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BILL ANALYSIS

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House Bill 4655 (Substitute S-1 as reported)
House Bill 4656 (Substitute S-1 as reported)
Sponsor: Representative Gary A. Newell
House Committee: Health Policy
Senate Committee: Health Policy

CONTENT

House Bills 4655 (S-1) and 4656 (S-1) would amend the Public Health Code and the Michigan Penal Code, respectively, to prohibit a licensed health care professional from practicing with a bodily alcohol content (BAC) of .05 gram or more or while under the influence of a controlled substance; and provide for criminal and administrative and criminal sanctions for violators. The bills are tie-barred.

House Bill 4656 (S-1) would amend Section 430 of the Penal Code, which provides that any physician or other person who, while in a state of intoxication, prescribes a poison, drug, or medicine to another person is guilty of a misdemeanor punishable by imprisonment for up to one year or a maximum fine of \$1,000. The bill would delete that provision.

Under the bill, it would be a misdemeanor for a licensed health care professional to do either of the following:

- Engage in the practice of his or her health profession with a BAC of .05 or more gram per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine.
- Engage in the practice of his or her health profession while under the influence of a controlled substance that, due to its illegal or improper use, visibly impaired the licensee's ability to engage safely and skillfully in the practice of his or her health profession.

The charge for a first offense could be dismissed if the patient were not injured and other conditions were met, including participation in the Health Professional Recovery Program established under the Code. A first offense would be punishable by up to 180 days' imprisonment and/or a maximum fine of \$1,000. For a second or subsequent offense, the penalty would be imprisonment for up to one year or a maximum fine of \$1,000, or both. If an individual were convicted of violating the bill, the court would have to order him or her to participate in the Health Professional Recovery Program.

If a peace officer had reasonable cause to believe an individual was engaging in either of the prohibited activities, the officer could require the person to submit to a chemical analysis of his or her breath, blood, or urine.

House Bill 4655 (H-1) would amend provisions of the Public Health Code that authorize a disciplinary subcommittee to impose administrative sanctions, if it finds the existence of certain personal disqualifications (including felony convictions and some misdemeanor convictions). The bill would add a violation of Section 430 of the Penal Code to the personal disqualifications.

The bill also would extend from January 1, 2004, to January 1, 2007, the date by which a health professional licensed, registered, or certified in another state or Canadian province may be granted the appropriate licensure, registration, or certification in Michigan, if he or she meets certain requirements.

MCL 750.430 (H.B. 4656)
333.16186 et al. (H.B. 4655)

Legislative Analyst: Julie Koval

FISCAL IMPACT

House Bill 4655 (S-1) would have no fiscal impact on State or local government.

House Bill 4656 (S-1) would have an indeterminate fiscal impact on State and local government.

There are no statewide data to indicate how many offenders are convicted of the existing misdemeanor or what types of penalties they receive. Local units of government incur the costs of both misdemeanor probation and incarceration, which vary by county. To the extent that the bill would decrease the maximum sentence for a first offense from one year to 180 days, it could decrease local incarceration costs. On the other hand, by expanding the offense to include all licensed health care professionals engaging in the practice of a health profession while under the influence of either alcohol or a controlled substance, the bill could increase the number of potential offenders, thereby increasing local corrections costs.

Date Completed: 12-5-03

Fiscal Analyst: Maria Tyszkiewicz
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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.