House
Legislative
Analysis
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DISCLOSURE OF PRESCRIPTION INFORMATION

House Bill 4001
Sponsor: Rep. Judith Scranton
Committee: Health Policy

Complete to 2-8-01

A SUMMARY OF HOUSE BILL 4001 AS INTRODUCED 1-25-01

The bill would amend the Public Health Code to require a patient's written consent, with certain exceptions, before pharmacists, their employees, or anyone else having custody of, or access to, a prescription (or equivalent record) on file could disclose the identity of the patient for whom the prescription had been written to drug manufacturers or distributors ("or any other person"). The bill also would add a new exemption to the confidentiality provisions, a new prohibition regarding disclosure of the names of drugs under certain circumstances, and administrative sanctions for violations. Finally, the bill would modify current research requirements and exemptions.

Confidentiality and exceptions. Under the health code, a prescription (or other equivalent record) is not a public record, and a person having custody of, or access to, prescriptions is prohibited from disclosing the contents of the prescriptions or providing copies of them without the patient's authorization except to the following:

(1) The patient for whom the prescription was issued, or another pharmacist acting on behalf of the patient;

(2) The authorized prescriber who issued the prescription, or a licensed health professional who is currently treating the patient;

(3) An agency or agent of the government responsible for enforcing drug laws and laws regarding devices;

(4) A person authorized by court order; or

(5) A person engaged in research projects of studies with protocols approved by the Board of Pharmacy.

The bill would add to this list of confidentiality exceptions a person representing a public or private health care payment or benefit plan for the purpose of providing payment or reimbursement for health care benefits or services, and would add a further prohibition against pharmacists and pharmacy employees, when discussing a prescription with a patient, from disclosing the name of a prescribed drug in a way that other customers could overhear.

The bill also would change the research exemption by striking the current reference to research "with protocols approved by the board," and instead would exempt research projects or

studies conducted under federal regulations (45 C.F.R. 46 and 21 C.F.R. 50 and 56). Finally, the bill would specify that this section of the health code would not prohibit or restrict access to prescription information for health research if patient identifiers had been removed by coding or encryption.

Sanctions. Currently, the health code allows the Department of Consumer and Industry Services (the code currently references the "Department of Commerce" in MCL 333.16104, but that department has since been dissolved and its powers and duties transferred to the Department of Consumer and Industry Services) to investigate activities related to the practice of a health profession by those licensed or registered under the code, to hold hearings, and order testimony. The department must report its findings to the appropriate disciplinary "subcommittee," which then is required to impose certain sanctions if it finds that one or more specified grounds for action by the disciplinary subcommittee exists.

The bill would subject pharmacists, pharmacies, or dispensing prescribers who violated the bill's provisions to the health code's sanctions for violations of Article 15, the occupations article (or rules promulgated under this article), of the health code. Sanctions for violations of Article 15 include reprimand; probation; license denial, suspension, revocation, or limitation; restitution; community service; or a fine.

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