

## CMH PEER REVIEWS

House Bill 4032 as introduced  
First Analysis (3-9-93)

Sponsor: Rep. David M. Gubow  
Committee: Mental Health

### ***THE APPARENT PROBLEM:***

Currently, the Mental Health Code requires each county community mental health (CMH) board to regularly review the appropriateness of programs, treatment, and community services provided in community settings and to ensure that appropriate services are received according to code standards. The confidentiality of documentation collected during peer reviews conducted in licensed general hospitals is protected under the Public Health Code, while Public Act 167 of 1990 (enrolled Senate Bill 616) extended similar protection to peer reviews conducted at mental health facilities (mental hospitals, psychiatric units, and psychiatric hospitals) licensed under the Mental Health Code. When the confidentiality of peer review documents for licensed mental health facilities was being discussed, some people had suggested that community mental health boards be included under Senate Bill 616, but no action was taken on the suggestion. At the request of the Michigan Association of Community Mental Health Boards, legislation has been introduced that would make CMH peer review documents confidential.

### ***THE CONTENT OF THE BILL:***

The bill would amend the Mental Health Code to require community mental health boards to conduct professional reviews in order to assure the quality of care provided to program recipients and to make information generated by and for such reviews confidential. The information would not be a matter of public record (and so would not fall under the Freedom of Information Act), would not be subject to court subpoena, and could be used only for review. The bill also would specify that it would not prevent disclosure of individual case records required under section 748 of the code (which requires disclosure of confidential patient records under specified circumstances) nor disclosure required by federal law to the Michigan Protection and Advocacy Services, Inc. (the agency designated

by the governor to provide protection and advocacy under section 931 of the code).

MCL 333.1209d

### ***FISCAL IMPLICATIONS:***

Fiscal information is not available at present. (3-9-93)

### ***ARGUMENTS:***

#### ***For:***

Professional reviews are designed to help clinical staff evaluate the services being delivered through a facility or program. The review process involves compilation and evaluation of professional practice, treatment procedures, and administrative actions. Reportedly, as community mental health boards move toward independent accreditation, quality assurance and the importance of confidentiality to the review process become more and more important.

According to the Department of Mental Health, there have been situations in which professionals, whose practices were evaluated as part of the review, obtained copies of the information gathered for the review and sued the review panel for the allegedly derogatory nature of that information. Since the threat of lawsuits can have a chilling effect on the ability of the review committee members to present honest appraisals of professional performances, it is essential that the records and data collected for professional reviews be kept confidential. Professional reviews in general hospitals and psychiatric facilities already are protected under law, and the same protection should be extended to community mental health board reviews to protect the integrity of the process.

### ***POSITIONS:***

The Michigan Association of Community Mental Health Boards supports the bill. (3-4-93)

