

PUBLIC HEALTH CODE (EXCERPT)
Act 368 of 1978

333.17713 Temporary regulations of pharmacists and prescriptions during qualified order or declaration; definitions.

Sec. 17713. (1) Notwithstanding any provision of this article or rule promulgated under this article to the contrary, beginning on December 29, 2020, all of the following apply while a qualified order or declaration is in effect:

(a) A pharmacist may temporarily operate a pharmacy in a location that is not designated on a pharmacy license. However, the pharmacy described in this subdivision may not prepare a sterile drug product beyond a low-risk preparation, as defined by USP standards, for immediate inpatient administration.

(b) A pharmacist may substitute a therapeutically equivalent drug for a drug that is the subject of a critical shortage. A pharmacist substituting a drug under this subdivision shall inform the patient of the substitution and notify the prescriber of the substitution within a reasonable period of time. A prescriber is not subject to criminal prosecution, civil liability, or administrative sanction as a result of a pharmacist's substitution under this subdivision.

(c) A preceptor may supervise a student pharmacist remotely to fulfill eligibility requirements for licensure and to avoid a delay in graduation.

(d) A pharmacist may oversee a pharmacy technician and other pharmacy staff remotely through the use of a real-time, continuous audiovisual camera system that is capable of allowing the pharmacist to visually identify the markings on tablets and capsules. The pharmacist must have access to all relevant patient information to accomplish remote oversight and must be available at all times during the oversight to provide real-time patient consultation. A pharmacy technician shall not perform sterile or nonsterile compounding without a pharmacist on the premises.

(e) An out-of-state pharmacy that is in good standing is considered licensed to do business in this state. An out-of-state pharmacy shall not deliver a controlled substance into this state, except that, notwithstanding article 7 or any rule promulgated under that article, an out-of-state pharmacy may deliver a controlled substance that is compounded for a drug shortage, as determined by the FDA. An out-of-state pharmacy shall comply with this part and the rules promulgated by this part, except that an out-of-state pharmacy is not required to designate a pharmacist in charge for the out-of-state pharmacy. To provide sterile compounding services to a patient in this state, an out-of-state pharmacy shall hold a current accreditation from a national organization approved by the board.

(f) A manufacturer or wholesale distributor that is licensed in another state is considered to be licensed to do business in this state. Notwithstanding article 7 or any rule promulgated under that article, a manufacturer or wholesale distributor that holds a license in good standing in another state may temporarily distribute a controlled substance in this state to a hospital or to a manufacturer or wholesale distributor that is licensed under this part. An out-of-state license described in this subdivision is not considered to be in good standing for purposes of this subdivision if it has been suspended or revoked or is the subject of pending disciplinary action in another state. If an out-of-state license described in this subdivision contains restrictions or conditions, those restrictions or conditions apply in this state for purposes of this subdivision.

(g) A pharmacy may confirm the delivery of a prescription drug, excluding a controlled substance, to a patient by any reasonable means, including, but not limited to, a telephone call, a text message, or email.

(2) As used in this section:

(a) "Out-of-state pharmacy" means a facility or part of a facility that is located outside of this state and that is licensed in another state to dispense prescription drugs or prepare prescription drugs for delivery or distribution.

(b) "Qualified epidemic" means an epidemic involving a respiratory disease that can easily spread between individuals and may result in serious illness or death.

(c) "Qualified order or declaration" means 1 of the following issued in response to a qualified epidemic:

(i) An emergency order under section 2253.

(ii) A state of disaster or state of emergency declared under the emergency management act, 1976 PA 390, MCL 30.401 to 30.421.

History: Add. 2020, Act 324, Imd. Eff. Dec. 29, 2020;—Am. 2023, Act 97, Imd. Eff. July 19, 2023.

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