

EXPEDITED PARTNER THERAPY

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House Bill 4736 (Substitute H-2)

Sponsor: Rep. George Darany

Committee: Health Policy

Complete to 6-18-13

A REVISED SUMMARY OF HOUSE BILL 4736 AS REPORTED BY COMMITTEE

BRIEF SUMMARY:

Briefly, the bill would do the following:

- Authorize expedited partner therapy (EPT) to protect individuals from the spread of sexually transmitted infections.
- Require the Department of Community Health (DCH) to include a separate list of sexually transmitted infections appropriate for EPT in its list of reportable diseases and infections.
- Require the DCH to develop an information sheet for distribution to patients.
- Allow health professionals to provide EPT if certain conditions were met, including prescribing or dispensing medication to the patient's partner without an examination.
- Grant immunity to health professionals providing EPT from civil and administrative actions, except for gross negligence.
- Amend numerous statutory provisions to create a statutory framework for providing EPT.
- Define terms, including "expedited partner therapy" and "health professional."

FISCAL IMPACT:

House Bill 4736 is estimated by DCH to have modest cost implications to the Department of less than \$5,000 for information materials and optional promulgation of rules. Existing federal grant funding can be used for these costs. The bill will aid in containing costs of state and local public health sexually transmitted disease control programs and costs for health care for government employees, by reducing the rates of reinfection and new infections of STDs, resulting in fewer expenditures on STD casefinding, treatment, and complications of untreated sexually transmitted disease.

The current fiscal year DCH budget includes funding of \$7.2 million Gross (\$793,100 GF/GP) for the sexually transmitted disease control program and administration, and also includes about \$5.0 million GF/GP for local STD control programs under the essential local public health services appropriation.

BACKGROUND INFORMATION:

"Expedited partner therapy (EPT) is the clinical practice of treating the sex partners of patients diagnosed with a sexually transmitted disease without clinical assessment of the partners. This is typically accomplished by clinicians providing prescriptions or medications to the patient to give to his/her sex partner." (*Legal/Policy Toolkit for Adoption and Implementation of Expedited Partner Therapy*, prepared by the Arizona State University, Sandra Day O'Connor College of Law in Collaboration with the Centers for Disease Control and Prevention, or CDC, January 31, 2011.)

According to the *Toolkit*, the CDC began to recommend EPT beginning in August 2006, as an evidence-based option in its treatment guidelines to manage sexually-transmitted diseases such as chlamydia and gonorrhea. By treating the sexual partners of an infected patient, reinfection and further transmission can be averted. Since 2006, a number of national organizations have gone on record as supporting EPT, including the American Bar Association, the American Medical Association, the Society for Adolescent Health and Medicine, the American Academy of Pediatrics, and the American Congress of Obstetricians and Gynecologists.

However, questions remained as to whether a legal framework was needed in order to implement EPT nationally. For example, under Michigan law, a physician or other authorized prescriber may only write a prescription or dispense medication for his or her own patient. The *Toolkit* was intended to be a resource for state and local government officials, as well as healthcare providers and others, in facilitating the legal framework needed to implement EPT in clinical practice. Currently, according to the CDC, EPT is permissible in 33 states, potentially allowable in 11 others, and prohibited in only six states—Michigan, Florida, Oklahoma, Ohio, Kentucky, and West Virginia.

DETAILED SUMMARY:

House Bill 4736 would amend the Public Health Code to add new language and revise numerous existing provisions to implement expedited partner therapy (EPT) in Michigan. The bill specifies that it would authorize EPT to protect and promote the public health of individuals in Michigan, and to protect individuals from the spread of sexually transmitted infections, which can cause infertility and ectopic pregnancies.

Department responsibilities

Permissive: The Department of Community Health (DCH) could promulgate rules determined necessary to implement and administer Section 5110, which would be added to the health code.

Required: The DCH would have to include in the list of Reportable Diseases, Infections, and Disabilities a separate list of sexually transmitted infections for which EPT is appropriate. The DCH would have to consult with the CDC and state health professionals in developing the list.

The DCH would also be required to develop and distribute to local health departments and health professionals (upon request) an information sheet that included such things as a description of EPT and its purpose; information about antibiotics that may be used in

therapy and dosages of those antibiotics dispensed or prescribed; and a warning about the risk of allergies, drug interventions, and dangers of administering certain antibiotics to a pregnant woman.

The information sheet would also have to include a statement that the cost of drugs dispensed under a prescription issued in the name of "expedited partner therapy" would have to be paid for by the individual filling the prescription, if that individual does not have prescription drug coverage under a health benefit plan or third-party reimbursement arrangement. (See the bill for a complete list of the required information.)

The new Section 5110 would not require a health benefit plan or third-party reimbursement arrangement to pay for or provide reimbursement for expedited partner therapy authorized under the section unless the partner who receives the therapy is listed as a member, subscriber, contract holder, or beneficiary under the health benefit plan or third-party reimbursement arrangement.

Health professionals

Permissive: A health professional may provide EPT if the patient has a laboratory-confirmed or suspected clinical diagnosis of a sexually transmitted infection; the patient indicates he or she has engaged in sexual activity with a partner within the preceding 60 days; and the patient indicates the partner is unable or unlikely to seek clinical services in a timely manner.

Required: A health professional who provided EPT would have to do all of the following:

- Dispense or prescribe the therapy in the name of the partner, if known, without conducting a physical examination (or dispense or prescribe the medicine to "expedited partner therapy" if the partner's name is not known).
- Convey to the patient the importance of notifying the partner of the diagnosis and of the importance for the partner to obtain medical care for a complete evaluation, testing for sexually transmitted infections, counseling, and treatment.
- Distribute to the patient the information sheet developed by the DCH.

Immunity

A health professional who provided EPT as authorized under the bill would not be liable for damages in a civil action or subject to administrative action for personal injury, death, or other consequences arising from or related in any way to the provision of EPT. Immunity would not apply if the health professional's actions constituted gross negligence.

Definitions

"Expedited partner therapy" would mean the indirect treatment of a partner of a patient who has been diagnosed as having a sexually transmitted infection through the dispensing or prescribing of antibiotic drug or other treatment that is the standard of care for sexually transmitted infections in accordance with CDC guidelines for the treatment of the partner without the physical examination of the partner by a health professional.

"Health professional" would mean a person licensed or otherwise authorized to engage in a regulated health profession under Article 15 of the health code and whose scope of practice includes the diagnosis and treatment of sexually transmitted infections, and, for the purpose of dispensing therapy under the new Section 5110, a pharmacist licensed or otherwise authorized to engage in the practice of pharmacy.

"Sexual activity" would include sexual contact and penetration as those terms are defined in Section 5129. "Sexually transmitted infection" would mean either (1) until the DCH develops the separate list described above, a sexually transmitted infection for which the CDC recommends the use of EPT; or, (2) on or after the date the list is established, a sexually transmitted infection included on that list.

Miscellaneous provisions

The bill would amend numerous provisions so that existing provisions of the health code would not prohibit or conflict with the provisions of the new Section 5110 authorizing EPT. For example, the code currently requires a dispensing prescriber (e.g., a doctor) to dispense prescription drugs only to his or her own patients. The bill would revise the provision to apply except as authorized for EPT in Section 5110. The bill would also make other revisions of a technical or editorial nature.

MCL 333.17745 et al.

POSITIONS:

A representative of the Department of Community Health testified in support of the bill. (5-21-13)

A representative of the American Congress of Obstetricians and Gynecologists (ACOG) testified in support of the bill. (5-21-13)

A representative of the Michigan State Medical Society (MSMS) and the Michigan Association for Local Public Health (MALPH) testified in support of the bill. (5-21-13)

The Michigan Pharmacists Association indicated support for the bill. (5-21-13)

The Michigan Association of Health Plans indicated support for the bill. (5-21-13)

The HIV/AIDS Resource Center indicated support for the bill. (5-21-13)

The Michigan Council for Maternal and Child Health indicated support for the bill. (5-21-13)

The Michigan Osteopathic Society indicated support for the bill. (5-21-13)

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.