

# HOUSE BILL No. 4352

February 28, 2013, Introduced by Reps. Lyons, Graves, Haines, Walsh and Lipton and referred to the Committee on Education.

A bill to amend 1978 PA 368, entitled "Public health code," by amending sections 17745, 17751, 17754, and 17757 (MCL 333.17745, 333.17751, 333.17754, and 333.17757), sections 17745 and 17757 as amended by 2011 PA 210 and sections 17751 and 17754 as amended by 2012 PA 209, and by adding section 17744a.

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

1           SEC. 17744A. (1) NOTWITHSTANDING ANY PROVISION OF THIS ACT TO  
2 THE CONTRARY, A PRESCRIBER MAY ISSUE A PRESCRIPTION FOR AND A  
3 DISPENSING PRESCRIBER OR PHARMACIST MAY DISPENSE AUTO-INJECTABLE  
4 EPINEPHRINE TO A SCHOOL BOARD FOR THE PURPOSE OF MEETING THE  
5 REQUIREMENTS OF SECTION 1179A OF THE REVISED SCHOOL CODE, 1976 PA  
6 451, MCL 380.1179A. WHEN ISSUING A PRESCRIPTION FOR OR DISPENSING  
7 AUTO-INJECTABLE EPINEPHRINE TO A SCHOOL BOARD AS AUTHORIZED UNDER

1 THIS SECTION, THE PRESCRIBER, DISPENSING PRESCRIBER, OR PHARMACIST,  
2 AS APPROPRIATE, SHALL INSERT THE NAME OF THE SCHOOL BOARD AS THE  
3 NAME OF THE PATIENT. A SCHOOL EMPLOYEE WHO IS A LICENSED REGISTERED  
4 PROFESSIONAL NURSE OR WHO IS TRAINED IN THE ADMINISTRATION OF AN  
5 EPINEPHRINE AUTO-INJECTOR UNDER SECTION 1179A OF THE REVISED SCHOOL  
6 CODE, 1976 PA 451, MCL 380.1179A, MAY POSSESS AND ADMINISTER AN  
7 EPINEPHRINE AUTO-INJECTOR DISPENSED TO A SCHOOL BOARD UNDER THIS  
8 SECTION.

9 (2) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION, A  
10 PRESCRIBER WHO ISSUES A PRESCRIPTION FOR OR A DISPENSING PRESCRIBER  
11 OR PHARMACIST WHO DISPENSES AUTO-INJECTABLE EPINEPHRINE TO A SCHOOL  
12 BOARD AS AUTHORIZED UNDER THIS SECTION IS NOT LIABLE IN A CIVIL  
13 ACTION FOR PERSONAL INJURY OR DEATH PROXIMATELY CAUSED BY THE  
14 PROFESSIONAL NEGLIGENCE OR MALPRACTICE OF THE PRESCRIBER,  
15 DISPENSING PRESCRIBER, OR PHARMACIST, AS APPLICABLE, IN ISSUING THE  
16 PRESCRIPTION FOR OR DISPENSING AUTO-INJECTABLE EPINEPHRINE. THIS  
17 SUBSECTION DOES NOT APPLY IF THE NEGLIGENT CONDUCT OR MALPRACTICE  
18 OF THE PRESCRIBER, DISPENSING PRESCRIBER, OR PHARMACIST IS GROSS  
19 NEGLIGENCE.

20 Sec. 17745. (1) Except as otherwise provided in this  
21 subsection, a prescriber who wishes to dispense prescription drugs  
22 shall obtain from the board a drug control license for each  
23 location in which the storage and dispensing of prescription drugs  
24 occur. A drug control license is not necessary if the dispensing  
25 occurs in the emergency department, emergency room, or trauma  
26 center of a hospital licensed under article 17 or if the dispensing  
27 involves only the issuance of complimentary starter dose drugs.

1           (2) ~~A~~ **EXCEPT AS OTHERWISE PROVIDED IN SECTION 17744A, A**  
2     dispensing prescriber shall dispense prescription drugs only to his  
3     or her own patients.

4           (3) A dispensing prescriber shall include in a patient's chart  
5     or clinical record a complete record, including prescription drug  
6     names, dosages, and quantities, of all prescription drugs dispensed  
7     directly by the dispensing prescriber or indirectly under his or  
8     her delegatory authority. If prescription drugs are dispensed under  
9     the prescriber's delegatory authority, the delegatee who dispenses  
10    the prescription drugs shall initial the patient's chart, clinical  
11    record, or log of prescription drugs dispensed. In a patient's  
12    chart or clinical record, a dispensing prescriber shall distinguish  
13    between prescription drugs dispensed to the patient, ~~and~~  
14    prescription drugs prescribed for the patient, **AND PRESCRIPTION**  
15    **DRUGS DISPENSED OR PRESCRIBED AS AUTHORIZED UNDER SECTION 17744A.** A  
16    dispensing prescriber shall retain information required under this  
17    subsection for not less than 5 years after the information is  
18    entered in the patient's chart or clinical record.

19           (4) A dispensing prescriber shall store prescription drugs  
20    under conditions that will maintain their stability, integrity, and  
21    effectiveness and will assure that the prescription drugs are free  
22    of contamination, deterioration, and adulteration.

23           (5) A dispensing prescriber shall store prescription drugs in  
24    a substantially constructed, securely lockable cabinet. Access to  
25    the cabinet shall be limited to individuals authorized to dispense  
26    prescription drugs in compliance with this part and article 7.

27           (6) Unless otherwise requested by a patient, a dispensing

1 prescriber shall dispense a prescription drug in a safety closure  
2 container that complies with the poison prevention packaging act of  
3 1970, 15 USC 1471 to 1477.

4 (7) A dispensing prescriber shall dispense a drug in a  
5 container that bears a label containing all of the following  
6 information:

7 (a) The name and address of the location from which the  
8 prescription drug is dispensed.

9 (b) ~~The~~ **EXCEPT AS OTHERWISE AUTHORIZED UNDER SECTION 17744A,**  
10 **THE** patient's name and record number.

11 (c) The date the prescription drug was dispensed.

12 (d) The prescriber's name or, if dispensed under the  
13 prescriber's delegatory authority, ~~shall list~~ the name of the  
14 delegatee.

15 (e) The directions for use.

16 (f) The name and strength of the prescription drug.

17 (g) The quantity dispensed.

18 (h) The expiration date of the prescription drug or the  
19 statement required under section 17756.

20 (8) A dispensing prescriber who dispenses a complimentary  
21 starter dose drug to a patient shall give the patient at least all  
22 of the following information, either by dispensing the  
23 complimentary starter dose drug to the patient in a container that  
24 bears a label containing the information or by giving the patient a  
25 written document ~~which~~ **THAT** may include, but is not limited to, a  
26 preprinted insert that comes with the complimentary starter dose  
27 drug, that contains **ALL OF** the **FOLLOWING** information:

1 (a) The name and strength of the complimentary starter dose  
2 drug.

3 (b) Directions for the patient's use of the complimentary  
4 starter dose drug.

5 (c) The expiration date of the complimentary starter dose drug  
6 or the statement required under section 17756.

7 (9) The information required under subsection (8) is in  
8 addition to, and does not supersede or modify, other state or  
9 federal law regulating the labeling of prescription drugs.

10 (10) In addition to meeting the requirements of this part, a  
11 dispensing prescriber who dispenses controlled substances shall  
12 comply with section 7303a.

13 (11) The board may periodically inspect locations from which  
14 prescription drugs are dispensed.

15 (12) The act, task, or function of dispensing prescription  
16 drugs shall be delegated only as provided in this part and sections  
17 16215, 17048, 17076, 17212, and 17548.

18 (13) A supervising physician may delegate in writing to a  
19 pharmacist practicing in a hospital pharmacy within a hospital  
20 licensed under article 17 the receipt of complimentary starter dose  
21 drugs other than controlled substances as defined by article 7 or  
22 federal law. When the delegated receipt of complimentary starter  
23 dose drugs occurs, both the pharmacist's name and the supervising  
24 physician's name shall be used, recorded, or otherwise indicated in  
25 connection with each receipt. A pharmacist described in this  
26 subsection may dispense a prescription for complimentary starter  
27 dose drugs written or transmitted by facsimile, electronic

1 transmission, or other means of communication by a prescriber.

2 (14) As used in this section, "complimentary starter dose"  
3 means a prescription drug packaged, dispensed, and distributed in  
4 accordance with state and federal law that is provided to a  
5 dispensing prescriber free of charge by a manufacturer or  
6 distributor and dispensed free of charge by the dispensing  
7 prescriber to his or her patients.

8 Sec. 17751. (1) A pharmacist shall not dispense a drug  
9 requiring a prescription under the federal act or a law of this  
10 state except under authority of an original prescription or an  
11 equivalent record of an original prescription approved by the  
12 board.

13 (2) Subject to subsection (5), a pharmacist may dispense a  
14 prescription written and signed; written or created in an  
15 electronic format, signed, and transmitted by facsimile; or  
16 transmitted electronically or by other means of communication by a  
17 physician prescriber or dentist prescriber in a state other than  
18 Michigan, but not including a prescription for a controlled  
19 substance as defined in section 7104 except under circumstances  
20 described in section 17763(e), only if the pharmacist in the  
21 exercise of his or her professional judgment determines all of the  
22 following:

23 (a) ~~That~~ **EXCEPT AS OTHERWISE AUTHORIZED UNDER SECTION 17744A,**  
24 **THAT** the prescription was issued pursuant to an existing physician-  
25 patient or dentist-patient relationship.

26 (b) That the prescription is authentic.

27 (c) That the prescribed drug is appropriate and necessary for

1 the treatment of an acute, chronic, or recurrent condition.

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

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

7 (5) A pharmacist shall not dispense a drug or device under a  
8 prescription transmitted by facsimile or created in electronic  
9 format and printed out for use by the patient unless the document  
10 is manually signed by the prescriber. This subsection does not  
11 apply to a prescription that is transmitted by a computer to a  
12 facsimile machine if that prescription complies with section 17754.

13 (6) After consultation with and agreement from the prescriber,  
14 a pharmacist may add or change a patient's address, dosage form,  
15 drug strength, drug quantity, directions for use, or issue date  
16 with regard to a prescription. A pharmacist shall note the details  
17 of the consultation and agreement required under this subsection on  
18 the prescription and shall maintain that documentation with the  
19 prescription as required in section 17752. A pharmacist shall not  
20 change the patient's name, controlled substance prescribed unless  
21 authorized to dispense a lower cost generically equivalent drug  
22 product under section 17755, or the prescriber's signature with  
23 regard to a prescription.

24 (7) A prescription that is contained within a patient's chart  
25 in a health facility or agency licensed under article 17 or other  
26 medical institution and that is transmitted to a pharmacy under  
27 section 17744 is the original prescription. If all other

1 requirements of this part are met, a pharmacist shall dispense a  
2 drug or device under a prescription described in this subsection. A  
3 pharmacist may dispense a drug or device under a prescription  
4 described in this subsection even if the prescription does not  
5 contain the quantity ordered. If a prescription described in this  
6 subsection does not contain the quantity ordered, the pharmacist  
7 shall consult with the prescriber to determine an agreed-upon  
8 quantity. The pharmacist shall record the quantity dispensed on the  
9 prescription and shall maintain that documentation with the  
10 prescription as required in section 17752.

11 Sec. 17754. (1) Except as otherwise provided under article 7  
12 and the federal act, a prescription may be transmitted  
13 electronically ~~as long as~~ **IF** the prescription is transmitted in  
14 compliance with the health insurance portability and accountability  
15 act of 1996, Public Law 104-191, or regulations promulgated under  
16 that act, 45 CFR parts 160 and 164, by a prescriber or his or her  
17 agent and the data are not altered or modified in the transmission  
18 process. The electronically transmitted prescription shall include  
19 all of the following information:

20 (a) The name, address, and telephone number of the prescriber.

21 (b) ~~The~~ **EXCEPT AS OTHERWISE AUTHORIZED UNDER SECTION 17744A,**  
22 **THE** full name of the patient for whom the prescription is issued.

23 (c) An electronic signature or other identifier that  
24 specifically identifies and authenticates the prescriber or his or  
25 her agent.

26 (d) The time and date of the transmission.

27 (e) The identity of the pharmacy intended to receive the



1 transmission.

2 (f) Any other information required by the federal act or state  
3 law.

4 (2) The electronic equipment or system utilized in the  
5 transmission and communication of prescriptions shall provide  
6 adequate confidentiality safeguards and be maintained to protect  
7 patient confidentiality as required under any applicable federal  
8 and state law and to ensure against unauthorized access. The  
9 electronic transmission of a prescription shall be communicated in  
10 a retrievable, recognizable form acceptable to the intended  
11 recipient. The electronic form utilized in the transmission of a  
12 prescription shall not include "dispense as written" or "d.a.w." as  
13 the default setting.

14 (3) ~~Prior to~~ **BEFORE** dispensing a prescription that is  
15 electronically transmitted, the pharmacist shall exercise  
16 professional judgment regarding the accuracy, validity, and  
17 authenticity of the transmitted prescription.

18 (4) An electronically transmitted prescription that meets the  
19 requirements of this section is the original prescription.

20 Sec. 17757. (1) Upon a request made in person or by telephone,  
21 a pharmacist engaged in the business of selling drugs at retail  
22 shall provide the current selling price of a drug dispensed by that  
23 pharmacy or comparative current selling prices of generic and brand  
24 name drugs dispensed by that pharmacy. The information shall be  
25 provided to the person making the request before a drug is  
26 dispensed to the person. A person who makes a request for price  
27 information under this subsection ~~shall~~ **IS** not ~~be~~ obligated to

1 purchase the drug for which the price or comparative prices are  
2 requested.

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

7 (3) The notice required under subsection (2) shall be in  
8 substantially the following form:

9 NOTICE TO CONSUMERS

10 ABOUT PRESCRIPTION DRUGS

11 Under Michigan law, you have the right to find out the price  
12 of a prescription drug before the pharmacist fills the  
13 prescription. You are under no obligation to have the prescription  
14 filled here and may use this price information to shop around at  
15 other pharmacies. You may request price information in person or by  
16 telephone.

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

19 Ask your pharmacist if a lower-cost generic drug is available  
20 to fill your prescription. A generic drug contains the same  
21 medicine as a brand name drug and is a suitable substitute in most  
22 instances.

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

26 If you have questions about the drugs ~~which~~**THAT** have been  
27 prescribed for you, ask your doctor or pharmacist for more

1 information.

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

6 (4) The notice required under subsection (2) shall also  
7 contain the address and phone number of the board and the  
8 department. The text of the notice shall be in at least 32-point  
9 bold type and shall be printed on paper at least 11 inches by 17  
10 inches in size. The notice may be printed on multiple pages.

11 (5) A copy of the notice required under subsection (2) shall  
12 be provided to each licensee by the department. ~~Additional~~**THE**  
13 **DEPARTMENT SHALL PROVIDE ADDITIONAL** copies shall be available if  
14 needed. ~~from the department.~~ A person may duplicate or reproduce  
15 the notice if the duplication or reproduction is a true copy of the  
16 notice as produced by the department, without any additions or  
17 deletions. ~~whatsoever.~~

18 (6) The pharmacist shall furnish to the purchaser of a  
19 prescription drug at the time the drug is delivered to the  
20 purchaser a receipt evidencing the transactions, which contains **ALL**  
21 **OF** the following:

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

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

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

26 (d) The quantity dispensed, if applicable.

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

1 (f) The serial number of the prescription.

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

3 (h) The name of the prescriber or, if prescribed under the  
4 prescriber's delegatory authority, ~~shall list~~ the name of the  
5 delegatee.

6 (i) ~~The~~ **EXCEPT AS OTHERWISE AUTHORIZED UNDER SECTION 17744A,**  
7 **THE** name of **THE** patient for whom the drug was prescribed.

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

9 (7) ~~Subsection~~ **THE ITEMS REQUIRED UNDER SUBSECTION** (6) (a),  
10 (b), and (c) may be omitted by a pharmacist only if the omission is  
11 expressly required by the prescriber. The pharmacist shall retain a  
12 copy of each receipt for 90 days. The inclusion of **THE ITEMS**  
13 **REQUIRED UNDER** subsection (6) on the prescription container label  
14 is a valid receipt to the purchaser. Including **THE ITEMS REQUIRED**  
15 **UNDER** subsection (6) on the written prescription form and retaining  
16 the form constitutes retention of a copy of the receipt.

17 (8) The board may promulgate rules to implement this section.

18 Enacting section 1. This amendatory act does not take effect  
19 unless Senate Bill No. \_\_\_\_ or House Bill No. 4353 (request no.  
20 01326'13) of the 97th Legislature is enacted into law.