

Act No. 42  
Public Acts of 2019  
Approved by the Governor  
July 8, 2019  
Filed with the Secretary of State  
July 8, 2019  
EFFECTIVE DATE: July 8, 2019

**STATE OF MICHIGAN 100TH  
LEGISLATURE REGULAR  
SESSION OF 2019**

Introduced by Senators Hertel, VanderWall, Geiss, Wojno, Ananich, Victory, Bayer, Barrett, Polehanki, Runestad and Chang

# ENROLLED SENATE BILL No. 128

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 7104 (MCL 333.7104), as amended by 2001 PA 233.

*The People of the State of Michigan enact:*

Sec. 7104. (1) “Bona fide prescriber-patient relationship” means a treatment or counseling relationship between a prescriber and a patient in which both of the following are present:

(a) The prescriber has reviewed the patient’s relevant medical or clinical records and completed an assessment of the patient’s medical history and current medical condition, including a relevant medical evaluation of the patient conducted in person or through telehealth as that term is defined in section 16283.

(b) The prescriber has created and maintained records of the patient’s condition in accordance with medically accepted standards.

(2) “Bureau” means the Drug Enforcement Administration, United States Department of Justice, or its successor agency.

(3) “Controlled substance” means a drug, substance, or immediate precursor included in schedules 1 to 5 of part 72.

(4) “Controlled substance analogue” means a substance the chemical structure of which is substantially similar to that of a controlled substance in schedule 1 or 2 and that has a narcotic, stimulant, depressant, or hallucinogenic effect on the central nervous system substantially similar to or greater than the narcotic, stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance included in schedule 1 or 2 or, with respect to a particular

individual, that the individual represents or intends to have a narcotic, stimulant, depressant, or hallucinogenic effect on the central nervous system substantially similar to or greater than the narcotic, stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance included in schedule 1 or 2. Controlled substance analogue does not include 1 or more of the following:

(a) A controlled substance.

(b) A substance for which there is an approved new drug application.

(c) A substance with respect to which an exemption is in effect for investigational use by a particular person under 21 USC 355, to the extent conduct with respect to the substance is pursuant to the exemption.

(d) Any substance to the extent not intended for human consumption before an exemption takes effect with respect to the substance.

(5) "Counterfeit prescription form" means a printed form that is the same or similar to a prescription form and that was manufactured, printed, duplicated, forged, electronically transmitted, or altered without the knowledge or permission of a prescriber.

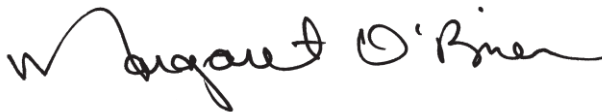
(6) "Counterfeit substance" means a controlled substance that, or the container or labeling of which, without authorization, bears the trademark, trade name or other identifying mark, imprint, number, or device, or any likeness thereof, of a manufacturer, distributor, or dispenser other than the person who in fact manufactured, distributed, or dispensed the substance.

(7) "Deleterious drug" means a drug, other than a proprietary medicine, likely to be destructive to adult human life in quantities of 3.88 grams or less.

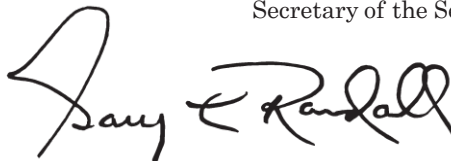
(8) "Electronic signature" means an electronic sound, symbol, or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record.

Enacting section 1. This amendatory act does not take effect unless House Bill No. 4225 of the 100th Legislature is enacted into law.

This act is ordered to take immediate effect.



Secretary of the Senate



Clerk of the House of Representatives

Approved .....

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Governor

**Compiler's note:** House Bill No. 4225, referred to in enacting section 1, was filed with the Secretary of State July 8, 2019, and became 2019 PA 43, Imd. Eff. July 8, 2019.