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Senate Bill 672 & 673 (as introduced 12-4-19)
Sponsor: Senator Curtis S. VanderWall
Committee: Health Policy and Human Services

Date Completed: 12-5-19

CONTENT

Senate Bill 672 would amend Part 222 (Certificate of Need) of the Public Health Code to modify the definitions of "change in bed capacity" and "covered clinical service".

Senate Bill 673 would amend the Mental Health Code to do the following:

- **Require, as a condition of licensing, a psychiatric hospital or psychiatric unit to public patients and to maintain 50% of beds available to public patients.**
- **Beginning June 1, 2020, require a psychiatric hospital and psychiatric unit to submit an annual report to the Department of Health and Human Services (DHHS) as a part of the application for license renewal certain data related to total patient days of care provided and total beds available during the previous calendar year.**
- **Allow the DHHS to use the annual report data or a DHHS investigation to determine if a psychiatric hospital or psychiatric unit maintained 50% of beds available to public patients.**

Senate Bill 673 is tie-barred to Senate Bill 672.

Senate Bill 672

Under the Code, "change in bed capacity" means one or more of the following:

- An increase in licensed hospital beds.
- An increase in licensed nursing home beds or hospital beds certified for long-term care.
- A change from one licensed use to a different licensed use.
- The physical relocation of beds from a licensed site to another geographic location.

In addition, "change in bed capacity" means an increase in licensed psychiatric beds. The bill would delete this provision.

The Code defines "covered clinical service", except as modified by the Certificate of Need Commission, as one or more of the following:

- The initiation or expansion of neonatal intensive care services or special newborn nursing services; open heart surgery; or extrarenal organ transplantation.
- The initiation, replacement, or expansion of extracorporeal shock wave lithotripsy; megavoltage radiation therapy; positron emission tomography; certain surgical services; cardiac catheterization; fixed and mobile magnetic resonance imager services; or fixed and mobile computerized tomography scanner services.

-- Initiation, replacement, or expansion of a service not listed in the definition but designated by the Commission as a covered clinical service.

"Covered clinical service" also means the initiation or expansion of a specialized psychiatric program for children and adolescent patients utilizing licensed psychiatric beds. The bill would delete this provision.

Senate Bill 673

Under the Code, a person may not construct, establish, or maintain a psychiatric hospital or psychiatric unit or use those terms without first obtaining a license. The Director of the DHHS must require an applicant or licensee to disclose certain information. If approved, a license generally may not be granted for longer than one year after the date of issuance.

Under the bill, as a condition of licensing a psychiatric hospital or psychiatric unit would have to accept public patients and would have to maintain 50% of beds available to public patients. "Public patient" would mean an individual approved for mental health services by a community mental health services program. The term would include an individual who was admitted as a patient under Section 423, 429, or 438 of the Code.

(Section 423 specifies that a hospital designated by the DHHS or by a community health services program must hospitalize an individual presented to the hospital pending receipt of a clinical certificate by a psychiatrist stating that the individual requires treatment. Section 429 provides that certain hospitals contracted with community health services as required by the Code must receive and detain an individual presented for examination, for not more than 24 hours, under certain circumstances related to a peace officer's detaining and delivering a person to a hospital under a petition, a physician's clinical certificate, or a court order. Section 438 specifies that if a court determines that an individual requires immediate assessment because the individual presents a substantial risk of significant physical or mental harm to himself or herself in the near future, or substantial harm to others, the court can order a peace officer to take the individual into protective custody and deliver the individual to a contracted hospital for screening.)

Beginning June 1, 2020, a psychiatric hospital and psychiatric unit would have to submit an annual report to the DHHS as a part of the application for license renewal. The DHHS could develop the annual report format. The annual report would have to include data on all of the following:

- Total patient days of care provided to public patients during the previous calendar year.
- Total beds available during the previous calendar year.
- Total patient days of care during the previous calendar year.

The DHHS could use the annual report data or a DHHS investigation to determine if a psychiatric hospital or psychiatric unit maintained 50% of beds available to public patients.

MCL 333.22203 (S.B. 672)
330.1100c et al. (S.B. 673)

Legislative Analyst: Tyler VanHuyse

FISCAL IMPACT

Senate Bills 672 and 673 would exempt increases in licensed psychiatric beds from the certificate of need process and would require that a psychiatric hospital or psychiatric unit maintain 50% of available beds for public patients (defined as patients approved for mental health services by a Community Mental Health Services Program (CMHSP)).

The bills would clearly lead to an increase in the number of licensed psychiatric beds and would make more private psychiatric beds available for CMHSP clients. The costs of placing an individual in a private psychiatric hospital bed are paid by the CMHSP; however, the cost of that placement must be compared to the cost of providing services in the community. Shifting a person from community services to a private psychiatric bed likely would lead to a marginal increase in costs in the short term, but more intensive treatment would lead to lower long-term costs for services to many clients. Furthermore, the greater availability of private psychiatric beds for CMHSP clients could lead to the shifting of individuals from lengthy stays in more expensive State psychiatric facilities to shorter term placements in private beds, leading to a net savings. The research on those questions has not led to a definitive answer as to whether greater availability of private psychiatric beds increases or decreases net costs. As such, the fiscal impact of these bills is indeterminate.

Fiscal Analyst: Steve Angelotti

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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.