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BILL ANALYSIS

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House Bill 4411 (as passed by the House)
House Bill 4412 (Substitute H-1 as passed by the House)
Sponsor: Representative Gail Haines (H.B. 4411)
Representative Matt Huuki (H.B. 4412)
House Committee: Health Policy
Senate Committee: Judiciary

Date Completed: 6-6-11

CONTENT

House Bill 4411 would amend the Public Health Code to provide that a former licensee or registrant would be ineligible for reinstatement, if his or her license or registration were permanently revoked for first-, second-, or third-degree criminal sexual conduct (CSC).

House Bill 4412 (H-1) would amend the Code to allow permanent revocation of the license or registration of a health professional who was convicted of first-, second-, or third-degree CSC, if the offense occurred while the person was acting within his or her health profession.

Both bills are tie-barred to House Bill 4413, which would amend the Code to categorize a conviction for first-, second-, or third-degree CSC separately from a conviction for fourth-degree CSC or assault with intent to commit CSC, in the list of grounds for sanctions.

House Bill 4411

The Code authorizes the Department of Licensing and Regulatory Affairs (LARA) to investigate activities related to the practice of a health profession by a licensee, a registrant, or an applicant for licensure or registration. The Department may hold hearings and must report its findings to the appropriate disciplinary subcommittee. After finding that one or more grounds for disciplinary action exist, the subcommittee must impose certain sanctions for each violation.

An individual whose license or registration is limited, suspended, or revoked may apply to his or her board or task force for reinstatement. Typically, an individual may not apply for reinstatement of a revoked license or registration until three years after the effective date of the revocation. In the case of revocation for specific violations, including any CSC offense, an applicant may not apply for reinstatement until five years after the effective date of revocation.

Under the bill, the five-year waiting period would apply to revocation for a conviction of fourth-degree CSC or assault with intent to commit CSC. In the case of a license or registration that was permanently revoked for a conviction of first-, second-, or third-degree CSC, the former licensee or registrant would be ineligible for reinstatement.

Currently, LARA must return an application for reinstatement received before the end of the waiting period. The bill also would require LARA to return an application if the applicant were ineligible for reinstatement because of permanent revocation for a first-, second-, or third-degree CSC conviction.

The Code requires LARA to provide an opportunity for a hearing before final rejection of an application for reinstatement. Under the bill, this would not be required if the application were returned because the applicant was ineligible for reinstatement.

House Bill 4412 (H-1)

Under the Code, for a conviction of first-, second-, third-, or fourth-degree CSC, or assault with intent to commit CSC, a disciplinary subcommittee must impose one or more of the following sanctions:

- Probation.
- Limitation, denial, suspension, or revocation of a license or registration.
- Restitution.
- Community service.
- A fine.

The bill would require a disciplinary subcommittee to impose one or more of those sanctions for a conviction of fourth-degree CSC or assault with intent to commit CSC. For a conviction of first-, second-, or third-degree CSC, a disciplinary subcommittee would have to impose one or more of the sanctions listed above or permanent revocation. Permanent revocation could not be imposed, however, unless the violation occurred while the licensee or registrant was acting within the health profession for which he or she was licensed or registered.

MCL 333.16245 (H.B. 4411)
333.16226 (H.B. 4412)

Legislative Analyst: Suzanne Lowe

FISCAL IMPACT

The bills would have no fiscal impact on State or local government.

Fiscal Analyst: Josh Sefton

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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.