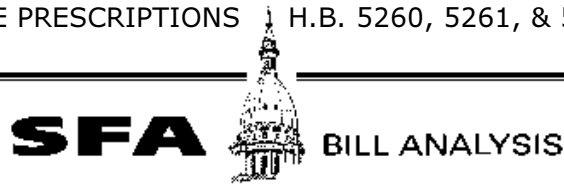


Senate Fiscal Agency  
P. O. Box 30036  
Lansing, Michigan 48909-7536



Telephone: (517) 373-5383  
Fax: (517) 373-1986  
TDD: (517) 373-0543

House Bill 5260 (Substitute S-2 as reported)  
House Bill 5261 (Substitute S-1 as reported)  
House Bill 5262 (Substitute S-1 as reported)  
Sponsor: Representative Thomas M. George (H.B. 5260)  
Representative Paul N. DeWeese (H.B. 5261)  
Representative Stephan Ehardt (H.B. 5262)  
House Committee: Health Policy  
Senate Committee: Health Policy

## **CONTENT**

The bills would amend the Public Health Code to do the following:

- Require the Department of Consumer and Industry Services (DCIS) to establish an electronic system for monitoring dispensed controlled substances.
- Require certain prescribers and pharmacists to use the electronic system.
- Eliminate current provisions that require official prescription forms for Schedule 2 prescriptions.
- Require a prescription form to include additional information.
- Abolish the Official Prescription Form Program Fund and transfer its balance to a proposed "Pain Management Education and Controlled Substances Electronic Monitoring and Antidiversion Fund".
- Allow prescriptions to be transmitted electronically, if not prohibited by Federal law.

The bills are tie-barred to each other. House Bills 5260 (S-2) and 5262 (S-1) also are tie-barred to Senate Bill 827, which would delete criminal penalties for the unlawful manufacture, delivery, or possession of an official prescription form.

House Bill 5260 (S-2) would require the DCIS to establish, by rule, an electronic system for monitoring Schedule 2, 3, 4, and 5 controlled substances dispensed in Michigan by veterinarians, and by licensed pharmacists and dispensing prescribers; or dispensed to a Michigan address by a pharmacy licensed in the State. The rules would have to provide an appropriate electronic format for the reporting of patient and prescription data, and could not require dispensing prescribers to incur any additional costs for the transmission of data to the Department.

The bill would limit those who could receive prescription data from the DCIS. A person who received data containing any patient identifiers of the system from the DCIS could not provide it to any other person or entity, except by court order. Data containing any patient identifiers would not be subject to the Freedom of Information Act.

Under the Code, the Controlled Substances Advisory Commission is required to monitor consumption of controlled substances in Michigan, and issue an annual report to the Governor, Legislature, and Board of Pharmacy on the status of the abuse and diversion of controlled substances. The bill would require the Commission to include in its annual report information on the implementation and effectiveness of the electronic monitoring system.

In consultation with the Commission, the Michigan Board of Pharmacy, the Michigan Board of Medicine, the Michigan Board of Osteopathic Medicine and Surgery, and appropriate medical professional associations, the DCIS would have to examine the need for the production of a

prescription form on paper that minimized the potential for forgery. The DCIS would have to report its findings on the need for a prescription form to the Legislature by October 1, 2002, and before the electronic monitoring system became operational.

Section 7334 of the Code requires official prescription forms to be used for prescriptions for Schedule 2 controlled substances; requires the DCIS to issue the forms to practitioners; prescribes certain requirements for the content of the forms; and requires prescribers to follow specified procedures when using the forms. The bill would repeal Section 7334. The bill also would repeal Section 17766b, which requires a prescription for an androgenic anabolic steroid to be recorded on an official prescription form in the manner that is required for Schedule 2 prescriptions.

House Bill 5261 (S-1) would abolish the Official Prescription Form Program Fund and create a "Pain Management Education and Controlled Substances Electronic Monitoring and Antidiversion Fund" in the State Treasury. Currently, the Program Fund receives \$20 from each \$75 annual licensing fee paid to the DCIS for persons licensed to manufacture, distribute, prescribe, dispense, or conduct research with controlled substances. Under the bill, the \$20 fee would have to be deposited in the proposed Pain Management Fund. The DCIS could use that Fund only in connection with programs relating to pain management education for health professionals, preventing the diversion of controlled substances, and developing and maintaining the electronic monitoring system.

House Bill 5262 (S-1) would delete from the Code the definition of "official prescription form", and revise the definition of "prescription form". The bill specifies that a printed prescription form would have to include the name, address, and telephone number or pager number of the prescribing practitioner; the patient's name and address; the prescribing practitioner's signature and Drug Enforcement Administration registration number; the quantity of the prescription drug prescribed, in both written and numerical terms; and the date the prescription drug was prescribed. The bill provides that "sign" would mean to affix one's signature manually to a document or to use an electronic signature.

MCL 333.7333 et al. (H.B. 5260)  
333.16315 (H.B. 5261)  
333.7104 et al. (H.B. 5262)

Legislative Analyst: C. Layman

### **FISCAL IMPACT**

House Bills 5260 (S-2) and 5261 (S-1) would require the DCIS to create or to contract out for the creation of an electronic database to monitor prescriptions of Schedule 2, 3, 4, and 5 controlled substances. According to the Department, the creation of this system would cost approximately \$1.3 million, which would be covered by the balance being transferred from the Official Prescription Form Program Fund. The operation of the system is estimated to cost \$1 million annually, which would be covered by the annual revenue currently being collected from the \$20 license fee. Therefore, there would be no real fiscal impact on the Department.

House Bill 5262 (S-1) would have no fiscal impact on State or local government.

Date Completed: 12-10-01

Fiscal Analyst: M. Tyszkiewicz

Floor\hb5260

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.