

BONA FIDE PRESCRIBER-PATIENT RELATIONSHIP AND MAPS REPORT EXEMPTIONS FOR HOSPICE

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House Bill 4225 as enacted
Public Act 43 of 2019
Sponsor: Rep. Bronna Kahle

Analysis available at
<http://www.legislature.mi.gov>

Senate Bill 128 as enacted
Public Act 42 of 2019
Sponsor: Sen. Curtis Hertel, Jr.

1st House Committee: Health Policy
2nd House Committee: Ways and Means
Senate Committee: Health Policy and Human Services
Complete to 7-31-19

BRIEF SUMMARY: Taken together, House Bill 4225 and Senate Bill 128 exempt hospice patients from certain requirements regarding the prescription of controlled substances.

FISCAL IMPACT: House Bill 4225 and Senate Bill 128, jointly examined, would not have a significant fiscal impact on the Department of Licensing and Regulatory Affairs (LARA) or on other units of state or local government.

THE APPARENT PROBLEM:

2017 PA 249 (Senate Bill 167)¹ required that there be a bona fide prescriber-patient relationship before a licensed provider could prescribe a controlled substance listed in Schedules 2 to 5. However, there was a concern that this requirement would unintentionally affect hospice patients' ability to receive pain medication to address their serious and rapidly changing health needs. Accordingly, 2018 PA 101 (House Bill 5678)² pushed this requirement, which was to take effect March 31, 2018, to March 31, 2019 (or the date by which exemptions to the relationship would be defined). Legislation was offered to address the concern permanently.

THE CONTENT OF THE BILLS:

House Bill 4225 and Senate Bill 128 amend the Public Health Code to exempt hospice patients from the requirement that a bona fide prescriber-patient relationship must exist before a prescriber may prescribe a Schedule 2 to 5 controlled substance. They also add the definition of "bona fide prescriber-patient relationship" to Part 71 (General Provisions) of Article 7 (Controlled Substances) of the code.

¹ House Fiscal Agency analysis of PAs 248 and 249/SBs 166 and 167 of 2017:

<http://www.legislature.mi.gov/documents/2017-2018/billanalysis/House/pdf/2017-HLA-0166-A26310EB.pdf>

² House Fiscal Agency analysis of PA 101/HB 5678 of 2018: <http://www.legislature.mi.gov/documents/2017-2018/billanalysis/House/pdf/2017-HLA-5678-B893753A.pdf>

The bills also exempt a person from the requirement that a prescriber obtain and review a Michigan Automated Prescription System (MAPS) report before prescribing or dispensing more than a three-day supply of a controlled substance as long as the following requirements are met:

- The person is under the care of hospice.
- The MAPS report was obtained and reviewed when the person was admitted to hospice.

MCL 333.7303a (HB 4225)

MCL 333.7104 (SB 128)

The bills took effect July 8, 2019.

BRIEF DISCUSSION:

As introduced, Senate Bill 128 would have allowed an individual to whom the prescriber developed authority to evaluate the individual for the purposes of establishing a bona fide prescriber-patient relationship. The enacted version of the bill removes that provision to avoid unintended consequences, according to the bill sponsor.

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