

Act No. 34  
Public Acts of 2018  
Approved by the Governor  
February 20, 2018  
Filed with the Secretary of State  
February 21, 2018  
EFFECTIVE DATE: May 22, 2018

**STATE OF MICHIGAN  
99TH LEGISLATURE  
REGULAR SESSION OF 2018**

Introduced by Reps. Vaupel, Leutheuser and Rendon

# **ENROLLED HOUSE BILL No. 4813**

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 2017 PA 251.

*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 may 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. A prescription for a controlled substance included in schedule 2 must not be filled more than 90 days after the date on which the prescription was issued. A pharmacist, consistent with federal law and regulations on the partial filling of a controlled substance included in schedule 2, may partially fill in increments a prescription for a controlled substance included in schedule 2.

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

(8) Notwithstanding subsections (1) to (5), 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 perform euthanasia on injured, sick, homeless, or unwanted domestic pets and other animals, if the 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 must contain the name of the individual in charge of the day-to-day operations of the class B dealer's facilities and the name of the individual responsible for designating employees who will be performing 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 perform euthanasia on animals. The class B dealer shall maintain a record of use and shall make the record available for inspection by the department of licensing and regulatory affairs, the department of agriculture and rural development, and the United States Department of Agriculture.

(c) Subject to subdivision (d), certifies that the class B dealer or an employee of the class B dealer has received, and can document completion of, a minimum of 16 hours of training, including at least 12 hours of content training and at least 4 hours of practical training, in the use of a commercially prepared, premixed solution of sodium pentobarbital and an animal tranquilizer to perform euthanasia 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. The training described in this subdivision shall comply with the American Veterinary Medical Association's guidelines for the euthanasia of animals.

(d) Until December 31, 2021, ensures that the class B dealer or an employee of the class B dealer who received, and can document the completion of, the 8 hours of training required immediately before the effective date of the 2018 amendatory act that amended this section only administers a commercially prepared, premixed solution of sodium pentobarbital to perform euthanasia on the animals described in this subsection. Beginning January 1, 2022, the individuals described in this subdivision must have received, and be able to document the completion of, the training described in subdivision (c) to administer a commercially prepared, premixed solution of sodium pentobarbital or an animal tranquilizer to perform euthanasia on the animals described in this subsection.

(e) Certifies that only an individual described in subdivision (c) or (d) or an individual otherwise permitted to use a controlled substance pursuant to this article will administer the commercially prepared, premixed solution of sodium pentobarbital or an animal tranquilizer according to written procedures established by the class B dealer.

(f) Beginning January 1, 2022, certifies that the individual in charge of the day-to-day operations of the class B dealer's facilities has received, and can document the completion of, the training described in subdivision (c).

(g) Complies with all state and federal laws, rules, and regulations regarding the acquisition, use, and security of controlled substances.

(9) Notwithstanding subsections (1) to (5), an animal control shelter or animal protection shelter registered with the department of agriculture and rural development 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, premixed solution of sodium pentobarbital, or an animal tranquilizer, to use exclusively as an adjunct in the process of performing euthanasia on injured, sick, homeless, or unwanted domestic pets and other animals, if the animal control shelter or animal protection shelter does all of the following:

(a) Applies to the administrator for a permit in accordance with rules promulgated under this part. The application must contain the name of the individual in charge of the day-to-day operations of the animal control shelter or animal protection shelter and the name of the individual responsible for designating employees who will be performing 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 or an animal tranquilizer to perform euthanasia on animals. The animal control shelter or animal protection shelter shall maintain a record of use and make the record available for inspection by the department of licensing and regulatory affairs and the department of agriculture and rural development.

(c) Subject to subdivision (d), certifies that an employee of the animal control shelter or animal protection shelter has received, and can document completion of, a minimum of 16 hours of training, including at least 12 hours of content training and at least 4 hours of practical training, in the use of a commercially prepared, premixed solution of sodium pentobarbital and an animal tranquilizer to perform euthanasia 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. The training described in this subdivision must comply with the American Veterinary Medical Association's guidelines for the euthanasia of animals.

(d) Until December 31, 2021, ensures that an employee of the animal control shelter or animal protection shelter who received, and can document the completion of, the training required immediately before the effective date of the 2018 amendatory act that amended this section only administers a commercially prepared solution of xylazine hydrochloride or a commercially prepared, premixed solution of sodium pentobarbital to perform euthanasia on the animals described in this subsection in accordance with his or her training. Beginning January 1, 2022, the employee described in this subdivision must have received, and be able to document the completion of, the training described in subdivision (c) to administer a commercially prepared, premixed solution of sodium pentobarbital or an animal tranquilizer to perform euthanasia on the animals described in this subsection.

(e) Certifies that only an individual described in subdivision (c) or (d) or an individual otherwise permitted to use a controlled substance pursuant to this article will administer a commercially prepared, premixed solution of sodium pentobarbital or an animal tranquilizer according to written procedures established by the animal control shelter or animal protection shelter.

(f) Beginning January 1, 2022, certifies that the individual in charge of the day-to-day operations of the animal control shelter or animal protection shelter has received, and can document the completion of, the training described in subdivision (c).

(g) Complies with all state and federal laws and regulations regarding the acquisition, use, and security of controlled substances.

(10) The application described in subsection (8) or (9) must 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), (d), and (f) or (9)(c), (d), and (f) and the name of the veterinarian who trained them. The list of names and addresses must be updated every 6 months.

(11) If an animal control shelter or animal protection shelter or class B dealer issued a permit pursuant to subsection (8) or (9) does not have in its employ an individual trained as described in subsection (8)(c) or (d) and (8)(f), or (9)(c) or (d) and (9)(f), the animal control shelter or animal protection shelter or class B dealer shall immediately notify the administrator and shall cease to administer a commercially prepared, premixed solution of sodium pentobarbital or an animal tranquilizer for the purposes described in subsection (8) or (9) until the administrator is notified that 1 of the following has occurred:

(a) An individual trained as described in subsection (8)(c), (d), or (f) or (9)(c), (d), or (f) has been hired by the animal control shelter or animal protection shelter or class B dealer.

(b) An individual employed by the animal control shelter or animal protection shelter or class B dealer has been trained as described in subsection (8)(c) or (f) or (9)(c) or (f).

(12) A veterinarian, including a veterinarian who trains individuals as described in subsection (8)(c), (d), or (f), or (9)(c), (d), or (f), is not civilly or criminally liable for the use of a commercially prepared, premixed solution of sodium pentobarbital or an animal tranquilizer by an animal control shelter or animal protection shelter or a 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 or animal tranquilizer.

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

(14) 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 or an animal tranquilizer pursuant to this section.

(15) Notwithstanding subsections (1) to (5), an animal control shelter registered with the department of agriculture and rural development 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 an animal tranquilizer to sedate or immobilize 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 must 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 an animal tranquilizer. The animal control shelter shall maintain a record of use and shall make the record available for inspection by the department of licensing and regulatory affairs and the department of agriculture and rural development.

(c) Subject to subdivision (d), certifies that an employee of the animal control shelter has received, and can document completion of, both of the following in the following order:

(i) The training described in subsection (9)(c).

(ii) A minimum of 16 hours of training, including at least 12 hours of content training and at least 4 hours of practical training, in the use of animal tranquilizers to sedate or immobilize the animals described in this subsection 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.

(d) Until December 31, 2021, ensures that an employee of the animal control shelter who received, and can document the completion of, the training required immediately before the effective date of the 2018 amendatory act that amended this section only administers a commercially prepared solution of xylazine hydrochloride to sedate or immobilize the animals described in this subsection. Beginning January 1, 2022, the employee described in this subdivision must have received, and be able to document the completion of, the training described in subdivision (c) to administer an animal tranquilizer to perform euthanasia on the animals described in this subsection.

(e) Certifies that only an individual described in subdivision (c) or (d) or an individual otherwise permitted to use a controlled substance pursuant to this article will administer an animal tranquilizer according to written procedures established by the animal control shelter.

(f) Beginning January 1, 2022, certifies that the individual in charge of the day-to-day operations of the animal control shelter has received, and can document the completion of, the training described in subdivision (c).

(g) Complies with all state and federal laws, rules, and regulations regarding the acquisition, use, and security of controlled substances.

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

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

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

(b) An individual employed by the animal control shelter has been trained as described in subsection (15)(c) or (f).

(18) A veterinarian, including a veterinarian who trains individuals as described in subsection (15)(c), (d), or (f), is not civilly or criminally liable for the use of an animal tranquilizer by an animal control shelter unless the veterinarian

is employed by or under contract with the animal control shelter and the terms of the veterinarian's employment or the contract require the veterinarian to be responsible for the use or administration of an animal tranquilizer.

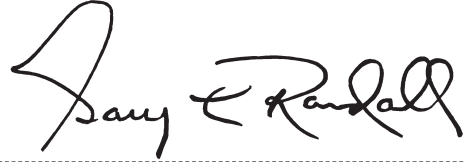
(19) As used in this section:

(a) "Animal tranquilizer" means a commercially prepared solution of xylazine hydrochloride, a commercially prepared solution of ketamine, or a commercially prepared compound containing tiletamine and zolazepam.

(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 2159 and the department of agriculture and rural development pursuant to 1969 PA 224, MCL 287.381 to 287.395.

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.



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Clerk of the House of Representatives



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Secretary of the Senate

Approved .....

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Governor