

Legislative Analysis



DUTIES OF PRESCRIBING HEALTH PROFESSIONALS AND PHARMACISTS

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House Bill 5131(Substitute H-1)

Sponsor: Rep. Leisa Liss

Committee: Health Policy

First Analysis (11-28-11)

BRIEF SUMMARY: Among other things, the bill would allow a prescription contained in a patient's hospital chart to be transmitted to and filled by a pharmacy.

FISCAL IMPACT: House Bill 5131 would not have a significant fiscal impact on the Bureau of Professions or the state budget as it does not alter licensing or enforcement procedures pertaining to the Public Health Code.

THE APPARENT PROBLEM:

For several years, data has been collected and studied as to why significant numbers of people, especially the elderly, are readmitted to hospitals shortly after discharge to skilled nursing facilities or other settings. Besides the health risks experienced by the patients, such readmissions drive up overall health care costs. As a result, much scrutiny is being given by stakeholders to identify possible causes and propose solutions.

Closer to home, the Beaumont Health System discovered that some of their patients were returning to the hospital within 24 hours of discharge to nursing homes or other extended care facilities. Upon observation, it was noted that patients were experiencing a significant delay in receiving medications after being transferred from the hospital. This was due to the inability of the pharmacy serving the skilled nursing facility from accepting the order for medication as part of the discharge orders in a patient's hospital chart.

In order for the patient to receive the medication, the order in the patient's hospital chart had to be faxed to the skilled nursing facility, inputted into the skilled nursing facility's computer system, signed by that facility's physician, and then faxed to the pharmacy. Unlike hospitals, which generally have a pharmacy serving patients 24 hours a day, skilled nursing facilities contract with offsite pharmacies. An offsite pharmacy may not be open 24 hours, or may have limited hours of delivery to the facility. Thus, it may take upwards of 10 hours before the patient receives necessary medication. In the case of a frail patient, who may be on multiple medications to treat conditions like high blood pressure, diabetes, and/or heart arrhythmias, missing one or two doses may be enough to cause a medical crisis and another trip to the hospital.

Some believe that it should be possible to directly communicate medication orders in a patient's chart as part of the hospital discharge process to the pharmacy serving the

skilled nursing facility to which a patient is about to be transferred so that the medicine, as well as the dosing instructions, would be on hand when the transferred patient needed them.

THE CONTENT OF THE BILL:

House Bill 5131 would amend the Public Health Code (MCL 333.7405 et al.) to update several provisions regarding the transmittal of prescriptions, revise the definitions of "prescription" and "agent," add Section 17744 to allow a prescription contained in a patient's chart in a hospital, nursing home, or other medical institution to be transmitted to a pharmacy, and require those prescriptions to be filled by a pharmacist.

Prescribers, agents, and pharmacies

The bill would revise the current definition of "agent" to mean an individual designated by a prescriber to act on behalf of or at the discretion of that prescriber as provided in the new Section 17744 proposed by the bill. The code defines a "prescriber" as a physician, podiatrist, dentist, veterinarian, optometrist certified to administer and prescribe therapeutic pharmaceutical agents, or other licensed health professional acting under the delegation of a physician (e.g., physician's assistant, nurse practitioner, or midwife).

Under the bill, a prescriber could designate an agent to act on behalf of or at the discretion of that prescriber. The designation would not have to be in writing. If it were, either the agent or the prescriber could transmit that document to a pharmacy dispensing a prescription issued by that prescriber.

Only a prescriber acting within the scope of his or her practice could issue a prescription, but an agent could prepare and transmit a prescription signed by the prescriber. Both the prescriber and the pharmacist filling the prescription would be responsible for meeting all of the requirements of state and federal law, rules, and regulations regarding the issuance of prescriptions and dispensing of drugs or devices under prescriptions.

In addition, the bill would authorize prescribers or their agents to transmit to a pharmacy a prescription contained within a patient's chart in a state licensed health facility or agency (e.g., hospital, nursing home, or hospice) or other medical institution. If the prescription was created in an electronic format, it could contain more than six prescriptions and could contain prescriptions for Schedule 3 through 5 controlled substances and noncontrolled substances on the same form.

Pharmacists

The bill would prohibit a pharmacist from dispensing a drug or device under a prescription transmitted by facsimile or created in electronic format and printed out for use by the patient unless the document had been manually signed by the prescriber. This would not apply to a prescription transmitted by a computer to a facsimile machine if the prescription complied with Section 17754 of the code (i.e., complies with HIPAA and

contains the name of the patient; name, address and telephone number of the prescriber; time and date of the transmission; electronic signature; and identity of the pharmacy intended to receive the transmission).

After consultation with and agreement from the prescriber, a pharmacist could add or change any of the following:

- A patient's address
- Dosage form
- Drug strength
- Drug quantity
- Directions for use
- Issue date with regard to a prescription.

The details of the consultation and agreement would have to be noted on the prescription and the documentation maintained with the prescription as required under Section 17752.

A pharmacist could not change the patient's name; the controlled substance prescribed, unless authorized to dispense a lower cost generic product; or the prescriber's signature with regard to a prescription.

Further, the bill would specify that a prescription contained within a patient's chart in a licensed health facility that is transmitted to a pharmacy under the proposed Section 17744 would be the original prescription. If all other requirements of Part 174 (Pharmacy Practice and Drug Control) are met, a pharmacist would be required to fill the prescription, and could do so even if the prescription did not contain the quantity ordered. In that case, the pharmacist must consult with the prescriber to determine an agreed-upon quantity. The pharmacist would have to record the quantity dispensed on the prescription and maintain that documentation with the prescription as required under Section 17752.

Prescriptions

Instead of referring to a prescription "written and signed; or transmitted by facsimile; electronic transmission, or other means of communication," the bill would refer to one "written and signed; written or created in an electronic format, signed, and transmitted by facsimile; or transmitted electronically or by other means of communication." A provision that requires a prescription order transmitted in other than written form to be electronically recorded, printed, or written and immediately dated by the pharmacist would apply to an order in other than written or hard-copy form.

ARGUMENTS:

For:

Stakeholders in the health care and health insurance industries are working hard to identify factors responsible for patients being readmitted to hospitals within days of discharge. As discussed earlier in the analysis, the Beaumont Health System identified

one such factor - the failure to obtain prescription medications in a timely manner for patients discharged from the hospital directly to a nursing home or other long-term care facility. According to testimony presented before the House Health Policy Committee, patients are waiting up to 24 hours, sometimes even longer. Such long waits result in missed doses. Considering that these are often frail patients with multiple health issues who take several different medications, some of which may be maintenance drugs such as blood pressure or heart medication, a missed dose of any one medicine can easily cause a health crisis necessitating readmittance to a hospital for stabilization.

A contributing factor is that nursing homes and long-term care facilities often do not have pharmacies on the premises. Even if a hospital discharge order contained an order or prescription for one or more medications, testimony from the Beaumont representatives revealed that the pharmacy serving the nursing home or long-term care facility could not under current law accept the discharge prescriptions written in the patient's hospital chart. Delays in getting needed medications result because the prescription must be faxed to the nursing home, inputted into the nursing's homes computer system, signed by the nursing home doctor, and then faxed to the pharmacy. Even then, the medication is not delivered until the pharmacy's next scheduled delivery time, which may be the next day.

The bill would address the problem by authorizing a pharmacy to fill a prescription contained in a patient's hospital chart. A hospital could fax or electronically transmit the prescription order directly to the pharmacy serving the facility to which the patient is about to be discharged, thus speeding up the process. By providing better continuity of care regarding medication dosing, fewer patients should need to return to the hospital. Fewer readmissions mean better outcomes for the patients and lowered health care costs.

POSITIONS:

Representatives of Beaumont Health System testified in support of the bill. (11-3-11)

A representative of the Michigan Pharmacists Association testified in support of the bill. (11-3-11)

The Michigan State Medical Society (MSMS) indicated support for the bill. (11-3-11)

The Michigan Pharmacists Association indicated support for the bill. (11-3-11)

The HealthCare Association of Michigan indicated support for the bill. (11-3-11)

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