

Legislative Analysis



PHYSICIAN'S ASSISTANTS: REMOVE BARRIERS TO DELEGATION OF SERVICES

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Senate Bill 384 (S-1) as passed by the Senate

Sponsor: Sen. Jim Marleau

House Committee: Health Policy

Senate Committee: Health Policy

First Analysis (10-18-11)

BRIEF SUMMARY: The bill would revise provisions of the Public Health Code regarding the supervision of physician assistants by physicians and the delegation by physicians of the performance of medical care services to physician's assistants (P.A.s). In particular, the bill would remove restrictions on P.A.s related to prescribing controlled substances, making rounds in hospitals or nursing homes, and ordering the temporary use of physical or chemical restraints in a hospital or nursing home.

FISCAL IMPACT: The bill is not expected to have fiscal implications on local governments or a significant impact on state government, as explained in more detail later in the analysis.

THE APPARENT PROBLEM:

Michigan, as well as the entire country, is already in the throes of a physician shortage and many predict the situation to worsen in coming years. Many believe that one way to ensure access to quality care, especially in rural areas where the physician shortage is particularly acute, is to streamline regulations regarding the delegation of patient care services by physicians to physician's assistants.

For example, some health facilities have interpreted the P.A. statute in a manner that restricts a P.A.s ability to go on rounds or make calls to see patients for routine patient checks. In addition, though P.A.s may prescribe medications, they cannot dispense sample doses of controlled substances or write prescriptions for controlled substances (e.g., narcotic pain relievers). Moreover, they cannot sign certain forms that require a physician's signature, even when the P.A. provided the health care service under the physician's delegation and supervision.

Legislation has been offered to revise, delete, and otherwise amend numerous provisions in the P.A. statute in an effort to improve efficiency in the health care delivery system.

THE CONTENT OF THE BILL:

Senate Bill 384, which is referred to as the Michigan Patient Access to Care and Patient Safety Act, would amend numerous sections of the Public Health Code (MCL 333.16104 et al.) pertaining to a physician's assistant (P.A.). Some of the revisions would remove obsolete provisions or make technical changes. Physician's assistants currently are

authorized to write prescriptions for non-controlled substances and to perform medical care services under a physician's supervision with some restrictions. Substantive amendments include the following:

- Allow a P.A., as a delegated act by a supervising physician, to prescribe controlled substances included in Schedules 2-5 (e.g., narcotic pain relievers and drugs to treat ADD/ADHD). In addition, allow a supervising physician to delegate to a P.A. the ordering, receipt, and dispensing of complimentary starter-dose drugs of controlled substances included in Schedules 2-5. Both the supervising physician's and the P.A.'s DEA registration numbers would have to be used, recorded, or otherwise indicated in connection with each prescription or each order, receipt, or dispensing of a complimentary starter dose drug.
- Allow a P.A. to whom the performance of medical care services was designated to sign an official form in place of the physician even if the form lists the physician's signature as the required signatory.
- Delete a provision that restricts a P.A. to providing medical care services only in a medical care setting where the supervising physician regularly sees patients. In addition, the bill would revise a provision allowing a P.A. to make calls or go on rounds to visit patients in private homes, public institutions, hospitals, nursing homes, HMOs, and other health facilities as allowed by the bylaws, rules, or regulations of the facility or organization. Instead, the bill would specify that a P.A. would have no restrictions on the time or frequency of visits when making calls or going on rounds in those facilities.
- Include the P.A.'s name or the physician's name who prescribed or dispensed the prescription drug on a label affixed to a container of a prescription drug, and also on a receipt given to the purchaser of a prescription drug.
- Include P.A.s – whenever a policy references the attending physician – in the policies describing the rights and responsibilities of patients or residents of hospitals, nursing homes, and other facilities or agencies that those facilities and agencies are required to adopt and distribute to patients and residents. For example, a patient or resident is entitled to receive information about his or her medical condition, proposed course of treatment, and prospects for recovery unless medically contraindicated as documented by the attending physician. The bill would instead require the policy to refer to the attending physician or a P.A. to whom the physician has delegated the performance of medical care services.
- Remove the restriction, as part of the revisions made to the policies described above, that only the attending physician may authorize in writing physical or chemical restraints for a specified or limited time or as necessitated by an emergency to protect the patient or resident from injury to self or others. Under the bill, the written authorization for restraints could also be made by a P.A. to

whom the attending physician designated the performance of medical care services.

HOUSE COMMITTEE ACTION:

The committee reported the Senate-passed version of the bill without further amendments.

BACKGROUND INFORMATION:

According to information on the website of the American Academy of Physician Assistants, Physician's Assistants, or P.A.s, "are healthcare professionals who are authorized by the state to practice medicine as part of a team with physicians." Under physician delegation, P.A.s deliver a broad range of medical and surgical services, including conducting physical exams, obtaining medical histories, diagnosing and treating illnesses, prescribing medications, ordering and interpreting tests, counseling on preventive health care, and assisting in surgery. Most P.A. programs require a bachelor's degree and some medical experience before entry. A typical program is about 24-32 months long and includes both classroom and clinical instruction. National certification requires passing the national certification examination administered by the National Commission on Certification of Physician Assistants. To maintain national certification, P.A.s must complete 100 hours of continuing education every two years and be recertified every six years. In Michigan, a P.A. must be licensed under the Public Health Code.

FISCAL INFORMATION:

The Department of Licensing and Regulatory Affairs (LARA) and the Bureau of Health Professions (BHP) do not anticipate a significant positive fiscal impact on state budgets arising from this proposed legislation.

Since SB 384 (S-1) is amending portions of the Public Health Code that pertain to the practice of healthcare by already licensed professionals and does not affect the licensing procedure, it is unlikely to have any direct fiscal impact on LARA or BHP. However, by enlarging the professional autonomy of physician's assistants (P.A.s), SB 384 (S-1) could result in an increased number of complaints filed with the BHP and hence have an indeterminate fiscal impact on the amount of staff time expended to investigate those complaints. Additionally, P.A.s would be subject to discipline under Part 161 of the Public Health Code for licensure violations relating to the unlawful acts related to controlled substances, which may include fines.

Pertaining to local governments, the Ingham County Health Department does not expect any fiscal impact on local or county governmental budgets due to the amendments made by SB 384 (S-1).

ARGUMENTS:

For:

Senate Bill 384 has broad support among members of the health care industry. The bill is seen as removing barriers that impede the functionality of the profession and not as an expansion of scope of practice. A P.A. and the supervising physician collaborate on patient care. By removing the barriers, medical teams could more efficiently and effectively, and especially safely, care for their patients. Importantly, the bill does not change the supervisory or delegatory relationship between physicians and their P.A.s, and physicians will retain the same level of liability for the conduct of their P.A.s. According to information in the June 2011 industry journal *MichiganPA*, the bill would provide the following benefits:

** Clarifying that a P.A. signature on a form specifying a physician's signature is acceptable will allow P.A.s to sign such forms as bus driver physicals, physicals for handicapped parking permits, and physicals for municipal employees like police officers and fire fighters. P.A.s may already perform physicals and other medical services under the delegation of a physician. Accepting the examining P.A.'s signature, rather than waiting for the delegating physician to sign the form, appears to be sensible.

** The bill would remove some of the last restrictions in state law regarding the authority of a P.A. to write for controlled substances. This will enable P.A.s, who often write discharge orders in hospitals, to prescribe appropriate pain medication for an appropriate time, thus relieving the patient of the need to return to the doctor's office to obtain another prescription.

** Apparently, the Department of Community Health has interpreted a rule dating back to the 1950s as allowing health facilities to set their own policies regarding the ability or frequency of P.A.s to call on patients or make medical rounds. According to the journal article, some hospitals were cited by the DCH, and P.A. employment in Northern Michigan has been adversely affected by this interpretation. The bill would clarify a physician's ability to delegate making rounds to a P.A. in a public health facility such as a hospital, nursing home, extended care facility, and ambulatory care clinic.

** The bill would also clarify a P.A.'s authority to order restraints in a health facility setting, thus improving patient and workplace safety. The Centers for Medicare and Medicaid and the Joint Commission (an accrediting organization) support the ability of a P.A. to issue a written order for restraints. Allowing the P.A. to write the order for a limited time or when necessitated by an emergency – as opposed to waiting for the presence and signature of a physician – will reduce the risk of harm to a patient and to staff. For example, a combative patient being treated in an emergency room poses a significant danger of injuring his or her own self or injuring medical staff.

** Including the name of the P.A. who ordered a medication on a drug label, along with the supervising physician's name, helps inform the patient and the dispensing pharmacist as to who wrote the prescription. This will prevent delays should the pharmacist need

additional information or need to know if a different medication would be more appropriate, or if the patient had a question about the medication at a later date.

POSITIONS:

The Michigan Osteopathic Association supports the bill. (9-15-11)

The Michigan Council of Nurse Practitioners indicated support for the bill. (9-15-11)

The Michigan Pharmacists Association indicated support for the bill. (9-15-11)

The Michigan Primary Care Association indicated support for the bill. (9-15-11)

The Michigan Academy of Physician Assistants indicated support for the bill. (9-15-11)

The Michigan State Medical Society indicated support for the bill. (9-8-11)

AARP Michigan indicated support for the bill. (9-8-11)

Michigan Health & Hospital Association indicated support for the bill. (9-8-11)

CVS Caremark indicated support for the bill. (9-8-11)

MidMichigan Health indicated support for the bill. (9-8-11)

Michigan Academy of Family Physicians indicated support for the bill. (9-8-11)

Economic Alliance for Michigan indicated support for the bill. (9-8-11)

The Department of Licensing and Regulatory Affairs indicated a neutral position on the bill. (9-8-11)

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.