



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



BILL ANALYSIS

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

Senate Bills 155 and 156 (as enacted)  
Sponsor: Senator Kevin Daley  
Senate Committee: Health Policy and Human Services  
House Committee: Health Policy

**PUBLIC ACTS 36 & 37 of 2021**

Date Completed: 1-5-23

**CONTENT**

**Senate Bill 155 added Section 17744f to Part 177 (Pharmacy Practice and Drug Control) of the Public Health Code to do all of the following:**

- Allow a pharmacist to dispense an emergency supply of insulin to an individual under certain circumstances.
- Require a pharmacist who dispenses an emergency supply of insulin to comply with certain requirements.
- Prohibit an individual from receiving more than three emergency supplies of insulin in one calendar year.
- Specify that a prescriber or pharmacist is not subject to criminal prosecution, civil liability, or administrative sanction as a result of the pharmacist dispensing an emergency supply of insulin.
- Require the Board of Pharmacy to promulgate rules to implement Section 17744f.

The bill also amended Part 177 to do the following:

- Include in the definition of "prescription drug" a drug dispensed pursuant to Section 17744f.
- Modify a provision requiring a pharmacist to furnish to the purchaser of a prescription drug a receipt evidencing the transaction.

**Senate Bill 156 added Section 3406v to the Insurance Code to require an insurer that delivers, issues for delivery, or renews in the State a health insurance policy that provides coverage for prescription drugs to provide coverage for an emergency supply of insulin that is covered under an insured's health insurance policy and that is dispensed to the insured by a pharmacist as provided in Section 17744f.**

The bills took effect July 1, 2021.

**Senate Bill 155**

**Emergency Supply of Insulin**

The bill added Section 17744f to the Public Health Code to allow a pharmacist to dispense an emergency supply of insulin to an individual if he or she had a qualified prescription for insulin in his or her name with no remaining authorized refills, the individual has previously had a prescription for insulin dispensed at the pharmacy, and, in the pharmacist's professional

judgment, a failure to dispense the emergency supply of insulin might interrupt the individual's ongoing care and have a significant adverse effect on his or her well-being. "Emergency supply" means up to a 30-day supply. "Qualified prescription for insulin" means a prescription for insulin that was issued within the 12-month period immediately preceding the date the individual requests an emergency supply of insulin under Section 17744f.

The Code defines "dispense" as the preparation, compounding, packaging, or labeling of a drug pursuant to a prescription or other authorization issued by a prescriber. Under the bill, the term also means the preparation, compounding, packaging, or labeling of a drug pursuant to Section 17744f.

A pharmacist who dispenses an emergency supply of insulin must comply with all of the following:

- Before dispensing the emergency supply, make a reasonable effort to communicate with the prescriber who issued the qualified prescription for insulin regarding dispensing the emergency supply of insulin and document the efforts made.
- Within five business days after dispensing the emergency supply of insulin, inform the prescriber who issued the qualified prescription for insulin, in writing, that an emergency supply of insulin was dispensed.
- Inform the individual receiving the emergency supply of insulin that the insulin was dispensed.

A pharmacist who dispenses an emergency supply of insulin also must document all of the following:

- The name of the individual receiving the emergency supply of insulin and the date of the dispensing.
- The reason for dispensing the emergency supply of insulin.
- Evidence of the individual's qualified prescription for insulin.
- Information on the individual's diabetes management.
- Any other information required by the Board of Pharmacy by rule.

An individual may not receive more than three emergency supplies of insulin in one calendar year. After an emergency supply of insulin is dispensed to an individual, a pharmacist may not dispense a subsequent emergency supply within the same calendar year to the individual unless the individual has since obtained a new qualified prescription for insulin with no remaining authorized refills.

A prescriber or pharmacist is subject to criminal prosecution, civil liability, or administrative sanction as a result of the pharmacist dispensing an emergency supply of insulin.

The Board must promulgate rules to implement Section 17744f.

### Prescription Drug

Part 177 defines "prescription drug" as a drug to which one or more of the following apply:

- The drug is dispensed pursuant to a prescription.
- The drug bears the federal legend "CAUTION: Federal law prohibits dispensing without prescription" or "Rx only".
- The drug is designated by the Board as a drug that may only be dispensed pursuant to a prescription.

Under the bill, for purposes of Part 177, "prescription drug" also includes a drug dispensed pursuant to Section 17744f.

#### Receipt for Prescription Drug

Section 17757 of the Code requires a pharmacist to furnish to the purchaser of a prescription drug at the time the drug is delivered to the purchaser a receipt evidencing the transaction that includes certain information, including the serial number of the prescription or a reference to the standing order issued under Section 17744e. Under the bill, the receipt also must include a reference to Section 17744f if the prescription drug is dispensed under that section.

Section 17757 also requires the receipt evidencing the transaction to include the name of the prescriber or, if prescribed under the prescriber's delegatory authority, the name of the delegatee. Under the bill, if the prescription drug is dispensed under Section 17744f, the receipt also must include the name of the original prescriber and the pharmacist who dispensed the prescription drug.

### **Senate Bill 156**

The bill created Section 3406v to the Insurance Code to specify that, beginning on the bill's effective date, an insurer that delivers, issues for delivery, or renews in the State a health insurance policy that provides coverage for prescription drugs must provide coverage for an emergency supply of insulin that is covered under an insured's health insurance policy and that is dispensed to the insured by a pharmacist as provided in Section 17744f of the Public Health Code, which Senate Bill 155 added.

MCL 333.17703 et al. (S.B. 155)  
500.3406v (S.B. 156)

#### **BACKGROUND**

Insulin is a naturally occurring hormone produced by the pancreas that helps regulate blood sugar levels and store excess glucose for energy.

Type 1 diabetes is caused by an autoimmune reaction where the body produces little or no insulin because the immune system attacks cells in the pancreas that produce insulin. Type 1 diabetes generally is diagnosed when an individual is a child, teenager, or young adult, and that individual must take insulin every day. Type 2 diabetes occurs when the body does not produce enough insulin and/or does not respond normally to insulin.

According to the Centers for Disease Control and Prevention, more than 37 million Americans have diabetes (roughly one in 10). Approximately 90-95% of those with diabetes have type 2 diabetes while 5-10% have type 1 diabetes.

Legislative Analyst: Stephen P. Jackson

#### **FISCAL IMPACT**

### **Senate Bill 155**

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

## **Senate Bill 156**

The bill likely will have only a marginal impact on the cost of health insurance. Research in other states (particularly Minnesota) indicate a cost for insulin somewhat less than \$1,000 per month. However, Senate Bill 156 will cover a limited situation in which a patient is seeking an emergency supply of insulin, described in Senate Bill 155, as up to a 30-day supply that will be available to the patient for up to three times per year.

The question is who will use these emergency supplies. The bill likely will apply mostly to patients whose prescription for insulin have expired and who have not sought or received a prescription renewal. These are individuals who are clearly insulin-dependent, so the legislation appears to address what otherwise would be brief gaps in access for people who generally are fully covered for insulin. As such, the bill likely will provide more immediate access to insulin in those situations, avoiding or reducing relatively brief gaps in coverage. This arguably will lead to a marginal increase in costs for insurers because of more consistent coverage. On the other hand, gaps in insulin for those who are dependent on it can lead to adverse medical outcomes that will increase costs. In either case, both the increased and decreased costs appear to be marginal and the bill as a whole, while leading to fewer gaps in insulin availability, will have only a marginal impact on the cost of insurance and the cost of health care coverage for State and local employees.

Fiscal Analyst: Ellyn Ackerman  
Jonah Houtz

SAS\S2122\s155es

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.