House
Legislative
Analysis
Section

House Office Building, 9 South
Lansing, Michigan 48909
Phone: 517/373-6466

LICENSE CANADIAN HEALTH PROFESSIONALS BY ENDORSEMENT

House Bill 4994 as enrolled
Public Act 441 of 2002
Second Analysis (6-25-02)

Sponsor: Rep. Artina Tinsley Hardman
Committee: Health Policy

THE APPARENT PROBLEM:

A spring 2001 hospital survey conducted by the American Hospital Association indicated that of the 168,000 positions open in hospitals, 126,000 are for registered professional nurses (RNs). The fact that 75 percent of the hospital personnel vacancies are for nurses may not surprise those who have been following the nursing shortage through the state and nation for years. In response to the shortage in this state, where needs in the Detroit metro area and other areas in southeastern Michigan appear to be especially acute, the legislature enacted Public Act 256 of 2000. The act allows the state board of nursing to grant a nonrenewable temporary license to practice as an RN to an individual licensed as an RN in Canada, under certain conditions. Canadian nurse education programs are widely regarded as equivalent to programs in the United States, and the act allows Canadian RNs to work in the state while they complete their licensure requirements.

The Department of Consumer and Industry Services' July 2001 "Study of the Current and Future Needs of the Professional Nursing Workforce in Michigan" paints a fairly bleak picture, by opening with the suggestion that "the current supply of nurses is not meeting the demand and need for nurses in Michigan and the situation is going to get worse." According to committee testimony, the shortage of RNs continues even after the passage of Public Act 256, which hospitals report genuinely helped address the problem but has not solved it. Although there are procedures allowing nurses (and other health professionals) educated and licensed in other countries to apply for licensure in Michigan and other U.S. states, candidates naturally gravitate to states that present the fewest administrative "hoops" and "hurdles." Some people argue that Michigan is not one of the more attractive states when judged by this criterion. Foreign applicants for nursing licenses must first receive a temporary license and then pass the Commission on Graduates of Foreign Nursing Schools (CGFNS) test in order to qualify to take the National Council Licensure Examination (NCLEX) required for licensure. The CGFNS test is offered only three times per year and reputedly has a very high failure rate; a temporary licensee in Michigan who takes and fails the exam loses his or her temporary license immediately. These and other obstacles allegedly lead well-qualified nurses from Canada to avoid the hassles altogether, by seeking licensure in states whose procedures are perceived as less onerous. And Michigan's hospitals find themselves at a marked competitive disadvantage when trying to recruit Canadian nurses.

The remaining 25 percent of open positions—totaling 32,000—in American hospitals reflects hospitals' difficulty recruiting and retaining other health professionals and personnel, including radiologists and radiology technicians, pharmacists, laboratory technicians, and physical therapists, among others. The AHA's survey indicated that hospital vacancy rates were 21 percent for pharmacists; 18 percent for radiological technologists; 12 percent for laboratory technologists; and 11 percent for nurses. According to committee testimony, Michigan has a dearth of pharmacists and radiologists, in particular. Some people believe that the state needs a more streamlined process for allowing health professionals educated and trained in Canada or the United States and licensed in Canada to apply for licensure by endorsement, in the same way that individuals licensed in other states are. (Of the medical personnel shortage areas identified, radiology technicians and laboratory technicians are not licensed by the state, but radiologists, as well as all MDs and DOs, pharmacists, and physical therapists are licensed.)

THE CONTENT OF THE BILL:

Article 15 of the Public Health Code covers the licensure and regulation of health care professionals. Among other things, the code sets forth an endorsement procedure for individuals who are licensed to practice a health profession in another state, who are registered in another state, or who hold specialty certification from another state, and who apply for licensure, registration or specialty certification in Michigan. The applicant must satisfy the relevant professional board or task force—e.g., the board of nursing or board of pharmacy—that he or she substantially meets the article's requirements and complies with rules promulgated by the board or task force. The applicant must also satisfy the board or task force that the other state maintains standards substantially equivalent to Michigan's standards. Prior to licensing, registering, or certifying the applicant, the board or task force may require the applicant to appear for a personal interview to evaluate his or her relevant qualifications.

House Bill 4994 would amend the Public Health Code (MCL 333.16186) to allow applicants licensed to practice a health profession in a province of Canada to apply for licensure by endorsement, until January 1, 2004. The applicant would have to satisfy the relevant professional board or task force that he or she had met several requirements, which are largely similar to the requirements for applicants from other U.S. states. First, an applicant licensed in Canada would have to substantially meet the requirements of Article 15 and of rules promulgated under the article for licensure in Michigan. Second, the applicant would have to satisfy the board that the province in Canada where he or she is licensed maintained standards substantially equivalent to those of Michigan; the bill would create an alternative means of satisfying this requirement for certain applicants, as described below. Third, the applicant would have to have completed educational requirements in Canada or in the United States for licensure in either Canada or the U.S. Fourth, the applicant would have to satisfy the board that he or she would perform any professional services for which he or she billed in Michigan and that any resulting request for third party reimbursement would originate from the applicant's place of employment in Michigan.

Alternative means of satisfying "substantially equivalent standards" requirement. An applicant who was licensed in a province in Canada, who completed his or her educational requirements for licensure in either Canada or the U.S., and who took and passed a U.S. or Canadian national examination that was approved by the appropriate Michigan licensing board would not have to satisfy the board that the Canadian province from which he or she received license maintained standards substantially equivalent to the board's requirements. The bill would, however, expressly authorize CIS, in consultation with a licensing board, to promulgate a rule disallowing this alternative means of satisfying the second of the four requirements listed above for applicants for licensure from that board.

FISCAL IMPLICATIONS:

According to the House Fiscal Agency, the bill would reduce state revenues by an indeterminate amount by waiving one-time examination requirements and the related fees (which range from $100 to $400 depending on the profession) for Canadian applicants who have met similar requirements through licensure in Canada. It is also likely that state examination administration and review costs would be reduced by a similar, offsetting amount. (6-24-02)

ARGUMENTS:

For:

There is a serious shortage of health care professionals at both the state and national levels. If the problem were unique to Michigan, then perhaps Michigan could simply try to woo individuals from other states, or perhaps there would be some easily identifiable reason why Michigan alone was not having success. But other states are also suffering a shortage of health professionals, and there appear to be no easy fixes. Clearly, it is important to find some means to encourage more Michiganians and other Americans to enter health professions, but in the short term, it is necessary to accept the lack of domestically educated and licensed professionals and fill vacancies by searching elsewhere.

Michigan and other states often attempt to recruit professionals who are licensed and working in Canada, because Canadian-educated health professionals are generally highly qualified, and Canadian licensing requirements are relatively stringent. Unfortunately, many potential recruits find Michigan's requirements for licensure unnecessarily burdensome, and unless they have some independent reason for wanting to live in Michigan, they tend to seek offers from states with a simpler licensing process. In order to compete with other states,

Michigan needs a streamlined licensing process that allows a Canadian-licensed and Canadian- or U.S.-educated health professional to seek endorsement immediately and directly through the relevant professional board or task force. The bill would allow such an applicant to take a national exam, approved by the appropriate licensing board, and upon passing the exam, he or she would essentially just have to follow procedures currently in place for applicants who are licensed in other states in this country.

The bill is clearly not a panacea, since it does not address the question of why a national and state shortage of medical personnel exists. Nevertheless, it would effectively sunset on January 1, 2004, giving the legislature time to consider longer-term solutions. In the meantime, it would provide a solid interim approach to a pressing problem.

Response:

While the bill provides an acceptable interim approach to shortages in certain health care professions, it is not clear why doctors of allopathic (MDs), osteopathic medicine (DOs), and dentists are included. There are many foreign-educated MDs and DOs working throughout the state, and there are standard procedures that all such doctors—whether educated in Canada or another foreign country—must follow in order to be licensed in this state. It is crucial that MDs and DOs be acknowledged as a unique class of health care professionals since they alone have the ability to diagnose and treat patients. Further, according to a representative of the Michigan Dental Association, there is no dental school in Canada that is accredited by the United States. The state should tightly control who gets licensed to provide medical services. Despite the widespread acknowledgement of a shortage of nurses and certain other health personnel who are not licensed by the state—e.g., radiologist technicians and laboratory technicians—it is not even clear that there is a shortage of MDs, DOs, or dentists.

In general, the bill's focus on health professionals licensed and educated in Canada is puzzling because it draws a distinction between foreign countries. Canadian-licensed health care professionals should have to follow the same procedures as health care professionals licensed in other countries must follow. Perhaps a health professional licensed in another country who is able to satisfy the relevant board or task force of the adequacy of his or her training and his or her country's licensure requirements should be able to apply for licensure by endorsement in the manner proposed by the bill.

Reply:

The Department of Consumer and Industry Services, which is responsible for licensing medical professionals, currently does not extend endorsement to Canadian-educated doctors who have passed the Canadian equivalent of the United States Medical Licensing Examination (USMLE). However, CIS does extend endorsement to Canadian-trained doctors who have passed the Canadian equivalent of the USMLE, received endorsement by another state, and then come to work in Michigan. This is a "needless hoop" for which there is no justification. The bill's focus on Canadian-licensed applicants who are educated in Canada reflects both Canada's proximity to Michigan and the consistently high quality of medical professionals educated and licensed in Canada.

CIS could decide to require applicants for specific types of licensure, such as MDs and DOs, to show that the Canadian province in which he or she was licensed maintained standards substantially equivalent to those of this state. This would effectively allow CIS to consider whether the appropriateness of the expedited licensing process for Canadian-educated and licensed health professionals on a profession-by-profession basis.

For:

According to a representative of the Michigan Chiropractic Society, chiropractic is a slowly budding portion of the health care profession in Michigan. Apparently, the field has progressed much further in Canada than it has in the state. Still, a chiropractor trained in Michigan, who went to Canada to get licensed and to practice in order to take advantage of the relatively well developed field of chiropractic, would have to take the licensing exam in Michigan before he or she could practice in the state. Although there is not necessarily a shortage of chiropractors in the state relative to current demand, chiropractors would welcome practitioners with training and or experience in Canada. (Conceptually, this argument could be expanded to any field of health care that was developing in unique ways, or at an accelerated rate, in Canada.)

Against:

The shortage of professionals in certain areas of health care is continuing and troublesome. This is a problem that is in need of a long-term solution, one that would address why certain positions in health care no longer attract sufficient numbers of students, and why certain geographic areas experience chronic shortages of qualified professionals. The bill offers

only a short-term fix for a problem that is unlikely to go away anytime soon.

Response:

Before policy-makers devise a long-term remedy, the state needs an assessment of the scope of the problem and needs to examine different means of addressing it. In the meantime, the bill would provide a way for health professionals licensed in Canada to obtain a Michigan license quickly, and thus would provide at least a temporary solution to help ease the shortage.

Analyst: J. Caver

■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.