

Legislative Analysis



CSC CONVICTION: ALLOW PERMANENT REVOCATION OF HEALTH CARE LICENSE

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House Bill 4411

Sponsor: Rep. Gail Haines

House Bill 4412

Sponsor: Rep. Matt Huuki

House Bill 4413

Sponsor: Rep. Lesia Liss

Committee: Health Policy

Complete to 4-27-11

A SUMMARY OF HOUSE BILLS 4411-4413 AS INTRODUCED 3-10-11

Together, 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 provisions of the Public Health Code, a licensed or registered healthcare professional (or applicant) can be subject to administrative sanctions for engaging in certain 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, 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.

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 4411, 4412, and 4413 would each amend the Public Health Code and are tie-barred to each other. The bills would do the following:

House Bill 4413 would amend Section 16221 of 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) or 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 a second or subsequent conviction of first-, second-, or third-degree 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.

House Bill 4412 would amend Section 16226 of 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.

Under the bill, 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. The bill would also make several technical revisions.

House Bill 4411 would amend Section 16245 of the code (MCL 333.16245). 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 or assault with the intent to commit CSC in the first-, second-, or third-degree could be reinstated after five years.

The bill would provide that if a license or registration was permanently revoked for a conviction of first-, second-, or third-degree CSC or a second or subsequent conviction of first-, second-, or third-degree CSC, 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 now ineligible for reinstatement under the bill. Further, the requirement for the department to provide the opportunity for a hearing before final rejection of an application for reinstatement would not apply in this instance.

FISCAL IMPACT:

The bills as introduced and tie-barred 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, 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.

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