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BILL



ANALYSIS

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House Bill 4403 (Substitute H-1 as passed by the House)  
House Bill 4405 (Substitute H-1 as passed by the House)  
House Bill 4408 (Substitute H-1 as passed by the House)  
Sponsor: Representative Andy Schor (H.B. 4403)  
Representative Kathy Crawford (H.B. 4405)  
Representative Joseph N. Bellino, Jr.

House Committee: Health Policy  
Senate Committee: Health Policy

Date Completed: 9-12-17

### **CONTENT**

**House Bill 4403 (H-1)** would amend the Social Welfare Act to specify that an individual could receive medically necessary treatment for opioid use disorder.

**House Bill 4405 (H-1)** would amend the Public Health Code to permit a pharmacist to refuse to dispense a Schedule 2 to 5 controlled substance if he or she had a reasonable and good-faith belief that the prescription was not written in good faith or was not being filled for a medical purpose.

**House Bill 4408 (H-1)** would amend the Public Health Code to do the following:

- Require a prescriber to discuss certain topics before issuing to a minor the first prescription in a single course of treatment for a controlled substance containing an opioid, and obtain a signed parental consent form.
- Include a violation of the proposed requirements among the grounds for disciplinary action.
- Prescribe disciplinary sanctions, including license revocation, for a violation.

Each bill would take effect 90 days after its enactment.

### **House Bill 4403 (H-1)**

The Social Welfare Act lists medical services that may be provided under the Act, including hospital, physician, nursing home, pharmaceutical, and psychiatric services. Under the bill, an eligible individual could receive medically necessary acute medical detoxification for opioid use disorder, medically necessary inpatient care at an approved facility, or care in an appropriately licensed substance use disorder residential treatment facility.

### **House Bill 4405 (H-1)**

The bill would permit a pharmacist to refuse to dispense a prescription for a Schedule 2 to 5 controlled substance if he or she had a reasonable and good-faith belief that the prescription was not written by a prescriber in good faith or had a reasonable and good-faith belief that the prescription was being filled for a purpose that was not a medical purpose.

A pharmacist who refused to dispense a prescription under those circumstances would not be liable for damages in a civil action for injury, death, or loss to person or property arising from the pharmacist's refusal to dispense the prescription.

### **House Bill 4408 (H-1)**

#### **Discussion & Consent Requirements**

Under the bill, except as otherwise provided, before issuing to a minor (an individual under 18 years of age who was not emancipated) the first prescription in a single course of treatment for a controlled substance containing an opioid, regardless of whether the prescriber modified the dosage during the course of treatment, a prescriber would have to discuss the following with the minor, and with the minor's parent or guardian or with another adult authorized by the parent or guardian to consent to the minor's medical treatment:

- The risks of addiction and overdose associated with the controlled substance.
- The increased risk of addiction to a controlled substance to an individual who was 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 under 21 C.F.R. 201.57(c)(18).

(21 C.F.R. 201.57 prescribes certain requirements for the content and format of labeling for human prescription drugs. Section 57(c)(18) specifies that a patient counseling information section must contain information necessary for patients to use a drug safely and effectively. Any Food and Drug Administration-approved patient labeling must be referred to and the full text of such patient labeling must be reprinted immediately following the patient counseling information section, or accompany the prescription drug labeling.)

The prescriber also would have to obtain the signature of the minor's parent or guardian, or the signature of another adult authorized to consent to the minor's medical treatment, on a "start talking consent form" (described below). The prescriber would have to include the signed form in the minor's medical record.

The above requirements would not apply in the following circumstances:

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

("Medical emergency" would mean a situation that, in the prescriber's good-faith medical judgment, created an immediate threat of serious risk to the life or physical health of the minor.)

If the individual signing a start talking consent form were another adult authorized to consent to the minor's medical treatment, the prescriber would not be allowed to prescribe more than a single 72-hour supply of the controlled substance containing an opioid to the minor.

A start talking consent form would have to be on a form that was separate from any other document that a prescriber used to obtain the informed consent for the treatment of a minor and would have to 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 was a drug or other substance that the U.S. Drug Enforcement Administration had identified as having a potential for abuse.
- A statement certifying that the prescriber discussed with the minor, and with his or her parent or guardian or with another adult authorized to consent to the minor's medical treatment, the topics described above.
- The number of refills, if any, that were authorized by the prescription.
- A space for the signature of the minor's parent or guardian, or the signature of another adult authorized to consent to the minor's medical treatment, and a space to indicate the date that the minor's parent or guardian, or another authorized adult, signed the form.

#### Disciplinary Action

The Public Health Code requires the Department of Licensing and Regulatory Affairs to investigate activities related to the practice of a health profession by a licensee, a registrant, or an applicant for licensure or registration. The Department may hold hearings, administer oaths, and order the taking of relevant testimony. After its investigation, the Department must provide a copy of the administrative complaint to the appropriate disciplinary subcommittee. If one or more grounds for disciplinary subcommittee action exist, the disciplinary subcommittee must impose sanctions.

Under the bill, a violation of the proposed requirements would be grounds for disciplinary subcommittee action. The sanctions for such a violation would be probation, limitation, denial, fine, suspension, revocation, or permanent revocation.

MCL 400.109 (H.B. 4403)  
Proposed MCL 333.17751a (H.B. 4405)  
MCL 333.16221 et al. (H.B. 4408)

Legislative Analyst: Stephen Jackson

#### **FISCAL IMPACT**

##### **House Bill 4403 (H-1)**

Substance use disorder services are covered by the State's Medicaid program, so the bill would have no fiscal impact.

##### **House Bills 4405 (H-1) & 4408 (H-1)**

The bills would have no fiscal impact on State or local government.

Fiscal Analyst: Steve Angelotti  
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.