

Act No. 396
Public Acts of 2018
Approved by the Governor
December 19, 2018
Filed with the Secretary of State
December 19, 2018
EFFECTIVE DATE: March 19, 2019

**STATE OF MICHIGAN
99TH LEGISLATURE
REGULAR SESSION OF 2018**

Introduced by Senators Zorn, Shirkey and Hansen

ENROLLED SENATE BILL No. 842

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 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:

Sec. 7423. The delivery of a controlled substance under section 21418 for the purpose of disposing of the controlled substance is not a violation of this article.

Sec. 17766. Except as provided in sections 17766d, 17780, and 21418, a person that does any of the following is guilty of a misdemeanor:

- (a) Obtains or attempts to obtain a prescription drug by giving a false name to a pharmacist or other authorized seller, prescriber, or dispenser.
- (b) Obtains or attempts to obtain a prescription drug by falsely representing that he or she is a lawful prescriber, dispenser, or licensee, or acting on behalf of a lawful prescriber, dispenser, or licensee.
- (c) Falsely makes, utters, publishes, passes, alters, or forges a prescription.
- (d) Knowingly possesses a false, forged, or altered prescription.

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

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

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

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

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

Sec. 21418. (1) Beginning 90 days after the department promulgates rules to implement this section, a hospice or hospice residence that provides services in a patient's private home shall establish and implement a written controlled substance disposal policy establishing procedures to be followed to mitigate the diversion of controlled substances that are prescribed to the patient. The policy must include all of the following:

(a) A procedure for offering to assist with the disposal of a controlled substance that is prescribed to a patient as part of the patient's hospice plan of care.

(b) A requirement that an employee provide the patient or the patient's family education on safe disposal locations for a controlled substance and techniques for the safe disposal of a controlled substance when the controlled substance is no longer needed by the patient or at the time of death.

(c) Procedures for offering assistance with the disposal of a controlled substance to a patient who revokes hospice care and services.

(d) A requirement that an employee document whether the patient or the patient's family accepted or refused an offer to assist with the disposal of a controlled substance when the controlled substance is no longer needed by the patient or at the time of death.

(e) A requirement that if an employee assists with the disposal of a controlled substance, the disposal is performed and witnessed in any of the following ways:

(i) Performed by the employee and witnessed by another competent adult.

(ii) Performed by the patient or the patient's family and witnessed by another competent adult.

(f) A requirement that if an employee assists with the disposal of a controlled substance, the disposal must be performed in the patient's private home.

(2) A hospice or hospice residence that provides services in a patient's private home shall ensure that all of the following are met within 5 days of admission to the hospice or hospice residence and providing hospice care or services to the patient in the patient's private home:

(a) That a copy of the controlled substance disposal policy established under subsection (1) is distributed to the patient or the patient's family and that an offer to discuss the procedures included in the policy is made to the patient and the patient's family.

(b) That the patient and the patient's family are informed that an employee will offer to assist with the disposal of a controlled substance that is included in the patient's hospice plan of care at the time of death or when the controlled substance is no longer needed by the patient.

(3) The department shall promulgate rules to implement this section, including, but not limited to, rules governing the safe disposal of controlled substances in a patient's private home.

(4) As used in this section:

(a) "At the time of death" means within 72 hours after the patient's death.

(b) "Employee" means a registered professional nurse or licensed practical nurse who is employed by the hospice or hospice residence.

(c) "Licensed practical nurse" means an individual who is licensed to engage in the practice of nursing as a licensed practical nurse under article 15.

(d) "Patient's family" means a relative or caregiver who has been designated by the patient.

(e) "Patient's private home" means a patient's home. As used in this subdivision, "home" does not include a residence established by a patient in a health facility or agency or a residence established by a patient in an adult foster care facility licensed under the adult foster care facility licensing act, 1979 PA 218, MCL 400.701 to 400.737.

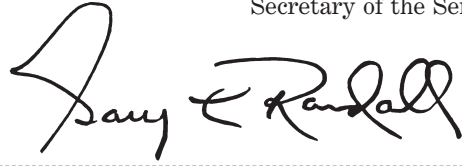
(f) "Registered professional nurse" means that term as defined in section 17201.

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

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Governor