

Act No. 324
Public Acts of 2020
Approved by the Governor
December 29, 2020
Filed with the Secretary of State
December 29, 2020
EFFECTIVE DATE: December 29, 2020

**STATE OF MICHIGAN
100TH LEGISLATURE
REGULAR SESSION OF 2020**

Introduced by Senator MacGregor

ENROLLED SENATE BILL No. 920

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,” (MCL 333.1101 to 333.25211) by adding section 17713.

The People of the State of Michigan enact:

Sec. 17713. (1) Notwithstanding any provision of this article or rule promulgated under this article to the contrary, beginning on the effective date of the amendatory act that added this section, all of the following apply while a qualified order or declaration is in effect:

(a) Through March 31, 2021, a pharmacist may dispense an emergency refill of up to a 60-day supply of a prescription drug other than a controlled substance for a resident of this state if, in the pharmacist’s professional judgment, a failure to refill the prescription might interrupt the patient’s ongoing care and have a significant adverse effect on the patient’s well-being. All of the following apply for purposes of this subdivision:

- (i) The pharmacist shall inform the patient that the prescription was dispensed under this subdivision.
- (ii) The pharmacist shall inform the prescriber, in writing and within a reasonable period of time, of any refills that the pharmacist dispensed under this subdivision.
- (iii) Before refilling a prescription under this subdivision, the pharmacist shall make a reasonable effort to communicate with the prescriber regarding refilling the prescription and make a record of the efforts made, including the reason for refilling a prescription under this subdivision.

(iv) A prescriber is not subject to criminal prosecution, civil liability, or administrative sanction as a result of a pharmacist refilling a prescription under this subdivision.

(b) 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.

(c) A pharmacist may dispense and administer a drug as needed to treat an individual with COVID-19 pursuant to protocols established by the federal Centers for Disease Control and Prevention or the National Institute of Health, or as determined by the chief medical executive in the office of chief medical executive created within the department of health and human services or the chief medical executive's designee.

(d) 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.

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

(f) 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.

(g) 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.

(h) 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.

(i) 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 electronic mail.

(2) As used in this section:

(a) "COVID-19" means coronavirus disease 2019.

(b) "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.

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

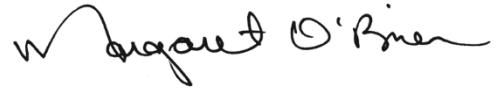
(d) "Qualified order or declaration" means 1 of the following issued in response to a qualified epidemic:

(i) An emergency order under section 2253.

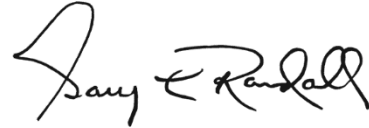
(ii) A state of disaster or state of emergency declared under the emergency management act, 1976 PA 390, MCL 30.401 to 30.421.

Enacting section 1. This amendatory act does not take effect unless Senate Bill No. 879 of the 100th Legislature is enacted into law.

This act is ordered to take immediate effect.



Secretary of the Senate



Clerk of the House of Representatives

Approved _____

Governor

Compiler's note: Senate Bill No. 879, referred to in enacting section 1, was filed with the Secretary of State December 29, 2020, and became 2020 PA 322, Imd. Eff. Dec. 29, 2020.