

**SUBSTITUTE FOR
SENATE BILL NO. 340**

A bill to amend 1978 PA 368, entitled "Public health code," by amending sections 17707, 17708, 17709, 17722, 17726, 17739, 17741, 17742, 17748, 17751, and 17752 (MCL 333.17707, 333.17708, 333.17709, 333.17722, 333.17726, 333.17739, 333.17741, 333.17742, 333.17748, 333.17751, and 333.17752), section 17707 as amended by 2016 PA 528, section 17708 as amended by 2016 PA 499, sections 17709 and 17742 as amended by 2014 PA 280, section 17739 as added by 2014 PA 285, section 17748 as amended by 2015 PA 169, section 17751 as amended by 2017 PA 165, and section 17752 as amended by 2005 PA 73, and by adding sections 17742a and 17742b.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 17707. (1) **"Parent pharmacy" means a pharmacy that**



1 **operates a remote pharmacy through a telepharmacy system.**

2 (2) "Personal charge" means the immediate physical presence of
3 a pharmacist or dispensing prescriber.

4 (3) ~~(2)~~—"Pharmacist" means an individual licensed under this
5 article to engage in the practice of pharmacy.

6 (4) ~~(3)~~—"Pharmacist in charge" or "PIC" means the pharmacist
7 who is designated by a pharmacy, manufacturer, or wholesale
8 distributor as its pharmacist in charge under section 17748(2).

9 (5) ~~(4)~~—"Pharmacist intern" or "intern" means an individual
10 who satisfactorily completes the requirements set forth in rules
11 promulgated by the department in consultation with the board and is
12 licensed by the board for the purpose of obtaining instruction in
13 the practice of pharmacy from a preceptor approved by the board.

14 (6) ~~(5)~~—"Pharmacy" means a facility or part of a facility that
15 is licensed under this part to dispense prescription drugs or
16 prepare prescription drugs for delivery or distribution. Pharmacy
17 does not include the office of a dispensing prescriber or an
18 automated device. For the purpose of a duty placed on a pharmacy
19 under this part, "pharmacy" means the person to which the pharmacy
20 license is issued, unless otherwise specifically provided.

21 (7) ~~(6)~~—"Pharmacy technician" means an individual who is
22 required to hold a health profession subfield license under this
23 part to serve as a pharmacy technician.

24 (8) ~~(7)~~—"Practice of pharmacy" means a health service, the
25 clinical application of which includes the encouragement of safety
26 and efficacy in the prescribing, dispensing, administering, and use
27 of drugs and related articles for the prevention of illness, and
28 the maintenance and management of health. Practice of pharmacy
29 includes the direct or indirect provision of professional functions



1 and services associated with the practice of pharmacy. Professional
2 functions associated with the practice of pharmacy include **the**
3 **following:**

4 (a) The interpretation and evaluation of the prescription.

5 (b) Drug product selection.

6 (c) The compounding, dispensing, safe storage, and
7 distribution of drugs and devices.

8 (d) The maintenance of legally required records.

9 (e) Advising the prescriber and the patient as required as to
10 contents, therapeutic action, utilization, and possible adverse
11 reactions or interactions of drugs.

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

14 (2) "Prescriber" means a licensed dentist, a licensed doctor
15 of medicine, a licensed doctor of osteopathic medicine and surgery,
16 a licensed doctor of podiatric medicine and surgery, a licensed
17 physician's assistant, a licensed optometrist certified under part
18 174 to administer and prescribe therapeutic pharmaceutical agents,
19 an advanced practice registered nurse as that term is defined in
20 section 17201 who meets the requirements of section 17211a, a
21 licensed veterinarian, or another licensed health professional
22 acting under the delegation and using, recording, or otherwise
23 indicating the name of the delegating licensed doctor of medicine
24 or licensed doctor of osteopathic medicine and surgery.

25 (3) "Prescription" means an order by a prescriber to fill,
26 compound, or dispense a drug or device written and signed; written
27 or created in an electronic format, signed, and transmitted by
28 facsimile; or transmitted electronically or by other means of
29 communication. An order transmitted in other than written or hard-



1 copy form must be electronically recorded, printed, or written and
2 immediately dated by the pharmacist, and that record is considered
3 the original prescription. In a health facility or agency licensed
4 under article 17 or other medical institution, an order for a drug
5 or device in the patient's chart is considered for the purposes of
6 this definition the original prescription. For purposes of this
7 part, prescription also includes a standing order issued under
8 section 17744e. Subject to section 17751(2) and (5), prescription
9 includes, but is not limited to, an order for a drug, not including
10 a controlled substance except under circumstances described in
11 section 17763(e), written and signed; written or created in an
12 electronic format, signed, and transmitted by facsimile; or
13 transmitted electronically or by other means of communication by a
14 physician prescriber, dentist prescriber, or veterinarian
15 prescriber who is licensed to practice dentistry, medicine,
16 osteopathic medicine and surgery, or veterinary medicine in another
17 state.

18 (4) "Prescription drug" means a drug to which 1 or more of the
19 following apply:

20 (a) The drug is dispensed pursuant to a prescription.

21 (b) The drug bears the federal legend "CAUTION: federal law
22 prohibits dispensing without prescription" or "Rx only".

23 (c) The drug is designated by the board as a drug that may
24 only be dispensed pursuant to a prescription.

25 (5) **"Remote pharmacy" means a pharmacy described in sections**
26 **17742a and 17742b.**

27 Sec. 17709. (1) "Sign" means to affix one's signature manually
28 to a document or to use an electronic signature when transmitting a
29 prescription electronically.



1 (2) "Sterile pharmaceutical" means a dosage form of a drug
 2 that is essentially free from living microbes and chemical or
 3 physical contamination to the point at which it poses no present
 4 risk to the patient, in accordance with USP standards. As used in
 5 this subsection, "dosage form" includes, but is not limited to,
 6 parenteral, injectable, and ophthalmic dosage forms.

7 (3) "Substitute" means to dispense, without the prescriber's
 8 authorization, a different drug in place of the drug prescribed.

9 (4) **"Telepharmacy system" means an interoperable computer**
 10 **system that meets all of the following requirements:**

11 (a) **Shares real-time data and uses a real-time audio and video**
 12 **link to connect a pharmacist at a parent pharmacy with a remote**
 13 **pharmacy operated by the parent pharmacy.**

14 (b) **Uses a camera that is of sufficient quality and resolution**
 15 **to allow a pharmacist at a parent pharmacy who is reviewing a**
 16 **prescription to visually identify the markings on tablets and**
 17 **capsules at the remote pharmacy.**

18 (c) **Maintains a continuous video recording that is**
 19 **periodically reviewed.**

20 (5) ~~(4)~~—"USP standards" means the pharmacopeial standards for
 21 drug substances, dosage forms, and compounded preparations based on
 22 designated levels of risk as published in the official compendium.

23 (6) ~~(5)~~—"Wholesale distributor" means a person, other than a
 24 manufacturer, who supplies, distributes, sells, offers for sale,
 25 barter, or otherwise disposes of, to other persons for resale,
 26 compounding, or dispensing, a drug or device salable on
 27 prescription only that the distributor has not prepared, produced,
 28 derived, propagated, compounded, processed, packaged, or
 29 repackaged, or otherwise changed the container or the labeling of



1 the drug or device.

2 Sec. 17722. In addition to the functions set forth in part
3 161, **except as otherwise provided in this part**, the board shall:

4 (a) Regulate, control, and inspect the character and standard
5 of pharmacy practice and of drugs and devices manufactured,
6 distributed, prescribed, dispensed, administered, or issued in this
7 state and procure samples and limit or prevent the sale of drugs
8 and devices that do not comply with this part.

9 (b) Prescribe minimum criteria for the use of professional and
10 technical equipment and references in the compounding and
11 dispensing of drugs and devices.

12 (c) Grant a pharmacy license for each separate place of
13 practice in which the compounding or dispensing of prescription
14 drugs or devices, or both, or the receiving of prescription orders
15 in this state is to be conducted.

16 (d) Grant a drug control license for the place of practice of
17 a dispensing prescriber who meets the requirements for the license.

18 (e) Grant a license to a manufacturer or a wholesale
19 distributor of prescription drugs who meets the requirements for
20 the license.

21 Sec. 17726. The department shall issue a ~~license~~**certificate**
22 **of licensure** to an applicant who is granted a license ~~by the~~
23 ~~board~~**under this part**.

24 Sec. 17739. (1) An individual who performs any of the
25 following functions is considered to be serving as a pharmacy
26 technician and, except as otherwise provided in this part, is
27 required to be licensed under this part as a pharmacy technician:

28 (a) Assisting in the dispensing process.

29 (b) Handling transfer of prescriptions, except controlled



1 substances prescriptions.

2 (c) Compounding drugs.

3 (d) Preparing or mixing intravenous drugs for injection into a
4 human patient.

5 (e) Contacting prescribers concerning prescription drug order
6 clarification, which does not include drug regimen review or
7 clinical or therapeutic interpretation.

8 (f) Receiving verbal orders for prescription drugs, except
9 orders for controlled substances.

10 (g) Subject to section 16215, performing any other functions
11 authorized under rules promulgated by the department in
12 consultation with the board.

13 (2) A pharmacy or dispensing prescriber that utilizes the
14 services of a pharmacy technician shall ensure that all of the
15 following requirements, as applicable, are met:

16 (a) The pharmacy technician is licensed or otherwise
17 authorized to serve as a pharmacy technician under this part.

18 (b) The pharmacy technician only performs the activities or
19 functions that he or she is licensed or otherwise authorized to
20 perform under this part or rules promulgated under this part.

21 (c) Except **for a remote pharmacy or** as otherwise provided by
22 rule promulgated by the department in consultation with the board,
23 the pharmacy technician only performs the activities or functions
24 described in subdivision (b) under the supervision and personal
25 charge of the pharmacist or dispensing prescriber.

26 Sec. 17741. (1) A pharmacy shall not be operated unless
27 licensed by this part.

28 (2) ~~A~~**Except for a remote pharmacy, a** pharmacy open for
29 business ~~shall~~**must** be under the personal charge of a pharmacist. A



1 pharmacist shall not simultaneously have personal charge of more
2 than 1 pharmacy.

3 **(3)** The person to whom a pharmacy license is issued and the
4 pharmacists on duty are responsible for compliance with federal and
5 state laws regulating the distribution of drugs and the practice of
6 pharmacy. ~~Pharmacy~~ **Except for a remote pharmacy, pharmacy** services
7 ~~shall must~~ be conducted under the control and personal charge of a
8 pharmacist.

9 **(4)** ~~(3)~~ ~~A penalty sanction~~ for violation of this part ~~does not~~
10 ~~affect only affects~~ the pharmacy license of ~~other than~~ the place of
11 business where the violation occurred.

12 Sec. 17742. (1) The board may require an applicant or the
13 holder of a pharmacy, manufacturer's, or wholesale distributor's
14 license to fully disclose the identity of each partner,
15 stockholder, officer, or member of the board of directors of the
16 pharmacy, manufacturer, or wholesale distributor, as applicable.

17 (2) As used in this section and sections **17742a**, 17748,
18 17748a, and 17768, "applicant" means a person applying for a
19 pharmacy, manufacturer's, or wholesale distributor's license under
20 this article. Applicant includes only 1 or more of the following:

21 (a) An individual, if the person applying is an individual.

22 (b) All partners, including limited partners, if the person
23 applying is a partnership.

24 (c) All stockholders, officers, and members of the board of
25 directors, if the person applying is a privately held corporation.

26 **Sec. 17742a. (1) A parent pharmacy shall not operate a remote**
27 **pharmacy in this state unless the parent pharmacy and the remote**
28 **pharmacy are each located in this state and licensed as a pharmacy**
29 **under this part.**



1 (2) The department shall grant a pharmacy license to an
2 applicant seeking to operate a remote pharmacy if the applicant
3 meets all of the following:

4 (a) Submits a completed application and pays the applicable
5 fee under section 16333.

6 (b) Demonstrates to the satisfaction of the department that
7 the parent pharmacy and the proposed remote pharmacy share common
8 ownership.

9 (c) Subject to subsection (3), demonstrates to the
10 satisfaction of the department that, at the time of the
11 application, the location of the proposed remote pharmacy is not
12 within 10 miles of another pharmacy. This subdivision does not
13 apply if the remote pharmacy is located at a hospital, clinic, or
14 mental health facility.

15 (d) Meets any other requirement for licensure as a pharmacy as
16 established by the department, in consultation with the board, by
17 rule.

18 (3) The department may waive the requirement for licensure
19 described in subsection (2)(c) if the applicant provides
20 satisfactory evidence to the department that the proposed remote
21 pharmacy will be located in an area where there is limited access
22 to pharmacy services and that a compelling circumstance justifies
23 waiving the requirement. In considering whether to grant a waiver
24 under this subsection, the department shall consider each of the
25 following, as applicable, based on the evidence submitted by the
26 applicant:

27 (a) Whether the pharmacy that is located within 10 miles from
28 the proposed remote pharmacy is open for business for limited hours
29 or fewer hours than the proposed remote pharmacy.



1 (b) Whether services will be provided at the proposed remote
2 pharmacy that are not available from the pharmacy that is located
3 within 10 miles from the proposed remote pharmacy.

4 (c) Whether access to the pharmacy that is located within 10
5 miles from the proposed remote pharmacy is limited and whether the
6 proposed remote pharmacy will improve patient access to pharmacy
7 services.

8 (d) Whether there are transportation barriers to receiving
9 services from the pharmacy that is located within 10 miles from the
10 proposed remote pharmacy.

11 (e) Whether the pharmacy that is located within 10 miles from
12 the proposed remote pharmacy is closing.

13 (4) If a pharmacy license is granted to a pharmacy that is
14 located within 10 miles of a remote pharmacy after the remote
15 pharmacy's license is granted or renewed, the remote pharmacy may
16 continue to operate.

17 Sec. 17742b. (1) If a remote pharmacy open for business is not
18 under the personal charge of a pharmacist, the pharmacist in charge
19 of the parent pharmacy shall ensure that the remote pharmacy is
20 staffed by a qualified pharmacy technician who, while assisting in
21 the dispensing process, is overseen through the use of a
22 telepharmacy system by a pharmacist who meets the requirements
23 described in subsection (2).

24 (2) A pharmacist who is located at a parent pharmacy may only
25 oversee the activities at a remote pharmacy if the pharmacist has
26 access to all relevant patient information that is maintained by
27 the parent pharmacy and he or she is employed by or under contract
28 with the parent pharmacy or a pharmacy that has contracted with the
29 parent pharmacy.



1 (3) For purposes of this act, a prescription dispensed under
2 this section, including a prescription for a controlled substance,
3 is considered dispensed at the remote pharmacy by the pharmacist
4 described in subsection (2).

5 (4) The pharmacist in charge of the parent pharmacy shall
6 establish and maintain a written policy and procedure manual that
7 must be made available to the department for inspection upon
8 request and that contains each of the following, subject to this
9 section:

10 (a) A description of how the remote pharmacy will comply with
11 federal and state laws, rules, and regulations.

12 (b) The procedure by which a pharmacist described in
13 subsection (2) oversees a qualified pharmacy technician at the
14 remote pharmacy who is assisting in the dispensing process and the
15 procedure by which the pharmacist provides counseling to patients
16 at the remote pharmacy.

17 (c) The procedure for reviewing each of the following:

18 (i) Subject to section 7321, prescription drug inventory at the
19 remote pharmacy.

20 (ii) Prescriptions or equivalent records approved by the board
21 that are on file at the remote pharmacy.

22 (d) The policy and procedure for providing adequate security
23 to protect the confidentiality and integrity of a patient's
24 protected health information.

25 (e) The procedure for recovering from an event that interrupts
26 or prevents a pharmacist described in subsection (2) from
27 overseeing the operations of the remote pharmacy through the
28 telepharmacy system. The procedure shall require that the remote
29 pharmacy be closed to the public during a time period in which any



1 component of the telepharmacy system is malfunctioning, unless a
2 pharmacist is present at the remote pharmacy during that time
3 period.

4 (f) The procedure for ensuring that a pharmacist described in
5 subsection (2) complies with the electronic system for monitoring
6 schedule 2, 3, 4, and 5 controlled substances established under
7 section 7333a before a controlled substance is dispensed under this
8 section.

9 (g) The specific acts, tasks, and functions that a qualified
10 pharmacy technician may perform at the remote pharmacy. However, a
11 qualified pharmacy technician shall not do any of the following at
12 the remote pharmacy:

13 (i) Receive oral orders for prescription drugs.

14 (ii) Provide consultation regarding a prescription or regarding
15 medical information contained in a patient medication record or
16 patient chart.

17 (iii) Perform compounding of sterile or nonsterile drugs, except
18 for the reconstitution of an orally administered prescription drug.

19 (h) A requirement that a pharmacist described in subsection
20 (2) complete a monthly, in-person inspection of the remote pharmacy
21 that includes, at a minimum, conducting inventory reconciliation
22 for controlled substances and reviewing any video recording from
23 the telepharmacy system that the pharmacist considers necessary.

24 (i) A policy that requires the pharmacist described in
25 subsection (2) to retain audio and video recordings from the
26 telepharmacy system for at least 45 calendar days.

27 (5) The pharmacist in charge of the parent pharmacy shall
28 display at the remote pharmacy in a conspicuous location, visible
29 to the public, a notice that provides all of the following



1 information:

2 (a) That the pharmacy services are being provided at a remote
3 pharmacy.

4 (b) That if patient counseling is provided, it may be provided
5 by a pharmacist using audio and video communication.

6 (c) The address of the parent pharmacy.

7 (6) A pharmacist described in subsection (2) shall review a
8 prescription as required by state and federal law, rules, and
9 regulations before the drug or device that is the subject of the
10 prescription is dispensed under this section. The pharmacist shall
11 ensure that the pharmacist's and the qualified pharmacy
12 technician's initials or other means of identifying the pharmacist
13 and the qualified pharmacy technician involved in the dispensing
14 process are recorded on the prescription and that the specific
15 acts, tasks, or functions performed by the pharmacist or qualified
16 pharmacy technician during the dispensing process are recorded in
17 the pharmacy management system. When submitting a claim or
18 otherwise seeking reimbursement for a public or private third party
19 payer for a drug or device that is dispensed under this section,
20 the pharmacist shall identify the remote pharmacy as the pharmacy
21 from which the drug or device was dispensed.

22 (7) If a remote pharmacy open for business is not under the
23 personal charge of a pharmacist, any patient counseling that is
24 required by rule must be provided before the drug or device is
25 dispensed at the remote pharmacy and must be provided by a
26 pharmacist described in subsection (2) through the telepharmacy
27 system in a manner that complies with the health insurance
28 portability and accountability act of 1996, Public Law 101-191, or
29 regulations promulgated under that act, 45 CFR parts 160 and 164.



1 (8) If a pharmacist described in subsection (2) is not present
2 at the parent pharmacy, the remote pharmacy must be closed for
3 business unless a pharmacist is present at the remote pharmacy.

4 (9) A remote pharmacy shall not dispense more than 225
5 prescriptions per day.

6 (10) As used in this section, "qualified pharmacy technician"
7 means a pharmacy technician who has at least 1,000 hours of
8 experience working in a pharmacy and who holds a license other than
9 a temporary license under section 17739b or limited license under
10 section 17739c.

11 Sec. 17748. (1) To do business in this state, a pharmacy,
12 manufacturer, or wholesale distributor, whether or not located in
13 this state, must be licensed under this part. To do business in
14 this state, a person that provides compounding services must be
15 licensed as a pharmacy or manufacturer under this part and, if a
16 pharmacy, authorized to provide compounding services under this
17 section and sections 17748a and 17748b. To do business in this
18 state, an outsourcing facility must be licensed as a pharmacy under
19 this part. Licenses are renewable biennially.

20 (2) ~~A~~**Except for a remote pharmacy, a** pharmacy shall designate
21 a pharmacist licensed in this state as the pharmacist in charge for
22 the pharmacy. **For a remote pharmacy, the pharmacist designated as**
23 **the pharmacist in charge of the parent pharmacy shall also serve as**
24 **the pharmacist in charge of the remote pharmacy.** Except as
25 otherwise provided in this subsection, a manufacturer shall
26 designate a pharmacist licensed in or outside of this state as the
27 pharmacist in charge for the manufacturer. Except as otherwise
28 provided in this subsection, a wholesale distributor shall
29 designate a pharmacist licensed in or outside of this state as the



1 pharmacist in charge for the wholesale distributor or shall
 2 designate an employee with the appropriate education or experience,
 3 or both, to assume responsibility for compliance with licensing
 4 requirements as facility manager for the wholesale distributor. The
 5 pharmacy, manufacturer, or wholesale distributor and the individual
 6 designated as the PIC or facility manager under this subsection are
 7 jointly responsible for the pharmacy's, manufacturer's, or
 8 wholesale distributor's compliance with this part and rules
 9 promulgated under this part. A person that is a manufacturer or
 10 wholesale distributor with respect to a device salable on
 11 prescription only but not with respect to any drug salable on
 12 prescription only is exempt from this subsection.

13 (3) Subject to this subsection, a pharmacist may be designated
 14 as the PIC for **not** more than ~~1 pharmacy.~~ **3 pharmacies, including**
 15 **remote pharmacies.** A PIC described in this subsection shall work an
 16 average of at least 8 hours per week at each pharmacy for which he
 17 or she is the PIC **unless he or she is serving as the PIC of a**
 18 **remote pharmacy. The PIC of a remote pharmacy is not required to be**
 19 **physically present at the remote pharmacy to satisfy the hour**
 20 **requirement described in this subsection, but may satisfy the**
 21 **requirement through the use of a telepharmacy system.** The pharmacy
 22 and the PIC shall maintain appropriate records and demonstrate
 23 compliance with this subsection upon the request of the board or
 24 its designee.

25 (4) A pharmacy, manufacturer, or wholesale distributor shall
 26 report to the department a change in ownership, management,
 27 location, or its PIC or facility manager designated under
 28 subsection (2) not later than 30 days after the change occurs.

29 (5) A pharmacist designated as the PIC for a pharmacy shall



1 supervise the practice of pharmacy for the pharmacy. The duties of
2 the PIC include, but are not limited to, the following:

3 (a) Supervision of all activities of pharmacy employees as
4 they relate to the practice of pharmacy including the purchasing,
5 storage, compounding, repackaging, dispensing, and distribution of
6 drugs and devices to ensure that those activities are performed in
7 compliance with this part and the rules promulgated under this
8 part.

9 (b) Enforcement and oversight of policies and procedures
10 applicable to the employees of the pharmacy for the procurement,
11 storage, compounding, and dispensing of drugs and the communication
12 of information to the patient in relation to drug therapy.

13 (c) Establishment and supervision of the method and manner for
14 storage and safekeeping of pharmaceuticals, including maintenance
15 of security provisions to be used when the pharmacy is closed.

16 (d) Establishment and supervision of the record-keeping system
17 for the purchase, sale, delivery, possession, storage, and
18 safekeeping of drugs and devices.

19 (e) Establishment of policies and procedures for individuals
20 who are delegated responsibilities for any of the tasks described
21 in this subsection by the PIC.

22 (6) Except as otherwise provided in subsection (8),
23 fingerprints for the following individuals shall be submitted with
24 an application for a new pharmacy, manufacturer, or wholesale
25 distributor license in the same manner as required in section 16174
26 for the purpose of a criminal history check:

27 (a) If the application is from an individual, who is not a
28 health professional licensed or otherwise authorized to engage in a
29 health profession under this article or who is a health



1 professional but was licensed or otherwise authorized to engage in
2 his or her health profession under this article before October 1,
3 2008, fingerprints for that individual.

4 (b) If the application is from a partnership, fingerprints for
5 all partners and any individual who will manage the day-to-day
6 operations of the new pharmacy, manufacturer, or wholesale
7 distributor.

8 (c) If the application is from a privately held corporation,
9 fingerprints for any individual who will manage the day-to-day
10 operations of the new pharmacy, manufacturer, or wholesale
11 distributor. This subdivision only applies to a privately held
12 corporation that in the aggregate owns fewer than 75 pharmacies,
13 manufacturers, or wholesale distributors on the date the
14 corporation submits its license application.

15 (7) The board, department, and department of state police
16 shall conduct the criminal history check on the individuals
17 described in subsection (6) in the same manner as described in
18 section 16174.

19 (8) Subsection (6) does not apply if a criminal history check
20 that meets the requirements of section 16174 has been obtained for
21 the individuals described in subsection (6) within the 2 years
22 preceding the date of the application for a new pharmacy,
23 manufacturer, or wholesale distributor license under this part. To
24 qualify for the exception under this subsection, an applicant shall
25 submit proof of the previous criminal history check for each
26 individual described in subsection (6), as applicable, with the
27 application for a new pharmacy, manufacturer, or wholesale
28 distributor license under this part. If the department or board
29 determines that a criminal history check for an individual



1 described in subsection (6) does not meet the requirements of
 2 section 16174 or was not obtained within the time period
 3 prescribed, fingerprints ~~shall~~**must** be submitted for the individual
 4 as required under subsection (6).

5 (9) If, as authorized or required under this article, the
 6 department inspects or investigates an applicant for a new pharmacy
 7 license for a pharmacy that will provide compounding services or a
 8 compounding pharmacy, and the applicant or compounding pharmacy is
 9 located outside of this state, the applicant or compounding
 10 pharmacy shall reimburse the department for its expenses incurred
 11 in carrying out its authority or duty to inspect or investigate the
 12 applicant or licensee under this article.

13 Sec. 17751. (1) A pharmacist shall not dispense a drug
 14 requiring a prescription under the federal act or a law of this
 15 state except under authority of an original prescription or an
 16 equivalent record of an original prescription approved by the
 17 board. **A pharmacist described in section 17742b(2) may dispense a**
 18 **drug pursuant to an original prescription received at a remote**
 19 **pharmacy if the pharmacist receives, reviews, and verifies an exact**
 20 **digital image of the prescription received at the remote pharmacy**
 21 **before the drug is dispensed at the remote pharmacy.**

22 (2) Subject to ~~subsection~~**subsections (1) and (5)**, a
 23 pharmacist may dispense a prescription written and signed; written
 24 or created in an electronic format, signed, and transmitted by
 25 facsimile; or transmitted electronically or by other means of
 26 communication by a physician prescriber, dentist prescriber, or
 27 veterinarian prescriber in another state, but not including a
 28 prescription for a controlled substance except under circumstances
 29 described in section 17763(e), only if the pharmacist in the



1 exercise of his or her professional judgment determines all of the
2 following:

3 (a) Except as otherwise authorized under section 5110, 17744a,
4 or 17744b, if the prescriber is a physician or dentist, that the
5 prescription was issued pursuant to an existing physician-patient
6 or dentist-patient relationship.

7 (b) That the prescription is authentic.

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

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

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

15 (5) A pharmacist shall not dispense a drug or device under a
16 prescription transmitted by facsimile or created in electronic
17 format and printed out for use by the patient unless the document
18 is manually signed by the prescriber. This subsection does not
19 apply to ~~a~~**any of the following:**

20 (a) A prescription that is transmitted by a computer to a
21 facsimile machine if that prescription complies with section 17754.

22 (b) **A prescription that is received by a remote pharmacy and**
23 **made available to a pharmacist described in section 17742b(2) for**
24 **review and verification in the manner required under subsection**
25 **(1) .**

26 (6) After consultation with and agreement from the prescriber,
27 a pharmacist may add or change a patient's address, a dosage form,
28 a drug strength, a drug quantity, a direction for use, or an issue
29 date with regard to a prescription. A pharmacist shall note the



1 details of the consultation and agreement required under this
2 subsection on the prescription **or, if the drug is dispensed at a**
3 **remote pharmacy, on the digital image of the prescription described**
4 **in subsection (1)**, and shall maintain that documentation with the
5 prescription as required in section 17752. A pharmacist shall not
6 change the patient's name, controlled substance prescribed unless
7 authorized to dispense a lower cost generically equivalent drug
8 product under section 17755, or the prescriber's signature with
9 regard to a prescription.

10 (7) A prescription that is contained within a patient's chart
11 in a health facility or agency licensed under article 17 or other
12 medical institution and that is transmitted to a pharmacy under
13 section 17744 is the original prescription. If all other
14 requirements of this part are met, a pharmacist shall dispense a
15 drug or device under a prescription described in this subsection. A
16 pharmacist may dispense a drug or device under a prescription
17 described in this subsection even if the prescription does not
18 contain the quantity ordered. If a prescription described in this
19 subsection does not contain the quantity ordered, the pharmacist
20 shall consult with the prescriber to determine an agreed-upon
21 quantity. The pharmacist shall record the quantity dispensed on the
22 prescription and shall maintain that documentation with the
23 prescription as required in section 17752.

24 (8) If, after consulting with a patient, a pharmacist
25 determines in the exercise of his or her professional judgment that
26 dispensing additional quantities of a prescription drug is
27 appropriate for the patient, the pharmacist may dispense, at one
28 time, additional quantities of the prescription drug up to the
29 total number of dosage units authorized by the prescriber on the



1 original prescription for the patient and any refills of the
2 prescription. Except for a controlled substance included in
3 schedule 5 that does not contain an opioid, this subsection does
4 not apply to a prescription for a controlled substance.

5 Sec. 17752. (1) A prescription, or an equivalent record of the
6 prescription approved by the board, shall be preserved by a
7 licensee or dispensing prescriber for not less than 5 years.

8 (2) A prescription or equivalent record on file in a pharmacy
9 is not a public record. A person having custody of or access to
10 prescriptions shall not disclose their contents or provide copies
11 without the patient's authorization, to any person except to any of
12 the following:

13 (a) The patient for whom the prescription was issued, or
14 another pharmacist acting on behalf of the patient.

15 (b) The authorized prescriber who issued the prescription, or
16 a licensed health professional who is currently treating the
17 patient.

18 (c) An agency or agent of government responsible for the
19 enforcement of laws relating to drugs and devices.

20 (d) A person authorized by a court order.

21 (e) A person engaged in research projects or studies with
22 protocols approved by the board.

23 (3) A pharmacist may refill a copy of a prescription from
24 another pharmacy if the original prescription has remaining
25 authorized refills, and the copy is issued according to the
26 following procedure:

27 (a) The pharmacist issuing a written or oral copy of a
28 prescription shall cancel the original prescription and record the
29 cancellation. The record of cancellation ~~shall~~**must** include the



1 date the copy was issued, to whom issued, and the identification of
2 the pharmacist who issued the copy.

3 (b) The written or oral copy issued ~~shall~~**must** be a duplicate
4 of the original prescription except that it ~~shall~~**must** also include
5 the prescription number, the name of the pharmacy issuing the copy,
6 the date the copy was issued, and the number of authorized refills
7 remaining available to the patient.

8 (c) The pharmacist receiving a written or oral copy of the
9 prescription shall exercise reasonable diligence to determine
10 whether it is a valid copy, and having done so may treat the copy
11 as an original prescription.

12 (d) Except as described in this part, all other copies
13 furnished ~~shall~~**must** be used for information purposes only and
14 clearly marked "for informational or reference purposes only".

15 (4) Subsection (3) does not apply to ~~pharmacies~~**any of the**
16 **following:**

17 (a) **Pharmacies** that share a real-time, on-line database or
18 other equivalent means of communication. ~~or to pharmacies~~

19 (b) **Pharmacies** that transfer prescriptions pursuant to a
20 written contract for centralized prescription processing services
21 as provided under section 17753.

22 (c) **A parent pharmacy if the parent pharmacy receives a copy**
23 **of a prescription from a remote pharmacy that it operates.**

24 (d) **A remote pharmacy if the remote pharmacy receives a copy**
25 **of a prescription from a parent pharmacy.**

26 (5) For purposes of this section, "equivalent record of the
27 prescription approved by the board" or "equivalent record" includes
28 a digital image described in section 17751(1).

