

**SUBSTITUTE FOR  
HOUSE BILL NO. 4161**

A bill to amend 1978 PA 368, entitled  
"Public health code,"  
by amending sections 7405, 17708, and 17763 (MCL 333.7405,  
333.17708, and 333.17763), as amended by 2006 PA 672.

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

1       Sec. 7405. (1) A person:

2       (a) Who is licensed by the administrator under this article  
3 shall not distribute, prescribe, or dispense a controlled substance  
4 in violation of section 7333.

5       (b) Who is a licensee shall not manufacture a controlled  
6 substance not authorized by his or her license or distribute,  
7 prescribe, or dispense a controlled substance not authorized by his  
8 or her license to another licensee or other authorized person,

1 except as authorized by rules promulgated by the administrator.

2 (c) Shall not refuse an entry into any premises for an  
3 inspection authorized by this article.

4 (d) Shall not knowingly keep or maintain a store, shop,  
5 warehouse, dwelling, building, vehicle, boat, aircraft, or other  
6 structure or place, that is frequented by persons using controlled  
7 substances in violation of this article for the purpose of using  
8 controlled substances, or that is used for keeping or selling  
9 controlled substances in violation of this article.

10 (e) Who is a practitioner shall not dispense a prescription  
11 for a controlled substance written and signed or transmitted by  
12 facsimile, electronic transmission, or other means of communication  
13 by a physician prescriber licensed to practice in a state other  
14 than Michigan, unless the prescription is issued by a physician  
15 prescriber ~~who resides adjacent to the land border between this~~  
16 ~~state and an adjoining state or resides in Illinois or Minnesota~~  
17 ~~and who is authorized under the laws of that state to practice~~  
18 ~~medicine or osteopathic medicine and surgery and to prescribe~~  
19 ~~controlled substances. and whose practice may extend into this~~  
20 ~~state, but who does not maintain an office or designate a place to~~  
21 ~~meet patients or receive calls in this state.~~

22 (2) A person who violates subsection (1) is subject to the  
23 penalties prescribed in section 7406.

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

26 (2) "Prescriber" means a licensed dentist, a licensed doctor  
27 of medicine, a licensed doctor of osteopathic medicine and surgery,

1 a licensed doctor of podiatric medicine and surgery, a licensed  
2 optometrist certified under part 174 to administer and prescribe  
3 therapeutic pharmaceutical agents, a licensed veterinarian, or  
4 another licensed health professional acting under the delegation  
5 and using, recording, or otherwise indicating the name of the  
6 delegating licensed doctor of medicine or licensed doctor of  
7 osteopathic medicine and surgery.

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

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

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

27 (b) A drug bearing the federal legend "CAUTION: federal law

1 prohibits dispensing without prescription" OR "RX ONLY".

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

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

11 (a) Permitting the dispensing of prescriptions by an  
12 individual who is not a pharmacist, pharmacist intern, or  
13 dispensing prescriber.

14 (b) Permitting the dispensing of prescriptions by a pharmacist  
15 intern, except in the presence and under the personal charge of a  
16 pharmacist.

17 (c) Selling at auction drugs in bulk or in open packages  
18 unless the sale has been approved in accordance with rules of the  
19 board.

20 (d) Promoting a prescription drug to the public in any manner.

21 (e) In addition to the prohibition contained in section  
22 7405(1)(e), dispensing a prescription for a controlled substance as  
23 defined in section 7104 that is written and signed or transmitted  
24 by facsimile, electronic transmission, or other means of  
25 communication by a physician prescriber in a state other than  
26 Michigan, unless the prescription is issued by a physician  
27 prescriber ~~who resides adjacent to the land border between this~~

1 ~~state and an adjoining state or resides in Illinois or Minnesota~~  
2 ~~and who is authorized under the laws of that state to practice~~  
3 ~~medicine or osteopathic medicine and surgery and to prescribe~~  
4 ~~controlled substances. and whose practice may extend into this~~  
5 ~~state, but who does not maintain an office or designate a place to~~  
6 ~~meet patients or receive calls in this state.~~