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BILL



ANALYSIS

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Senate Bill 1117 (as introduced 5-3-12)  
Sponsor: Senator John Moolenaar  
Committee: Insurance

Date Completed: 5-22-12

### **CONTENT**

**The bill would amend the Revised Judicature Act to do the following:**

- Describe the people against whom a medical malpractice action could be maintained.**
- Establish criteria for an expert witness in a medical malpractice action against a party who was not a licensed health professional.**

#### Medical Malpractice Defendant

The Act allows a civil action for malpractice to be maintained against any person professing or holding himself or herself out to be a member of a State licensed profession.

The bill also would allow a civil action for medical malpractice to be maintained against any person who is or who holds himself or herself out to be a licensed health care professional, licensed health facility or agency, or an employee or agent of a licensed health facility or agency and who is engaging in or otherwise assisting in medical care or treatment, regardless of whether the person is engaging in the practice of the health profession in a sole proprietorship, partnership, professional corporation, or other business entity.

The Act allows malpractice to be admitted in evidence as a defense to an action for services rendered by a member of a State licensed profession or a person holding himself or herself out to be a member of a State licensed profession. The bill also would refer to an unlicensed individual described above.

The bill would define "person" as used in these provisions as an individual, partnership, corporation, association, governmental entity, or other legal entity.

#### Expert Witness

The Act prohibits a person from giving expert testimony on the appropriate standard of practice or care in a medical malpractice action unless the person is licensed as a health professional in Michigan or another state and meets specified criteria. Under the bill, these provisions would apply to a person giving expert testimony against or on behalf of a party who was a licensed health professional.

A person could not give expert testimony on the appropriate standard of practice or care against or on behalf of a party who was *not* a licensed health professional unless the person met the criteria described below.

At the time of the occurrence that was the basis for the action, the person had to specialize in the same health profession as the party for or against whom the testimony was offered.

During the year immediately before the date of that occurrence, the person had to devote a majority of his or her professional time to either or both of the following:

- The active clinical practice of the same health profession as the party for or against whom the testimony was offered.
- The instruction of students in an accredited health professional school or accredited residency or clinical research program in the same health profession as the party for or against whom the testimony was offered.

MCL 600.2169 & 600.2912

Legislative Analyst: Suzanne Lowe

**FISCAL IMPACT**

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

Fiscal Analyst: Dan O'Connor

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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.