

Legislative Analysis



ALLOW PHARMACISTS TO ORDER AND ADMINISTER VACCINES AND ANTIVIRAL DRUGS

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Senate Bill 219 (H-2) as reported from House committee

Sponsor: Sen. Sylvia Santana
House Committee: Health Policy
Senate Committee: Health Policy
Complete to 6-26-23

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

SUMMARY:

Senate Bill 219 would amend the Public Health Code do all of the following:

- Authorize a pharmacist to order and administer a qualified immunizing agent to an individual without the administration being under the direction of a physician.
- Authorize a pharmacist to order and administer qualified laboratory tests.
- Include in the scope of pharmacy practice a pharmacist's ordering and administering qualified immunizing agents and qualified laboratory tests under the bill.
- Require a pharmacist to successfully complete an approved training program before ordering or administering an immunizing agent or qualified laboratory test.
- Authorize the Board of Pharmacy to promulgate rules to implement the bill.

Vaccines

The code now allows a health professional other than a physician to administer an immunizing agent (a vaccine, antibody preparation, or other substance used to increase an individual's immunity to a disease or infectious agent) as long as the agent is being administered under the direction of a physician. Senate Bill 219 would amend the code to allow a pharmacist, in addition to administering an immunizing agent under the direction of a pharmacist, to order and administer a *qualified immunizing agent* in accordance with section 17724 (below).

Qualified immunizing agent would mean an immunizing agent that meets all of the following requirements:

- It is a vaccine recommended by the Advisory Committee on Immunization Practices of the Centers for Disease Control and Prevention (CDC).
- It is a vaccine approved or authorized for use by the Food and Drug Administration (FDA).

Senate Bill 219 would add section 17724 to the code to allow a pharmacist, without acting under the direction of a physician, to order and administer a qualified immunizing agent (hereafter "vaccine") to an individual who is three years of age or older. Before ordering or administering a vaccine, a pharmacist would have to comply with all of the following:

- Successfully complete a training program approved by the Michigan Board of Pharmacy.
- If the pharmacist is ordering or administering a vaccine to an individual less than 19 years of age and the pharmacy does not participate in the Vaccines for Children

Program administered by the CDC, inform the individual¹ that they may qualify for the program and notify them of local providers that participate in the program. This requirement would not apply if the cost of ordering and administering the vaccine is covered by a public or third-party payer.

A pharmacist would have to comply with rules established by the board in addition to any other requirement established by law. The pharmacist would have to report the administration of a vaccine to an individual 20 years of age or older to the Michigan Care Improvement Registry within 72 hours in the same manner as required for a health care provider administering an immunizing agent to a child under section 9206 of the code.²

The board would have to promulgate rules to implement section 17724 that would have to require the training program to include a course on the administration of vaccines that is provided by the entity accredited by the Accreditation Council for Pharmacy Education.

Section 17724 would not prohibit a pharmacist from ordering or administering an immunizing agent under federal law or an emergency order.

Qualified laboratory tests

The bill would add section 17724a to the code to allow a pharmacist to order a *qualified laboratory test* for, and administer the laboratory test to, an individual.

A test would be a *qualified laboratory test* if it met all of the following requirements:

- The test is classified as waived by the FDA.
- The test requires only the use of a specimen collected by a nasal or throat swab or a finger prick.
- The test is used to detect or screen for any of the following:
 - COVID-19.
 - Influenza.
 - A respiratory infection.

Before ordering or administering a qualified laboratory test, a pharmacist would have to successfully complete a board-approved training program. A pharmacist who orders or administers a qualified laboratory test would have to provide the test results and refer the individual tested to a physician or a health professional designated by the individual. If the test was ordered to detect or screen for COVID-19 or the flu, the pharmacist could, without a prescription, dispense a drug to the individual if all of the following were met:

- The pharmacist determines that the drug is needed to treat the individual for COVID-19 or the flu based on the test result.
- The drug is an antiviral drug and is available at the pharmacy.
- The drug is provided under protocols established by the CDC or public health guidelines established by the Department of Health and Human Services (DHHS).

¹ **Note:** The bill would require the pharmacist to provide this information to individuals who are from three to 18 years old, instead of providing it to either the individual (if an adult) or the person accompanying them (if a child).

² **Note:** The code does not define “child,” but defines “adult” as an individual who is at least 18 years of age. The bill thus appears to be silent regarding reporting the administration of a vaccine to an individual who is at least 18 but younger than 20 years of age.

- The pharmacist complies with the requirement to advise the tested individual of the test results and provides a referral to a physician.

The bill would amend section 17757 to require that, when a drug is dispensed by a pharmacist under the above, the receipt delivered to the purchaser include the name of the pharmacist dispensing the drug.

The board would have to promulgate rules to implement section 17724a that would have to require that the pharmacist demonstrate sufficient knowledge of how to administer and interpret each laboratory test that the pharmacist could order or administer under the bill and demonstrate sufficient knowledge of each illness, condition, or disease described above for which the pharmacist provides treatment based on the results of the qualified laboratory test.

The bill would not prohibit a pharmacist from doing any of the following:

- Ordering or administering a laboratory test other than a qualified laboratory test as a delegated act of a physician or another health professional under section 16215.
- Ordering or administering a laboratory test, including a qualified laboratory test, under federal law or an emergency order.
- Dispensing a drug to a patient without a prescription under federal law or an emergency order.

Other amendments

The practice of pharmacy lists several professional functions, such as the interpretation and evaluation of the prescription. The bill would add ordering and administering qualified immunizing agents and qualified laboratory tests in accordance with sections 17724 and 17724a, respectively.

For the purposes of section 9206, the bill would define *health professional* as an individual licensed, registered, or otherwise authorized to engage in a health profession under Article 15 (Occupations) of the code. Section 9206 requires a health care provider, which includes a health professional, to present certain information to a person accompanying a child who receives an immunization and also to a parent, person in loco parentis, or legal guardian.

A reference to one or both of the new sections added by the bill would be added to other provisions to conform those provisions with the bill's provisions.

MCL 333.9204 et seq.

BRIEF DISCUSSION:

Senate Bill 219 would codify many practices originating in the COVID-19 pandemic, for example the “test and treat” program, which, at 66 pharmacies in Michigan, provided access to testing for COVID-19 and treatment for individuals experiencing mild to moderate symptoms who were at high risk for more severe disease. Supporters of the bill argue that allowing pharmacists to continue to offer services for testing and administering immunizations where appropriate would provide cost-effective and time-saving access to common immunizations and certain diagnostic tests for patients.

FISCAL IMPACT:

The bill would not have a fiscal impact on the state or local units of government.

POSITIONS:

Representatives of the following entities testified in support of the bill (6-8-23):

- Michigan Pharmacists Association
- Michigan Retailers Association
- Walgreens

The following entities indicated support for the bill:

- Department of Health and Human Services (6-22-23)
- American Disease Prevention Coalition (6-8-23)
- Mackinac Center for Public Policy (6-22-23)
- Meijer (6-8-23)
- Michigan Association of Health Plans (6-8-23)
- Michigan Chamber of Commerce (6-8-23)
- Michigan Council for Maternal and Child Health (6-8-23)
- Michigan Health and Hospital Association (6-8-23)
- Michigan Manufacturers Association (6-8-23)
- Walmart (6-8-23)

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■ 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.