



Report on Public Policy Position

Name of section:

General Practice

Contact Person:

Clark Davis

E-mail:

attycdavis@ameritech.net

Bill Number:

HB 4449 (Gaffney) Health; occupations; judicial review of final determinations, orders, or decisions of a peer review entity and release of certain records, data, and knowledge relevant to that review pursuant to a subpoena; provide for under certain circumstances. Amends secs. 16244, 21513 & 21515 of 1978 PA 368 (MCL 333.16244 et seq.).

Date position was adopted:

4-19-07

Process used to take the ideological position:

Position adopted after vote of the council.

In view of short time allotted (one day), Davis was authorized to review and respond on behalf of Section Counsel with report back.

Number of members in the decision-making body:

9

Number who voted in favor and opposed to the position:

5 Voted for position

0 Voted against position

0 Abstained from vote

4 Did not vote

Position:

Oppose

Explanation of the position, including any recommended amendments:

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1. Troubling that this duplicates other types of judicial review already available (i.e. civil rights violations are already actionable) with no off-setting or compelling benefit(s).
2. Would allow a "settlement and compromise" atmosphere to be created at the option of one party (Corporate as well as individual) inappropriate in matters unique to professional determinations.
3. Unreasonable interference with existing methods which are well established, known to the relevant professional community, effective and respected, all with no off-setting or compelling benefit(s).

4. Significant likelihood that this would stiffen the candor of and willingness to serve on boards, committees, etc.

The text of any legislation, court rule, or administrative regulation that is the subject of or referenced in this report.

<http://legislature.mi.gov/doc.aspx?2007-HB-4449>

RECOMMEND STATE BAR ACTION ON THIS ISSUE:

List any arguments against the position:

N/A

FOR LEGISLATIVE ISSUES ONLY:

This position falls within the following Keller-permissible category:

The regulation and discipline of attorneys

✓ The improvement of the functioning of the courts

✓ The availability of legal services to society

The regulation of attorney trust accounts

The regulation of the legal profession, including the education, the ethics, the competency, and the integrity of the profession.

Keller-permissible explanation:

Proposal would provide judicial review.

Judicial review almost always involves legal services.