

Legislative Analysis



CSC CONVICTION: REVOKE LICENSE OF HEALTHCARE PROFESSIONAL

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House Bill 4468

Sponsor: Rep. Rick Jones

House Bill 4469

Sponsor: Rep. Bettie Cook Scott

House Bill 5043

Sponsor: Rep. Lesia Liss

Committee: Health Policy

Complete to 11-16-09

A SUMMARY OF HOUSE BILLS 4468-4469 AS INTRODUCED 2-26-09 AND HOUSE BILL 5043 AS INTRODUCED 6-4-09

Together, the bills would require the license or registration of a healthcare professional to be revoked upon conviction of certain criminal sexual conduct offenses and make that revocation permanent.

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, or 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 Bills 4468, 4469, and 5043 would each amend the Public Health Code. House Bills 4468 and 4469 are tie-barred to each other, and House Bill 5043 is tie-barred to both

of those. Further, House Bills 4468 and 4469 taken together are identical to House Bill 4195 (which is summarized in a separate document). The bills would do the following:

House Bill 4469 would amend the Public Health Code (MCL 333.16221). Currently, conviction of a criminal offense under Sections 520b to 520g of the Michigan Penal Code (the criminal sexual conduct statutes) 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.

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.

House Bill 4468 would also amend the code (MCL 333.16226). Currently, for a conviction of a criminal offense under Sections 520b to 520g of the Michigan Penal Code, a disciplinary subcommittee is 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 technical revisions.

House Bill 5043 would amend two sections of the code (MCL 333.16245 and 333.16631). Currently, a person whose license or registration was revoked upon conviction for a CSC offense can apply for reinstatement five years after the effective date of the revocation. Under the bill package, only a license or registration revoked for a conviction of fourth-degree CSC could be reinstated after five years.

House Bill 5043 would provide that in the case of a license or registration revoked for a violation of a CSC offense (other than fourth-degree CSC), the revocation would be permanent and the licensee or registrant would be ineligible for reinstatement. The department would have to return an application for reinstatement received by an applicant who was ineligible for reinstatement under the bill.

Further, the bill would make a few changes of a technical nature to a provision pertaining to the installation of amalgam separators by dentists.

FISCAL IMPACT:

The bills as introduced and tie-barred 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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