Legislative Analysis

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HEALTH PROFESSIONAL RECOVERY PROGRAM: INCLUDE EMS PERSONNEL

House Bill 4528 (proposed substitute H-1)
Sponsor: Rep. Henry Yanez
Committee: Health Policy
Complete to 1-30-18

SUMMARY:

House Bill 4528 would amend Part 161 of the Public Health Code (MCL 333.16105a et al.). Currently, Sections 16165 through 16170a of the Code create and prescribe rules for the Health Professional Recovery Program ("the Program"), administered by the Department of Licensing and Regulatory Affairs (LARA). The bill would extend the Program to EMS personnel, but require coordination between LARA and the Department of Health and Human Services (DHHS), which governs EMS personnel.

The health professional recovery committee, made up of representatives from the professional medical boards and the physician's assistants task force, the LARA director, and public members appointed by the LARA director, is charged with developing and implementing criteria for the identification, assessment, and treatment of health professionals who may be impaired. The bill would require the committee, in conjunction with DHHS, to develop and implement procedures for administration of the Program with respect to EMS personnel.

Employees and contractors of LARA are also currently required to transmit information to the committee either orally or in writing if they have reasonable cause to believe that a health professional may be impaired. Upon receipt, the committee must request a program consultant contracted by LARA to determine whether the health professional may be impaired. The bill would extend this reporting requirement to employees and contractors of DHHS.

The existing Code provides that the contract between LARA and the consultant must include a requirement for the consultant to report to LARA any circumstances that indicate that the impaired health professional may be a threat to the public health, safety, or welfare. The bill would require that, if LARA determines based on this information that EMS personnel may be a threat to the public health, safety, or welfare or that they have violated certain medical rules or standards under the Code, LARA must notify DHHS, and DHHS may deny, revoke, or suspend their licenses, as applicable.

The bill would also essentially extend the conditions under which health professionals would be accepted into the Program to EMS personnel. In order to be accepted, EMS and non-EMS health professionals would be required to do the following:

- Acknowledge impairment.
- Voluntarily withdraw from or limit the scope of practice or activities, as determined by the committee. Compliance may include a request of limitation of license by LARA, for non-EMS personnel, or DHHS, for EMS personnel.
- Agree to participate in a treatment plan that complies with requisite criteria under the Code. If the health professional does not participate in the treatment plan, the bill would require the committee to notify LARA or DHHS, as applicable.

If the health professional did complete the treatment plan prescribed under the Program, LARA or DHHS, as applicable, would destroy all records pertaining to impairment and participation in the treatment plan five years after the committee determines that the requirements have been satisfied. (This provision would not apply to certain violations under the Code).

The bill would take effect 90 days after enactment.

BACKGROUND:

Public Act 80 of 1993 (House Bill 4076) created a Health Professional Recovery Program and committee for health professionals who may be impaired, made lying about completing a recovery program a felony, and provided some legal immunity for health professionals who participated in such programs. According to the Program's website (http://hprp.org/), it is administered through a contract with LARA's Bureau of Professional Licensing and is supported by various health professional licensing boards and the associations and societies of the health professions in Michigan. The Program is intended to support the recovery of its participants, so they may safely return to practice, and to protect the safety of the public.

FISCAL IMPACT:

House Bill 4528 could increase costs associated with the Health Professionals Recovery Program (HPRP)—administered by the Bureau of Professional Licensing within the Department of Licensing and Regulatory Affairs—by an unknown amount. The bill would expand eligibility for the HPRP by opening the program to emergency medical services personnel licensed by the DHHS under Article 17 of the Public Health Code. Approximately 487,300 licensees are currently eligible for participation in the recovery program, by virtue of their licensure under Article 15 of the Public Health Code. Expanding eligibility to include those licensed under Article 17 would add approximately 29,000 persons to the eligible population, an expansion of approximately 6%. The HPRP report for Fiscal Year 2016-17 indicates that the program received 412 intake referrals and monitored 749 cases throughout the reporting period. If referral rates are comparable for emergency medical services personnel, an increase of approximately 25 referrals each fiscal year would be anticipated.

In Fiscal Year 2016-17, program expenditures totaled $2,132,677. The entirety of that amount was expended on a contract for services with the provider Ulliance, which provides the administrative and monitoring services for the program. Treatment costs and drug testing costs are the responsibility of the participant. Expenditures for the Ulliance contract are supported with funding from the Health Professions Regulatory Fund. It is not altogether clear what fund sources would be used to cover any cost increases arising from the expansion of the program, since LARA and DHHS would likely negotiate and agree to a memorandum of understanding regarding program funding. The costs to expand the program to EMS licensed personnel would include an increase in staff within the Department of Health and Human Services to administer the DHHS side, which may require one or more FTEs.

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