

# HOUSE BILL NO. 5874

June 18, 2020, Introduced by Reps. Hertel, Hammoud, Kuppa, Hood, Cynthia Johnson, Peterson, Manoogian, Gay-Dagnogo, Camilleri, Garza, Tyrone Carter, Bolden and Stone and referred to the Committee on Health Policy.

A bill to amend 1978 PA 368, entitled  
"Public health code,"  
by amending section 17751 (MCL 333.17751), as amended by 2020 PA 4,  
and by adding section 17751a.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1           Sec. 17751. (1) A pharmacist shall not dispense a drug  
2 requiring a prescription under the federal act or a law of this  
3 state except under authority of an original prescription or an  
4 equivalent record of an original prescription approved by the  
5 board. A pharmacist described in section 17742b(2) may dispense a



1 drug pursuant to an original prescription received at a remote  
2 pharmacy if the pharmacist receives, reviews, and verifies an exact  
3 digital image of the prescription received at the remote pharmacy  
4 before the drug is dispensed at the remote pharmacy.

5 (2) Subject to subsections (1) and (5), a pharmacist may  
6 dispense a prescription written and signed; written or created in  
7 an electronic format, signed, and transmitted by facsimile; or  
8 transmitted electronically or by other means of communication by a  
9 physician prescriber, dentist prescriber, or veterinarian  
10 prescriber in another state, but not including a prescription for a  
11 controlled substance except under circumstances described in  
12 section 17763(e), only if the pharmacist in the exercise of his or  
13 her professional judgment determines all of the following:

14 (a) Except as otherwise authorized under section 5110, 17744a,  
15 or 17744b, if the prescriber is a physician or dentist, that the  
16 prescription was issued pursuant to an existing physician-patient  
17 or dentist-patient relationship.

18 (b) That the prescription is authentic.

19 (c) That the prescribed drug is appropriate and necessary for  
20 the treatment of an acute, chronic, or recurrent condition.

21 (3) A pharmacist or a prescriber shall dispense a prescription  
22 only if the prescription falls within the scope of practice of the  
23 prescriber.

24 (4) A pharmacist shall not knowingly dispense a prescription  
25 after the death of the prescriber or patient.

26 (5) A pharmacist shall not dispense a drug or device under a  
27 prescription transmitted by facsimile or created in electronic  
28 format and printed out for use by the patient unless the document  
29 is manually signed by the prescriber. This subsection does not



1 apply to any of the following:

2 (a) A prescription that is transmitted by a computer to a  
3 facsimile machine if that prescription complies with section 17754.

4 (b) A prescription that is received by a remote pharmacy and  
5 made available to a pharmacist described in section 17742b(2) for  
6 review and verification in the manner required under subsection  
7 (1).

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

21 (7) A prescription that is contained within a patient's chart  
22 in a health facility or agency licensed under article 17 or other  
23 medical institution and that is transmitted to a pharmacy under  
24 section 17744 is the original prescription. If all other  
25 requirements of this part are met, a pharmacist shall dispense a  
26 drug or device under a prescription described in this subsection. A  
27 pharmacist may dispense a drug or device under a prescription  
28 described in this subsection even if the prescription does not  
29 contain the quantity ordered. If a prescription described in this



1 subsection does not contain the quantity ordered, the pharmacist  
2 shall consult with the prescriber to determine an agreed-upon  
3 quantity. The pharmacist shall record the quantity dispensed on the  
4 prescription and shall maintain that documentation with the  
5 prescription as required in section 17752.

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

16 (9) Subsections (6) and (8) are subject to section 17751a.

17 **Sec. 17751a. (1) If the governor issues a qualified executive**  
18 **order, a pharmacist may dispense an emergency refill of up to a 60-**  
19 **day supply of a prescription drug other than a controlled substance**  
20 **for a resident of this state if, in the pharmacist's professional**  
21 **judgment, a failure to refill the prescription might interrupt the**  
22 **patient's ongoing care and have a significant adverse effect on the**  
23 **patient's well-being. All of the following apply for purposes of**  
24 **this section:**

25 (a) The pharmacist shall inform the patient that the  
26 prescription was dispensed under this section.

27 (b) The pharmacist shall inform the prescriber, in writing and  
28 within a reasonable period of time, of any refills that the  
29 pharmacist dispensed under this section.



1 (c) Before refilling a prescription under this section, the  
2 pharmacist shall make a reasonable effort to communicate with the  
3 prescriber regarding refilling the prescription and make a record  
4 of the effort made, including the reason for refilling a  
5 prescription under this subdivision.

6 (2) As used in this section, "qualified executive order" means  
7 an executive order issued by the governor in which both of the  
8 following apply:

9 (a) The executive order is issued during a declared state of  
10 emergency under any of the following:

11 (i) The emergency management act, 1976 PA 390, MCL 30.401 to  
12 30.421.

13 (ii) 1945 PA 302, MCL 10.31 to 10.33.

14 (b) The executive order directs residents of this state to  
15 remain in their residences, with limited exceptions, for at least 2  
16 weeks.

