



HOUSE BILL No. 5870

June 1, 2000, Introduced by Reps. Ehardt, Scranton, Patterson, Bovin, Raczkowski, Richardville, Mead, DeHart, Mortimer, Martinez, Vear, Pappageorge, Pumford, Garcia, Kukuk, LaSata, Faunce, Van Woerkom, Byl, DeRossett, Hager, Kowall, Tabor, Toy, Sanborn, Koetje, Julian, Gilbert, Law, Green, Allen, Howell, Jansen, Gosselin, Voorhees, Godchaux, Shulman, Jelinek, DeVuyst, Rivet, Frank, Hardman, Bishop, Cassis, Sheltroun, Garza, Clark, Gielegem, Minore, Wojno, Hansen, Woodward, Dennis, Spade, Mans, O'Neil, Switalski, Callahan, Jamnick, Pestka, Brewer, Cherry, Rison, Basham, Schauer, Bob Brown, Jacobs, Scott, Schermesser, Daniels, Stallworth, Prusi, Tesanovich, DeWeese, Geiger and Lemmons and referred to the Committee on Senior Health, Security and Retirement.

A bill to amend 1978 PA 368, entitled
"Public health code,"
by amending section 17763 (MCL 333.17763), as amended by 1997 PA
153.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 17763. (1) In addition to the grounds set forth in
2 part 161, the disciplinary subcommittee may fine, reprimand, or
3 place a pharmacist licensee on probation, or deny, limit, sus-
4 pend, or revoke the license of a pharmacist or order restitution
5 or community service for a violation or abetting in a violation
6 of this part or rules promulgated under this part, or for 1 or
7 more of the following grounds:

8 (a) ~~Employing~~ EXCEPT AS OTHERWISE PROVIDED IN
9 SUBSECTION (2), EMPLOYING the mail to sell, distribute, or

1 deliver a drug that requires a prescription ~~when~~ IF the
2 prescription for the drug is received by mail.

3 (b) Adulterating, misbranding, or substituting a drug or
4 device knowing or intending that the drug or device shall be
5 used.

6 (c) Permitting the dispensing of prescriptions by an indi-
7 vidual who is not a pharmacist, pharmacist intern, or dispensing
8 prescriber.

9 (d) Permitting the dispensing of prescriptions by a pharma-
10 cist intern, except in the presence and under the personal charge
11 of a pharmacist.

12 (e) Selling at auction drugs in bulk or in open packages
13 unless the sale has been approved in accordance with rules of the
14 board.

15 (f) Promoting a prescription drug to the public in any
16 manner.

17 (g) In addition to the prohibition contained in
18 section 7405(1)(e), dispensing a prescription for a controlled
19 substance as defined in section 7104 that is written and signed
20 or transmitted by a physician prescriber in a state other than
21 Michigan, unless the prescription is issued by a physician pre-
22 scriber residing adjacent to the land border between this state
23 and an adjoining state who is authorized under the laws of that
24 state to practice medicine or osteopathic medicine and surgery
25 and to prescribe controlled substances and whose practice may
26 extend into this state, but who does not maintain an office or

1 designate a place to meet patients or receive calls in this
2 state.

3 (2) SUBSECTION (1)(A) DOES NOT APPLY IF ALL OF THE FOLLOWING
4 CONDITIONS ARE MET:

5 (A) THE PATIENT FOR WHOM THE PRESCRIPTION IS WRITTEN IS
6 RECEIVING THE PRESCRIPTION UNDER THE TERMS OF A HEALTH CARE PAY-
7 MENT OR BENEFITS PLAN THAT DOES NOT RESTRICT OR LIMIT THE PATIENT
8 FROM RECEIVING THE PRESCRIPTION OR OTHER PHARMACY SERVICES FROM A
9 LOCAL PHARMACY.

10 (B) THE PATIENT FOR WHOM THE PRESCRIPTION IS WRITTEN IS
11 RECEIVING THE PRESCRIPTION UNDER THE TERMS OF A HEALTH CARE PAY-
12 MENT OR BENEFITS PLAN THAT DOES NOT DIFFERENTIATE REIMBURSEMENT
13 FOR PHARMACY SERVICES BETWEEN A MAIL ORDER PHARMACY AND A LOCAL
14 PHARMACY.

15 (C) THE PATIENT FOR WHOM THE PRESCRIPTION IS WRITTEN IS
16 RECEIVING THE PRESCRIPTION UNDER THE TERMS OF A HEALTH CARE PAY-
17 MENT OR BENEFITS PLAN THAT DOES NOT PROVIDE AN ECONOMIC BENEFIT
18 OR ANY OTHER TYPE OF BENEFIT INCLUDING, BUT NOT LIMITED TO, A
19 DIFFERENCE IN PRESCRIPTION CO-PAY OR QUANTITY OF DRUGS TO A MAIL
20 ORDER PHARMACY THAT IT DOES NOT PROVIDE TO A LOCAL PHARMACY.

21 (D) THE PATIENT FOR WHOM THE PRESCRIPTION IS WRITTEN IS
22 RECEIVING THE PRESCRIPTION UNDER THE TERMS OF A HEALTH CARE PAY-
23 MENT OR BENEFITS PLAN THAT DOES NOT ALLOW THE DISPENSING OF A
24 90-DAY SUPPLY OF THE PRESCRIBED DRUG UNTIL THE PATIENT HAS BEEN
25 TAKING THE PRESCRIBED DRUG FOR NOT LESS THAN 90 DAYS.

1 (E) THE PRESCRIPTION DRUG PRESCRIBED FOR THE PATIENT HAS NOT
2 BEEN IN AN UNCONTROLLED ENVIRONMENT FOR MORE THAN 24 HOURS AND IS
3 NOT TEMPERATURE SENSITIVE.

4 (F) THE PATIENT FOR WHOM THE PRESCRIPTION IS WRITTEN IS
5 RECEIVING THE PRESCRIPTION UNDER THE TERMS OF A HEALTH CARE PAY-
6 MENT OR BENEFITS PLAN THAT REIMBURSES A LOCAL PHARMACIST FOR HIS
7 OR HER TIME IN RESOLVING PROBLEMS THE PATIENT MAY HAVE WITH
8 RECEIVING HIS OR HER PRESCRIPTION THROUGH THE MAIL OR BY COMMON
9 CARRIER.