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BILL ANALYSIS



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House Bill 4639 (as passed by the House)
Sponsor: Representative Klint Kesto
House Committee: Law and Justice
Senate Committee: Judiciary

Date Completed: 6-13-17

CONTENT

The bill would amend the Public Health Code to do the following:

- **Include a conviction for knowingly performing a female genital mutilation operation or knowingly transporting a person from Michigan for that purpose among the grounds for disciplinary action against a health professional.**
- **Require a disciplinary subcommittee to revoke permanently the license of an individual convicted of either offense.**

The bill is tie-barred to House Bill 4636 and 4637, and would take effect 90 days after its enactment. (House Bill 4636 would add Section 136 to the Michigan Penal Code to prohibit a person from knowingly performing a surgical operation to circumcise, incise, excise, or infibulate all or any part of the labia majora, labia minora, or clitoris of a person under 18 years of age. House Bill 4637 would add Section 136a to the Penal Code to prohibit a person from knowingly transporting a person from the State for the purpose of an operation that would be a violation of Section 136 if conducted in Michigan. An individual who violated either prohibition would be guilty of a felony punishable by up to 15 years' imprisonment.)

Grounds for Disciplinary Action; Female Genital Mutilation

Section 16221 of the Public Health Code requires the Department of Licensing and Regulatory Affairs (LARA) to investigate allegations that grounds exist for disciplinary action against a licensee or registrant, and authorizes LARA to investigate activities related to the practice of a health profession licensee, registrant, or applicant for licensure or registration. After its investigation, LARA must provide a copy of the administrative complaint to the appropriate disciplinary subcommittee.

The grounds for disciplinary action relate to one or more general categories, including a violation of a general duty consisting of negligence or failure to exercise due care, a personal disqualification (such as incompetence, lack of moral character, or substance use disorder), a prohibited act, an unethical business practice, or unprofessional conduct. Under House Bill 4639, a personal disqualification would include a conviction for a violation of Section 136 or 136a of the Michigan Penal Code. A certified copy of the court record would be conclusive evidence of the conviction.

Sanction for Violation

If a disciplinary subcommittee finds that one or more of the grounds for disciplinary action in Section 16221 exist, it must impose one or more of the sanctions described in Section 16226.

The sanctions vary depending on the nature of the grounds for disciplinary action. For a conviction of a violation of Section 136 or 136a of the Penal Code, the bill would require permanent revocation of a health profession license or registration.

Except as otherwise provided for certain criminal offenses, a disciplinary subcommittee may not impose the sanction of permanent revocation without a finding that the licensee or registrant engaged in a pattern of intentional acts of fraud or deceit resulting in personal financial gain to the licensee or registrant and harm to the health of patients under the licensee's or registrant's care. Under the bill, this would not apply if the disciplinary subcommittee found that a licensee had been convicted of violating Section 136 or 136a of the Penal Code.

MCL 333.16221 & 333.16226

Legislative Analyst: Jeff Mann

FISCAL IMPACT

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

Fiscal Analyst: Josh Sefton

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