

Legislative Analysis



PREVENT PRESCRIPTION ERRORS

Mitchell Bean, Director
Phone: (517) 373-8080
<http://www.house.mi.gov/hfa>

House Bill 5328 as passed by the House
House Bill 5549 as passed by the House
Sponsor: Rep. Edward Gaffney
Committee: Health Policy

First Analysis (9-2-04)

BRIEF SUMMARY: House Bill 5328 would establish a process to develop and implement a program to prevent prescription errors, allow for the promulgation of rules to implement a quality assurance program, require certain information to be posted in pharmacies, and define “prescription medication error”. House Bill 5549 would require handwritten prescriptions to be printed and not written in cursive.

FISCAL IMPACT: House Bill 5328 has fiscal implications for the Michigan Board of Pharmacy and health professions regulatory staff within the Michigan Department of Community Health. The bill adds responsibilities to the Board and Department for a quality assurance program with intent to prevent prescription medication errors and reduce recurrence of errors. The cost to the Department is not known at this time. A process currently exists to receive and act on consumer allegations of violations of practice.

Establishing requirements for handwritten prescriptions, as House Bill 5549 would do, will not have any fiscal impact on the state or local units of government.

THE APPARENT PROBLEM:

Each year, between 44,000 and 98,000 people die in U.S. hospitals from medical errors. Many of these errors involve prescription drugs. Prescription errors also kill and sicken many more thousands outside of hospitals. Typical errors include dispensing the wrong drug (many drugs have similar sounding names), dispensing the right drug but at the wrong dosage, and failing to identify adverse reactions with other prescriptions or over-the-counter medicines or herbal remedies.

Illegible handwriting accounts for many of the prescription errors associated with confusing one drug with another and dosing mistakes. Some hospitals are now testing software that eliminates handwritten prescriptions in an attempt to decrease the number of prescription errors, but it is not yet widely available and may not be appropriate for physician practices. In the meantime, some believe that requiring prescriptions to be printed, instead of being written in cursive, will prevent many of these errors.

Others point out that creating a quality assurance program to study and prevent prescription medication errors that occur in pharmacies would also save lives. Legislation has been introduced to implement these recommendations.

THE CONTENT OF THE BILLS:

House Bill 5328 would amend the Public Health Code (MCL 333.17753, 333.17757, and 333.17757a). Within one year of the bill's effective date, the Michigan Board of Pharmacy (in cooperation with the Michigan Medication Safety Coalition and the Michigan Pharmacists Association) would have to establish a process for the development and implementation of a quality assurance program to, at a minimum, document, assess, identify, and prevent prescription medication errors in pharmacies or that are attributable, whether in whole or in part, to the pharmacy or its personnel, a pharmacist, or a dispensing prescriber.

The bill would specify that the purpose of the quality assurance program would be to assist pharmacies, pharmacists, and dispensing prescribers to take appropriate action to prevent errors or to prevent the recurrence of prescription medication errors. The program could include a peer review committee appointed by the state or any of the listed organizations. Information, data, or records could be provided to a peer review committee a person, organization, or entity. Information and records generated for and maintained as a component of the program would be considered confidential and could only be used for the purposes of peer review. Absent malice, a person, organization, or entity would not be civilly or criminally liable for providing information, data, or records under the bill or for any act or communication in the use of the information.

The department, in consultation with the board and the quality assurance program, could develop departmental rules to establish standards, policies, procedures, and requirements for a licensed pharmacy in order to implement a quality assurance program. Upon request, a pharmacist would have to provide information to each purchaser of a prescription drug about how to contact the department with a complaint regarding the dispensing of his or her prescription or if he or she believed that a prescription medication error had occurred.

“Prescription medication error” would be defined as a preventable event that occurred while the medication was in the control of the health care professional or health facility that could cause or lead to inappropriate medication use or patient harm. A preventable event could occur at any step related to the health profession and its procedures or systems, including, but not limited to, the prescribing, compounding, dispensing, or distribution of a prescription; the ordering or communication of the prescription to the dispensing prescriber; the labeling, packaging, or naming of the prescription; the monitoring of the use of a prescription; and the educating of the patient regarding the prescription.

Further, pharmacists are currently required to display a notice as prescribed in the code at each counter where prescription drugs are dispensed. Information required to be on the notice includes informing the patient of the right to find out the price of a prescription drug before the prescription is filled and that a generic drug cannot be dispensed if the physician has written “dispense as written” or the initials “d.a.w.” on the prescription. Under the bill, the notice would also have to say that a person who had a concern that an

error may have occurred in the dispensing of the prescription may contact the Department of Community Health or the Michigan Board of Pharmacy. This same information would also have to be included on a notice required to be conspicuously displayed by each dispensing prescriber engaged in the business of selling prescription drugs in the location within the dispensing prescriber's practice where the dispensing occurs.

The above noticing requirement would take effect upon the implementation of the quality assurance program and receipt by the secretary of state of written notice from the Michigan Board of Pharmacy that the program was operational.

House Bill 5549 would amend the Public Health Code (MCL 333.7333) to require a handwritten prescription to be legibly printed in a type that is at least 10 point, written in ink or an indelible pencil, and signed by the prescriber. If not prohibited by federal law, a prescriber could transmit a handwritten prescription by facsimile or any other electronic transmission. A handwritten prescription could also be electronically transmitted directly to a pharmacy of the patient's choice or his or her authorized agent; however, the data could not be altered or modified in the transmission process. The provider of electronic transmission services could retain an electronically transmitted prescription in a confidential archive. The information could not be used for commercial or marketing purposes.

ARGUMENTS:

For:

Many deaths and injuries associated with prescription drugs could be prevented. For instance, a doctor's illegible handwriting can make it difficult for a pharmacist to read the prescription correctly. Many drugs have similar sounding names and spellings and can be easily confused one with another. Furthermore, a misplaced decimal in the dosage instruction can result in a dangerous or lethal overdose. A simple fix would be to require doctors and other prescribers to print prescriptions legibly instead of writing the prescriptions in cursive. House Bill 5549 would prohibit a prescriber from writing a prescription in cursive, and would also require the printing to be of a certain size so to ensure readability.

Response:

The bill would be difficult to enforce. Also, though the bill does not specify a penalty for failing to print a prescription, the health code makes a violation of any provision for which a penalty is not specified a misdemeanor. Though measures do need to be taken to increase the safety of the public, it must be questioned as to whether turning a doctor or nurse into a criminal for writing a prescription in cursive is the appropriate way to go.

For:

House Bill 5328 would create a prescription drug quality assurance program. The program could reduce errors by studying mistakes that occur in Michigan pharmacies and provide important data to the Department of Community Health for use in making recommendations or departmental rule changes to minimize, if not eliminate altogether, those mistakes. For instance, researchers have found that some pharmacists (not

necessarily within this state), turn off a computer program that alerts a pharmacist to possible drug reactions between the new medication and ones the patient is already taking. Reportedly, some pharmacists turn off this program because it can slow down the printing of labels. Any practices found to be occurring in this state that jeopardize the public's safety could be the focus of future rule revisions or statutory changes.

Furthermore, the bill would require each pharmacy to post notices informing consumers of their rights to report any suspected prescription drug errors to the state pharmacy board or the quality assurance program. Accurate reporting of drug errors is an important first step in developing policy and practices that reduce such errors. Also, an informed public is more likely to take more responsibility to check their prescriptions before taking them and to ask questions of their doctors and pharmacists.

POSITIONS:

The Department of Community Health is neutral on House Bill 5328 and supports House Bill 5549. (5-25-04)

Representatives of the following organizations have indicated support for both bills:

The Michigan Osteopathic Association (5-25-04)
The Michigan Nurses Association (5-25-04)
The Michigan Pharmacists Association (5-25-04)
The Michigan State Medical Society (5-18-04)
The Michigan Association of Health Plans (5-18-04)

Representatives of the following organizations have indicated support for House Bill 5549:

The Michigan Dental Association (5-18-04)
The Michigan Health and Hospital Association (5-24-04)

Legislative Analyst: Susan Stutzky
Fiscal Analyst: Sue Frey
Margaret Alston

■ 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.