

Legislative Analysis



HEALTHCARE PROFESSIONALS: REVOKE LICENSE FOR CSC OFFENSE

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House Bill 4195

Sponsor: Rep. Dian Slavens

Committee: Health Policy

Complete to 11-16-09

A SUMMARY OF HOUSE BILL 4195 AS INTRODUCED 2-5-09

The bill would require the license or registration of a healthcare professional to be revoked upon conviction of certain criminal sexual conduct offenses.

Under provisions of the Public Health Code, a licensed or registered healthcare professional (or applicant) can be subject to administrative sanctions for engaging in conduct or prohibited acts as specified in the code. For example, negligence or failure to exercise due care, incompetence, practice outside the scope of a license, and conviction of certain criminal offenses can result in sanctions levied against the person's license or registration. These sanctions include denial, suspension, or revocation of the license or registration; reprimand; fines; restitution; and community service.

Currently, the following healthcare professions are licensed or registered under Article 15 of the Public Health Code: acupuncturists, chiropractors, dentists, audiologists, marriage and family therapists, physicians (M.D.s and D.O.s), nurses, nursing home administrators, optometrists, speech-language pathologists, pharmacists, physical therapists, physician assistants, athletic trainers, massage therapists, podiatrists, counselors, psychologists, occupational therapists and occupational therapy assistants, dietitians and nutritionists, sanitarians, social workers and social service technicians, respiratory therapists, and veterinarians and veterinarian technicians.

The Department of Community Health has authority to investigate activities of licensed or registered healthcare professionals and applicants for licensure or registration. This includes conducting hearings, administering oaths, and ordering relevant testimony to be given. The findings of the investigation are then reported to the appropriate disciplinary subcommittee. Disciplinary subcommittees are required to impose one or more of the sanctions that apply to a specific violation.

House Bill 4195 would amend the Public Health Code. Currently, conviction of a criminal offense under Sections 520b to 520g of the Michigan Penal Code is grounds for a license or registration sanction. The bill would revise the current provision to apply only to a conviction for fourth-degree criminal sexual conduct (CSC).

A separate provision would be added to specify that conviction of a criminal offense for first-, second-, or third-degree CSC; a second or subsequent conviction of first-, second-,

or third-degree CSC; or assault with intent to commit CSC would be grounds for action by the disciplinary subcommittee. A certified copy of the court record would be conclusive evidence of the conviction.

In addition, for a conviction of a criminal offense under Sections 520b to 520g of the Michigan Penal Code, a disciplinary subcommittee is currently required to impose one or more of the following sanctions for each violation: probation, limitation, denial, suspension, revocation, restitution, community service, or fine. The bill would apply these sanctions only to a conviction of Section 520e of the penal code – fourth-degree CSC. For a conviction of first-, second-, or third-degree CSC; a second or subsequent conviction of first-, second-, or third-degree CSC; or assault with intent to commit CSC, a disciplinary subcommittee would have to revoke the person’s license or registration or deny an application for licensure or registration.

The bill would also make several changes of a technical nature and would delete an obsolete provision pertaining to a report that no longer needs to be filed by the Department of Energy, Labor, and Economic Growth.

The bill's content is identical to the content of House Bills 4468 and 4469.

MCL 333.16221 and MCL 333.16226

FISCAL IMPACT:

The bill as introduced may have a modest direct fiscal impact on the Department of Community Health (DCH), Bureau of Health Professions, affecting administration costs and revenue for licensure and regulatory activities related to increased license revocations. The policy change will reduce the number of licensed health professionals, but provide an increase in patient safety, both of which may have an effect on costs. Per DCH earlier this year, the Bureau oversees 400,000 licensed health professionals. In FY 2006-07, 581 disciplinary actions were taken by the Bureau against licensed health professionals.

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