

PARENTAL CONSENT FOR CONTROLLED SUBSTANCES

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House Bill 4408 as introduced
Sponsor: Rep. Joseph N. Bellino, Jr.
Committee: Health Policy
Complete to 4-25-17

Analysis available at
<http://www.legislature.mi.gov>

SUMMARY:

House Bill 4408 would add a section to the Public Health Code to require a prescriber¹ to discuss certain issues and obtain a signed parental consent form before issuing the first prescription to a minor in a single course of treatment for a controlled substance containing an opioid. The bill would also amend two existing sections to make failure to comply with these requirements a violation punishable by suspension, revocation, or permanent revocation of the prescriber's license.

Specifically, with some exceptions described later, the bill would require a prescriber to do both of the following:

****Discuss all of the following** with a minor and parent or guardian or another adult authorized to consent to the minor's medical treatment, before issuing the minor the first prescription in a single course of treatment for a controlled substance containing an opioid, regardless of whether the physician modifies the dose during the course of treatment:

- The risks of addiction and overdose associated with the controlled substance.
- The increased risk of addiction to a controlled substance for an individual suffering from both mental and substance abuse disorders.
- The danger of taking a controlled substance containing an opioid with a benzodiazepine, alcohol, or another central nervous system depressant.
- Any other information in the patient counseling information section of the label for the controlled substance that is required in paragraph (c)(18) of Part 201 (Labeling) of the Code of Federal Regulations (including information necessary in order for the patient to take the drug safely and effectively).

****Obtain the signature** of the minor's parent or guardian on a *Start Talking* consent form. Another adult authorized to consent to the minor's medical treatment may also sign the form, but in that case the prescriber may only prescribe up to a single

¹ "**Prescriber**" is defined in section 17708 of the Public Health Code as a licensed dentist, a licensed doctor of medicine, a licensed doctor of osteopathic medicine and surgery, a licensed doctor of podiatric medicine and surgery, a licensed optometrist certified under Part 174 to administer and prescribe therapeutic pharmaceutical agents, a licensed veterinarian, or another licensed health professional acting under the delegation and using, recording, or otherwise indicating the name of the delegating licensed doctor of medicine or licensed doctor of osteopathic medicine and surgery.

72-hour supply of the controlled substance. The prescriber must include the signed form in the minor's medical record.

Exemptions

These requirements do not apply in any of the following circumstances:

- If the minor's treatment is associated with or incident to a medical emergency.
- If the minor's treatment is associated with or incident to a surgery, regardless of whether the surgery is performed on an inpatient or outpatient basis.
- If, in the prescriber's professional judgment, fulfilling the requirements would be detrimental to the minor's health or safety.
- If the minor's treatment is rendered in a hospice or oncology department of a hospital, or if the prescription is issued at the time of discharge from one of those facilities.
- If the consent of the minor's parent or guardian is not legally required for the minor to obtain treatment.

Definitions

The bill also defines all of the following terms, as used in this section:

A ***Start Talking consent form*** must be a separate document from any other document that a prescriber uses to obtain informed consent and must contain all of the following:

- The name and quantity of the controlled substance being prescribed for the minor and the amount of the initial dose.
- A statement indicating that a controlled substance is a drug or other substance that the U.S. Drug Enforcement Administration has identified as having a potential for abuse.
- A statement certifying that the prescriber discussed with the minor, and with the minor's parent, guardian or authorized adult, the topics described above.
- The number of refills, if any, that are authorized by the prescription.
- A space for the signature of the minor's parent, guardian, or authorized adult to consent to the minor's medical treatment, and a space for the date signed.

Another adult authorized to consent to the minor's medical treatment means an adult to whom a minor's parent or guardian has given written authorization to consent to the minor's medical treatment.

Medical emergency means a situation that, in the prescriber's good-faith medical judgment, creates an immediate threat of serious risk to the life or physical health of the minor.

Minor means an individual under 18 years old who is not emancipated.

Finally, the bill would include failure to comply with these requirements (discussing the topics listed above with the minor and parent, guardian, or authorized adult; and obtaining a signed consent form) among violations of the Code under Section 16221. The Department of Licensing and Regulatory Affairs (LARA) would investigate allegations of violation as it does for the 21 offenses currently listed in that section. If the allegations are substantiated, the prescriber would be subject to suspension, revocation, or permanent revocation of his or her license by a disciplinary subcommittee.

MCL 333.16221 and 333.16226 and proposed 333.7303b

FISCAL IMPACT:

House Bill 4408 would not create any significant fiscal impact for the Department of Licensing and Regulatory Affairs or for other units of state or local government.

HB 4408 would have an indeterminate fiscal impact on the state's correctional system and on local units of government. Information is not available on the number of persons that might be found in violation and subsequently convicted under provisions of the bill. New felony convictions would result in increased costs related to state prisons and state probation supervision. In fiscal year 2016, the average cost of prison incarceration in a state facility was roughly \$36,000 per prisoner, a figure that includes various fixed administrative and operational costs. State costs for parole and felony probation supervision averaged about \$3,500 per supervised offender in the same year. New misdemeanor convictions would increase costs related to county jails and/or local misdemeanor probation supervision. The costs of local incarceration in a county jail and local misdemeanor probation supervision vary by jurisdiction. The fiscal impact on local court systems would depend on how court caseloads were affected and on related administrative costs. Any increases in penal fine revenues would increase funding for local libraries, which are the constitutionally-designated recipients of those revenues.

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