HOUSE BILL No. 5934

September 20, 2012, Introduced by Rep. Liss and referred to the Committee on Health Policy.

A bill to amend 1978 PA 368, entitled

"Public health code,"

by amending sections 17745, 17751, 17754, and 17757 (MCL 333.17745, 333.17751, 333.17754, and 333.17757), sections 17745 and 17757 as amended by 2011 PA 210 and sections 17751 and 17754 as amended by 2012 PA 209, and by adding section 5110.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

SEC. 5110. (1) TO PROTECT AND PROMOTE THE PUBLIC HEALTH OF INDIVIDUALS IN THIS STATE, EXPEDITED PARTNER THERAPY IS AUTHORIZED AS PROVIDED IN THIS SECTION. EXPEDITED PARTNER THERAPY IS AUTHORIZED TO PROTECT INDIVIDUALS IN THIS STATE FROM THE SPREAD OF GONORRHEA AND CHLAMYDIA, EACH OF WHICH CAN CAUSE INFERTILITY AND ECTOPIC PREGNANCIES. THE DEPARTMENT MAY PROMULGATE RULES UNDER THE ADMINISTRATIVE PROCEDURES ACT OF 1969 THAT IT DETERMINES NECESSARY

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TO IMPLEMENT AND ADMINISTER THIS SECTION.

(2) IN ADDITION TO TREATING HIS OR HER PATIENT, A HEALTH PROFESSIONAL MAY PROVIDE EXPEDITED PARTNER THERAPY IF ALL OF THE FOLLOWING REQUIREMENTS ARE MET:

(A) THE PATIENT HAS A LABORATORY-CONFIRMED OR SUSPECTED CLINICAL DIAGNOSIS OF A GONORRHEA OR CHLAMYDIA INFECTION.

(B) THE PATIENT INDICATES THAT HE OR SHE HAS A PARTNER WITH WHOM THE PATIENT HAS ENGAGED IN SEXUAL ACTIVITY WITHIN THE 60-DAY PERIOD IMMEDIATELY BEFORE THE DIAGNOSIS OF A GONORRHEA OR CHLAMYDIA INFECTION.

(C) THE PATIENT INDICATES THAT HIS OR HER PARTNER IS UNABLE OR IS UNLIKELY TO SEEK CLINICAL SERVICES IN A TIMELY MANNER.

(3) A HEALTH PROFESSIONAL WHO PROVIDES EXPEDITED PARTNER THERAPY AS AUTHORIZED IN THIS SECTION SHALL DO ALL OF THE FOLLOWING:

(A) DISPENSE OR PRESCRIBE SINGLE-DOSE ANTIBIOTIC THERAPY IN THE NAME OF THE PARTNER, IF KNOWN, WITHOUT THE PHYSICAL EXAMINATION OF THE PARTNER BY THE HEALTH PROFESSIONAL. NOTWITHSTANDING ANY PROVISION OF THIS ACT OR RULES TO THE CONTRARY, IF THE NAME OF THE PARTNER IS NOT KNOWN, THE HEALTH PROFESSIONAL SHALL DISPENSE OR PRESCRIBE THE SINGLE-DOSE ANTIBIOTIC THERAPY IN THE NAME OF "EXPEDITED PARTNER THERAPY".

(B) CONVEY TO THE PATIENT THAT IT IS IMPORTANT TO NOTIFY HIS OR HER PARTNER OF HIS OR HER DIAGNOSIS AND THAT IT IS IMPORTANT FOR THE PARTNER TO OBTAIN MEDICAL CARE FOR A COMPLETE EVALUATION, TESTING FOR SEXUALLY TRANSMITTED DISEASES, COUNSELING, AND TREATMENT.

(C) DISTRIBUTE TO THE PATIENT THE INFORMATION SHEET DEVELOPED UNDER SUBSECTION (4).

(4) THE DEPARTMENT SHALL DEVELOP AND, UPON REQUEST, DISTRIBUTE TO HEALTH PROFESSIONALS SUBJECT TO THIS SECTION AN INFORMATION SHEET THAT INCLUDES ALL OF THE FOLLOWING INFORMATION:

(A) A DESCRIPTION OF EXPEDITED PARTNER THERAPY AND ITS PURPOSE.

(B) A NOTICE THAT AN INDIVIDUAL WHO HAS BEEN TREATED FOR A GONORRHEA OR CHLAMYDIA INFECTION SHOULD BE RETESTED 3 MONTHS AFTER TREATMENT TO DETECT POSSIBLE PERSISTENT OR RECURRENT GONORRHEA OR CHLAMYDIA INFECTION.

(C) A WARNING ABOUT THE DANGERS OF ADMINISTERING SINGLE-DOSE ANTIBIOTIC THERAPY TO A PREGNANT INDIVIDUAL.

(D) INFORMATION ABOUT ANTIBIOTICS DISPENSED OR PRESCRIBED IN SINGLE-DOSE ANTIBIOTIC THERAPY AND DOSAGES OF THOSE ANTIBIOTICS DISPENSED OR PRESCRIBED.

(E) A WARNING ABOUT THE RISK OF ALLERGIES TO AND DRUG INTERACTIONS WITH THE ANTIBIOTICS DESCRIBED IN SUBDIVISION (D).

(F) INFORMATION ABOUT SEXUALLY TRANSMITTED DISEASES, THE TREATMENT OF SEXUALLY TRANSMITTED DISEASES, AND THE PREVENTION OF SEXUALLY TRANSMITTED DISEASES.

(G) A NOTICE THAT THE PATIENT AND HIS OR HER PARTNER SHOULD ABSTAIN FROM SEXUAL ACTIVITY FOR 7 DAYS AFTER THE PATIENT AND HIS OR HER PARTNER HAVE BOTH COMPLETED THE SINGLE-DOSE ANTIBIOTIC THERAPY.

(H) A NOTICE THAT THE PARTNER SHOULD BE TESTED FOR SEXUALLY TRANSMITTED DISEASES.

(I) A NOTICE OF THE RISK TO THE PATIENT, HIS OR HER PARTNER, AND OTHERS, INCLUDING THE PUBLIC HEALTH, IF A SEXUALLY TRANSMITTED DISEASE IS NOT COMPLETELY TREATED.

(J) A NOTICE OF THE RESPONSIBILITY OF THE PATIENT TO NOTIFY HIS OR HER SEXUAL PARTNERS OF THE RISK OF SEXUALLY TRANSMITTED DISEASES AND THE IMPORTANCE OF EXAMINATION AND TREATMENT FOR SEXUALLY TRANSMITTED DISEASES.

(K) A STATEMENT ADVISING ANY INDIVIDUAL WHO HAS ANY QUESTIONS REGARDING ANYTHING IN THE INFORMATION SHEET TO CONTACT HIS OR HER HEALTH PROFESSIONAL OR LOCAL HEALTH DEPARTMENT.

(5) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION, A HEALTH CARE PROFESSIONAL WHO PROVIDES EXPEDITED PARTNER THERAPY AS AUTHORIZED UNDER THIS SECTION IS NOT SUBJECT TO PROSECUTION IN A CRIMINAL PROCEEDING, LIABLE FOR DAMAGES IN A CIVIL ACTION, OR SUBJECT TO ADMINISTRATIVE ACTION UNDER SECTIONS 16221 AND 16226 FOR PERSONAL INJURY, DEATH, OR OTHER CONSEQUENCES ARISING FROM OR RELATED IN ANY WAY TO THE PROVISION OF EXPEDITED PARTNER THERAPY BY THE HEALTH CARE PROFESSIONAL. THIS SUBSECTION DOES NOT APPLY IF THE ACTION OF THE HEALTH CARE PROFESSIONAL IN PROVIDING EXPEDITED PARTNER THERAPY IS GROSS NEGLIGENCE.

(6) AS USED IN THIS SECTION:

(A) "EXPEDITED PARTNER THERAPY" IS THE INDIRECT TREATMENT OF A PARTNER OF A PATIENT WHO HAS BEEN DIAGNOSED AS HAVING A GONORRHEA OR CHLAMYDIA INFECTION THROUGH THE DISPENSING OR PRESCRIBING OF SINGLE-DOSE ANTIBIOTIC THERAPY FOR THE TREATMENT OF THE PARTNER WITHOUT THE PHYSICAL EXAMINATION OF THE PARTNER BY A HEALTH PROFESSIONAL.

(B) "GROSS NEGLIGENCE" MEANS CONDUCT SO RECKLESS AS TO DEMONSTRATE A SUBSTANTIAL LACK OF CONCERN FOR WHETHER AN INJURY RESULTS.

(C) "HEALTH PROFESSIONAL" MEANS ANY OF THE FOLLOWING:

(*i*) AN INDIVIDUAL LICENSED OR OTHERWISE AUTHORIZED TO ENGAGE IN A HEALTH PROFESSION UNDER ARTICLE 15 AND WHOSE SCOPE OF PRACTICE INCLUDES THE DIAGNOSIS AND TREATMENT OF GONORRHEA AND CHLAMYDIA INFECTIONS.

(*ii*) FOR THE PURPOSE OF DISPENSING SINGLE-DOSE ANTIBIOTIC THERAPY UNDER THIS SECTION, A PHARMACIST WHO IS LICENSED OR OTHERWISE AUTHORIZED TO ENGAGE IN THE PRACTICE OF PHARMACY UNDER ARTICLE 15.

(D) "SEXUAL ACTIVITY" INCLUDES SEXUAL CONTACT AND SEXUAL PENETRATION AS THOSE TERMS ARE DEFINED IN SECTION 5129.

(E) "SEXUALLY TRANSMITTED DISEASE" INCLUDES GONORRHEA, CHLAMYDIA, HUMAN IMMUNODEFICIENCY VIRUS, AND OTHER DISEASES OR INFECTIONS GENERALLY ACQUIRED THROUGH SEXUAL ACTIVITY.

Sec. 17745. (1) Except as otherwise provided in this subsection, a prescriber who wishes to dispense prescription drugs shall obtain from the board a drug control license for each location in which the storage and dispensing of prescription drugs occur. A drug control license is not necessary if the dispensing occurs in the emergency department, emergency room, or trauma center of a hospital licensed under article 17 or if the dispensing involves only the issuance of complimentary starter dose drugs.

(2) ~~A~~ **EXCEPT AS OTHERWISE AUTHORIZED FOR EXPEDITED PARTNER THERAPY IN SECTION 5110, A** dispensing prescriber shall dispense

prescription drugs only to his or her own patients.

(3) A dispensing prescriber shall include in a patient's chart or clinical record a complete record, including prescription drug names, dosages, and quantities, of all prescription drugs dispensed directly by the dispensing prescriber or indirectly under his or her delegatory authority **AND INCLUDING EXPEDITED PARTNER THERAPY PROVIDED AS AUTHORIZED UNDER SECTION 5110**. If prescription drugs are dispensed under the prescriber's delegatory authority, the delegatee who dispenses the prescription drugs shall initial the patient's chart, clinical record, or log of prescription drugs dispensed. In a patient's chart or clinical record, a dispensing prescriber shall distinguish between prescription drugs dispensed to the patient, ~~and~~ prescription drugs prescribed for the patient, **AND PRESCRIPTION DRUGS DISPENSED OR PRESCRIBED FOR EXPEDITED PARTNER THERAPY AS AUTHORIZED UNDER SECTION 5110**. A dispensing prescriber shall retain information required under this subsection for not less than 5 years after the information is entered in the patient's chart or clinical record.

(4) A dispensing prescriber shall store prescription drugs under conditions that will maintain their stability, integrity, and effectiveness and will assure that the prescription drugs are free of contamination, deterioration, and adulteration.

(5) A dispensing prescriber shall store prescription drugs in a substantially constructed, securely lockable cabinet. Access to the cabinet shall be limited to individuals authorized to dispense prescription drugs in compliance with this part and article 7.

(6) Unless otherwise requested by a patient, a dispensing

prescriber shall dispense a prescription drug in a safety closure container that complies with the poison prevention packaging act of 1970, 15 USC 1471 to 1477.

(7) A dispensing prescriber shall dispense a drug in a container that bears a label containing all of the following information:

(a) The name and address of the location from which the prescription drug is dispensed.

(b) ~~The~~ **EXCEPT AS OTHERWISE AUTHORIZED FOR EXPEDITED PARTNER THERAPY IN SECTION 5110, THE** patient's name and record number.

(c) The date the prescription drug was dispensed.

(d) The prescriber's name or, if dispensed under the prescriber's delegatory authority, ~~shall list~~ the name of the delegatee.

(e) The directions for use.

(f) The name and strength of the prescription drug.

(g) The quantity dispensed.

(h) The expiration date of the prescription drug or the statement required under section 17756.

(8) A dispensing prescriber who dispenses a complimentary starter dose drug to a patient shall give the patient ~~at least all of~~ the ~~following~~ information **REQUIRED IN THIS SUBSECTION**, ~~either~~ by dispensing the complimentary starter dose drug to the patient in a container that bears a label containing the **REQUIRED** information or by giving the patient a written document ~~which~~ **THAT** may include, but is not limited to, a preprinted insert that comes with the complimentary starter dose drug ~~,~~ **AND** that contains the **REQUIRED**

information**. THE INFORMATION REQUIRED TO BE GIVEN TO THE PATIENT UNDER THIS SUBSECTION INCLUDES ALL OF THE FOLLOWING:**

(a) The name and strength of the complimentary starter dose drug.

(b) Directions for the patient's use of the complimentary starter dose drug.

(c) The expiration date of the complimentary starter dose drug or the statement required under section 17756.

(9) The information required under subsection (8) is in addition to, and does not supersede or modify, other state or federal law regulating the labeling of prescription drugs.

(10) In addition to meeting the requirements of this part, a dispensing prescriber who dispenses controlled substances shall comply with section 7303a.

(11) The board may periodically inspect locations from which prescription drugs are dispensed.

(12) The act, task, or function of dispensing prescription drugs shall be delegated only as provided in this part and sections 16215, 17048, 17076, 17212, and 17548.

(13) A supervising physician may delegate in writing to a pharmacist practicing in a hospital pharmacy within a hospital licensed under article 17 the receipt of complimentary starter dose drugs other than controlled substances as defined by article 7 or federal law. When the delegated receipt of complimentary starter dose drugs occurs, both the pharmacist's name and the supervising physician's name shall be used, recorded, or otherwise indicated in connection with each receipt. A pharmacist described in this

subsection may dispense a prescription for complimentary starter dose drugs written or transmitted by facsimile, electronic transmission, or other means of communication by a prescriber.

(14) As used in this section, "complimentary starter dose" means a prescription drug packaged, dispensed, and distributed in accordance with state and federal law that is provided to a dispensing prescriber free of charge by a manufacturer or distributor and dispensed free of charge by the dispensing prescriber to his or her patients.

Sec. 17751. (1) A pharmacist shall not dispense a drug requiring a prescription under the federal act or a law of this state except under authority of an original prescription or an equivalent record of an original prescription approved by the board.

(2) Subject to subsection (5), a pharmacist may dispense a prescription written and signed; written or created in an electronic format, signed, and transmitted by facsimile; or transmitted electronically or by other means of communication by a physician prescriber or dentist prescriber in a state other than Michigan, but not including a prescription for a controlled substance as defined in section 7104 except under circumstances described in section 17763(e), only if the pharmacist in the exercise of his or her professional judgment determines all of the following:

(a) ~~That~~ **EXCEPT AS OTHERWISE AUTHORIZED FOR EXPEDITED PARTNER THERAPY IN SECTION 5110, THAT** the prescription was issued pursuant to an existing physician-patient or dentist-patient relationship.

(b) That the prescription is authentic.

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

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

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

(5) A pharmacist shall not dispense a drug or device under a prescription transmitted by facsimile or created in electronic format and printed out for use by the patient unless the document is manually signed by the prescriber. This subsection does not apply to a prescription that is transmitted by a computer to a facsimile machine if that prescription complies with section 17754.

(6) After consultation with and agreement from the prescriber, a pharmacist may add or change a patient's address, dosage form, drug strength, drug quantity, directions for use, or issue date with regard to a prescription. A pharmacist shall note the details of the consultation and agreement required under this subsection on the prescription and shall maintain that documentation with the prescription as required in section 17752. A pharmacist shall not change the patient's name, controlled substance prescribed unless authorized to dispense a lower cost generically equivalent drug product under section 17755, or the prescriber's signature with regard to a prescription.

(7) A prescription that is contained within a patient's chart in a health facility or agency licensed under article 17 or other

medical institution and that is transmitted to a pharmacy under section 17744 is the original prescription. If all other requirements of this part are met, a pharmacist shall dispense a drug or device under a prescription described in this subsection. A pharmacist may dispense a drug or device under a prescription described in this subsection even if the prescription does not contain the quantity ordered. If a prescription described in this subsection does not contain the quantity ordered, the pharmacist shall consult with the prescriber to determine an agreed-upon quantity. The pharmacist shall record the quantity dispensed on the prescription and shall maintain that documentation with the prescription as required in section 17752.

Sec. 17754. (1) Except as otherwise provided under article 7 and the federal act, a prescription may be transmitted electronically ~~as long as~~ **IF** the prescription is transmitted in compliance with the health insurance portability and accountability act of 1996, Public Law 104-191, or regulations promulgated under that act, 45 CFR parts 160 and 164, by a prescriber or his or her agent and the data are not altered or modified in the transmission process. The electronically transmitted prescription shall include all of the following information:

(a) The name, address, and telephone number of the prescriber.

(b) ~~The~~ **EXCEPT AS OTHERWISE AUTHORIZED FOR EXPEDITED PARTNER THERAPY IN SECTION 5110, THE** full name of the patient for whom the prescription is issued.

(c) An electronic signature or other identifier that specifically identifies and authenticates the prescriber or his or

her agent.

(d) The time and date of the transmission.

(e) The identity of the pharmacy intended to receive the transmission.

(f) Any other information required by the federal act or state law.

(2) The electronic equipment or system utilized in the transmission and communication of prescriptions shall provide adequate confidentiality safeguards and be maintained to protect patient confidentiality as required under any applicable federal and state law and to ensure against unauthorized access. The electronic transmission of a prescription shall be communicated in a retrievable, recognizable form acceptable to the intended recipient. The electronic form utilized in the transmission of a prescription shall not include "dispense as written" or "d.a.w." as the default setting.

(3) ~~Prior to~~ **BEFORE** dispensing a prescription that is electronically transmitted, the pharmacist shall exercise professional judgment regarding the accuracy, validity, and authenticity of the transmitted prescription.

(4) An electronically transmitted prescription that meets the requirements of this section is the original prescription.

Sec. 17757. (1) Upon a request made in person or by telephone, a pharmacist engaged in the business of selling drugs at retail shall provide the current selling price of a drug dispensed by that pharmacy or comparative current selling prices of generic and brand name drugs dispensed by that pharmacy. The information shall be

provided to the person making the request before a drug is dispensed to the person. A person who makes a request for price information under this subsection shall not be obligated to purchase the drug for which the price or comparative prices are requested.

(2) A pharmacist engaged in the business of selling drugs at retail shall conspicuously display the notice described in subsection (3) at each counter over which prescription drugs are dispensed.

(3) The notice required under subsection (2) shall be in substantially the following form:

NOTICE TO CONSUMERS

ABOUT PRESCRIPTION DRUGS

Under Michigan law, you have the right to find out the price of a prescription drug before the pharmacist fills the prescription. You are under no obligation to have the prescription filled here and may use this price information to shop around at other pharmacies. You may request price information in person or by telephone.

Every pharmacy has the current selling prices of both generic and brand name drugs dispensed by the pharmacy.

Ask your pharmacist if a lower-cost generic drug is available to fill your prescription. A generic drug contains the same medicine as a brand name drug and is a suitable substitute in most instances.

A generic drug may not be dispensed by your pharmacist if your doctor has written "dispense as written" or the initials "d.a.w."

on the prescription.

If you have questions about the drugs which have been prescribed for you, ask your doctor or pharmacist for more information.

To avoid dangerous drug interactions, let your doctor and pharmacist know about any other medications you are taking. This is especially important if you have more than 1 doctor or have prescriptions filled at more than 1 pharmacy.

(4) The notice required under subsection (2) shall also contain the address and phone number of the board and the department. The text of the notice shall be in at least 32-point bold type and shall be printed on paper at least 11 inches by 17 inches in size. The notice may be printed on multiple pages.

(5) A copy of the notice required under subsection (2) shall be provided to each licensee by the department. Additional copies shall be available if needed from the department. A person may duplicate or reproduce the notice if the duplication or reproduction is a true copy of the notice as produced by the department, without any additions or deletions whatsoever.

(6) The pharmacist shall furnish to the purchaser of a prescription drug at the time the drug is delivered to the purchaser a receipt evidencing the transactions ~~, which~~ **THAT** contains **ALL OF** the following:

(a) The brand name of the drug, if applicable.

(b) The name of the manufacturer or the supplier of the drug, if the drug does not have a brand name.

(c) The strength of the drug, if significant.

(d) The quantity dispensed, if applicable.

(e) The name and address of the pharmacy.

(f) The serial number of the prescription.

(g) The date the prescription was originally dispensed.

(h) The name of the prescriber or, if prescribed under the prescriber's delegatory authority, ~~shall list~~ the name of the delegatee.

(i) ~~The~~ **EXCEPT AS OTHERWISE AUTHORIZED FOR EXPEDITED PARTNER THERAPY IN SECTION 5110, THE** name of **THE** patient for whom the drug was prescribed.

(j) The price for which the drug was sold to the purchaser.

(7) Subsection (6)(a), (b), and (c) may be omitted **FROM A RECEIPT** by a pharmacist only if the omission is expressly required by the prescriber. The pharmacist shall retain a copy of each receipt **FURNISHED UNDER SUBSECTION (6)** for 90 days. The inclusion of **THE INFORMATION REQUIRED UNDER** subsection (6) on the prescription container label is a valid receipt to the purchaser. Including **THE INFORMATION REQUIRED UNDER** subsection (6) on the written prescription form and retaining the form constitutes retention of a copy of the receipt.

(8) The board may promulgate rules to implement this section.