



Senate Fiscal Agency
P. O. Box 30036
Lansing, Michigan 48909-7536



BILL ANALYSIS

Telephone: (517) 373-5383
Fax: (517) 373-1986
TDD: (517) 373-0543

House Bill 5375 (as reported without amendment)
Sponsor: Representative Gary A. Newell
House Committee: Judiciary
Senate Committee: Judiciary

Date Completed: 12-16-05

RATIONALE

It has been estimated that about 1 million people in Michigan do not have health insurance. Many people who are uninsured or underinsured may delay or forego needed medical care and treatment, but others may be able to receive care at free or low-cost clinics staffed by volunteer health professionals. Reportedly, some retired physicians are interested in volunteering at such clinics, but would have to have an active license to practice medicine and be covered by medical malpractice insurance. The related expenses may deter retired physicians from volunteering their services.

Some states apparently offer restricted licenses for retired physicians who provide services in clinics that cater to the indigent or in medically underserved areas. It has been suggested that more low-income people without health insurance and Medicaid recipients could receive timely medical care if Michigan created a limited license, and provided immunity from liability, for retired physicians who donated their services.

CONTENT

The bill would amend the Public Health Code to provide for civil immunity for retired physicians who volunteered their services at a health facility or agency serving the medically indigent.

Specifically, a physician who provided medical care under a special volunteer license granted under Section 16184 (proposed by House Bill 4670) would not be liable in a civil action for personal injury or death proximately caused by the

professional negligence or malpractice of the physician in providing the care, if both of the following applied:

- The care was provided at a health facility or agency that provided at least 75% of its care annually to "medically indigent individuals" as that term is defined in the Social Welfare Act (MCL 400.106).
- The physician did not receive and did not intend to receive compensation for providing the care.

The bill's immunity from liability would not apply if the physician's negligent conduct or malpractice were gross negligence. ("Gross negligence" would mean conduct so reckless as to demonstrate a substantial lack of concern for whether an injury resulted.)

The bill is tie-barred to House Bill 4670, which would amend the Public Health Code to allow an individual who was retired from the active practice of medicine or osteopathic medicine and surgery and who wished to donate his or her expertise for the medical care and treatment of indigent and needy individuals, or in medically underserved areas, to obtain a special volunteer license to engage in the practice of medicine or osteopathic medicine and surgery.

Proposed MCL 333.16185

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

When a physician closes out his or her practice and retires, medical malpractice insurance generally is not needed or maintained, since the doctor no longer practices medicine. Although the Good Samaritan law provides civil immunity for a licensed physician who provides medical care in an emergency, there are no statutory protections against liability for a retired physician who volunteers his or her services at a free clinic or in an underserved area. Consequently, some physicians evidently are reluctant to donate their time and expertise to provide medical care after they retire from active practice.

By providing limited civil immunity for retired physicians licensed under provisions of the Public Health Code proposed by House Bill 4670, House Bill 5375 could encourage more retired doctors to provide uncompensated care at clinics that provide free or low-cost care to medically indigent individuals. Also, the two bills together could foster the establishment of more free health clinics around the State, leading to greater access to the health care system for the poor and uninsured.

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

The bill would have an indeterminate impact on State and local government. The extent to which it would facilitate additional volunteer services and possibly offset State and local costs of caring for the medically indigent cannot be determined.

Fiscal Analyst: Stephanie Yu

H0506\s5375a

This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.