



**House
Legislative
Analysis
Section**

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PHARMACY LICENSURE

**Senate Bill 334 with House committee amendments
First Analysis (12-8-87)**

RECEIVED

**Sponsor: Sen. Vern Ehlers
Senate Committee: Health Policy
House Committee: Public Health**

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THE APPARENT PROBLEM:

The Board of Pharmacy, which licenses manufacturers, wholesalers, and retailers (pharmacies) of prescription drugs, can act against a licensee for violations of the Public Health Code. While the code requires pharmacy licenses to contain the name of the licensee and address of the practice, there is no requirement that the owners of a pharmacy, pharmaceutical manufacturer, or pharmaceutical wholesaler be identified, whether they are individuals, partnerships, or corporations. Pharmacies must be at least 25 percent owned by a pharmacist, for example, but the pharmacy board may have difficulty identifying the remainder of the ownership. Since it is vitally important to the public interest that the ownership of purveyors of controlled substances be known, the code ought to require the information to be reported by applicants for licensure, and the board ought to be able to take action against a licensee for certain kinds of illegal or unethical conduct by its owners.

THE CONTENT OF THE BILL:

The bill would amend the Public Health Code to allow the Board of Pharmacy to require an applicant for a pharmacy, manufacturer's, or wholesale distributor's license to disclose fully the identity of each partner, stockholder, officer, or member of the board of directors. This would apply to applicants who were individuals, partners, and privately held corporations.

Further, the bill would allow the pharmacy board to deny, limit, suspend, or revoke a license and to fine, reprimand, or place on probation a person licensed under the act if any of the following were true of an applicant, partner, officer, board member, or stockholder:

- Lack of good moral character.
- Convicted of a misdemeanor or felony under state or federal laws regarding controlled substances or the practice of pharmacy other than (1) a misdemeanor involving the use of marijuana or (2) a misdemeanor based upon an unintentional error or omission involving a clerical or record-keeping function.
- Provided false or fraudulent information or knowingly omitted information on an application.
- Maintained a financial interest in a pharmacy, manufacturer, or wholesaler that had been denied a license or federal registration, or that had had its license or registration limited, suspended, or revoked, or had been subject to some other criminal, civil, or administrative penalty.
- Lack of compliance with the Controlled Substances Act (article seven) or rules promulgated under that act.

MCL 333.17768

HOUSE COMMITTEE ACTION:

The House Public Health Committee adopted an amendment to specify that licensing actions could not be based on a misdemeanor involving the use of marijuana

or on a misdemeanor related to an unintentional error or omission involving a clerical or record-keeping function.

FISCAL IMPLICATIONS:

According to the Senate Fiscal Agency, the bill would have no fiscal impact on state or local government. (10-13-87)

ARGUMENTS:

For:

The state has a vital interest in knowing the character, background, and record of any person, partnership, or business entity that is allowed to purvey controlled substances. The bill would allow the board of pharmacy to obtain the ownership information it needs to protect the public. It would also allow licensees to be penalized for certain offenses committed by those with an ownership interest in the licensed entity.

Against:

There are concerns about action being taken against licensees based on civil or administrative penalties by a state or federal agency. These penalties can be assessed for bookkeeping transgressions spotted by overzealous federal agents from the Drug Enforcement Administration. Some questions have also been raised about the expression "good moral character."

Response: The pharmacy board does not have to act based on the categories of transgressions listed in the bill, but may act if it considers action warranted. The bill relies upon the judgment of the board, as does the licensing system itself.

POSITIONS:

A representative of the Department of Licensing and Regulation testified in support of the bill. (12-3-87)

A representative of the Pharmaceutical Manufacturers Association testified in support of the bill. (12-3-87)

A representative of the Michigan Pharmacists Association testified in support of the bill. (12-3-87)

S.B. 334 (12-8-87)