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BILL ANALYSIS

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Senate Bill 68 (as introduced 2-3-15)
Sponsor: Senator Mike Shirkey
Committee: Health Policy

Date Completed: 3-2-15

CONTENT

The bill would amend the Public Health Code to provide for the licensure of advanced practice registered nurses, who would include certified nurse midwives, certified nurse practitioners, and clinical nurse specialist-certifieds; and eliminate provisions regarding the specialty certification of nurse midwives and nurse practitioners. The bill also would do the following:

- **Prescribe A.P.R.N. license fees, and a method for review and adjustment.**
- **Authorize a licensed A.P.R.N. to prescribe and administer nonscheduled prescription drugs and Schedule 2 through 5 controlled substances if he or she met certain criteria.**
- **Require an A.P.R.N. to enter into a mentorship agreement if he or she had been licensed or certified for less than four years.**
- **Allow an A.P.R.N. to issue a complementary starter dose of a prescription drug or Schedule 2 to 5 controlled substance.**
- **Create the A.P.R.N. Task Force.**
- **Revise the membership of the Michigan Board of Nursing.**
- **Allow the Board of Nursing to require a licensee under Part 172 (Nursing) to provide evidence of the completion of continuing education or competency courses, for license renewal.**
- **Include a licensed A.P.R.N. among the individuals who may refer a patient for speech-language pathology services or occupational therapy, and among those who may prescribe physical therapy.**
- **Establish a fund to provide grants to A.P.R.N.s who practiced in a designated health resource shortage area.**

In addition, the bill would include each final decision imposing disciplinary action against a registered health professional among the information the Department of Licensing and Regulatory Affairs must include on its public licensing and registration website; and include references to expedited partner therapy in provisions regarding the dispensing of prescription drugs.

Definitions & Titles

The bill would define "advanced practice registered nurse" or "A.P.R.N." as an individual who is licensed under Part 172 as a certified nurse midwife, certified nurse practitioner, or clinical nurse specialist-certified.

"Certified nurse midwife" or "C.N.M.", "certified nurse practitioner" or "C.N.P.", and "clinical nurse specialist-certified" or "C.N.S.-C" all would mean an individual who is licensed under Part 172 as a registered professional nurse, is also licensed as an A.P.R.N., and meets the requirements applicable to that license.

The bill would define "practice of advanced practice registered nursing" as doing any of the tasks, functions, or duties described below, as applicable.

A certified nurse midwife would, within the parameters of his or her education, training, and national certification, focus on health care services for women throughout their lifespan, including comprehensive maternity care that includes prenatal care, childbirth in diverse settings, postpartum care, and care for newborns who are 28 days old or younger; gynecological, reproductive, and contraceptive care; physical exams; diagnosis and treatment of common health problems with consultation or referral as indicated; the prescription of pharmacological and nonpharmacological interventions and treatments; and treatment of male partners for sexually transmitted infection and reproductive health.

A certified nurse practitioner would, within the parameters of his or her education, training, and national certification, focus on performing comprehensive assessments; providing physical examinations and other health assessments and screening activities; and diagnosing, treating, and managing patients with acute and chronic illnesses and diseases. Nursing care provided by a C.N.P. would include ordering, performing, supervising, and interpreting laboratory and imaging studies; prescribing pharmacological and nonpharmacological interventions and treatments within the C.N.P.'s specialty role and scope of practice; health promotion; disease prevention; health education; and counseling of patients and families with potential, acute, and chronic health disorders.

A clinical nurse specialist-certified would, within the parameters of his or her education, training and national certification, focus on continuous improvement of patient outcomes and nursing care with broad focus across the areas of direct patient care, patient education, nursing education, nursing practice, and organizational systems. A C.N.S.-C would be responsible and accountable for diagnosis, intervention, and treatment of health or illness states, and disease management, including the use and prescription of pharmacological and nonpharmacological intervention and treatment within his or her specialty and scope of practice; health promotion; and prevention of illness and risk behavior among individuals, families, groups, and communities. In addition, a C.N.S.-C would evaluate patient outcomes; translate evidence into practice; and develop, plan, coordinate, and direct programs of care for acute and chronically ill patients and their families.

The following words, titles, and letters could be used only by those authorized under Part 172 to use them and in a way prescribed in Part 172: "certified nurse midwife", "C.N.M.", "certified nurse practitioner", "C.N.P.", "clinical nurse specialist-certified", and "C.N.S.-C".

A.P.R.N. Duties & Licensure

The bill would require an A.P.R.N. to do the following:

-- Provide those functions common to the population for which A.P.R.N.s are educationally and experientially prepared.
-- Comply with the standards established by the Board of Nursing and with the national accreditation standards of the national professional nursing associations applicable to his or her license.
-- Consult with other health professionals as appropriate, or refer a patient to other health professionals if the care were outside the A.P.R.N.'s education, training, and national certification.
-- Supervise registered professional nurses (R.N.s), licensed practical nurses, and other health professionals as appropriate.

The bill would prohibit a person from engaging in the practice of A.P.R.N. unless licensed or otherwise authorized by Article 15 (Occupations) of the Code.

The bill would require the Department of Licensing and Regulatory Affairs (LARA) to issue an A.P.R.N. license to an R.N. who held a specialty certification, issued by the Department, as a nurse

midwife, nurse practitioner, or clinical nurse specialist, if he or she met all of the following requirements:

-- He or she applied for an A.P.R.N. license within two years after the bill's effective date.
-- His or her license and specialty certification issued by the Board of Nursing were current on the bill's effective date and on the date he or she submitted the license application.
-- He or she met any requirements for professional certification established by LARA in consultation with the Board.

The Department would have to renew an A.P.R.N. license concurrently with the R.N. license.

C.N.M./C.N.P./C.N.S.-C Licensure

The Department of Licensing and Regulatory Affairs would be required to issue a certified nurse midwife license, a certified nurse practitioner license, or a clinical nurse specialist-certified license to an R.N. who met all of the following:

-- He or she had completed an accredited graduate, postgraduate, or doctoral level nursing education program that prepared the nurse for the role of C.N.M, C.N.P, or C.N.S.-C., as applicable.
-- He or she was certified by a nationally accredited certification body as demonstrating role and population focused competencies for C.N.M.s, C.N.P.s, or C.N.S.-Cs, as applicable, or the Board of Nursing determined that he or she met the standards for that certification.
-- He or she maintained continued competence by obtaining recertification in the role and population described above through the national certification program, or the Board determined that he or she met the standards for that recertification.

The person also would have to demonstrate to the Board's satisfaction that he or she met all of the following:

-- He or she had acquired advanced clinical knowledge and skills that primarily prepared him or her to provide direct care to patients, and to provide indirect care.
-- His or her practice built on the competencies of R.N.s by demonstrating a greater depth and breadth of knowledge, a greater synthesis of data, increased complexity of skills and interventions, and greater role autonomy.
-- He or she had clinical experience of sufficient depth and breadth to perform as a licensee.

In addition, the person would have to demonstrate that he or she was educationally prepared to assume responsibility and accountability for health promotion or maintenance and the assessment, diagnosis, and management of patient problems, including the use and prescription of pharmacologic and nonpharmacologic interventions within the parameters of his or her education, training, and national certification.

Specialty Certification

Under Part 172, the Board of Nursing may issue a specialty certification to an R.N. who has advanced training beyond that required for initial licensure and who has demonstrated competency through examination and other evaluative processes and who practices in one of the following specialty fields: nurse midwifery, nurse anesthetist, or nurse practitioner. Beginning on the bill's effective date, this provision would apply only to the specialty field of nurse anesthetist. Additionally, the bill would transfer authorization to issue a specialty certification from the Board to LARA.

Criteria for Practice

In order to engage in the practice of advanced practice registered nursing, an A.P.R.N. would have to meet any of the criteria described below.

For at least four years, the individual had held a national certification as a nurse midwife, nurse practitioner, or clinical nurse specialist-certified; a specialty certification in the practice of nurse midwifery or nurse practitioner before the bill's effective date; or an A.P.R.N. license issued under Part 172. He or she would have to provide written documentation of that certification or licensure to the Board.

If the individual did not meet any of those four-year certification or licensure requirements, he or she had engaged in the practice of advanced practice registered nursing and, if applicable, possessed, prescribed, or administered nonscheduled prescription and Schedule 2 to 5 controlled substances within the parameters of his or her education, and national certification under the terms of one or more mentorship agreements for a total of four years.

If the individual did not meet any of the requirements described above, he or she only engaged in the practice of advanced practice registered nursing and, if applicable, possessed, prescribed, or administered nonscheduled prescription drugs and Schedule 2 to 5 controlled substances within the parameters of his or her education, training, and national certification under the terms of a mentorship agreement and in collaboration with a physician or, if applicable, a dispensing prescriber.

Pharmacy Practice & Drug Control

The bill would authorize a licensed A.P.R.N. to possess, prescribe, and administer nonscheduled prescription drugs and controlled substances included in Schedules 2 through 5, within the parameters of his or her education, training, and national certification, if he or she met all of the following:

-- He or she had completed graduate level pharmacology, pathophysiology, and physical assessment courses and clinical practicum in the role of a C.N.M, C.N.P., or C.N.S.-C., as applicable to his or her A.P.R.N. license.
-- He or she had completed the number of contact hours in pharmacology as part of the requisite continuing education for a controlled substances license, and for renewal of his or her license under Part 172.
-- He or she held a controlled substances license under the Code.
-- He or she met the mentorship agreement requirements (applicable to an individual who had not been certified or licensed for four years) to possess, prescribe, or administer those drugs or substances.
-- He or she possessed, prescribed, or administered the drug or controlled substance only while engaged in the practice of advanced practice registered nursing within the parameters of his or her education, training, and national certification.

A mentorship agreement would have to be between an A.P.R.N. and a licensed physician who, if applicable, held a controlled substance license, or between the A.P.R.N. and another A.P.R.N. who held the same license under Part 172, had at least five years of work experience in that licensed profession, and, if applicable, held a controlled substances license. The agreement would have to concern engaging in the practice of advanced practice registered nursing and, if applicable, the possession, prescription, and administration of nonscheduled prescription drugs and Schedule 2 to 5 controlled substances by the A.P.R.N. The agreement also would have to meet the following:

-- Include the responsibilities and duties of each party to the agreement.
-- Be for a term of one year and be renewable by the parties for one or more additional one-year periods.
-- Be revocable by either party, with at least 30 days' written notice.
-- Be signed by each party.
-- Be in writing.

A person who held an A.P.R.N. license for less than four years could be a party to more than one mentorship agreement.

Before prescribing a controlled substance included in Schedules 2 to 5, the A.P.R.N. would have to request that the Department of Community Health (DCH) provide any data in its electronic monitoring system concerning that controlled substance. He or she would have to consider the data to determine whether prescribing or administering the controlled substance to the intended individual was consistent with patient safety and that it would not likely be subject to abuse by the individual.

The Department of Licensing and Regulatory Affairs would have to issue a controlled substance license to an A.P.R.N. who applied and was qualified to possess, prescribe, and administer nonscheduled prescription drugs and controlled substances included in Schedules 2 to 5. The Department could place a limitation on the license to reflect the terms of a mentorship agreement.

An A.P.R.N. engaged in the practice of advanced practice registered nursing could, within the parameters of his or her education, training, and national certification, order, receive, and dispense a complementary starter dose of a prescription drug or controlled substance in Schedules 2 to 5 without delegation from a supervising physician. Only the name of the A.P.R.N. would have to be used, recorded, or otherwise indicated in connection with that order, receipt, or dispensing. As required of a prescriber who dispenses complementary starter doses, an A.P.R.N. would have to give certain information to the patient.

The bill provides that it would not require new or additional third-party reimbursement or mandated worker's compensation benefits for services rendered by an A.P.R.N. authorized to prescribe nonscheduled prescription drugs and controlled substances included in Schedules 2 to 5.

Standard of Practice or Care

The bill specifies that, in an action for malpractice or licensure removal, if an A.P.R.N. practiced as an advanced practice registered nurse without the supervision of a physician, he or she would be held to the higher standard of acceptable professional practice or care in the community for a physician as if a physician had acted or failed to take the action that the A.P.R.N. was alleged to have taken or failed to take.

Prohibited Participation in For-Profit Entity

As a condition of licensure under Part 172, an A.P.R.N. would be prohibited from owning or organizing a for-profit entity for the purpose of providing services as an A.P.R.N. directly to the general public after the bill's effective date. An A.P.R.N. who did so would be in violation of a general duty of Article 15 (i.e., it would be grounds for a disciplinary subcommittee to impose sanctions).

In addition to other requirements for issuing a license, LARA would have to include on a form used for a new or renewal license a space for an A.P.R.N. to certify that he or she did not own or organize a for-profit entity after the bill's effective date.

"For-profit entity" would mean a for-profit corporation, limited liability company, professional limited liability company, or professional corporation.

A.P.R.N. Task Force

The bill would create the A.P.R.N. Task Force. The Task Force would have to consist of the following 13 members, who would have to be members of the Board:

-- One registered professional nurse.
-- Two certified nurse midwives.
-- Two certified nurse practitioners.
-- Two clinical nurse specialist-certifieds.
-- Two certified nurse anesthetists.
-- Two physician members.
-- Two public members.

In consultation with LARA, the Task Force would have to develop and make public guidelines on the appropriate scope of practice of an A.P.R.N. according to his or her education, training, and experience. These guidelines would be nonbinding and advisory, and would only express the Task Force's criteria for determining whether an A.P.R.N. was practicing within his or her scope of practice.

The Task Force also would have to do the following:

-- In consultation with LARA, serve as the disciplinary subcommittee for A.P.R.N.s and certified nurse anesthetists.
-- Make written recommendations to the Board on reinstatement of A.P.R.N. licenses and notices of intent to deny them.
-- File an annual report with the Board and LARA concerning any matters prescribed by the Task Force and Board.

Currently, if a health profession specialty field task force is created for a health profession, that task force must serve as the task force for all health profession specialty fields within the scope of practice of the health profession. This requirement would not apply to the A.P.R.N. Task Force. The Task Force also would not be subject to requirements that a task force make recommendations to a licensing board and appoint a disciplinary subcommittee.

During an investigation or after a complaint has been issued, LARA may schedule a compliance conference. If an agreement is not reached, LARA must schedule a hearing. A compliance conference or a hearing may include one member of the appropriate board or task force who is not a member of the disciplinary subcommittee with jurisdiction over the matter, and such a person may attend a hearing. Under the bill, if the A.P.R.N. Task Force were the disciplinary subcommittee with jurisdiction, a compliance conference could include a Task Force member, and a Task Force member could attend a hearing.

License Fees

The fees for an individual licensed or seeking licensure to practice nursing as an R.N. include a $24 application processing fee and a $30 annual license fee. For a specialty certification for an R.N., the Code prescribes an application processing fee of $24 and an annual specialty certification fee of $14.

The bill would retain these fees and prescribe the following fees for an individual who sought or held a license as an advanced practice registered nurse under Part 172:

-- An application processing fee of $32.
-- An annual certification fee of $65.

The Department and the A.P.R.N. Task Force would be required to review these fees every two years. The Department could, by rule and with the consent of the Task Force, adjust the fees to reflect expenses regarding issuing A.P.R.N. licenses, and program administration.

License Renewal

The bill would permit the Board of Nursing, by rule, to require a licensee seeking renewal of a license under Part 172 to give the Board satisfactory evidence that, during the two years immediately before the date of the renewal application, he or she completed continuing education or competency courses or activities approved by the Board. If the Board did so, it would have to promulgate rules requiring each applicant for license renewal to complete as part of those courses or activities an appropriate number of hours or courses in pain and symptom management.

Board of Nursing

Currently, the Board of Nursing consists of the following 23 voting members:

-- Nine registered professional nurses.
-- One nurse midwife.
-- One nurse anesthetist.
-- One nurse practitioner.
-- Three licensed practical nurses.
-- Eight public members.

The bill would increase the total number of members to 29, beginning 60 days after its effective date. In addition to the nine R.N.s and the three licensed practical nurses, the Board would have to include two certified nurse midwifes, two nurse anesthetists, two certified nurse practitioners, two clinical nurse specialist-certifieds, and nine public members.

Currently, the nurse midwife and nurse practitioner members must each have a specialty certification issued by LARA in his or her respective specialty field. Under the bill, each appointed C.N.M., C.N.P., and C.N.S.-C. would have to have an A.P.R.N. license issued by LARA in his or her respective role, and each of the nurse anesthetists would have to have a specialty certification issued by LARA in that specialty field.

Proposed Fund for A.P.R.N. Grants

The bill would establish the "A.P.R.N. Health Resource Shortage Area Fund" within the State Treasury. Of the money attributable to annual A.P.R.N. license fees, the State Treasurer would have to credit $10 of each individual fee to the Fund. The State Treasurer would have to direct investment of the Fund, and credit to it any interest and earnings from Fund investments. The State Treasurer could receive gifts and devises and other money as provided by law for deposit into the Fund. The Department of Licensing and Regulatory Affairs would be the Fund administrator for auditing purposes. Money in the Fund at the close of the fiscal year would remain in the Fund and would not lapse to the General Fund.

At the discretion of and under the direction of the Board of Nursing, LARA would have to spend money from the proposed Fund, upon appropriation, to provide grants to A.P.R.N.s who, after the bill's effective date, began employment to engage in the practice of advanced practice registered nursing in a health resource shortage area designated by the Department of Community Health.

(Under the Code, DCH must identify and designate geographic areas, population groups, and health facilities in Michigan as health resource shortage areas for designated health professionals. The Department's designation criteria may include such factors as infant mortality rate, the percentage of the population below 100% of the Federal poverty level, and geographic proximity of physicians to the resident population.)

Health Regulatory Funds

The Code establishes and prescribes authorized uses of money in the Health Professionals Regulatory Fund, the Nurse Professional Fund, and the Pain Management Education and Controlled Substances Electronic Monitoring and Antidiversion Fund. Under the bill, LARA could spend money in these Funds only upon appropriation. Additionally, the bill provides that, for auditing purposes, LARA would be the administrator of the Health Professionals Regulatory Fund and the Nurse Professional Fund, and the State Treasurer would be the administrator of the Pain Management Education and Controlled Substances Electronic Monitoring and Antidiversion Fund.

Other Provisions

Under the Code, a speech-language pathology licensee may perform assessment, treatment or therapy, and procedures related to swallowing disorders and medically related communication disorders only on patients who have been referred to him or her by a person licensed in the practice

of medicine or osteopathic medicine and surgery. The bill would include a patient referred by a licensed A.P.R.N. engaged in the practice of advanced practice registered nursing.

Currently, occupational therapy services include the provision of vision therapy services or low vision rehabilitation services, if the services are provided pursuant to a referral or prescription from, or under the supervision or comanagement of, a licensed physician or optometrist. Under the bill, these services also could be provided pursuant to a referral or prescription from a licensed A.P.R.N. engaged in the practice of advanced practice registered nursing.

The Code prohibits a person from engaging in the practice of physical therapy or practice as a physical therapist assistant unless licensed or otherwise authorized. Except as otherwise provided, a person may engage in the treatment of an individual only upon the prescription of an individual holding a license issued under Part 166 (Dentistry), 170 (Medicine), 175 (Osteopathic Medicine and Surgery), or 180 (Podiatric Medicine and Surgery). Under the bill, a person holding an A.P.R.N. license, while engaged in the practice of advanced practice registered nursing, also could prescribe physical therapy.

The Code requires licensed health facilities and agencies to adopt a policy describing the rights and responsibilities of patients or residents. The policy must contain specific provisions, including that a patient or resident is entitled to be free from physical and chemical restraints, except those authorized in writing by the attending physician or physician's assistant. Under the bill, restraints also could be authorized by an A.P.R.N. engaged in the practice of advanced practice registered nursing.

MCL 333.2701 et al. Legislative Analyst: Julie Cassidy

FISCAL IMPACT

The bill would have a likely neutral effect on State finances, and no fiscal impact on local government. Under the bill, an individual seeking licensure as an advanced practice registered nurse would have to pay an application processing fee of $32 and an annual license fee of $65. It is unknown how many individuals would apply and seek licensure, but all revenue from the application processing fees, and $55 of each annual license fee would be credited to the Health Professions Regulatory Fund and used for costs associated with issuing the licenses. The bill also would allow for the fees to be reviewed every two years and adjusted to reflect the actual cost of licensing A.P.R.N.s.

In addition, the bill would create the A.P.R.N. Health Resource Shortage Area Fund, which would receive $10 of the $65 annual license fee. The Fund would be used for grants to A.P.R.N.s who practice in an area designated as a health resource shortage area.

The Department of Licensing and Regulatory Affairs would be responsible for some increased costs related to processing applications and issuing licenses as prescribed by the bill. It is unknown in the short-term whether the fees in the bill would be sufficient to cover the Department's expenses, but after two years the fees could be adjusted to compensate for any surplus or shortfall in license fee revenue with respect to the cost of operating the licensure program.

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