



Senate Fiscal Agency
P. O. Box 30036
Lansing, Michigan 48909-7536



BILL ANALYSIS

Telephone: (517) 373-5383
Fax: (517) 373-1986

Senate Bills 568, 569, and 570 (as introduced 10-1-13)
Sponsor: Senator Jim Marleau
Committee: Health Policy

Date Completed: 10-3-13

CONTENT

Senate Bill 568 would repeal Parts 170 (Medicine) and 175 (Osteopathic Medicine and Surgery) of the Public Health Code, which regulate physicians and physician assistants (PAs), and would create Part 171 (Patient Care) of the Code to regulate allopathic and osteopathic physicians, PAs, and advanced practice registered nurses (APRNs) (who currently are regulated as nurses under Part 172). Specifically, the bill would do the following:

- Replace the regulatory boards and disciplinary subcommittees under Parts 170 and 175 with separate task forces for allopathic physicians, osteopathic physicians, PAs, and APRNs under proposed Part 171.
- Allow health professional licensees to form a patient care team and require a team to have a practice agreement.
- Create the Michigan Patient Care Board and require it to establish a model practice agreement for patient care teams and evaluate the model every two years.
- Require a PA or APRN to be a care team member in order to practice.
- Eliminate references to certified nurse midwife (CNM) and certified nurse practitioner (CNP) specialty fields in Part 172, and provide for the licensure of CNMs, CNPs, and certified nurse specialists (CNSs) as APRNs under Part 171.
- Extend to APRNs certain provisions that apply to PAs.
- Include a PA and an APRN in the definition of "prescriber" in Part 177 (Pharmacy Practice and Drug Control).
- If a licensee organized as a professional corporation or a professional limited liability company with other licensees, require each shareholder of the corporation or member of the company to comply with all applicable requirements of Article 15 (Occupations) to engage in his or her health profession.
- Revise references throughout the Code to reflect the addition of Part 171.

Senate Bills 569 and 570 would amend the Business Corporation Act and the Michigan Limited Liability Company Act, respectively, to do the following:

- Include the services of an APRN and nurse anesthetist in the definition of "professional service".
- Authorize a licensed physician to organize a professional corporation or professional limited liability company (PLLC) with any other individuals who were licensed under the Public Health Code, rather than licensed PAs.

- **Allow a licensed physician to organize a PLLC with one or more nurses who held specialty certifications in the field of nurse anesthetist.**

Senate Bill 569 also would eliminate a prohibition against the organization by PAs of a professional corporation with only PAs as shareholders.

Senate Bills 569 and 570 are tie-barred to Senate Bill 568.

Senate Bill 568

Part 171: Patient Care

Michigan Patient Care Board. The bill would create the Board within the Department of Licensing and Regulatory Affairs (LARA). The Board would consist of the following 19 voting members who met the applicable requirements of Part 161 of Article 15 (Occupations) of the Code:

- Three allopathic physicians.
- Three osteopathic physicians.
- Three PAs.
- Three APRNs.
- Seven public members.

The Board would not have the powers and duties vested in a patient care task force (described below).

Based on recommendations from the task forces, the Board would have to do all of the following by rule:

- Establish a model practice agreement for use by physicians and PAs or APRNs who organized a patient care team.
- Require the development of an electronic version of the model agreement.
- Provide for joint evaluation of the model agreement every two years.

Patient Care Task Forces. Part 161 provides for licensing boards to regulate various health professions, as well as disciplinary subcommittees of the boards to investigate alleged violations and, if necessary, impose sanctions on licensees. Part 161 contains general provisions applicable to all health professions, and provisions specific to each health profession are contained in other parts of Article 15. Part 170 provides for the Board of Medicine to regulate allopathic physicians, as well as a joint task force for licensed health profession subfields. (The Code designates practice as a physician assistant a health profession subfield under Parts 170, 175, and 180 (Podiatric Medicine and Surgery).) Part 175 provides for the Board of Osteopathic Medicine and Surgery to regulate osteopathic physicians.

The bill would repeal Parts 170 and 175 and create a separate Regulatory and Disciplinary Task Force for each of the following health professionals: allopathic physicians, osteopathic physicians, PAs, and APRNs. The bill would prescribe the membership and require each task force to do the following:

- Promulgate rules necessary for the implementation of its powers and duties.
- Promulgate rules to establish the requirements for education, training, or experience of the respective health professionals for licensure in Michigan.
- Direct LARA to issue licenses to applicants who met the requirements of Part 171 and the rules promulgated under it.

- Promulgate rules to establish criteria for the evaluation of programs for the education and training of the respective health professionals for the purpose of determining whether graduates of the programs had the knowledge and skills requisite for practice.

A task force also could perform the acts and make the determinations necessary for the proper implementation of its powers and duties.

(Similar requirements apply currently to the Board of Medicine under Part 170 and the Board of Osteopathic Medicine and Surgery under Part 175.)

In addition, each task force would have to make written recommendations to the Patient Care Board concerning the rules proposed or adopted by the Board, and to the other task forces concerning the use of patient care teams to improve patient care; and file an annual report with LARA and the Board concerning matters prescribed by those bodies.

(Part 170 contains similar requirements applicable to the existing health profession subfield task force.)

Each task force would have to perform all of the duties of a disciplinary subcommittee under Part 161 with regard to its respective health professionals. If the chair of a task force were not a public member, the task force would have to appoint a public member as the chair for the purpose and duration of a disciplinary proceeding under Article 15.

Parts 170 and 175 contain provisions that apply to PAs and physicians regarding the determination of qualifications for licensure, and renewal and relicensure. The bill would re-enact these provisions in Part 171, extend them to APRNs, and refer to the appropriate task force. The bill also would re-enact provisions applicable to physicians regarding a clinical academic limited license, conditions for more than limited licensure, and continuing education.

General Provisions of Part 171. The term of office of an individual member of a board or task force created under Part 171 would be four years, except the term of a member appointed to fill a vacancy would expire on December 31 of the fourth year after the appointment.

The bill also would re-enact a number of other provisions from Parts 170 and 175 in Part 171, such as those prescribing a physician's duties with regard to breast cancer treatment and abortion.

Patient Care Teams. Proposed Part 171 would allow licensees to form a patient care team to collaboratively provide patient care in the best interests of a patient's health. "Patient care team" would mean a team of at least two licensed health professionals, including at least one physician. To form a team, a physician and one or more APRNs, PAs, or other physicians would have to enter into a written practice agreement. A team would have to make its practice agreement available to the Board on request. A practice agreement would have to include certain information, including the following:

- A termination provision that allowed any party to terminate the agreement by providing written notice at least 30 days before the termination.
- A procedure that would make a physician continuously available in person or by electronic means to members of the team.
- The duties and responsibilities of all of the parties to the agreement.

The appropriate patient care task force could prohibit a physician from collaborating with PAs or APRNs as a member of a patient care team.

Beginning on the bill's effective date, in order to engage in practice, a PA or APRN would have to enter into a practice agreement as a member of a patient care team.

Currently, the Code contains a number of references in Parts 170, 175, and elsewhere to a PA performing delegated tasks under the supervision of a licensed physician. The bill would re-enact a number of the provisions from Parts 170 and 175 in Part 171, and extend them, as well as provisions in other parts, to APRNs. The bill also would refer to a PA or APRN in his or her capacity as a patient care team member, rather than a person performing a delegated task under a physician's supervision.

APRN License. Under proposed Part 171, on direction of the APRN Task Force, LARA would have to issue a certified nurse midwife, certified nurse practitioner, or clinical nurse specialist license to a registered nurse (RN) who met the applicable criteria prescribed in the bill. The Task Force would have to direct LARA to issue a renewal license to an APRN concurrently with the renewal of his or her RN license by the Board of Nursing under Part 172.

For the purpose of administering rules promulgated by the Board of Nursing before the effective date of Part 171, a reference to a specialty certification as a nurse midwife or nurse practitioner would be considered a reference to a CNM or CNP, respectively.

The bill would amend Part 161 to establish the following fees for an individual who sought or held an APRN license under Part 171:

- Application processing fee, \$30.
- Annual license fee, \$50.
- Temporary license fee, \$35.
- Annual limited license fee, \$25.

Part 172 (Nursing)

Under Part 172, the Board of Nursing may issue a specialty certification to an RN who has advanced training beyond that required for initial licensure and who has demonstrated competency through examination or other evaluative processes and who practices in one of the following health profession specialty fields: nurse midwifery, nurse anesthetist, or nurse practitioner. The bill would eliminate the references to the fields of nurse midwifery and nurse practitioner.

The Board of Nursing consists of the following 23 voting members:

- Nine RNs.
- One nurse midwife.
- One nurse anesthetist.
- One nurse practitioner.
- Three licensed practical nurses.
- Eight public members.

The bill would eliminate the nurse practitioner and midwife, and increase the number of RNs to 11.

Part 177: Pharmacy Practice & Drug Control

Part 177 defines "prescriber" as a licensed dentist, physician, podiatrist, optometrist, veterinarian, or other licensed health professional acting under the delegation and using, recording, or otherwise indicating the name of the delegating physician. The bill would include a licensed PA and APRN in the definition.

The bill would make several other revisions to Part 177 to extend to APRNs specific authority to prescribe drugs currently granted to PAs, and reflect other changes regarding PAs and APRNs and the prescribing and dispensing of drugs.

The bill also would eliminate the definition of "board" in Part 177. The term refers to the Board of Pharmacy.

Part 180: Podiatric Medicine & Surgery

Currently, practice as a PA is a health profession subfield of the practice of podiatric medicine and surgery, osteopathic medicine and surgery, and medicine. The bill would eliminate the references to osteopathic medicine and surgery and medicine, and specify that practice as a PA under Part 180 would be a health profession subfield of the practice of podiatric medicine and surgery.

The bill would require LARA, in consultation with the Board of Podiatric Medicine and Surgery to develop a process by which a PA who was licensed to engage in practice as a PA on the day before proposed Part 171 took effect, could continue to be licensed or otherwise authorized to engage in practice as a PA under Part 180. In consultation with the Board, LARA would have to establish requirements for supervision of and standards of care applicable to a PA who was licensed to engage in practice under Part 180 on that date. The Department and the Board could not license or otherwise authorize a person to engage in practice as a PA after Part 171 took effect.

The Board consists of the following nine voting members: five podiatrists, one PA, and three public members. Under the bill, if there were no individual licensed or authorized to engage in practice as a PA under Part 180, or if there were no licensed or authorized person who was willing to serve as a Board member, the Board would have to consist of six podiatrists and three public members.

Revisions to Other Parts of the Code

The bill would amend a number of other parts to reflect the provisions of proposed Part 171. Specifically, the bill would do the following:

- Refer to APRNs rather than CNMs and CNPs.
- Include APRNs and PAs in provisions regarding HIV testing, reporting to the Secretary of State or warning third parties about medical problems that might compromise a person's ability to operate a motor vehicle safely, anatomical gifts, and a special volunteer license for certain retired health professionals.
- Refer to members of a patient care team in provisions regarding informing a patient with a reduced life expectancy due to advance illness.
- Refer to the Patient Care Board rather than the existing physician regulatory boards regarding the distribution of informational material, and include references to a patient care task force in a number of provisions, including some granting the authority to promulgate rules.

Senate Bills 569 & 570

Under the Business Corporation Act, except as otherwise provided, if a professional corporation (PC) provides a professional service that is subject to Article 15 of the Public Health Code, each shareholder of the PC must be licensed or legally authorized in Michigan to provide the same professional service. Under the Michigan Limited Liability Company Act, except as otherwise provided, a PLLC may render one or more professional services, and each member and manager must be a licensed person in one or more of the services.

Under both laws, "professional service" means a type of personal service to the public that requires the provider to obtain a license or other legal authorization as a condition precedent to providing the service, including services provided by a certified or other public accountant, chiropractor, dentist, optometrist, veterinarian, osteopathic physician, allopathic physician, surgeon, podiatrist, chiropodist, PA, architect, professional engineer, land surveyor, or attorney-at-law. The bills would include services provided by an APRN or nurse anesthetist in the definition.

One or more individuals who are licensed physicians may organize a PC or professional liability company with one or more licensed PAs. Under the bills, a licensed physician, PA, or APRN under proposed Part 171 of the Public Health Code could organize a PC or PLCC with any other individuals who were licensed under Article 15 of the Code.

The Business Corporation Act prohibits one or more PAs from organizing a PC that will have only PAs as shareholders. Senate Bill 569 would delete this prohibition.

The bills would authorize one or more licensed physicians to organize a PC or PLLC with one or more RNs who held specialty certifications in the field of nurse anesthetist.

In addition, the bills would revise other references to professions and parts under the Public Health Code to reflect the changes proposed by Senate Bill 568.

MCL 450.1282 & 450.1284 (S.B. 569)
450.4902 & 450.4904 (S.B. 570)

Legislative Analyst: Julie Cassidy

FISCAL IMPACT

Senate Bill 568

The bill would have an indeterminate, but likely negative, fiscal impact on the Department of Licensing and Regulatory Affairs, and no fiscal impact on local units of government.

The bill would create three new task forces and the Michigan Patient Care Board. These entities would likely receive administrative support and travel reimbursement from LARA. This administrative support would introduce some new costs, which would be borne by existing resources.

The bill also would create a fee structure for the licensure of advanced practice registered nurses as well as the responsibility for LARA to issue those licenses. These fees would generate new revenue for LARA, which would be offset to some extent by the responsibility to issue licenses. It is unknown at this time if the new revenue resulting from APRN licensure would be greater than the expenditures, so the fiscal impact of this new license type is indeterminate.

Senate Bill 569

The bill would have a minor positive fiscal impact on the Department of Licensing and Regulatory Affairs and no fiscal impact on local units of government. The bill would allow licensed advanced practice registered nurses and nurse anesthetists to organize a professional service corporation under the Business Corporation Act. The Department receives fees for processing articles of incorporation that are based on the number of shares issued. Allowing additional professions to organize as professional corporations would generally increase the amount of these fees received by LARA.

Senate Bill 570

The bill would have a minor positive fiscal impact on the Department of Licensing and Regulatory Affairs and no fiscal impact on local units of government. The bill would allow licensed advanced practice registered nurses and nurse anesthetists to organize professional limited liability companies. The Department receives a \$75 annual fee from professional limited liability companies. Allowing additional professions to organize as professional limited liability companies would generally increase the amount of these fees received by LARA.

Fiscal Analyst: Josh Sefton

S1314\568sa

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.