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BILL ANALYSIS

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Senate Bill 352 (as introduced 3-24-05)  
Sponsor: Senator Bill Hardiman  
Committee: Health Policy

Date Completed: 5-2-05

### **CONTENT**

**The bill would amend the Public Health Code to eliminate the authority of a disciplinary subcommittee to impose sanctions against a pharmacist for employing the mail to sell, distribute, or deliver a drug that requires a prescription when the prescription for the drug is received by mail. The bill also would allow a pharmacy to perform centralized prescription processing services or outsource those services to another pharmacy if certain conditions were met.**

Under the bill, "centralized prescription processing" would mean the processing by a pharmacy of a request from another pharmacy to prepare a prescription drug order or to perform processing functions such as dispensing, reviewing drug use, completing claims adjudication, obtaining refill authorizations, and initiating therapeutic interventions.

The bill is described below in further detail.

#### Disciplinary Action

Under the Code, the Department of Community Health may investigate activities related to the practice of a health profession by a licensee, a registrant, or an applicant for licensure or registration. The Department must report its findings to the appropriate disciplinary subcommittee, which must impose administrative sanctions if it finds that certain grounds exist. Currently, a disciplinary subcommittee may fine or reprimand a licensed pharmacist, place a licensed pharmacist on probation, deny, limit, suspend, or revoke a pharmacist's license, or order restitution or community service for violating or abetting in a violation of the prohibition against selling, distributing, or delivering a prescription drug by mail, if the prescription is received through the mail. The bill would delete that ground for disciplinary action.

#### Centralized Prescription Processing

Under the bill, a pharmacy could perform centralized prescription processing services or outsource those services to another pharmacy if both of the following conditions were met:

- The pharmacies had the same owner or had a written contract outlining the services to be provided and the responsibilities and accountabilities of each pharmacy in fulfilling the terms of the contract in compliance with Federal and State laws and regulations.
- The pharmacies shared a common electronic file or had appropriate technology to allow access to sufficient information necessary or required to prepare a prescription drug order.

A pharmacy that performed, or contracted for, centralized prescription processing services would have to maintain a policy and procedures manual, along with documentation that implementation was occurring, and each would have to be made available to the Michigan Board of Pharmacy for inspection and review upon request. The manual would have to include at least the following:

- A description of how the pharmacies would comply with Federal and State laws and regulations.
- The maintenance of appropriate records to identify the responsible pharmacist, or pharmacists, in the various stages of the drug product preparation, dispensing, and counseling process.
- The maintenance of a mechanism for tracking the prescription drug order during each step in the drug product preparation, dispensing, and counseling process.
- The maintenance of a mechanism to identify on the prescription label each pharmacy involved in the preparation and dispensing of the prescription drug order.
- The provision of adequate security to protect the confidentiality and integrity of a patient's protected health information.
- The maintenance of a quality improvement program for pharmacy services designed to monitor objectively and systematically the quality and appropriateness of patient care, pursue opportunities to improve patient care, and resolved identified problems.

In addition to the contents required under Section 17756 of the Code, each prescription drug dispensed to a patient through a centralized prescription processing system would have to bear a label containing an identifiable code that provided a complete audit trail of the preparation and dispensing of the drug and patient care activities. (Under Section 17756, the label of a prescription dispensed by a pharmacist must bear the name of the medication, unless the prescriber writes "do not label" on the prescription. The label also must bear a statement directing the patient to discard the medication one year after the date it is dispensed, unless it expires on another date under applicable State or Federal law, rules, regulations, or standards.)

Under the Code, a pharmacist may refill a copy of a prescription from another pharmacy if the original prescription has remaining authorized refills, and the copy is issued according to the following procedure:

- The pharmacist issuing a written or oral copy of a prescription must cancel the original prescription and record the cancellation.
- The copy must be a duplicate of the original prescription as well as include the prescription number, the name of the pharmacy issuing the copy, the date it was issued, and the number of authorized refills remaining.
- The pharmacist receiving a copy of the prescription must exercise reasonable diligence to determine whether it is valid.
- All other copies furnished must be used, and clearly marked, for information purposes only.

Under the bill, these provisions would not apply to pharmacies that shared a real-time, on-line database or transferred prescriptions pursuant to a written contract for centralized prescription processing services as described above.

MCL 333.17708 et al.

Legislative Analyst: Julie Koval

### **FISCAL IMPACT**

Pharmacies making use of an online database or a centralized prescription processing service for the transfer of prescriptions likely would see a reduction in administrative cost. This could lead to moderate cost savings to the State for prescriptions filled for Medicaid

fee-for-service recipients, people insured through State employee health plans, and individuals treated at State-run medical facilities.

Health insurers, including Michigan Medicaid, currently use mail order firms for the provision of prescription drugs for enrollees. Permitting pharmacies in Michigan to participate in mail order pharmacy would increase competition for this business and could bring about minor reductions in the price of these drugs. Michigan-based pharmacists also would have the opportunity to expand their business offerings to include mail order pharmaceuticals, which could create an opportunity for increased revenue to these firms, generating a positive, indeterminate tax revenue gain for the State.

Under current law, a pharmacy that provided prescription drugs through the mail would be subject to discipline through the Michigan Board of Pharmacy, including a fine of up to \$5,000 per violation. Technically, revenue from the fine would no longer be available to the State, although the Department of Community Health could not report a single instance in which a Michigan-based pharmacy violated the mail order prohibition.

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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.