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Senate Bill 384 (as introduced 5-18-11)
Sponsor: Senator Jim Marleau
Committee: Health Policy

Date Completed: 5-19-11

CONTENT

The bill would amend the Public Health Code to do the following:

- Extend to nurse practitioners (NPs) provisions regarding supervision of physician's assistants (PAs) by physicians, and provisions authorizing physicians to delegate the performance of certain tasks to PAs.**
- Allow a PA or NP to prescribe certain controlled substances.**
- Refer to a PA or NP to whom a physician has delegated the performance of certain tasks, in provisions regarding the prescription and dispensing of drugs.**

Supervision & Delegation

Under Parts 170 (Medicine), 175 (Osteopathic Medicine and Surgery), and 180 (Osteopathic Medicine and Surgery) of the Code, a physician or podiatrist who is a sole practitioner or who practices in a group of physicians or podiatrists and treats patients on an outpatient basis may not supervise more than four PAs. If a physician or podiatrist supervises PAs at more than one practice site, he or she may not supervise more than two PAs by a method other than his or her actual physical presence at the practice site.

A physician or podiatrist who is employed by, is under contract or subcontract to, or has privileges at a licensed health facility or agency or a State correctional facility may supervise more than four PAs at that facility or agency or correctional facility.

Under the bill, a physician or podiatrist could supervise NPs under the same conditions.

The Code prohibits a physician from delegating ultimate responsibility for the quality of medical care services, even if they are provided by a PA. Under the bill, this provision also would apply to medical services provided by an NP.

The Department of Licensing and Regulatory Affairs (LARA) may promulgate rules for the appropriate delegation and use of a PA by a podiatrist, including rules to prohibit or otherwise restrict the delegation of certain podiatric services or require higher levels of supervision if the Board of Podiatric Medicine and Surgery determines that these services require extensive training, education, or ability or pose serious risks to the health or safety of patients. Under the bill, this provision also would apply to the delegation and use of an NP.

Under Parts 170 and 175, the Board of Medicine and the Board of Osteopathic Medicine and Surgery, respectively, may promulgate rules for the delegation by a supervising physician to a physician's assistant of the function of prescription of drugs. The rules may define the drugs or classes of drugs whose prescription may not be delegated and other procedures

and protocols necessary to promote consistency with Federal and State drug control and enforcement laws. When delegated prescription occurs, both the PA's name and the supervising physician's name must be used, recorded, or otherwise indicated in connection with each individual prescription. Under the bill, the rules could include those for delegating drug prescription to NPs.

The Code allows a supervising physician to delegate in writing to a PA the ordering, receipt, and dispensing of complementary starter dose drugs other than controlled substances. The bill would allow a supervising physician to delegate to a PA or an NP the ordering, receipt, and dispensing of complementary starter doses, including controlled substances that are included in Schedules 2 through 5.

(A substance is placed in Schedule 1 if it has high potential for abuse and no accepted medical use in treatment in the United States or lacks accepted safety for use in treatment under medical supervision. The drugs listed in Schedules 2 through 5 have currently accepted medical use and are placed in different schedules according to their relative potential for abuse and degree of psychological or physical dependence.)

Under the Code, a physician or podiatrist who supervises PAs is responsible for all of the following:

- Verifying the PA's credentials.
- Evaluating the PA's performance.
- Monitoring the PA's practice and the provision of medical care or podiatric services.

Under the bill, a supervising physician also would have these responsibilities with regard to NPs.

The Code allows a physician or podiatrist who supervises a PA to delegate to the PA the performance of medical care services for a patient who is under the case management responsibility of the physician or podiatrist, if the delegation is consistent with the PA's training. Under the bill, this provision also would apply to an NP.

Part 180 specifies that a podiatrist may only supervise a PA in the performance of those duties included within his or her scope of practice. The bill would include the supervision of an NP in this provision.

A physician or podiatrist who supervises a PA is responsible for the clinical supervision of each PA to whom he or she delegates the performance of medical care or podiatric service. A supervising physician or podiatrist must keep on file a permanent, written record that includes the physician's or podiatrist's name and license number and the name and license number of each PA he or she supervises. Under the bill, these provisions also would apply to a physician or podiatrist who supervised an NP.

Under Parts 170 and 175, notwithstanding any law or rule to the contrary, a physician is not required to countersign orders written in a patient's clinical record by a PA to whom the physician has delegated the performance of medical care services for a patient. Under the bill, this provision also would apply to orders written by an NP. Also, notwithstanding any rule or law to the contrary, a physician would not have to sign an official form that listed his or her signature as the required signatory if the form were signed by a PA or NP to whom the physician had delegated the performance of medical care services.

Prohibition against Supervision

In addition to its other powers and duties under Article 15 (Occupations), the applicable licensing board may prohibit a physician or podiatrist from supervising one or more PAs for any of the grounds set forth in Section 16221 or for failure to supervise a PA in accordance

with Part 170, 175, or 180 and rules promulgated under it. Under the bill, this provision also would apply to the supervision of NPs.

(Under Section 16221, LARA may investigate activities related to the practice of a health profession by a licensee, a registrant, or an applicant for licensure or registration. The Department must report its finding to the appropriate disciplinary subcommittee, which must impose administrative sanctions if it finds the existence of certain grounds, such as personal disqualifications, unethical business practices, prohibited acts, or the violation of specific provisions of the Code.)

Medical Care Services by PA & NP

Under Parts 170 and 175, except in an emergency, a PA may provide medical care services only under the supervision of a physician or properly designated alternative physician, and only if those services are within the scope of practice of the supervising physician and delegated by that physician. Under the bill, these provisions also would apply to an NP.

Currently, a PA may provide services only in a medical care setting where the supervising physician regularly sees patients, but may make calls or go on rounds under the supervision of a physician in private homes, public institutions, emergency vehicles, ambulatory care clinics, hospitals, intermediate or extended care facilities, health maintenance organizations, nursing homes, or other health care facilities to the extent permitted by the bylaws, rules, or regulations of the governing facility or organization, if any.

The bill would eliminate the language under which a PA may provide services only in a medical care setting where the supervising physician regularly sees patients. The bill also would allow an NP to make calls or go on rounds as a PA is allowed to do. In addition, the bill would eliminate the reference to a governing facility's or organization's bylaws, rules, and regulations.

Also, notwithstanding any law or rule to the contrary, a PA or NP could make calls or go on rounds without restrictions on the time or frequency of visits by the physician or the PA or NP.

Delegated Drug Prescription

The Code authorizes a PA to prescribe drugs as a delegated act of a supervising physician in accordance with procedures and protocol for the prescription established by rule of the appropriate board. Under the bill, an NP also could prescribe drugs under these conditions.

The bill also would allow a PA or NP to prescribe a drug, including a controlled substance included in Schedules 2 through 5, as a delegated act.

Under the Code, when delegated prescription occurs, the supervising physician's name must be used, recorded, or otherwise indicated in connection with each individual prescription so the person who dispenses or administers it knows under whose authority the delegate is prescribing. The bill would require the PA's or NP's name also to be indicated in connection with each prescription.

The Code allows a PA to order, receive, and dispense complementary starter dose drugs, other than controlled substances, as a delegated act of a supervising physician. Under the bill, this provision also would apply to an NP. In addition, PAs and NPs could order, receive, and dispense complementary starter dose drugs, including controlled substances in Schedules 2 to 5. The delegate's name, in addition to the supervising physician's name, would have to be used in connection with each order, receipt, or dispensing.

The Code provides that it is the Legislature's intent to allow a pharmaceutical manufacturer or wholesale distributor to distribute complementary starter dose drugs to a PA in

compliance with the Federal Food, Drug, and Cosmetic Act. The bill would include an NP in this provision.

Communication; Standards of Practice

The Code provides that a PA is the agent of his or her supervising physician or supervising podiatrist. A communication made to a PA that would be a privileged communication if made to the supervising physician or podiatrist is a privileged communication to the PA and the supervising physician or podiatrist to the same extent as if the communication were made to the supervising physician or podiatrist. Additionally, a PA must conform to minimal standards of acceptable and prevailing practice for the supervising physician or podiatrist. The bill would refer to an NP, in addition to a PA.

Dispensing Prescribers

Under Part 177 (Pharmacy Practice and Drug Control) of the Code, certain licensed prescribers may dispense prescription drugs to their own patients. ("Prescriber" includes a doctor of medicine, osteopathic medicine and surgery, or podiatric medicine and surgery; or another licensed health professional acting under the delegation and using, recording, or otherwise indicating the name of the delegating licensed doctor.)

A dispensing prescriber must dispense the drug in a container labeled with specific information, including the prescriber's name. Under the bill, if the drug were dispensed under the prescriber's delegatory authority, the label also would have to include the name of the delegate.

Currently, the act, task, or function of dispensing prescription drugs may be delegated only as provided in Part 177 and Section 16215 (which contains general provisions for the delegation of selected acts, tasks, and functions by a licensee to a qualified individual). The bill also would refer to Sections 17048, 17076, 17212, and 17548 (sections the bill would amend).

Prescription Drug Purchases

When a prescription drug is delivered to a purchaser, the Code requires the pharmacist to give the purchaser a receipt that contains certain information, including the prescriber's name. Under the bill, if the drug were prescribed under a prescriber's delegatory authority, the receipt also would have to include the delegate's name.

Patient Rights Policy

Under the Code, a licensed health facility or agency that provides services directly to patients or residents must adopt a policy describing the rights and responsibilities of patients or residents. The provisions prescribing the content of the policy include references to the attending physician. The bill would refer to the attending physician or a PA or NP to whom the physician delegated the performance of medical care services.

MCL 333.17048 et al.

Legislative Analyst: Julie Cassidy

FISCAL IMPACT

The bill would have no fiscal impact on State or local government.

Fiscal Analyst: Josh Sefton

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.