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DISCLOSURE OF PRESCRIPTION INFORMATION

House Bill 4368

Sponsor: Rep. Judith Scranton

House Bill 4369

Sponsor: Rep. Liz Brater

Committee: Health Policy

Complete to 4-9-99

A SUMMARY OF HOUSE BILLS 4368 AND 4369 AS INTRODUCED 3-3-99

The bills would add additional prohibitions to the current restrictions on disclosure of information from drug prescriptions and would require the posting of a notice informing patients of disclosure practices. With a few exceptions, pharmacists are generally prohibited under the Public Health Code from disclosing the content of a prescription to anyone other than the patient for whom it was written without the patient's prior authorization. The code currently allows unauthorized disclosures to another pharmacist acting on behalf of the patient, the doctor who prescribed the medication, the treating physician or health professional, certain law enforcement agencies, and persons engaged in research projects or studies with protocols approved by the Michigan Board of Pharmacy.

House Bill 4368 would amend the code (MCL 333.17752) to prohibit a pharmacist, pharmacy employee, or person having custody of or access to a prescription from disclosing the identity of the patient to a manufacturer, a distributor, or to any other person without the written, informed consent of the patient for whom the prescription was written. The bill would, however, specify that the amended section would not prohibit or restrict access to prescription information for health research if patient identifiers were removed by coding or encryption.

To the list of exceptions under which a pharmacist could disclose information without authorization, the bill would add that information could be given to a person representing health insurance or benefits plans for the purpose of providing payments or reimbursements. Also, the provision pertaining to disclosures to persons connected with research projects or studies with board-approved protocols would be changed. Under the bill, disclosures could be made to those research projects conducted under federal regulations contained in 45 C.F.R. 46 and 21 C.F.R. 50 and 56.

In addition, the bill would require a pharmacist or pharmacy employee, when discussing a prescription with a patient, to do so in such a way that other customers could not overhear the name of the prescribed drug. Further, the bill specifies that any pharmacist or pharmacy employee who violated any part of the amended section would be subject to current administrative sanctions contained in the code.

House Bill 4369, which is tie-barred to House Bill 4368, would amend the Public Health Code (MCL 333.17753) to require pharmacists to give customers notice of the requirements of House Bill 4368. Under the bill, the Department of Consumer and Industry Services would have to develop and distribute a poster that gave public notice of the requirements of Section 17752 of the code, with special attention being given to the provision that would be added by House Bill 4368 pertaining to the prohibition on disclosing patient identifiers to a manufacturer, distributor, or other person without the patient's written, informed consent. The notice would have to conform to the size and type of notices currently required to be posted in pharmacies that pertain to pricing, the use of generic drugs, and general information about the dispensing of prescription drugs. As an alternative, the department could instead integrate the new information with the existing posters, but would have to distribute a copy of the integrated poster to each dispensing prescriber licensed under the code. If a licensee made no additions or deletions, he or she could make true copies of the notice or poster. Licensees would have to conspicuously post the notice at each counter at which prescriptions were dispensed.

Analyst: S. Stutzky

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.