



Senate Fiscal Agency
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BILL



ANALYSIS

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House Bill 5012 (as reported without amendment)
Sponsor: Representative John Llewellyn
House Committee: Insurance
Senate Committee: Financial Services

Date Completed: 11-6-95

RATIONALE

The Revised Judicature Act generally prohibits a person authorized to practice medicine or surgery from disclosing any information acquired in "attending a patient in a professional character". If a patient dies, his or her heirs at law are considered the deceased patient's personal representatives for the purpose of waiving the doctor-patient privilege in a contest over admitting the patient's will to probate. According to representatives of the life insurance industry, a recent Michigan Court of Appeals decision has made it more difficult for companies to investigate the deaths of insureds. In *Scott v Henry Ford Hospital* (Docket No. 132892), the Court of Appeals upheld the trial court's ruling that a decedent's medical records could be released only to the personal representative of the decedent's estate. The beneficiary of a life insurance policy, then, cannot waive the privilege and allow the insurance company to obtain information necessary to investigate the death of an insured unless the beneficiary also is a duly appointed personal representative of the estate. Some people believe that a life insurance beneficiary should be statutorily authorized to waive the deceased's doctor-patient privilege in order to provide the information necessary for an insurer's investigation.

CONTENT

The bill would amend the Revised Judicature Act to specify that, if a patient died, either the beneficiary of the patient's life insurance policy or the patient's heirs at law could waive the doctor-patient privilege for the purpose of providing the necessary documentation to a life insurer in examining a claim for benefits.

MCL 600.2157

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

The bill would allow life insurers to gain access to necessary medical information to investigate the death of an insured person, with the permission of the beneficiary of the life insurance policy. Since the *Scott* decision interpreted the law to permit only a duly appointed personal representative of the deceased person to waive the doctor-patient privilege, without the bill, a beneficiary or insurer will have to bring a legal action seeking access to medical records or the beneficiary will have to seek legal appointment as a personal representative of the deceased's estate, in order for an insurance company to conduct a routine investigation of an insured person's death.

Legislative Analyst: P. Affholter

FISCAL IMPACT

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

Fiscal Analyst: M. Bain

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.