



**House
Legislative
Analysis
Section**

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**ALLOW JOINT CMHSP BETWEEN A
COUNTY AND A MEDICAL SCHOOL**

**Senate Bill 1006 with committee
amendment**

First Analysis (3-21-00)

**Sponsor: Sen. Bev Hammerstrom
House Committee: Health Policy
Senate Committee: Families, Mental Health
and Human Services**

THE APPARENT PROBLEM:

As mental health care costs continue to rise, community mental health services programs (CMHSPs) are increasingly challenged to find ways to provide services to those in need. Recently, in an effort to contain costs, the state Medicaid program went to a capitated system of managed care for mental health services similar to what has been in place for several years for physical health services under Medicaid. In a separate but related matter, it is known that those suffering from mental illnesses often have physical illnesses such as diabetes, heart disease, and other illnesses or diseases, but, in part due to the mental illness, do not always receive appropriate medical care. Many believe that if the care between doctors providing medical care and those providing mental health care could be better coordinated, then the overall care for those with mental illnesses and the indigent could be improved.

For the past three and one half years, the Washtenaw County Community Mental Health program and the University of Michigan (U of M) have been working towards a joint venture to create the Washtenaw Community Health Organization. The Washtenaw Community Health Organization would then serve as the Community Mental Health Services Board for Washtenaw County. The venture would allow the organization to contract with providers for both mental health services and physical health services (e.g., doctors affiliated with the University of Michigan Hospital and medical school) and provide coordinated care. However, though the Mental Health Code allows two or more counties to organize and operate a community mental health services program by creating a community mental health organization under the Urban Cooperation Act (MCL 124.501 to 124.512), there is no current provision to allow a county to join forces with a university medical school. A board that has been jointly appointed by the U of M Regents and

the Washtenaw County Board of Commissioners has been assembled and is set to replace the current CMHSP board that is due to sunset on March 25 of this year if legislation authorizing such a venture takes effect in time. However, unless legislation is passed before the expiration date of the current CMHSP board, the merger between the county and the university would have to wait until the next board expiration date a year from now. Legislation is being offered, therefore, to provide for such a venture.

THE CONTENT OF THE BILL:

The bill would amend the Mental Health Code to allow two or more counties, or one or more counties and a state college or university that grants a baccalaureate degree and has a medical school, to organize and operate a community mental health services program (CMHSP) by creating a community mental health organization under the Urban Cooperation Act (MCL 124.501 to 124.512). A single county, a combination of adjoining counties, or a combination of one or more counties and a university with a medical school could elect to establish a CMHSP by a majority vote of each county board of commissioners and of the board of the medical school of the university.

In addition, for a CMHSP formed between a county or counties and a university medical school, the bill would specify that an agent or employee of a university that does not fall under the exception from governmental immunity provided under section 7 of Public Act 170 of 1964 would have the same liability for negligent acts or omissions as an agent or employee of a university that does fall within the exception to governmental immunity.

Further, a CMHSP formed between a county or counties and a university medical school would have to

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comply with provisions in the Urban Cooperation Act pertaining to contracts for joint exercise of power [MCL 124.505 (g) (i) (ii)]. Also, if the community mental health organization chose to provide services currently provided by the employees of public agencies that created the CMHSP, the organization could only provide those services by transferring the appropriate employees or through a contractual relationship with the creating agencies.

MCL 330.1204a and 330.1210

HOUSE COMMITTEE ACTION:

The committee adopted an amendment to provide for the protection of employment of current employees if an existing CMHSP merged with a university medical school to create a new entity.

FISCAL IMPLICATIONS:

According to the House Fiscal Agency, the bill would have no fiscal impact on the state. However, the type of merger allowed by the bill could result in savings to county governments if mental health services are provided in a more efficient manner. (3-20-00)

ARGUMENTS:

For:

Whether for physical health services or mental health services, medical costs continue to rise. The demand for services for low-income people also continues to increase, putting additional strain on already tight budgets. Therefore, health care providers must continue to seek innovative ways to meet the needs of people. In particular, it is well documented that persons with mental illness often do not receive adequate health care services, in part due to the nature of the mental illness. For example, it is documented that persons suffering from schizophrenia have an increased risk for diabetes, but because of the nature of the mental illness, do not manage the diabetes well. As complications from the diabetes rise, so do the associated health care costs to treat the physical complications. Many believe, therefore, that if the physical and behavioral health care for those with mental illness were better coordinated, then physical health problems could be identified sooner for those with mental illness, and mental illness could be diagnosed sooner in low-income persons coming for treatment for physical ailments. Treating physical or behavioral problems earlier on would increase better outcomes and should result in cost savings.

The bill would result in the very first program in the nation to bring together physical and behavioral health care dollars under one administrative roof, and so could serve as a national model. Not only would the physical and mental health care improve for the indigent and those with mental illnesses, health and mental health care dollars could be maximized to provide the best care for the most people.

However, the county and university are in a bit of a time crunch. Legislation to allow such a cooperative effort has only recently been introduced. The current CMHSP board is due by county resolution to expire on March 25 of this year. Though a board that has been jointly appointed by the Washtenaw County Board of Commissioners and the University of Michigan Regents has been appointed, it does not have authority to operate a CMHSP without enabling legislation. If legislation authorizing such a venture is not enacted before the 25th, the county and university would have to wait another year before implementing the program. Since this cooperative venture represents a tremendous opportunity to improve care for many, it is imperative that the issue receive a timely response.

For:

The bill would create a new mental health services entity never before seen by merging staff and programs of a county community mental health services program with university staff. Therefore, especially for current county employees, many of whom are represented by unions, it is important to protect wages, benefits, and retirement benefits that are currently in effect. Though it is reported that the CMHSP operated by the Washtenaw Community Health Organization would contract with individuals providing services so that county employees would remain county employees and university employees would remain as university employees, it was felt that protection should be built into the bill to cover future alliances between counties and any of the three state universities with medical schools.

For:

In a separate but somewhat related matter, the bill attempts to neutralize a possible inequity between physicians employed in the medical schools of Wayne State University, the University of Michigan, and Michigan State University in regards to governmental immunity provided by the governmental immunity act by specifying that employees of any university which cooperates with one or more counties to operate a community mental health services program would be subject to the same liability for negligence.

Though actually outside of the scope of this bill and its intent to allow for the merger of a county CMHSP and a medical school to provide physical and mental health services, the bill does highlight a problem with the current language of the governmental immunity act, which has been interpreted by the state Supreme Court to exempt doctors employed by MSU from negligence suits even when practicing in private hospitals under some circumstances, where doctors employed by U of M and WSU are liable at all times. The bill does not attempt to change the governmental immunity law, but does attempt to neutralize its effect should MSU enter into a similar cooperative venture with a county to create a CMHSP. Legislation to close the alleged loophole for MSU doctors was introduced last session and passed the House but was stalled in the Senate. (For more information, see the House Legislative Analysis Section's analysis of House Bill 4629 of 1997 dated 8-6-98.) Another bill, House Bill 5063, has been introduced this session to address this issue.

POSITIONS:

The Washtenaw County Community Mental Health program supports the bill. (3-17-00)

The Michigan Trial Lawyers Association does not oppose the House committee-passed version of the bill. (3-20-00)

Analyst: S. Stutzky

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.