

# SENATE BILL NO. 166

February 24, 2021, 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 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  
7 article to practice where practice would otherwise be unlawful.

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

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

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

28       (5) "Limited license" means a license to which restrictions or  
29 conditions, or both, as to scope of practice, place of practice,

1 supervision of practice, duration of licensed status, or type or  
2 condition of patient or client served are imposed by a board.

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

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

18 (a) "Advanced practice registered nurse" means that term as  
19 defined in section 17201 and includes a licensed advanced practice  
20 registered nurse.

21 (b) "License" means that term as defined in section 16106 and  
22 includes an authorization issued under the laws of another state or  
23 Canada to practice a profession described in this subsection in  
24 that state or Canada where practice would otherwise be unlawful.

25 (3) "Prescription" means an order by a prescriber to fill,  
26 compound, or dispense a drug or device written and signed; written  
27 or created in an electronic format, signed, and transmitted by  
28 facsimile; or transmitted electronically or by other means of  
29 communication. An order transmitted in other than written or hard-

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

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

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

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

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

25 (5) "Remote pharmacy" means a pharmacy described in sections  
26 17742a and 17742b.

27 Sec. 17751. (1) A pharmacist shall not dispense a drug  
28 requiring a prescription under the federal act or a law of this  
29 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 **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 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.

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

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

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

12 (b) A prescription that is received by a remote pharmacy and  
13 made available to a pharmacist described in section 17742b(2) for  
14 review and verification in the manner required under subsection  
15 (1).

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

29 (7) A prescription that is contained within a patient's chart

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

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

24 (9) **Notwithstanding any provision of this section, a**  
25 **pharmacist who receives a prescription under subsection (2) from an**  
26 **advanced practice registered nurse prescriber or physician's**  
27 **assistant prescriber in another state or Canada may dispense the**  
28 **drug or device without determining whether the advanced practice**  
29 **registered nurse prescriber or physician's assistant prescriber is**

1 authorized under the laws of the other state or Canada to issue the  
2 prescription.