

SFA

BILL ANALYSIS

Senate Fiscal Agency

• Lansing, Michigan 48909

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Senate Bill 891 (Substitute S-1)
Sponsor: Senator James A. Barcia
Committee: Health Policy

JUN 26 1990

Date Completed: 5-15-90

SUMMARY OF SENATE BILL 891 (Substitute S-1):

The bill would amend the Public Health Code to allow hospitals to apply jointly for a certificate of need (CON); exempt hospitals with under 100 beds from CON requirements on making a change in bed capacity, under certain circumstances; revise the definition of "short-term nursing care"; revise current CON provisions on short-term nursing care; and delete the current provision that sets the maximum number of patient days for a short-term nursing care program.

Certificate of Need

Under the Code a person cannot make a change in the bed capacity of a health facility without first obtaining a CON. Under the bill, the provision would not apply to a hospital with fewer than 100 beds that closed, or consolidated or reduced its services. This provision also would not apply to a hospital with fewer than 100 beds that merged with another hospital in the same subarea. If the merging hospitals were located in a subarea that was subject to a bed reduction plan, the merger would have to result in a 10% bed reduction for that area.

The bill also provides that if two or more hospitals entered into a joint venture for a project that required a CON, the hospitals jointly could file one application for the CON.

Short-Term Nursing Care

"Short-term nursing care" currently is defined in the Code as nursing care provided in a hospital to a patient who has been discharged from an acute care bed and cannot be placed in a nursing home bed, or hospital long-term care unit located within a 50-mile radius of the patient's residence. The bill would revise the definition to delete reference to an acute care bed, refer to a patient who was discharged or was ready for transfer from a licensed hospital bed other than a hospital long-term care unit bed, and include a county medical care facility bed among the types of beds in which a patient could not be placed within a 50-mile radius of the patient's residence.

Under the Code, a hospital that applies to the Department of Public Health (DPH) for a CON and meets certain criteria must be granted a CON for a short-term nursing care program with up to 10 licensed beds. Among the criteria is the requirement that a hospital be eligible for and in compliance with swing-bed

provisions of the Federal Social Security Act, except for the CON requirement. Under the bill, a hospital would have to be eligible to apply for certification as a provider of swing-bed services under the Social Security Act. The bill would delete reference to the CON requirement.

Currently, a hospital that applies for a CON for a short-term nursing care program also must have under 100 licensed beds, not counting beds used for newborns, psychiatric patients, and inpatient substance abuse patients. The bill would revise this provision to require the hospital to have fewer than 100 licensed beds, not counting beds excluded under Section 1883 of Title XVIII of the Social Security Act. (This section of the Act allows a hospital to run a swing-bed program under Medicare.)

Under the Code, a hospital granted a CON for a short-term nursing care program must comply with certain provisions. The bill also would require that such hospitals achieve and maintain Medicare certification under Title XVIII of the Social Security Act.

Currently, hospitals granted a CON must not charge or attempt to recover the cost of a length of stay for a patient in the short-term nursing care program that exceeded 20 days for each hospital admission. The bill would prohibit a hospital from charging or recovering the cost of a patient's length of stay that exceeded the length of time allowed for post-hospital extended care under the Social Security Act, and would delete reference to 20 days. In addition, such hospitals currently cannot discharge a patient from an acute care bed and admit that patient to the short-term nursing care program unless the discharge is determined to be medically appropriate by the attending physician. The bill would revise the provision to delete reference to an acute care bed and refer to a licensed hospital bed other than a hospital long-term care unit bed, and provide for the transfer as well as discharge of a patient.

A hospital granted such a CON currently is required to transfer a patient in the short-term nursing care program to an appropriate nursing home bed or hospital long-term care unit located within a 50-mile radius of the patient's residence within five business days after the hospital has been notified that a nursing home bed has become available. The bill would require that the nursing home bed be "appropriately certified" and would permit a patient to be transferred to a county medical care facility bed.

Maximum Patient Days

The bill would delete the current provision that prohibits the number of patient days for a short-term nursing care program from exceeding the equivalent of 1,825 patient days for a single State fiscal year. In addition, the bill would delete the provision that permits the DPH, upon application, to grant a variation for up to one year from the maximum number of patient days to an applicant hospital that demonstrates to the Department's satisfaction that there is an immediate need for skilled nursing beds within a 100-mile radius of the hospital.

MCL 333.22208 et al.

Legislative Analyst: L. Arasim

FISCAL IMPACT

The bill would have an indeterminate impact on State Medicaid Program expenditures. The magnitude of the impact would depend on the demand for post-

hospital extended care services; the availability of nursing home beds; the degree to which swing-beds represented an expansion in nursing home bed capacity, as opposed to a substitute for nursing home beds; and the extent to which recipients of swing-bed services are, or became Medicaid-eligible. Given the following "worst case" assumptions, the potential Medicaid cost could be \$7.2 million gross; \$3.2 million GF/GP:

- All hospitals with fewer than 100 beds would successfully apply for a certificate of need for 10 swing-beds. (Hospitals that would reduce licensed bed capacity to fewer than 100 beds pursuant to the delicensure provisions of Senate Bill 890 (S-1) are not included.)
- Swing-beds would experience 100% occupancy rates and average lengths-of-stay of 100 days.
- Swing-bed utilization would represent additional nursing home capacity, as opposed to a substitute for nursing home care.
- 50% of the recipients of swing-bed services are Medicaid eligible.
- The Medicare coinsurance reimbursed by the State Medicaid program would be \$52/day.

It should be noted that of the nearly 100 hospitals currently eligible for swing-bed services, approximately 20% have received certification to date, while approximately 50% have not applied. It should also be noted that, to date, there have been 20 cases, or approximately 8.6% of the people served, that exceeded the 20-day length-of-stay reimbursed by Medicare before a nursing home bed became available.

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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.