742, 333.17748, 333.17751, and
333.17752), section 17707 as amended by 2016 PA 528, section 17708
as amended by 2016 PA 499, sections 17709 and 17742 as amended by
2014 PA 280, section 17739 as added by 2014 PA 285, section 17748

as amended by 2015 PA 169, section 17751 as amended by 2017 PA 165, and section 17752 as amended by 2005 PA 73, and by adding section 17742a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 17707. (1) **"Parent pharmacy" means a pharmacy that**
2 **operates a remote pharmacy through a telepharmacy system.**

3 (2) "Personal charge" means the immediate physical presence of
4 a pharmacist or dispensing prescriber.

5 (3) ~~(2)~~—"Pharmacist" means an individual licensed under this
6 article to engage in the practice of pharmacy.

7 (4) ~~(3)~~—"Pharmacist in charge" or "PIC" means the pharmacist
8 who is designated by a pharmacy, manufacturer, or wholesale
9 distributor as its pharmacist in charge under section 17748(2).

10 (5) ~~(4)~~—"Pharmacist intern" or "intern" means an individual
11 who satisfactorily completes the requirements set forth in rules
12 promulgated by the department in consultation with the board and is
13 licensed by the board for the purpose of obtaining instruction in
14 the practice of pharmacy from a preceptor approved by the board.

15 (6) ~~(5)~~—"Pharmacy" means a facility or part of a facility that
16 is licensed under this part to dispense prescription drugs or
17 prepare prescription drugs for delivery or distribution. Pharmacy
18 does not include the office of a dispensing prescriber or an
19 automated device. For the purpose of a duty placed on a pharmacy
20 under this part, "pharmacy" means the person to which the pharmacy
21 license is issued, unless otherwise specifically provided.

22 (7) ~~(6)~~—"Pharmacy technician" means an individual who is
23 required to hold a health profession subfield license under this
24 part to serve as a pharmacy technician.

25 (8) ~~(7)~~—"Practice of pharmacy" means a health service, the

1 clinical application of which includes the encouragement of safety
2 and efficacy in the prescribing, dispensing, administering, and use
3 of drugs and related articles for the prevention of illness, and
4 the maintenance and management of health. Practice of pharmacy
5 includes the direct or indirect provision of professional functions
6 and services associated with the practice of pharmacy. Professional
7 functions associated with the practice of pharmacy include:

8 (a) The interpretation and evaluation of the prescription.

9 (b) Drug product selection.

10 (c) The compounding, dispensing, safe storage, and
11 distribution of drugs and devices.

12 (d) The maintenance of legally required records.

13 (e) Advising the prescriber and the patient as required as to
14 contents, therapeutic action, utilization, and possible adverse
15 reactions or interactions of drugs.

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

18 (2) "Prescriber" means a licensed dentist, a licensed doctor
19 of medicine, a licensed doctor of osteopathic medicine and surgery,
20 a licensed doctor of podiatric medicine and surgery, a licensed
21 physician's assistant, a licensed optometrist certified under part
22 174 to administer and prescribe therapeutic pharmaceutical agents,
23 an advanced practice registered nurse as that term is defined in
24 section 17201 who meets the requirements of section 17211a, a
25 licensed veterinarian, or another licensed health professional
26 acting under the delegation and using, recording, or otherwise
27 indicating the name of the delegating licensed doctor of medicine
28 or licensed doctor of osteopathic medicine and surgery.

29 (3) "Prescription" means an order by a prescriber to fill,

1 compound, or dispense a drug or device written and signed; written
2 or created in an electronic format, signed, and transmitted by
3 facsimile; or transmitted electronically or by other means of
4 communication. An order transmitted in other than written or hard-
5 copy form must be electronically recorded, printed, or written and
6 immediately dated by the pharmacist, and that record is considered
7 the original prescription. In a health facility or agency licensed
8 under article 17 or other medical institution, an order for a drug
9 or device in the patient's chart is considered for the purposes of
10 this definition the original prescription. For purposes of this
11 part, prescription also includes a standing order issued under
12 section 17744e. Subject to section 17751(2) and (5), prescription
13 includes, but is not limited to, an order for a drug, not including
14 a controlled substance except under circumstances described in
15 section 17763(e), written and signed; written or created in an
16 electronic format, signed, and transmitted by facsimile; or
17 transmitted electronically or by other means of communication by a
18 physician prescriber, dentist prescriber, or veterinarian
19 prescriber who is licensed to practice dentistry, medicine,
20 osteopathic medicine and surgery, or veterinary medicine in another
21 state.

22 (4) "Prescription drug" means a drug to which 1 or more of the
23 following apply:

24 (a) The drug is dispensed pursuant to a prescription.

25 (b) The drug bears the federal legend "CAUTION: federal law
26 prohibits dispensing without prescription" or "Rx only".

27 (c) The drug is designated by the board as a drug that may
28 only be dispensed pursuant to a prescription.

29 (5) **"Remote pharmacy" means a pharmacy described in section**

1 **17742a.**

2 Sec. 17709. (1) "Sign" means to affix one's signature manually
3 to a document or to use an electronic signature when transmitting a
4 prescription electronically.

5 (2) "Sterile pharmaceutical" means a dosage form of a drug
6 that is essentially free from living microbes and chemical or
7 physical contamination to the point at which it poses no present
8 risk to the patient, in accordance with USP standards. As used in
9 this subsection, "dosage form" includes, but is not limited to,
10 parenteral, injectable, and ophthalmic dosage forms.

11 (3) "Substitute" means to dispense, without the prescriber's
12 authorization, a different drug in place of the drug prescribed.

13 **(4) "Telepharmacy system" means an interoperable computer**
14 **system that shares continuous, real-time data and uses a**
15 **continuous, real-time audio and video link to connect a pharmacist**
16 **at a parent pharmacy with a remote pharmacy operated by the parent**
17 **pharmacy.**

18 (5) ~~(4)~~—"USP standards" means the pharmacopeial standards for
19 drug substances, dosage forms, and compounded preparations based on
20 designated levels of risk as published in the official compendium.

21 (6) ~~(5)~~—"Wholesale distributor" means a person, other than a
22 manufacturer, who supplies, distributes, sells, offers for sale,
23 barter, or otherwise disposes of, to other persons for resale,
24 compounding, or dispensing, a drug or device salable on
25 prescription only that the distributor has not prepared, produced,
26 derived, propagated, compounded, processed, packaged, or
27 repackaged, or otherwise changed the container or the labeling of
28 the drug or device.

29 Sec. 17739. (1) An individual who performs any of the

1 following functions is considered to be serving as a pharmacy
2 technician and, except as otherwise provided in this part, is
3 required to be licensed under this part as a pharmacy technician:

4 (a) Assisting in the dispensing process.

5 (b) Handling transfer of prescriptions, except controlled
6 substances prescriptions.

7 (c) Compounding drugs.

8 (d) Preparing or mixing intravenous drugs for injection into a
9 human patient.

10 (e) Contacting prescribers concerning prescription drug order
11 clarification, which does not include drug regimen review or
12 clinical or therapeutic interpretation.

13 (f) Receiving verbal orders for prescription drugs, except
14 orders for controlled substances.

15 (g) Subject to section 16215, performing any other functions
16 authorized under rules promulgated by the department in
17 consultation with the board.

18 (2) A pharmacy or dispensing prescriber that utilizes the
19 services of a pharmacy technician shall ensure that all of the
20 following requirements, as applicable, are met:

21 (a) The pharmacy technician is licensed or otherwise
22 authorized to serve as a pharmacy technician under this part.

23 (b) The pharmacy technician only performs the activities or
24 functions that he or she is licensed or otherwise authorized to
25 perform under this part or rules promulgated under this part.

26 (c) Except **for a remote pharmacy or** as otherwise provided by
27 rule promulgated by the department in consultation with the board,
28 the pharmacy technician only performs the activities or functions
29 described in subdivision (b) under the supervision and personal

1 charge of the pharmacist or dispensing prescriber.

2 Sec. 17741. (1) A pharmacy shall not be operated unless
3 licensed by this part.

4 (2) A ~~Except for a remote pharmacy,~~ a pharmacy open for
5 business ~~shall~~ **must** be under the personal charge of a pharmacist. A
6 pharmacist shall not simultaneously have personal charge of more
7 than 1 pharmacy.

8 (3) The person to whom a pharmacy license is issued and the
9 pharmacists on duty are responsible for compliance with federal and
10 state laws regulating the distribution of drugs and the practice of
11 pharmacy. ~~Pharmacy~~ **Except for a remote pharmacy,** pharmacy services
12 ~~shall~~ **must** be conducted under the control and personal charge of a
13 pharmacist.

14 (4) ~~(3)~~ A ~~penalty~~ **sanction** for violation of this part ~~does not~~
15 ~~affect~~ **only affects** the pharmacy license of ~~other than~~ the place of
16 business where the violation occurred.

17 Sec. 17742. (1) The board may require an applicant or the
18 holder of a pharmacy, manufacturer's, or wholesale distributor's
19 license to fully disclose the identity of each partner,
20 stockholder, officer, or member of the board of directors of the
21 pharmacy, manufacturer, or wholesale distributor, as applicable.

22 (2) As used in this section and sections **17742a**, 17748,
23 17748a, and 17768, "applicant" means a person applying for a
24 pharmacy, manufacturer's, or wholesale distributor's license under
25 this article. Applicant includes only 1 or more of the following:

26 (a) An individual, if the person applying is an individual.

27 (b) All partners, including limited partners, if the person
28 applying is a partnership.

29 (c) All stockholders, officers, and members of the board of

1 directors, if the person applying is a privately held corporation.

2 Sec. 17742a. (1) A parent pharmacy shall not operate a remote
3 pharmacy in this state unless the parent pharmacy and the remote
4 pharmacy are each operated in this state and licensed as a pharmacy
5 under this part.

6 (2) The board shall grant a pharmacy license to an applicant
7 seeking to operate a remote pharmacy if the applicant meets all of
8 the following:

9 (a) Submits a completed application and pays the applicable
10 fee under section 16333.

11 (b) Demonstrates to the satisfaction of the board that the
12 parent pharmacy and the remote pharmacy share common ownership.

13 (c) Demonstrates to the satisfaction of the board that, at the
14 time of the application, the location of the remote pharmacy is not
15 within 10 miles of another pharmacy. This subdivision does not
16 apply if the remote pharmacy is located at a hospital, clinic, or
17 mental health facility. The board may waive the requirement
18 described in this subdivision.

19 (d) Meets any other requirements for licensure as a pharmacy
20 as established by the board by rule.

21 (3) If a remote pharmacy open for business is not under the
22 personal charge of a pharmacist, the pharmacist in charge of the
23 parent pharmacy shall ensure that the remote pharmacy is staffed by
24 a pharmacy technician who, while assisting in the dispensing
25 process, is overseen through the use of a telepharmacy system by a
26 pharmacist who meets the requirements described in subsection (4).

27 (4) A pharmacist who is located at a parent pharmacy shall not
28 oversee the activities at a remote pharmacy unless the pharmacist
29 is employed by or under contract with the parent pharmacy, or is

1 employed by or under contract with a pharmacy that has contracted
2 with the parent pharmacy, and he or she has access to all relevant
3 patient information that is maintained by the parent pharmacy.

4 (5) For purposes of this act, a prescription dispensed under
5 this section, including a prescription for a controlled substance,
6 is considered dispensed at the remote pharmacy by the pharmacist
7 described in subsection (4).

8 (6) The pharmacist in charge of the parent pharmacy shall
9 establish and maintain a written policy and procedure manual that
10 must be made available to the board for inspection upon request and
11 that contains each of the following:

12 (a) A description of how the remote pharmacy will comply with
13 federal and state laws, rules, and regulations.

14 (b) The procedure by which a pharmacist described in
15 subsection (4) oversees a pharmacy technician at the remote
16 pharmacy who is assisting in the dispensing process and the
17 procedure by which the pharmacist provides counseling to patients
18 at the remote pharmacy under this section.

19 (c) The procedure for reviewing each of the following:

20 (i) Prescription drug inventory at the remote pharmacy.

21 (ii) Prescriptions or equivalent records approved by the board
22 that are on file at the remote pharmacy.

23 (d) The policy and procedure for providing adequate security
24 to protect the confidentiality and integrity of a patient's
25 protected health information.

26 (e) The procedure for recovering from an event that interrupts
27 or prevents a pharmacist described in subsection (4) from
28 overseeing the operations of the remote pharmacy through the
29 telepharmacy system.

1 (f) The procedure for ensuring that a pharmacist described in
2 subsection (4) complies with the electronic system for monitoring
3 schedule 2, 3, 4, and 5 controlled substances established under
4 section 7333a before a controlled substance is dispensed under this
5 section.

6 (g) The specific acts, tasks, and functions that a pharmacy
7 technician may perform at the remote pharmacy.

8 (7) A pharmacist described in subsection (4) shall review a
9 prescription as required by state and federal law, rules, and
10 regulations before the drug or device that is the subject of the
11 prescription is dispensed under this section. The pharmacist
12 described in subsection (4) shall ensure that the pharmacist's and
13 the pharmacy technician's initials or other means of identifying
14 the pharmacist and the pharmacy technician involved in the
15 dispensing process are recorded on the prescription and that the
16 specific acts, tasks, or functions performed by the pharmacist or
17 pharmacy technician during the dispensing process are recorded in
18 the pharmacy management system.

19 (8) If a remote pharmacy open for business is not under the
20 personal charge of a pharmacist, a pharmacist described in
21 subsection (4) shall provide patient counseling through the
22 telepharmacy system in a manner that complies with the health
23 insurance portability and accountability act of 1996, Public Law
24 104-191, or regulations promulgated under that act, 45 CFR parts
25 160 and 164, before a drug or device is dispensed at the remote
26 pharmacy.

27 (9) If the board grants a pharmacy license to a pharmacy that
28 is located within 10 miles of a remote pharmacy after the remote
29 pharmacy's license is granted or renewed, the parent pharmacy may

1 continue to operate the remote pharmacy.

2 (10) As used in this section, "pharmacy technician" means a
3 pharmacy technician who holds a license other than a temporary
4 license under section 17739b or a limited license under section
5 17739c.

6 Sec. 17748. (1) To do business in this state, a pharmacy,
7 manufacturer, or wholesale distributor, whether or not located in
8 this state, must be licensed under this part. To do business in
9 this state, a person that provides compounding services must be
10 licensed as a pharmacy or manufacturer under this part and, if a
11 pharmacy, authorized to provide compounding services under this
12 section and sections 17748a and 17748b. To do business in this
13 state, an outsourcing facility must be licensed as a pharmacy under
14 this part. Licenses are renewable biennially.

15 (2) ~~A-Except for a remote pharmacy, a~~ pharmacy shall designate
16 a pharmacist licensed in this state as the pharmacist in charge for
17 the pharmacy. **For a remote pharmacy, the pharmacist designated as**
18 **the pharmacist in charge of the parent pharmacy shall also serve as**
19 **the pharmacist in charge of the remote pharmacy.** Except as
20 otherwise provided in this subsection, a manufacturer shall
21 designate a pharmacist licensed in or outside of this state as the
22 pharmacist in charge for the manufacturer. Except as otherwise
23 provided in this subsection, a wholesale distributor shall
24 designate a pharmacist licensed in or outside of this state as the
25 pharmacist in charge for the wholesale distributor or shall
26 designate an employee with the appropriate education or experience,
27 or both, to assume responsibility for compliance with licensing
28 requirements as facility manager for the wholesale distributor. The
29 pharmacy, manufacturer, or wholesale distributor and the individual

1 designated as the PIC or facility manager under this subsection are
2 jointly responsible for the pharmacy's, manufacturer's, or
3 wholesale distributor's compliance with this part and rules
4 promulgated under this part. A person that is a manufacturer or
5 wholesale distributor with respect to a device salable on
6 prescription only but not with respect to any drug salable on
7 prescription only is exempt from this subsection.

8 (3) Subject to this subsection, a pharmacist may be designated
9 as the PIC for **not** more than ~~1 pharmacy.~~ **3 pharmacies, including**
10 **remote pharmacies.** A PIC described in this subsection shall work an
11 average of at least 8 hours per week at each pharmacy for which he
12 or she is the PIC **unless he or she is serving as the PIC of a**
13 **remote pharmacy. The PIC of a remote pharmacy is not required to be**
14 **physically present at the remote pharmacy to satisfy the hour**
15 **requirement described in this subsection, but may satisfy the**
16 **requirement through the use of a telepharmacy system.** The pharmacy
17 and the PIC shall maintain appropriate records and demonstrate
18 compliance with this subsection upon the request of the board or
19 its designee.

20 (4) A pharmacy, manufacturer, or wholesale distributor shall
21 report to the department a change in ownership, management,
22 location, or its PIC or facility manager designated under
23 subsection (2) not later than 30 days after the change occurs.

24 (5) A pharmacist designated as the PIC for a pharmacy shall
25 supervise the practice of pharmacy for the pharmacy. The duties of
26 the PIC include, but are not limited to, the following:

27 (a) Supervision of all activities of pharmacy employees as
28 they relate to the practice of pharmacy including the purchasing,
29 storage, compounding, repackaging, dispensing, and distribution of

1 drugs and devices to ensure that those activities are performed in
2 compliance with this part and the rules promulgated under this
3 part.

4 (b) Enforcement and oversight of policies and procedures
5 applicable to the employees of the pharmacy for the procurement,
6 storage, compounding, and dispensing of drugs and the communication
7 of information to the patient in relation to drug therapy.

8 (c) Establishment and supervision of the method and manner for
9 storage and safekeeping of pharmaceuticals, including maintenance
10 of security provisions to be used when the pharmacy is closed.

11 (d) Establishment and supervision of the record-keeping system
12 for the purchase, sale, delivery, possession, storage, and
13 safekeeping of drugs and devices.

14 (e) Establishment of policies and procedures for individuals
15 who are delegated responsibilities for any of the tasks described
16 in this subsection by the PIC.

17 (6) Except as otherwise provided in subsection (8),
18 fingerprints for the following individuals shall be submitted with
19 an application for a new pharmacy, manufacturer, or wholesale
20 distributor license in the same manner as required in section 16174
21 for the purpose of a criminal history check:

22 (a) If the application is from an individual, who is not a
23 health professional licensed or otherwise authorized to engage in a
24 health profession under this article or who is a health
25 professional but was licensed or otherwise authorized to engage in
26 his or her health profession under this article before October 1,
27 2008, fingerprints for that individual.

28 (b) If the application is from a partnership, fingerprints for
29 all partners and any individual who will manage the day-to-day

1 operations of the new pharmacy, manufacturer, or wholesale
2 distributor.

3 (c) If the application is from a privately held corporation,
4 fingerprints for any individual who will manage the day-to-day
5 operations of the new pharmacy, manufacturer, or wholesale
6 distributor. This subdivision only applies to a privately held
7 corporation that in the aggregate owns fewer than 75 pharmacies,
8 manufacturers, or wholesale distributors on the date the
9 corporation submits its license application.

10 (7) The board, department, and department of state police
11 shall conduct the criminal history check on the individuals
12 described in subsection (6) in the same manner as described in
13 section 16174.

14 (8) Subsection (6) does not apply if a criminal history check
15 that meets the requirements of section 16174 has been obtained for
16 the individuals described in subsection (6) within the 2 years
17 preceding the date of the application for a new pharmacy,
18 manufacturer, or wholesale distributor license under this part. To
19 qualify for the exception under this subsection, an applicant shall
20 submit proof of the previous criminal history check for each
21 individual described in subsection (6), as applicable, with the
22 application for a new pharmacy, manufacturer, or wholesale
23 distributor license under this part. If the department or board
24 determines that a criminal history check for an individual
25 described in subsection (6) does not meet the requirements of
26 section 16174 or was not obtained within the time period
27 prescribed, fingerprints ~~shall~~**must** be submitted for the individual
28 as required under subsection (6).

29 (9) If, as authorized or required under this article, the

1 department inspects or investigates an applicant for a new pharmacy
2 license for a pharmacy that will provide compounding services or a
3 compounding pharmacy, and the applicant or compounding pharmacy is
4 located outside of this state, the applicant or compounding
5 pharmacy shall reimburse the department for its expenses incurred
6 in carrying out its authority or duty to inspect or investigate the
7 applicant or licensee under this article.

8 Sec. 17751. (1) A pharmacist shall not dispense a drug
9 requiring a prescription under the federal act or a law of this
10 state except under authority of an original prescription or an
11 equivalent record of an original prescription approved by the
12 board. **A pharmacist described in section 17742a(4) may dispense a**
13 **drug pursuant to an original prescription received at a remote**
14 **pharmacy if the pharmacist receives, reviews, and verifies an exact**
15 **digital image of the prescription received at the remote pharmacy**
16 **before the drug is dispensed at the remote pharmacy.**

17 (2) Subject to ~~subsection~~ **subsections (1) and (5)**, a
18 pharmacist may dispense a prescription written and signed; written
19 or created in an electronic format, signed, and transmitted by
20 facsimile; or transmitted electronically or by other means of
21 communication by a physician prescriber, dentist prescriber, or
22 veterinarian prescriber in another state, but not including a
23 prescription for a controlled substance except under circumstances
24 described in section 17763(e), only if the pharmacist in the
25 exercise of his or her professional judgment determines all of the
26 following:

27 (a) Except as otherwise authorized under section 5110, 17744a,
28 or 17744b, if the prescriber is a physician or dentist, that the
29 prescription was issued pursuant to an existing physician-patient

1 or dentist-patient relationship.

2 (b) That the prescription is authentic.

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

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

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

10 (5) A pharmacist shall not dispense a drug or device under a
11 prescription transmitted by facsimile or created in electronic
12 format and printed out for use by the patient unless the document
13 is manually signed by the prescriber. This subsection does not
14 apply to ~~a~~**any of the following:**

15 (a) A prescription that is transmitted by a computer to a
16 facsimile machine if that prescription complies with section 17754.

17 (b) **A prescription that is received by a remote pharmacy and**
18 **made available to a pharmacist described in section 17742a(4) for**
19 **review and verification in the manner required under subsection**
20 **(1).**

21 (6) After consultation with and agreement from the prescriber,
22 a pharmacist may add or change a patient's address, a dosage form,
23 a drug strength, a drug quantity, a direction for use, or an issue
24 date with regard to a prescription. A pharmacist shall note the
25 details of the consultation and agreement required under this
26 subsection on the prescription **or, if the drug is dispensed at a**
27 **remote pharmacy, on the digital image of the prescription described**
28 **in subsection (1),** and shall maintain that documentation with the
29 prescription as required in section 17752. A pharmacist shall not

1 change the patient's name, controlled substance prescribed unless
2 authorized to dispense a lower cost generically equivalent drug
3 product under section 17755, or the prescriber's signature with
4 regard to a prescription.

5 (7) A prescription that is contained within a patient's chart
6 in a health facility or agency licensed under article 17 or other
7 medical institution and that is transmitted to a pharmacy under
8 section 17744 is the original prescription. If all other
9 requirements of this part are met, a pharmacist shall dispense a
10 drug or device under a prescription described in this subsection. A
11 pharmacist may dispense a drug or device under a prescription
12 described in this subsection even if the prescription does not
13 contain the quantity ordered. If a prescription described in this
14 subsection does not contain the quantity ordered, the pharmacist
15 shall consult with the prescriber to determine an agreed-upon
16 quantity. The pharmacist shall record the quantity dispensed on the
17 prescription and shall maintain that documentation with the
18 prescription as required in section 17752.

19 (8) If, after consulting with a patient, a pharmacist
20 determines in the exercise of his or her professional judgment that
21 dispensing additional quantities of a prescription drug is
22 appropriate for the patient, the pharmacist may dispense, at one
23 time, additional quantities of the prescription drug up to the
24 total number of dosage units authorized by the prescriber on the
25 original prescription for the patient and any refills of the
26 prescription. Except for a controlled substance included in
27 schedule 5 that does not contain an opioid, this subsection does
28 not apply to a prescription for a controlled substance.

29 Sec. 17752. (1) A prescription, or an equivalent record of the

1 prescription approved by the board, shall be preserved by a
2 licensee or dispensing prescriber for not less than 5 years.

3 (2) A prescription or equivalent record on file in a pharmacy
4 is not a public record. A person having custody of or access to
5 prescriptions shall not disclose their contents or provide copies
6 without the patient's authorization, to any person except to any of
7 the following:

8 (a) The patient for whom the prescription was issued, or
9 another pharmacist acting on behalf of the patient.

10 (b) The authorized prescriber who issued the prescription, or
11 a licensed health professional who is currently treating the
12 patient.

13 (c) An agency or agent of government responsible for the
14 enforcement of laws relating to drugs and devices.

15 (d) A person authorized by a court order.

16 (e) A person engaged in research projects or studies with
17 protocols approved by the board.

18 (3) A pharmacist may refill a copy of a prescription from
19 another pharmacy if the original prescription has remaining
20 authorized refills, and the copy is issued according to the
21 following procedure:

22 (a) The pharmacist issuing a written or oral copy of a
23 prescription shall cancel the original prescription and record the
24 cancellation. The record of cancellation ~~shall~~**must** include the
25 date the copy was issued, to whom issued, and the identification of
26 the pharmacist who issued the copy.

27 (b) The written or oral copy issued ~~shall~~**must** be a duplicate
28 of the original prescription except that it ~~shall~~**must** also include
29 the prescription number, the name of the pharmacy issuing the copy,

1 the date the copy was issued, and the number of authorized refills
2 remaining available to the patient.

3 (c) The pharmacist receiving a written or oral copy of the
4 prescription shall exercise reasonable diligence to determine
5 whether it is a valid copy, and having done so may treat the copy
6 as an original prescription.

7 (d) Except as described in this part, all other copies
8 furnished ~~shall~~**must** be used for information purposes only and
9 clearly marked "for informational or reference purposes only".

10 (4) Subsection (3) does not apply to ~~pharmacies~~**any of the**
11 **following:**

12 (a) **Pharmacies** that share a real-time, on-line database or
13 other equivalent means of communication. ~~or to pharmacies~~

14 (b) **Pharmacies** that transfer prescriptions pursuant to a
15 written contract for centralized prescription processing services
16 as provided under section 17753.

17 (c) **A parent pharmacy if the parent pharmacy receives a copy**
18 **of a prescription from a remote pharmacy that it operates.**

19 (d) **A remote pharmacy if the remote pharmacy receives a copy**
20 **of a prescription from a parent pharmacy.**

21 (5) For purposes of this section, "equivalent record of the
22 prescription approved by the board" or "equivalent record" includes
23 a digital image described in section 17751(1).