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SFA**BILL ANALYSIS**

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Senate Bill 700 (as enrolled)
Sponsor: Senator Joe Conroy
Senate Committee: Health Policy and Senior Citizens
House Committee: Health Policy

PUBLIC ACT 227 of 1998

Date Completed: 7-9-98

RATIONALE

The Public Health Code contains a number of requirements and qualifications that a health professional must meet to obtain licensure or registration in Michigan, and allows the Department of Consumer and Industry Services (DCIS) to investigate activities related to the practice of a health profession by a licensee, registrant, or applicant for licensure or registration. The appropriate disciplinary subcommittee may impose specified sanctions against the person if it finds certain violations, including final adverse administrative action by a board in another state or U.S. territory, or if sanctions have been imposed by an out-of-State board and the sanctions are still in force. It has been pointed out that the investigative ability of the DCIS has been hindered by the lack of certain provisions in the Code. According to the DCIS, there have been instances in which the Department knew of, or suspected, that the holder of or applicant for a Michigan health profession license or registration had been disciplined by a health profession board in the U.S. military, or in another country; however, the DCIS was unable to take disciplinary action against the licensee or deny the application because the Code did not specifically allow the DCIS to do so based on the final adverse administrative action of a board in the military or another country. Further, under the Code there was no requirement that an applicant sign a release allowing the DCIS to investigate possible disciplinary action taken against the applicant by another state, the U.S. military, or another country. It was suggested that the Code be amended to allow the use of an adverse action of additional boards outside the State as the basis for disciplinary action against a licensee or to deny an applicant for licensure, and to require applicants to consent to the release of information regarding a disciplinary investigation by a health profession board of the U.S. military or another country.

CONTENT

The bill amended the Public Health Code to revise certain qualifications that a health professional must meet to be licensed or registered under the Code; and expand the powers of the Department of Consumer and Industry Services to sanction a licensee regarding final adverse administrative action by a regulatory body of the U.S. military, Federal government, or another country.

Under the Code, an applicant for licensure or registration as a health professional must establish that he or she has no disciplinary proceedings pending before, or sanctions imposed by, a similar licensure, registration, or certification board in Michigan or another state or country. Under the bill, an applicant also must establish that there are no disciplinary proceedings pending before, or sanctions imposed by, a similar board of the U.S. military or Federal government. In addition, the applicant must file with his or her health occupation board or task force a written, signed consent to the release of information regarding a disciplinary investigation involving the applicant conducted by a similar board of Michigan, another state, the U.S. military, the Federal government, or another country.

Under the Code, if a board, a task force, or the Department determines, after issuing a license, registration, or certificate, that sanctions have been imposed against a licensee or registrant by a similar board of this or another state or country, the health professional's disciplinary subcommittee may impose sanctions on the person. The bill removed a requirement that the sanctions still be in force, and includes sanctions imposed by a similar board of the U.S. military or the Federal government.

As noted above, the appropriate disciplinary subcommittee may impose specified sanctions against a licensee, registrant, or applicant if it finds he or she has committed certain violations prescribed in the Code. The bill further allows sanctions if a licensee, registrant, or applicant fails to comply with Section 9206(3), or violates Section 16274. (Section 9206(3) requires a health care provider to report to the Department each immunization he or she administers, unless the parents or guardian of a child who is immunized objects, in writing, to the reporting requirement. Section 16274 prohibits a licensee or registrant from engaging in or attempting to engage in human cloning.)

MCL 333.16174 & 333.16221

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

Provisions in the Code were inadequate to allow the DCIS to investigate fully possible disciplinary actions against holders of, or applicants for, Michigan health professional licenses or registrations. The Code did not specifically allow the DCIS to investigate and take disciplinary action against a license holder or applicant if a final adverse action was taken by a health profession board of the U.S. military, the Federal government, or another country. Further, the Code contained no provision to require applicants for licensure to consent to the release of information by a board of another state, the U.S. military, the Federal government, or another country. This sometimes frustrated the efforts of the DCIS in the past in considering applications for licensure, fully investigating the professional history of license holders or applicants who came from other countries or from the military, or obtaining critical information from jurisdictions outside the State. The bill addresses these concerns by specifically allowing the DCIS to use adverse actions taken by another country, the U.S. military, or U.S. government as the basis to investigate a license holder or applicant and take the appropriate action; and by requiring applicants for licensure to consent to the release of information in other jurisdictions where they have been licensed. The bill also enables the DCIS to proceed against a licensee when sanctions have been imposed in another jurisdiction but are no longer in force. These changes will help the DCIS more thoroughly and

efficiently to scrutinize license holders and applicants who are suspected of wrongdoing elsewhere, and thus offer State residents greater safety by making it harder for unqualified or unscrupulous health professionals to practice in Michigan.

Legislative Analyst: G. Towne

FISCAL IMPACT

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

Fiscal Analyst: M. Tyszkiewicz

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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.