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House Bill 4413 (Substitute H-4)

Sponsor: Representative Floyd Clack

House Committee: Public Health

Senate Committee: Health Policy

Date Completed: 5-17-88

SUMMARY OF HOUSE BILL 4413**(Substitute H-4) as passed by the House:**

The bill would amend the Public Health Code to:

- Require a physician or qualified emergency department personnel, when a person requested treatment at a hospital emergency department, to determine if an emergency medical condition existed or the person was in active labor.
- Require that appropriate stabilizing treatment be provided or permit the person to be transferred to another hospital or appropriate health facility if it were medically appropriate.
- Specify conditions under which a transfer would be considered medically appropriate.
- Prohibit the denial of stabilizing treatment because of a patient's inability to pay for the treatment.
- Prohibit a person from being transferred until appropriately stabilized, unless a physician or other qualified emergency department personnel certified that the benefits of the transfer outweighed the risks to the person's medical condition.
- Prohibit a hospital from discriminating against a person requesting an examination or medical treatment at a hospital emergency department.
- Require hospitals to develop a written policy, as specified in the bill, concerning the closing of, or rerouting of persons from, the hospital emergency department.
- Establish sanctions that would be taken against a physician or hospital that violated the bill's provisions.

Emergency Treatment

If a person arrived at a hospital "emergency department" requesting an examination or treatment, a physician or other qualified emergency department personnel would be required to determine whether an emergency medical condition existed or whether the individual was in active labor. "Emergency department" would include hospital emergency departments, hospital emergency rooms, and hospital emergency centers.

If an emergency medical condition existed, or the individual were in active labor, the physician or other qualified emergency department personnel would be required to provide appropriate stabilizing treatment, unless such treatment was refused by the person, or transfer the person to another hospital or other appropriate health facility or agency if the transfer were medically appropriate.

An individual with an emergency medical condition, or in active labor could not be denied appropriate stabilizing treatment solely because of his or her inability to pay for the treatment.

Transfer

A medically appropriate transfer would be a transfer in which the receiving hospital or other health facility or agency had available space, had qualified personnel, had agreed to accept the transfer of the individual and to provide medical treatment, and was given appropriate medical records of the examination and treatment provided by the transferring facility.

A person with an emergency medical condition, or in active labor could not be transferred until appropriately stabilized, unless a physician or other qualified emergency department personnel if a physician were not available in the emergency department, certified in writing that the benefits of transfer outweighed the increased risks to the individual's medical condition from the transfer.

Prohibit Discrimination

For purposes of the bill's provisions, a hospital could not discriminate against an individual requesting an examination or treatment on the basis of his or her race, religion, national origin, age, sex, physical condition, economic status, sexual preference, or health insurance or health benefits provider.

Written Policy

Not more than 60 days after the bill's effective date, each hospital would be required to develop a written policy concerning the temporary closing of, or rerouting of persons from, the hospital emergency department. In an area where a medical control authority existed, the policy would have to include criteria developed by the medical control authority, and would have to be approved by the Department of Public Health. In an area where no medical control authority existed, the Department would be required to approve the policy. The policy would have to include, at a minimum, all of the following:

- A description of circumstances that justified a temporary closing of the hospital emergency department.
- A description of the types of persons who would be affected by a temporary closing.
- Identification of the persons or governing bodies authorized to make a temporary closure decision.
- A description of the availability of alternate emergency departments that were available to accept, and agreed to accept, persons affected by a temporary closing.
- A description of how a hospital would inform ambulance companies, emergency medical service providers, and others of a temporary closing, including specific referral

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arrangements for all cases that the hospital could not accommodate.

In an area where a Department-approved medical control authority existed, the authority would be required to coordinate the policies of hospitals in its service area concerning specific referral arrangements. In an area where no approved medical control authority existed, the Department would be required to coordinate the policies.

Violations/Sanctions

A physician who violated these provisions would be subject to the sanctions established in Article 15 of the Public Health Code, which deals with the licensing of various health professionals.

In addition to other sanctions or penalties provided for in Article 17, which deals with various medical facilities and agencies, a hospital that violated these provisions would be subject to the following sanctions:

- For the first violation, a warning that another violation could result in a compliance order issued pursuant to the Code's provisions for license violations (MCL 333.20162(5)).
- For the second violation within five years after the first violation, a warning or compliance order issued pursuant to the Code's provisions for license violations.
- For a third violation within five years after the first violation, a compliance order issued pursuant to the Code's provisions for a license violations, or suspension of, limitations on, or revocation of, the hospital's license.

Proposed MCL 333.21514 and 333.21514a

Legislative Analyst: L. Arasim

FISCAL IMPACT

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

Fiscal Analyst: P. Graham

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.