



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



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

Senate Bill 227 (as introduced 3-22-23)
Sponsor: Senator Dan Lauwers
Committee: Health Policy

Date Completed: 10-4-23

CONTENT

The bill would amend the child care licensing Act to require emergency safety intervention in the form of physical management in child caring institutions to comply with standards prescribed by the Mental Health Code and associated administrative rules.

("Child caring institution" means a child care facility that is organized for the purpose of receiving minor children for care, maintenance, and supervision, usually on a 24-hour basis, in buildings maintained by the child caring institution for that purpose, and operates throughout the year.)

Currently, if a child caring institution contracts with and receives payment from a community mental health services program or prepaid inpatient health plan, the child caring institution may place a minor child in personal restraint or seclusion as provided below but must not use mechanical restraint or chemical restraint.

Firstly, a child caring institution must require its staff to have ongoing education, training, and demonstrated knowledge of all the following:

- Techniques to identify minor children's behaviors, events, and environmental factors that may trigger emergency safety situations.
- The use of nonphysical intervention skills, such as de-escalation, mediation conflict resolution, active listening, and verbal and observational methods to prevent emergency safety situations.
- The safe use of personal restraint or seclusion, including the ability to recognize and respond to signs of physical distress in minor children who are in personal restraint or seclusion or who are being placed in personal restraint or seclusion.

Additionally, a child caring institution's staff must be trained in the use of personal restraint and seclusion, must be knowledgeable of the risks inherent in the implementation of personal restraint and seclusion, and must demonstrate competency regarding personal restraint or seclusion before participating in the implementation of personal restraint or seclusion. A child caring institution's staff must demonstrate their competencies in these areas on a semiannual basis. The Department of Health and Human Services (DHHS) must review and determine the acceptability of the child caring institutions' staff education, training, knowledge, and competency requirements required by this subsection and the training and knowledge required of a licensed practitioner in the use of personal restraint and seclusion.

The bill would delete the provision allowing a child caring institution to place a minor in personal restraint or seclusion and the associated training requirements.

Instead, under the bill, if a child caring institution contracted with and received payment from a community mental health services program or prepaid inpatient health plan, the child caring institution would have to comply with the rules for child caring institutions. The bill would allow emergency safety intervention in the form of physical management but would require the intervention to comply with the Mental Health Code and associated administrative rules.

(Under the Code, physical restraint and seclusion may be used only after less restrictive interventions were considered and to prevent harm to people or substantial damage to property. Physical restraint and seclusion may be temporarily employed for up to 30 minutes in an emergency without an authorization or an order. Immediately after the imposition of the temporary physical restraint or seclusion, a physician must be contacted to order or authorize the physical restraint or seclusion. If the physician does not authorize restraint or seclusion, it must cease. A secluded or restrained resident must continue to receive food, water, and sanitation services.)

Additionally, the bill would modify the definition of "children's group therapeutic home" to delete the requirement that behavior management rooms, personal restraint, mechanical restraint, or seclusion be prohibited in a children's therapeutic group home. Instead, emergency safety intervention in the form of physical management would be allowed but would need to comply with the Code and associated administrative rules.

MCL 722.111 & 722.112c

Legislative Analyst: Alex Krabill

FISCAL IMPACT

The bill would have no fiscal impact on the DHHS or local units of government.

Fiscal Analyst: Humphrey Akujobi
John Maxwell

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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.