

# Legislative Analysis

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## **ALLOW CMHSP STAFF TO SERVE ANOTHER LEGAL ENTITY**

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**Senate Bill 778 as passed by the Senate**  
**Sponsor: Sen. Bev Hammerstrom**  
**House Committee: Health Policy**  
**Senate Committee: Health Policy**

### **First Analysis (4-16-04)**

**BRIEF SUMMARY:** The bill would amend Public Act 566 of 1978 to allow an officer or employee of a community mental health services program to serve as a public officer or employee of another legal or administrative entity created by two or more CMHSPs under the Urban Cooperation Act, a joint board or commission created under Public Act 8 of 1967, or a regional entity created under Section 204b of the Mental Health Code.

**FISCAL IMPACT:** The bill would have no state or local fiscal impact.

### **THE APPARENT PROBLEM:**

In Michigan, nearly all Medicaid specialty services for the seriously mentally ill, the developmentally disabled, and those with addictive disorders, are managed by specialty prepaid health plans (PHPs). Community mental health services programs (CMHSPs) that serve at least 20,000 Medicaid recipients in a specific geographic area may contract with the Department of Community Health (DCH) to operate as the PHPs that provide the services. Public Act 594 of 2002 amended the Mental Health Code to allow CMHSPs that have fewer than 20,000 Medicaid beneficiaries to form regional affiliations and submit a consolidated application for PHP designation. (Although CMHSPs already could form regional affiliations under other statutes, such as the Urban Cooperation Act, Public Act 594 gave them another, more streamlined option to do so.) At that time, Public Act 596 made exceptions to conflict of interest restrictions within the code that applied to individuals serving on a community mental health (CMH) board. It has been suggested that similar provisions within Public Act 566 of 1978, which prohibits public officers and employees from holding incompatible offices, should be amended as well.

### **THE CONTENT OF THE BILL:**

The bill would amend Public Act 566 of 1978 to allow an officer or employee of a community mental health services program to serve as a public officer or employee of another legal or administrative entity.

Specifically, Section 2 of the act prohibits a public officer or public employee from holding two or more incompatible offices at the same time, except under certain circumstances. The bill specifies that Section 2 would not prohibit a public officer or public employee of a community mental health services program from serving as a public

officer or public employee of a separate legal or administrative entity created by two or more CMHSPs under the Urban Cooperation Act, a joint board or commission created under Public Act 8 of 1967, or a regional entity created under Section 204b of the Mental Health Code, whether or not the separate legal or administrative entity, joint board or commission, or regional entity could enter into contracts or agreements with one or more of the CMHSPs. (Under the Mental Health Code, a CMHSP is a program operated as a county community mental health agency, a community mental health authority, or a community mental health organization.) Under the Urban Cooperation Act, two public agencies may enter into an interlocal agreement for a joint exercise of power. The interlocal agreement may provide for the precise organization, composition, and nature of any separate legal or administrative entity created to administer or execute the agreement. Public Act 8 of 1967 authorizes two or more political subdivisions to enter into a contract with each other providing for the transfer of functions or responsibilities to one another. The political subdivisions may establish a joint board or commission to supervise the execution of the contract. Section 204b of the Mental Health Code allows a combination of community mental health organizations or authorities to establish a regional entity to provide specialty services and supports by adopting bylaws that satisfy the Code's requirements.

MCL 15.183

***HOUSE COMMITTEE ACTION:***

The House Committee on Health Policy made no changes to the bill, which remains in the form that it passed the Senate. Much of the information in this analysis is derived from the Senate Fiscal Agency's analysis of the Senate-passed bill dated 3-8-04.

***ARGUMENTS:***

***For:***

The bill would update Public Act 566 so that it would recognize the way CMHSPs are organized as regional entities. The Mental Health Code already allows a person to serve on more than one CMHSP board; the bill would ensure consistency between the statutes.

***POSITIONS:***

The Michigan Department of Community Health has indicated support for the bill. (3-30-04)

The Michigan Association of Community Health Boards has indicated support for the bill. (3-30-04)

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■ 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.