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House Bills 5404, 5405, and 5407 (as passed by the House)
Sponsor: Representative Hugh Crawford (H.B. 5404)
Representative Anthony G. Forlini (H.B. 5405 & 5407)
House Committee: Judiciary
Senate Committee: Judiciary

Date Completed: 9-8-14

CONTENT

The bills would amend the Public Health Code relative to the use of an opioid antagonist in response to an opioid-related overdose.

House Bill 5404 would do the following:

- **Require emergency medical protocols, within 12 months of the bill's effective date, to include requirements that life support vehicles have opioid antagonists and that emergency personnel were trained to administer them.**
- **Allow a medical control authority to rescind those protocols beginning three years after the bill's effective date.**
- **Grant liability protection to certain people for the administration of an opioid antagonist to someone who was suffering or exhibiting symptoms of an opioid-related overdose.**

House Bill 5405 would do the following:

- **Specify that a person complying with the opioid antagonist prescribing and dispensing authority granted under House Bill 5407 would not be in violation of the Code's controlled substance prohibitions.**
- **Specify that a person who in good faith administered an opioid antagonist to a person whom he or she believed was suffering from an opioid-related overdose would not be subject to criminal prosecution or professional sanction.**

House Bill 5407 would do the following:

- **Authorize a prescriber to issue a prescription for, and a dispensing prescriber or pharmacist to dispense, an opioid antagonist.**
- **Grant civil liability protection to a prescriber, dispensing prescriber, or pharmacist who prescribed or dispensed an opioid antagonist that was administered or not administered, resulting in injury or death.**
- **Require the Department of Community Health (DCH) to publish an annual report on opioid-related overdoses in Michigan.**

Each of the bills is tie-barred to the others and to Senate Bill 721, which would amend the Good Samaritan law to excuse from civil liability a person who in good faith believed that another individual was suffering from an opioid overdose and administered naloxone to that person.

House Bill 5407 would define "opioid-related overdose" as a condition that results from the consumption or use of an opioid or another substance with which an opioid was combined or that a layperson would reasonably believe to be an opioid-related overdose that requires medical assistance. The conditions resulting from consumption or use of an opioid or other substance would include, but would not be limited to, extreme physical illness, decreased level of consciousness, respiratory depression, coma, or death.

"Opioid antagonist" would mean naloxone hydrochloride or any other similarly acting and equally safe drug approved by the Federal Food and Drug Administration for the treatment of drug overdose.

House Bill 5404

Emergency Medical Protocols

Part 209 (Emergency Medical Services) of the Code requires a medical control authority to establish written protocols for the practice of life support agencies and licensed emergency medical services personnel within its region. The authority must develop and adopt the protocols in accordance with procedures established by the DCH, in compliance with requirements specified in the Code.

Within 12 months after the bill's effective date, an authority would have to include protocols to ensure that each life support vehicle that was dispatched and responding to provide medical first response life support, basic life support, or limited advanced life support was equipped with opioid antagonists and that each emergency services personnel was properly trained to administer the opioid antagonists. Beginning three years after the bill's effective date, an authority, at its discretion, could rescind or continue the protocols adopted under the bill.

Liability Protection

Part 209 provides that, unless an act or omission is the result of gross negligence or willful misconduct, the acts or omissions of certain medical professionals do not impose liability in the treatment of a patient on those individuals or certain other people and entities. The liability protection applies to the use of an automated external defibrillator on an individual who is in or is exhibiting symptoms of cardiac distress. Under the bill, the liability protection also would apply to the administration of an opioid antagonist to an individual who was suffering or exhibiting symptoms of an opioid-related overdose.

House Bill 5405

The bill specifies that a person complying with Section 17744b would not be in violation of Article 7 (Controlled Substances) of the Public Health Code with regard to the prescribing, dispensing, possession, or administration of an opioid antagonist. (Section 17744b is proposed by House Bill 5407 and would authorize prescribing and dispensing an opioid antagonist under certain circumstances.)

The bill also would amend Part 177 (Pharmacy Practice and Drug Control) to specify that a person who administered an opioid antagonist to an individual whom he or she believed was suffering an opioid-related overdose, and who acted in good faith and with reasonable care, would be immune from criminal prosecution or sanction under any professional licensing act for that action.

House Bill 5407

Prescribing & Dispensing Opioid Antagonists

The bill would amend Part 177 to authorize a prescriber to issue a prescription for, and allow a dispensing prescriber or pharmacist to dispense, an opioid antagonist to an individual patient at risk of experiencing an opioid-related overdose; a family member, friend, or other individual in a position to assist a person at risk of experiencing an opioid-related overdose; or a person, other than an individual, that met all of the following requirements:

- Acted at the direction of the prescriber or dispensing prescriber.
- Upon receiving of an opioid antagonist, stored it in compliance with Part 177.
- Dispensed or administered an opioid antagonist under a valid prescription issued to an individual or a patient.
- Performed those requirements without charge or compensation.

When issuing a prescription for or dispensing an opioid antagonist to a person other than a patient, the prescriber, dispensing prescriber, or pharmacist would have to insert the name of the person as the name of the patient.

A person acting in good faith and with reasonable care could possess and dispense an opioid antagonist, notwithstanding any provisions of the Code to the contrary.

A prescriber who issued a prescription for, or a dispensing prescriber or pharmacist who dispensed, an opioid antagonist as authorized under the bill would not be liable in a civil action for a properly stored and dispensed opioid antagonist that was a proximate cause of injury or death to an individual due to the administration of or failure to administer the opioid antagonist.

DCH Report

The bill would require the DCH, by February 1 of each year, to ascertain, document, and publish a report on the number, trends, patterns, and risk factors related to opioid-related overdose fatalities that occurred in Michigan in the preceding calendar year. The DCH would have to include in the report information on interventions that would be effective in reducing the rate of fatal or nonfatal opioid-related overdoses in Michigan.

MCL 333.20919 & 333.20965 (H.B. 5404)
Proposed MCL 333.7422 & 333.17744c (H.B. 5405)
MCL 333.1106 et al. (H.B. 5407)

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

House Bill 5404

The bill would have a minor negative fiscal impact on both State and local government. Under the requirements of the bill, the DCH would have to create procedures that would guide the development of protocols to be implemented later by local medical control authorities. The development of these protocols will create minor administrative costs. Additionally, local governments could face an increase in costs resulting from the need to train emergency response personnel in the use of opioid antagonists as well as to equip life support vehicles with opioid antagonists.

House Bill 5405

The bill could reduce costs to the State by reducing the number of prosecutions and convictions for prescribing or dispensing opioid antagonists as well as providing immunity to those administering an opioid antagonist in good faith. This would reduce court and corrections costs, although it is unclear how many prosecutions could be avoided. Additionally, the bill could result in savings to the State by reducing the number of investigations, hearings, and sanctions for violations of professional licensing provisions. The bill would have no fiscal impact on local government.

House Bill 5407

The bill would have a negligible negative fiscal impact on the State and no fiscal impact on local government. The annual reporting requirement contained in the bill would result in a minor increase in administrative costs for the DCH.

Fiscal Analyst: Elyn Ackerman