

HOUSE BILL No. 5857

April 24, 2018, Introduced by Reps. Bellino, LaFave, Ellison, Brann, Lucido, Greimel, Hauck, Hornberger, Kosowski, Camilleri, Chang and Marino and referred to the Committee on Health Policy.

A bill to amend 1978 PA 368, entitled "Public health code," by amending section 17761 (MCL 333.17761), as amended by 1986 PA 304, and by adding section 7333c.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 **SEC. 7333C. (1) A PHARMACIST WHO DISPENSES A PRESCRIPTION FOR**
2 **A CONTROLLED SUBSTANCE THAT IS INCLUDED IN SCHEDULE 2 AND IS IN**
3 **SOLID ORAL DOSAGE FORM SHALL COMPLY WITH ALL OF THE FOLLOWING:**

4 **(A) SUBJECT TO SUBSECTION (2), DISPENSE THE CONTROLLED**
5 **SUBSTANCE IN A LOCKABLE VIAL.**

6 **(B) ENSURE THAT THE FORM DESCRIBED IN SUBSECTION (3) IS**
7 **PROVIDED WITH THE CONTROLLED SUBSTANCE AT THE TIME IT IS DISPENSED.**

8 **(C) IF THE CONTROLLED SUBSTANCE IS DISPENSED TO A PATIENT IN A**
9 **LOCKABLE VIAL WITH A LOCKING-CAP CLOSURE MECHANISM THAT USES AN**

1 ALPHANUMERIC OR NUMERIC COMBINATION CODE, STORE THE COMBINATION
2 CODE IN THE NOTES FOR THE PATIENT IN THE PHARMACY'S SYSTEM OR IN
3 ANOTHER DATABASE TO BE USED BY THE PHARMACY IN REFILLING THE
4 PATIENT'S PRESCRIPTION OR DISPENSING A NEW PRESCRIPTION FOR THE
5 PATIENT UNDER THIS SECTION.

6 (2) SUBSECTION (1) (A) DOES NOT APPLY IF THE CONTROLLED
7 SUBSTANCE IS DISPENSED UNDER ANY OF THE FOLLOWING CIRCUMSTANCES:

8 (A) TO A PATIENT WHO, BECAUSE OF A PHYSICAL OR MENTAL
9 LIMITATION, WOULD HAVE DIFFICULTY OPENING THE LOCKABLE VIAL OR WHO
10 MEETS ANY OTHER CIRCUMSTANCE DESCRIBED BY THE DEPARTMENT OF
11 LICENSING AND REGULATORY AFFAIRS BY RULE.

12 (B) IF THE DISPENSING OCCURS IN AN INSTITUTIONAL HEALTH CARE
13 SETTING AND THE CONTROLLED SUBSTANCE IS ADMINISTERED TO THE PATIENT
14 IN THAT SETTING.

15 (3) THE DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS SHALL
16 DEVELOP AND DISTRIBUTE A FORM THAT EDUCATES PATIENTS ON THE
17 POTENTIAL FOR ABUSE AND THE DIVERSION OF CONTROLLED SUBSTANCES,
18 INCLUDING THE DIVERSION OF CONTROLLED SUBSTANCES BY PILFERING THE
19 CONTROLLED SUBSTANCE FROM A HOME OR OTHER SETTING.

20 (4) A PERSON THAT MANUFACTURES A CONTROLLED SUBSTANCE SHALL
21 REIMBURSE A PHARMACY FOR THE COST OF THE LOCKABLE VIAL FOR EACH
22 SCHEDULE 2 CONTROLLED SUBSTANCE MANUFACTURED BY THE PERSON THAT IS
23 DISPENSED BY THE PHARMACY IN A LOCKABLE VIAL UNDER THIS SECTION.

24 (5) THE DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS MAY
25 PROMULGATE RULES TO IMPLEMENT THIS SECTION.

26 (6) AS USED IN THIS SECTION:

27 (A) "INSTITUTIONAL HEALTH CARE SETTING" MEANS A HOSPITAL,

1 FREESTANDING SURGICAL OUTPATIENT FACILITY, PRIVATE OFFICE OF A
2 PHYSICIAN, NURSING HOME, ASSISTED LIVING FACILITY, HOSPICE
3 PROVIDING INPATIENT CARE, OR OTHER FACILITY WHERE A HEALTH
4 PROFESSIONAL ADMINISTERS CARE TO A PATIENT.

5 (B) "LOCKABLE VIAL" MEANS A DISPOSABLE CONTAINER THAT IS
6 CONSIDERED SPECIAL PACKAGING AS THAT TERM IS DEFINED IN 15 USC 1471
7 AND THAT HAS A LOCKING-CAP CLOSURE MECHANISM.

8 (C) "LOCKING-CAP CLOSURE MECHANISM" MEANS 1 OR MORE OF THE
9 FOLLOWING:

10 (i) A CAP THAT CAN BE UNLOCKED USING A NUMERIC OR ALPHANUMERIC
11 COMBINATION CODE THAT HAS A MINIMUM OF 10,000 POSSIBLE
12 COMBINATIONS, IS SELECTED BY A PATIENT OR THE PATIENT'S PARENT OR
13 LEGAL GUARDIAN IF THE PATIENT IS A MINOR, AND IS ENCODED INTO THE
14 CAP BY THE PHARMACIST DURING THE DISPENSING PROCESS.

15 (ii) A CAP THAT CAN BE UNLOCKED USING BIOMETRIC VOICE OR
16 FACIAL RECOGNITION AUTHENTICATION TECHNOLOGY.

17 Sec. 17761. (1) A pharmacy, except for a pharmacy ~~which~~**THAT**
18 only dispenses drugs for inpatient use at a health care facility,
19 shall display the notice required under section 17757 in accordance
20 with this part and the rules promulgated under this part.

21 (2) Unless otherwise requested by a patient, a prescription
22 ~~shall~~**FOR A PRESCRIPTION DRUG OTHER THAN A CONTROLLED SUBSTANCE**
23 **LISTED IN SCHEDULE 2 THAT IS IN SOLID ORAL DOSAGE FORM MUST** be
24 dispensed in a safety closure container ~~which~~**THAT** complies with
25 the definitions and the requirements of the poison prevention
26 packaging act of 1970, 15 U.S.C. ~~sections~~**USC 1471 to 1476.1477.**
27 **SECTION 7333C APPLIES TO THE DISPENSING OF A PRESCRIPTION FOR A**

1 CONTROLLED SUBSTANCE LISTED IN SCHEDULE 2 THAT IS IN SOLID ORAL
2 DOSAGE FORM.

3 Enacting section 1. This amendatory act takes effect 90 days
4 after the date it is enacted into law.