



**Senate Fiscal Agency**  
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**BILL ANALYSIS**



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Senate Bill 432 (as passed by the Senate)  
 Sponsor: Senator Dale L. Shugars  
 Committee: Health Policy and Senior Citizens

Date Completed: 10-24-95

**RATIONALE**

The Public Health Code provides for the regulation and supervision of physician's assistants, and permits a supervising physician to delegate to a physician's assistant the function of prescribing drugs. It has been pointed out that this authority does not encompass the receipt and dispensing of complimentary starter dose drugs--that is, drug samples supplied free of charge by pharmaceutical manufacturers and distributors. Evidently, physician's assistants could dispense drug samples until the Federal Prescription Drug Marketing Act amended the Federal Food, Drug, and Cosmetic Act in 1988. The 1988 amendments limited the distribution of drug samples to licensed practitioners. According to interpretations of those amendments by Federal officials and the Attorney General's office, "licensed practitioner" does not include physician's assistants in Michigan, because their authority to prescribe drugs in this State is derived from the delegated authority of a supervising physician. Since physician's assistants are being used with increasing frequency in health facilities--particularly in rural areas and low income clinics where a physician might not always be present--it has been suggested that physicians be permitted to delegate to physician's assistants the function of dispensing drug samples.

This issue also concerns the ability of nurses to prescribe drugs. Under general provisions of the Public Health Code, a licensed health professional may delegate functions that fall within the licensee's profession and will be performed under his or her supervision. Also, under the Code's provisions on pharmacy and drug control, the term "prescriber" is defined to include a licensed health professional acting under the delegation of a physician. As a result, these provisions enable physicians to delegate to nurses the authority to prescribe drugs. In addition, a 1980 Opinion of the Attorney General (No. 5630) held that a physician

may delegate the authority to prescribe drugs to a licensed professional nurse (as well as to a physician's assistant). Some people believe that the Code should include specific language allowing nurses to prescribe drug samples as a delegated act.

**CONTENT**

The bill would amend the Public Health Code to allow a physician who supervised a physician's assistant or a registered professional nurse (RPN) to delegate, in writing, the ordering, receipt, and dispensing of complimentary starter dose drugs, other than controlled substances; and specify that a physician's assistant could order, receive, and dispense complimentary starter dose drugs (other than controlled substances) as a delegated act of a supervising physician.

Under the bill, when the delegated ordering, receipt, or dispensing of a complimentary starter dose drug occurred, both the name of the physician's assistant or the nurse and the name of the supervising physician would have to be used, recorded, or otherwise indicated in connection with each order, receipt, or dispensing.

Further, when a physician's assistant as a delegated act of a supervising physician ordered, received, or dispensed complimentary starter dose drugs, the supervising physician's name would have to be used, recorded or otherwise indicated in connection with each order, receipt, or dispensing so that the individual who processed the order or delivered the drugs, or to whom the drugs were dispensed knew under whose authority the drugs were ordered, received, or dispensed. Under the Code, a "complimentary starter dose" is a prescription drug packaged, dispensed, and distributed in accordance with State and Federal law, that is provided to a dispensing prescriber free

of charge by a manufacturer or distributor, and dispensed free of charge to patients.

MCL 333.17048 et al.

## **ARGUMENTS**

*(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)*

### **Supporting Argument**

Over the years, the use of physician's assistants has changed, and the demand for them has increased. In particular, rural and urban areas that lack primary health care may be well served by physician's assistants. While these health professionals must be supervised by a physician, the physician might not always be on site; for example, he or she might be making rounds, or the physician's assistant might be working in a satellite clinic. In many cases, a patient's principal health care professional will be a physician's assistant. In addition, it is a physician's assistant who often deals with drug representatives. Under current law, however, physician's assistants evidently cannot dispense or even receive drug samples, although they may prescribe drugs under the delegation of a supervising physician. Many people consider this an oversight in the Public Health Code. Frequently, patients are given drug samples because they cannot afford a prescription, or because it is not known whether a particular drug will work for a patient. Allowing physician's assistants to dispense drug samples not only would be convenient and efficient, but also would improve the delivery of health care to consumers and reduce health care costs.

### **Supporting Argument**

Like physician's assistants, nurses are often the main practitioners in rural and low income areas. Although nurses currently may prescribe drugs under a delegation of authority, the Public Health Code does not contain language specific to nurses, as it does concerning physician's assistants. The bill would make it clear that nurses could receive and dispense drug samples if a supervising physician delegated this authority.

### **Opposing Argument**

There is some concern that physicians would not, or would not be able to, monitor their delegated duty appropriately. This could be true particularly in situations in which physicians were separated by many miles from the physician's assistant or nurse to whom the dispensing authority was delegated.

**Response:** Physicians already may delegate the function of prescribing drugs. The bill simply would include starter dose drugs in that authority.

### **Opposing Argument**

Pharmacists, who may be more accessible to ill individuals than are health care providers, also should be allowed to receive and dispense starter dose drugs.

**Response:** Physician's assistants and nurses, unlike pharmacists, are usually in the presence of a patient and have the opportunity to perform a physical examination and take the patient's medical history; they also have access to the patient's medical records. Pharmacists do not have the professional training to diagnose and treat patients. Suggesting that pharmacists be given delegated authority to dispense any drugs, including starter dose drugs, raises serious public policy and patient safety concerns.

Legislative Analyst: S. Margules

## **FISCAL IMPACT**

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

Fiscal Analyst: J. Walker

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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.