

Legislative Analysis



DUTIES OF PRESCRIBING HEALTH PROFESSIONALS AND PHARMACISTS

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House Bill 5131

Sponsor: Rep. Lesia Liss

Committee: Health Policy

Complete to 11-2-11

A SUMMARY OF HOUSE BILL 5131 AS INTRODUCED 10-27-11

The bill would revise and clarify duties of a prescribing physician and an agent of that physician, and also revise duties of a pharmacist regarding filling prescriptions created or sent by electronic means.

House Bill 5131 would add a new section to the Public Health Code revising the duties of a prescriber, revising the duties of a pharmacist, and making numerous revisions to existing provisions to clarify or to make changes largely technical in nature. For example, instead of referring to a prescription "written and signed; or transmitted by facsimile; electronic transmission, or other means of communication," the bill would refer to one "written and signed; written or created in an electronic format, signed, and transmitted by facsimile; or transmitted electronically or by other means of communication." A provision that requires a prescription order transmitted in other than written form to be electronically recorded, printed, or written and immediately dated by the pharmacist would apply to an order in other than written or hard-copy form.

Prescribers and Agents

A "prescriber" is defined in the code to mean a licensed dentist, M.D., D.O., podiatrist, optometrist, veterinarian, or other licensed health professional acting under the delegation of an M.D. or D.O. (e.g., physician's assistant, nurse practitioner, or midwife).

The bill would add a new section to the code to allow a prescriber to designate an agent to act on behalf of or at the discretion of that prescriber. (The current definition of "agent" would be modified slightly to mean an individual designated by a prescriber to act on behalf of or at the discretion of that prescriber as provided in a section to be added by the bill.)

The designation would not have to be in writing to be valid. However, if the designation were contained in a written document, that document could be transmitted (by either the prescriber or the agent) to a pharmacy that would dispense a prescription issued by that prescriber.

Only a prescriber acting within his or her scope of practice could issue a prescription. The agent, however, could prepare and transmit a prescription signed by the prescriber.

Both the prescriber and the pharmacist filling the prescription would be responsible for meeting all of the requirements of state and federal law, rules, and regulations regarding the issuance of prescriptions and dispensing of drugs or devices under prescriptions.

In addition, a prescriber or his or her agent could transmit to a pharmacy a prescription contained within a patient's chart in a state licensed health facility or agency (e.g., hospital, nursing home, hospice) or other medical institution. Such a prescription that was created in an electronic format could contain more than six prescriptions and could contain prescriptions for Schedule 3 through 5 controlled substances and noncontrolled substances on the same form.

Pharmacists

The bill would prohibit a pharmacist from dispensing a drug or device under a prescription transmitted by facsimile or created in electronic format and printed out for use by the patient unless the document was manually signed by the prescriber. This would not apply to a prescription transmitted by a computer to a facsimile machine if the prescription complied with Section 17754 of the code.

After consultation with and agreement from the prescriber, a pharmacist could add or change any of the following:

- A patient's address
- Dosage form
- Drug strength
- Drug quantity
- Directions for use
- Issue date with regard to a prescription.

A pharmacist could not change the patient's name; the controlled substance prescribed, unless authorized to dispense a lower cost generic product; or the prescriber's signature with regard to a prescription.

The details of the consultation and agreement required under the bill would have to be noted on the prescription by the pharmacist and maintain that documentation with the documentation as required in Section 17752 of the code.

FISCAL IMPACT:

House Bill 5131 would not have a significant fiscal impact on the Bureau of Professions or the state budget as it does not alter licensing or enforcement procedures pertaining to the Public Health Code.

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