

SENATE BILL No. 85

January 26, 2005, Introduced by Senators HAMMERSTROM, GEORGE, PATTERSON, BERNERO and JACOBS and referred to the Committee on Health Policy.

A bill to amend 1978 PA 368, entitled
"Public health code,"
by amending section 17766 (MCL 333.17766), as amended by 2004 PA
329, and by adding section 17766e.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 17766. Except as provided in ~~section~~ **SECTIONS** 17766d **AND**
2 **17766E**, a person who does any of the following is guilty of a
3 misdemeanor:

4 (a) Obtains or attempts to obtain a prescription drug by
5 giving a false name to a pharmacist or other authorized seller,
6 prescriber, or dispenser.

7 (b) Obtains or attempts to obtain a prescription drug by
8 falsely representing that he or she is a lawful prescriber,

1 dispenser, or licensee, or acting on behalf of a lawful prescriber,
2 dispenser, or licensee.

3 (c) Falsely makes, utters, publishes, passes, alters, or
4 forges a prescription.

5 (d) Knowingly possesses a false, forged, or altered
6 prescription.

7 (e) Knowingly attempts to obtain, obtains, or possesses a drug
8 by means of a prescription for other than a legitimate therapeutic
9 purpose, or as a result of a false, forged, or altered
10 prescription.

11 (f) Possesses or controls for the purpose of resale, or sells,
12 offers to sell, dispenses, or gives away, a drug, pharmaceutical
13 preparation, or chemical that has been dispensed on prescription
14 and has left the control of a pharmacist.

15 (g) Possesses or controls for the purpose of resale, or sells,
16 offers to sell, dispenses, or gives away, a drug, pharmaceutical
17 preparation, or chemical that has been damaged by heat, smoke,
18 fire, water, or other cause and is unfit for human or animal use.

19 (h) Prepares or permits the preparation of a prescription
20 drug, except as delegated by a pharmacist.

21 (i) Sells a drug in bulk or in an open package at auction,
22 unless the sale has been approved in accordance with rules of the
23 board.

24 **SEC. 17766E. (1) SECTION 17766(F) DOES NOT PROHIBIT THE GIVING**
25 **AWAY OR DISPENSING OF A DRUG THAT HAS BEEN DISPENSED ON**
26 **PRESCRIPTION AND HAS LEFT THE CONTROL OF A PHARMACIST IF ALL OF THE**
27 **FOLLOWING REQUIREMENTS ARE MET:**

1 (A) THE PATIENT FOR WHOM THE DRUG WAS ORIGINALLY DISPENSED HAS
2 DIED.

3 (B) THE DRUG IS IN SEALED, UNIT-DOSED CONTAINERS.

4 (C) THE DRUG HAS BEEN STORED AND HANDLED SO AS TO PREVENT
5 DAMAGE OR DETERIORATION THAT WOULD RENDER IT UNFIT FOR USE.

6 (D) THE DRUG IS DISPENSED, OR IS GIVEN AWAY FOR THE PURPOSE OF
7 BEING DISPENSED, ON PRESCRIPTION TO A NEW PATIENT WITHOUT CHARGE.
8 THIS SUBDIVISION DOES NOT PROHIBIT A REASONABLE CHARGE FOR HANDLING
9 AND VERIFYING THAT THE REQUIREMENTS OF SUBDIVISIONS (A) TO (C) HAVE
10 BEEN MET.

11 (2) THE BOARD SHALL PROMULGATE RULES TO IMPLEMENT THIS
12 SECTION. THE BOARD SHALL SUBMIT PROPOSED RULES FOR PUBLIC HEARING
13 PURSUANT TO THE ADMINISTRATIVE PROCEDURES ACT OF 1969, 1969 PA 306,
14 MCL 24.201 TO 24.328, WITHIN 6 MONTHS AFTER THE EFFECTIVE DATE OF
15 THE AMENDATORY ACT THAT ADDED THIS SECTION.

16 (3) A PERSON WHO EXERCISES THE AUTHORITY PROVIDED BY
17 SUBSECTION (1) IN CONFORMITY WITH THE REQUIREMENTS OF SUBSECTION
18 (1) AND RULES PROMULGATED UNDER SUBSECTION (2) IS NOT LIABLE FOR
19 CIVIL DAMAGES RESULTING FROM AN ACT OR OMISSION IN THE EXERCISE OF
20 THAT AUTHORITY, EXCEPT AN ACT OR OMISSION AMOUNTING TO GROSS
21 NEGLIGENCE OR WILLFUL AND WANTON MISCONDUCT.