

Legislative Analysis



STATE OF DISASTER: EXTEND IMMUNITY

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House Bill 4508 (Substitute H-4)

Sponsor: Rep. Roger Kahn

Committee: Judiciary

First Analysis (11-3-05)

BRIEF SUMMARY: The bill would extend civil immunity to pharmacists, pharmacist interns, and medical residents during a state of disaster.

FISCAL IMPACT: The bill would have no fiscal implications for the state or local units of government.

THE APPARENT PROBLEM:

The Governor has the authority to declare a state of disaster in response to an occurrence or threat of widespread or severe damage, injury, or loss of life or property resulting from a natural or human-made cause. This includes, among other things, floods, snowstorms, tornados, utility failure, epidemics, and droughts, and similar occurrences resulting from terrorist activities, riots, or civil disorders. Such disasters can place a demand on health professionals responding to the needs of the injured.

Under the Emergency Management Act, physicians (M.D.s and D.O.s), registered and practical nurses, dentists, veterinarians, nursing students, and paramedics who render service during a state of disaster (at the express or implied request of a state official or agency or county or local coordinator) are considered authorized disaster relief workers (or, in the case of a hospital, an authorized disaster relief facility) and are not liable for an injury to a person by reason of those services. The immunity does not apply to willful acts or omissions. In addition, these same health professionals may perform, during the state of disaster, some medical procedures normally outside of their scope of practice, under the supervision of medical staff of a licensed hospital. The procedures include the administration of anesthetics; minor surgery; intravenous, subcutaneous, or intramuscular procedures; and oral and topical medications.

It has been recommended that these two provisions of law be amended to also include licensed pharmacists, pharmacist interns, and doctors doing their residency at a hospital providing disaster relief services.

THE CONTENT OF THE BILL:

The bill would amend the Emergency Management Act (MCL 30.411) to include pharmacists, pharmacist interns, and medical residents undergoing training in a licensed hospital in the list of health professionals to whom civil immunity applies when rendering services during a declared state of disaster. In addition, pharmacists, pharmacist interns,

and medical residents could also perform certain medical tasks under the supervision of a member of the medical staff of a licensed hospital, and could assist the staff member in other medical and surgical proceedings. Furthermore, the bill would replace the term "paramedical person" with "paramedic."

ARGUMENTS:

For:

Natural and man-made disasters can result in local hospitals being overwhelmed with injured people in need of treatment. Recognizing that in an emergency, there may be a shortage of trained doctors and surgeons, the law allows certain health professionals to perform tasks normally outside of the scope of practice if those tasks are performed under the supervision of a member of the medical staff of the hospital or if they are assisting the staff in other medical and surgical proceedings. Immunity from civil suits is also extended to these persons.

The bill would add to the list of health professionals that would be considered disaster relief workers. Medical residents are doctors who have completed medical school and who have been assigned to a hospital for a period of at least three years. Residents routinely diagnose and treat hospital patients and are therefore appropriate to include as disaster relief workers.

If a great many people are injured during a disaster, or if people lose their prescription medications as a result of the disaster, there will also be a need for pharmacists and pharmacist interns to staff hospital pharmacies to assist in dispensing needed medications. Pharmacist internships are required prior to licensure as a pharmacist. A pharmacist intern also dispenses prescriptions and counsels patients, but does so under a pharmacist's supervision. Pharmacist training includes many classes on the human body and body systems, and many pharmacists are more knowledgeable about drug reactions and interactions than physicians. Therefore, pharmacists and pharmacist interns could quite ably, under the supervision of a physician, perform some medical tasks in addition to dispensing medications.

POSITIONS:

The Michigan Pharmacists Association supports the bill. (11-1-05)

The Department of Community Health supports the bill. (11-1-05)

The Michigan Trial Lawyers Association is neutral on the bill. (11-1-05)

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