The following excerpt is reprinted from the Michigan Opioid Laws Frequently Asked Questions (FAQs) prepared by the Department of Licensing and Regulatory Affairs (LARA) and the Michigan Department of Health and Human Services (DHHS). Available online at https://www.michigan.gov/documents/lara/LARA_DHHS_Opioid_Laws_FAQ_05-02-2018_622175_7.pdf.

OVERVIEW OF THE PUBLIC ACTS

In December of 2017, legislation was enacted to curb Michigan's persistent and increasing substance abuse and drug diversion problem. The 10-bill package represents a comprehensive approach to addressing the abuse and diversion issue, and encompasses the following laws.

PUBLIC ACT 246 OF 2017

Beginning June 1, 2018, a prescriber shall comply with the following before issuing a new prescription for a controlled substance containing an opioid to a minor:

- Discuss with the minor and the minor's parent or guardian the potential risks of addiction and overdose associated with the controlled substance.
- Discuss the increased risk of addiction to a controlled substance to an individual suffering from both mental and substance abuse disorders.
- Discuss the danger of taking a controlled substance containing an opioid with benzodiazepine, alcohol, or another central nervous system depressant.
- Discuss any other information in the patient counseling information section of the label for the prescription.

The signature of the minor's parent or guardian to consent to the minor's treatment is required on a "start talking consent form," which is to be filed in the minor's medical record. The form is to contain the signatures of the parties involved, information on the name and quantity of the controlled substance, acknowledgement that the drug has potential for abuse, and a statement certifying that the prescriber discussed with the minor and the minor's guardian the potential risks of the drug.

If the adult signing the consent form is not the parent or guardian, the prescriber shall not prescribe more than a single 72-hour supply of the controlled substance to the minor.

Exceptions to the above requirements exist in the case of emergency, if it is detrimental to the minor's health, certain surgical circumstances, in specific hospice related instances, and if the minor's parent or guardian is not legally required to consent.

Beginning June 1, 2018, before an opioid is prescribed to a patient, a prescriber shall provide the following information:

- The dangers of opioid addiction.
- How to properly dispose of an expired, unused, or unwanted controlled substance.
- That the delivery of a controlled substance is a felony under Michigan law.
- If the patient is pregnant or is a female of reproductive age, the short and long-term effects of exposing a fetus to an opioid, including but not limited to neonatal abstinence syndrome.

After providing the information described above, the prescriber shall obtain the signature of the patient or the patient's representative on a start talking consent form as described by section (4) of PA 246 of 2017. The signed form shall be kept in the patient's medical record. The requirement does not apply if the controlled substance is prescribed for inpatient use.

Finally, the legislation provides sanctions for prescribers for failing to inform minors and their guardians of the risks of opioid abuse. A sample form can be found on the DHHS website, under the Prescribers Section (https://www.michigan.gov/opioids).

PUBLIC ACT 247 OF 2017

Pursuant to Public Act 101 of 2018, except as otherwise provided by below, beginning January 4, 2018, a licensed prescriber shall not prescribe a controlled substance listed in Schedules 2–5 unless the prescriber has established a bona fide prescriber-patient relationship with the patient. A licensed prescriber may prescribe a Schedule 2–5 controlled substance without first establishing a bona fide prescriber-patient relationship in the following circumstances:

- The prescriber is providing on-call coverage or cross-coverage for another prescriber who is not available and has established a bona fide prescriber-patient relationship with the patient for whom the on-call or covering prescriber is prescribing the controlled substance. The prescriber, or an individual licensed under Article 15 of the Public Health Code, must review the patient's relevant medical or clinical records, medical history, and any change in medical condition, as well as provide documentation in the patient's medical record in accordance with medically accepted standards of care.
- The prescriber is following or modifying the orders of a prescriber who has established a bona fide prescriber-patient relationship with a hospital in-patient, hospice patient, or nursing care facility resident, and provides documentation in the patient's medical record in accordance with medically accepted standards of care.
- The prescriber is prescribing for a patient that has been admitted to a licensed nursing care facility or a hospice, meets the requirements of a bona fide prescriber-patient relationship, in compliance with R 325.20602 or R 325.13302, and provides documentation in the patient's medical record in accordance with medically accepted standards of care.
- The prescriber is prescribing for a patient for whom the tasks of reviewing the patient's medical history and current medical condition, including a relevant medical evaluation of the patient, and the creation and maintaining of records of the patient's condition, have been performed by an individual licensed under Article 15 of the Public Health Code, and the prescriber provides documentation in the patient's medical record in accordance with medically accepted standards of care.
- The prescriber is treating a patient in a medical emergency. Medical emergency is defined as a situation that, in the prescriber's good-faith professional judgement, creates an immediate threat of serious risk to the life or health of the patient for whom the controlled substance prescription is being prescribed.

If the prescriber provides a controlled substance, the prescriber shall provide follow-up care to the patient to monitor the efficacy of the use of the controlled substance as a treatment of the patient's medical condition. If the prescriber is unable to provide follow-up care, they shall refer the patient to the patient's primary care provider for follow-up care, or if a primary care provider does not exist, another licensed prescriber who is geographically accessible to the patient.

The legislation defines a bona fide prescriber-patient relationship as treatment or a counseling relationship between a prescriber and a patient in which both of the following are present:

- The prescriber has reviewed the patient's medical or clinical records and completed a full assessment of the patient's medical history and current medical condition, including a relevant medical evaluation of the patient conducted in person or via telehealth.
- The prescriber has created and maintained records of the patient's condition in accordance with medically accepted standards.

By December 27, 2018, LARA, in consultation with the Michigan Boards of Medicine, Osteopathic Medicine and Surgery, Dentistry, Podiatric Medicine, Optometry, Nursing, and the Michigan Task Force on Physician Assistants, may promulgate rules describing circumstances under which a bona fide prescriber-patient relationship is not required for purposes of prescribing a Schedule 2–5 controlled substance. The rules may also include an alternative requirement for prescribing a Schedule 2–5 controlled substance when a bona fide prescriber-patient relationship is not required by the rules promulgated above. Finally, the legislation provides terms for sanction for violating the bona fide relationship requirements.

PUBLIC ACT 248 OF 2017

Beginning June 1, 2018, before prescribing or dispensing to a patient a controlled substance in a quantity that exceeds a 3-day supply, a licensed prescriber shall obtain and review a MAPS report concerning that patient. The requirement does not apply in any of the following circumstances:

- If the dispensing occurs in a hospital or a freestanding surgical outpatient facility and the controlled substance is administered to the patient in the hospital or facility.
- If the patient is an animal, the dispensing occurs in a veterinary hospital or clinic, and the controlled substance is administered to the animal in that hospital or clinic.
- If the controlled substance is prescribed by a licensed prescriber who is a veterinarian and the controlled substance will be dispensed by a pharmacist.

Beginning June 1, 2018, before prescribing or dispensing a controlled substance to a patient, a licensed prescriber shall register with MAPS.

PUBLIC ACT 249 OF 2017

This Act contains many of the provisions of the other bills, as it is being used as a vehicle to correct conflicts in statute created by the package of bills being passed.

- The bill contains the bona fide prescriber-patient relationship language of SB 270.
- The bill contains the MAPS report review language for prescribers contained in SB 166, as well as SB 166's language regarding mandatory registration with MAPS for prescribers.

Provides penalties for violation of the following:

- Beginning March 31, 2019 (or if rules are promulgated before then for alternatives to the bona fide relationship, the date on which rules are promulgated), prescribers failing to adhere to the bona fide prescriber-patient relationship requirements.
- Beginning June 1, 2018, prescribers failing to obtain and review a MAPS report, when required, prior to prescribing or dispensing to a patient a controlled substance in a quantity that exceeds a 3-day supply.
- Beginning June 1, 2018, prescribers failing to register with MAPS prior to prescribing or dispensing a controlled substance to a patient.
- Beginning June 1, 2018, prescribers failing to provide minors, and their parents or guardians, with proper education regarding the risks of opioid abuse.

Beginning June 1, 2018, if the department has a reasonable basis to believe that a prescriber has failed to obtain and review a MAPS report before prescribing or dispensing to a patient a controlled substance in a quantity that exceeds a 3-day supply, or if the department has a reasonable basis to believe that before prescribing or dispensing a controlled substance to a patient a licensed prescriber has failed to register with MAPS, the department is not required to conduct an investigation and may issue a letter to the licensee notifying the licensee that he or she may be in violation of statute. A letter issued under this section is not considered a disciplinary action.

PUBLIC ACT 250 OF 2017

Effective March 27, 2018, requires a health professional licensee or registrant that treats a patient for an opioid-related overdose to provide that patient with information regarding Substance Use Disorder Services. For resources and additional information, go to the DHHS website: https://www.michigan.gov/opioids.

PUBLIC ACT 251 OF 2017

Beginning July 1, 2018, if a prescriber is treating a patient for acute pain, that the prescriber shall not prescribe the patient more than a 7-day supply of an opioid within a 7-day period.

Beginning March 27, 2018, a pharmacist, consistent with federal law and regulations on the partial filling of a controlled substance included in Schedule 2, may partially fill in increments, a prescription for a controlled substance included in Schedule 2.

PUBLIC ACT 252 OF 2017

Adds the dispensing of a controlled substance at a veterinary hospital or clinic that administers the controlled substance to an animal that is an inpatient, to the following list of exemptions for MAPS reporting requirements:

- A hospital
- A health facility or agency if the controlled substance is dispensed by a dispensing prescriber in a quantity adequate to treat the patient for not more than 48 hours

Provides that before dispensing or prescribing buprenorphine or a drug containing buprenorphine or methadone to a patient in a substance disorder program, the prescriber shall obtain and review a MAPS report on the patient. A prescriber shall report data to MAPS if federal law does not prohibit the reporting of data concerning the patient, to LARA.

R 338.3162 E is rescinded from the pharmacy rules, and deals with exemptions to MAPS reporting requirements.

PUBLIC ACT 253 OF 2017

Amends the Social Welfare Act to provide that an eligible individual can receive medically necessary treatment for opioid abuse. The bill codifies coverage by Michigan's Medicaid program for detox programs.

PUBLIC ACT 254 OF 2017

Requires Prescription Drug and Opioid Abuse Commission (PDOAC), by July 1, 2018, to develop or adopt for the Department of Education, recommendations for the instruction of pupils on the dangers of prescription opioid drug abuse.

PUBLIC ACT 255 OF 2017

By July 1, 2019, the Department of Education shall make available to school districts the model program of instruction on the dangers of prescription opioid drug abuse, developed or adopted by the PDOAC.

Beginning in the 2019–2020 School Year, the Department of Education shall ensure that the state model of academic standards for health education includes instruction on prescription opioid drug abuse, including at least the PDOAC recommendations.