



**House
Legislative
Analysis
Section**

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MENTAL HEALTH PEER REVIEWS

Senate Bill 616 (Substitute H-2)
First Analysis (6-6-90)

06/12/90

Sponsor: Sen. Ed Fredricks
Senate Committee: Education and Mental Health
House Committee: Mental Health

THE APPARENT PROBLEM:

A private psychiatric hospital in western Michigan was going through a peer review process as part of its application for accreditation, when it discovered that the Mental Health Code does not protect the confidentiality of peer review records. The Public Health Code does provide such protection for licensed general hospitals, and legislation has been introduced that would extend similar protections under the Mental Health Code to hospitals licensed under that code.

THE CONTENT OF THE BILL:

The bill would amend the Mental Health Code to require that each Department of Mental Health (DMH) facility assure that its licensed, registered, or certified mental health professionals be organized so that effective reviews of the facility's professional practices could be made in order to improve the quality of patient care. Under the bill, records, data, and knowledge collected by individuals or committees for these reviews would be considered confidential, would only be used for review purposes, would not be considered public records, and would not be subject to court subpoena. The provisions of the bill would apply to review records in mental and psychiatric hospitals or psychiatric units that were licensed under the Mental Health Code or that were operated by the Department of Mental Health (DMH), but would not affect current provisions regarding patient records.

MCL 330.1748 et al.

FISCAL IMPLICATIONS:

A Senate Fiscal Agency analysis of the bill stated that the bill would have no fiscal impact on the state. (1-29-90)

ARGUMENTS:

For:

Mental health facilities, such as mental hospitals, psychiatric units, and psychiatric hospitals, are required to conduct professional reviews in order to be certified and to be eligible for Medicaid and Blue Cross/Blue Shield reimbursement. Such reviews are tools to assist these facilities in evaluating whether appropriate clinical procedures are being followed by a hospital. In the course of conducting these reviews, medical professionals serving on review committees compile records and data about medical procedures and personnel. According to DMH, there have been situations where medical personnel obtained information that had been gathered for the review and sued members of the panel because of what they claimed to be the derogatory nature of the information. The threat of being sued could have a chilling effect on the ability of review committee members to

present an honest appraisal. The confidentiality protections of the bill would remove that threat.

For:

Confidentiality protections, similar to those proposed in the bill, already exist for documentation collected as part of professional reviews conducted at medical facilities licensed by the Department of Public Health. The bill would extend these protections to data collected for reviews of mental health facilities.

SUGGESTED AMENDMENTS:

Michigan Protection and Advocacy Services for Developmentally Disabled Citizens, Inc., suggests amending the bill to specify that the confidentiality protection of the bill would not preclude disclosure of records to agencies designated by the governor to provide protection and advocacy services. Currently, advocacy and protection services have access to patient records under federal law.

POSITIONS:

The Department of Mental Health supports the bill. (5-30-90)

The Michigan Hospital Association supports the bill. (5-30-90)