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BILL ANALYSIS

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**Senate Bill 334 (as enrolled) (Public Act 250 of 1987)****Sponsor: Senator Vern Ehlers****Senate Committee: Health Policy****House Committee: Public Health****Date Completed: 3-15-88****RATIONALE**

Under Part 177 of the Public Health Code, the Board of Pharmacy in the Department of Licensing and Regulation is charged with regulating and licensing pharmacies and pharmacists. Currently, the Board can fire, reprimand, or place on probation a person licensed under Part 177, or deny, limit, suspend, or revoke a person's license for a violation of Part 177. While Part 177 requires that a pharmacy license contain the name of the licensee and the address of the practice, there is no identification requirement for an owner of a pharmacy, a pharmaceutical manufacturer, or a pharmaceutical wholesale distributor, whether the owner is one person, a partnership, or a privately held corporation. Public Act 359 of 1927 requires that at least 25% of the ownership interest in a pharmacy be held by a pharmacist. Though the Board can readily identify such persons, theoretically, in any given pharmacy the Board may be unable to identify up to 75% of the ownership interest. It has been suggested that this situation is not in the public's interest since, again theoretically, a person who was dealing in illegal drug trafficking could be part owner of a pharmacy. Some people feel that the Board of Pharmacy should be allowed to identify all owners or part owners of pharmacies, and be able to impose sanctions on a pharmacy license if it found that an owner violated certain standards of conduct, as evidenced by, for example, conviction of a controlled substances law.

**CONTENT**

The bill would amend the Public Health Code to allow the Board of Pharmacy to require that an applicant for, or holder of, a pharmacy, pharmaceutical manufacturer's, or pharmaceutical wholesale distributor's license fully disclose the identity of each partner, stockholder, officer, or member of the board of directors. The bill would allow the Board to act against any of the following persons licensed under Part 177 of the Code (which governs pharmacy practice and drug control): an applicant, or a partner, officer, or member of the board of directors of a pharmacy, manufacturer, or wholesale distributor; or a stockholder of a pharmacy, manufacturer, or wholesale distributor that is a privately held corporation. The Board could fine, reprimand or place on probation a licensee, or deny, limit, suspend, or revoke a license, for any of the following reasons applied to any of the persons mentioned:

- Lack of good moral character.
- Conviction of the person of a misdemeanor or felony under State or Federal law relating to a controlled substance or the practice of pharmacy, other than a misdemeanor involving the use of marijuana, or a misdemeanor based upon an unintentional error or omission involving a clerical or record keeping function.
- Provision by the person of false or fraudulent

information, or knowing omission of information on an application.

- Maintenance by the person of a financial interest in a pharmacy, manufacturer, or wholesale distributor that had been denied a license or Federal registration, had its license or registration limited or revoked, or had been subjected to any other criminal, civil, or administrative penalty.
- Noncompliance by the person with Article 7 of the Code (which defines controlled substances and governs their manufacture, distribution, and dispensing), or the rules promulgated under Article 7.

MCL 333.17768 et al.

**FISCAL IMPACT**

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

**ARGUMENTS****Supporting Argument**

Pharmacists must be licensed, and in each pharmacy pharmacists must have an ownership interest of at least 25%. Though the Board of Pharmacy currently is allowed to place sanctions on pharmacy licenses for violations of the Public Health Code, it lacks the statutory authority that would enable it to identify all the owners of a pharmacy in those instances in which a pharmacy is not owned entirely by pharmacists—in some cases up to 75% of the ownership could remain unidentified. The State has a vital interest in knowing the character, background, and record of any business, person, or group of persons that is allowed to distribute and dispense drugs legally. The bill would insure that the State could identify and place sanctions on the owners of pharmacies, manufacturers, and distributors if those persons violated provisions in the Code.

**Opposing Argument**

There are concerns about action being taken against licensees based on civil or administrative penalties by a State or Federal agency. These penalties could 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 would not be required to act based on the categories of transgressions listed in the bill, but would be allowed to act if it considered action warranted. The bill would rely upon the judgment of the Board, as does the licensing system itself.

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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.