



**House  
Legislative  
Analysis  
Section**

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**DELEGATED SURGERY**

**House Bill 4193 as enrolled  
Third Analysis (12-19-90)**

**Sponsor: Rep. Nick Claramitaro  
House Committee: Public Health  
Senate Committee: Health Policy**

***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 physicians 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 a licensed physician were physically present to supervise the surgery and if the unlicensed person to whom such a task was delegated was either performing acupuncture or was a student in an approved medical or osteopathic school or physician's assistant training program.

MCL 333.16215

***FISCAL IMPLICATIONS:***

The Senate Fiscal Agency says that the bill would have no fiscal impact on state or local government. (9-25-90)

***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 otherwise qualified to perform 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 acupuncturists or medical, osteopathic, or physician's assistant students supervised by a licensed physician who was physically present).

***Against:***

The Public Health Code already adequately protects the public with regard to physician delegation of surgery. Besides restricting delegation to someone who is qualified by education or experience, the code also allows a licensing board to promulgate rules to prohibit or restrict the delegation of certain acts and to specify when closer supervision may be required.

***Response:*** The Public Health Code does already have provisions regarding doctors' delegation of surgery, but as the case of the worker with the severed fingers illustrates, the public is not adequately protected under existing provisions.