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IMPERSONATING A HEALTH PROFESSIONAL

House Bills 4352 and 4354 as passed by the House Second Analysis (7-2-99)

Sponsor: Rep. Robert Gosselin
Committee: Criminal Law and Corrections

THE APPARENT PROBLEM:

On July 15, 1998, Dennis Roark pleaded guilty to "uttering and publishing," a felony with a maximum prison sentence of up to 15 years and a sentencing guidelines recommendation of two to four years. Uttering and publishing is a property crime generally applied to check forging; however, in this case the defendant had not falsified a check, he had falsified his medical credentials. Reportedly, using faked credentials in which he claimed to have graduated from Rush University Medical College in Chicago, done post-doctoral research at Wayne State University, and worked as clinical assistant at both St. Mary's Hospital in Livonia and Northwest General Hospital in Detroit, he applied for and received a medical license from the state of Michigan.

In addition, using his faked background, he was accepted into and left or was asked to leave three different surgical residency programs -- two in Ohio and one in Michigan. He also was accepted in a program with the University of Western Ontario in London, Ontario, where he lasted six months before being asked to leave. From 1994 until his arrest in 1998, Dennis Roark practiced as a physician in Madison Heights Community Hospital and Visiting Physicians Association of Southfield. According to newspaper accounts, during the time between his first residency and his arrest (some twelve years), Mr. Roark treated more than 1,000 patients and performed, was present at, or assisted in more than 300 surgical procedures ranging from heart transplants to amputations.

Although it is difficult to explain how this man, who never even completed an undergraduate degree, fooled so many people into accepting him as a doctor, a more disturbing problem arose when, after his arrest, it was discovered that the law did not provide a serious punishment for his crime. In fact, the law had no specific provisions against Mr. Roark's actions.

Legislation has been introduced to provide a specific and serious penalty for impersonating a health professional.

THE CONTENT OF THE BILLS:

House Bill 4354 would amend the Penal Code (MCL 750.217d) to make it a felony for an individual to falsely claim to be and practice as a licensed health professional. Any individual who intentionally and falsely claimed to be a licensed or registered health professional and provided any treatment, procedure, or service that was regulated under the Public Health Code would be guilty of a felony. The felony would be punishable by imprisonment for up to 15 years, a fine of up to \$10,000, or both.

House Bill 4352 would amend the Code of Criminal Procedure (MCL 777.16l) to include the crime of false representation or practice as a licensed or registered health professional in the statutory sentencing guidelines. The crime would have a 15 year maximum sentence and would be categorized as a Class C crime against public safety. (The bill would also make technical amendments to the descriptions of two telecommunications fraud crimes to make the descriptions comport with recent changes to the law.) House Bill 4352 could not be enacted unless House Bill 4354 was also enacted.

FISCAL IMPLICATIONS:

According to the House Fiscal Agency, to the extent that the bills increased the numbers of offenders receiving prison or jail sentences, or the lengths of those sentences, the bills could increase costs for the state and local units of government. To the extent that the bills increased the collection of penal fines, they could increase fine revenues going to local libraries. (7-2-99)

House Bills 4352 and 4354 (7-2-99)

ARGUMENTS:**For:**

The bills would attempt to provide a more significant punishment for those who attempt to circumvent the state's licensing or registration provisions by pretending to be a health professional who is licensed or registered under the Public Health Code.

Physicians and other health professionals undergo extensive training in order to properly treat and otherwise serve the citizens of this state. Health care is a highly-regulated profession, and with good reason -- health care professionals (including, among others, medical doctors, chiropractors, veterinarians, physical therapists, osteopaths, dentists, nurses, pharmacists, podiatrists, marriage and family therapists, optometrists, and psychologists) have a duty to those they serve; state regulations attempt to ensure that licensed health care professionals in this state have met certain standards of knowledge and expertise that will allow them to provide appropriate care and treatment to their patients or clients. Anyone who lacks the necessary qualifications to act as a health professional and is willing to lie to the people of this state by claiming to be so-qualified, does more than merely violate the licensing process, he or she violates those persons who place their trust in that person and become patients or clients. Not only are the individual patients placed at risk because they face treatment from a person who has not been through the rigorous training and testing that the state demands of those who will engage in these professions, but everyone's faith in the effectiveness of the system is also damaged. False claims of this type cannot be allowed to be subject to limited punishments. It must be clear that this sort of deception is not to be tolerated and will be subject to serious sanctions when discovered.

Against:

Is a more severe punishment for this crime really necessary? The man in this case was sentenced to 15 years in prison, the amount the new crime would provide as a maximum. The real problem is that this man was acting as a physician for twelve years without detection and the state of Michigan granted him a license based upon false documents. Clearly what is needed is a better system for determining whether or not an applicant should receive a license

from this state. Whatever the penalties for a person who impersonates a health professional, it will matter little if the state is not only unable to detect a phony,

but will grant him or her a license as well. Greater concern should be given as to why this man was able to perpetuate this hoax for so long without detection, rather than how severely the next person who gets caught (when and if someone else is found out) will be punished.

POSITIONS:

The Michigan Chiropractic Council supports the bills. (7-1-99)

The Michigan Chiropractic Society supports the bills. (6-30-99)

The Michigan State Medical Society supports the bills. (7-1-99)

The Michigan Academy of Physician Assistants supports the bills. (6-30-99)

The Department of Community Health supports the bills. (6-30-99)

The Department of Attorney General supports the bills. (7-1-99)

Analyst: W. Flory

■ 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.