

PHARMACY LICENSES: ELIMINATE USE OF FINGERPRINTS FOR CRIMINAL HISTORY CHECK

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Senate Bill 195 as passed by the Senate

Sponsor: Sen. Joe Hune

House Committee: Health Policy

Senate Committee: Health Policy

Complete to 8-14-15

SUMMARY:

Senate Bill 195 would amend Part 177 of the Public Health Code, entitled "Pharmacy Practice and Drug Control," to eliminate a requirement that an applicant for a pharmacy license, manufacturer license, or wholesale distributor license provide fingerprints for a criminal history check.

The code defines "*applicant*" to include an individual, if the person applying is an individual; all partners, including limited partners, if the person applying is a partnership; and all stockholders, officers, and members of the board of directors, if the person applying is a privately held corporation.

The Public Health Code currently requires a pharmacy, manufacturer, or wholesale distributor, regardless of location, to be licensed under Part 177 in order to do business in Michigan. Further, a person who provides compounding services must be licensed as a pharmacy or a manufacturer and, if licensed as a pharmacy, also must be authorized to provide compounding services under the code, in order to do business in Michigan. And, an outsourcing facility also must be licensed as a pharmacy in order to do business in this state.

Additionally, a criminal history check (using fingerprints) is required for any applicant for a new pharmacy, manufacturer, or wholesale distributor license who *is not a health professional* licensed or otherwise authorized to engage in a health profession, and also for an applicant who *is a health professional* licensed before October 1 of 2008.

Senate Bill 195 would eliminate these required fingerprint and criminal history check provisions for those applying to license pharmacies, as well as for those seeking licenses that allow them to manufacture and distribute pharmaceuticals. For an explanation of the criminal history check process conducted by the Michigan State Police, see ***Background Information***, below. The bill would not alter the current definitions in the "Pharmacy Practice and Drug Control" chapter of the Public Health Code. See ***Background Information***, below, for those definitions. The bill has an effective date of March 30, 2015.

MCL 333.17748

BACKGROUND INFORMATION:

Criminal History Background Checks

Under Section 16174 of the Public Health Code, an applicant for licensure or registration to engage in a health profession must submit fingerprints to the Michigan Department of State Police (MSP) to have a criminal history check conducted, and then request the MSP to forward the fingerprints to the Federal Bureau of Investigation (FBI) to determine the existence of any national criminal history pertaining to the applicant.

The MSP must then give the Department of Licensing and Regulatory Affairs (LARA) a written report of the check if it contains any criminal history record information, and must forward the results of the FBI determination to LARA within 30 days after the request is made. The Department of Licensing and Regulatory Affairs must notify the applicable professional licensing board, and the applicant, about the type of crime disclosed in the FBI determination without disclosing the details of the crime. The MSP may charge a reasonable fee to cover the cost of conducting the criminal history check.

Definitions: Pharmacy Practice and Drug Control – Michigan Public Health Code

Senate Bill 195 does not alter any of the following definitions found in Part 177 of the Public Health Code. As noted earlier, in sections 17748, 17748a, and 17768, the code defines "applicant" to mean a person applying for a pharmacy, manufacturer's, or wholesale distributor's license. The term includes only one or more of the following: an individual, if the person applying is an individual; all partners, including limited partners, if the person applying is a partnership; and all stockholders, officers, and members of the board of directors, if the person applying is a privately held corporation.

"Manufacturer" is defined to mean a person that prepares, produces, derives, propagates, compounds, processes, packages, or repackages a drug or device salable on prescription only, or otherwise changes the container or the labeling of such a drug or device, and that supplies, distributes, sells, offers for sale, barter, or otherwise disposes of such a drug or device, to another person for resale, compounding, or dispensing.

"Wholesale distributor" means a person, other than a manufacturer, who supplies, distributes, sells, offers for sale, barter, or otherwise disposes of, to other people for resale, compounding, or dispensing, a prescription drug or device that the distributor has not prepared, produced, derived, propagated, compounded, processed, packaged, or repackaged, or otherwise changed the container or the labeling of the drug or device.

"Outsourcing facility" means that term as it is defined in federal law (at 21 USC 353b), i.e., a facility at one geographic location or address that is engaged in the compounding of sterile drugs, has elected to register as an outsourcing facility, and complies with all requirements prescribed in that section.

"Compounding" means the preparation, mixing, assembling, packaging, and labeling of a drug or device by a pharmacist under any of the following circumstances: upon receiving a prescription for a specific patient; upon receiving a medical or dental order from a prescriber or agent for use in the treatment of patients within the course of the prescriber's

professional practice; in anticipation of receiving a prescription or medical or dental order based on routine, regularly observed prescription or medical or dental order patterns; and, for the purpose of or incidental to research, teaching, or chemical analysis and not for the purpose of sale or dispensing.

FISCAL IMPACT:

The bill would not have a significant fiscal impact.

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