

BONA FIDE PRESCRIBER-PATIENT RELATIONSHIP FOR HOSPICE

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Senate Bill 128 (H-2) as referred to second House committee

Sponsor: Sen. Curtis Hertel, Jr.

1st House Committee: Health Policy

2nd House Committee: Ways and Means

Senate Committee: Health Policy and Human Services

Complete to 6-19-19

SUMMARY: Senate Bill 128 would exempt hospice patients from the requirement that a bona fide prescriber-patient relationship exist before a prescriber could prescribe a Schedule 2 to 5 controlled substance. It would also add the definition of “bona fide prescriber-patient relationship” to Part 71 (General Provisions) of Article 7 (Controlled Substances) of the Public Health Code.

The bill is tie-barred to House Bill 4225, which means that it could not take effect unless House Bill 4225 were also enacted.

MCL 333.7104

FISCAL IMPACT: Senate Bill 128 would not have a significant fiscal impact on the Department of Licensing and Regulatory Affairs (LARA) or on other units of state or local government.

THE APPARENT PROBLEM:

2017 PA 249 (Senate Bill 167)¹ required that there be a bona fide prescriber-patient relationship before a licensed provider could prescribe a controlled substance listed in Schedules 2 to 5. However, there was a concern that this requirement would unintentionally affect hospice patients’ ability to receive pain medication to address their serious and rapidly changing health needs. Accordingly, 2018 PA 101 (House Bill 5678)² pushed this requirement, which was to take effect March 31, 2018, to March 31, 2019 (or the date by which exemptions to the relationship would be defined). The bill is seen as an effort to address the concern permanently.

HOUSE COMMITTEE ACTION:

According to committee testimony, the H-2 substitute to SB 128 replaced a tie-bar to SB 127 with one to HB 4225,³ in an effort to make the bill package both a bipartisan and bicameral set of legislation.

¹ House Fiscal Agency analysis of PAs 248 and 249/SBs 166 and 167 of 2017:

<http://www.legislature.mi.gov/documents/2017-2018/billanalysis/House/pdf/2017-HLA-0166-A26310EB.pdf>

² House Fiscal Agency analysis of PA 101/HB 5678 of 2018: <http://www.legislature.mi.gov/documents/2017-2018/billanalysis/House/pdf/2017-HLA-5678-B893753A.pdf>

³ <http://www.legislature.mi.gov/documents/2019-2020/billanalysis/House/pdf/2019-HLA-4224-4C36BE47.pdf>

POSITIONS:

The following organizations indicated support for the bill (6-6-19):

- Michigan Homecare and Hospice Association
- Michigan Association of Health Plans
- Michigan Council of Nurse Practitioners

Legislative Analyst: Jenny McInerney
Fiscal Analyst: Marcus Coffin

■ 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.