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REGISTER RESPIRATORY THERAPISTS

House Bill 5986 (Substitute H-2) First Analysis (9-24-98)

Sponsor: Rep. Gerald Law
Committee: Health Policy

THE APPARENT PROBLEM:

Respiratory therapists are an important part of the health care delivery system. According to information supplied by the Michigan Society for Respiratory Care, respiratory therapists are responsible for managing patient life support functions, performing cardiopulmonary resuscitation, and running ventilators, among other things. Respiratory therapists have been recognized as one of the health professionals subject to the Michigan Do-Not-Resuscitate Procedures Act (MCL 333.1061). Respiratory therapists work directly with patients, and though they work under the medical direction of physicians, the work of a therapist consists primarily of independent and unsupervised actions and discretionary judgment. Respiratory care generally falls into two levels of care, with an entry level position (technician) providing basic care and data-gathering tasks and a professional level or advanced practice level that provides skilled care and supervision of the respiratory technicians. National registration is voluntary. The National Board for Respiratory Care administers a national exam developed by the Educational Testing Service and offers accreditation for certified technicians and registered respiratory therapists. Criteria for the accreditation includes completion of a one-year technical program (or on-the-job training) and passing a certification exam for certified respiratory technicians, and a two-year Associate's Degree and passing a stringent two-part examination that includes patient case scenarios for accreditation as a registered respiratory therapist.

Reportedly, the industry standard is for registered respiratory therapists to run life support machines, operate ventilators, and provide other skilled services along with supervising certified respiratory technicians, who provide basic respiratory care for patients. Though the majority of health care facilities and agencies operate within industry standards, there are some facilities that allow undertrained people to perform tasks that are arguably more appropriately

performed by certified technicians or registered therapists. It is argued that the use of untrained or undertrained people to perform respiratory services is dangerous to the public, and can result in outcomes ranging from increased hospital stays, patient relapse, and ineffective treatment to permanent disability, coma, and death.

Michigan is one of only eight states that do not regulate respiratory therapists. Forty-two states, along with the District of Columbia and Puerto Rico, currently require registration or licensure for respiratory therapists. Many people feel that protection to consumers could be increased if Michigan provided a system of registration for respiratory therapists. Legislation has been proposed to establish a system of state registration for respiratory therapists.

THE CONTENT OF THE BILL:

House Bill 5986 would amend the Public Health Code by creating Part 179, entitled "Respiratory Care", to place a definition of respiratory therapist in statute, establish a system of registration under the code, and create the Michigan Board of Respiratory Care. A "registered respiratory therapist" would be defined as an individual who was responsible for providing patient care services to patients with disorders and diseases of the cardiopulmonary system that included, but was not limited to, life support and cardiopulmonary resuscitation, and who was registered under the code as a registered respiratory therapist.

The bill would create the Michigan Board of Respiratory Care in the Department of Consumer and Industry Services. The seven-member board would consist of four members who met requirements as specified under Part 161 of the code, one medical director, and two public members. Terms would be for four years and would expire on December 31. The board would be responsible for promulgating

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rules to establish registration requirements. The following requirements would have to be adopted:

*Successful completion of an accredited respiratory therapist training program that was approved by the board.

*Having at least a two-year associate's degree from an accredited college or university approved by the board.

*Being credentialed by the National Board for Respiratory Care, or its successor organization, as a registered respiratory therapist.

*The completion of continuing education requirements as a condition of registration renewal.

After the rules promulgated by the board took effect, no one could use the titles "respiratory therapist", "registered respiratory therapist", "R.T.", and "R.R.T." or similar words unless that person was registered under the bill as a registered respiratory therapist. The application processing fee for registration would be set at \$20 with an annual registration fee of \$75.

For the purpose of the bill, "medical director" would be defined as a physician responsible for the quality, safety, appropriateness, and effectiveness of the respiratory care provided by a respiratory therapist; who assisted in quality monitoring, protocol development, and competency validation; and who met the following criteria: 1) was the medical director of an inpatient or outpatient respiratory care service or department within a health facility, or a home care agency, durable medical equipment company, or educational program; 2) had special interest and knowledge in the diagnosis and treatment of cardiopulmonary disorders and diseases; and 3) was qualified by training and/or experience in the management of acute and chronic cardiopulmonary disorders and diseases.

The bill is tie-barred to House Bill 5736 and House Bill 5737. House Bill 5736 would amend the Nonprofit Health Care Corporation Reform Act (MCL 550.1502 and 550.1502a), which regulates Blue Cross and Blue Shield of Michigan, to specify that a health care corporation would not be required to reimburse for services otherwise covered if the services were performed by a member of a health care profession that did not become regulated by the state through licensure or registration until after January 1, 1998. House Bill 5737 would amend the Worker's Disability Compensation Act of 1969 (MCL 418.315) to specify that an employer would not be required to reimburse or cause to be reimbursed charges for services

performed by a profession that did not become regulated by the state through licensure or registration until after January 1, 1998.

MCL 333.16131 et al.

FISCAL IMPLICATIONS:

Fiscal information is not available.

ARGUMENTS:

For:

The bill would establish a system of registration for respiratory care providers working under the job title of respiratory therapist. Respiratory therapists are the only direct care health professionals who are not regulated under the Public Health Code. Yet, therapists work with an extremely vulnerable and fragile population and often outside of direct supervision by other medical staff. Respiratory care delivered by untrained or undertrained personnel can have serious consequences. Mistakes can be deadly. For example, hooking up oxygen the wrong way can cause a patient to stop breathing, and drug interactions and reactions can have very serious consequences. The bill would increase protection to Michigan patients by mandating a minimal level of training, education, and clinical competence for those employed in the position of a registered respiratory therapist. Reportedly, studies done by the Educational Testing Service have demonstrated that there is a high degree of predictive validity that persons who have passed the test process for national registration as a respiratory therapist will perform their job duties in an acceptable and competent manner.

Secondly, some feel that the registration structure could provide a mechanism for employers to screen potential employees for past incompetence, criminal behavior, or licensure or registration sanctions received in Michigan or other states. Though the majority of practicing respiratory therapists are dedicated health professionals delivering a high level of care to patients, a few highly publicized cases have occurred recently in which respiratory therapists directly caused the death of a patient. In Florida, a therapist unhooked the wrong patient from a respirator, and a therapist in California (referred to as the "Angel of Death") overtly caused the death of

between thirty and fifty patients. Though a regulatory system may not expose every incompetent or dangerous person, it would help to establish a system of checks that could increase safety to consumers.

Against:

Licensure and registration laws are usually an attempt to limit entry into a profession. Unless a clear threat to the public's health is demonstrated, there is no need for government interference into a profession. The field of respiratory therapy is already self-regulated by a national board, and therapists can be credentialed if they wish to be. The current system appears to be working, and apart from a compelling reason to change, should be left as it is. Several pieces of legislation have been offered this legislative session to license or register various health-related professions, and it would not be fair to single one out for regulation and exclude the others, when the trend is to allow industries to regulate themselves.

Response:

The bill is basically a title bill that establishes minimal educational and clinical criteria for those providing respiratory care as respiratory therapists. The bill would not limit or deny entry into the profession of respiratory care. The bill would clarify, however, the educational and training requirements for therapists with the title of respiratory therapist. Those therapists who are providing respiratory care but who have not sought a certified technician certification or registered respiratory therapist credential from the National Board for Respiratory Care could still perform basic level respiratory care services, as would those credentialed as a respiratory technician. Since respiratory therapists do provide supervision for technicians, develop care plans, assess patients, and perform other highly skilled respiratory care services, it is imperative that minimal standards for education and competency be established.

As to there being a threat to the public safety, reportedly "mistakes" and adverse medical treatments by health professionals are often rolled into medical staff quality assurance, which then places the incidents under the protection of confidentiality laws. Therefore, it is hard to document the real threat to the public's safety. Further, it would be poor public policy to reject a bill based on a trend to reject all regulatory frameworks. There exists a more compelling case to regulate respiratory therapists

based on the type of medical services they perform than some of the other professions seeking registration or licensure. Each bill should be judged on its own merits, and this bill merits passage. The bottom line is that the bill would add to the public's safety and increase the quality of respiratory care without restricting access to the profession of respiratory care or creating a burdensome regulatory structure.

POSITIONS:

The Michigan Society for Respiratory Care supports the bill. (9-23-98)

The Department of Consumer and Industry Services opposes the bill. (9-23-98)

The Michigan Health & Hospital Association submitted testimony opposing the bill. (9-22-98)

Analyst: S. Stutzky

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.