

SENATE BILL NO. 155

February 18, 2021, Introduced by Senators DALEY, LAUWERS, NESBITT, THEIS, HORN and BIZON and referred to the Committee on Health Policy and Human Services.

A bill to amend 1978 PA 368, entitled "Public health code," by amending sections 17703, 17708, 17751, and 17757 (MCL 333.17703, 333.17708, 333.17751, and 333.17757), section 17703 as amended by 2016 PA 528, section 17708 as amended by 2020 PA 4, section 17751 as amended by 2020 PA 136, and section 17757 as amended by 2016 PA 383, and by adding section 17744f.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 17703. (1) "Deliver" or "delivery" means the actual,
2 constructive, or attempted transfer of a drug or device from 1

1 person to another.

2 (2) "Device" means an instrument, apparatus, or contrivance,
3 including its components, parts, and accessories, intended for use
4 in the diagnosis, cure, mitigation, treatment, or prevention of
5 disease in human beings or other animals, or to affect the
6 structure or function of the body of human beings or other animals.

7 (3) "Dispense" means the preparation, compounding, packaging,
8 or labeling of a drug pursuant to a prescription or other
9 authorization issued by a prescriber **or pursuant to section 17744f.**

10 (4) "Dispensing prescriber" means a prescriber, other than a
11 veterinarian, who dispenses prescription drugs.

12 (5) Except as otherwise provided in section 17780,
13 "distribute" or "distribution" means to sell, offer for sale,
14 deliver, offer to deliver, broker, give away, or transfer a drug,
15 whether by passage of title or physical movement. The term does not
16 include any of the following:

17 (a) Dispensing or administering a drug.

18 (b) The delivery of a drug, or offering to deliver a drug, by
19 a common carrier in the usual course of business as a common
20 carrier.

21 (c) The delivery of a drug via an automated device under
22 section 17760.

23 (6) "Drug" means any of the following:

24 (a) A substance recognized or for which the standards or
25 specifications are prescribed in the official compendium.

26 (b) A substance intended for use in the diagnosis, cure,
27 mitigation, treatment, or prevention of disease in human beings or
28 other animals.

29 (c) A substance, other than food, intended to affect the

1 structure or a function of the body of human beings or other
2 animals.

3 (d) A substance intended for use as a component of a substance
4 specified in subdivision (a), (b), or (c), but not including a
5 device or its components, parts, or accessories.

6 (7) "Electronic signature" means an electronic sound, symbol,
7 or process attached to or logically associated with a record and
8 executed or adopted by a person with the intent to sign the record.

9 (8) "Electronically transmitted prescription" means the
10 communication of an original prescription or refill authorization
11 by electronic means including computer to computer, computer to
12 facsimile machine, or electronic mail transmission that contains
13 the same information it contained when the prescriber or his or her
14 agent transmitted the prescription. Electronically transmitted
15 prescription does not include a prescription or refill
16 authorization transmitted by telephone or facsimile machine.

17 Sec. 17708. (1) "Preceptor" means a pharmacist approved by the
18 board to direct the training of an intern in an approved pharmacy.

19 (2) "Prescriber" means a licensed dentist, a licensed doctor
20 of medicine, a licensed doctor of osteopathic medicine and surgery,
21 a licensed doctor of podiatric medicine and surgery, a licensed
22 physician's assistant, a licensed optometrist certified under part
23 174 to administer and prescribe therapeutic pharmaceutical agents,
24 an advanced practice registered nurse as that term is defined in
25 section 17201 who meets the requirements of section 17211a, a
26 licensed veterinarian, or another licensed health professional
27 acting under the delegation and using, recording, or otherwise
28 indicating the name of the delegating licensed doctor of medicine
29 or licensed doctor of osteopathic medicine and surgery.

1 (3) "Prescription" means an order by a prescriber to fill,
2 compound, or dispense a drug or device written and signed; written
3 or created in an electronic format, signed, and transmitted by
4 facsimile; or transmitted electronically or by other means of
5 communication. An order transmitted in other than written or hard-
6 copy form must be electronically recorded, printed, or written and
7 immediately dated by the pharmacist, and that record is considered
8 the original prescription. In a health facility or agency licensed
9 under article 17 or other medical institution, an order for a drug
10 or device in the patient's chart is considered for the purposes of
11 this definition the original prescription. For purposes of this
12 part, prescription also includes a standing order issued under
13 section 17744e. Subject to section 17751(2) and (5), prescription
14 includes, but is not limited to, an order for a drug, not including
15 a controlled substance except under circumstances described in
16 section 17763(e), written and signed; written or created in an
17 electronic format, signed, and transmitted by facsimile; or
18 transmitted electronically or by other means of communication by a
19 physician prescriber, dentist prescriber, or veterinarian
20 prescriber who is licensed to practice dentistry, medicine,
21 osteopathic medicine and surgery, or veterinary medicine in another
22 state.

23 (4) ~~"Prescription~~**Subject to subsection (5), "prescription**
24 drug" means a drug to which 1 or more of the following apply:

25 (a) The drug is dispensed pursuant to a prescription.

26 (b) The drug bears the federal legend "CAUTION: federal law
27 prohibits dispensing without prescription" or "Rx only".

28 (c) The drug is designated by the board as a drug that may
29 only be dispensed pursuant to a prescription.

1 (5) For purposes of this part, prescription drug also includes
2 a drug dispensed pursuant to section 17744f.

3 (6) ~~(5)~~"Remote pharmacy" means a pharmacy described in
4 sections 17742a and 17742b.

5 Sec. 17744f. (1) Subject to subsection (2), a pharmacist may
6 dispense an emergency supply of insulin to an individual if the
7 individual has a qualified prescription for insulin in the
8 individual's name with no remaining authorized refills, the
9 pharmacist completes an assessment of the individual and determines
10 that dispensing an emergency supply of insulin is appropriate for
11 the individual, and the individual has previously had a
12 prescription for insulin dispensed at the pharmacy. A pharmacist
13 who dispenses an emergency supply of insulin under this section
14 shall comply with all of the following:

15 (a) Before dispensing the emergency supply, make a reasonable
16 effort to communicate with the prescriber who issued the qualified
17 prescription for insulin regarding dispensing the emergency supply
18 of insulin and document the efforts made.

19 (b) Document all of the following:

20 (i) The name of the individual receiving the emergency supply
21 of insulin and the date of the dispensing.

22 (ii) The reason for dispensing the emergency supply of insulin.

23 (iii) Evidence of the individual's qualified prescription for
24 insulin.

25 (iv) Information on the individual's diabetes management.

26 (v) Any other information required by the board by rule.

27 (c) Within a reasonable period of time, inform the prescriber
28 who issued the qualified prescription for insulin, in writing, that
29 an emergency supply of insulin was dispensed under this section.

1 (d) Inform the individual receiving the emergency supply of
2 insulin that the insulin was dispensed under this section.

3 (2) An individual shall not receive more than 3 emergency
4 supplies of insulin in 1 calendar year.

5 (3) A prescriber or pharmacist is not subject to criminal
6 prosecution, civil liability, or administrative sanction as a
7 result of the pharmacist dispensing an emergency supply of insulin
8 under this section.

9 (4) The board shall promulgate rules to implement this
10 section.

11 (5) As used in this section:

12 (a) "Emergency supply" means up to a 30-day supply.

13 (b) "Qualified prescription for insulin" means a prescription
14 for insulin that was issued within the 12-month period immediately
15 preceding the date the individual requests an emergency supply of
16 insulin under this section.

17 Sec. 17751. (1) ~~A~~ Except as otherwise provided in section
18 17744f, a pharmacist shall not dispense a drug requiring a
19 prescription under the federal act or a law of this state except
20 under authority of an original prescription or an equivalent record
21 of an original prescription approved by the board. A pharmacist
22 described in section 17742b(2) may dispense a drug pursuant to an
23 original prescription received at a remote pharmacy if the
24 pharmacist receives, reviews, and verifies an exact digital image
25 of the prescription received at the remote pharmacy before the drug
26 is dispensed at the remote pharmacy.

27 (2) Subject to subsections (1) and (5), a pharmacist may
28 dispense a prescription written and signed; written or created in
29 an electronic format, signed, and transmitted by facsimile; or

1 transmitted electronically or by other means of communication by a
2 physician prescriber, dentist prescriber, or veterinarian
3 prescriber in another state, but not including a prescription for a
4 controlled substance except under circumstances described in
5 section 17763(e), only if the pharmacist in the exercise of his or
6 her professional judgment determines all of the following:

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

11 (b) That the prescription is authentic.

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

14 (3) A pharmacist or a prescriber shall dispense a prescription
15 only if the prescription falls within the scope of practice of the
16 prescriber.

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

19 (5) A pharmacist shall not dispense a drug or device under a
20 prescription transmitted by facsimile or created in electronic
21 format and printed out for use by the patient unless the document
22 is manually signed by the prescriber. This subsection does not
23 apply to any of the following:

24 (a) A prescription that is transmitted by a computer to a
25 facsimile machine if that prescription complies with section 17754
26 or 17754a.

27 (b) A prescription that is received by a remote pharmacy and
28 made available to a pharmacist described in section 17742b(2) for
29 review and verification in the manner required under subsection

1 (1).

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

15 (7) A prescription that is contained within a patient's chart
16 in a health facility or agency licensed under article 17 or other
17 medical institution and that is transmitted to a pharmacy under
18 section 17744 is the original prescription. If all other
19 requirements of this part are met, a pharmacist shall dispense a
20 drug or device under a prescription described in this subsection. A
21 pharmacist may dispense a drug or device under a prescription
22 described in this subsection even if the prescription does not
23 contain the quantity ordered. If a prescription described in this
24 subsection does not contain the quantity ordered, the pharmacist
25 shall consult with the prescriber to determine an agreed-upon
26 quantity. The pharmacist shall record the quantity dispensed on the
27 prescription and shall maintain that documentation with the
28 prescription as required in section 17752.

29 (8) If, after consulting with a patient, a pharmacist

1 determines in the exercise of his or her professional judgment that
2 dispensing additional quantities of a prescription drug is
3 appropriate for the patient, the pharmacist may dispense, at one
4 time, additional quantities of the prescription drug up to the
5 total number of dosage units authorized by the prescriber on the
6 original prescription for the patient and any refills of the
7 prescription. Except for a controlled substance included in
8 schedule 5 that does not contain an opioid, this subsection does
9 not apply to a prescription for a controlled substance.

10 Sec. 17757. (1) ~~Upon~~ **On receipt of** a request made in person or
11 by telephone, a pharmacist engaged in the business of selling drugs
12 at retail shall provide the current selling price of a drug
13 dispensed by that pharmacy or comparative current selling prices of
14 generic and brand name drugs dispensed by that pharmacy. The
15 information must be provided to the person making the request
16 before a drug is dispensed to the person. A person that makes a
17 request for price information under this subsection is not
18 obligated to purchase the drug for which the price or comparative
19 prices are requested.

20 (2) A pharmacist engaged in the business of selling drugs at
21 retail shall conspicuously display the notice described in
22 subsection (3) at each counter over which prescription drugs are
23 dispensed.

24 (3) The notice required under subsection (2) must be in
25 substantially the following form:

26 NOTICE TO CONSUMERS
27 ABOUT PRESCRIPTION DRUGS

28 Under Michigan law, you have the right to find out the price
29 of a prescription drug before the pharmacist fills the

1 prescription. You are under no obligation to have the prescription
2 filled here and may use this price information to shop around at
3 other pharmacies. You may request price information in person or by
4 telephone.

5 Every pharmacy has the current selling prices of both generic
6 and brand name drugs dispensed by the pharmacy.

7 Ask your pharmacist if a lower-cost generic drug is available
8 to fill your prescription. A generic drug contains the same
9 medicine as a brand name drug and is a suitable substitute in most
10 instances.

11 A generic drug may not be dispensed by your pharmacist if your
12 doctor has written "dispense as written" or the initials "d.a.w."
13 on the prescription.

14 If you have questions about the drugs that have been
15 prescribed for you, ask your doctor or pharmacist for more
16 information.

17 To avoid dangerous drug interactions, let your doctor and
18 pharmacist know about any other medications you are taking. This is
19 especially important if you have more than 1 doctor or have
20 prescriptions filled at more than 1 pharmacy.

21 (4) The notice required under subsection (2) must also contain
22 the address and phone number of the board and the department. The
23 text of the notice must be in at least 32-point bold type and must
24 be printed on paper at least 11 inches by 17 inches in size. The
25 notice may be printed on multiple pages.

26 (5) The department shall provide a copy of the notice required
27 under subsection (2) to each licensee. The department shall provide
28 additional copies if needed. A person may duplicate or reproduce
29 the notice if the duplication or reproduction is a true copy of the

1 notice as produced by the department, without any additions or
2 deletions.

3 (6) The pharmacist shall furnish to the purchaser of a
4 prescription drug at the time the drug is delivered to the
5 purchaser a receipt evidencing the transactions that contains all
6 of the following:

7 (a) The brand name of the drug, if applicable.

8 (b) The name of the manufacturer or the supplier of the drug,
9 if the drug does not have a brand name.

10 (c) The strength of the drug, if significant.

11 (d) The quantity dispensed, if applicable.

12 (e) The name and address of the pharmacy.

13 (f) The serial number of the prescription, ~~or~~ a reference to
14 the standing order issued under section 17744e, **or, if the**
15 **prescription drug was dispensed pursuant to section 17744f, a**
16 **reference to section 17744f.**

17 (g) The date the prescription was originally dispensed.

18 (h) The name of the prescriber or, if prescribed under the
19 prescriber's delegatory authority, the name of the delegatee. **If**
20 **the prescription drug was dispensed pursuant to section 17744f, the**
21 **name of the original prescriber and the pharmacist dispensing the**
22 **prescription drug.**

23 (i) Except as otherwise authorized under section 5110, 17744a,
24 17744b, or 17744e, the name of the patient for whom the drug was
25 prescribed **or dispensed.**

26 (j) The price for which the drug was sold to the purchaser.

27 (7) The items required under subsection (6) (a), (b), and (c)
28 may be omitted from a receipt by a pharmacist only if the omission
29 is expressly required by the prescriber. The pharmacist shall

1 retain a copy of each receipt furnished under subsection (6) for 90
2 days. The inclusion of the items required under subsection (6) on
3 the prescription container label is a valid receipt to the
4 purchaser. Including the items required under subsection (6) on the
5 written prescription form and retaining the form constitutes
6 retention of a copy of the receipt.

7 (8) The department, in consultation with the board, may
8 promulgate rules to implement this section.