

Act No. 451
Public Acts of 2006
Approved by the Governor
December 14, 2006
Filed with the Secretary of State
December 14, 2006
EFFECTIVE DATE: December 14, 2006

**STATE OF MICHIGAN
93RD LEGISLATURE
REGULAR SESSION OF 2006**

Introduced by Senators Jelinek, Schauer and Van Woerkom

ENROLLED SENATE BILL No. 1328

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 section 7333 (MCL 333.7333), as amended by 2001 PA 231.

The People of the State of Michigan enact:

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 upon 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 upon receipt of a prescription of a practitioner licensed under section 7303 on a prescription form. A practitioner shall not issue more than 1 prescription for a controlled substance included in schedule 2 on a single prescription form.

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

(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, upon receipt of a prescription on a prescription form or an oral prescription of a practitioner. A prescription for a controlled substance included in schedule 3 or 4 shall 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 shall 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.

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

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

(7) 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. 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, it shall be transmitted directly to a pharmacy of the patient's choice by the prescriber or the prescriber's authorized agent, and the data shall not be altered, modified, or extracted in the transmission process.

(8) Notwithstanding subsections (1) to (5), an animal control shelter or animal protection shelter registered with the department of agriculture pursuant to 1969 PA 287, MCL 287.331 to 287.340, or 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 practice euthanasia on injured, sick, homeless, or unwanted domestic pets and other animals, if the animal control shelter or animal protection shelter or 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 shall contain the name of the individual in charge of the day to day operations of the animal control shelter or animal protection shelter or class B dealer's facilities and the name of the individual responsible for designating employees who will be practicing 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 practice euthanasia on animals. A record of use shall be maintained and shall be available for inspection.

(c) Certifies that an employee of the animal control shelter or animal protection shelter or class B dealer has received, and can document completion of, a minimum of 8 hours of training given by a licensed veterinarian in the use of sodium pentobarbital to practice euthanasia on animals pursuant to rules promulgated by the administrator, in consultation with the Michigan board of veterinary medicine as these rules relate to this training, and that only an individual described in this subdivision or an individual otherwise permitted to use a controlled substance pursuant to this article will administer the commercially prepared, premixed solution of sodium pentobarbital according to written procedures established by the animal control shelter or animal protection shelter or class B dealer.

(9) The application described in subsection (8) shall 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 (8)(c) and the name of the veterinarian who trained them. The list of names and addresses shall be updated every 6 months.

(10) If an animal control shelter or animal protection shelter or class B dealer issued a permit pursuant to subsection (8) does not have in its employ an individual trained as described in subsection (8)(c), the animal control shelter or animal

protection shelter or class B dealer shall immediately notify the administrator and shall cease to administer any commercially prepared, premixed solution of sodium pentobarbital until the administrator is notified that 1 of the following has occurred:

(a) An individual trained as described in subsection (8)(c) has been hired by the animal control shelter or animal protection shelter or class B dealer.

(b) An employee of the animal control shelter or animal protection shelter or class B dealer has been trained as described in subsection (8)(c).

(11) A veterinarian, including a veterinarian who trains individuals as described in subsection (8)(c), is not civilly or criminally liable for the use of a commercially prepared, premixed solution of sodium pentobarbital by an animal control shelter or animal protection shelter or 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.

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

(13) 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 pursuant to this section.

(14) Notwithstanding subsections (1) to (5), an animal control shelter registered with the department of agriculture 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 solution of an animal tranquilizer to sedate a feral, wild, difficult to handle, or other animal for euthanasia, or to tranquilize 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 shall 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 a commercially prepared solution of an animal tranquilizer. A record of use shall be maintained and shall be available for inspection by the department of agriculture.

(c) Certifies that an employee of the animal control shelter has received, and can document completion of, a minimum of 16 hours of training, including at least 3 hours of practical training, in the use of animal tranquilizers 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, in consultation with the Michigan board of veterinary medicine as these rules relate to this training, and that only an individual described in this subdivision or an individual otherwise permitted to use a controlled substance pursuant to this article will administer the commercially prepared solution of an animal tranquilizer according to written procedures established by the animal control shelter.

(15) Notwithstanding subsections (1) to (5), an animal protection shelter registered with the department of agriculture 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 solution of an animal tranquilizer to sedate a feral, wild, difficult to handle, or other animal for euthanasia, if the animal protection 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 shall contain the name of the individual in charge of the day to day operations of the animal protection 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 a commercially prepared solution of an animal tranquilizer. A record of use shall be maintained and shall be available for inspection by the department of agriculture.

(c) Certifies that an employee of the animal protection shelter has received, and can document completion of, a minimum of 16 hours of training, including at least 3 hours of practical training, in the use of animal tranquilizers 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, in consultation with the Michigan board of veterinary medicine as these rules relate to this training, and that only an individual described in this subdivision or an individual otherwise permitted to use a controlled substance pursuant to this article will administer the commercially prepared solution of an animal tranquilizer according to written procedures established by the animal protection shelter.

(16) The application described in subsection (14) or (15) shall include the names and business addresses of all individuals employed by the animal control shelter or animal protection shelter who have been trained as described in subsection (14)(c) or (15)(c) and shall include documented proof of the training. The list of names and business addresses shall be updated every 6 months.

(17) If an animal control shelter or animal protection shelter issued a permit pursuant to subsection (14) or (15) does not have in its employ an individual trained as described in subsection (14)(c) or (15)(c), the animal control shelter or animal protection shelter shall immediately notify the administrator and shall cease to administer any commercially prepared solution of an animal tranquilizer until the administrator is notified that 1 of the following has occurred:

(a) An individual trained as described in subsection (14)(c) or (15)(c) has been hired by the animal control shelter or animal protection shelter.

(b) An employee of the animal control shelter or animal protection shelter has been trained as described in subsection (14)(c) or (15)(c).

(18) A veterinarian, including a veterinarian who trains individuals as described in subsection (14)(c) or (15)(c), is not civilly or criminally liable for the use of an animal tranquilizer by an animal control shelter or animal protection shelter unless the veterinarian is employed by or under contract with the animal control shelter or animal protection shelter 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 solution of an animal tranquilizer.

(19) A person shall not knowingly use or permit the use of an animal tranquilizer in violation of this section.

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

(21) As used in this section:

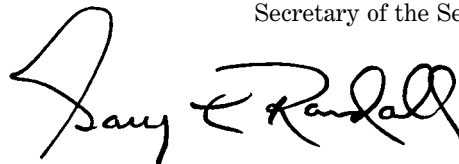
(a) "Animal tranquilizer" means xylazine hydrochloride or other animal tranquilizing drug as approved by the United States food and drug administration and by the state department of agriculture for use as described in this section.

(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 2147, 2149, and 2151 to 2159 and the department of agriculture pursuant to 1969 PA 224, MCL 287.381 to 287.395.

This act is ordered to take immediate effect.



Secretary of the Senate



Clerk of the House of Representatives

Approved

.....
Governor