



Senate Fiscal Agency
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BILL ANALYSIS



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Senate Bills 270 and 272 (as introduced 3-23-17)
Sponsor: Senator Steven Bieda (S.B. 270)
Senator Mike Shirkey (S.B. 272)
Committee: Health Policy

Date Completed: 5-16-17

CONTENT

Senate Bill 270 would amend the Public Health Code to prohibit a licensed prescriber from prescribing a Schedule 2 to 5 controlled substance to a patient unless the prescriber was in a bona fide prescriber-patient relationship with the patient; and require the Department of Licensing and Regulatory Affairs to promulgate rules describing circumstances in which a bona fide prescriber-patient relationship would not be required for the prescription of a Schedule 2 to 5 controlled substance.

Senate Bill 272 would amend the Public Health Code to require a licensed prescriber to provide information on certain topics to a patient or the patient's representative before prescribing a controlled substance that was an opioid to the patient.

Each bill would take effect 90 days after it was enacted.

Senate Bill 270

Section 7303a of the Code sets forth requirements for a licensed prescriber who prescribes a controlled substance. Under the bill, beginning March 31, 2018, except as otherwise provided by rules promulgated by the Department of Licensing and Regulatory Affairs (LARA), a licensed prescriber would be prohibited from prescribing a Schedule 2 to 5 controlled substance unless the prescriber was in a bona fide prescriber-patient relationship with the patient for whom the controlled substance was being prescribed.

"Bona fide prescriber-patient relationship" would mean a treatment or counseling relationship between a prescriber and a patient in which all of the following was present:

- The prescriber has reviewed the patient's relevant medical or clinical records and completed a full assessment of the patient's medical history and current medical condition, including a relevant, in-person, medical evaluation of the patient.
- The prescriber has created and maintained records of the patient's condition in accordance with medically accepted standards.
- The prescriber has a reasonable expectation that he or she will provide follow-up care to the patient to monitor the efficacy of the use of a controlled substance as a treatment of the patient's medical condition.
- If the patient has given permission to the prescriber, the prescriber has notified the patient's primary care physician, if any, of the patient's medical condition.

Within one year after the bill took effect, LARA, in consultation with the Michigan Board of Medicine, the Michigan Board of Osteopathic Medicine and Surgery, the Michigan Board of Dentistry, the Michigan Board of Podiatric Medicine and Surgery, the Michigan Board of Optometry, and the Michigan Task Force on Physician's Assistants, would be required to promulgate rules describing the circumstances under which a bona fide prescriber-patient relationship would not be required for purposes of prescribing a Schedule 2 to 5 controlled substance. The rules would have to include an alternate requirement for prescribing a Schedule 2 to 5 controlled substance when a bona fide prescriber-patient relationship would not be required.

Senate Bill 272

The bill specifies that, in addition to the requirement in Section 7303a of the Code, before prescribing a controlled substance that was an opioid to a patient, a licensed prescriber would be required to provide information on all of the following topics to the patient or the patient's representative:

- The danger of opioid addiction.
- How to properly dispose of an expired, unused, or unwanted controlled substance.
- That the delivery of a controlled substance is a felony under Michigan law.

("Patient's representative" would mean a guardian of a patient, if appointed, or a parent, guardian, or person acting in loco parentis, if the patient is a minor, unless the minor lawfully obtained health care without the consent or notification of a parent, guardian, or person acting in loco parentis.)

After providing the information described above, the licensed prescriber would have to obtain the signature of the patient or the patient's representative on a form prescribed by the Department of Health and Human Services, indicating that the patient or the patient's representative had received the information. The licensed prescriber would be required to include the signed form in the patient's medical or clinical record.

(Under Section 7303a, before prescribing or dispensing a controlled substance to a patient, a licensed prescriber must ask the patient about other controlled substances the patient may be using. The prescriber also must record the patient's response in the patient's medical or clinical record.

A licensed prescriber who dispenses controlled substances must maintain all records of the following records separately from other prescription records:

- All invoices and other acquisition records for each controlled substance acquired by the prescriber for not less than five years after the date the prescriber acquires the controlled substance.
- A log of all controlled substances dispensed by the prescriber for not less than five years after the date the controlled substance is dispensed.
- Records of all other dispositions of controlled substances under the licensee's control for not less than five years after the date of the disposition.)

MCL 333.7303a et al. (S.B. 270)
Proposed MCL 333.7303b (S.B. 272)

Legislative Analyst: Stephen Jackson

FISCAL IMPACT

Each bill would have a minor, but likely negative fiscal impact on the Bureau of Community and Health Systems (BCHS) within the Department of Licensing and Regulatory Affairs, and no fiscal impact on local units of government. The bills could introduce some new, but likely minor, costs to the BCHS in the form of additional investigations and enforcement actions related to the proposed requirements for health care providers. These costs would be borne by existing BCHS resources, and could be partially offset by any administrative fines collected from providers found to be in violation of the new requirements. Senate Bill 270 also could introduce new costs related to rule promulgation.

Fiscal Analyst: Josh Sefton

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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.