

EMERGENCY PHARMACY REGULATIONS

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Senate Bill 879 (S-4) as passed by the Senate
Senate Bill 920 (S-1) as passed by the Senate
Sponsor: Sen. Peter MacGregor
House Committee: Government Operations
Senate Committee: Health Policy and Human Services [Discharged]
Complete to 12-14-20

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

SUMMARY:

Senate Bills 879 and 920 would respectively amend the Insurance Code and the Public Health Code to provide for temporary regulations governing pharmacists and prescriptions. The bills would not be effective after March 31, 2021.

Senate Bill 879 would amend the Insurance Code to require health insurance policy coverage of emergency and early refills.

The bill would provide that, until March 31, 2021, an insurer that delivers, issues for delivery, or renews a health insurance policy that provides coverage for prescription drugs must do both of the following:

- Provide coverage for an *emergency refill* of up to a 60-day supply of any covered *maintenance prescription drug*.
- Provide coverage for an early refill of any 30-day or 60-day covered maintenance prescription drug to allow for up to a 90-day supply, regardless of whether the pharmacy is mail-order or in person.

Emergency refill would mean a refill where, in the pharmacist's professional judgment, failure to refill the prescription may interrupt the patient's ongoing care and have a significant adverse effect on the patient's well-being.

Maintenance prescription drug would mean a prescription drug that meets the following:

- Is covered by the policy, with authorized refills available.
- Is used to manage and treat a chronic long-term care condition.
- Except for anti-epileptic prescription drugs, is not a Schedule 2 to 5 controlled substance.

MCL 500.3406o and proposed 500.3406w

Senate Bill 920 would amend Part 177 (Pharmacy Practice) of the Public Health Code to allow pharmacists to do all of the following:

- Dispense emergency refills of up to a 60-day supply of a prescription drug that is not a controlled substance, if the pharmacist believes that failure to refill the prescription could adversely affect a patient's well-being. The pharmacist would have to inform the patient that the prescription was refilled under the temporary allowance and inform the prescriber of the refill in a reasonable time period. Before refilling the prescription, the pharmacist,

clinic, or mobile pharmacy would have to make (and document) reasonable efforts to communicate with the prescriber. A prescriber would not incur criminal or civil liability or administrative sanction because a pharmacist refilled a prescription as described above.

- Operate a pharmacy in an area not designated on the pharmacy license as long as this does not involve preparing certain sterile drug products for immediate inpatient administration.
- Dispense or administer drugs as needed to treat COVID-19 under protocols established by the Centers for Disease Control and Prevention (CDC) or the National Institutes of Health or as determined by the Department of Health and Human Services (DHHS).
- Substitute a therapeutically equivalent drug for one subject to critical shortages. The pharmacist would have to inform the patient of the substitution and inform the prescriber of the substitution in a reasonable time period. A prescriber would not incur criminal or civil liability or administrative sanction because a pharmacist refilled a prescription as described above.
- Supervise pharmacy technicians and other pharmacy staff remotely under certain specified parameters, although a technician could not perform sterile or nonsterile compounding without a pharmacist on the premises.

The bill would also allow preceptors to supervise student pharmacists remotely to fulfill eligibility for licensure and avoid delaying graduation.

The bill would provide that pharmacies, manufacturers, and wholesale distributors licensed and in good standing in other states would be considered licensed to do business in Michigan, with some restrictions on importing controlled substances and (for pharmacies) sterile compounding services.

Proposed MCL 333.17713

As noted above, the bills would not apply after March 31, 2021.

Neither bill could not take effect unless both bills were enacted into law.

FISCAL IMPACT:

Senate Bills 879 and 920 would not have a significant fiscal impact on any unit of state or local government.

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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.