

TEMPORARY SUSPENSION OF HEALTH CARE AND PHARMACY PROVISIONS

Phone: (517) 373-8080
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House Bill 5724 (H-2) as reported from committee
Sponsor: Rep. Jason Sheppard
Committee: Government Operations
Complete to 12-5-20

Analysis available at
<http://www.legislature.mi.gov>

SUMMARY:

House Bill 5724 would amend the Public Health Code to suspend certain requirements regarding licensing, dispensing of drugs, and other regulatory requirements in order to accommodate the needs of health care and pharmacy professionals during the COVID-19 pandemic. These provisions would be repealed effective July 1, 2021.

The bill would amend Part 161 (General Provisions) of Article 15 (Occupations) to do all of the following:

- Suspend the requirement that certain professionals operate under supervision and, if applicable, a written practice agreement (and exemption from civil, criminal, or administrative penalty related to a lack of such an agreement or supervision) for the following in the instances specified in the bill:
 - Physician assistants (PAs)
 - Advanced practice registered nurses (APRNs), including nurse anesthetists
 - Licensed practical nurses (LPNs)
 - Pharmacists
- Allow health care professionals licensed and in good standing in other states to practice to the extent of that license.
- Allow registered nurses (RNs) and LPNs to order collection of nose and throat swabs for COVID-19 tests.
- Allow *designated health care facilities* to allow students studying to be health care professionals to volunteer or work as needed.
- Allow medical students, physical therapists, and emergency medical technicians to serve as respiratory therapist extenders.
- Suspend laws and regulations that require exams, fingerprinting, or continuing education of health care professionals.
- Extend certifications in basic life support, advanced cardiac life support, and first aid.
- Allow DHHS to recognize hours worked responding to the COVID-19 pandemic as continuing education or licensure hours.

Designated health care facility would mean one or more of the following:

- A health care facility or agency
- A state-owned surgical center
- A state-operated outpatient facility
- A state-operated veterans facility
- An entity used as surge capacity for any of the above entities

The bill would also amend Part 177 (Pharmacy Practice) to allow pharmacists to do all of the following:

- Dispense emergency refills of up to a 60-day supply of a prescription drug that is not a controlled substance, if the pharmacist believes that failure to refill the prescription could adversely affect a patient's well-being. The pharmacist would have to inform the patient that the prescription was refilled under the temporary allowance and inform the prescriber of the refill in a reasonable time period. Before refilling the prescription, the pharmacist, clinic, or mobile pharmacy would have to make (and document) reasonable efforts to communicate with the prescriber. A prescriber would not incur criminal or civil liability or administrative sanction because a pharmacist refilled a prescription as described above.
- Operate a pharmacy in an area not designated on the pharmacy license as long as this does not involve preparing certain sterile drug products for immediate inpatient administration.
- Dispense or administer drugs as needed to treat COVID-19 under protocols established by the Centers for Disease Control and Prevention (CDC) or the National Institute of Health or as determined by appropriate personnel of the Department of Health and Human Services (DHHS).
- Substitute a therapeutically equivalent drug for one subject to critical shortages. The pharmacist would have to inform the patient of the substitution and inform the prescriber of the substitution in a reasonable time period. A prescriber would not incur criminal or civil liability or administrative sanction because a pharmacist refilled a prescription as described above.
- Supervise pharmacy technicians and other pharmacy staff remotely under certain specified parameters, although a technician could not perform sterile or nonsterile compounding without a pharmacist on the premises.

The bill would also allow preceptors to supervise student pharmacists remotely to fulfill eligibility for licensure and avoid delaying graduation.

The bill would provide that pharmacies, manufacturers, and wholesale distributors licensed and in good standing in other states would be considered licensed to do business in Michigan, with some restrictions on importing controlled substances and (for pharmacies) sterile compounding services.

MCL 333.16101 and proposed MCL 333.16113a and 333.17715

FISCAL IMPACT:

House Bill 5724 would have an indeterminate fiscal impact on LARA. Revenues from various health professions licensing fees would likely decrease, as the bill would allow individuals licensed to practice health professions in other states to practice in this state. The bill would also reduce revenues from fingerprinting activities. The fee for fingerprinting and a background check currently totals \$42 (\$30 state-level for the Mcheck and \$12 for the Federal Bureau of Investigation check). While revenues would be

temporarily reduced, the volume of fingerprints processed by the MSP would also be temporarily reduced.

POSITIONS:

The Mackinac Center indicated support for the bill. (12-1-20)

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.