SFA BILL ANALYSIS

Senate Fiscal Agency • Lansing, Michigan 48909 • (517) 373-5383

Senate Bill 296 (as reported without amendment)
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Sponsor: Senator Robert Geake
Committee: Health Policy

Date Completed: 4-20-89

RATIONALE

During the 1980s, Michigan ranked first in the nation in the consumption of several Schedule 2 prescription drugs, which have recognized medical uses for which they may be prescribed legally but are considered the most highly addictive of the controlled substances. After special enforcement activity was undertaken and rules were revised, the consumption in Michigan of certain Schedule 2 drugs dropped considerably, but consumption of other Schedule 2 drugs remained high. Many of these drugs reportedly are diverted from legal channels to illegal and abusive distribution channels through forged and stolen prescription pads and forms; dishonest doctors, pseudo doctors, and pharmacists who prescribe and/or dispense these drugs for illegitimate purposes; and duped, troubled, and out-of-date practitioners who write prescriptions for abusing patients. In an effort to decrease the use of fraudulent and forged prescriptions to obtain these drugs as well as to increase the effectiveness of identifying and investigating dishonest and incompetent prescribers and dispensers of Schedule 2 drugs, the Legislature enacted Public Act 60 of 1988, which requires the use of triplicate prescription forms for the dispensing of certain controlled substances. In preparing to implement Public Act 60, which takes effect on August 1, 1989, some people contend that revisions are needed to clarify the Act's requirements.

CONTENT

The bills would amend provisions in the Public Health Code that require the use of triplicate prescription forms for the dispensing of certain controlled substances.

Senate Bill 296

The bill proposes revised exceptions to the required use of official prescription forms. An official prescription form would not be required for a Schedule 2 controlled substance that:

-- Was ordered for and administered to a patient in a hospital licensed by the Department of Public Health or the Department of Mental Health.
-- Was ordered for a patient on the premises of a licensed health facility or agency other than a hospital or in the private practice office of a licensed physician, dentist, or podiatrist.
-- Was administered to an animal by a licensed veterinarian in his or her office, animal clinic, animal hospital, zoo, or on the premises of the animal's domicile. Also, a commercially prepared, premixed solution of sodium pentobarbital administered to an animal for the purpose of euthanasia would not require an official prescription form.

Currently, the Code provides that a prescription does not have to be on an official prescription

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form when: the prescription is for an individual who is admitted to a hospital at the same time the prescription is written and filled at the hospital, and when the prescription is administered to a patient on the premises of a licensed health facility or agency.

The bill also would delete the requirement that a health care professional from the field of pharmacology, who is a member of the Controlled Substances Advisory Commission, be licensed.

MCL 333.7111 and 333.7333

Senate Bill 297

The bill would:

- **Establish requirements on completing a prescription form for a practitioner employed by or under contract to a licensed methadone program.**
- **Require that certain information be included on the official prescription form in addition to the information already required under the Code.**
- **Add information that a prescribing practitioner would have to supply on the prescription form, and establish requirements for a practitioner who dispensed a Schedule 2 controlled substance.**
- **Require a dispensing pharmacist to forward certain information to the Department of Licensing and Regulation (L & R) when he or she had filled a prescription for a Schedule 2 controlled substance for certain practitioners who are exempt from using the official prescription forms.**
- **Revise provisions pertaining to access to confidential information.**

Substance Abuse Treatment Programs

A practitioner employed by or under contract to a substance abuse treatment program licensed under Part 62 of the Code, concerning substance abuse services, to treat opiate addiction with the drug methadone would be required to do all of the following:

- Complete an official prescription form for the entire program, on the first working day of each month, that indicated the total amount of methadone administered or dispensed and the total number of patients who received the methadone during the previous month.
- Comply with Federal law regarding the confidentiality of client information.
- Forward copy 1 of the official prescription form to L & R by the 15th day of the month in which the form was completed.

Prescription Form Requirements

In addition to official prescription form requirements already included in the Code, the bill would require that the form contain spaces for: the quantity, in written and numerical terms, of the prescribed controlled substance; the State license number and signature of the pharmacist who filled the prescription; the name, address, State license number, Federal Drug Enforcement Administration number, and signature of the prescribing practitioner; certain information required of a patient or owner of an animal for whom the controlled substance was prescribed; and, a box that, if checked, indicated that the controlled substance was dispensed by a prescribing practitioner.

Prescribing Practitioner Requirements

In addition to the information that a prescribing practitioner must supply in completing a prescription form, the bill would require that the following information also be included on the form: the quantity, in written and numerical terms, of the prescribed controlled substance; and, the name of the animal, if the controlled substance were prescribed for an animal.

If a prescribing practitioner dispensed a Schedule 2 controlled substance, he or she would be required to do all of the following:

- Fill in on all three copies of the official prescription form, in the space provided: the date the controlled substance was dispensed; the controlled substance dispensed, the dosage, quantity in written and numerical terms, and instructions for use; the name, address,

and age of the patient or owner of an animal for whom the controlled substance was dispensed; the name of the animal, if the controlled substance were dispensed for an animal; and, the box that, if checked, indicated that the controlled substance was dispensed by a prescribing practitioner.

-- Sign copies 1 and 2 of the official prescription form and forward copy 1 to L & R by the 15th day of the month following the month in which the controlled substance was dispensed. If signing copy 1 of the form produced a legible copy of the signature on copy 2, the practitioner would be in compliance with this provision.
-- Retain copy 2 of the official prescription form as a dispensing record.
-- Retain copy 3 with the practitioner's records for at least five years from the date the prescription was written.

Oral Prescriptions

Currently, a Schedule 2 controlled substance can be dispensed, in an emergency situation, upon an oral prescription of a practitioner. In this case, a prescribing practitioner is required to complete and forward the first and second copies of the official prescription form to the dispensing pharmacy within 72 hours after issuing the oral prescription. If the dispensing pharmacist does not receive the prescribed copies within 72 hours, he or she currently is required to notify L & R immediately. Under the bill, the dispensing pharmacist would be permitted, not required, to notify the Department.

Dispensing Pharmacist

In addition to the information that a dispensing pharmacist must send to L & R when filling a prescription for a Schedule 2 controlled substance for certain practitioners who are exempt from using official prescription forms, the prescription form or document would have to include the quantity prescribed, the pharmacist's State license number, and the patient's age. (This provision would apply to a practitioner who resided adjacent to the land border between Michigan and an adjoining state, who was authorized under the laws of that state to practice a health profession, and whose practice could extend into Michigan but who did not maintain an office or designate a place to meet patients or receive calls in Michigan.)

Confidential Information

The Code currently permits the Director of L & R to permit access to certain information by certain authorized employees of the State Police. The bill would delete this provision and instead permit access to this information by employees of a governmental agency that was responsible for the enforcement of laws pertaining to controlled substances and was authorized by the Director.

The Code also permits access to information by a prescribing practitioner concerning an individual suspected of attempting to obtain a controlled substance by fraud, deceit, or misrepresentation, and by a person under contract with the Department to administer these provisions. The bill would require that these individuals to be authorized by the Director of the Department.

MCL 333.7334

FISCAL IMPACT

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

ARGUMENTS

Supporting Argument

The bills would make technical amendments to the triplicate prescription provisions in the Public Health Code. During the creation of the prescription forms and the preparation to implement Public Act 60, suggestions have been made to the Department of Licensing and Regulation by professions affected by this Act that language is needed to clarify the Act's requirements and streamline the prescription form.

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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.

SFA BILL ANALYSIS

Senate Bill 297

Analysis First (4-20-89)

See SB296