

750925.2

PHYSICIANS AND SURGEONS: Prescription of drugs by medical students.

CONTROLLED SUBSTANCES LAW: Medical students prescribing drugs.

A medical student, while performing the duties assigned to him in the course of training, may draft an order for a drug for the approval and authorization of a licensed practitioner. Before that order becomes a valid prescription that can be filled by a pharmacist, a licensed practitioner must complete the order in the manner required by the Controlled Substances Act.

Opinion No. 4901

September 25, 1975.

John R. Wilson, M.D., Secretary
Medical Practice Board
1033 South Washington Avenue
Lansing, Michigan 48926

As Secretary to the Medical Practice Board, you have requested an opinion on whether medical students may prescribe controlled substances and prescription drugs. Medical students, while sometimes referred to as externs, should not be confused with "interns" or "residents," who are physicians in training who have graduated from an approved school of medicine.

The Medical Practice Act, 1973 PA 185; MCLA 338.1801 *et seq*; MSA 14.542(1) *et seq*, reads in part:

"Sec. 2. As used in this act:

"* * *

"(c) 'Doctor of medicine' means a graduate of a medical school with a medical doctor's degree.

"(d) 'License' or 'license to practice medicine', when not otherwise qualified, means a license to practice medicine in this state issued under section 6 or a license issued under section 8 or 9." MCLA 338.1802; MSA 14.542(2)

A license to practice medicine issued pursuant to sections 6, 8 or 9 requires that the applicant be a doctor of medicine as defined above. A medical student, by definition, is not a doctor of medicine and subsequently does not qualify for licensure under 1973 PA 185, *supra*.

"Sec. 16. (1) Under the circumstances described and subject in each case to the limitations stated, the following persons are exempt from licensure to practice medicine under this act:

"* * *

"(e) A student in training in a medical school approved by the board while performing the duties assigned to him in the course of his training." MCLA 338.1816; MSA 14.542(16)

As indicated above, a medical student is not licensed to practice medicine, but merely qualifies for an exemption from the act while performing duties assigned to him in the course of his training.

On the state level the dispensing and prescribing of habit forming drugs, including controlled substances and prescription medications, are governed by the pharmacy act, 1962 PA 151; MCLA 338.1101 *et seq*; MSA 14.757(1) *et seq*, and the Controlled Substances Act, 1971 PA 196; MCLA 335.301 *et seq*; MSA 18.1070(1) *et seq*.

1962 PA 151, *supra*, authorizes licensed pharmacists to dispense habit forming drugs or prescription drugs, but only pursuant to a prescription issued by a licensed physician. Under the applicable portion of 1962 PA 151, *supra*, for the purpose of drug dispensation, "physician" and "prescription" are defined as follows:

"Sec. 1. As used in this act:

"* * *

"(o) 'Physician' means a practitioner *licensed* to prescribe by the law of this state.

"* * *

"(r) 'Prescription' means an order for drugs or devices written and signed, or transmitted by word of mouth, telephone, telegraph or other means of communication, by a *physician*, dentist, or veterinarian . . ." MCLA 338.1101; MSA 14.757(1) (emphasis added)

1971 PA 196, *supra*, for the purpose of dispensing controlled substances, defines "physician" by reference to the definition contained in 1962 PA 151, *supra*.

1962 PA 151, §§ 19 and 18(5); MCLA 338.1119; MSA 14.757(19), and MCLA 338.1118; MSA 14.757(18), govern the dispensing of habit forming or harmful drugs and prescription medication:

"Sec. 19. A drug intended for use by man and which is a habit forming drug or because of its toxicity or other potentiality for harmful effect, or the method of its use, or the collateral measures necessary to its use, is not safe for use except under the supervision of a practitioner licensed by law to administer such drug *shall be dispensed only upon a written prescription of a practitioner licensed by law to administer such drug, . . .*" (emphasis added)

Reading 1973 PA 185, *supra*, and 1962 PA 151, *supra*, together, a medical student, because he does not hold a degree in medicine, can only be regarded as taking a course of study leading to a degree as a doctor of medicine in order to complete a requirement for licensure by the Medical Practice Board. Therefore, a medical student is still in the process of meeting the requirements for board licensure, and a prescription written by him would be an invalid order issued by an unlicensed practitioner.

A medical student, while performing the duties assigned to him in the course of training, may draft an order for a drug for the approval and authorization of a licensed practitioner. Before that order becomes a valid prescription and one that can be filled by a pharmacist, a licensed prac-

itioner must complete the order in the manner required by 1962 PA 151, § 1(r), *supra*. The order then becomes the prescription of that licensed practitioner.

A pharmacist who dispenses a drug pursuant to a written order of a medical student, unless the order was, in addition, a prescription of a licensed practitioner at the time it was filled, would be subject to disciplinary action by the Board of Pharmacy.

FRANK J. KELLEY,
Attorney General.

750926.1 _____

COLLECTION AGENCIES:

A collection agency which confines its activities to soliciting and collecting claims which arise out of commercial and business transactions need not obtain a license pursuant to the Collection Practices Act.

Opinion No. 4887

September 26, 1975.

Representative Jelt Sietsema
94th District
House of Representatives
Lansing, Michigan 48901

You have asked whether commercial collection agencies must be licensed pursuant to the Collection Practices Act, 1974 PA 361; MCLA 445.211 *et seq*; MSA 19.655(21) *et seq*. It is my understanding that the term "commercial agencies," which is referred to in your letter, are collection agencies which only collect claims arising out of commercial or business transactions. There is apparently a recognized dichotomy between collection agencies engaged in collecting accounts from businesses and those that deal with accounts of individual consumers.

1974 PA 361, *supra*, § 4(1) provides:

"Except as hereinafter provided, a person shall not operate a collection agency or engage in the business of a collection agency without first applying for and obtaining a license from the director."

Pursuant to the act, collection agencies are required to obtain a license from the Department of Licensing and Regulation unless an exemption applies.

The term "collection agency" is defined by 1974 PA 361, *supra*, § 2(b) as follows:

"As used in this act:

** * *

"(b) 'Collection agency' means a person directly or indirectly engaged in *soliciting a claim* for collection or collecting or attempting to *collect a claim* owed or due or asserted to be owed or due another. It includes a person who furnishes or attempts to furnish forms or a written demand service represented to be a collection