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BILL ANALYSIS

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Senate Bill 616 (Substitute S-3 as passed by the Senate)

Sponsor: Senator Ed Fredricks

Committee: Education and Mental Health

Date Completed: 1-29-90

RATIONALE

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 and its staff. In the course of conducting professional reviews, medical professionals who serve on the review committee compile records and data about medical procedures and personnel at a facility. According to the Department of Mental Health, there have been situations in which medical personnel, whose professional performances were evaluated as a part of a review, obtained information that was gathered for the review and sued members of the review panel because of what they claimed to be the derogatory nature of the information. Some people fear that the threat of being sued will have a chilling effect on the ability of review committee members to present an honest appraisal of a medical professional's performance, unless the records and data collected for the review are protected and considered confidential.

CONTENT

The bill would amend the Mental Health Code to provide for the confidentiality of the records, data, and knowledge collected for or by individuals or committees assigned a professional review function in a "facility" that

was licensed or operated by the Department of Mental Health or for a provider of mental health services that were operated within a county program. The bill provides that these records, data, and knowledge would be confidential, could be used only for the purposes of professional review, would not be public records, and would not be subject to court subpoena. "Facility" would mean a mental hospital, psychiatric hospital, or psychiatric unit.

The Code currently permits the disclosure, under certain circumstances, of certain confidential information pertaining to a recipient of mental health services. The bill provides that such records, data, and knowledge collected as part of a professional review function would be exempt from these disclosure provisions and could be used only for professional review, would not be public records, and would not be subject to court subpoena.

MCL 330.1748 et al.

FISCAL IMPACT

The bill would have no fiscal impact on State or local government.

ARGUMENTS**Supporting Argument**

Professional reviews are designed to help clinical staff evaluate the services being

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delivered at a mental health facility. Integral to the review process is an examination of treatment procedures and administrative actions. Medical professionals who volunteer to serve on review panels should be free to make honest evaluations, which can be substantiated with records and data collected for the review. These volunteers should not have to fear legal action for their participation in a review. Confidentiality protections, which are similar to those proposed in Senate Bill 616 (S-3), already exist for documentation collected as part of professional reviews conducted at medical facilities licensed by the Department of Public Health. These protections should be extended to data collected for reviews of mental health facilities in order to ensure the integrity of the reviews.

Response: Some people believe that these protections should be applied to community mental health boards as well.

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