

Act No. 285
Public Acts of 2014
Approved by the Governor
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**STATE OF MICHIGAN
97TH LEGISLATURE
REGULAR SESSION OF 2014**

Introduced by Senators Green, Jones, Proos and Hansen

ENROLLED SENATE BILL No. 92

AN ACT to amend 1978 PA 368, entitled “An act to protect and promote the public health; to codify, revise, consolidate, classify, and add to the laws relating to public health; to provide for the prevention and control of diseases and disabilities; to provide for the classification, administration, regulation, financing, and maintenance of personal, environmental, and other health services and activities; to create or continue, and prescribe the powers and duties of, departments, boards, commissions, councils, committees, task forces, and other agencies; to prescribe the powers and duties of governmental entities and officials; to regulate occupations, facilities, and agencies affecting the public health; to regulate health maintenance organizations and certain third party administrators and insurers; to provide for the imposition of a regulatory fee; to provide for the levy of taxes against certain health facilities or agencies; to promote the efficient and economical delivery of health care services, to provide for the appropriate utilization of health care facilities and services, and to provide for the closure of hospitals or consolidation of hospitals or services; to provide for the collection and use of data and information; to provide for the transfer of property; to provide certain immunity from liability; to regulate and prohibit the sale and offering for sale of drug paraphernalia under certain circumstances; to provide for the implementation of federal law; to provide for penalties and remedies; to provide for sanctions for violations of this act and local ordinances; to provide for an appropriation and supplements; to repeal certain acts and parts of acts; to repeal certain parts of this act; and to repeal certain parts of this act on specific dates,” by amending sections 16333, 17703, 17707, 17711, 17721, and 17731 (MCL 333.16333, 333.17703, 333.17707, 333.17711, 333.17721, and 333.17731), section 16333 as added by 1993 PA 80, section 17703 as amended by 2012 PA 209, section 17707 as amended by 2014 PA 280, sections 17711 and 17721 as amended by 2006 PA 390, and section 17731 as amended by 1994 PA 234, and by adding sections 17739, 17739a, 17739b, and 17739c.

The People of the State of Michigan enact:

Sec. 16333. Fees for a person licensed or seeking licensure to engage in the practice of pharmacy or other practices regulated under part 177 are as follows:

(a) Application processing fees:	
(i) Pharmacist.....	\$ 20.00
(ii) Pharmacy.....	35.00
(iii) Drug control	20.00
(iv) Manufacturer or wholesaler	50.00
(v) Pharmacy technician	25.00

(b) Examination fees:	
Jurisprudence examination.....	30.00
(c) License fees, per year:	
(i) Pharmacist.....	30.00
(ii) Pharmacy.....	50.00
(iii) Drug control	15.00
(iv) Manufacturer or wholesaler	25.00
(v) Pharmacy technician	30.00
(d) Temporary license for pharmacist.....	25.00
(e) Limited license for pharmacist, per year.....	15.00
(f) Temporary license for pharmacy technician.....	15.00
(g) Limited license for pharmacy technician, per year.....	10.00

Sec. 17703. (1) “Device” means an instrument, apparatus, or contrivance, including its components, parts, and accessories, intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in human beings or other animals, or to affect the structure or function of the body of human beings or other animals.

(2) “Dispense” means to issue 1 or more doses of a drug for subsequent administration to, or use by, a patient.

(3) “Dispensing prescriber” means a prescriber, other than a veterinarian, who dispenses prescription drugs.

(4) “Drug” means any of the following:

(a) A substance recognized or for which the standards or specifications are prescribed in the official compendium.

(b) A substance intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in human beings or other animals.

(c) A substance, other than food, intended to affect the structure or a function of the body of human beings or other animals.

(d) A substance intended for use as a component of a substance specified in subdivision (a), (b), or (c), but not including a device or its components, parts, or accessories.

(5) “Electronic signature” means an electronic sound, symbol, or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record.

(6) “Electronically transmitted prescription” means the communication of an original prescription or refill authorization by electronic means including computer to computer, computer to facsimile machine, or electronic mail transmission that contains the same information it contained when the prescriber or his or her agent transmitted the prescription. Electronically transmitted prescription does not include a prescription or refill authorization transmitted by telephone or facsimile machine.

Sec. 17707. (1) “Personal charge” means the immediate physical presence of a pharmacist or dispensing prescriber.

(2) “Pharmacist” means an individual licensed under this article to engage in the practice of pharmacy.

(3) “Pharmacist in charge” or “PIC” means the pharmacist who is designated by a pharmacy, manufacturer, or wholesale distributor as its pharmacist in charge under section 17748(2).

(4) “Pharmacist intern” or “intern” means an individual who satisfactorily completes the requirements set forth in rules promulgated by the department in consultation with the board and is licensed by the board for the purpose of obtaining instruction in the practice of pharmacy from a preceptor approved by the board.

(5) “Pharmacy” means a building or part of a building in which the practice of pharmacy is conducted. For the purpose of a duty placed on a pharmacy under this part, “pharmacy” means the person to which the pharmacy license is issued, unless otherwise specifically provided.

(6) “Pharmacy technician” means an individual who is required to hold a health profession subfield license under this part to serve as a pharmacy technician.

(7) “Practice of pharmacy” means a health service, the clinical application of which includes the encouragement of safety and efficacy in the prescribing, dispensing, administering, and use of drugs and related articles for the prevention of illness, and the maintenance and management of health. Practice of pharmacy includes the direct or indirect provision of professional functions and services associated with the practice of pharmacy. Professional functions associated with the practice of pharmacy include:

(a) The interpretation and evaluation of the prescription.

(b) Drug product selection.

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

(d) The maintenance of legally required records.

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

Sec. 17711. (1) A person shall not engage in the practice of pharmacy or serve as a pharmacy technician unless licensed or otherwise authorized by this article.

(2) The following words, titles, or letters or a combination of words, titles, or letters, with or without qualifying words or phrases, are restricted in use only to those persons authorized under this part to use the terms and in a way prescribed in this part: “pharmacy”, “pharmacist”, “Pharm.D”, “doctor of pharmacy”, “pharmacy intern”, “pharmacy technician”, “licensed pharmacy technician”, “certified pharmacy technician”, “CPhT”, “apothecary”, “dispensary”, “drugstore”, “druggist”, “medicine store”, “prescriptions”, and “r.ph.”.

Sec. 17721. (1) The Michigan board of pharmacy is created in the department and consists of the following 11 voting members who meet the requirements of part 161:

- (a) Six pharmacists.
- (b) One pharmacy technician.
- (c) Four public members.

(2) The terms of office of the individual members of the board created under this section, except those appointed to fill vacancies, expire 4 years after appointment on June 30 of the year in which the term expires.

Sec. 17731. (1) Notwithstanding the requirements of part 161, the board may require either of the following:

(a) That a licensee seeking renewal of a pharmacist’s license furnish the department with satisfactory evidence that during the 2 years immediately preceding application for renewal, he or she attended continuing education courses or programs, approved by the board, totaling not less than 30 hours or satisfactorily completed a proficiency examination according to rules promulgated by the department in consultation with the board.

(b) That a licensee seeking renewal of a pharmacy technician’s license furnish the department with satisfactory evidence that during the 2 years immediately preceding application for renewal, he or she has attended at least 20 hours of continuing education courses or programs, approved by the board, or satisfactorily completed a proficiency examination according to rules promulgated by the department in consultation with the board.

(2) The department in consultation with the board shall promulgate rules requiring each applicant for license renewal to complete as part of the continuing education or proficiency examination requirement of subsection (1) an appropriate number of hours or courses in pain and symptom management.

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

- (a) Assisting in the dispensing process.
- (b) Handling transfer of prescriptions, except controlled substances prescriptions.
- (c) Compounding drugs.
- (d) Preparing or mixing intravenous drugs for injection into a human patient.
- (e) Contacting prescribers concerning prescription drug order clarification, which does not include drug regimen review or clinical or therapeutic interpretation.
- (f) Receiving verbal orders for prescription drugs, except orders for controlled substances.
- (g) Subject to section 16215, performing any other functions authorized under rules promulgated by the department in consultation with the board.

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

- (a) The pharmacy technician is licensed or otherwise authorized to serve as a pharmacy technician under this part.
- (b) The pharmacy technician only performs the activities or functions that he or she is licensed or otherwise authorized to perform under this part or rules promulgated under this part.
- (c) Except as otherwise provided by rule promulgated by the department in consultation with the board, the pharmacy technician only performs the activities or functions described in subdivision (b) under the supervision and personal charge of the pharmacist or dispensing prescriber.

Sec. 17739a. (1) Subject to subsection (2), the department may license an individual who meets all of the following requirements as a pharmacy technician under this part:

- (a) Submits a completed application to the department on a form prescribed by the department.

(b) Graduated from an accredited high school or comparable school or educational institution or passed the general educational development test or other graduate equivalency examination.

(c) Satisfies the requirements of section 16174.

(d) Except as otherwise provided in subsection (4), passes and submits proof to the department of passage of any of the following:

(i) The certified pharmacy technician examination given by the pharmacy technician certification board.

(ii) The certified pharmacy technician examination given by the national healthcareer association.

(iii) Any other nationally recognized and administered certification examination approved by the board.

(iv) An employer-based training program examination that is approved by the board and covers job descriptions, pharmacy security, commonly used medical abbreviations, routes of administration, product selection, final check by pharmacists, guidelines for the use of pharmacy technicians, pharmacy terminology, basic drug information, basic calculations, quality control procedures, state and federal laws and regulations regarding pharmacy technician duties, pharmacist duties, pharmacy intern duties, prescription or drug order processing procedures, drug record-keeping requirements, patient confidentiality, and pharmacy security and drug storage.

(2) An individual who is not a pharmacist, pharmacist intern, or pharmacy technician shall not perform any of the functions described in section 17739(1) for a pharmacy.

(3) A pharmacist shall not allow any individual employed or otherwise under the personal charge of the pharmacist to violate subsection (2). A person that owns, manages, operates, or conducts a pharmacy shall not allow any individual employed or otherwise under the control of that person to violate subsection (2).

(4) An individual who meets any of the following is not required to meet the examination requirement described in subsection (1)(d) to be eligible for a license under subsection (1):

(a) As provided in section 16171(a), is a student in a pharmacy technician program approved by the board.

(b) Is applying for a temporary license under section 17739b.

(c) Is applying for a limited license under section 17739c.

Sec. 17739b. (1) Subject to section 17739a(4), the department may issue a temporary license as a pharmacy technician to an individual who is preparing for the examination under section 17739a(1)(d). Notwithstanding section 16181, the term of a temporary license issued under this section expires 210 days after the date the temporary license is issued.

(2) An individual requesting a temporary license under this section shall submit a completed application, on a form prescribed by the department, to the department and pay the applicable fee under section 16333.

(3) An individual who holds a temporary license as a pharmacy technician issued under subsection (1) is subject to all of the requirements of this part, and rules promulgated by the department in consultation with the board, applicable to pharmacy technicians except the examination requirement under section 17739a(1)(d).

Sec. 17739c. (1) In addition to the requirement of section 16182 and subject to section 17739a(4), the department may issue a limited license as a pharmacy technician to an individual if all of the following are met:

(a) The individual was employed as a pharmacy technician by a pharmacy on the effective date of the amendatory act that added this section and has been continuously employed by that pharmacy since that date.

(b) The individual submits a completed application to the department on a form prescribed by the department and meets the requirements of section 16174.

(c) The individual provides documentation of satisfactory employment as a pharmacy technician for a minimum of 1,000 hours during the 2-year period immediately preceding the date of his or her application under subdivision (b).

(d) The applicable fee under section 16333 is paid.

(2) An individual who holds a limited license under this section may only act as a pharmacy technician for the pharmacy described in subsection (1)(a) and only until 1 of the following occurs:

(a) He or she is no longer employed by that pharmacy to perform those functions.

(b) He or she performs any of those functions for another pharmacy.

(3) The term of a limited pharmacy technician license issued by the department under this section is the same as a pharmacy technician license issued by the department under section 17739a.

(4) An individual who holds a limited pharmacy technician license issued under this section is subject to all of the requirements of this part, and the rules promulgated by the department in consultation with the board, except the examination requirement under section 17739a(1)(d).

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

This act is ordered to take immediate effect.

Carol Morey Viventi

Secretary of the Senate

Gay E. Randall

Clerk of the House of Representatives

Approved

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Governor