



Senate Fiscal Agency
P. O. Box 30036
Lansing, Michigan 48909-7536



Telephone: (517) 373-5383
Fax: (517) 373-1986
TDD: (517) 373-0543

House Bill 4405 (Substitute H-1 as passed by the House)
House Bill 4434 (Substitute H-1 as passed by the House)
Sponsor: Representative Gretchen Whitmer (H.B. 4405)
Representative Scott Hummel (H.B. 4434)
House Committee: Health Policy
Senate Committee: Health Policy

Date Completed: 5-2-05

CONTENT

House Bill 4405 (H-1) 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. **House Bill 4434 (H-1)** would amend the Public Health Code to allow a pharmacy to perform centralized prescription processing services or outsource those services to another pharmacy if certain conditions were met.

Under House Bill 4434 (H-1), "centralized prescription processing" would mean the processing by a pharmacy of a request from another pharmacy to fill or refill a prescription drug order or to perform processing functions such as dispensing, reviewing drug use, completing claims adjudication, obtaining refill authorizations, initiating therapeutic interventions, and other functions related to the practice of pharmacy.

The bills are tie-barred to each other. They are described below in further detail.

House Bill 4405 (H-1)

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 eliminate that ground for disciplinary action.

House Bill 4434 (H-1)

Under the bill, a pharmacy could perform centralized prescription processing services or outsource those services to another pharmacy if all 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.
- The pharmacies complied with Federal and State laws and regulations.

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 a detailed description of how the pharmacies would do all of the following:

- Maintain appropriate records to identify the responsible pharmacist, or pharmacists, in the various stages of the drug product preparation, dispensing, and counseling process.
- Track the prescription drug order during each step in the drug product preparation, dispensing, and counseling process.
- Identify on the prescription label each pharmacy involved in the preparation and dispensing of the prescription drug order.
- Provide adequate security to protect the confidentiality and integrity of a patient's protected health information.
- Implement and maintain a quality improvement program for pharmacy services designed to monitor and evaluate objectively and systematically the quality and appropriateness of patient care, pursue opportunities to improve patient care, and resolve identified problems.

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 other equivalent means of communication, or to pharmacies that transferred prescriptions pursuant to a written contract for centralized prescription processing services as described above.

MCL 333.17708 et al. (H.B. 4405)
333.17752 et al. (H.B. 4434)

Legislative Analyst: Julie Koval

FISCAL IMPACT

House Bill 4405 (H-1)

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.

House Bill 4434 (H-1)

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 indeterminate 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.

Fiscal Analyst: David Fosdick

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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.