

SUBSTITUTE FOR
SENATE BILL NO. 842

A bill to amend 1978 PA 368, entitled
"Public health code,"
by amending section 17766 (MCL 333.17766), as amended by 2006 PA
416, and by adding sections 7423 and 21418.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 **SEC. 7423. THE DELIVERY OF A CONTROLLED SUBSTANCE UNDER**
2 **SECTION 21418 FOR THE PURPOSE OF DISPOSING OF THE CONTROLLED**
3 **SUBSTANCE IS NOT A VIOLATION OF THIS ARTICLE.**

4 Sec. 17766. Except as provided in sections 17766d, ~~and~~ 17780,
5 **AND 21418**, a person ~~who~~ **THAT** does any of the following is guilty of
6 a misdemeanor:

7 (a) Obtains or attempts to obtain a prescription drug by
8 giving a false name to a pharmacist or other authorized seller,

1 prescriber, or dispenser.

2 (b) Obtains or attempts to obtain a prescription drug by
3 falsely representing that he or she is a lawful prescriber,
4 dispenser, or licensee, or acting on behalf of a lawful prescriber,
5 dispenser, or licensee.

6 (c) Falsely makes, utters, publishes, passes, alters, or
7 forges a prescription.

8 (d) Knowingly possesses a false, forged, or altered
9 prescription.

10 (e) Knowingly attempts to obtain, obtains, or possesses a drug
11 by means of a prescription for other than a legitimate therapeutic
12 purpose, or as a result of a false, forged, or altered
13 prescription.

14 (f) Possesses or controls for the purpose of resale, or sells,
15 offers to sell, dispenses, or gives away, a drug, pharmaceutical
16 preparation, or chemical that has been dispensed on prescription
17 and has left the control of a pharmacist.

18 (g) Possesses or controls for the purpose of resale, or sells,
19 offers to sell, dispenses, or gives away, a drug, pharmaceutical
20 preparation, or chemical that has been damaged by heat, smoke,
21 fire, water, or other cause and is unfit for human or animal use.

22 (h) Prepares or permits the preparation of a prescription
23 drug, except as delegated by a pharmacist.

24 (i) Sells a drug in bulk or in an open package at auction,
25 unless the sale has been approved in accordance with rules of the
26 board.

27 **SEC. 21418. (1) BEGINNING 90 DAYS AFTER THE DEPARTMENT**

1 PROMULGATES RULES TO IMPLEMENT THIS SECTION, A HOSPICE OR HOSPICE
2 RESIDENCE THAT PROVIDES SERVICES IN A PATIENT'S PRIVATE HOME SHALL
3 ESTABLISH AND IMPLEMENT A WRITTEN CONTROLLED SUBSTANCE DISPOSAL
4 POLICY ESTABLISHING PROCEDURES TO BE FOLLOWED TO MITIGATE THE
5 DIVERSION OF CONTROLLED SUBSTANCES THAT ARE PRESCRIBED TO THE
6 PATIENT. THE POLICY MUST INCLUDE ALL OF THE FOLLOWING:

7 (A) A PROCEDURE FOR OFFERING TO ASSIST WITH THE DISPOSAL OF A
8 CONTROLLED SUBSTANCE THAT IS PRESCRIBED TO A PATIENT AS PART OF THE
9 PATIENT'S HOSPICE PLAN OF CARE.

10 (B) A REQUIREMENT THAT AN EMPLOYEE PROVIDE THE PATIENT OR THE
11 PATIENT'S FAMILY EDUCATION ON SAFE DISPOSAL LOCATIONS FOR A
12 CONTROLLED SUBSTANCE AND TECHNIQUES FOR THE SAFE DISPOSAL OF A
13 CONTROLLED SUBSTANCE WHEN THE CONTROLLED SUBSTANCE IS NO LONGER
14 NEEDED BY THE PATIENT OR AT THE TIME OF DEATH.

15 (C) PROCEDURES FOR OFFERING ASSISTANCE WITH THE DISPOSAL OF A
16 CONTROLLED SUBSTANCE TO A PATIENT WHO REVOKES HOSPICE CARE AND
17 SERVICES.

18 (D) A REQUIREMENT THAT AN EMPLOYEE DOCUMENT WHETHER THE
19 PATIENT OR THE PATIENT'S FAMILY ACCEPTED OR REFUSED AN OFFER TO
20 ASSIST WITH THE DISPOSAL OF A CONTROLLED SUBSTANCE WHEN THE
21 CONTROLLED SUBSTANCE IS NO LONGER NEEDED BY THE PATIENT OR AT THE
22 TIME OF DEATH.

23 (E) A REQUIREMENT THAT IF AN EMPLOYEE ASSISTS WITH THE
24 DISPOSAL OF A CONTROLLED SUBSTANCE, THE DISPOSAL IS PERFORMED AND
25 WITNESSED IN ANY OF THE FOLLOWING WAYS:

26 (i) PERFORMED BY THE EMPLOYEE AND WITNESSED BY ANOTHER
27 COMPETENT ADULT.

1 (ii) PERFORMED BY THE PATIENT OR THE PATIENT'S FAMILY AND
2 WITNESSED BY ANOTHER COMPETENT ADULT.

3 (F) A REQUIREMENT THAT IF AN EMPLOYEE ASSISTS WITH THE
4 DISPOSAL OF A CONTROLLED SUBSTANCE, THE DISPOSAL MUST BE PERFORMED
5 IN THE PATIENT'S PRIVATE HOME.

6 (2) A HOSPICE OR HOSPICE RESIDENCE THAT PROVIDES SERVICES IN A
7 PATIENT'S PRIVATE HOME SHALL ENSURE THAT ALL OF THE FOLLOWING ARE
8 MET WITHIN 5 DAYS OF ADMISSION TO THE HOSPICE OR HOSPICE RESIDENCE
9 AND PROVIDING HOSPICE CARE OR SERVICES TO THE PATIENT IN THE
10 PATIENT'S PRIVATE HOME:

11 (A) THAT A COPY OF THE CONTROLLED SUBSTANCE DISPOSAL POLICY
12 ESTABLISHED UNDER SUBSECTION (1) IS DISTRIBUTED TO THE PATIENT OR
13 THE PATIENT'S FAMILY AND THAT AN OFFER TO DISCUSS THE PROCEDURES
14 INCLUDED IN THE POLICY IS MADE TO THE PATIENT AND THE PATIENT'S
15 FAMILY.

16 (B) THAT THE PATIENT AND THE PATIENT'S FAMILY ARE INFORMED
17 THAT AN EMPLOYEE WILL OFFER TO ASSIST WITH THE DISPOSAL OF A
18 CONTROLLED SUBSTANCE THAT IS INCLUDED IN THE PATIENT'S HOSPICE PLAN
19 OF CARE AT THE TIME OF DEATH OR WHEN THE CONTROLLED SUBSTANCE IS NO
20 LONGER NEEDED BY THE PATIENT.

21 (3) THE DEPARTMENT SHALL PROMULGATE RULES TO IMPLEMENT THIS
22 SECTION, INCLUDING, BUT NOT LIMITED TO, RULES GOVERNING THE SAFE
23 DISPOSAL OF CONTROLLED SUBSTANCES IN A PATIENT'S PRIVATE HOME.

24 (4) AS USED IN THIS SECTION:

25 (A) "AT THE TIME OF DEATH" MEANS WITHIN 72 HOURS AFTER THE
26 PATIENT'S DEATH.

27 (B) "EMPLOYEE" MEANS A REGISTERED PROFESSIONAL NURSE OR

1 LICENSED PRACTICAL NURSE WHO IS EMPLOYED BY THE HOSPICE OR HOSPICE
2 RESIDENCE.

3 (C) "LICENSED PRACTICAL NURSE" MEANS AN INDIVIDUAL WHO IS
4 LICENSED TO ENGAGE IN THE PRACTICE OF NURSING AS A LICENSED
5 PRACTICAL NURSE UNDER ARTICLE 15.

6 (D) "PATIENT'S FAMILY" MEANS A RELATIVE OR CAREGIVER WHO HAS
7 BEEN DESIGNATED BY THE PATIENT.

8 (E) "PATIENT'S PRIVATE HOME" MEANS A PATIENT'S HOME. AS USED
9 IN THIS SUBDIVISION, "HOME" DOES NOT INCLUDE A RESIDENCE
10 ESTABLISHED BY A PATIENT IN A HEALTH FACILITY OR AGENCY OR A
11 RESIDENCE ESTABLISHED BY A PATIENT IN AN ADULT FOSTER CARE FACILITY
12 LICENSED UNDER THE ADULT FOSTER CARE FACILITY LICENSING ACT, 1979
13 PA 218, MCL 400.701 TO 400.737.

14 (F) "REGISTERED PROFESSIONAL NURSE" MEANS THAT TERM AS DEFINED
15 IN SECTION 17201.

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