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BILL ANALYSIS



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Senate Bill 127 & 128 (as introduced 2-26-19)
Sponsor: Senator Curtis S. Vanderwall (S.B. 127)
Senator Curtis Hertel, Jr. (S.B. 128)
Committee: Health Policy and Human Services

Date Completed: 3-5-19

CONTENT

Senate Bill 127 would amend Part 73 (Manufacture, Distribution, and Dispensing) of the Public Health Code to exempt a patient who was under the care of a hospice from certain requirements related to the prescription of a controlled substance listed in Schedules 2 to 5.

Senate Bill 128 would amend the Public Health Code to revise the definition of "bona fide prescriber-patient relationship".

The bills are tie-barred, and each bill would take effect 90 days after its enactment.

Senate Bill 127

Under Part 73, a prescriber who holds a controlled substances license may administer or dispense a controlled substance listed in Schedules 2 to 5 without a separate controlled substances license. Generally, the Code prohibits a licensed prescriber from prescribing a controlled substance listed in Schedules 2 to 5 unless he or she is in a bona fide prescriber-patient relationship with the patient for whom the controlled substance is being prescribed. Under the bill, this requirement would not apply for a patient who was under the care of a hospice.

Part 73 also requires a licensed prescriber to obtain and review a report concerning a patient from the Michigan Automated Prescription System (MAPS) before prescribing or dispensing to a patient a controlled substance in a quantity that exceeds a three-day supply. This requirement does not apply under certain circumstances, for example, the controlled substance is prescribed by a veterinarian.

The requirement to obtain a MAPS report also would not apply if the patient were under the care of a hospice. "Hospice" would mean that term as defined in Part 201 (General Provisions) of the Code: a health care program that provides a coordinated set of services rendered at home or in outpatient or institutional settings for individuals suffering from a disease or condition with a terminal prognosis.

Under the Code, "bona fide prescriber-patient relationship" means a treatment or counseling relationship between a prescriber and a patient in which the following are present:

- The prescriber has reviewed the patient's relevant medical or clinical records and completed a full assessment of the patient's medical history and current medical condition,

including a relevant medical evaluation of the patient conducted in person or through telehealth.

- The prescriber has created and maintained records of the patient's condition in accordance with medically accepted standards.

The bill would delete the definition for "bona fide prescriber-patient relationship" (which would be recodified as described below).

Senate Bill 128

Under the bill, "bona-fide prescriber-patient relationship" would mean a treatment or counseling relationship between a prescriber and a patient in which the following are present:

- The prescriber has reviewed the patient's relevant medical or clinical records and completed an assessment of the patient's medical history and current medical condition, including a relevant medical evaluation of the patient conducted in person or through telehealth as that term is defined by the Code or by an individual licensed under Article 15 (occupations) to whom the prescriber has delegated authority to perform the evaluation under Section 16215 of the Code.
- The prescriber has created and maintained records of the patient's condition in accordance with medically accepted standards.

(Section 16215 of the Code allows a licensee who holds a license other than a health profession subfield license to delegate to a licensed or unlicensed individual with qualifications through education, training, or experience the performance of selected acts, tasks, or functions where these activities fall within the licensee's scope of practice and will be performed under his or her supervision.)

BACKGROUND

The Michigan Automated Prescription System, commonly referred to as MAPS, is the State's prescription monitoring program that tracks Schedule 2 to 5 controlled substances. Like other prescription monitoring programs, MAPS is a tool used to assess patient risk, as well as to prevent drug abuse and diversion at the prescriber, pharmacy, and patient levels by collecting prescriptions for Schedule 2 to 5 controlled substances that are dispensed by practitioners and pharmacies.

Under Rule 338.3162b of the Administrative Code, a pharmacist, dispensing prescriber, and veterinarian who dispenses a prescription for a Schedule 2 to 5 controlled substance or a licensed pharmacy that dispenses a Schedule 2 to 5 controlled substance in the State must report to the Department of Licensing and Regulatory Affairs¹ or its contractor by means of an electronic data transmittal process the following information for each prescription of a Schedule 2 to 5 controlled substance that is dispensed:

- The patient identifier.
- The name of the controlled substance dispensed.
- The metric quantity of the controlled substance dispensed.
- The national drug code number (NDC) of the controlled substance.
- The date of issue of the prescription.
- The date of dispensing.
- The estimated days of supply of the controlled substance dispensed.
- The prescription number assigned by the dispenser.

¹ The rule refers to the Department of Community Health (now part of the Department of Health and Human Services), but the related responsibilities of that Department were transferred to LARA by Executive Order 2011-4.

- The DEA registration number of the prescriber and the dispensing pharmacy.
- The Michigan license number of the dispensing pharmacy.

The pharmacist, dispensing prescriber, or veterinarian who dispenses a prescription drug that is a Schedule 2 to 5 controlled substance must transmit the data by electronic media or other means as approved by the Department or its contractor (R 338.3162c). The data must be forwarded by the end of the next business day or, if the prescriber does not have the capacity to do so, the data must be mailed or delivered within seven calendar days (R 338.3162d).

In April 2017, Michigan launched a new MAPS platform that uses a system called PMP AWAxRxE. Part of the larger initiative to combat opioid addiction in the State, the system upgrade is designed to ease integration of electronic health records and pharmacy dispensation systems in one user-friendly platform, decrease the amount of time it takes to run a patient report, allow for interstate data-sharing, and provide financial support for the integration of MAPS into Michigan health systems, physician groups, and pharmacies, according to descriptions of the system.

MCL 333.7303a (S.B. 127)
333.7104 (S.B. 128)

Legislative Analyst: Tyler VanHuyse

FISCAL IMPACT

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

Fiscal Analyst: Elizabeth Raczkowski

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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.