

HOUSE BILL No. 5672

February 14, 2006, Introduced by Reps. Vander Veen, Garfield, Shaffer, Gosselin, Kooiman, Polidori, Spade, Huizenga, Ball, Gleason, Taub, Marleau, Green, Vagnozzi, Van Regenmorter, Amos, Pastor, Pearce, Newell, Miller and Ward and referred to the Committee on Health Policy.

A bill to amend 1978 PA 368, entitled "Public health code," by amending section 17766 (MCL 333.17766), as amended by 2004 PA 329, and by adding part 52A.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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PART 52A CANCER DRUG DONATION PROGRAM

SEC. 5251. THIS PART SHALL BE KNOWN AND MAY BE CITED AS THE "CANCER DRUG DONATION PROGRAM".

SEC. 5253. (1) AS USED IN THIS PART:

(A) "CANCER DRUG" MEANS A PRESCRIPTION DRUG USED TO TREAT CANCER OR ITS SIDE EFFECTS OR USED TO TREAT THE SIDE EFFECTS OF A PRESCRIPTION DRUG USED TO TREAT CANCER OR ITS SIDE EFFECTS.

(B) "COUNTY MEDICAL CARE FACILITY" MEANS THAT TERM AS DEFINED

1 IN SECTION 20104.

2 (C) "DEPARTMENT" MEANS THE DEPARTMENT OF COMMUNITY HEALTH.

3 (D) "DONOR" MEANS A PERSON, HEALTH CARE FACILITY, PHARMACY,
4 DRUG OR DEVICE MANUFACTURER, DRUG OR DEVICE WHOLESALE DISTRIBUTOR,
5 OR ANY OTHER ENTITY THAT DONATES CANCER DRUGS, OR SUPPLIES NEEDED
6 TO ADMINISTER CANCER DRUGS, IN ACCORDANCE WITH THIS PART.

7 (E) "FREESTANDING SURGICAL OUTPATIENT FACILITY" MEANS THAT
8 TERM AS DEFINED IN SECTION 20104.

9 (F) "HEALTH CARE FACILITY" MEANS A FACILITY LICENSED IN
10 ACCORDANCE WITH ARTICLE 17 AS A COUNTY MEDICAL CARE FACILITY,
11 FREESTANDING SURGICAL OUTPATIENT FACILITY, HOME FOR THE AGED,
12 HOSPITAL, HOSPITAL LONG-TERM CARE UNIT, NURSING HOME, OR HOSPICE.

13 (G) "HOME FOR THE AGED" MEANS THAT TERM AS DEFINED IN SECTION
14 20106.

15 (H) "HOSPICE" MEANS THAT TERM AS DEFINED IN SECTION 20106.

16 (I) "HOSPITAL" MEANS THAT TERM AS DEFINED IN SECTION 20106.

17 (J) "HOSPITAL LONG-TERM CARE UNIT" MEANS THAT TERM AS DEFINED
18 IN SECTION 20106.

19 (K) "MANUFACTURER" MEANS THAT TERM AS DEFINED IN SECTION
20 17706.

21 (L) "NURSING HOME" MEANS THAT TERM AS DEFINED IN SECTION 20109.

22 (M) "PARTICIPANT" MEANS A PHYSICIAN'S OFFICE, PHARMACY, OR
23 HEALTH CARE FACILITY THAT HAS ELECTED TO PARTICIPATE IN THE PROGRAM
24 AND THAT ACCEPTS DONATED CANCER DRUGS AND SUPPLIES UNDER THE RULES
25 AND REGULATIONS ADOPTED AND PROMULGATED BY THE DEPARTMENT UNDER
26 THIS PART.

27 (N) "PHARMACIST" MEANS THAT TERM AS DEFINED IN SECTION 17707.

1 (O) "PHARMACY" MEANS A FACILITY AS DEFINED IN SECTION 17707
2 AND LICENSED IN ACCORDANCE WITH PART 177.

3 (P) "PHYSICIAN'S OFFICE" MEANS THE OFFICE OF A PERSON LICENSED
4 TO PRACTICE MEDICINE OR OSTEOPATHIC MEDICINE AND SURGERY UNDER
5 ARTICLE 15.

6 (Q) "PRESCRIBER" MEANS THAT TERM AS DEFINED UNDER SECTION
7 17708.

8 (R) "PRESCRIPTION DRUG" MEANS THAT TERM AS DEFINED IN SECTION
9 17708.

10 (S) "PROGRAM" MEANS THE CANCER DRUG DONATION PROGRAM CREATED
11 UNDER SECTION 5255.

12 (T) "SUPPLIES" MEANS ANY SUPPLIES USED IN THE ADMINISTRATION
13 OF A CANCER DRUG.

14 (U) "WHOLESALE DISTRIBUTOR" MEANS THAT TERM AS DEFINED IN
15 SECTION 17709.

16 (2) IN ADDITION, ARTICLE 1 CONTAINS GENERAL DEFINITIONS AND
17 PRINCIPLES OF CONSTRUCTION APPLICABLE TO ALL ARTICLES IN THIS CODE.

18 SEC. 5255. (1) THERE IS CREATED WITHIN THE DEPARTMENT A CANCER
19 DRUG DONATION PROGRAM TO ALLOW FOR THE VOLUNTARY DONATION OF CANCER
20 DRUGS AND SUPPLIES AND THE DISPENSING OF THOSE DRUGS TO CERTAIN
21 RESIDENTS OF THIS STATE IN ACCORDANCE WITH THIS PART. THE PROGRAM
22 SHALL BE ADMINISTERED BY THE DEPARTMENT. WITHIN 90 DAYS AFTER THE
23 EFFECTIVE DATE OF THIS PART, THE DEPARTMENT, IN CONSULTATION WITH
24 THE STATE BOARD OF PHARMACY, SHALL PROMULGATE RULES AND REGULATIONS
25 TO CARRY OUT THE PROVISIONS OF THIS PART. THE RULES AND REGULATIONS
26 SHALL INCLUDE, AT A MINIMUM, EACH OF THE FOLLOWING:

27 (A) ELIGIBILITY CRITERIA FOR RECIPIENTS OF THE CANCER DRUGS

1 AND SUPPLIES DONATED UNDER THIS PROGRAM, INCLUDING, BUT NOT LIMITED
2 TO, A METHOD TO DETERMINE PRIORITY OF THOSE RECIPIENTS.

3 (B) STANDARDS AND PROCEDURES FOR PARTICIPANTS THAT ACCEPT,
4 STORE, DISTRIBUTE, OR DISPENSE DONATED CANCER DRUGS AND SUPPLIES.

5 (C) NECESSARY FORMS FOR ADMINISTRATION OF THE PROGRAM,
6 INCLUDING, BUT NOT LIMITED TO, FORMS FOR USE BY PERSONS OR ENTITIES
7 THAT DONATE, ACCEPT, DISTRIBUTE, OR DISPENSE CANCER DRUGS OR
8 SUPPLIES UNDER THE PROGRAM.

9 (D) THE MAXIMUM HANDLING FEE THAT MAY BE CHARGED BY A
10 PARTICIPANT THAT ACCEPTS, DISTRIBUTES, OR DISPENSES DONATED CANCER
11 DRUGS OR SUPPLIES.

12 (E) CATEGORIES OF CANCER DRUGS AND SUPPLIES THAT THE PROGRAM
13 WILL ACCEPT FOR DISPENSING.

14 (F) CATEGORIES OF CANCER DRUGS AND SUPPLIES THAT THE PROGRAM
15 WILL NOT ACCEPT FOR DISPENSING AND THE REASON THAT THOSE DRUGS OR
16 SUPPLIES WILL NOT BE ACCEPTED.

17 (G) MAINTENANCE AND DISTRIBUTION OF THE PARTICIPANT REGISTRY
18 ESTABLISHED UNDER SUBSECTION (2).

19 (2) AS PART OF THE PROGRAM, THE DEPARTMENT SHALL ESTABLISH AND
20 MAINTAIN A PARTICIPANT REGISTRY. THE PARTICIPANT REGISTRY SHALL
21 INCLUDE THE PARTICIPANT'S NAME, ADDRESS, AND TELEPHONE NUMBER AND
22 SHALL IDENTIFY WHETHER THE PARTICIPANT IS A PHYSICIAN'S OFFICE, A
23 PHARMACY, A COUNTY MEDICAL CARE FACILITY, A FREESTANDING SURGICAL
24 OUTPATIENT FACILITY, A HOME FOR THE AGED, A HOSPITAL, A HOSPITAL
25 LONG-TERM CARE UNIT, A NURSING HOME, OR A HOSPICE. THE REGISTRY
26 SHALL BE MAINTAINED ON THE DEPARTMENT'S WEBSITE AND MADE AVAILABLE
27 TO THE PUBLIC FOR ANY PERSON OR ENTITY WISHING TO DONATE CANCER

1 DRUGS OR SUPPLIES TO THE PROGRAM.

2 SEC. 5257. (1) ANY PERSON OR ENTITY MAY DONATE CANCER DRUGS OR
3 SUPPLIES TO THE PROGRAM. DONATIONS SHALL BE MADE AT A PHYSICIAN'S
4 OFFICE, PHARMACY, OR HEALTH CARE FACILITY THAT ELECTS TO
5 PARTICIPATE IN THE PROGRAM AND THAT MEETS THE CRITERIA ESTABLISHED
6 BY THE DEPARTMENT.

7 (2) A CANCER DRUG OR SUPPLY SHALL ONLY BE ACCEPTED OR
8 DISPENSED UNDER THIS PROGRAM IF THE DRUG IS IN ITS ORIGINAL,
9 UNOPENED, SEALED, AND TAMPER-EVIDENT UNIT DOSE PACKAGING. A CANCER
10 DRUG PACKAGED IN SINGLE-UNIT DOSES MAY BE ACCEPTED AND DISPENSED IF
11 THE OUTSIDE PACKAGING IS OPENED BUT THE SINGLE-UNIT-DOSE PACKAGING
12 IS UNOPENED.

13 (3) EACH DRUG DONATED UNDER THIS PROGRAM SHALL BE INSPECTED BY
14 A PHARMACIST. IF THE PHARMACIST DETERMINES THAT A DRUG HAS BEEN
15 ADULTERATED OR MISBRANDED, THEN THE DRUG SHALL BE PROPERLY DISPOSED
16 OF AND NOT DISPENSED UNDER THIS PROGRAM. A CANCER DRUG SHALL NOT BE
17 ACCEPTED OR DISPENSED UNDER THIS PROGRAM IF THE DRUG BEARS AN
18 EXPIRATION DATE THAT IS EARLIER THAN 6 MONTHS AFTER THE DATE THE
19 DRUG WAS DONATED OR IF THE DRUG IS ADULTERATED OR MISBRANDED AS
20 DETERMINED UNDER THIS SUBSECTION.

21 SEC. 5259. (1) ONLY A PRESCRIBER CAN PRESCRIBE THE CANCER
22 DRUGS AND SUPPLIES DONATED TO THE PROGRAM, AND THOSE DRUGS AND
23 SUPPLIES SHALL ONLY BE PRESCRIBED TO AN INDIVIDUAL WHO IS
24 DETERMINED TO BE ELIGIBLE UNDER THE RULES AND REGULATIONS
25 PROMULGATED BY THE DEPARTMENT. A PRESCRIBER SHALL NOT DISPENSE THE
26 CANCER DRUGS OR SUPPLIES DONATED UNDER THIS PROGRAM. ONLY A
27 PHARMACIST, NOTWITHSTANDING SECTION 17766(F), MAY DISPENSE THOSE

1 DRUGS AND SUPPLIES DONATED UNDER THIS PROGRAM.

2 (2) CANCER DRUGS OR SUPPLIES DONATED TO THIS PROGRAM SHALL NOT
3 BE SOLD. A PHARMACIST WHO DISPENSES THOSE DRUGS AND SUPPLIES
4 DONATED UNDER THIS PROGRAM SHALL NOT SUBMIT A CLAIM OR OTHERWISE
5 SEEK REIMBURSEMENT FROM ANY PUBLIC OR PRIVATE THIRD PARTY PAYER FOR
6 DRUGS OR SUPPLIES DISPENSED TO ANY ELIGIBLE INDIVIDUAL IN
7 ACCORDANCE WITH THIS PROGRAM, NOR SHALL A PUBLIC OR PRIVATE THIRD
8 PARTY PAYER BE REQUIRED TO PROVIDE REIMBURSEMENT FOR DONATED DRUGS
9 OR SUPPLIES DISPENSED BY A PHARMACIST TO AN ELIGIBLE INDIVIDUAL IN
10 ACCORDANCE WITH THIS PROGRAM.

11 SEC. 5261. A PARTICIPANT WHO ACCEPTS DRUGS AND SUPPLIES
12 DONATED IN ACCORDANCE WITH THIS PROGRAM SHALL COMPLY WITH ALL
13 APPLICABLE PROVISIONS OF STATE AND FEDERAL LAW RELATING TO THE
14 STORAGE, DISTRIBUTION, AND DISPENSING OF THOSE DONATED DRUGS AND
15 SUPPLIES. A PARTICIPANT MAY CHARGE A NOMINAL HANDLING FEE, AS
16 DETERMINED UNDER RULES PROMULGATED BY THE DEPARTMENT, FOR
17 DISTRIBUTING OR DISPENSING THOSE DRUGS OR SUPPLIES IN ACCORDANCE
18 WITH THIS PROGRAM.

19 SEC. 5263. AN INDIVIDUAL WHO IS A RECIPIENT OF PHARMACEUTICAL
20 BENEFITS UNDER THE STATE MEDICAID PROGRAM OR WHO HAS PRESCRIPTION
21 DRUG COVERAGE UNDER ANY OTHER PUBLIC HEALTH CARE PAYMENT OR
22 BENEFITS PLAN FUNDED IN WHOLE OR IN PART BY THIS STATE IS NOT
23 ELIGIBLE TO RECEIVE DRUGS OR SUPPLIES DONATED UNDER THIS PROGRAM.

24 SEC. 5265. (1) A DONOR OR PARTICIPANT WHO EXERCISES REASONABLE
25 CARE IN DONATING, ACCEPTING, DISTRIBUTING, OR DISPENSING CANCER
26 DRUGS OR SUPPLIES UNDER THIS PROGRAM AND DOES THOSE ACTIVITIES IN
27 ACCORDANCE WITH THE RULES AND REGULATIONS ADOPTED AND PROMULGATED

1 UNDER THIS PART IS IMMUNE FROM CIVIL OR CRIMINAL LIABILITY AND FROM
2 PROFESSIONAL DISCIPLINARY ACTION OF ANY KIND FOR ANY INJURY, DEATH,
3 OR LOSS TO PERSON OR PROPERTY RELATING TO THOSE ACTIVITIES.

4 (2) A DRUG OR DEVICE MANUFACTURER IS NOT LIABLE FOR ANY CLAIM
5 OR INJURY ARISING FROM THE TRANSFER OF ANY CANCER DRUGS OR SUPPLIES
6 UNDER THIS PROGRAM, INCLUDING, BUT NOT LIMITED TO, LIABILITY FOR
7 FAILURE TO TRANSFER OR COMMUNICATE PRODUCT OR CONSUMER INFORMATION
8 REGARDING THE TRANSFERRED DRUG OR SUPPLY, AS WELL AS THE EXPIRATION
9 DATE OF THE TRANSFERRED DRUG OR SUPPLY.

10 SEC. 5267. IF ANY PROVISION OF THIS PART OR ITS APPLICATION TO
11 ANY PERSON OR CIRCUMSTANCE IS HELD INVALID, THE INVALIDITY DOES NOT
12 AFFECT OTHER PROVISIONS OR APPLICATIONS OF THIS PART THAT CAN BE
13 GIVEN EFFECT WITHOUT THE INVALID PROVISION OR APPLICATION, AND TO
14 THIS END, THE PROVISIONS OF THIS PART ARE SEVERABLE.

15 Sec. 17766. Except as provided in PART 52A OR section 17766d,
16 a person who does any of the following is guilty of a misdemeanor:

17 (a) Obtains or attempts to obtain a prescription drug by
18 giving a false name to a pharmacist or other authorized seller,
19 prescriber, or dispenser.

20 (b) Obtains or attempts to obtain a prescription drug by
21 falsely representing that he or she is a lawful prescriber,
22 dispenser, or licensee, or acting on behalf of a lawful prescriber,
23 dispenser, or licensee.

24 (c) Falsely makes, utters, publishes, passes, alters, or
25 forges a prescription.

26 (d) Knowingly possesses a false, forged, or altered
27 prescription.

1 (e) Knowingly attempts to obtain, obtains, or possesses a drug
2 by means of a prescription for other than a legitimate therapeutic
3 purpose, or as a result of a false, forged, or altered
4 prescription.

5 (f) Possesses or controls for the purpose of resale, or sells,
6 offers to sell, dispenses, or gives away, a drug, pharmaceutical
7 preparation, or chemical that has been dispensed on prescription
8 and has left the control of a pharmacist.

9 (g) Possesses or controls for the purpose of resale, or sells,
10 offers to sell, dispenses, or gives away, a drug, pharmaceutical
11 preparation, or chemical that has been damaged by heat, smoke,
12 fire, water, or other cause and is unfit for human or animal use.

13 (h) Prepares or permits the preparation of a prescription
14 drug, except as delegated by a pharmacist.

15 (i) Sells a drug in bulk or in an open package at auction,
16 unless the sale has been approved in accordance with rules of the
17 board.