

Senate Fiscal Agency
P. O. Box 30036
Lansing, Michigan 48909-7536

SFA



BILL ANALYSIS

Telephone: (517) 373-5383
Fax: (517) 373-1986
TDD: (517) 373-0543

House Bill 4681 (Substitute H-5 as passed by the House)
House Bill 4682 (Substitute H-3 as passed by the House)
House Bill 4683 (Substitute H-5 as passed by the House)
House Bill 4684 (Substitute H-3 as passed by the House)
House Bill 4685 (Substitute H-3 as passed by the House)
House Bill 4686 (Substitute H-3 as passed by the House)

Sponsors: Representative Gerald Law (H.B. 4681)
Representative Penny Crissman (H.B. 4682)
Representative Michael J. Griffin (H.B. 4683)
Representative Sharon Gire (H.B. 4684)
Representative Beverly Hammerstrom (H.B. 4685)
Representative Kirk Profit (H.B. 4686)

House Committee: Health Policy

Senate Committee: Health Policy and Senior Citizens

Date Completed: 9-15-98

CONTENT

The bills would amend three separate acts to state legislative findings concerning the prescription of controlled substances to treat intractable pain; require the development of an educational program for health professionals licensed to prescribe or dispense controlled substances; revise the membership and duties of the Advisory Committee on Pain and Symptom Management; and require health insurers to explain clearly to insured persons how coverage benefits applied in the treatment and evaluation of intractable pain. The bills would take effect October 1, 1998. House Bills 4681 (H-5), 4682 (H-3), 4683 (H-5), and 4685 (H-3) would amend the Public Health Code. House Bill 4684 (H-3) would amend the Insurance Code and House Bill 4686 (H-3) would amend the Nonprofit Health Care Corporation Reform Act (which governs Blue Cross and Blue Shield of Michigan (BCBSM)).

House Bill 4683 (H-5)

In addition to specifying legislative findings in regard to the use of controlled substances in treating intractable pain, the bill would require the Department of Consumer and Industry Services (DCIS), in consultation with the Department of Community Health (DCH), to develop an informational booklet on intractable pain; require the DCIS, in conjunction with the Controlled

Substances Advisory Commission, to develop an educational program (regarding controlled substances) for health professionals holding a controlled substances license; and allow the DCIS to establish an ad hoc review panel for the provision of information in investigations involving the prescription of controlled substances.

The bill specifies the following legislative findings:

- "...that the use of controlled substances is appropriate in the medical treatment of certain forms of intractable pain, and that efforts to control diversion or improper administration of controlled substances should not interfere with the legitimate, medically recognized use of those controlled substances to relieve pain and suffering."
- "...that some patients in the state with intractable pain, including, but not limited to, those patients with cancer and with nonmalignant pain syndrome, are unable to obtain from their health care providers sufficient pain relief through the prescription of controlled substances, especially controlled substances included in schedule 2..., due to... [the regulatory scheme for prescription forms]." (Schedule 2 substances have been determined to have a high potential for abuse, may lead to severe psychotic or physical dependence, and

currently have an accepted medical use; they include various narcotics such as opium, codeine, morphine, methadone, and other opiates.)

- "...that the regulatory scheme of official prescription forms created in sections 7333 and 7334 is perceived in some cases to discourage the appropriate use of opioids in the treatment of patients... [with intractable pain]."

The bill includes a legislative statement, based on the above findings, "...that the official prescription form program...was created to prevent the abuse and diversion of controlled substances included in schedule 2...and not to prevent or inhibit the legitimate, medically recognized use of those controlled substances to treat patients with cases of intractable pain, especially long-term treatment." The bill states a legislative intent "to permit and facilitate adequate treatment for intractable pain by licensed health professionals, including, but not limited to, the prescription or dispensing of controlled substances included in schedule 2..., when medically appropriate".

The bill provides that the DCIS, in consultation with the DCH, would have to develop, publish, and distribute an informational booklet on intractable pain. The DCIS would have to include at least the following in the informational booklet: the definition of intractable pain (as proposed in House Bill 4681 (H-5)); pain management educational curricula and continuing educational requirements of institutions providing health care education recommended by the Advisory Committee on Pain and Symptom Management; and other information considered relevant or useful by the DCIS.

The DCIS, in conjunction with the Controlled Substances Advisory Commission, would have to develop and conduct an educational program for health professionals who were licensed to prescribe or dispense, or both, controlled substances. The DCIS would have to include, at a minimum, all of the following in the educational program:

- Information on the history and purpose of the official prescription form program in the Code.
- Information on how the DCIS collects, processes, and compiles official prescription form information.
- Information on how the DCIS processes allegations of wrongdoing against licensees,

including, but not limited to, how the permanent historical record is maintained for each licensee, how and why a review of the permanent historical record is done, and how the decision is made to issue a formal complaint against a licensee.

- Information on the disciplinary process, including a licensee's rights and duties if an allegation of wrongdoing is filed against the licensee or if some other circumstance causes or requires the DCIS to review a licensee's individual historical record.
- Other information considered relevant or useful by the DCIS or the Controlled Substances Advisory Commission, especially information that would address the findings and statements of intent proposed in House Bill 4683 (H-3).

The bill provides that for an investigation involving the prescription of a controlled substance, the DCIS could establish an ad hoc review panel to provide the DCIS with expert information regarding a specific health profession or health specialty, or a specific health care treatment or procedure as it related to an investigation. The DCIS would have to establish triennially a pool of 10 physicians, five of whom were allopathic physicians and five of whom were osteopathic physicians. For each ad hoc review panel, the DCIS would have to appoint three physicians from this pool. The panel would have to provide the information required to the DCIS during the investigation process and before a formal complaint was issued.

House Bill 4681 (H-5)

The bill would change the name of the Interdisciplinary Advisory Committee on Pain and Symptom Management to the Advisory Committee on Pain and Symptom Management, and revise the committee's membership and duties. Further, the bill would define "intractable pain" as a state of pain in which the cause could not be removed or otherwise treated; and which, in the generally accepted practice of allopathic or osteopathic medicine, no relief or cure of the cause of the pain was possible, or had been found after reasonable efforts including, but not limited to, evaluation by an attending physician and by one or more other physicians who specialized in the treatment of the area, system, or organ of the body that was perceived to be the source of the pain.

Currently, the Public Health Code requires that

each health profession board created under Article 16 of the Code (with the exception of the Michigan Board of Sanitarians, the Michigan Board of Veterinary Medicine, and the joint task force on physician's assistants) appoint one member to the advisory committee. Further, the Board of Medicine and the Board of Osteopathic Medicine and Surgery each must appoint two members; one of whom specializes in primary care and one of whom specializes in the treatment of patients with chronic pain or terminal illness. The bill provides that of the physicians appointed by each of these two boards, one would have to specialize in primary care and one would have to be certified in the specialty of pain medicine by one or more national professional organizations approved by the DCIS including, but not limited to, the American Board of Medical Specialists or the American Board of Pain Medicine. The bill provides that the remainder of the advisory committee would consist of the following members:

- One psychologist who was associated with the education and training of psychology students, appointed by the Michigan Board of Psychology.
- One registered professional nurse with training in the treatment of intractable pain who was associated with the education and training of nursing students, appointed by the Michigan Board of Nursing.
- One dentist with training in the treatment of intractable pain who was associated with the education and training of dental students, appointed by the Michigan Board of Dentistry.
- One pharmacist with training in the treatment of intractable pain who was associated with the education and training of pharmacy students, appointed by the Michigan Board of Pharmacy.

Further, the Governor would appoint one individual who represented the Michigan Hospice Organization or its successor; one representative from each of the State's medical schools; one individual who had been diagnosed as a chronic pain sufferer; and one individual to represent the general public. The bill would delete from the advisory committee a member appointed by the Board of Examiners of Social Workers. The terms of the members who currently serve on the advisory committee would expire on the effective date of the bill; the new members would have to be appointed within 45 days of that date. A member would serve for two years, or until a successor was appointed. A vacancy would have to be filled in the

same manner as an original appointment.

The bill would retain most of the current duties that must be performed by the advisory committee; however, it would eliminate a requirement that the advisory committee provide a forum open to all human health care professions and hospices every two years. The bill provides instead that the advisory committee, as least once a year, would have to consult with all health profession licensure boards (except veterinary medicine) and the Board of Examiners of Social Workers to develop an integrated approach to understanding and applying pain and symptom management techniques. The bill would delete a requirement that the advisory committee develop written materials explaining pain and symptom management and hospice care for distribution to health professionals, benefit plans, and the public.

Currently, the advisory committee must biennially report and make recommendations to the standing committees in the Senate and House of Representatives that have oversight over public health issues. The bill would delete this provision and instead require annual reports to the Directors of the DCIS and the DCH on pain management educational curricula and continuing education requirements of institutions providing health care education; information about the impact and effectiveness of previous recommendations that had been implemented, including, but not limited to, recommendations regarding the implementation of model core curricula on pain and symptom management; and activities undertaken by the advisory committee in complying with requirements to develop the model core curricula and recommendations on integrating pain and symptom management into the customary practice of health care professionals. The bill specifically would require the advisory committee, beginning in January of the first year after the bill's effective date, to review annually any changes occurring in pain and symptom management.

House Bill 4682 (H-3)

The bill states a legislative finding "...that the treatment of intractable pain is an appropriate issue for the legislature to consider, and that the citizens of this state would be well served by the enactment of legislation that accomplishes all of the following:

- (A) Provides more and better information to health care consumers regarding the medical treatment of intractable pain, health care coverage and benefits for the

treatment of intractable pain, and the education of health professionals in pain and symptom management.

- (B) Provides for the appointment of an advisory body to study and make recommendations on model core curricula on pain and symptom management for the institutions in this state providing health care education, continuing education for health professionals on pain and symptom management, and the integration of pain and symptom management into the customary practice of health care.
- (C) Educates health professionals about the official prescription form program and the disciplinary process for state licensees and registrants, including, but not limited to, how the Department of Consumer and Industry Services processes allegations of wrongdoing against licensees and registrants.”

**House Bills 4684 (H-3), 4685 (H-3),
and 4686 (H-3)**

House Bills 4684 (H-3), 4685 (H-3), and 4686 (H-3) would require an insurance company, a health maintenance organization (HMO), and BCBSM, respectively, to provide to insured persons and subscribers, upon enrollment, a clear, complete, and accurate description of how covered benefits would apply in the evaluation and treatment of intractable pain. This description would have to be included in the form that these entities presently are required to provide to insured persons or subscribers upon enrollment.

The bills also would require that an insurer, an HMO, and BCBSM, upon request, provide an insured person or subscriber with the professional credentials of participating health professionals who were board certified in the specialty of pain medicine and the evaluation and treatment of intractable pain, and had reported that certification to the insurer, HMO, or BCBSM. Currently, these entities are required, upon request, to provide an insured person or subscriber with the professional credentials of participating health professionals.

MCL 333.16204a (H.B. 4681)
Proposed MCL 333.16204b (H.B. 4682)
Proposed MCL 333.16204c et al. (H.B. 4683)
MCL 500.2212a (H.B. 4684)
333.21052 (H.B. 4685)
550.1402a (H.B. 4686)

Legislative Analyst: G. Towne

FISCAL IMPACT

**House Bills 4681 (H-5), 4682 (H-3),
4684 (H-3), 4685 (H-3), and 4686 (H-3)**

The bills would have no fiscal impact on State or local government.

House Bill 4683 (H-5)

It is difficult to determine what the actual fiscal impact of this bill would be, but based on costs associated with similar education programs, some estimates are available. According to the Department of Consumer and Industry Services, the informational booklet would need to be made available to the 255,000 health care professionals, 4,100 health care facilities, and 150 payment and benefit plan providers. Additionally, the Department estimates 250,000 public requests for the information. Given these numbers, the printing

of 500,000 booklets at approximately 40 cents each would cost about \$200,000, with estimated mailing costs of about \$245,000.

The Department also estimates that the education program would require approximately 50 seminars be put on by the Department. Administrative costs associated with these additional responsibilities are estimated at \$24,000.

Fiscal Analyst: M. Tyszkiewicz
J. Walker

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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.