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BILL



ANALYSIS

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House Bill 5326 (Substitute H-3 as passed by the House)
Sponsor: Representative Anthony G. Forlini
House Committee: Health Policy
Senate Committee: Health Policy

Date Completed: 10-13-16

CONTENT

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

- **Include in the definition of "prescription" a standing order for an opioid antagonist issued by the chief medical executive of the State.**
- **Allow the chief medical executive to issue a standing order that did not identify a particular patient for the purpose of dispensing an opioid antagonist.**
- **Allow a pharmacist to dispense an opioid antagonist to any individual pursuant to the standing order.**
- **Provide that the chief medical executive, or a pharmacist who dispensed an opioid antagonist as authorized under the bill, would not be liable in a civil action for a properly stored and dispensed opioid antagonist that was a proximate cause of injury or death to an individual due to either the administration of or the failure to administer an opioid antagonist.**
- **Require the Department of Health and Human Services (DHHS) to promulgate rules to implement these provisions.**
- **Require a reference to the standing order to be included on a receipt furnished to the purchaser of the prescription drug.**

The bill also would delay from December 31, 2016, until December 31, 2025, the sunset date on a provision allowing the DHHS Director to share data from the State's controlled substance electronic monitoring system with a health care payment or benefit provider.

The bill would take effect 90 days after enactment.

Standing Order: Opioid Antagonist

The bill would authorize the chief medical executive of the State to issue a standing order that did not identify a particular patient at the time it was issued for the purpose of a pharmacist dispensing an opioid antagonist to an individual. (The chief medical executive is the Director of the DHHS if he or she is a physician or, if not, the chief medical executive is a physician designated by the Director.)

Notwithstanding any provision of the Code to the contrary, a pharmacist could dispense an opioid antagonist to any individual pursuant to a standing order issued by the chief medical executive under this provision and DHHS rules. The chief medical executive and the pharmacist would not be liable in a civil action for a properly stored and dispensed opioid

antagonist that was a proximate cause of injury or death to an individual due to the administration of or failure to administer the opioid antagonist.

The Code requires a pharmacist to give the purchaser of a prescription drug a receipt showing the transactions. The receipt must contain specified information, including the serial number of the prescription. Under the bill, the receipt would have to contain the serial number or a reference to the chief medical executive's standing order. The receipt also must contain the name of the patient for whom the drug was prescribed, subject to certain exceptions. The bill would create another exception to this requirement in the case of an opioid antagonist dispensed under the standing order.

The bill would include in the definition of "prescription" a standing order for an opioid antagonist issued by the chief medical executive.

(The Code defines "opioid antagonist" as naloxone hydrochloride or any other similarly acting and equally safe drug approved by the U.S. Food and Drug Administration for the treatment of drug overdose.)

Controlled Substances Electronic Monitoring System

The Code requires the DHHS to establish an electronic system for monitoring Schedule 2, 3, 4, and 5 controlled substances dispensed in Michigan. Notwithstanding any practitioner-patient privilege, the DHHS Director may provide data obtained from the system to specified individuals and entities. Until December 31, 2016, the entities to which the Director may provide the data include the health care payment or benefit provider for the purposes of ensuring patient safety and investigating fraud and abuse. The bill would allow this disclosure until December 31, 2025.

MCL 333.7333a et al.

Legislative Analyst: Julie Cassidy

FISCAL IMPACT

The bill would have an indeterminate, but likely minor fiscal impact on the Department of Health and Human Services, and local units of government. Under the bill, the DHHS would be required to promulgate rules regarding the implementation of a standing order for opioid antagonists. The cost to promulgate rules would depend largely on their complexity, and those costs would be borne by existing DHHS resources.

Opioid antagonists are covered under this State's Medicaid program. To the extent that the bill would increase use of these prescription drugs, the State would face increased costs. If increased access to opioid antagonists resulted in a reduction in covered visits to hospitals for treatment of the effects of a drug overdose, the State would see a potential reduction in Medicaid costs that could partially or completely offset the costs related to increased use. The same cost impacts also would be reflected in health care costs for State and local governmental employees.

Fiscal Analyst: Ellyn Ackerman

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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.