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BILL ANALYSIS

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Senate Bill 403 (as reported without amendment)
Sponsor: Senator Laura M. Toy
Committee: Health Policy

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RATIONALE

Michigan is one of the few states that do not regulate the profession of dietetics and nutrition; according to the Michigan Dietetic Association, more than 40 states license, register, or certify dietitians and nutritionists. Dietitians and nutritionists provide nutritional counseling and medical nutrition therapy to individuals with a variety of medical conditions, such as diabetes, kidney disease, and obesity. Dietitians work in physician practices, hospitals, nursing homes, and other health care facilities, where they help patients manage serious and chronic diseases and monitor the special dietary needs of those recovering from surgery, cancer treatments, or strokes, or of patients on feeding tubes. Additionally, dietitians work for companies, prisons, and schools, where they oversee large-scale meal planning and preparation. They also work in private practice or under contract, where they perform nutrition screening and offer diet-related advice; and in food manufacturing and marketing, where they analyze food, prepare literature, and report on nutritional issues.

Some people believe that the lack of statutory regulation over the profession of dietetics and nutrition endangers the public health and well-being. Currently, anyone legally can call himself or herself a nutritionist or dietitian and offer advice on diets and food supplements. Inappropriate advice can lead to drug and supplement interactions, the improper management of feeding tubes, imbalances in vitamins and minerals that can exacerbate an existing disease condition, and increased hospitalizations. It has been suggested that the State implement a licensure program for nutritionists and dietitians, including

minimum standards for education and client care.

CONTENT

The bill would add Part 183a to the Public Health Code to provide for the licensure of nutritionists and dietitians. The bill would do all of the following:

- **Require the Department of Community Health (DCH) to issue a dietitian and nutritionist license to an applicant who met the criteria for licensure contained in rules promulgated under Part 183a, and paid the required fees.**
- **Allow the DCH to issue a temporary license to a person who did not meet all of the bill's requirements, under certain circumstances.**
- **Establish a \$20 application processing fee, a \$75 annual license fee, and a \$75 annual temporary license fee.**
- **Require the DCH to promulgate rules establishing qualifications for licensure, a complaint process, and penalties.**
- **Prohibit a person from calling himself or herself a dietitian and nutritionist, or using certain other titles, without being licensed.**
- **Create the Michigan Board of Dietetics and Nutrition within the DCH.**

The bill would take effect on July 1, 2006.

"Dietitian and nutritionist" would mean an individual engaged in the practice of dietetics and nutrition, who is responsible for

providing dietetics and nutrition care services, and who is licensed under the Code. The term would not include an individual who does either of the following:

- Furnishes general nutrition information on food, food materials, or dietary supplements or provides explanations to customers about foods or food products in connection with the marketing and distribution of those products, but does not hold himself or herself out as a dietitian and nutritionist.
- Provides weight control services under a program approved by a dietitian and nutritionist who is licensed or registered under the Code or licensed by another state that has substantially equal licensing requirements, or under a program approved by a chiropractic physician or a physician licensed under the Code or by another state that has substantially equal licensing requirements.

"Dietetics and nutrition care services" would mean the integration and application of the scientific principles of food, nutrition, biochemistry, physiology, management, and behavioral and social sciences to achieve and maintain the health of individuals.

"Practice of dietetics and nutrition care services" would mean the provision of dietetics and nutrition care services, including the following:

- Assessing the nutrition needs of an individual or group of individuals based upon biochemical, anthropometric, physical, and dietary data, determining the resources and constraints to meet the nutrition needs of that individual or group, and recommending proper nutrition intake to satisfy those needs.
- Establishing priorities, goals, and objectives to meet an individual's or group's nutrition needs based on available resources and constraints.
- Providing nutrition counseling regarding health and disease.
- Evaluating, adjusting, and maintaining a standard of quality in dietetics and nutrition care services.
- Providing medical nutrition therapy.

Beginning on July 1, 2006, a person could not use the titles "registered dietitian", "licensed dietitian", "dietitian", "licensed

nutritionist", "nutritionist", "R.D.", "L.D.", or "L.N.", or similar words that indicated that he or she was a dietitian and nutritionist, unless he or she were licensed under Part 183a. A person could not engage in the practice of dietetics and nutrition care services unless licensed under the bill.

The bill would create the Michigan Board of Dietetics and Nutrition within the DCH. The Board would consist of seven members meeting the requirements of Part 161 of the Code. Two of the members would have to be public members. Five members would have to be licensed dietitians and nutritionists who met the requirements of Section 16135(2).

(Under Part 161, a member of any licensing board must be at least 18 years old, be of good moral character, be a Michigan resident for at least the six months immediately preceding the appointment, and be currently licensed in that health profession in Michigan. Additionally, under Section 16135(2), the member either must be certified or otherwise approved by a national organization that certifies or approves individuals in the profession to be licensed or registered by the board, or must have actively practiced the profession or taught in an educational institution that prepares applicants for licensure or registration in that profession for at least the two years immediately preceding the appointment.)

Upon recommendation of the Board, the DCH Director would have to promulgate rules as necessary or appropriate to fulfill its functions under the Code, including rules establishing ethics, qualifications, and fitness of applicants; complaint process; and penalties for violations of the Code or rules promulgated under it. In promulgating rules to establish requirements for licensure, the Director would have to require the applicant or licensee to meet all of the following requirements:

- Have a baccalaureate degree from a United States regionally accredited institution of higher education approved by the DCH with a major course of study in human nutrition, nutrition education, foods and nutrition, dietetics, or food systems management, or an equivalent course of study as approved by the DCH.

- Have completed at least 900 hours of postcollege or planned continuous preprofessional experiences supervised by a licensed dietitian as prescribed in DCH rules.
- Have successfully completed an examination approved by the DCH.

The DCH would have to use the standards contained in the clinical practice guidelines issued by the American Dietetic Association that were in effect on the bill's effective date as interim standards until the required rules were promulgated. The bill would adopt those standards by reference.

The Department would have to issue a dietitian and nutritionist license to a person who currently was registered as a dietitian by the Commission on Dietetic Registration and who fulfilled the standards of the Commission as adopted by reference. The person would have to apply for licensure within one year after the bill took effect.

Subject to Section 16204, the DCH would have to prescribe by rule continuing education requirements consistent with continuing education requirements established by the American Dietetic Association as a condition for license renewal. The DCH could adopt, by rule, the American Dietetic Association's continuing education requirements.

(Under Section 16204, if the completion of continuing education is a condition for renewal, the appropriate board must, by rule, require a renewal applicant to complete an appropriate number of hours or courses in pain and symptom management.)

The DCH could issue a temporary license to an applicant who did not meet all of the bill's requirements if he or she did all of the following:

- Applied to the DCH for a temporary license within one year after the bill's effective date.
- Provided evidence to the DCH that he or she was a dietitian registered with the Commission on Dietetic Registration or met the bill's education requirements and either had experience as prescribed under the bill or had been employed as a dietitian for at least three of the last 10 years immediately preceding the application date.

- Paid the applicable fees.

A temporary license would expire within the same time period as a nontemporary license. A temporary license holder could apply for a renewal, but could not hold a temporary license for more than two years.

A temporary license holder would be subject to Part 183a and the rules promulgated under it, except for the licensure requirements.

The bill specifies that Part 183a would not require new or additional third-party reimbursement or mandated worker's compensation benefits for services rendered by a licensed dietitian and nutritionist.

MCL 333.16131 et al.

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

More than 40 other states already have laws requiring licensure, certification, or registration of nutritionists and dietitians. The licensure program the bill would establish would help protect the safety and well-being of Michigan consumers. Currently, individuals with little to no experience, education, or training may engage in the practice of dietetics and nutrition in Michigan. Under the bill, only those meeting specific educational and competency standards could use the specified titles and present themselves to the public as dietitians and nutritionists. Consumers could have confidence that the people treating them and providing advice were qualified to do so. These increased protections would help ensure that various health conditions were addressed appropriately, which would reduce costs by resulting in fewer complications and a reduced need for hospitalization.

Opposing Argument

State licensure of dietitians and nutritionists is unnecessary at this time. The industry already regulates itself quite well through the establishment of educational and experience standards, as well as an examination for registration with the national professional organization. In the

absence of sufficient documentation that a threat to public health and well-being exists, State regulation through licensing is an unnecessary intrusion by government and serves frequently to protect certain professionals from competition.

Legislative Analyst: Julie Koval

FISCAL IMPACT

This bill would have little to no fiscal impact upon State and local government. If the bill were enacted, the Department would have to devote administrative resources and staff for the implementation of licensure and practice standards for registered dietitians, confirmation of applicant qualifications, and investigation of complaints made against licensed dietitians in Michigan. The Department has previously estimated that it would have to devote two FTEs to these tasks at a cost to the State of about \$150,000. This cost is expected to be offset by application processing and licensure fees established in the bill that would be imposed upon individuals seeking licensure.

Fiscal Analyst: David Fosdick

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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.