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BILL ANALYSIS



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Senate Bill 842 (as introduced 2-27-18)
Sponsor: Senator Dale W. Zorn
Committee: Health Policy

Date Completed: 5-1-18

CONTENT

The bill would amend the Public Health Code to require a hospice or hospice residence providing services in a patient's private home to establish and implement a written controlled substance disposal policy, and to ensure that the patient or his or her family received a copy of the policy.

Specifically, within 90 days after the Department of Licensing and Regulatory Affairs promulgated rules to implement the bill's provisions, a hospice or hospice residence that provided services in a patient's private home would have to establish and implement a written controlled substance disposal policy establishing procedures to be followed to mitigate the diversion of controlled substances that were prescribed to the patient. The policy would have to include all of the following:

- A procedure for offering to assist with the disposal of a controlled substance that was prescribed to a patient as part of his or her hospice plan of care and that was relinquished to an employee by the patient or the patient's family.
- A requirement that an employee provide the patient or his or her family with education on safe disposal locations for a controlled substance and techniques for the safe disposal of a controlled substance when the patient no longer needed it or at the time of death.
- Procedures for offering assistance with the disposal of a controlled substance to a patient who revoked hospice care and services.
- A requirement that an employee document whether the patient or his or her family accepted or refused an offer to assist with the disposal of a controlled substance when the patient no longer needed it or at the time of death.

Additionally, a controlled substance disposal policy would have to include a requirement that if an employee assisted with the disposal of a controlled substance, the disposal was performed and witnessed in any of the following ways:

- Performed by the employee and witnessed by the patient or his or her family.
- Performed by the patient or his or her family and witnessed by the employee.
- Performed by the employee and witnessed by another employee.

("Patient's family" would mean a relative or caregiver who has been designated by the patient.

"Employee" would mean a registered professional nurse or a licensed practical nurse who is employed by a hospice or hospice residence.

"At the time of death" would mean within 72 hours after a patient's death.

"Patient's private home" would mean a patient's home. The term "home" would not include a residence established by a patient in a health facility or agency or a residence established by a patient in an adult foster care facility licensed under the Adult Foster Care Facility Licensing Act.)

A hospice or hospice residence that provided services in a patient's private home would have to ensure that all of the following were met within five days of admission to the hospice or hospice residence and providing hospice care or services to the patient in his or her private home:

- A copy of a controlled substance disposal policy was distributed to the patient or his or her family and an offer to discuss the procedures included in the policy was made to the patient or his or her family.
- The patient and his or her family were informed that an employee would offer to assist with the disposal of a controlled substance that was included in the patient's hospice plan of care at the time of death or when the patient no longer needed the controlled substance.

The delivery of a controlled substance under these provisions for the purpose of disposing of the controlled substance would not be a violation of Article 7 (Controlled Substances) of the Code. (Article 7 generally governs the prescription, administration, and dispensation of controlled substances, and prescribes penalties and sanctions for the unauthorized manufacture, delivery, and possession of controlled substances.)

The bill would take effect 90 days after its enactment.

MCL 333.177666 et al.

Legislative Analyst: Stephen Jackson

FISCAL IMPACT

The bill would have a minor fiscal impact on the Department of Licensing and Regulatory Affairs (LARA). The bill would not have an impact on local units of government.

Although doing so would not be mandated, the language of the bill suggests that LARA would need to create new rules or amend existing rules (most likely Hospice Licensure Rules, R 325.13101 - 325.13543) to implement the proposed controlled substances disposal policy requirements for hospices. The costs for rule promulgation are nominal, and are typically absorbed by the department responsible for the new rules. Those costs include labor, notice publication, and at least one public hearing. Additionally, as the new rules would require hospices to create and implement new procedures, there could be additional costs to LARA to determine compliance with the rules during hospice inspections or licensure application review.

Fiscal Analyst: Michael Siracuse

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.