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House Bill 4094 (as reported without amendment)

Sponsor: Representative Joanne G. Emmons

House Committee: Social Services and Youth

Senate Committee: Human Resources and Senior Citizens

Date Completed: 12-2-87

RATIONALE

Physicians are not among the people who are required by the Social Welfare Act to make an immediate, oral report to the Department of Social Services if abuse, neglect, or exploitation of a vulnerable adult is suspected. ("Vulnerable adult" means a person, not less than 18 years of age who "is unable to protect himself or herself from abuse, neglect, exploitation, or endangerment because of a mental or physical impairment or because of the frailties or dependencies brought about by advanced age".) Currently, a physician is required to "make a report" only if, in his or her "professional judgment", the physician suspects abuse, neglect, or exploitation and determines that reporting is in the best interests of the adult. Some feel that physicians should be mandated to make an immediate, oral report of all suspected cases, as are other health care professionals.

CONTENT

The bill would amend the Social Welfare Act to require that physicians make immediate oral reports to the county Department of Social Services of all suspected cases of abuse, neglect, exploitation, or endangerment of an adult. All suspected cases already must be reported immediately and orally by other health care, educational, social services, and mental health professionals, law enforcement officers, and county medical examiner employees. The bill also specifies that a report made by any health care professional would not be considered a violation of privileged communication. (Currently, this protection exists only for reports made by physicians.)

MCL 400.11a

FISCAL IMPACT

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

ARGUMENTS**Supporting Argument**

The bill would increase protection for adult victims of abuse, neglect, exploitation, and endangerment through the increased involvement of the Adult Protective Services (APS) program in the Department of Social Services. The bill also would increase prevention of abuse through earlier detection in suspected cases that come to the attention of physicians and other health care professionals. In addition, the reporting of suspected abuse could be heightened due to the extended protection from confidentiality violations for licensed health care professionals.

Opposing Argument

Requiring a physician to make such a report could violate the confidentiality standards of the doctor-patient relationship. Presumably, a suspicion of abuse would arise from information gathered in a physical examination of a "vulnerable adult". Revealing such information without the patient's permission could be considered to be a breach of ethical standards. Further, the requirement would not be specific enough to offer reporting guidelines. For example, it is unclear whether reporting would be required if a doctor's suspicions arose out of an examination of the suspected abuser, or from a relationship other than a doctor-patient relationship.

Response: The Act specifies that a physician's report is not considered a violation of any "legally recognized privileged communication". It is generally agreed that the requirement applies to an individual's role as a health care professional.

Opposing Argument

Reporting suspected cases of abuse, neglect, exploitation, endangerment is important; however, these duties could take away valuable time from the practice of a physician or other health care professional, especially if it were necessary for the reporting person to testify in court. Further, some vulnerable adults who were abused or neglected could prefer not to seek medical attention if they knew a report would be made to the Department of Social Services, especially if the abuse or neglect were precipitated by a relative whom the abused or neglected person wanted to protect.

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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.

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