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SFA**BILL ANALYSIS**

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House Bill 4149 (Substitute H-1 as passed by the House)
Sponsor: Representative Michael Nye
House Committee: Health Policy
Senate Committee: Health Policy and Senior Citizens

Date Completed: 10-14-97

CONTENT

The bill would amend the Public Health Code to permit pharmacists to dispense prescriptions issued by out-of-State physicians, under certain circumstances. This would not apply to a prescription for a controlled substance unless the prescription were issued by a physician who was living adjacent to the border between Michigan and an adjoining state and whose practice could extend into this State, but who did not maintain an office in Michigan.

Specifically, the bill provides that a pharmacist could dispense a prescription written and signed or transmitted by other means of communication by a physician prescriber in a state other than Michigan (except a prescription for a controlled substance unless certain circumstances existed), only if the pharmacist in the exercise of his or her professional judgment determined all of the following:

- That the prescription was issued pursuant to an existing physician-patient relationship.
- That the prescription was authentic.
- That the prescribed drug was appropriate and necessary for the treatment of an acute, chronic, or recurrent condition.

The bill also would prohibit a practitioner from dispensing a prescription for a controlled substance written and signed or transmitted by a physician prescriber licensed to practice in a state other than Michigan, unless the prescription were issued by a physician prescriber residing adjacent to the land border between this State and an adjoining state who was authorized under the laws of that state to practice medicine or osteopathic medicine and surgery and to prescribe controlled substances and whose practice could extend into this State, but who did not maintain an office or designate a place to meet patients or receive calls in Michigan. (The Code defines "practitioner" as a prescriber; a pharmacist; a scientific investigator as defined by rule; or another person or a pharmacy, hospital, or other institution or place of professional practice licensed, registered, or otherwise permitted to distribute, dispense, conduct research with respect to, or administer a controlled substance in the course of professional practice or research in this State.)

The Code's existing civil and criminal penalties for prescription violations would apply to a person who violated this prohibition (i.e., a maximum civil fine of \$25,000; or, if the violation were committed knowingly or intentionally, imprisonment for up to two years and/or a fine of up to \$25,000.) A pharmacist who violated the prohibition also would be subject to disciplinary sanctions (i.e., a fine, reprimand, probation, or license denial, limitation, suspension, or revocation).

Currently, the Code defines "prescriber" as a licensed dentist, doctor of medicine, doctor of

osteopathic medicine and surgery, optometrist certified to administer and prescribe therapeutic pharmaceutical agents, veterinarian, or another licensed health professional acting under the delegation and indicating the name of the delegating doctor. "License" currently means an authorization issued under Article 15 (health occupations) to practice where practice would otherwise be unlawful. The bill specifies that, for purposes of the Code's definition of "prescriber" only, the term "license" would include an authorization issued under the laws of another state to practice in that state where practice would otherwise be unlawful, and would be limited to a licensed doctor of medicine, a licensed doctor of osteopathic medicine and surgery, or another licensed health professional acting under the delegation and using, recording, or otherwise indicating the name of the delegating doctor of medicine or osteopathic medicine and surgery.

The bill also would amend the definition of "prescription" to provide that (subject to the bill's provisions allowing a pharmacist to fill out-of-State prescriptions) "prescription" would include, but not be limited to, an order for a drug (except a controlled substances unless the proposed criteria were met) written and signed or transmitted by other means of communication by a physician prescriber licensed to practice in a state other than Michigan.

MCL 333.7405 et al.

Legislative Analyst: S. Lowe

FISCAL IMPACT

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

Fiscal Analyst: M. Tyszczewicz

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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.