



Senate Fiscal Agency
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BILL ANALYSIS



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Senate Bill 434 (Substitute S-1 as passed by the Senate)
Sponsor: Senator Peter MacGregor
Committee: Veterans, Military Affairs and Homeland Security

Date Completed: 8-14-17

RATIONALE

In 2016, the Office of the Auditor General (OAG) released a performance audit of the Grand Rapids Home for Veterans. The audit assessed the Home's provision of services to be "not sufficient". Later that year, several bills were enacted to address the issues described in the audit. This legislation included Public Acts 198 and 560 of 2016. Public Act 198 created a new statute to establish the Office of the Michigan Veterans' Facility Ombudsman for the purpose of investigating complaints related to a veteran's medical treatment or the conditions of a Michigan veterans' facility. Public Act 560 enacted the Michigan Veterans' Facility Authority Act to create the Michigan Veterans' Facility Authority. The Authority, among other things, is empowered to develop or operate one or more "veterans' facilities".

The terms "Michigan veteran's facility" and "veterans' facility" are defined differently in each of the Acts. As a result, some are concerned that the Ombudsman might not be authorized to investigate complaints relating to conditions at facility developed or run by the Authority. To address this issue, it has been suggested that the definition of "Michigan veterans' facility" in Public Act 198 be changed.

CONTENT

The bill would amend Public Act 198 of 2016 to include in the definition of "Michigan veterans' facility" any other facility for the care of veterans constructed or established in the State after the bill's effective date.

Public Act 198 prescribes the powers and duties of the Michigan Veterans' Facility Ombudsman. Among other things, the Ombudsman may commence an investigation upon his or her own initiative or upon receiving a complaint pertaining to an administrative act, medical treatment of a resident veteran, or a condition existing at a facility that poses a significant health or safety issue for which there is no effective administrative remedy or is alleged to be contrary to law or Department of Military and Veterans Affairs policy.

"Michigan veterans' facility" or "facility" means a Michigan veterans' facility established under Public Act 152 of 1885, which defines "Michigan veterans' facility as a long-term care facility and ancillary facilities for veterans and their dependents, not including a veterans' facility as that term is defined in Section 2 of the Michigan Veterans' Facility Authority Act (a long-term care facility and ancillary facilities for veterans and their dependents as determined by the Authority). Under the bill, the definition of Public Act 198 would include any other facility for the care of veterans that is constructed or established in the State after the bill's effective date.

MCL 4.771

BACKGROUND

The OAG's performance audit of the Grand Rapids Home for Veterans included nine findings that resulted in either a "material condition" or a "reportable condition". (According to the audit report's Glossary of Abbreviations and Terms, a "material condition" is a matter that is more severe than a reportable condition and could impair the ability of management to operate a program in an effective and efficient manner and/or could adversely affect the judgment of an interested person concerning the effectiveness and efficiency of the program. A "reportable condition" is a matter that is less severe than a material condition and falls within any of the following categories:

- An opportunity for improvement within the context of the audit objectives.
- A deficiency in internal control that is significant within the context of audit objectives.
- All instances of fraud.
- Illegal acts unless they are inconsequential within the context of the audit objectives.
- Significant violations of provisions of contracts or grant agreements.
- Significant abuse that has occurred or is likely to have occurred.)

The audit report found the following material conditions:

- Improper documentation of member location and safety checks.
- Contractor staffing level shortages.
- Improper administration of nonnarcotic pharmaceuticals.
- Inadequate controls over nonnarcotic pharmaceuticals.
- Failure to track, investigate, and respond to member complaints, including allegations of abuse or neglect.

The report also noted reportable conditions related to the development and execution of comprehensive care plans, prescription billing practices, insufficient controls over disbursement of deceased or discharged members' funds, and ineffective documentation and resolution of past due member assessments.

In August 2017, the OAG issued a follow-up report to determine whether the Home had taken recommended corrective action to address the material conditions described in the performance audit. The report indicated that the Home had complied or substantially complied with the measures recommended for four out of the five findings. The Home partially complied with recommendations to address contractor staffing level shortages. The OAG recommended that the Home continue to work with new contractors to ensure that proper staffing levels are met.

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

As noted above, Public Act 198 of 2016 defines "Michigan veterans' facility" as a facility established under Public Act 152 of 1885. When Public Act 198 was enacted, the 1885 statute did not contain a definition of "veterans' facility". Legislation enacted in conjunction with Public Act 560 of 2016, the Michigan Veterans' Facility Authority Act, added the present definition, which excludes a "veterans' facility" as that term is defined in Section 2 of the Michigan Veterans' Facility Authority Act. Under that Act, "veterans' facility" means a long-term care facility and ancillary facilities for veterans and their dependents *as determined by the Authority*. Thus, it is not clear whether the Veterans' Facility Ombudsman has the authority to investigate complaints related to conditions existing at a facility developed or run by the Authority. The bill would ensure that the Ombudsman had such authority.

Legislative Analyst: Jeff Mann

FISCAL IMPACT

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

Fiscal Analyst: Bruce Baker

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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.