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BILL



ANALYSIS

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Senate Bill 591 (as introduced 9-7-11)
Sponsor: Senator Mike Green
Committee: Regulatory Reform

Date Completed: 11-29-12

CONTENT

The bill would amend Article 15 (Professions) of the Public Health Code to do the following:

- **Prohibit a person from serving as a pharmacy technician unless he or she were licensed under Part 177 (Pharmacy Practice and Drug Control) of the Code.**
- **Identify functions that would be considered to be serving as a pharmacy technician, and prohibit a person who was not a pharmacist, pharmacist intern, or pharmacy technician from performing those functions for a pharmacy.**
- **Establish requirements for pharmacies that used pharmacy technicians.**
- **Allow the Department of Licensing and Regulatory Affairs (LARA) to license an individual as a pharmacy technician if he or she met certain requirements.**
- **Allow LARA to issue a temporary pharmacy technician license under certain circumstances.**
- **Establish application and annual license fees for pharmacy technicians.**
- **Require the Michigan Board of Pharmacy to include one pharmacy technician.**
- **Authorize the Board to require continuing education for renewal of a pharmacy technician's license.**
- **Expand the list of pharmacy-related words, titles, or phrases that are restricted for use only by people authorized under Part 177 to use them.**

Licensure of Pharmacy Technicians

Part 177 of the Code prohibits a person from engaging in the practice of pharmacy unless licensed or otherwise authorized under Article 15. The bill also would prohibit a person from serving as a pharmacy technician unless he or she were licensed. "Pharmacy technician" would mean an individual who is required to hold a health profession subfield license to serve as a pharmacy technician.

Under the bill, an individual who assisted in a pharmacy and performed any of the following functions would be considered to be serving as a pharmacy technician and, except as otherwise provided, would have to be licensed as a pharmacy technician:

- Assisting in the dispensing process.
- Handling transfer of prescriptions, except controlled substances prescriptions.
- Ordering and stocking medications.
- Compounding drugs.
- Preparing or mixing intravenous drugs for injection into a human or veterinary patient.

- Contacting prescribers concerning prescription drug order clarification, not including drug regimen review or clinical or therapeutic interpretation.
- Receiving verbal orders for prescription drugs, except orders for controlled substances.
- Performing any other functions authorized under rules promulgated under Part 177.

The bill would prohibit an individual who was not a pharmacist, pharmacist intern, or pharmacy technician from performing any of those functions for a pharmacy. A pharmacist could not allow any individual employed or otherwise under the pharmacist's personal charge to violate that prohibition. A person who owned, managed, operated, or conducted a pharmacy could not allow any employee or person under his or her control to violate the prohibition.

A pharmacy that used the services of a pharmacy technician would have to ensure that all of the following requirements, as applicable, were met:

- The pharmacy technician was licensed or otherwise authorized to serve as a pharmacy technician under Part 177.
- The pharmacy technician only performed the activities or functions that he or she was licensed or otherwise authorized to perform under Part 177 or rules promulgated under it.
- Except as provided by rule, the pharmacy technician only performed his or her functions under the supervision and personal charge of the pharmacist.

The bill would allow LARA to license an individual as a pharmacy technician if he or she met all of the following requirements:

- Submitted a complete written application on a form prescribed by LARA.
- Graduated from an accredited high school or comparable school or educational institution or passed the General Educational Development (GED) test or other graduate equivalency examination.
- Satisfied the requirements of Section 16174 of the Code (which establishes certain requirements for health professional licensure under Article 15, including being at least 18 years of age, having good moral character, and submitting fingerprints for a criminal history check).
- Passed and submitted to LARA proof of passage of the certified pharmacy technician examination given by the Pharmacy Technician Certification Board.

If a person held a health profession license under Article 15 that had been denied, revoked, suspended, or restricted for disciplinary purposes, he or she would not be eligible for a license as a pharmacy technician.

An individual who met any of the following would not be required to meet the examination requirements to be eligible for a pharmacy technician license:

- Was a student in a pharmacy technician program approved by the Board of Pharmacy.
- Graduated from a pharmacy technician program, but only during the 210-day period following his or her graduation from the program.
- Was employed by a pharmacy to perform one or more of the pharmacy technician functions, but only until he or she was no longer so employed, the pharmacy had a change of ownership, the pharmacy or the business of which it was a part had a name change, or the person performed any of those functions for another pharmacy.
- Held a temporary license under the bill.

Temporary License

The bill would allow LARA to issue a temporary pharmacy technician license to a person who did not meet all of the requirements for licensure, if the applicant did all of the following:

- Applied to LARA for a temporary license after the bill's effective date.
- Provided satisfactory proof to LARA that he or she had been employed as a pharmacy technician in a licensed pharmacy for the two-year period immediately preceding the date of application.
- Provided LARA with a letter of recommendation from the pharmacist who was his or her direct supervisor at the time of application, attesting to his or her clinical competence as a pharmacy technician.
- Paid the applicable fees.

The term of a temporary pharmacy technician license would be the same as the term of a pharmacy technician license, but a person could not hold a temporary license for more than two years. A person who held a temporary pharmacy technician license would be subject to all of the requirements of Part 177 and the rules promulgated under it, except for the requirements for licensure.

Fees

The bill would require a \$20 application processing fee and a \$15 annual license fee for a person licensed or seeking licensure to engage in the practice of a pharmacy technician.

Michigan Board of Pharmacy

The Michigan Board of Pharmacy is created in LARA under Part 177 and consists of 11 voting members, including six pharmacists and five public members. Under the bill, the Board would have to consist of six pharmacists, one pharmacy technician, and four public members.

Continuing Education

The bill would authorize the Board of Pharmacy to require that a licensee seeking renewal of a pharmacy technician's license give the board satisfactory evidence that, during the two years immediately preceding application for renewal, the licensee had attended at least 20 hours of continuing education courses or programs approved by the Board, or satisfactorily completed a proficiency examination according to rules promulgated by the Board.

Titles

Under Part 177, certain words, titles, or letters or a combination of them, with or without qualifying words or phrases, are restricted in use only to those people authorized under Part 177 to use the terms and in a way prescribed in it. They include: "pharmacy", "pharmacist", "apothecary", "drugstore", "druggist", "medicine store", "prescriptions", and "r.ph.".

The bill would include the following in the list of restricted titles: "Pharm.D.", "doctor of pharmacy", "pharmacy technician", "licensed pharmacy technician", "certified pharmacy technician", "CPHT", and "dispensary".

MCL 333.16333 et al.

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

The bill would have an indeterminate fiscal impact on the Department of Licensing and Regulatory Affairs. It would establish a professional licensing milieu for pharmacy technicians, and establish fees for application processing and annual license renewal of \$20 and \$15, respectively. It is unknown precisely how many pharmacy technicians are employed in Michigan currently, but according to the Pharmacy Technician Certification Board (PCTB), approximately 8,000 pharmacy technicians are currently certified through the PCTB's optional certification program. If all of these pharmacy technicians became licensed through the State program under the bill, LARA would collect approximately \$160,000 in application fees initially, and \$120,000 annually in license fees. It is likely that the actual amount collected would be higher, however, as the PCTB figures include just those who are certified under its optional program; the actual number of practicing pharmacy technicians is likely higher.

The Department's costs to implement the proposed licensure program are unknown at this time. To the extent that the revenue collected under the bill exceeded those costs, the bill could have a positive fiscal impact on LARA. The opposite is also true, so the fiscal impact is indeterminate.

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.