

SENATE BILL No. 591

September 7, 2011, Introduced by Senator GREEN and referred to the Committee on Regulatory Reform.

A bill to amend 1978 PA 368, entitled
"Public health code,"
by amending sections 16333, 17705, 17707, 17711, 17721, and 17731
(MCL 333.16333, 333.17705, 333.17707, 333.17711, 333.17721, and
333.17731), section 16333 as added by 1993 PA 80, section 17705
as amended by 1986 PA 304, section 17707 as amended by 1990 PA
333, sections 17711 and 17721 as amended by 2006 PA 390, and
section 17731 as amended by 1994 PA 234, and by adding sections
17735, 17736, and 17744.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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

1	(a)	Application processing fees:	
2	(i)	Pharmacist.....	\$ 20.00
3	(ii)	Pharmacy.....	35.00
4	(iii)	Drug control.....	20.00
5	(iv)	Manufacturer or wholesaler.....	50.00
6	(v)	Clinical thermometer.....	50.00
7	(vi)	PHARMACY TECHNICIAN.....	20.00
8	(b)	Examination fees:	
9		Jurisprudence examination.....	30.00
10	(c)	License fees, per year:	
11	(i)	Pharmacist.....	30.00
12	(ii)	Pharmacy.....	50.00
13	(iii)	Drug control.....	15.00
14	(iv)	Manufacturer or wholesaler.....	25.00
15	(v)	Clinical thermometer.....	25.00
16	(vi)	PHARMACY TECHNICIAN.....	15.00
17	(d)	Temporary license for pharmacist.....	25.00
18	(e)	Limited license for pharmacist, per year...	15.00

19 Sec. 17705. (1) "Label" means a display of written, printed,
20 or graphic matter on the immediate container of a drug or device,
21 but does not include package liners. A requirement made by or
22 under authority of this part that a word, statement, or other
23 information appear on the label is not complied with unless the
24 word, statement, or other information appears on the outside
25 container or wrapper of the retail package of the drug or device
26 as displayed for sale or is easily legible through an outside
27 container or wrapper.

28 (2) "Labeling" means the labels and other written, printed,
29 or graphic matter on a drug or device or its container or

1 wrapper, or accompanying the drug or device.

2 (3) "License" in addition to the definition in section 16106
3 means a pharmacy license, **PHARMACY TECHNICIAN LICENSE**, drug
4 control license, or a manufacturer or wholesale distributor of
5 drugs or devices license.

6 Sec. 17707. (1) "Personal charge" means the immediate
7 physical presence of a pharmacist or dispensing prescriber.

8 (2) "Pharmacist" means an individual licensed under this
9 article to engage in the practice of pharmacy.

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

15 (4) "Pharmacy" means a building or part of a building in
16 which the practice of pharmacy is conducted.

17 (5) **"PHARMACY TECHNICIAN" MEANS AN INDIVIDUAL WHO IS**
18 **REQUIRED TO HOLD A HEALTH PROFESSION SUBFIELD LICENSE UNDER THIS**
19 **PART TO SERVE AS A PHARMACY TECHNICIAN.**

20 (6) ~~(5)~~—"Practice of pharmacy" means a health service, the
21 clinical application of which includes the encouragement of
22 safety and efficacy in the prescribing, dispensing,
23 administering, and use of drugs and related articles for the
24 prevention of illness, and the maintenance and management of
25 health. **PRACTICE OF PHARMACY INCLUDES THE DIRECT OR INDIRECT**
26 **PROVISION OF PROFESSIONAL FUNCTIONS ASSOCIATED WITH THE PRACTICE**
27 **OF PHARMACY.** Professional functions associated with the practice

1 of pharmacy include:

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

3 (b) Drug product selection.

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

6 (d) The maintenance of legally required records.

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

10 Sec. 17711. (1) A person shall not engage in the practice of
11 pharmacy **OR SERVE AS A PHARMACY TECHNICIAN** unless licensed or
12 otherwise authorized by this article.

13 (2) The following words, titles, or letters or a combination
14 thereof, with or without qualifying words or phrases, are
15 restricted in use only to those persons authorized under this
16 part to use the terms and in a way prescribed in this part:

17 "pharmacy", "pharmacist", "**PHARM.D**", "**DOCTOR OF PHARMACY**",
18 "**PHARMACY TECHNICIAN**", "**LICENSED PHARMACY TECHNICIAN**", "**CERTIFIED**
19 "**PHARMACY TECHNICIAN**", "**CPHT**", "apothecary", "**DISPENSARY**",
20 "drugstore", "druggist", "medicine store", "prescriptions", and
21 "r.ph.".

22 Sec. 17721. (1) The Michigan board of pharmacy is created in
23 the department and shall consist of the following 11 voting
24 members who shall meet the requirements of part 161: 6

25 (A) **SIX** pharmacists. ~~and 5~~

26 (B) **ONE PHARMACY TECHNICIAN.**

27 (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 ~~to~~ furnish the board with satisfactory evidence that during the 2 years immediately preceding application for renewal, ~~the applicant has~~ **HE OR SHE** attended continuing education courses or programs, approved by the board, totaling not less than 30 hours or ~~the satisfactory completion of~~ **SATISFACTORILY COMPLETED** a proficiency examination according to rules promulgated by the board.

(B) THAT A LICENSEE SEEKING RENEWAL OF A PHARMACY TECHNICIAN'S LICENSE FURNISH THE BOARD 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 BOARD.

(2) As required under section 16204, 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. 17735. (1) AN INDIVIDUAL WHO ASSISTS IN A PHARMACY AND

1 PERFORMS ANY OF THE FOLLOWING FUNCTIONS IS CONSIDERED TO BE
2 SERVING AS A PHARMACY TECHNICIAN AND, EXCEPT AS OTHERWISE
3 PROVIDED IN THIS PART, IS REQUIRED TO BE LICENSED UNDER THIS PART
4 AS A PHARMACY TECHNICIAN:

5 (A) ASSISTING IN THE DISPENSING PROCESS.

6 (B) HANDLING TRANSFER OF PRESCRIPTIONS, EXCEPT CONTROLLED
7 SUBSTANCES PRESCRIPTIONS.

8 (C) ORDERING AND STOCKING MEDICATIONS.

9 (D) COMPOUNDING DRUGS.

10 (E) PREPARING OR MIXING INTRAVENOUS DRUGS FOR INJECTION INTO
11 A HUMAN OR VETERINARY PATIENT.

12 (F) CONTACTING PRESCRIBERS CONCERNING PRESCRIPTION DRUG
13 ORDER CLARIFICATION, WHICH DOES NOT INCLUDE DRUG REGIMEN REVIEW
14 OR CLINICAL OR THERAPEUTIC INTERPRETATION.

15 (G) RECEIVING VERBAL ORDERS FOR PRESCRIPTION DRUGS, EXCEPT
16 ORDERS FOR CONTROLLED SUBSTANCES.

17 (H) SUBJECT TO SECTION 16215, ANY OTHER FUNCTIONS AUTHORIZED
18 UNDER RULES PROMULGATED UNDER THIS PART.

19 (2) A PHARMACY THAT UTILIZES THE SERVICES OF A PHARMACY
20 TECHNICIAN SHALL ENSURE THAT ALL OF THE FOLLOWING REQUIREMENTS,
21 AS APPLICABLE, ARE MET:

22 (A) THE PHARMACY TECHNICIAN IS LICENSED OR OTHERWISE
23 AUTHORIZED TO SERVE AS A PHARMACY TECHNICIAN UNDER THIS PART.

24 (B) THE PHARMACY TECHNICIAN ONLY PERFORMS THE ACTIVITIES OR
25 FUNCTIONS THAT HE OR SHE IS LICENSED OR OTHERWISE AUTHORIZED TO
26 PERFORM UNDER THIS PART OR RULES PROMULGATED UNDER THIS PART.

27 (C) EXCEPT AS PROVIDED BY RULE PROMULGATED UNDER THIS PART,

1 THE PHARMACY TECHNICIAN ONLY PERFORMS THE ACTIVITIES OR FUNCTIONS
2 DESCRIBED IN SUBDIVISION (B) UNDER THE SUPERVISION AND PERSONAL
3 CHARGE OF THE PHARMACIST.

4 SEC. 17736. (1) SUBJECT TO SUBSECTION (2), THE DEPARTMENT
5 MAY LICENSE AN INDIVIDUAL WHO MEETS ALL OF THE FOLLOWING
6 REQUIREMENTS AS A PHARMACY TECHNICIAN UNDER THIS PART:

7 (A) SUBMITS A COMPLETE WRITTEN APPLICATION TO THE DEPARTMENT
8 ON A FORM PRESCRIBED BY THE DEPARTMENT.

9 (B) GRADUATED FROM AN ACCREDITED HIGH SCHOOL OR COMPARABLE
10 SCHOOL OR EDUCATIONAL INSTITUTION OR PASSED THE GENERAL
11 EDUCATIONAL DEVELOPMENT TEST OR OTHER GRADUATE EQUIVALENCY
12 EXAMINATION.

13 (C) SATISFIES THE REQUIREMENTS OF SECTION 16174.

14 (D) PASSES AND SUBMITS PROOF OF PASSAGE OF THE CERTIFIED
15 PHARMACY TECHNICIAN EXAMINATION GIVEN BY THE PHARMACY TECHNICIAN
16 CERTIFICATION BOARD TO THE DEPARTMENT. HOWEVER, THIS SUBDIVISION
17 DOES NOT APPLY TO AN INDIVIDUAL DESCRIBED IN SUBSECTION (5).

18 (2) IF AN INDIVIDUAL HOLDS A HEALTH PROFESSION LICENSE UNDER
19 THIS ARTICLE THAT HAS BEEN DENIED, REVOKED, SUSPENDED, OR
20 RESTRICTED FOR DISCIPLINARY PURPOSES, HE OR SHE IS NOT ELIGIBLE
21 FOR A LICENSE AS A PHARMACY TECHNICIAN UNDER THIS PART.

22 (3) AN INDIVIDUAL WHO IS NOT A PHARMACIST, PHARMACIST
23 INTERN, OR PHARMACY TECHNICIAN SHALL NOT PERFORM ANY OF THE
24 FUNCTIONS DESCRIBED IN SECTION 17735(1) FOR A PHARMACY.

25 (4) A PHARMACIST SHALL NOT ALLOW ANY INDIVIDUAL EMPLOYED OR
26 OTHERWISE UNDER THE PERSONAL CHARGE OF THE PHARMACIST TO VIOLATE
27 SUBSECTION (3). A PERSON THAT OWNS, MANAGES, OPERATES, OR

1 CONDUCTS A PHARMACY SHALL NOT ALLOW ANY INDIVIDUAL EMPLOYED OR
2 OTHERWISE UNDER THE CONTROL OF THAT PERSON TO VIOLATE SUBSECTION
3 (3).

4 (5) AN INDIVIDUAL WHO MEETS ANY OF THE FOLLOWING IS NOT
5 REQUIRED TO MEET THE EXAMINATION REQUIREMENTS DESCRIBED IN
6 SUBSECTION (1) (D) TO BE ELIGIBLE FOR A LICENSE UNDER SUBSECTION
7 (1).

8 (A) AS PROVIDED IN SECTION 16171(A), IS A STUDENT IN A
9 PHARMACY TECHNICIAN PROGRAM APPROVED BY THE BOARD.

10 (B) GRADUATED FROM A PHARMACY TECHNICIAN PROGRAM, BUT ONLY
11 DURING THE 210-DAY PERIOD FOLLOWING HIS OR HER GRADUATION FROM
12 THE PROGRAM.

13 (C) WAS EMPLOYED BY A PHARMACY TO PERFORM 1 OR MORE OF THE
14 FUNCTIONS DESCRIBED IN SECTION 17735(1), BUT ONLY UNTIL ANY OF
15 THE FOLLOWING OCCUR:

16 (i) HE OR SHE IS NO LONGER EMPLOYED BY THAT PHARMACY TO
17 PERFORM THOSE FUNCTIONS.

18 (ii) THE OWNERSHIP OF THAT PHARMACY CHANGES.

19 (iii) THE NAME OF THAT PHARMACY OR THE BUSINESS OF WHICH THAT
20 PHARMACY IS A PART CHANGES.

21 (iv) HE OR SHE PERFORMS ANY OF THOSE FUNCTIONS FOR ANOTHER
22 PHARMACY.

23 (D) HOLDS A TEMPORARY LICENSE UNDER SECTION 17744.

24 SEC. 17744. (1) THE DEPARTMENT MAY ISSUE A TEMPORARY
25 PHARMACY TECHNICIAN LICENSE TO AN INDIVIDUAL WHO DOES NOT MEET
26 ALL OF THE REQUIREMENTS OF SECTION 17736(1), IF THE APPLICANT
27 DOES ALL OF THE FOLLOWING:

1 (A) APPLIES TO THE DEPARTMENT FOR A TEMPORARY LICENSE AFTER
2 THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED THIS SECTION.

3 (B) PROVIDES SATISFACTORY PROOF TO THE DEPARTMENT THAT HE OR
4 SHE HAS BEEN EMPLOYED AS A PHARMACY TECHNICIAN IN A LICENSED
5 PHARMACY FOR THE 2-YEAR PERIOD IMMEDIATELY PRECEDING THE DATE OF
6 APPLICATION.

7 (C) PROVIDES THE DEPARTMENT WITH A LETTER OF RECOMMENDATION
8 FROM THE PHARMACIST WHO IS HIS OR HER DIRECT SUPERVISOR AT THE
9 TIME OF APPLICATION ATTESTING TO HIS OR HER CLINICAL COMPETENCE
10 AS A PHARMACY TECHNICIAN.

11 (D) PAYS THE APPLICABLE FEES REQUIRED UNDER SECTION 16633.

12 (2) THE TERM OF A TEMPORARY PHARMACY TECHNICIAN LICENSE
13 ISSUED BY THE DEPARTMENT UNDER THIS SECTION IS THE SAME AS A
14 PHARMACY TECHNICIAN LICENSE ISSUED BY THE DEPARTMENT UNDER
15 SECTION 17736. HOWEVER, AN INDIVIDUAL MAY NOT HOLD A TEMPORARY
16 LICENSE UNDER THIS SECTION FOR MORE THAN 2 YEARS.

17 (3) AN INDIVIDUAL WHO HOLDS A TEMPORARY PHARMACY TECHNICIAN
18 LICENSE ISSUED UNDER THIS SECTION IS SUBJECT TO ALL OF THE
19 REQUIREMENTS OF THIS PART AND THE RULES PROMULGATED UNDER THIS
20 PART, EXCEPT FOR THE REQUIREMENTS FOR LICENSURE.

21 Enacting section 1. This amendatory act takes effect June
22 30, 2012.