

Legislative Analysis



SCHEDULE 2 DRUG PRESCRIPTION REVISIONS

Mitchell Bean, Director
Phone: (517) 373-8080
<http://www.house.mi.gov/hfa>

Senate Bill 689 as passed by the Senate

Sponsor: Sen. Tom George

House Committee: Health Policy

Senate Committee: Health Policy

First Analysis (10-20-09)

BRIEF SUMMARY: The bill would allow a practitioner licensed to prescribe controlled substances to issue more than one prescription for a Schedule 2 controlled substance on a single prescription form. The bill would also allow a prescription for a Schedule 2 controlled substance to be filled up to 90 days from the date the prescription was issued.

FISCAL IMPACT: There are no fiscal implications for the Department of Community Health.

THE APPARENT PROBLEM:

In an attempt to discourage the illegal diversion of Schedule 2 controlled substances, the Public Health Code was amended by Public Act 231 of 2001 to, among other things, require a separate prescription form for each Schedule 2 drug prescribed. Advances in technology have rendered this restriction unnecessary, as pharmacists can quickly utilize the Internet to verify a physician's credentials with the federal Drug Enforcement Agency.

Besides being unnecessary, the restriction has become an inconvenience for doctors, patients, and pharmacists. For instance, it is a common practice for a physician treating patients with chronic pain to prescribe both a short-acting and a long-acting version of the same drug. Treatment of other conditions, such as attention deficit disorder, may require taking a drug at one dose in the morning but a different dose in the evening. Under the current restriction, these must be ordered on two separate prescription forms.

However, many physicians forget that a prescription for a Schedule 2 drug, unlike other prescription drugs, must be on a form by itself. When the patient presents the prescription form to the pharmacist, the pharmacist cannot fill the prescription as he or she is specifically prohibited from doing so. Complicating matters further is that a prescription for a Schedule 2 drug can only be transmitted in writing, with the physician's signature applied manually. Schedule 2 prescriptions cannot be transmitted by phone, fax, or electronic means. Thus, a pharmacist must send a patient back to the physician's office to have the prescriptions placed on separate forms. This can be a hardship for a patient in need of a prescription who lives in a rural area, who is on vacation and away from home, or whose physician is at an out-of-state clinic or hospital where "going back to the doctor's office" to get the prescriptions separated is not an easy option due to the distances involved.

Another issue with Schedule 2 drugs is that though a prescription can be written for multiple months, it cannot be refilled. In addition, the prescription must be presented by the patient to the pharmacist within 60 days as a pharmacist is prohibited under current law from filling a prescription older than that. Again, for those who travel a lot, retired individuals who have a vacation home and are away from their doctors, who seek treatment at out-of-state clinics twice a year, or even those who cannot afford the out-of-pocket expense of a 90-day fill, this restriction presents a separate hardship by requiring many more trips back to the doctor to obtain a fresh prescription.

Legislation has been offered to address these concerns.

THE CONTENT OF THE BILL:

Currently, if a patient needs more than one medication listed as a Schedule 2 controlled substance, or needs different dosage amounts of a single Schedule 2 drug, the doctor must write out a separate prescription form for each drug or for each different amount of the same drug. In addition, the patient must fill the prescription within 60 days or a pharmacist is prohibited from filling it.

Senate Bill 689 would amend the Public Health Code (MCL 333.7333) to instead allow a licensed practitioner to issue more than one prescription for a Schedule 2 controlled substance on a single prescription form. The bill would also extend the time period in which a pharmacist could fill a prescription for Schedule 2 drugs from 60 days to 90 days.

(Following federal law, the Public Health Code classifies controlled substances under one of five "schedules." Drugs included on Schedule 2 include opium and its derivatives, (e.g., codeine, morphine, and oxycodone, which is the active ingredient of Oxycontin), opium poppy and straw, other opiates (e.g., fentanyl, methadone, and pethidine), coca leaves and derivatives, such as cocaine, and methylphenidate -- the active ingredient of Ritalin. Schedule 2 also includes substances containing any quantity of such drugs as amphetamine and methamphetamine (also known as "speed"), methaqualone (known by its trade name Quaalude), and barbiturates, such as amobarbital, pentobarbital, and secobarbital (a.k.a. "downers").

HOUSE COMMITTEE ACTION:

The House committee reported out the Senate-passed version of the bill without amendment.

ARGUMENTS:

For:

The controls on Schedule 2 drugs such as requiring each prescription to be on a separate prescription form are not as necessary today as they were even a few years ago.

Pharmacists can easily use advances in technology to validate a prescription. However, the current restrictions place an unnecessary burden on patients and pharmacists.

The bill would address the concerns by allowing a pharmacist to fill a single prescription listing multiple Schedule 2 drugs under scenarios such as the following:

- A physician wrote, on the same form, a prescription for more than one Schedule 2 drug.
- A prescription form contained a prescription for a short-lasting and a long-lasting version of the same Schedule 2 drug.
- A prescription form contained a prescription for the same Schedule 2 drug, but in different dosage amounts (e.g., one dose in the morning but a different dose in the evening).
- A prescription form contained more than one prescription for the same Schedule 2 drug but had different "to-be-filled-by" dates. For instance, some patients may not be able to afford the out-of-pocket cost of filling a 90-day prescription. However, unlike some prescription drugs, a prescription for a Schedule 2 drug cannot be refilled. A physician must therefore write for multiple fills on separate forms. The bill would thus allow a physician to write, and a pharmacist to fill, a prescription for a single drug with multiple fills on a single form.

Further, the bill would expand the time period in which a pharmacist could fill a prescription from 60 days to 90 days. This change would benefit patients with chronic conditions, or those who travel to out-of-state clinics for treatment, who would have an extra month in which to have a prescription filled before it expired and who could therefore receive prescriptions that would last for a six-month period. For example, the patient could receive a single prescription form with two prescriptions for the same drug written for a 90-day fill but with two different "to-be-filled-by" dates; or, the patient could receive two prescription forms, each written for the same drug with a 90-day fill; one could be filled immediately and the other could be filled shortly before the first one ran out.

POSITIONS:

The Department of Community Health indicated support for the bill. (10-20-09)

A representative of the Michigan Pharmacists Association testified in support of the bill. (10-20-09)

Legislative Analyst: Susan Stutzky
Fiscal Analyst: Susan Frey

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.