

SUBSTITUTE FOR
SENATE BILL NO. 166

A bill to amend 1978 PA 368, entitled
"Public health code,"
by amending sections 16106, 17708, and 17751 (MCL 333.16106,
333.17708, and 333.17751), section 16106 as amended by 2002 PA 643,
section 17708 as amended by 2020 PA 4, and section 17751 as amended
by 2020 PA 136.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

- 1 Sec. 16106. (1) "Incompetence" means a departure from, or
2 failure to conform to, minimal standards of acceptable and
3 prevailing practice for a health profession, whether or not actual
4 injury to an individual occurs.
5 (2) "License", except as otherwise provided in this subsection
6 **and section 17708(2)**, means an authorization issued under this

1 article to practice where practice would otherwise be unlawful.
 2 License includes an authorization to use a designated title which
 3 use would otherwise be prohibited under this article and may be
 4 used to refer to a health profession subfield license, limited
 5 license, or a temporary license. ~~For purposes of the definition of~~
 6 ~~"prescriber" contained in section 17708(2) only, license includes~~
 7 ~~an authorization issued under the laws of another state, or the~~
 8 ~~country of Canada to practice in that state or in the country of~~
 9 ~~Canada, where practice would otherwise be unlawful, and is limited~~
 10 ~~to a licensed doctor of medicine, a licensed doctor of osteopathic~~
 11 ~~medicine and surgery, or another licensed health professional~~
 12 ~~acting under the delegation and using, recording, or otherwise~~
 13 ~~indicating the name of the delegating licensed doctor of medicine~~
 14 ~~or licensed doctor of osteopathic medicine and surgery.~~ License
 15 does not include a health profession specialty field license.

16 (3) "Licensee", as used in a part that regulates a specific
 17 health profession, means an individual to whom a license is issued
 18 under that part, and as used in this part means each licensee
 19 regulated by this article.

20 (4) "Limitation" means an action by which a board imposes
 21 restrictions or conditions, or both, on a license.

22 (5) "Limited license" means a license to which restrictions or
 23 conditions, or both, as to scope of practice, place of practice,
 24 supervision of practice, duration of licensed status, or type or
 25 condition of patient or client served are imposed by a board.

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

28 (2) "Prescriber" means a licensed dentist; ~~—~~a licensed doctor
 29 of medicine; ~~—~~a licensed doctor of osteopathic medicine and

1 surgery; ~~7~~a licensed doctor of podiatric medicine and surgery; ~~7~~a
 2 licensed physician's assistant; ~~7~~**subject to part 174**, a licensed
 3 optometrist; ~~certified under part 174 to administer and prescribe~~
 4 ~~therapeutic pharmaceutical agents~~, **subject to section 17211a**, an
 5 advanced practice registered nurse; ~~as that term is defined in~~
 6 ~~section 17201 who meets the requirements of section 17211a~~, a
 7 licensed veterinarian; ~~7~~or another licensed health professional
 8 acting under the delegation and using, recording, or otherwise
 9 indicating the name of the delegating licensed doctor of medicine
 10 or licensed doctor of osteopathic medicine and surgery. **As used in**
 11 **this subsection:**

12 (a) "Advanced practice registered nurse" means that term as
 13 defined in section 17201 and includes a licensed advanced practice
 14 registered nurse.

15 (b) "License" means that term as defined in section 16106 and
 16 includes an authorization issued under the laws of another state or
 17 province of Canada to practice a profession described in this
 18 subsection in that state or province of Canada where practice would
 19 otherwise be unlawful.

20 (3) "Prescription" means an order by a prescriber to fill,
 21 compound, or dispense a drug or device written and signed; written
 22 or created in an electronic format, signed, and transmitted by
 23 facsimile; or transmitted electronically or by other means of
 24 communication. An order transmitted in other than written or hard-
 25 copy form must be electronically recorded, printed, or written and
 26 immediately dated by the pharmacist, and that record is considered
 27 the original prescription. In a health facility or agency licensed
 28 under article 17 or other medical institution, an order for a drug
 29 or device in the patient's chart is considered for the purposes of

1 this definition the original prescription. For purposes of this
 2 part, prescription also includes a standing order issued under
 3 section 17744e. Subject to section 17751(2) and (5), prescription
 4 includes, but is not limited to, an order for a drug, not including
 5 a controlled substance except under circumstances described in
 6 section 17763(e), written and signed; written or created in an
 7 electronic format, signed, and transmitted by facsimile; or
 8 transmitted electronically or by other means of communication by a
 9 ~~physician prescriber, dentist prescriber, or veterinarian~~
 10 ~~prescriber who is licensed to practice dentistry, medicine,~~
 11 ~~osteopathic medicine and surgery, or veterinary medicine~~ in another
 12 state **or province of Canada.**

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

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

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

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

20 (5) "Remote pharmacy" means a pharmacy described in sections
 21 17742a and 17742b.

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

before the drug is dispensed at the remote pharmacy.

(2) Subject to **this subsection and** subsections (1) and (5), a pharmacist may dispense a **drug or device pursuant to 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 **or province of Canada**, but not including a prescription for a controlled substance except under circumstances described in section 17763(e). ~~only if~~ **Before dispensing a drug or device pursuant to a prescription under this subsection**, the pharmacist, in the exercise of his or her professional judgment, ~~determines~~ **must determine** all of the following:

(a) Except as otherwise authorized under section 5110, 17744a, or 17744b, if the prescriber is a ~~physician or dentist~~, **not a veterinarian**, that the prescription was issued pursuant to an existing ~~physician patient or dentist patient~~ **prescriber-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 **drug or device pursuant to a** prescription only if the prescription falls within the scope of practice of the prescriber.

(4) A pharmacist shall not knowingly dispense a **drug or device pursuant to a** prescription after the death of the prescriber or patient.

(5) A pharmacist shall not dispense a drug or device ~~under~~ **pursuant to** a prescription transmitted by facsimile or created in

1 electronic format and printed out for use by the patient unless the
2 document is manually signed by the prescriber. This subsection does
3 not apply to any of the following:

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

7 (b) A prescription that is received by a remote pharmacy and
8 made available to a pharmacist described in section 17742b(2) for
9 review and verification in the manner required under subsection
10 (1).

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

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

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

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

19 (9) **Notwithstanding any provision of this section, a**
20 **pharmacist who receives a prescription under subsection (2) from an**
21 **advanced practice registered nurse prescriber or physician's**
22 **assistant prescriber in another state or province of Canada may**
23 **dispense the drug or device without determining whether the**
24 **advanced practice registered nurse prescriber or physician's**
25 **assistant prescriber is authorized under the laws of the other**
26 **state or province of Canada to issue the prescription.**