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BILL ANALYSIS

Senate Fiscal Agency

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Senate Bill 977 (Substitute S-2 as passed by the Senate)

Sponsor: Senator Vern Ehlers

Committee: Health Policy

Date Completed: 10-17-90

RATIONALE

The Public Health Code regulates the dispensing of drugs by pharmacists and others, such as a prescriber (a medical doctor, osteopathic doctor or surgeon, podiatrist, or dentist) who is licensed to dispense drugs through his or her office directly to a patient. According to the Department of Licensing and Regulation, there are in the State 1,157 dispensing prescribers with drug control licenses (645 medical doctors, 483 osteopathic physicians, 17 dentists, and 12 podiatrists). While dispensing prescribers already must meet certain regulations under the Code, some people believe that these prescribers also should be required to comply with regulations concerning the dispensing of drugs that are similar to those imposed on pharmacists and the operation of pharmacies.

CONTENT

The bill would amend provisions on pharmacy practice and drug control in the Public Health Code to:

- Require a person who distributed a "complimentary starter dose", as defined in the bill, to maintain records that contained certain information on the distributor and prescribers as well as on the type and amount of complimentary starter doses distributed to each prescriber, and to provide these records to the Board of Pharmacy upon its request.
- Require a dispensing prescriber, before dispensing a prescription drug, to give the patient certain information concerning the filling of

a prescription by the prescriber or the pharmacy chosen by the patient.

- Establish requirements a dispensing prescriber would have to follow if he or she delegated the authority to dispense drugs.
- Require a dispensing prescriber, upon request, to provide the current selling price of a drug or the comparative prices of generic and brand name drugs dispensed by the prescriber.
- Require a dispensing prescriber, who was in the business of selling drugs, to display a notice to consumers on prescription drugs, in the location where the drugs were dispensed.
- Require the Department of Licensing and Regulation to give each prescriber a copy of the notice.
- Require a dispensing prescriber to furnish a receipt to the purchaser of a prescription drug, and retain a copy of the receipt for 90 days.
- Permit the Board of Pharmacy to promulgate rules to implement the bill.

Complimentary Starter Dose

The Code provides that a drug control license is not necessary, if the dispensing involves the issuance of complimentary starter dose drugs. The bill would define "complimentary starter dose" to mean drugs packaged, dispensed, and distributed in accordance with Federal and State law that are provided to a dispensing prescriber free of charge by a manufacturer or distributor and distributed free of charge by the dispensing

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prescriber to his or her patients.

A person who distributed complimentary starter doses to prescribers would have to maintain records that would have to include all of the following information: the name and address of the manufacturer distributing the complimentary starter doses; the name and address of each prescriber to whom complimentary starter doses were distributed; and, the type and amount of complimentary starter doses distributed to each prescriber.

Dispensing Prescriber

A prescriber who wished to dispense drugs would have to obtain from the Michigan Board of Pharmacy a drug control license for "each location in which the storing and dispensing of drugs occur". Currently, the Code requires such a prescriber to obtain a license for "his or her principal place of practice". A dispensing prescriber currently must comply with the contents, quality, labeling, and container specifications for prescriptions dispensed to the public as provided in certain sections of the Code. The bill would delete reference to provisions requiring a pharmacist to provide current drug selling price lists (MCL 333.17757), and would require a dispensing prescriber, except one who dispensed only complimentary starter doses, to comply with consumer notice requirements proposed in the bill. A dispensing prescriber, except a prescriber who dispensed only complimentary starter doses, also would have to comply with the requirements for labeling, records, receipts, pharmaceutical housing inspections, and invoices as provided in specific administrative rules. Compliance would have to be in the same manner in which a pharmacist is required to comply with those requirements.

A dispensing prescriber could dispense drugs only to his or her own patients. Before dispensing a prescription to a patient, a dispensing prescriber would have to give a written prescription to the patient and instruct the patient that he or she could elect to have the prescription filled by the dispensing prescriber or the patient's pharmacy of choice.

If a dispensing prescriber intended to charge for dispensing a drug to a patient, the dispensing prescriber would have to inform the patient of

that fact before the drug was dispensed. The prescriber also would have to list the charge for dispensing the drug as a separate item on the patient's bill.

If a dispensing prescriber delegated the authority to dispense drugs, he or she would have to do all of the following:

- Allow the delegatee to dispense drugs only under the control and personal charge of the dispensing prescriber.
- Be present physically at the time the drugs were dispensed.
- Personally perform a final inspection of the type of drug, labeling, dosage, and amount of drugs dispensed, immediately before the drugs were dispensed.

Selling Price of Drug

Upon a request made in person or by telephone, a dispensing prescriber would have to provide the current selling price of a drug or comparative current selling prices of generic and brand name drugs dispensed by the prescriber. The information would have to be given to the person making the request before a drug was dispensed to that person. A person who requested price information would not be obligated to purchase the drug.

A dispensing prescriber engaged in the sale of drugs would have to display conspicuously a notice to consumers about prescription drugs, as described in the bill, in the location within the prescriber's practice where the dispensing occurred. The notice would have to be in substantially the form described in the bill. The Department of Licensing and Regulation would be required to provide each dispensing prescriber with a copy of the notice, and, if needed, additional copies. A person could duplicate or reproduce the notice.

Receipt of Transaction

A dispensing prescriber would be required to furnish to the purchaser of a prescription drug, at the time the drug was delivered to the purchaser, a receipt of the transaction. The receipt would have to contain all of the following information: the brand name of the drug, if applicable; the name of the manufacturer or the supplier of the drug, if it did not have a brand

name; the strength of the drug, if significant; the quantity dispensed, if applicable; the name and address of the dispensing prescriber; the prescription's serial number; the date the prescription originally was dispensed; the name of the patient for whom the drug was prescribed; and, the price for which the drug was sold to the purchaser.

A dispensing prescriber would have to retain a copy of each receipt for 90 days. The bill specifies that the inclusion of information required for the receipt on the prescription container label would be a valid receipt to the purchaser. The bill also specifies that including the information required for the receipt on the written prescription form and retaining the form would constitute retention of a copy of the receipt.

MCL 333.17707 et al.

FISCAL IMPACT

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

ARGUMENTS

Supporting Argument

The Public Health Code requires a prescriber, who wishes to dispense drugs other than complimentary starter doses, to obtain a drug control license from the Board of Pharmacy. A dispensing prescriber also must comply with various requirements on a prescription's contents, quality, labeling, and container specifications as well as on the recording on a patient's chart of the drug that had been dispensed. While pharmacists, too, must be licensed under the Code, they also are required to comply with a number of additional regulations concerning the dispensing of generically equivalent drugs, providing to a consumer a drug's current selling price, displaying a consumers' notice about prescription drugs, and giving a purchaser a receipt containing certain information about a prescription. Furthermore, the Code regulates the operation of a pharmacy. Pharmaceutical companies reportedly are encouraging physicians to include the dispensing of drugs for profit as part of their practice. In order to protect the health and safety of the patient, dispensing prescribers should be subject to regulations that

are similar to those that apply to pharmacists and pharmacies.

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