Act No. 4
Public Acts of 2020
Approved by the Governor
January 24, 2020
Filed with the Secretary of State
January 27, 2020
EFFECTIVE DATE: April 26, 2020

STATE OF MICHIGAN
100TH LEGISLATURE
REGULAR SESSION OF 2020

Introduced by Senator VanderWall

ENROLLED SENATE BILL No. 340

AN ACT to amend 1978 PA 368, entitled "An act to protect and promote the public health; to codify, revise, consolidate, classify, and add to the laws relating to public health; to provide for the prevention and control of diseases and disabilities; to provide for the classification, administration, regulation, financing, and maintenance of personal, environmental, and other health services and activities; to create or continue, and prescribe the powers and duties of, departments, boards, commissions, councils, committees, task forces, and other agencies; to prescribe the powers and duties of governmental entities and officials; to regulate occupations, facilities, and agencies affecting the public health; to regulate health maintenance organizations and certain third party administrators and insurers; to provide for the imposition of a regulatory fee; to provide for the levy of taxes against certain health facilities or agencies; to promote the efficient and economical delivery of health care services, to provide for the appropriate utilization of health care facilities and services, and to provide for the closure of hospitals or consolidation of hospitals or services; to provide for the collection and use of data and information; to provide for the transfer of property; to provide certain immunity from liability; to regulate and prohibit the sale and offering for sale of drug paraphernalia under certain circumstances; to provide for the implementation of federal law; to provide for penalties and remedies; to provide for sanctions for violations of this act and local ordinances; to provide for an appropriation and supplements; to repeal certain acts and parts of acts; to repeal certain parts of this act; and to repeal certain parts of this act on specific dates," by amending sections 17707, 17708, 17709, 17722, 17726, 17739, 17741, 17742, 17748, 17751, 17752, and 17768 (MCL 333.17707, 333.17708, 333.17709, 333.17722, 333.17726, 333.17739, 333.17741, 333.17742, 333.17748, 333.17751, 333.17752, and 333.17768), 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, section 17752 as amended by 2005 PA 73, and section 17768 as amended by 2014 PA 413, and by adding sections 17742a and 17742b.

The People of the State of Michigan enact:

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

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

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

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

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

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

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

(8) "Practice of pharmacy" means a health service, the clinical application of which includes the encouragement of safety and efficacy in the prescribing, dispensing, administering, and use of drugs and related articles for the prevention of illness, and the maintenance and management of health. Practice of pharmacy includes the direct or indirect provision of professional functions and services associated with the practice of pharmacy. Professional functions associated with the practice of pharmacy include the following:

(a) The interpretation and evaluation of the prescription.

(b) Drug product selection.

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

(d) The maintenance of legally required records.

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

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

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

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

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

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

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

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

(5) "Remote pharmacy" means a pharmacy described in sections 17742a and 17742b.

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

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

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

(4) "Surveillance system" means a real-time, continuous audio and visual camera system that connects a pharmacist at a parent pharmacy with a remote pharmacy for the purposes of providing oversight and security surveillance.

(5) "Telepharmacy system" means an interoperable computer system that meets all of the following requirements:

(a) Shares real-time data and uses a real-time audio and video link to connect a pharmacist at a parent pharmacy with a remote pharmacy operated by the parent pharmacy.

(b) Uses a camera that is of sufficient quality and resolution to allow a pharmacist at a parent pharmacy who is reviewing a prescription to visually identify the markings on tablets and capsules at the remote pharmacy.

(6) "USP standards" means the pharmacopeial standards for drug substances, dosage forms, and compounded preparations based on designated levels of risk as published in the official compendium.

(7) "Wholesale distributor" means a person, other than a manufacturer, who supplies, distributes, sells, offers for sale, barters, or otherwise disposes of, to other persons for resale, compounding, or dispensing, a drug or device salable on prescription only that the distributor has not prepared, produced, derived, propagated, compounded, processed, packaged, or repackaged, or otherwise changed the container or the labeling of the drug or device.

Sec. 17722. In addition to the functions set forth in part 161, except as otherwise provided in this part, the board shall:

(a) Regulate, control, and inspect the character and standard of pharmacy practice and of drugs and devices manufactured, distributed, prescribed, dispensed, administered, or issued in this state and procure samples and limit or prevent the sale of drugs and devices that do not comply with this part.

(b) Prescribe minimum criteria for the use of professional and technical equipment and references in the compounding and dispensing of drugs and devices.

(c) Grant a pharmacy license for each separate place of practice in which the compounding or dispensing of prescription drugs or devices, or both, or the receiving of prescription orders in this state is to be conducted.

(d) Grant a drug control license for the place of practice of a dispensing prescriber who meets the requirements for the license.

(e) Grant a license to a manufacturer or a wholesale distributor of prescription drugs who meets the requirements for the license.

Sec. 17726. The department shall issue a certificate of licensure to an applicant who is granted a license under this part.

Sec. 17739. (1) An individual who performs any of the following functions is considered to be serving as a pharmacy technician and, except as otherwise provided in this part, is required to be licensed under this part as a pharmacy technician:

(a) Assisting in the dispensing process.

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

(c) Compounding drugs.

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

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

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

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

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

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

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

(c) Except for a remote pharmacy or as otherwise provided by rule promulgated by the department in consultation with the board, the pharmacy technician only performs the activities or functions described in subdivision (b) under the supervision and personal charge of the pharmacist or dispensing prescriber.

Sec. 17741. (1) A pharmacy must not be operated unless licensed under this part.

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

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

(4) A sanction for a violation of this part only affects the pharmacy license of the place of business where the violation occurred.

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

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

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

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

(c) All stockholders, officers, and members of the board of directors, if the person applying is a privately held corporation.

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

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

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

(b) Demonstrates to the satisfaction of the department that the parent pharmacy and the proposed remote pharmacy share common ownership.

(c) Subject to subsection (3), demonstrates to the satisfaction of the department that, at the time of the application, the location of the proposed remote pharmacy is not within 10 miles of another pharmacy. This subdivision does not apply if the remote pharmacy is located at a hospital or mental health facility.

(d) Meets any other requirement for licensure as a pharmacy as established by the department, in consultation with the board, by rule.

(3) An applicant seeking a pharmacy license under subsection (2) may apply to the board for a waiver of the mileage requirement described in subsection (2)(c). The board shall only grant a request for a waiver if the applicant demonstrates to the satisfaction of the board that the location of the proposed remote pharmacy is in an area where there is limited access to pharmacy services and that there are compelling circumstances that justify waiving the requirement.

(4) If a pharmacy license is granted to a pharmacy that is located within 10 miles of a remote pharmacy after the remote pharmacy's license is granted or renewed, the remote pharmacy may continue to operate.

Sec. 17742b. (1) If a remote pharmacy open for business is not under the personal charge of a pharmacist, the pharmacist in charge of the parent pharmacy shall ensure that the remote pharmacy is staffed by a qualified pharmacy technician who, while assisting in the dispensing process, is overseen through the use of a surveillance system and a telepharmacy system by a pharmacist who meets the requirements described in subsection (2).

(2) Subject to subsection (10), a pharmacist who is located at a parent pharmacy may only oversee the activities at a remote pharmacy if the pharmacist has access to all relevant patient information that is maintained by the parent pharmacy and he or she is employed by or under contract with the parent pharmacy or a pharmacy that has contracted with the parent pharmacy.

(3) For purposes of this code, a prescription dispensed under this section, including a prescription for a controlled substance, is considered dispensed at the remote pharmacy by the pharmacist described in subsection (2).

(4) The pharmacist in charge of the parent pharmacy shall establish and maintain a written policy and procedure manual that must be made available to the department for inspection upon request and that contains each of the following, subject to this section:

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

(b) The procedure by which a pharmacist described in subsection (2) oversees a qualified pharmacy technician at the remote pharmacy who is assisting in the dispensing process and the procedure by which the pharmacist provides counseling to patients at the remote pharmacy.

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

(*i*) Subject to section 7321, prescription drug inventory at the remote pharmacy.

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

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

(e) The procedure for recovering from an event that interrupts or prevents a pharmacist described in subsection (2) from overseeing the operations of the remote pharmacy through the surveillance system or telepharmacy system. The procedure must require that the remote pharmacy be closed to the public during a time period in which any component of the surveillance system or telepharmacy system is malfunctioning, unless a pharmacist is present at the remote pharmacy during that time period.

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

(g) The specific acts, tasks, and functions that a qualified pharmacy technician may perform at the remote pharmacy. However, a qualified pharmacy technician shall not do any of the following at the remote pharmacy:

(*i*) Provide consultation regarding a prescription or regarding medical information contained in a patient medication record or patient chart.

(*ii*) Perform compounding of sterile or nonsterile drugs, except for the reconstitution of prepackaged prescription drugs.

(h) A requirement that a pharmacist described in subsection (2) complete a monthly, in-person inspection of the remote pharmacy that includes, at a minimum, conducting inventory reconciliation for controlled substances and reviewing any video recording from the surveillance system that the pharmacist considers necessary.

(i) A policy that requires the pharmacist described in subsection (2) to retain audio and video recordings from the surveillance system for at least 45 calendar days.

(5) The pharmacist in charge of the parent pharmacy shall display at the remote pharmacy in a conspicuous location, visible to the public, a notice that provides all of the following information:

(a) That the pharmacy services are being provided at a remote pharmacy.

(b) That if patient counseling is provided, it may be provided by a pharmacist using audio and video communication.

(c) The address of the parent pharmacy.

(6) A pharmacist described in subsection (2) shall review a prescription as required by state and federal law, rules, and regulations before the drug or device that is the subject of the prescription is dispensed under this section. The pharmacist shall ensure that the pharmacist's and the qualified pharmacy technician's initials or other means of identifying the pharmacist and the qualified pharmacy technician involved in the dispensing process are recorded on the prescription and that the specific acts, tasks, or functions performed by the pharmacist or qualified pharmacy technician during the dispensing process are recorded in the pharmacy management system. When submitting a claim or otherwise seeking reimbursement for a public or private third party payer for a drug or device that is dispensed under this section, the pharmacist shall identify the remote pharmacy as the pharmacy from which the drug or device was dispensed.

(7) If a remote pharmacy open for business is not under the personal charge of a pharmacist, any patient counseling that is required by rule must be provided before the drug or device is dispensed at the remote pharmacy and must be provided by a pharmacist described in subsection (2) through the telepharmacy system in a manner that complies with the health insurance portability and accountability act of 1996, Public Law 101-191, or regulations promulgated under that act, 45 CFR parts 160 and 164.

(8) If a pharmacist described in subsection (2) is not present at the parent pharmacy, the remote pharmacy must be closed for business unless a pharmacist is present at the remote pharmacy.

(9) A remote pharmacy shall not dispense more than an average of 150 prescriptions per day during a 90-day period.

(10) A pharmacist described in subsection (2) shall not simultaneously oversee the activities of 3 or more remote pharmacies.

(11) As used in this section, "qualified pharmacy technician" means a pharmacy technician who meets all of the following requirements:

(a) He or she holds a pharmacy technician license other than a temporary license under section 17739b or limited license under section 17739c.

(b) He or she has accumulated at least 1,000 hours of experience working in a pharmacy after he or she was granted a temporary pharmacy technician license under section 17739b, a limited pharmacy technician license under section 17739c, or a pharmacy technician license under section 17739a.

(c) He or she holds a national certification as a pharmacy technician from an organization approved by the board.

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

(2) Except for a remote pharmacy, a pharmacy shall designate a pharmacist licensed in this state as the pharmacist in charge for the pharmacy. For a remote pharmacy, the pharmacist designated as the pharmacist in charge of the parent pharmacy shall also serve as the pharmacist in charge of the remote pharmacy. Except as otherwise provided in this subsection, a manufacturer shall designate a pharmacist licensed in or outside of this state as the pharmacist in charge for the manufacturer or, if the manufacturer does not hold a license as a pharmacy, shall designate an employee with the appropriate education or experience, or both, to assume responsibility for compliance with licensing requirements as facility manager for the manufacturer. Except as otherwise provided in this subsection, a wholesale distributor shall designate a pharmacist licensed in or outside of this state as the pharmacist in charge for the wholesale distributor or shall designate an employee with the appropriate education or experience, or both, to assume responsibility for compliance with licensing requirements as facility manager for the wholesale distributor. The pharmacy, manufacturer, or wholesale distributor and the individual designated as the PIC or facility manager under this subsection are jointly responsible for the pharmacy's, manufacturer's, or wholesale distributor's compliance with this part and rules promulgated under this part. A person that is a manufacturer or wholesale distributor with respect to a device salable on prescription only but not with respect to any drug salable on prescription only is exempt from this subsection.

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

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

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

(a) Supervision of all activities of pharmacy employees as they relate to the practice of pharmacy including the purchasing, storage, compounding, repackaging, dispensing, and distribution of drugs and devices to ensure that those activities are performed in compliance with this part and the rules promulgated under this part.

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

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

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

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

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

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

(b) If the application is from a partnership, fingerprints for all partners and any individual who will manage the day-to-day operations of the new pharmacy, manufacturer, or wholesale distributor.

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

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

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

(9) If, as authorized or required under this article, the department inspects or investigates an applicant for a new pharmacy license for a pharmacy that will provide compounding services or a compounding pharmacy, and the applicant or compounding pharmacy is located outside of this state, the applicant or compounding pharmacy shall reimburse the department for its expenses incurred in carrying out its authority or duty to inspect or investigate the applicant or licensee under this article.

Sec. 17751. (1) A pharmacist shall not dispense a drug requiring a prescription under the federal act or a law of this state except under authority of an original prescription or an equivalent record of an original prescription approved by the board. A pharmacist described in section 17742b(2) may dispense a drug pursuant to an original prescription received at a remote pharmacy if the pharmacist receives, reviews, and verifies an exact digital image of the prescription received at the remote pharmacy before the drug is dispensed at the remote pharmacy.

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

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

(b) That the prescription is authentic.

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

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

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

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

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

(b) A prescription that is received by a remote pharmacy and made available to a pharmacist described in section 17742b(2) for review and verification in the manner required under subsection (1).

(6) After consultation with and agreement from the prescriber, a pharmacist may add or change a patient's address, a dosage form, a drug strength, a drug quantity, a direction for use, or an issue date with regard to a prescription. A pharmacist shall note the details of the consultation and agreement required under this subsection on the prescription or, if the drug is dispensed at a remote pharmacy, on the digital image of the prescription described in subsection (1), and shall maintain that documentation with the prescription as required in section 17752. A pharmacist shall not change the patient's name, controlled substance prescribed unless authorized to dispense a lower cost generically equivalent drug product under section 17755, or the prescriber's signature with regard to a prescription.

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

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

Sec. 17752. (1) A licensee or dispensing prescriber shall preserve a prescription, or an equivalent record of the prescription approved by the board, for not less than 5 years.

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

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

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

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

(d) A person authorized by a court order.

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

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

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

(b) The written or oral copy issued must be a duplicate of the original prescription except that it must also include the prescription number, the name of the pharmacy issuing the copy, the date the copy was issued, and the number of authorized refills remaining available to the patient.

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

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

(4) Subsection (3) does not apply to any of the following:

(a) Pharmacies that share a real-time, on-line database or other equivalent means of communication.

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

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

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

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

Sec. 17768. (1) In a manner consistent with part 161, the disciplinary subcommittee may fine, reprimand, or place on probation a person licensed under this part, may deny, limit, suspend, or revoke a person's license, or may order restitution or community service for a violation of this part or rules promulgated under this part.

(2) In addition to the grounds set forth in subsection (1), and in a manner consistent with part 161, the board may fine, reprimand, or place on probation a person licensed under this part, may deny, limit, suspend, or revoke a license issued under this part, or may order restitution or community service if the board finds that any of the following apply to an applicant; a partner, officer, or member of the board of directors of a pharmacy,

manufacturer, or wholesale distributor licensed under this part; a stockholder of a pharmacy, manufacturer, or wholesale distributor that is a privately held corporation licensed under this part; or a facility manager for a manufacturer or wholesale distributor designated under section 17748(2):

(a) The applicant or other person described in this subsection lacks good moral character.

(b) Subject to subsection (3), the applicant or other person described in this subsection has been convicted of a misdemeanor or a felony under a state or federal law relating to a controlled substance or the practice of pharmacy.

(c) The applicant or other person described in this subsection has furnished false or fraudulent material information or has knowingly omitted material information in an application filed under this part.

(d) The applicant or other person described in this subsection has maintained a financial interest in a pharmacy, manufacturer, or wholesale distributor that has been denied a license or federal registration, has had its license or federal registration limited, suspended, or revoked, or has been subject to any other criminal, civil, or administrative penalty.

(e) The applicant or other person described in this subsection is not in compliance with article 7 or article 8 or the rules promulgated under article 7 or article 8.

(f) The applicant or other person described in this subsection has violated section 17748.

(3) Except for a conviction for a misdemeanor under section 7404(2)(d) or a local ordinance that is substantially similar to section 7404(2)(d), the reference to a misdemeanor in subsection (2)(b) applies only to a conviction for a misdemeanor that is directly related to the manufacture, delivery, possession, possession with intent to manufacture or deliver, use, distribution, prescription, or dispensing of a controlled substance. Subsection (2)(b) does not apply to a conviction for a misdemeanor based on an unintentional error or omission involving a clerical or record-keeping function.

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

This act is ordered to take immediate effect.

Secretary of the Senate

Clerk of the House of Representatives

Approved_____

_____

Governor