

HOUSE BILL No. 4999

October 20, 2015, Introduced by Reps. McBroom, Crawford and Vaupel and referred to the Committee on Agriculture.

A bill to amend 1978 PA 368, entitled "Public health code," by amending sections 7405, 16349, 17708, 17751, and 17763 (MCL 333.7405, 333.16349, 333.17708, 333.17751, and 333.17763), sections 7405, 17708, and 17763 as amended by 2012 PA 209, section 16349 as added by 1993 PA 79, and section 17751 as amended by 2014 PA 525.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 7405. (1) A person **SHALL NOT DO ANY OF THE FOLLOWING:**

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

5 (b) ~~Who~~**IF THE PERSON** is a licensee, ~~shall not~~ manufacture a

1 controlled substance not authorized by his or her license or
2 distribute, prescribe, or dispense a controlled substance not
3 authorized by his or her license to another licensee or other
4 authorized person, except as authorized by rules promulgated by
5 the administrator.

6 (c) ~~Shall not refuse~~ **REFUSE** an entry into any premises for
7 an inspection authorized by this article.

8 (d) ~~Shall not knowingly~~ **KNOWINGLY** keep or maintain a store,
9 shop, warehouse, dwelling, building, vehicle, boat, aircraft, or
10 other structure or place ~~that~~ is frequented by persons using
11 controlled substances in violation of this article for the
12 purpose of using controlled substances ~~or~~ that is used for
13 keeping or selling controlled substances in violation of this
14 article.

15 (e) ~~Who~~ **IF THE PERSON** is a practitioner, ~~shall not dispense~~
16 a controlled substance under a prescription written and signed;
17 written or created in an electronic format, signed, and
18 transmitted by facsimile; or transmitted electronically or by
19 other means of communication by a physician prescriber, ~~or~~
20 dentist prescriber, **OR VETERINARIAN PRESCRIBER** licensed to
21 practice in a ~~another~~ state, ~~other than Michigan,~~ unless the
22 prescription is issued by a physician prescriber, ~~or~~ dentist
23 prescriber, **OR VETERINARIAN PRESCRIBER** who is authorized under
24 the laws of that state to practice dentistry, medicine, ~~or~~
25 osteopathic medicine and surgery, **OR VETERINARY MEDICINE** and to
26 prescribe controlled substances.

27 (2) A person who violates subsection (1) is subject to the

1 penalties prescribed in section 7406.

2 Sec. 16349. Fees for a person licensed or seeking licensure
3 to engage in the practice of veterinary medicine or licensed or
4 seeking licensure to practice as a veterinary technician under
5 part 188 are as follows:

6	(a)	Application processing fees:	
7	(i)	Veterinarian.....	\$ 20.00 \$ 25.00
8	(ii)	Veterinary technician.....	10.00 15.00
9	(b)	Examination fees:	
10	(i)	Veterinary technician, complete.....	130.00
11	(ii)	Veterinary technician, per part.....	65.00
12	(c)	License fees, per year:	
13	(i)	Veterinarian.....	50.00 75.00
14	(ii)	Veterinary technician.....	20.00 35.00
15	(d)	Temporary license fees:	
16	(i)	Veterinarian.....	25.00
17	(ii)	Veterinary technician.....	10.00
18	(e)	Limited licenses, per year:	
19	(i)	Veterinarian.....	25.00
20	(ii)	Veterinary technician.....	10.00
21	(f)	Examination review.....	20.00

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

25 (2) "Prescriber" means a licensed dentist, a licensed doctor
26 of medicine, a licensed doctor of osteopathic medicine and
27 surgery, a licensed doctor of podiatric medicine and surgery, a
28 licensed optometrist certified under part 174 to administer and

1 prescribe therapeutic pharmaceutical agents, a licensed
 2 veterinarian, or another licensed health professional acting
 3 under the delegation and using, recording, or otherwise
 4 indicating the name of the delegating licensed doctor of medicine
 5 or licensed doctor of osteopathic medicine and surgery.

6 (3) "Prescription" means an order by a prescriber to fill,
 7 compound, or dispense a drug or device written and signed;
 8 written or created in an electronic format, signed, and
 9 transmitted by facsimile; or transmitted electronically or by
 10 other means of communication. An order transmitted in other than
 11 written or hard-copy form ~~shall~~**MUST** be electronically recorded,
 12 printed, or written and immediately dated by the pharmacist, and
 13 that record constitutes the original prescription. In a health
 14 facility or agency licensed under article 17 or other medical
 15 institution, an order for a drug or device in the patient's chart
 16 constitutes for the purposes of this definition the original
 17 prescription. Subject to section 17751(2) and (5), prescription
 18 includes, but is not limited to, an order for a drug, not
 19 including a controlled substance as defined in section 7104
 20 except under circumstances described in section 17763(e), written
 21 and signed; written or created in an electronic format, signed,
 22 and transmitted by facsimile; or transmitted electronically or by
 23 other means of communication by a physician prescriber, ~~or~~
 24 dentist prescriber, **OR VETERINARIAN PRESCRIBER** licensed to
 25 practice dentistry, medicine, ~~or~~ osteopathic medicine and
 26 surgery, **OR VETERINARY MEDICINE** in a ~~ANOTHER~~ state. ~~other than~~
 27 ~~Michigan.~~

1 (4) "Prescription drug" means **A DRUG TO WHICH** 1 or more of
2 the following **APPLY**:

3 (a) ~~A-**THE**~~ drug **IS** dispensed pursuant to a prescription.

4 (b) ~~A-**THE**~~ drug ~~bearing~~**BEARS** the federal legend "CAUTION:
5 federal law prohibits dispensing without prescription" or "Rx
6 only".

7 (c) ~~A-**THE**~~ drug **IS** designated by the board as a drug that may
8 only be dispensed pursuant to a prescription.

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

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

24 (a) Except as otherwise authorized under section 5110,
25 17744a, or 17744b, **IF THE PRESCRIBER IS A PHYSICIAN OR DENTIST,**
26 that the prescription was issued pursuant to an existing
27 physician-patient or dentist-patient relationship.

1 (b) That the prescription is authentic.

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

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

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

9 (5) A pharmacist shall not dispense a drug or device under a
10 prescription transmitted by facsimile or created in electronic
11 format and printed out for use by the patient unless the document
12 is manually signed by the prescriber. This subsection does not
13 apply to a prescription that is transmitted by a computer to a
14 facsimile machine if that prescription complies with section
15 17754.

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

27 (7) A prescription that is contained within a patient's

1 chart in a health facility or agency licensed under article 17 or
2 other medical institution and that is transmitted to a pharmacy
3 under section 17744 is the original prescription. If all other
4 requirements of this part are met, a pharmacist shall dispense a
5 drug or device under a prescription described in this subsection.
6 A pharmacist may dispense a drug or device under a prescription
7 described in this subsection even if the prescription does not
8 contain the quantity ordered. If a prescription described in this
9 subsection does not contain the quantity ordered, the pharmacist
10 shall consult with the prescriber to determine an agreed-upon
11 quantity. The pharmacist shall record the quantity dispensed on
12 the prescription and shall maintain that documentation with the
13 prescription as required in section 17752.

14 Sec. 17763. In addition to the grounds set forth in part
15 161, the disciplinary subcommittee may fine, reprimand, or place
16 a pharmacist licensee on probation, or deny, limit, suspend, or
17 revoke the license of a pharmacist or order restitution or
18 community service for a violation or abetting in a violation of
19 this part or rules promulgated under this part, or for 1 or more
20 of the following grounds:

21 (a) Permitting the dispensing of prescriptions by an
22 individual who is not a pharmacist, pharmacist intern, or
23 dispensing prescriber.

24 (b) Permitting the dispensing of prescriptions by a
25 pharmacist intern, except in the presence and under the personal
26 charge of a pharmacist.

27 (c) Selling at auction drugs in bulk or in open packages

1 unless the sale has been approved in accordance with rules of the
2 board.

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

5 (e) In addition to the prohibition contained in section
6 7405(1)(e), dispensing a prescription for a controlled substance
7 as defined in section 7104 that is written and signed; written or
8 created in an electronic format, signed, and transmitted by
9 facsimile; or transmitted electronically or by other means of
10 communication by a physician prescriber, ~~or~~ dentist prescriber,
11 **OR VETERINARIAN PRESCRIBER** in a ~~ANOTHER~~ state, ~~other than~~
12 ~~Michigan~~, unless the prescription is issued by a physician
13 prescriber, ~~or~~ dentist prescriber, **OR VETERINARIAN PRESCRIBER** who
14 is authorized under the laws of that state to practice dentistry,
15 medicine, ~~or~~ osteopathic medicine and surgery, **OR VETERINARY**
16 **MEDICINE** and to prescribe controlled substances.

17 Enacting section 1. Section 16349 of the public health code,
18 1978 PA 368, MCL 333.16349, as amended by this amendatory act,
19 applies to licensing fees required to be paid after December 31,
20 2018.

21 Enacting section 2. This amendatory act takes effect 90 days
22 after the date it is enacted into law.

23 Enacting section 3. This amendatory act does not take effect
24 unless House Bill No. 4408 of the 98th Legislature is enacted
25 into law.