



Senate Fiscal Agency
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BILL ANALYSIS

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Senate Bill 1095 (Substitute S-1 as passed by the Senate)
Sponsor: Senator Virg Bernero
Committee: Health Policy

Date Completed: 9-29-04

RATIONALE

In fiscal year 2004-05, mail order pharmacies will be able to contract with the State to provide prescription drugs for the Medicaid program. Reportedly, consumers often can receive medication from mail order pharmacies at a significant discount--sometimes, more than 50%--off the price at a traditional retail pharmacy. The Public Health Code, however, authorizes administrative sanctions against a pharmacist who uses the mail to deliver prescription medications. It has been suggested that the Code be amended to allow Michigan pharmacists to operate mail order services so that they may compete for the Medicaid contracts.

CONTENT

The bill would amend the Public Health Code to delete a provision authorizing a disciplinary subcommittee to impose sanctions on a pharmacist for employing the mail to sell, distribute, or deliver a drug that requires a prescription when the prescription for the drug is received by mail.

Under the Code, the Department of Community Health (DCH) may investigate activities related to the practice of a health profession by a licensee, a registrant, or an applicant for licensure or registration. The Department must report its findings to the appropriate disciplinary subcommittee, which must impose administrative sanctions if it finds that certain grounds exist. Currently, a disciplinary subcommittee may fine, reprimand, or place a licensed pharmacist on probation, deny, limit, suspend, or revoke a pharmacist's license, or order restitution or community service for violating or abetting in a violation of the

prohibition against selling, distributing, or delivering a prescription drug by mail.

MCL 333.17708 et al.

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

As a cost-saving measure, the State of Michigan has decided to enter into contracts with mail order pharmacies to provide prescription drugs for the Medicaid program in the coming fiscal year. Because Michigan pharmacists are prohibited from delivering prescriptions through the mail, the State would have to give the contracts to out-of-State companies. Due to Michigan's sluggish economy, there recently has been much emphasis placed on attracting and retaining business in Michigan, and giving priority to Michigan companies to perform certain functions, when possible. The bill would be consistent with these efforts in that it would allow local pharmacies to compete for the contracts.

Response:

Before Michigan pharmacies are allowed to operate via mail, a more thorough examination of the effects on patient safety and the financial benefit the State could experience should be undertaken. Apparently, some unscrupulous companies that operate mail order pharmacies have been investigated or penalized for reliability and safety problems, questionable pricing practices, kickbacks, and fraud.

Legislative Analyst: Julie Koval

FISCAL IMPACT

Currently, State pharmacies are not permitted to provide mail-order pharmacy services. Numerous health insurers, including health maintenance organizations, commercial insurers, and the State's Medicaid program, currently contract with out-of-State mail order firms to deliver maintenance drugs to their clients. The use of mail-order pharmacies would not be affected by the bill, but the number of pharmacies eligible for the program would increase. This increase should produce greater competition and marginally lower prices. In addition, some of the mail order business would go to Michigan firms, leading to a marginal yet indeterminate increase in tax revenue.

Fiscal Analyst: Steve Angelotti

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