

SFA

BILL ANALYSIS

Senate Fiscal Agency

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House Bill 4193 (Substitute S-2 as reported)
Sponsor: Representative Nick Ciaramitaro
House Committee: Public Health
Senate Committee: Health Policy

Date Completed: 9-25-90

RATIONALE

The Public Health Code permits persons licensed under the Code, other than those licensed in a health profession subfield, to delegate certain tasks to a licensed or unlicensed person, if that person is qualified by education, training, or experience. The Code also requires that a delegated task be performed under the licensee's supervision, but the licensee does not have to be present physically when the delegated task is carried out. Reportedly, there occurred an industrial accident in which a worker, who suffered two severed fingers, was sent for medical care to an industrial clinic, where an unlicensed clinical staffer attempted to reattach the severed fingertips. Evidently, the clinic did not have the equipment required to perform microsurgery, and neither the unlicensed staff person nor the physician who delegated the surgery was trained to perform the type of microvascular surgery required for a successful treatment of the worker's injury. In the end, apparently, gangrene set in and the worker lost the severed parts of his fingers. Some people believe that the Code's provisions on the delegation of tasks need to be strengthened to prevent further inappropriate delegation of medical tasks.

CONTENT

The bill would amend the Public Health Code to provide that a licensee could delegate the performance of a surgical procedure only to a person licensed under the Code, unless the unlicensed person were enrolled in a medical or osteopathic medical school or physician's assistant program, or were performing acupuncture;

and the procedure were directly supervised by a licensed physician who was present physically when the procedure was performed.

A person, licensed under the Code's licensing provisions for health care professionals in medicine and osteopathic medicine and surgery, could delegate an act, task, or function that involved performing a procedure that used surgical instruments only to a person who was licensed under Article 15 of the Code, which provides for the licensure of certain health care professionals.

This provision would not apply if the procedure were directly supervised by a licensed physician or osteopathic physician who was physically present when the procedure was performed, and if the unlicensed individual were: a student enrolled in a medical or osteopathic school approved by the Michigan Board of Medicine or the Michigan Board of Osteopathic Medicine and Surgery, or in a physician's assistant training program approved by the Joint Physician's Assistant Task Force created under the Code's licensure provisions; or, were performing acupuncture.

MCL 333.16215

SENATE COMMITTEE ACTION

The Senate Health Policy Committee adopted a substitute (S-2) to the bill to provide that a licensee could delegate the performance of a procedure that used surgical instruments if the person who performed a procedure were

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performing acupuncture. The substitute bill also deleted provisions, proposed in the House-passed bill, on the disclosure to the patient of certain information about the licensee who delegated the task.

FISCAL IMPACT

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

ARGUMENTS

Supporting Argument

The Public Health Code provides for the delegation of certain tasks and functions to a licensed or unlicensed individual who is qualified by experience or education to perform such tasks. Delegation of these tasks may take place in a variety of settings, such as a physician's office, ready care clinic, or industrial clinic. At times, such delegation has resulted in patients' receiving inadequate or inappropriate treatment. The bill would provide additional safeguards in the delegation of medical tasks by restricting the delegation of a task to a person licensed under the Code, except in certain cases. As a result, patients would be afforded more protection.

Opposing Argument

There are sufficient safeguards in the Code governing a licensee's delegation of tasks. Besides restricting delegation to a person who is qualified by education or experience, the Code also permits a licensing board to promulgate rules to prohibit or restrict the delegation of certain acts and to specify conditions under which closer supervision of the person to whom the task has been delegated may be required.

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