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House Bill 4441 (Substitute H-6 as passed by the House)
House Bill 4442 (Substitute H-1 as passed by the House)
House Bill 4442 (Substitute H-1 as passed by the House)
Sponsor: Representative Frank Foster (H.B. 4441)
Representative Gail Haines (H.B. 4442)
Representative Paul Muxlow (H.B. 4443)
House Committee: Health Policy
Senate Committee: Health Policy

Date Completed: 5-24-11

CONTENT

House Bill 4441 (H-6) would amend Part 222 (Certificates of Need) of the Public Health Code to revise provisions that allow a hospital to obtain a certificate of need (CON) for a short-term nursing care program with up to 10 licensed hospital beds. The bill would do the following:

- Refer to an "extended care services program" rather than a short-term nursing care program, deleting a requirement that a bed be unavailable in a nursing home or other facility within a 50-mile radius of a patient's home.
- Delete a requirement that a hospital transfer a patient in the program to a nursing home or other facility within the 50-mile radius, within five business days after being notified that a bed has become available.
- Provide that a hospital granted a CON for an extended care services program could not provide extended care services in a swing bed if the hospital owned or operated a hospital long-term care unit with beds available.
- Require a hospital to establish a discharge plan for each extended care services patient admitted to the program.

House Bills 4442 (H-1) and 4443 (H-1) would amend the Administrative Procedures Act and the Social Welfare Act, respectively, to replace references to a short-term nursing care program with references to an extended care services program.

House Bill 4441 (H-6) would take effect 180 days after it was enacted. House Bills 4442 (H-1) and 4443 (H-1) are tie-barred to House Bill 4441.

House Bill 4441 (H-6)

Under Part 222 of the Public Health Code, if a hospital applies to the Department of Public Health for a certificate of need and meets specified criteria, the hospital must be granted a CON for a short-term nursing care program with up to 10 licensed hospital beds. Under the bill, the hospital would have to be granted a CON for an extended care services program.

Part 222 defines "short-term nursing care" as nursing care provided in a hospital to a patient who has been discharged or is ready for transfer from a licensed hospital bed other than a hospital long-term care unit bed and cannot be placed in a nursing home bed, county medical care facility bed, or hospital long-term care unit bed located within a 50-mile radius of the patient's residence. The bill would delete that definition.

The bill would define "extended care services program" as a program by a hospital to provide extended care services to a patient through the use of swing beds under Section 1883 of Title 18 (Medicare) of the Social Security Act. (The Social Security Act allows certain small, rural hospitals to enter into a swing bed agreement with the Federal government allowing the hospitals' beds, as needed, to be used to provide either acute or skilled nursing facility care.)

The criteria that presently apply to a hospital seeking a CON for a short-term nursing care program would apply to a hospital seeking a CON for an extended care services program. These include a requirement that, subject to modification by the CON Commission, the hospital have fewer than 100 licensed beds, not counting those excluded under Section 1883 of Title 18.

Currently, a hospital that is granted a CON for a short-term nursing care program must transfer a patient in the program to an appropriately certified nursing home bed, county medical care facility bed, or hospital long-term care unit bed located within a 50-mile radius of the patient's residence within five business days after the hospital has been notified, orally or in writing, that a bed has become available. The bill would delete this requirement.

Under the bill, if a hospital were granted a CON for an extended care services program, the hospital could not provide extended care services in a swing bed if the hospital owned or operated a hospital long-term care unit that had beds available.

In addition, the bill would require a hospital to establish a discharge plan for each patient admitted to an extended care services program. In the plan, the hospital would have to emphasize patient choice in receiving extended care services in the most appropriate and least restrictive setting. Within three days after the patient was admitted to the program, the hospital would have to provide a copy of the discharge plan to the patient or his or her authorized representative.

House Bill 4442 (H-1)

Currently, the definition of "rule" in the Administrative Procedures Act does not include the modification of the 100 licensed bed limitation for short-term nursing care programs set forth in Part 222 of the Public Health Code. The bill would refer, instead, to extended care services programs.

House Bill 4443 (H-1)

The Social Welfare Act lists medical services that may be provided to an eligible individual under the Act. These include nursing home services in a State licensed nursing home, a medical care facility, or another facility certified as meeting established standards for a nursing home. An eligible individual also may receive nursing services in a short-term nursing care program to the extent found necessary by the attending physician, under certain circumstances. The bill would refer to nursing services in an extended care services program.

MCL 333.22208 & 333.22210 (H.B. 4441)
24.207 (H.B. 4442)
400.109 (H.B. 4443)

Legislative Analyst: Suzanne Lowe

FISCAL IMPACT

The bills would expand the use of "swing beds" for individuals in small rural hospitals who are ready for discharge to shortened nursing care. The State's Medicaid program pays for two-thirds of the State's skilled nursing care, so any differences in rates paid for swing beds would affect the State's budget. Due to the lack of specific comparative payment rates for swing beds and nearby nursing homes, the fiscal impact is indeterminate.

Fiscal Analyst: Steve 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.