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BILL ANALYSIS

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Senate Bill 403 (as enrolled)  
Sponsor: Senator Laura M. Toy  
Senate Committee: Health Policy  
House Committee: Health Policy

**PUBLIC ACT 333 of 2006**

Date Completed: 11-3-06

**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 was suggested that the State implement a licensure program for

nutritionists and dietitians, including minimum standards for education and client care.

**CONTENT**

**The bill adds Part 183a to the Public Health Code to provide for the licensure of nutritionists and dietitians. The bill does all of the following:**

- Requires the Department of Community Health (DCH) to issue a dietitian and nutritionist license to an applicant who meets the criteria for licensure contained in rules promulgated under Part 183a, and pays the required fees.
- Allows the DCH to issue a temporary license to a person who does not meet all of the bill's requirements, under certain circumstances.
- Allows the DCH to issue a limited license to engage in required postdegree experience to a person who has completed all of the bill's educational and examination requirements.
- Establishes a \$20 application processing fee, a \$75 annual license fee, and \$75 annual temporary and limited license fees.
- Requires the DCH to promulgate rules establishing qualifications for licensure, a complaint process, and penalties.
- Prohibits a person from calling himself or herself a dietitian or nutritionist, or using certain other titles, without being licensed.

**-- Creates the Michigan Board of Dietetics and Nutrition within the DCH.**

The bill will take effect on July 1, 2007.

Under the bill, "dietitian" and "nutritionist" 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 bill defines "dietetics and nutrition care services" as 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" means 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, 2007, a person may not use the title "registered dietitian", "licensed dietitian", "dietitian", "licensed nutritionist", "nutritionist", "R.D.", "L.D.", or "L.N.", or similar words that indicate that he or she is a dietitian or nutritionist, unless he or she is licensed under Part 183a. A person may not engage in the practice of dietetics and nutrition care services or provide or offer to provide such services unless licensed or otherwise authorized under Part 183a.

The bill creates the Michigan Board of Dietetics and Nutrition within the DCH. The Board is to consist of seven members

meeting the requirements of Part 161 of the Code. Two of the members must be public members. Five members must be licensed dietitians or nutritionists who meet 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 must promulgate rules to establish the minimum standards for licensure as a dietitian or nutritionist and 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.

Subject to Section 16204, the DCH must prescribe by rule continuing education requirements as a condition for license renewal. In consultation with the Board, the DCH may adopt, by rule, the American Dietetic Association's continuing education requirements or those of a certified program that is recognized by the National Commission for Certifying Agencies or by a nationally recognized trade association.

(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 must use the standards contained in the clinical practice guidelines issued by the American Dietetic Association that are in effect on July 1, 2007, as interim standards until the required rules are promulgated.

The bill adopts those standards by reference.

The DCH, in consultation with the Board, may not promulgate rules that diminish competition or exceed the minimum level of regulation necessary to protect the public.

Except as provided below, a person granted a license under Part 183a must have a baccalaureate, master's, or doctoral 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.

Additionally, a person granted a license must have completed at least 900 hours of postdegree or planned continuous preprofessional experience. In the case of a person with a baccalaureate degree, the experience must have been supervised by a licensed dietitian or nutritionist as prescribed in DCH rules. For a person with a master's or doctoral degree, the supervision must have been by a licensed dietitian or nutritionist or by a licensed health care professional with experience and knowledge in the provision of dietetics and nutrition care services. A person with a baccalaureate or master's degree also must have successfully completed an examination approved by the DCH.

The Department must grant a dietitian or nutritionist license to a person who currently is registered as a dietitian by the Commission on Dietetic Registration and who fulfills the standards of the Commission as adopted by reference. The person must apply for licensure by July 1, 2008.

The Department may grant a limited license to engage in the postdegree experience described above to an individual who has completed all of the educational and applicable examination requirements for licensure. A limited license is renewable for up to five years.

The DCH may issue a temporary license to an individual who does not meet all of the requirements of the bill or rules if he or she provides evidence to the DCH that he or she is a dietitian registered with the Commission on Dietetic Registration or meets the bill's

educational requirements and either has postdegree or preprofessional experience as prescribed under the bill or has been employed as a dietitian or nutritionist for at least three of the last 10 years immediately preceding the application date. The person must apply to the DCH for a temporary license by July 1, 2008, and pay the applicable fees.

A temporary license will expire within the same time period as a nontemporary license. A temporary license holder may apply for a renewal, but may not hold a temporary license for more than two years. A temporary license holder is subject to Part 183a and the rules promulgated under it, except for the licensure requirements.

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

Part 183a does not apply to any of the following:

- An individual licensed under any other part or act who performs activities or services that are considered dietetics and nutrition care services if those activities or services are within the individual's scope of practice and if he or she does not use the titles protected under the bill.
- A person who furnishes any kind of 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 or nutritionist.
- A person who provides weight control services under a program approved by a dietitian or nutritionist who is licensed under Part 183a 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.

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 establishes will 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 may use the specified titles and present themselves to the public as dietitians and nutritionists. Consumers will be able to have confidence that the people treating them and providing advice are qualified to do so. These increased protections will help ensure that various health conditions are addressed appropriately, which should lower 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.

**Response:** The bill prohibits the DCH from promulgating rules that diminish competition or exceed the minimum level of regulation necessary to protect the public.

Legislative Analyst: Julie Cassidy

## **FISCAL IMPACT**

This bill will have little to no fiscal impact upon State and local government. The Department will 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 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 will 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.