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Senate Bill 575 (as introduced 10-2-13)  
Sponsor: Senator Tonya Schuitmaker  
Committee: Reforms, Restructuring and Reinventing

Date Completed: 10-22-13

### **CONTENT**

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

- **Prohibit a member of a disciplinary subcommittee who had a conflict of interest from participating in a decision regarding an investigation of, or imposing sanctions on, a licensee, registrant, or applicant.**
- **Require a member of a disciplinary subcommittee to disclose potential conflicts of interest before the subcommittee took action on a matter.**
- **Prohibit the Department of Licensing and Regulatory Affairs (LARA) from accepting an anonymous written allegation regarding violations of Article 15 or 7, or a rule promulgated under either article.**
- **Amend procedures for an investigation of an alleged violation of Article 15 or 7, or a rule promulgated under either article.**
- **Delete a provision that requires LARA to provide an opportunity for a hearing in connection with a proceeding to order community service.**

(Article 15 of the Code governs occupations. Article 7 governs controlled substances.)

Under the bill, a member of a disciplinary subcommittee who had a conflict of interest could not participate in a decision regarding an investigation under Section 16221, or a sanction under Section 16226, concerning a licensee, registrant, or applicant for licensure or registration. A member of a disciplinary subcommittee would have to disclose a potential conflict of interest before the subcommittee took any actions under Section 16221 or 16226.

"Conflict of interest" would mean any of the following:

- Has a personal or financial interest in the outcome of the investigation of or the imposition of disciplinary sanctions on the licensee, registrant, or applicant for licensure or registration.
- Had a past or has a present business or professional relationship with an individual who is subject to investigation or potential sanctions.
- Has given expert testimony in a medical malpractice action against or on behalf of an individual who is subject to investigation or potential sanctions.
- Has any other interest or relationship designated as a conflict of interest in a rule promulgated or order issued under the Code.

(Under Section 16221, LARA may investigate activities related to the practice of a health profession by a licensee, registrant, or applicant. The investigation generally relates to

whether there was a violation of a general duty, a personal disqualification, a prohibited act, an unethical business practice, or unprofessional conduct. If LARA finds that any of these circumstances exist, the disciplinary subcommittee must proceed to prescribe sanctions under Section 16226.)

### Investigating Violations

Currently, a person or governmental entity that believes a violation of Article 7 or 15 exists may allege the suspected violation to LARA in writing. The bill would prohibit LARA from accepting an anonymous written allegation regarding an Article 7 or Article 15 violation or a rule promulgated under either article.

If LARA determines there is a reasonable basis to believe that there was a violation of Article 7 or 15, and the chair of the appropriate board or task force authorizes an investigation, LARA must investigate the violation. If the chair fails to grant or deny authorization within seven days of receiving a request, LARA must investigate the alleged violation.

Under the bill, LARA would have to seek authorization from a panel of at least three board members that included the chair and at least two other members of the board or task force as designated by the chair. The panel would have to investigate the alleged violation. If the panel failed to grant or deny authorization within seven days of receiving a request, LARA would have to investigate the alleged violation.

If LARA received a written allegation in writing that concerned a licensee or registrant whose record under Section 16211 included one or more written allegations received in the preceding five years, LARA would have to investigate the violation. (Section 16211 requires LARA to maintain a record of substantiated written allegations for five years. The Department must remove the allegations if no further allegations have been received within the five-year period).

If a person or governmental entity submitted a written allegation of a violation more than five years after the date of the incident or activity that was the basis of the alleged violation, LARA would be permitted to investigate in the manner described above, as applicable, but would not be required to conduct an investigation.

In situations in which LARA would have to seek authorization to investigate from a panel, if the chair had a conflict of interest, he or she would have to appoint another member of the board or task force as a designee, and could not participate in the panel's decision to grant or deny authorization to LARA to investigate an individual.

Also, a member of a board or task force with a conflict of interest could not participate in the panel's decision. If the chair were notified that a member had a conflict of interest, the chair would have to remove the member from the panel and appoint another member. A member who participated in or was requested to participate in the panel's decision would have to disclose a potential conflict of interest to LARA, the chair, and the other panel member before those participants made the decision.

### Community Service Hearings

The Code provides for various sanctions, including community service. The Department must provide an opportunity for a hearing in connection with the denial, reclassification, limitation, reinstatement, suspension, or revocation of a license or reinstatement of a registration, or a proceeding to reprimand, fine, order community service or restitution, or place a licensee or registrant on probation.

The bill would delete community service from this provision.

MCL 333.16231 et al.

Legislative Analyst: Glenn Steffens

**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.