



**Senate Fiscal Agency**  
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BILL



ANALYSIS

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Senate Bill 165 (Substitute S-1 as reported)  
Sponsor: Senator Jim Marleau  
Committee: Health Policy

*(as passed by the Senate)*

Date Completed: 3-28-13

### **RATIONALE**

Some health care providers and facilities have adopted policies, known as medical futility policies, to guide their decisions when circumstances render treatment unlikely to improve a patient's health or quality of life, increase his or her lifespan, or otherwise achieve a desired outcome. Because addressing difficult, emotionally charged situations on an individual basis can present a number of problems, a medical futility policy can help facilitate communication between providers, patients, and their families; establish goals; ensure informed consent; and protect providers from litigation and burnout.

In some cases, these policies reportedly direct health care professionals to withhold life-sustaining treatment from people who have certain conditions or meet specific health status criteria. Evidently, some health care facilities do not always inform patients or prospective patients and their families of their medical futility policies in a timely fashion. Therefore, it has been suggested that a health care entity that has adopted a policy regarding the use or denial of treatment in response to a poor prognosis should be required to disclose the policy upon request.

### **CONTENT**

The bill would add Part 204, the "Medical Good-Faith Provisions Act", to the Public Health Code to require a health facility or agency, upon the request of a patient or resident or a prospective patient or resident, to disclose in writing any policies related to a patient or resident or the services he or she may receive for the use of life-sustaining

treatment or denial of nonbeneficial treatment within that facility or agency.

If a patient or resident, or prospective patient or resident, were a minor, the health facility or agency would have to give the policies to his or her parent or legal guardian.

Proposed MCL 333.20401-333.20403

### **ARGUMENTS**

*(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)*

#### **Supporting Argument**

The bill would increase transparency in the health care system and empower patients and their families to make informed decisions. For those with severe or potentially terminal conditions, the cost of health care can be an enormous burden. When health facilities are not upfront about their treatment limitation policies, people with serious conditions might waste valuable time and financial resources searching for help from providers who ultimately can do nothing for them. If the care a patient seeks is not provided at a particular facility as a rule, the patient should be notified and given the opportunity to look for a more accommodating facility or provider, if desired. By requiring the disclosure of medical futility policies upon request, the bill would reinforce the relationship between health care providers and consumers, reduce emotional stress, and emphasize the patient's right to informed consent.

Legislative Analyst: Julie Cassidy

## **FISCAL IMPACT**

The bill 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.