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BILL ANALYSIS

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House Bill 5490 (Substitute H-2 as passed by the House)
House Bill 5491 (Substitute H-2 as passed by the House)
Sponsor: Representative Gerald Law
House Committee: Health Policy
Senate Committee: Health Policy and Senior Citizens

Date Completed: 4-30-96

CONTENT

House Bill 5490 (H-2) would amend Article 17 of the Public Health Code, which governs health facilities and agencies, to exempt from the definition of "nursing home" a hospice residence licensed under Article 17, and a hospice certified under the applicable Federal regulation. House Bill 5491 (H-2) also would amend Article 17 to exempt a hospice residence from the definition of "health facility or agency"; provide for the licensure of a hospice residence; and establish a fee of $200 per license survey for hospice residences.

The bills are tie-barred to each other. A detailed description of House Bill 5491 (H-2) follows.

"Hospice residence" would mean a facility that provided 24-hour hospice care to two or more patients at a single location, and that provided either home care as described in Article 17, or inpatient care directly in compliance with Article 17 and with the standards set forth in the applicable Federal regulation (42 CFR 418.100). In addition, a hospice residence would have to be owned, operated, and governed by a hospice program that was licensed under Article 17 and provided aggregate days of patient care on a biennial basis to at least 70% of its hospice patients in their own homes, or that was owned, operated, and governed by a hospice program that was licensed under Article 17, had an average census over a 24-month period of 25 patients or less, and provided a majority of aggregate days of patient care in the patients' own homes. These references to "home" would not include a residence established by a patient in a licensed health facility or agency, except a home for the aged, if the residence were established after the patient was admitted to a hospice program. (The Code defines "hospice" as a health care program that provides a coordinated set of services rendered at home or in outpatient or institutional settings for individuals suffering from a disease or condition with a terminal prognosis.)

The bill provides that a person could not represent itself as a hospice residence unless that person were licensed as a hospice residence by the Department of Community Health. Currently, a hospice must be licensed unless it provides services to not more than seven patients per month on a yearly average, does not charge or receive fees for goods or services provided, and does not receive third party reimbursement for goods or services provided. If a hospice provides inpatient services that meet the definition of hospital, nursing home, home for the aged, or county medical

care facility, the hospice must obtain a separate license for that hospital, home, or facility. A hospital, nursing home, home for the aged, or county medical care facility that operates a hospice must be licensed as a hospice. Under the bill, a hospice also would have to obtain a separate license if it provided services that met the definition of hospice residence, and a hospital, nursing home, home for the aged, or county medical care facility would have to be licensed as a hospice residence if it operated a hospice residence.

The Code provides that the owner, operator, and governing body of a licensed hospice are responsible for all phases of the operation of the hospice and for the quality of care and services rendered, and must cooperate with the Department in the enforcement of the law. The bill would extend these provisions to the owner, operator, and governing body of a licensed hospice residence. In addition, the owner, operator, and governing body of a licensed hospice or hospice residence could not discriminate because of race, religion, color, national origin, or sex, in the operation of the hospice or hospice residence, including employment, patient admission and care, and room assignment.

As a condition of licensure as a hospice residence, an applicant would have to have been licensed under Article 17 as a hospice and in compliance with Federal standards for at least two years immediately preceding the date of application. A licensed hospice residence could provide both home care and inpatient care at the same location. A hospice residence providing inpatient care would have to comply with Federal standards.

The owner, operator, and governing body of a licensed hospice residence that provided only home care would have to do all of the following:

-- Provide 24-hour nursing services for each patient in accordance with his or her hospice care plan as required under the Federal regulation.
-- Have an approved plan for infection control that included provisions for isolating each patient with an infectious disease.
-- Obtain fire safety approval pursuant to the Code.
-- Equip each patient room with a Department-approved device for calling the staff member on duty.
-- Design and equip areas within the hospice residence for the comfort and privacy of each patient and his or her family members.
-- Permit patients to receive visitors, including young children, at any hour.
-- Provide individualized meal service plans in accordance with the Federal regulation.
-- Provide appropriate methods and procedures for the storage, dispensing, and administering of drugs and biologicals pursuant to the Federal regulation.

Under the Code, a hospice must provide a program of planned and continuous hospice care whose medical components are under the direction of a physician; and an individual may not be admitted to or retained for care by a hospice unless he or she is suffering from a disease or condition with a terminal prognosis. The bill would extend these provisions to a hospice residence. In addition, hospice care currently must consist of a coordinated set of services rendered at home or in outpatient or institutional settings for individuals suffering from a disease or condition with a terminal prognosis. The bill would refer, instead, to a set of coordinated services rendered at home or in hospice residence or other institutional settings on a continuous basis.

The Department would have to make at least a biennial visit to each hospice residence for the purposes of survey, evaluation, and consultation. A hospice residence would be subject to a fee of $200 per license survey. Investigations or inspections, other than inspections of financial

records, would have to be conducted without prior notice to a hospice residence. The Department could not delegate survey, evaluation, or consultation functions to a local health department that owned or operated a licensed hospice or hospice residence.

MCL 333.20109 (H.B. 5490) Legislative Analyst: S. Margules
333.20106 et al. (H.B. 5491)

FISCAL IMPACT

The bills would have an indeterminate fiscal impact. Hospice services are intended to provide supportive (as opposed to curative) services to the terminally ill. In this State these services are provided in-home; when the individuals can no longer be maintained in their home, they are placed in a hospital or nursing home. These bills would allow the establishment of hospice "residences", which are assumed to be less costly than hospital or nursing home per diems, again because of the supportive nature of hospice care. To the extent that this assumption is true, total health care costs for treating the terminally ill should decrease. It should be noted that any additional cost or savings would 1) be marginal due to the cost/savings being the incremental difference between hospice residence and hospital/nursing home per diems, and 2) be limited due to the fact that hospice services are restricted to the terminally ill with less than six months to live. In other words, these "residences" cannot generate their own demand beyond this restricted clientele group.

Given these limitations on the demand for hospice services, the number of hospice residences that would be established would be small. As a result, the costs associated with licensing the hospice residences also would be small and could be absorbed within existing State health facility licensure program resources.

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