

SENATE BILL No. 1328

June 22, 2006, Introduced by Senators JELINEK, SCHAUER and VAN WOERKOM and referred to the Committee on Agriculture, Forestry and Tourism.

A bill to amend 1978 PA 368, entitled
"Public health code,"
by amending section 7333 (MCL 333.7333), as amended by 2001 PA 231.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 7333. (1) As used in this section, "good faith" means the
2 prescribing or dispensing of a controlled substance by a
3 practitioner licensed under section 7303 in the regular course of
4 professional treatment to or for an individual who is under
5 treatment by the practitioner for a pathology or condition other
6 than that individual's physical or psychological dependence upon or
7 addiction to a controlled substance, except as provided in this
8 article. Application of good faith to a pharmacist means the
9 dispensing of a controlled substance pursuant to a prescriber's

1 order which, in the professional judgment of the pharmacist, is
2 lawful. The pharmacist shall be guided by nationally accepted
3 professional standards including, but not limited to, all of the
4 following, in making the judgment:

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

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

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

10 (d) Unusual dosages.

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

13 (2) Except as otherwise provided in this section, a
14 practitioner, in good faith, may dispense a controlled substance
15 included in schedule 2 upon receipt of a prescription of a
16 practitioner licensed under section 7303 on a prescription form. A
17 practitioner shall not issue more than 1 prescription for a
18 controlled substance included in schedule 2 on a single
19 prescription form.

20 (3) In an emergency situation, as described in R 338.3165 of
21 the Michigan administrative code, a controlled substance included
22 in schedule 2 may be dispensed upon the oral prescription of a
23 practitioner if, the prescribing practitioner promptly fills out a
24 prescription form and forwards the prescription form to the
25 dispensing pharmacy within 7 days after the oral prescription is
26 issued. Except for a terminally ill patient whose terminal illness
27 the pharmacist documents pursuant to rules promulgated by the

1 administrator, a prescription for a controlled substance included
2 in schedule 2 shall not be filled more than 60 days after the date
3 on which the prescription was issued. A prescription for a
4 controlled substance included in schedule 2 for a terminally ill
5 patient whose terminal illness the pharmacist documents pursuant to
6 rules promulgated by the administrator may be partially filled in
7 increments for not more than 60 days after the date on which the
8 prescription was issued.

9 (4) A practitioner, in good faith, may dispense a controlled
10 substance included in schedule 3, 4, or 5 that is a prescription
11 drug as determined under section 503(b) of the federal food, drug,
12 and cosmetic act, ~~chapter 675, 52 Stat. 1051, 21 U.S.C.~~ **USC**
13 353, or section 17708, upon receipt of a prescription on a
14 prescription form or an oral prescription of a practitioner. A
15 prescription for a controlled substance included in schedule 3 or 4
16 shall not be filled or refilled without specific refill
17 instructions noted by the prescriber. A prescription for a
18 controlled substance included in schedule 3 or 4 shall not be
19 filled or refilled later than 6 months after the date of the
20 prescription or be refilled more than 5 times, unless renewed by
21 the prescriber in accordance with rules promulgated by the
22 administrator.

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

27 (6) If a prescription is required under this section, the

1 prescription shall contain the quantity of the controlled substance
2 prescribed in both written and numerical terms. A prescription is
3 in compliance with this subsection if, in addition to containing
4 the quantity of the controlled substance prescribed in written
5 terms, it contains preprinted numbers representative of the
6 quantity of the controlled substance prescribed next to which is a
7 box or line the prescriber may check.

8 (7) A prescribing practitioner shall not use a prescription
9 form for a purpose other than prescribing. A prescribing
10 practitioner shall not postdate a prescription form that contains a
11 prescription for a controlled substance. A prescriber may transmit
12 a prescription by facsimile of a printed prescription form and by
13 electronic transmission of a printed prescription form, if not
14 prohibited by federal law. If, with the patient's consent, a
15 prescription is electronically transmitted, it shall be transmitted
16 directly to a pharmacy of the patient's choice by the prescriber or
17 the prescriber's authorized agent, and the data shall not be
18 altered, modified, or extracted in the transmission process.

19 (8) Notwithstanding subsections (1) to (5), ~~a dog pound~~ **AN**
20 **ANIMAL CONTROL SHELTER** or animal **PROTECTION** shelter ~~licensed or~~
21 registered ~~by~~ **WITH** the department of agriculture pursuant to 1969
22 PA 287, MCL 287.331 to 287.340, or a class B dealer may acquire a
23 limited permit only for the purpose of buying, possessing, and
24 administering a commercially prepared, premixed solution of sodium
25 pentobarbital to practice euthanasia on injured, sick, homeless, or
26 unwanted domestic pets and other animals, if the ~~dog pound~~ **ANIMAL**
27 **CONTROL SHELTER** or animal **PROTECTION** shelter or class B dealer does

1 all of the following:

2 (a) Applies to the administrator for a permit in accordance
3 with rules promulgated under this part. The application shall
4 contain the name of the individual in charge of the day to day
5 operations of the ~~dog pound~~ **ANIMAL CONTROL SHELTER** or animal
6 **PROTECTION** shelter or class B dealer's facilities and the name of
7 the individual responsible for designating employees who will be
8 practicing euthanasia on animals pursuant to this act.

9 (b) Complies with the rules promulgated by the administrator
10 for the storage, handling, and use of **A** commercially prepared,
11 premixed solution of sodium pentobarbital to practice euthanasia on
12 animals. A record of use shall be maintained and shall be available
13 for inspection.

14 (c) Certifies that an employee of the ~~dog pound~~ **ANIMAL**
15 **CONTROL SHELTER** or animal **PROTECTION** shelter or class B dealer has
16 received, and can document completion of, a minimum of 8 hours of
17 training given by a licensed veterinarian in the use of sodium
18 pentobarbital to practice euthanasia on animals pursuant to rules
19 promulgated by the administrator, in consultation with the Michigan
20 board of veterinary medicine as these rules relate to this
21 training, and that only an individual described in this subdivision
22 or an individual otherwise permitted to use a controlled substance
23 pursuant to this article will administer the commercially prepared,
24 premixed solution of sodium pentobarbital according to written
25 procedures established by the ~~dog pound~~ **ANIMAL CONTROL SHELTER** or
26 animal **PROTECTION** shelter or class B dealer.

27 (9) The application described in subsection (8) shall include

1 the names and addresses of all individuals employed by the ~~dog~~
2 ~~pound~~ **ANIMAL CONTROL SHELTER** or animal **PROTECTION** shelter or class
3 B dealer who have been trained as described in subsection (8)(c)
4 and the name of the veterinarian who trained them. The list of
5 names and addresses shall be updated every 6 months.

6 (10) If ~~a dog pound~~ **AN ANIMAL CONTROL SHELTER** or animal
7 **PROTECTION** shelter or class B dealer issued a permit pursuant to
8 subsection (8) does not have in its employ an individual trained as
9 described in subsection (8)(c), the ~~dog pound~~ **ANIMAL CONTROL**
10 **SHELTER** or animal **PROTECTION** shelter or class B dealer shall
11 immediately notify the administrator and shall cease to administer
12 any commercially prepared, premixed solution of sodium
13 pentobarbital until the administrator is notified that 1 of the
14 following has occurred:

15 (a) An individual trained as described in subsection (8)(c)
16 has been hired by the ~~dog pound~~ **ANIMAL CONTROL SHELTER** or animal
17 **PROTECTION** shelter or class B dealer.

18 (b) An employee of the ~~dog pound~~ **ANIMAL CONTROL SHELTER** or
19 animal **PROTECTION** shelter or class B dealer has been trained as
20 described in subsection (8)(c).

21 (11) A veterinarian, including a veterinarian who trains
22 individuals as described in subsection (8)(c), is not civilly or
23 criminally liable for the use of a commercially prepared, premixed
24 solution of sodium pentobarbital by ~~a dog pound~~ **AN ANIMAL CONTROL**
25 **SHELTER** or animal **PROTECTION** shelter or class B dealer unless the
26 veterinarian is employed by or under contract with the ~~dog pound~~
27 **ANIMAL CONTROL SHELTER** or animal **PROTECTION** shelter or class B

1 dealer and the terms of the veterinarian's employment or the
2 contract require the veterinarian to be responsible for the use or
3 administration of the commercially prepared, premixed solution of
4 sodium pentobarbital.

5 (12) A person shall not knowingly use or permit the use of a
6 commercially prepared, premixed solution of sodium pentobarbital in
7 violation of this section.

8 (13) This section does not require that a veterinarian be
9 employed by or under contract with ~~a dog pound~~ **AN ANIMAL CONTROL**
10 **SHELTER** or animal **PROTECTION** shelter or class B dealer to obtain,
11 possess, or administer a commercially prepared, premixed solution
12 of sodium pentobarbital pursuant to this section.

13 (14) **NOTWITHSTANDING SUBSECTIONS (1) TO (5), AN ANIMAL CONTROL**
14 **SHELTER REGISTERED WITH THE DEPARTMENT OF AGRICULTURE PURSUANT TO**
15 **1969 PA 287, MCL 287.331 TO 287.340, MAY ACQUIRE A LIMITED PERMIT**
16 **ONLY FOR THE PURPOSE OF BUYING, POSSESSING, AND ADMINISTERING A**
17 **COMMERCIALY PREPARED SOLUTION OF AN ANIMAL TRANQUILIZER TO SEDATE**
18 **A FERAL, WILD, DIFFICULT TO HANDLE, OR OTHER ANIMAL FOR EUTHANASIA,**
19 **OR TO TRANQUILIZE AN ANIMAL RUNNING AT LARGE THAT IS DANGEROUS OR**
20 **DIFFICULT TO CAPTURE, IF THE ANIMAL CONTROL SHELTER DOES ALL OF THE**
21 **FOLLOWING:**

22 (A) **APPLIES TO THE ADMINISTRATOR FOR A PERMIT IN ACCORDANCE**
23 **WITH THE RULES PROMULGATED UNDER THIS PART. THE APPLICATION SHALL**
24 **CONTAIN THE NAME OF THE INDIVIDUAL IN CHARGE OF THE DAY-TO-DAY**
25 **OPERATIONS OF THE ANIMAL CONTROL SHELTER AND THE NAME OF THE**
26 **INDIVIDUAL RESPONSIBLE FOR DESIGNATING EMPLOYEES WHO WILL BE**
27 **ADMINISTERING AN ANIMAL TRANQUILIZER PURSUANT TO THIS ACT.**

1 (B) COMPLIES WITH THE RULES PROMULGATED BY THE ADMINISTRATOR
2 FOR THE STORAGE, HANDLING, AND USE OF A COMMERCIALY PREPARED
3 SOLUTION OF AN ANIMAL TRANQUILIZER. A RECORD OF USE SHALL BE
4 MAINTAINED AND SHALL BE AVAILABLE FOR INSPECTION BY THE DEPARTMENT
5 OF AGRICULTURE.

6 (C) CERTIFIES THAT AN EMPLOYEE OF THE ANIMAL CONTROL SHELTER
7 HAS RECEIVED, AND CAN DOCUMENT COMPLETION OF, A MINIMUM OF 16 HOURS
8 OF TRAINING, INCLUDING AT LEAST 3 HOURS OF PRACTICAL TRAINING, IN
9 THE USE OF ANIMAL TRANQUILIZERS ON ANIMALS FROM A TRAINING PROGRAM
10 APPROVED BY THE STATE VETERINARIAN, IN CONSULTATION WITH THE
11 MICHIGAN BOARD OF VETERINARY MEDICINE, AND GIVEN BY A LICENSED
12 VETERINARIAN PURSUANT TO RULES PROMULGATED BY THE ADMINISTRATOR, IN
13 CONSULTATION WITH THE MICHIGAN BOARD OF VETERINARY MEDICINE AS
14 THESE RULES RELATE TO THIS TRAINING, AND THAT ONLY AN INDIVIDUAL
15 DESCRIBED IN THIS SUBDIVISION OR AN INDIVIDUAL OTHERWISE PERMITTED
16 TO USE A CONTROLLED SUBSTANCE PURSUANT TO THIS ARTICLE WILL
17 ADMINISTER THE COMMERCIALY PREPARED SOLUTION OF AN ANIMAL
18 TRANQUILIZER ACCORDING TO WRITTEN PROCEDURES ESTABLISHED BY THE
19 ANIMAL CONTROL SHELTER.

20 (15) NOTWITHSTANDING SUBSECTIONS (1) TO (5), AN ANIMAL
21 PROTECTION SHELTER REGISTERED WITH THE DEPARTMENT OF AGRICULTURE
22 PURSUANT TO 1969 PA 287, MCL 287.331 TO 287.340, MAY ACQUIRE A
23 LIMITED PERMIT ONLY FOR THE PURPOSE OF BUYING, POSSESSING, AND
24 ADMINISTERING A COMMERCIALY PREPARED SOLUTION OF AN ANIMAL
25 TRANQUILIZER TO SEDATE A FERAL, WILD, DIFFICULT TO HANDLE, OR OTHER
26 ANIMAL FOR EUTHANASIA, IF THE ANIMAL PROTECTION SHELTER DOES ALL OF
27 THE FOLLOWING:

1 (A) APPLIES TO THE ADMINISTRATOR FOR A PERMIT IN ACCORDANCE
2 WITH THE RULES PROMULGATED UNDER THIS PART. THE APPLICATION SHALL
3 CONTAIN THE NAME OF THE INDIVIDUAL IN CHARGE OF THE DAY-TO-DAY
4 OPERATIONS OF THE ANIMAL PROTECTION SHELTER AND THE NAME OF THE
5 INDIVIDUAL RESPONSIBLE FOR DESIGNATING EMPLOYEES WHO WILL BE
6 ADMINISTERING AN ANIMAL TRANQUILIZER PURSUANT TO THIS ACT.

7 (B) COMPLIES WITH THE RULES PROMULGATED BY THE ADMINISTRATOR
8 FOR THE STORAGE, HANDLING, AND USE OF A COMMERCIALY PREPARED
9 SOLUTION OF AN ANIMAL TRANQUILIZER. A RECORD OF USE SHALL BE
10 MAINTAINED AND SHALL BE AVAILABLE FOR INSPECTION BY THE DEPARTMENT
11 OF AGRICULTURE.

12 (C) CERTIFIES THAT AN EMPLOYEE OF THE ANIMAL PROTECTION
13 SHELTER HAS RECEIVED, AND CAN DOCUMENT COMPLETION OF, A MINIMUM OF
14 16 HOURS OF TRAINING, INCLUDING AT LEAST 3 HOURS OF PRACTICAL
15 TRAINING, IN THE USE OF ANIMAL TRANQUILIZERS ON ANIMALS FROM A
16 TRAINING PROGRAM APPROVED BY THE STATE VETERINARIAN, IN
17 CONSULTATION WITH THE MICHIGAN BOARD OF VETERINARY MEDICINE, AND
18 GIVEN BY A LICENSED VETERINARIAN PURSUANT TO RULES PROMULGATED BY
19 THE ADMINISTRATOR, IN CONSULTATION WITH THE MICHIGAN BOARD OF
20 VETERINARY MEDICINE AS THESE RULES RELATE TO THIS TRAINING, AND
21 THAT ONLY AN INDIVIDUAL DESCRIBED IN THIS SUBDIVISION OR AN
22 INDIVIDUAL OTHERWISE PERMITTED TO USE A CONTROLLED SUBSTANCE
23 PURSUANT TO THIS ARTICLE WILL ADMINISTER THE COMMERCIALY PREPARED
24 SOLUTION OF AN ANIMAL TRANQUILIZER ACCORDING TO WRITTEN PROCEDURES
25 ESTABLISHED BY THE ANIMAL PROTECTION SHELTER.

26 (16) THE APPLICATION DESCRIBED IN SUBSECTION (14) OR (15)
27 SHALL INCLUDE THE NAMES AND BUSINESS ADDRESSES OF ALL INDIVIDUALS

1 EMPLOYED BY THE ANIMAL CONTROL SHELTER OR ANIMAL PROTECTION SHELTER
2 WHO HAVE BEEN TRAINED AS DESCRIBED IN SUBSECTION (14) (C) OR (15) (C)
3 AND SHALL INCLUDE DOCUMENTED PROOF OF THE TRAINING. THE LIST OF
4 NAMES AND BUSINESS ADDRESSES SHALL BE UPDATED EVERY 6 MONTHS.

5 (17) IF AN ANIMAL CONTROL SHELTER OR ANIMAL PROTECTION SHELTER
6 ISSUED A PERMIT PURSUANT TO SUBSECTION (14) OR (15) DOES NOT HAVE
7 IN ITS EMPLOY AN INDIVIDUAL TRAINED AS DESCRIBED IN SUBSECTION
8 (14) (C) OR (15) (C), THE ANIMAL CONTROL SHELTER OR ANIMAL PROTECTION
9 SHELTER SHALL IMMEDIATELY NOTIFY THE ADMINISTRATOR AND SHALL CEASE
10 TO ADMINISTER ANY COMMERCIALY PREPARED SOLUTION OF AN ANIMAL
11 TRANQUILIZER UNTIL THE ADMINISTRATOR IS NOTIFIED THAT 1 OF THE
12 FOLLOWING HAS OCCURRED:

13 (A) AN INDIVIDUAL TRAINED AS DESCRIBED IN SUBSECTION (14) (C)
14 OR (15) (C) HAS BEEN HIRED BY THE ANIMAL CONTROL SHELTER OR ANIMAL
15 PROTECTION SHELTER.

16 (B) AN EMPLOYEE OF THE ANIMAL CONTROL SHELTER OR ANIMAL
17 PROTECTION SHELTER HAS BEEN TRAINED AS DESCRIBED IN SUBSECTION
18 (14) (C) OR (15) (C).

19 (18) A VETERINARIAN, INCLUDING A VETERINARIAN WHO TRAINS
20 INDIVIDUALS AS DESCRIBED IN SUBSECTION (14) (C) OR (15) (C), IS NOT
21 CIVILLY OR CRIMINALLY LIABLE FOR THE USE OF AN ANIMAL TRANQUILIZER
22 BY AN ANIMAL CONTROL SHELTER OR ANIMAL PROTECTION SHELTER UNLESS
23 THE VETERINARIAN IS EMPLOYED BY OR UNDER CONTRACT WITH THE ANIMAL
24 CONTROL SHELTER OR ANIMAL PROTECTION SHELTER AND THE TERMS OF THE
25 VETERINARIAN'S EMPLOYMENT OR THE CONTRACT REQUIRE THE VETERINARIAN
26 TO BE RESPONSIBLE FOR THE USE OR ADMINISTRATION OF THE COMMERCIALY
27 PREPARED SOLUTION OF AN ANIMAL TRANQUILIZER.

1 (19) A PERSON SHALL NOT KNOWINGLY USE OR PERMIT THE USE OF AN
2 ANIMAL TRANQUILIZER IN VIOLATION OF THIS SECTION.

3 (20) THIS SECTION DOES NOT REQUIRE THAT A VETERINARIAN BE
4 EMPLOYED BY OR UNDER CONTRACT WITH AN ANIMAL CONTROL SHELTER OR
5 ANIMAL PROTECTION SHELTER TO OBTAIN, POSSESS, OR ADMINISTER A
6 COMMERCIALY PREPARED SOLUTION OF AN ANIMAL TRANQUILIZER PURSUANT
7 TO THIS SECTION.

8 (21) ~~(14)~~ As used in this section: ~~,"class B dealer"~~

9 (A) "ANIMAL TRANQUILIZER" MEANS XYLAZINE HYDROCHLORIDE OR
10 OTHER ANIMAL TRANQUILIZING DRUG AS APPROVED BY THE UNITED STATES
11 FOOD AND DRUG ADMINISTRATION AND BY THE STATE DEPARTMENT OF
12 AGRICULTURE FOR USE AS DESCRIBED IN THIS SECTION.

13 (B) "CLASS B DEALER" means a class B dealer licensed by the
14 United States department of agriculture pursuant to the animal
15 welfare act, ~~Public Law 89-544,~~ 7 ~~U.S.C.~~ USC 2131 to 2147,
16 2149, and 2151 to 2159 and the department of agriculture pursuant
17 to 1969 PA 224, MCL 287.381 to 287.395.