

CAREGIVER SUBSTANCE ABUSE TESTING

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House Bill 5183 (Substitute H-2)

Sponsor: Rep. Joe Hune

Committee: Senior Health, Security, and Retirement

First Analysis (10-19-05)

BRIEF SUMMARY: The bill would amend the Public Health Code to require a nursing home, county medical care facility, or home for the aged to provide each employee who provides direct services to patients or residents with a written notice of its substance abuse policy or a copy of that policy if the facility requires employees to submit to substance screening or abuse testing, whether random or otherwise, as a condition of employment. The notice would be provided upon hiring.

FISCAL IMPACT: The proposed legislation has no fiscal impact on the state or local units of government.

THE APPARENT PROBLEM:

According to committee testimony by the bill sponsor, in a recent case in his community, an employee of a long term care facility stole medications from residents and overdosed at the facility. This prompted the introduction of legislation to strengthen drug testing by this kind of facility. Reportedly, many facilities do have comprehensive substance screening programs as part of their personnel policies. Some homes for the aged and assisted living providers, for example, have "zero tolerance" policies and test employees when they have a reasonable suspicion of drug or alcohol use. As an additional measure, it has been proposed that when employees hire on they be given written notice of the substance abuse testing policy. This would alert them to the possibility of testing and provide a disincentive to abuse drugs or alcohol. Legislation requiring nursing homes, county medical care facilities, and homes for the aged to provide new employees with such notifications has been introduced.

THE CONTENT OF THE BILL:

The bill would amend the Public Health Code to require a nursing home, county medical care facility, or home for the aged to have a written substance screening or substance abuse testing policy and provide each employee who provides direct services to patients or residents with a written notice of the policy or a copy of the policy. This only applies if the facility requires employees to submit to substance screening or substance abuse testing, whether random or otherwise, as a condition of employment. If a notice of the policy is provided in lieu of a copy, the notice would contain the following:

- a) Circumstances under which an employee may be required to submit to a test.
- b) Consequences for refusing to submit to a test.

- c) Procedures for challenging the accuracy of the test.
- d) Notice and testing requirements.

The bill would define "substance abuse" to mean the taking of alcohol or other drugs at dosages that place an individual's social, economic, psychological, and physical welfare in potential hazard, or to the extent that an individual loses the power of self-control as a result of the use of alcohol or drugs, or, while habitually under the influence of alcohol or drugs, endangers public health, morals, safety, or welfare.

MCL 333.20173a

ARGUMENTS:

For:

The bill intends to strengthen substance abuse testing by facilities that care for elderly individuals by requiring facilities that have substance screening and testing policies to put the policies in writing and make them available to new employees. This will make it crystal clear what is expected of any employee hired by the facility or agency. This should be an added disincentive for employees to engage in dangerous conduct.

POSITIONS:

Department of Community Health supports the bill. (10-11-05)

Elder Law of Michigan supports the bill (10-11-05)

Michigan Assisted Living Association supports the bill. (10-11-05)

Michigan County Medical Care Facilities Council is neutral on the bill. (10-11-05)

Legislative Analyst: E. Best
Fiscal Analyst: Margaret Alston

■ 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.