

**SUBSTITUTE FOR  
SENATE BILL NO. 1095**

A bill to amend 1978 PA 368, entitled  
"Public health code,"  
by amending sections 17708, 17751, and 17763 (MCL 333.17708,  
333.17751, and 333.17763), sections 17708 and 17751 as amended by  
1997 PA 153 and section 17763 as amended by 2004 PA 214.

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

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

4       (2) "Prescriber" means a licensed dentist, a licensed doctor  
5 of medicine, a licensed doctor of osteopathic medicine and  
6 surgery, a licensed doctor of podiatric medicine and surgery, a  
7 licensed optometrist certified under part 174 to administer and  
8 prescribe therapeutic pharmaceutical agents, a licensed  
9 veterinarian, or another licensed health professional acting

1 under the delegation and using, recording, or otherwise  
2 indicating the name of the delegating licensed doctor of medicine  
3 or licensed doctor of osteopathic medicine and surgery.

4 (3) "Prescription" means an order for a drug or device  
5 written and signed or transmitted by other means of communication  
6 by a prescriber to be filled, compounded, or dispensed.  
7 Prescribing is limited to a prescriber. An order transmitted in  
8 other than written form shall be recorded or written and  
9 immediately dated by the pharmacist, and that record constitutes  
10 the original prescription. In a health facility or agency  
11 licensed under article 17 or other medical institution, an order  
12 for a drug or device in the patient's chart constitutes for the  
13 purposes of this definition the original prescription. Subject  
14 to section 17751(2), prescription includes, but is not limited  
15 to, an order for a drug, not including a controlled substance as  
16 defined in section 7104 except under circumstances described in  
17 section ~~17763(g)~~ **17763(e)**, written and signed or transmitted by  
18 other means of communication by a physician prescriber licensed  
19 to practice in a state other than Michigan.

20 (4) "Prescription drug" means 1 or more of the following:

21 (a) A drug dispensed pursuant to a prescription.

22 (b) A drug bearing the federal legend "CAUTION: federal law  
23 prohibits dispensing without prescription".

24 (c) A drug designated by the board as a drug that may only be  
25 dispensed pursuant to a prescription.

26 Sec. 17751. (1) A pharmacist shall not dispense a drug  
27 requiring a prescription under the federal act or a law of this

1 state except under authority of an original prescription or an  
2 equivalent record of an original prescription approved by the  
3 board.

4 (2) A pharmacist may dispense a prescription written and  
5 signed or transmitted by other means of communication by a  
6 physician prescriber in a state other than Michigan, but not  
7 including a prescription for a controlled substance as defined in  
8 section 7104 except under circumstances described in section  
9 ~~17763(g)~~ **17763(e)**, only if the pharmacist in the exercise of  
10 his or her professional judgment determines all of the  
11 following:

12 (a) That the prescription was issued pursuant to an existing  
13 physician-patient relationship.

14 (b) That the prescription is authentic.

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

17 (3) A pharmacist or a prescriber shall dispense a  
18 prescription only if the prescription falls within the scope of  
19 practice of the prescriber.

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

22 Sec. 17763. In addition to the grounds set forth in part  
23 161, the disciplinary subcommittee may fine, reprimand, or place  
24 a pharmacist licensee on probation, or deny, limit, suspend, or  
25 revoke the license of a pharmacist or order restitution or  
26 community service for a violation or abetting in a violation of  
27 this part or rules promulgated under this part, or for 1 or more

1 of the following grounds:

2 ~~(a) Employing the mail to sell, distribute, or deliver a~~  
3 ~~drug that requires a prescription when the prescription for the~~  
4 ~~drug is received by mail.~~

5 (a) ~~—(b)—~~ Permitting the dispensing of prescriptions by an  
6 individual who is not a pharmacist, pharmacist intern, or  
7 dispensing prescriber.

8 (b) ~~—(c)—~~ Permitting the dispensing of prescriptions by a  
9 pharmacist intern, except in the presence and under the personal  
10 charge of a pharmacist.

11 (c) ~~—(d)—~~ Selling at auction drugs in bulk or in open  
12 packages unless the sale has been approved in accordance with  
13 rules of the board.

14 (d) ~~—(e)—~~ Promoting a prescription drug to the public in any  
15 manner.

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