

Senate Fiscal Agency
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SFA**BILL ANALYSIS**

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Senate Bill 836 & 837 (as reported without amendment)
Sponsor: Senator Bev Hammerstrom (Senate Bill 836)
Senator Shirley Johnson (Senate Bill 837)
Committee: Families, Mental Health and Human Services

Date Completed: 11-8-99

RATIONALE

The Mental Health Code provides that, if an applicant for community mental health (CMH) services is denied services, then the applicant, the applicant's guardian if one has been appointed, or the applicant's parent or parents if the applicant is a minor, may request a second opinion of the CMH executive director. The executive director then must secure that second opinion from a physician, licensed psychologist, registered professional nurse, master's level social worker, or master's level psychologist. If the health professional providing the second opinion determines that the applicant has a serious mental illness, serious emotional disturbance, or developmental disability, or is experiencing an emergency or urgent situation, the CMH program must direct services to the applicant. Some people feel that, in addition to the currently listed health professionals, licensed professional counselors should be statutorily authorized to provide a second opinion regarding an applicant denied CMH services.

CONTENT

Senate Bill 836 would amend the Mental Health Code to include licensed professional counselors among the health professionals from whom the executive director of a community mental health program must secure a second opinion if an applicant for CMH services has been denied those services and the applicant, his or her guardian if one has been appointed, or his or her parent or parents if the applicant is a minor, requests a second opinion of the CMH executive director. The bill would define "licensed professional counselor" as a person licensed to practice in Michigan under Article 15 of the Public Health Code, which provides for the licensure of various health professionals.

Senate Bill 837 would amend the Foster Care and Adoption Services Act to change the citation to a subsection of the Mental Health Code in a reference to responsibilities of a licensed mental health professional. The Mental Health Code subsection would be changed by the inclusion in Senate Bill 836 of a definition of "licensed professional counselor".

(The Foster Care and Adoption Services Act provides that, if a child under the care of a supervising agency has suffered sexual abuse, serious physical abuse, or mental illness, the supervising agency must have an experienced and licensed mental health professional as defined in the Mental Health Code, or a social worker certified under the Occupational Code, who is trained in children's psychological assessments perform an assessment or psychological evaluation of the child.)

MCL 330.1100b & 330.1705 (S.B. 836)
722.954c (S.B. 837)

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

When the Mental Health Code was revamped by Public Act 290 of 1995, licensed professional counselors were not included in the list of health professionals authorized for appointment by a CMH executive director to secure a second opinion regarding an applicant denied services. Licensed professional counselors reportedly did provide this service prior to that 1995 legislation. According to testimony before the Senate Committee on Families, Mental Health and Human Services, this may have been an inadvertent omission in the recodification of the Mental Health Code.

Licensed professional counselors have training and educational qualifications that are at least equivalent to some of the health professionals authorized by the Code to provide a second opinion. They must possess either a master's degree or Ph.D. in mental health counseling and have psychoanalytic training. One licensed professional counselor who testified before the Senate Committee provides outpatient family counseling and CMH emergency services and has worked with the homeless and mentally ill for almost 20 years. Certainly, this mental health professional should be permitted to provide a service

that the Code allows a registered professional nurse and a master's level social worker or psychologist to perform.

Supporting Argument

Some areas of the State, especially rural areas in northern Michigan, may be underserved in regard to the number of professionals available to provide mental health services. Allowing a licensed professional counselor to provide a second opinion on an applicant's denial of CMH services would improve access to health care statewide.

Response: A representative of the Department of Community Health (DCH), testified before the Senate committee that there were only 12 incidents in which second opinions were secured, according to the most recent CMH quarterly report, and the Department has no record of a CMH program in a rural area expressing a great need for licensed professional counselors to provide this service. Also, every CMH program reportedly must have a medical director who is a psychiatrist, so highly trained medical personnel apparently are available throughout the State.

Opposing Argument

According to the DCH, leaving licensed professional counselors out of the second opinion provision was not an inadvertent omission when the Mental Health Code was recodified in 1995, but was done because the scope of practice for licensed professional counselors outlined in the Public Health Code specifically excludes psychodiagnostic purposes (MCL 333.18101). If a CMH executive director were looking for someone to perform a diagnostic task, like formulating a second opinion, he or she likely would turn to a psychiatrist or psychologist. Thus, there would seem to be little basis, if any, for including licensed professional counselors in the second opinion provision.

Response: Licensed professional counselors currently are active practitioners in this area of mental health. While perhaps not diagnosing particular mental illnesses, licensed professional counselors already provide assessments for hospitalization for mental illness (though not for involuntary commitment, which can be done only by a fully licensed psychiatrist or psychologist). In addition, a licensed professional counselor's education and training are similar to that of a master's level psychologist or master's level social worker, both of whom are currently included in the second opinion provision.

Opposing Argument

The second opinion provision is already too broad. It should only include those health professionals whose scope of practice includes diagnostic practices. A second opinion is a last chance for an applicant seeking CMH services and should be handled very carefully. A licensed professional

counselor does not have the expertise, training, and experience to diagnose serious mental illness.

Response: The State is moving toward more responsibilities for health professionals. Rules are even being promulgated to allow physician assistants and some nurses to prescribe drugs without the direct supervisory authority of a physician. Furnishing a second opinion on whether an applicant should receive mental health services is a task that licensed professional counselors, as well as the other authorized professionals, are fully capable of performing.

Legislative Analyst: P. Affholter

FISCAL IMPACT

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

Fiscal Analyst: S. Angelotti
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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.