

# Legislative Analysis



## CSC SANCTIONS FOR HEALTH PROFESSIONALS

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**Senate Bill 235 (Substitute S-1)**

**Sponsor: Sen. Rick Jones**

**House Committee: Health Policy**

**Senate Committee: Judiciary**

*(Enacted as Public Act 222 of 2011)*

**Complete to 10-19-11**

### A SUMMARY OF SENATE BILL 235 AS REPORTED BY COMMITTEE 10-13-11

Senate Bill 235, along with House Bills 4411 and 4412, would allow for the permanent revocation of the license or registration of a healthcare professional upon conviction of first-, second-, or third-degree criminal sexual conduct or a second or subsequent conviction of first-, second-, or third-degree CSC.

The Bureau of Health Professions within the Department of Licensing and Regulatory Affairs 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. Sanctions that can be levied against a license or registration include denial, suspension, or revocation (but not permanent revocation) of the license or registration; reprimand; fines; restitution; and community service. A health care professional whose license or registration was revoked for a criminal sexual conduct offense can reapply for reinstatement after the effective date of the revocation.

Currently, the following healthcare professions are licensed or registered under Article 15 of the Public Health Code: acupuncturists, chiropractors, dentists, dental assistants, dental hygienists, audiologists, marriage and family therapists, physicians (M.D.s and D.O.s), nurses, nursing home administrators, optometrists, speech-language pathologists, pharmacists, physical therapists and physical therapy assistants, physician's 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.

Senate Bill 235 is identical to House Bill 4413, which was previously passed by the House, and is tie-barred to House Bills 4411 and 4412 (both bills have also passed the House and are now pending Senate Floor action). As a package, the bills would allow for the permanent revocation of the license or registration of a healthcare professional upon conviction of certain criminal sexual conduct offenses. Under House Bill 4412, the current provision allowing reinstatement after a five-year waiting period of a license or registration revoked for a CSC conviction would only apply to a conviction for fourth-degree CSC or assault with the intent to commit CSC in the first-, second-, or third-degree. For a conviction of first-, second-, or third-degree CSC or a second or subsequent conviction of first-, second-, or third-

degree CSC, a disciplinary subcommittee could impose a permanent revocation of the license or registration. House Bill 4411 would provide that if a license or registration was permanently revoked for such a conviction, the licensee or registrant would be ineligible for reinstatement.

**Senate Bill 235** would amend Section 16221 of the Public Health Code (MCL 333.16221). Currently, under Section 16621(b)(vii), conviction of a criminal sexual conduct (CSC) offense under Sections 520b to 520g of the Michigan Penal Code (the criminal sexual conduct statutes) is grounds for a license or registration sanction that may include one or more of the following: probation, limitation, denial, suspension, revocation, restitution, community service, or fine.

The bill would apply Section 16621(b)(vii) only to Sections 520e (fourth-degree CSC) and 520g (assault with the intent to commit CSC in the first-, second-, or third-degree). A separate provision would be added to specify that conviction of a criminal offense for first-, second-, or third-degree CSC or for a second or subsequent conviction of first-, second-, or third-degree CSC would be grounds for action by the disciplinary subcommittee. (House Bill 4412 would allow permanent revocation to be included among the sanctions that may be imposed for a conviction of these offenses.) 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.

#### ***BACKGROUND INFORMATION:***

The bills are similar to legislation offered in the 2009-2010 Legislative Session (House Bills 4468-4469 and 5043).

#### **FISCAL IMPACT:**

The bill package may have a modest direct fiscal impact on the Department of Licensing and Regulatory Affairs, Bureau of Health Professions, affecting administration costs and revenue for licensure and regulatory activities related to increased health professions 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. The Bureau oversees 400,000 licensed health professionals. In FY 2008-09, some 695 disciplinary actions were taken by the Bureau against licensed health professionals. The Bureau was transferred to Licensing and Regulatory Affairs from the Department of Community Health by Executive Order 2011-4, effective April 23, 2011.

#### **POSITIONS:**

A representative from the Michigan National Organization for Women testified in support of the bill. (10-13-11)

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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.