PUBLIC HEALTH CODE (EXCERPT)
Act 368 of 1978

333.7333 "Good faith" defined; dispensing controlled substance included in schedule 2; prescription form; electronic transmission under MCL 333.17754a; emergency; filling and refilling prescription; dispensing controlled substance included in schedule 3, 4, or 5; requirements and use of written prescription; class B dealer; animal control shelter or animal protection shelter; limited permit; administration of commercially prepared, premixed solution of sodium pentobarbital or animal tranquilizer; liability of veterinarian; "animal tranquilizer" and "class B dealer" defined.

Sec. 7333. (1) As used in this section, "good faith" means the prescribing or dispensing of a controlled substance by a practitioner licensed under section 7303 in the regular course of professional treatment to or for an individual who is under treatment by the practitioner for a pathology or condition other than that individual's physical or psychological dependence on or addiction to a controlled substance, except as provided in this article. Application of good faith to a pharmacist means the dispensing of a controlled substance pursuant to a prescriber's order which, in the professional judgment of the pharmacist, is lawful. The pharmacist shall be guided by nationally accepted professional standards including, but not limited to, all of the following, in making the judgment:

(a) Lack of consistency in the doctor-patient relationship.

(b) Frequency of prescriptions for the same drug by 1 prescriber for larger numbers of patients.

(c) Quantities beyond those normally prescribed for the same drug.

(d) Unusual dosages.

(e) Unusual geographic distances between patient, pharmacist, and prescriber.

(2) Except as otherwise provided in this section, a practitioner, in good faith, may dispense a controlled substance included in schedule 2 that is a prescription drug as determined under section 503(b) of the federal food, drug, and cosmetic act, 21 USC 353, or section 17708, on receipt of either of the following:

(a) A prescription of a practitioner licensed under section 7303 on a prescription form. More than 1 prescription for a controlled substance included in schedule 2 may be included on a single prescription form.

(b) A prescription that is electronically transmitted under section 17754a.

(3) In an emergency situation, as described in R 338.3165 of the Michigan Administrative Code, a controlled substance included in schedule 2 may be dispensed on the oral prescription of a practitioner if the prescribing practitioner promptly fills out a prescription form and forwards the prescription form to the dispensing pharmacy within 7 days after the oral prescription is issued. A prescription for a controlled substance included in schedule 2 must not be filled more than 90 days after the date on which the prescription was issued. A pharmacist, consistent with federal law and regulations on the partial filling of a controlled substance included in schedule 2, may partially fill in increments a prescription for a controlled substance included in schedule 2.

(4) A practitioner, in good faith, may dispense a controlled substance included in schedule 3, 4, or 5 that is a prescription drug as determined under section 503(b) of the federal food, drug, and cosmetic act, 21 USC 353, or section 17708, on receipt of any of the following:

(a) A prescription on a prescription form.

(b) An oral prescription of a practitioner.

(c) A prescription that is electronically transmitted under section 17754a.

(5) A prescription for a controlled substance included in schedule 3 or 4 must not be filled or refilled without specific refill instructions noted by the prescriber. A prescription for a controlled substance included in schedule 3 or 4 must not be filled or refilled later than 6 months after the date of the prescription or be refilled more than 5 times, unless renewed by the prescriber in accordance with rules promulgated by the administrator.

(6) A controlled substance included in schedule 5 must not be distributed or dispensed other than for a medical purpose, or in any manner except in accordance with rules promulgated by the administrator.

(7) If a prescription is required under this section, the prescription must contain the quantity of the controlled substance prescribed in both written and numerical terms. A prescription is in compliance with this subsection if, in addition to containing the quantity of the controlled substance prescribed in written terms, it contains preprinted numbers representative of the quantity of the controlled substance prescribed next to which is a box or line the prescriber may check.

(8) A prescribing practitioner shall not use a prescription form for a purpose other than prescribing. A prescribing practitioner shall not postdate a prescription form that contains a prescription for a controlled

substance. Until the date on which section 17754a applies, a prescriber may transmit a prescription by facsimile of a printed prescription form and by electronic transmission of a printed prescription form, if not prohibited by federal law. If, with the patient's consent, a prescription is electronically transmitted under this subsection, it must be transmitted directly to a pharmacy of the patient's choice by the prescriber or the prescriber's authorized agent, and the data must not be altered, modified, or extracted in the transmission process.

(9) Notwithstanding subsections (1) to (6), a class B dealer may acquire a limited permit only for the purpose of buying, possessing, and administering a commercially prepared, premixed solution of sodium pentobarbital to perform euthanasia on injured, sick, homeless, or unwanted domestic pets and other animals, if the class B dealer does all of the following:

(a) Applies to the administrator for a permit in accordance with rules promulgated under this part. The application must contain the name of the individual in charge of the day-to-day operations of the class B dealer's facilities and the name of the individual responsible for designating employees who will be performing euthanasia on animals pursuant to this act.

(b) Complies with the rules promulgated by the administrator for the storage, handling, and use of a commercially prepared, premixed solution of sodium pentobarbital to perform euthanasia on animals. The class B dealer shall maintain a record of use and shall make the record available for inspection by the department of licensing and regulatory affairs, the department of agriculture and rural development, and the United States Department of Agriculture.

(c) Subject to subdivision (d), certifies that the class B dealer or an employee of the class B dealer has received, and can document completion of, a minimum of 16 hours of training, including at least 12 hours of content training and at least 4 hours of practical training, in the use of a commercially prepared, premixed solution of sodium pentobarbital and an animal tranquilizer to perform euthanasia on animals from a training program approved by the state veterinarian, in consultation with the Michigan board of veterinary medicine, and given by a licensed veterinarian pursuant to rules promulgated by the administrator. The training described in this subdivision must comply with the American Veterinary Medical Association's guidelines for the euthanasia of animals.

(d) Until December 31, 2021, ensures that the class B dealer or an employee of the class B dealer who received, and can document the completion of, the 8 hours of training required immediately before May 22, 2018 only administers a commercially prepared, premixed solution of sodium pentobarbital to perform euthanasia on the animals described in this subsection. Beginning January 1, 2022, the individuals described in this subdivision must have received, and be able to document the completion of, the training described in subdivision (c) to administer a commercially prepared, premixed solution of sodium pentobarbital or an animal tranquilizer to perform euthanasia on the animals described in this subsection.

(e) Certifies that only an individual described in subdivision (c) or (d) or an individual otherwise permitted to use a controlled substance pursuant to this article will administer the commercially prepared, premixed solution of sodium pentobarbital or an animal tranquilizer according to written procedures established by the class B dealer.

(f) Beginning January 1, 2022, certifies that the individual in charge of the day-to-day operations of the class B dealer's facilities has received, and can document the completion of, the training described in subdivision (c).

(g) Complies with all state and federal laws, rules, and regulations regarding the acquisition, use, and security of controlled substances.

(10) Notwithstanding subsections (1) to (6), an animal control shelter or animal protection shelter registered with the department of agriculture and rural development pursuant to 1969 PA 287, MCL 287.331 to 287.340, may acquire a limited permit only for the purpose of buying, possessing, and administering a commercially prepared, premixed solution of sodium pentobarbital, or an animal tranquilizer, to use exclusively as an adjunct in the process of performing euthanasia on injured, sick, homeless, or unwanted domestic pets and other animals, if the animal control shelter or animal protection shelter does all of the following:

(a) Applies to the administrator for a permit in accordance with rules promulgated under this part. The application must contain the name of the individual in charge of the day-to-day operations of the animal control shelter or animal protection shelter and the name of the individual responsible for designating employees who will be performing euthanasia on animals pursuant to this act.

(b) Complies with the rules promulgated by the administrator for the storage, handling, and use of a commercially prepared, premixed solution of sodium pentobarbital or an animal tranquilizer to perform euthanasia on animals. The animal control shelter or animal protection shelter shall maintain a record of use and make the record available for inspection by the department of licensing and regulatory affairs and the

department of agriculture and rural development.

(c) Subject to subdivision (d), certifies that an employee of the animal control shelter or animal protection shelter has received, and can document completion of, a minimum of 16 hours of training, including at least 12 hours of content training and at least 4 hours of practical training, in the use of a commercially prepared, premixed solution of sodium pentobarbital and an animal tranquilizer to perform euthanasia on animals from a training program approved by the state veterinarian, in consultation with the Michigan board of veterinary medicine, and given by a licensed veterinarian pursuant to rules promulgated by the administrator. The training described in this subdivision must comply with the American Veterinary Medical Association's guidelines for the euthanasia of animals.

(d) Until December 31, 2021, ensures that an employee of the animal control shelter or animal protection shelter who received, and can document the completion of, the training required immediately before May 22, 2018 only administers a commercially prepared solution of xylazine hydrochloride or a commercially prepared, premixed solution of sodium pentobarbital to perform euthanasia on the animals described in this subsection in accordance with his or her training. Beginning January 1, 2022, the employee described in this subdivision must have received, and be able to document the completion of, the training described in subdivision (c) to administer a commercially prepared, premixed solution of sodium pentobarbital or an animal tranquilizer to perform euthanasia on the animals described in this subsection.

(e) Certifies that only an individual described in subdivision (c) or (d) or an individual otherwise permitted to use a controlled substance pursuant to this article will administer a commercially prepared, premixed solution of sodium pentobarbital or an animal tranquilizer according to written procedures established by the animal control shelter or animal protection shelter.

(f) Beginning January 1, 2022, certifies that the individual in charge of the day-to-day operations of the animal control shelter or animal protection shelter has received, and can document the completion of, the training described in subdivision (c).

(g) Complies with all state and federal laws and regulations regarding the acquisition, use, and security of controlled substances.

(11) The application described in subsection (9) or (10) must include the names and addresses of all individuals employed by the animal control shelter or animal protection shelter or class B dealer who have been trained as described in subsection (9)(c), (d), and (f) or (10)(c), (d), and (f) and the name of the veterinarian who trained them. The list of names and addresses must be updated every 6 months.

(12) If an animal control shelter or animal protection shelter or class B dealer issued a permit pursuant to subsection (9) or (10) does not have in its employ an individual trained as described in subsection (9)(c) or (d) and (9)(f), or (10)(c) or (d) and (10)(f), the animal control shelter or animal protection shelter or class B dealer shall immediately notify the administrator and shall cease to administer a commercially prepared, premixed solution of sodium pentobarbital or an animal tranquilizer for the purposes described in subsection (9) or (10) until the administrator is notified that 1 of the following has occurred:

(a) An individual trained as described in subsection (9)(c), (d), or (f) or (10)(c), (d), or (f) has been hired by the animal control shelter or animal protection shelter or class B dealer.

(b) An individual employed by the animal control shelter or animal protection shelter or class B dealer has been trained as described in subsection (9)(c) or (f) or (10)(c) or (f).

(13) A veterinarian, including a veterinarian who trains individuals as described in subsection (9)(c), (d), or (f), or (10)(c), (d), or (f), is not civilly or criminally liable for the use of a commercially prepared, premixed solution of sodium pentobarbital or an animal tranquilizer by an animal control shelter or animal protection shelter or a class B dealer, unless the veterinarian is employed by or under contract with the animal control shelter or animal protection shelter or class B dealer and the terms of the veterinarian's employment or the contract require the veterinarian to be responsible for the use or administration of the commercially prepared, premixed solution of sodium pentobarbital or animal tranquilizer.

(14) A person shall not knowingly use or permit the use of a commercially prepared, premixed solution of sodium pentobarbital or an animal tranquilizer in violation of this section.

(15) This section does not require that a veterinarian be employed by or under contract with an animal control shelter or animal protection shelter or class B dealer to obtain, possess, or administer a commercially prepared, premixed solution of sodium pentobarbital or an animal tranquilizer pursuant to this section.

(16) Notwithstanding subsections (1) to (6), an animal control shelter registered with the department of agriculture and rural development pursuant to 1969 PA 287, MCL 287.331 to 287.340, may acquire a limited permit only for the purpose of buying, possessing, and administering an animal tranquilizer to sedate or immobilize an animal running at large that is dangerous or difficult to capture, if the animal control shelter does all of the following:

(a) Applies to the administrator for a permit in accordance with the rules promulgated under this part. The

application must contain the name of the individual in charge of the day-to-day operations of the animal control shelter and the name of the individual responsible for designating employees who will be administering an animal tranquilizer pursuant to this act.

(b) Complies with the rules promulgated by the administrator for the storage, handling, and use of an animal tranquilizer. The animal control shelter shall maintain a record of use and shall make the record available for inspection by the department of licensing and regulatory affairs and the department of agriculture and rural development.

(c) Subject to subdivision (d), certifies that an employee of the animal control shelter has received, and can document completion of, both of the following in the following order:

(*i*) The training described in subsection (10)(c).

(*ii*) A minimum of 16 hours of training, including at least 12 hours of content training and at least 4 hours of practical training, in the use of animal tranquilizers to sedate or immobilize the animals described in this subsection from a training program approved by the state veterinarian, in consultation with the Michigan board of veterinary medicine, and given by a licensed veterinarian pursuant to rules promulgated by the administrator.

(d) Until December 31, 2021, ensures that an employee of the animal control shelter who received, and can document the completion of, the training required immediately before May 22, 2018 only administers a commercially prepared solution of xylazine hydrochloride to sedate or immobilize the animals described in this subsection. Beginning January 1, 2022, the employee described in this subdivision must have received, and be able to document the completion of, the training described in subdivision (c) to administer an animal tranquilizer to perform euthanasia on the animals described in this subsection.

(e) Certifies that only an individual described in subdivision (c) or (d) or an individual otherwise permitted to use a controlled substance pursuant to this article will administer an animal tranquilizer according to written procedures established by the animal control shelter.

(f) Beginning January 1, 2022, certifies that the individual in charge of the day-to-day operations of the animal control shelter has received, and can document the completion of, the training described in subdivision (c).

(g) Complies with all state and federal laws, rules, and regulations regarding the acquisition, use, and security of controlled substances.

(17) The application described in subsection (16) must include the names and business addresses of all individuals employed by the animal control shelter who have been trained as described in subsection (16)(c), (d), and (f) and must include documented proof of the training. The list of names and business addresses must be updated every 6 months.

(18) If an animal control shelter issued a permit pursuant to subsection (16) does not have in its employ an individual trained as described in subsection (16)(c) or (d) and (16)(f), the animal control shelter shall immediately notify the administrator and shall cease to administer an animal tranquilizer for the purposes described in subsection (16) until the administrator is notified that 1 of the following has occurred:

(a) An individual trained as described in subsection (16)(c), (d), or (f) has been hired by the animal control shelter.

(b) An individual employed by the animal control shelter has been trained as described in subsection (16)(c) or (f).

(19) A veterinarian, including a veterinarian who trains individuals as described in subsection (16)(c), (d), or (f), is not civilly or criminally liable for the use of an animal tranquilizer by an animal control shelter unless the veterinarian is employed by or under contract with the animal control shelter and the terms of the veterinarian's employment or the contract require the veterinarian to be responsible for the use or administration of an animal tranquilizer.

(20) As used in this section:

(a) "Animal tranquilizer" means a commercially prepared solution of xylazine hydrochloride, a commercially prepared solution of ketamine, or a commercially prepared compound containing tiletamine and zolazepam.

(b) "Class B dealer" means a class B dealer licensed by the United States Department of Agriculture pursuant to the animal welfare act, 7 USC 2131 to 2160 and the department of agriculture and rural development pursuant to 1969 PA 224, MCL 287.381 to 287.395.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1980, Act 414, Imd. Eff. Jan. 11, 1981;—Am. 1988, Act 28, Eff. Aug. 26, 1988;—Am. 1988, Act 60, Eff. Aug. 1, 1988;—Am. 1988, Act 240, Imd. Eff. July 11, 1988;—Am. 1989, Act 143, Imd. Eff. June 29, 1989;—Am. 1990, Act 30, Eff. Mar. 28, 1991;—Am. 1991, Act 186, Imd. Eff. Dec. 27, 1991;—Am. 1993, Act 80, Eff. Apr. 1, 1994;—Am. 1993, Act 138, Imd. Eff. Aug. 2, 1993;—Am. 2001, Act 231, Eff. Jan. 6, 2003;—Am. 2006, Act 451, Imd. Eff. Dec. 14, 2006;—Am. 2010, Act 3, Imd. Eff. Feb. 4, 2010;—Am. 2017, Act 251, Eff. Mar. 27, 2018;—Am. 2018, Act 34, Eff. May 22, 2018;—Am. 2020, Act

136, Imd. Eff. July 8, 2020.

Compiler's note: Enacting section 2 of Act 231 of 2001 provides:

"Enacting section 2. Section 7333 of the public health code, 1978 PA 368, MCL 333.7333, as amended by this amendatory act, takes effect upon promulgation of the rules required under section 7333a(1) of the public health code, 1978 PA 368, MCL 333.7333a, as added by this amendatory act, and receipt by the secretary of state of written notice from the director of the department of consumer and industry services that the electronic monitoring system required by section 7333a of the public health code, 1978 PA 368, MCL 333.7333a, as added by this amendatory act, is operational. The notice to the secretary of state shall include a statement that the department of consumer and industry services is able to receive data from at least 80% of those required to report under section 7333a of the public health code, 1978 PA 368, MCL 333.7333a, as added by this amendatory act, and is able to respond to requests for data from persons authorized to make such requests and to review and utilize the data."

The rules required under section 7333a of the public health code, 1978 PA 368, MCL 333.7333a, pertaining to the operation of the electronic monitoring system, were promulgated on December 30, 2002. In addition, a written notice from the director of the department of consumer and industry services that the electronic monitoring system required by section 7333a of the public health code is operational was filed with, and received by, the secretary of state on January 6, 2003.

Popular name: Act 368

Administrative rules: R 338.471 et seq. and R 338.3101 et seq. of the Michigan Administrative Code.