



**House
Legislative
Analysis
Section**

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DELEGATED SURGERY: PATIENT INFO

House Bill 4193 as passed by the House
Second Analysis (1-10-90)

Sponsor: Rep. Nick Ciaramitaro
Committee: Public Health

RECEIVED

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THE APPARENT PROBLEM:

An industrial accident resulted in the partial amputation of two of a worker's fingers. The worker went to an industrial clinic, where an unlicensed clinic staffer attempted to reattach the severed fingertips. However, gangrene later set in and the worker lost the severed parts of his fingers. Although the facility did not have the equipment needed to perform microsurgery, and although neither the unlicensed staffer nor the licensed physician who delegated the surgery was trained to do the kind of microvascular surgery required for successful treatment of the worker's injury, the physician was held harmless because of Public Health Code provisions allowing physicians to delegate tasks. Legislation to prevent future such incidents has been proposed.

THE CONTENT OF THE BILL:

The Public Health Code allows people licensed by the code (other than those in a health profession subfield) to delegate certain tasks to a licensed or unlicensed person if that person is otherwise qualified by education, training, or experience to perform the task. The task must be performed under the licensee's supervision, but the licensee need not be physically present when the delegated task is carried out.

The bill would amend the Public Health Code to require that, with certain exceptions, licensed health professionals could delegate tasks requiring the use of "surgical instrumentation" only to someone licensed under Article 15 of the code. This requirement could be waived if the unlicensed person to whom such a task was delegated was a student in an approved medical or osteopathic school or physician's assistant training program and if a licensed physician was physically present to supervise the surgery.

The bill also would require that the person delegated to perform surgery tell the patient both (a) who had delegated the surgery and (b)

who was supervising the individual performing the surgery. This requirement would be waived in cases of emergency (where the patient might be in imminent danger of loss of life or significant health impairment) or in cases involving minors or others who were unable to give consent and whose parent or guardian couldn't be located ("after a reasonable effort"). The licensee delegating the task would be responsible for insuring that the required information be disclosed to the patient.

MCL 333.16215

FISCAL IMPLICATIONS:

According to the House Fiscal Agency, the bill has no fiscal implications. (1-3-90)

ARGUMENTS:

For:

Reportedly, it is not uncommon for industrial clinics to be run by physicians from their homes. The physician is never actually present in the clinic, but merely delegates to the

personnel staffing the clinic the standing authority to perform tasks in the physician's absence, as the Public Health Code allows. Clearly, this has sometimes resulted in otherwise avoidable damage to patients, as the case of the worker with the severed fingertips shows. More generally, however, patients going to free-standing medical-surgical clinics should be able to assume that anyone doing surgery on them is licensed by the health department and should know who it is who has delegated the authority for performing the surgery. The bill would protect patients by restricting the delegation of surgery to licensed health professionals, (or, in cases where unlicensed people were allowed to do delegated surgery, by restricting these cases to medical, osteopathic, or physician's assistant students supervised by a licensed physician who was physically present) and by requiring that patients be given information about who delegated the surgery and who is supervising the surgery.

POSITIONS:

The Department of Public Health has no position on the bill. (1-10-90)

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