

DISCIPLINARY SUBCOMMITTEES: CONFLICTS OF INTEREST

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Senate Bill 575 (Substitute H-2)

(Enacted as Public Act 95 of 2014)

Sponsor: Sen. Tonya Schuitmaker

House Committee: Regulatory Reform

Senate Committee: Reforms, Restructuring, and Reinventing

Complete to 3-13-14

A SUMMARY OF SENATE BILL 575 AS REPORTED FROM HOUSE COMMITTEE

The bill would amend Article 15 of the Public Health Code to do the following:

- Prohibit a member of a disciplinary subcommittee from participating in investigations or imposing sanctions concerning a licensee or registrant, if the member has a conflict of interest.
- Require members to disclose potential conflicts of interest before a subcommittee takes action.
- Define conflict of interest as any of the following: (1) a personal or financial interest in the outcome of the investigation of or the imposition of disciplinary sanctions; (2) a past or has a present business or professional relationship with the individual the department is investigating or seeks to investigate; (3) having given expert testimony in a medical malpractice action against or on behalf of the individual the department is investigating or seeks to investigate; and (4) any other interest or relationship designated as a conflict of interest by promulgated rule or order.

Investigation Procedures

The bill would also revise the procedures by which LARA investigates alleged violations of Articles 15 or 7 of the Code. Currently, if LARA has determined there is a reasonable basis to believe a violation of Articles 15 or 7 has occurred, it must investigate the matter once it receives authorization from the board chairperson. If the chairperson does not grant or deny authorization within seven days after receiving a request, LARA is required to begin the investigation.

Under Senate Bill 575, LARA will be required to seek the authorization from a panel that includes the board chairperson and at least two other board members. LARA would be required to begin the investigation if the panel does not make a determination within seven days of receiving an authorization request. However, if the department believed that immediate jeopardy existed, the director (or a designee) would have to authorize an investigation and notify the board chair of that investigation within two business days.

All of the following provisions would apply to a panel investigation:

- A board or task force chairperson who has a conflict of interest must appoint another member as a designee and cannot participate in the panel's decision to grant or deny authorization for LARA to conduct an investigation.
- A board or task force member cannot participate in the panel's decision to grant authorization if the member has a conflict of interest. The chairperson would be required to remove a member from a panel upon learning of a conflict of interest and would have to appoint another member to serve on the panel.
- Board or task force members who participate in or are asked to participate in a panel's decision to authorize an investigation would be required to disclose any potential conflict of interest to LARA, the chairperson, and the other members of the panel before a decision is reached.

If LARA reviews an allegation in writing that concerns a licensee whose permanent historical record (required to be created and maintained under MCL 333.16211) includes one substantiated allegation or two or more written investigated allegations from two or more different individuals or entities received in the past four years, then authorization from a panel would not be required, and LARA would have to investigate the alleged violation.

In the instance a written allegation is submitted more than four years after the date of the incident, LARA would be allowed, but not required, to investigate the alleged violation.

FISCAL IMPACT:

Senate Bill 575 would not have a significant fiscal impact on the state or local units of government.

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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.