

Legislative Analysis



MENTAL HEALTH PATIENT ADVOCATES

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Senate Bills 1464, 1468, and 1469
Sponsor: Sen. Bev Hammerstrom

Senate Bills 1465-1467
Sponsor: Sen. Gilda Z. Jacobs

Senate Bills 1470-1472
Sponsor: Sen. Bruce Patterson

Senate Committee: Health Policy
House Committee: Health Policy

Complete to 11-22-04

A SUMMARY OF SENATE BILLS 1464-1472 AS PASSED BY THE SENATE

Senate Bill 1464 would amend the Estates and Protected Individuals Code (MCL 700.1106 et al.) to allow an individual to designate a patient advocate to exercise powers regarding mental health treatment decisions, and to allow an individual to include in a patient advocate designation a statement of his or her desires on mental health treatment.

The bill also would allow a patient to waive the right to revoke a patient advocate designation regarding mental health treatment decisions, by making the waiver part of the document containing the designation. Mental health treatment provided to a patient under a designation where the patient had waived the right to revoke could not continue for more than 30 consecutive days. The waiver would not affect the patient's right under the Mental Health Code not to be hospitalized for more than three days after giving written notice of an intention to terminate hospitalization and leave the hospital.

The bill would allow a patient advocate to exercise the power to make mental health treatment decisions only if a physician and a mental health practitioner both certified in writing, after examining the patient, that the patient was unable to give informed consent to mental health treatment.

With regard to mental health treatment decisions, a patient advocate could only consent to the forced administration of medication or to inpatient hospitalization (other than hospitalization as a formal voluntary patient) when the patient had expressed in a clear and convincing manner that the patient advocate was authorized to consent to that treatment.

Section 5513 of EPIC states that if any provision of Article V (Protection of an Individual under Disability and His or Her Property) conflicts with a provision of the Mental Health Code, then the Mental Health Code controls. The bill would repeal Section 5513.

Senate Bills 1465, 1466, and 1467 would amend the Public Health Code (MCL 333.5653 and 333.5654), the Michigan Penal Code (MCL 750.145n), and the Michigan Do-Not-Resuscitate Procedure Act (MCL 333.1052), respectively, to cite sections of the Estates and Protected Individuals Code that Senate Bill 1464 would amend or add.

Senate Bill 1468 would amend the Mental Health Code (MCL 330.1400) to revise the definition of "formal voluntary hospitalization". Currently, the term means hospitalization of an individual based on both the execution of an application for voluntary hospitalization, and the hospital director's determination that the individual is clinically suitable for voluntary hospitalization. The bill would refer to the execution of an application for voluntary hospitalization by an individual or by a patient advocate designated under EPIC.

Senate Bill 1469 would amend the Mental Health Code (MCL 330.1407) to include a patient advocate designated to make mental health treatment decisions for a patient among the people who must be notified if a patient in a Department of Community Health (DCH) hospital is transferred to any other hospital, or any other DCH facility that is not a hospital. Currently, the patient and his or her guardian or nearest relative must be notified at least seven days before any transfer, unless the transfer is necessitated by an emergency. In that situation, notification must be given as soon as possible, but not later than 24 hours after the transfer.

Under the code, if the patient or his or her guardian or nearest relative objects to the transfer, the DCH must provide an opportunity to appeal the transfer. Under the bill, this provision also would apply if the patient advocate objected to the transfer.

Senate Bill 1470 would amend the Mental Health Code (MCL 330.1409) to provide for the assessment of an individual being considered for admission to a DCH hospital or alternative treatment program, and to include a person applying for the admission of an individual to a hospital or alternative treatment program among the people who may request a second opinion if admission is denied.

The code requires each community mental health services program (CMHSP) to establish at least one preadmission screening unit with 24-hour availability to provide assessment and screening services for individuals being considered for admission into hospitals or alternative treatment programs. A preadmission screening unit must assess individuals who seek authorization for admission to hospitals operated by the DCH or under contract with the CMHSP. If the individual is clinically suitable for hospitalization, the preadmission screening unit must authorize voluntary admission to the hospital. Under the bill, a preadmission screening unit would have to assess "an individual being considered for admission" to a hospital, rather than an individual who seeks authorization for admission.

Under the code, if the preadmission screening unit denies hospitalization, the individual may request a second opinion from the executive director of the CMHSP, and the executive director must arrange for an additional evaluation by a psychiatrist, physician,

or licensed psychologist. Under the bill, either the individual or the person making the application for hospitalization could request a second opinion.

Senate Bill 1471 would amend the Mental Health Code MCL (330.1410) to revise the individuals who may be considered for admission to a hospital operated by the DCH or under contract with a CMHSP.

Under the code, an individual seeking either informal or formal voluntary admission to a hospital operated by the DCH or a hospital under contract with a CMHSP may be considered for admission by the hospital only after authorization by the CMHSP preadmission screening unit. The bill would refer to an individual "who requests, applies for, or assents to" informal or formal voluntary admission, rather than an individual seeking admission.

Senate Bill 1472 would amend the Mental Health Code (MCL 330.1415) to include a patient advocate authorized to make mental health treatment decisions among the people who may execute an application for formal voluntary hospitalization of an individual at least 18 years old who assents to the hospitalization. Currently, only an individual or, with his or her assent, the individual's full guardian, or his or her limited guardian with authority to admit, may execute an application for hospitalization.

Senate Bill 1464 is tie-barred to all of the other bills, which all are tie-barred to Senate Bill 1464. Additionally, Senate Bills 1468 through 1472 are tie-barred to each other.

FISCAL IMPACT:

By allowing a designated patient advocate to exercise certain powers over the mental health treatment of an individual, CMHSPs or the state may be required to provide mental health treatment services to individuals who otherwise might not have received them. Thus, this proposed change in law will result in increased costs for the state and CMHSPs.

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.