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House Bill 4608 (as passed by the House)
Sponsor: Representative Laurie Pohutsky
House Committee: Regulatory Reform
Senate Committee: Health Policy

Date Completed: 2-13-24

INTRODUCTION

The bill would establish licensure for dietitian nutritionists, who generally use laboratory and dietary data to evaluate the nutritional needs of individuals and counsel on meeting those needs. Licensure requirements would include attainment of at least a bachelor's degree and specific accreditation and the completion of at least 1,000 hours of supervised practice experience under a current dietitian nutritionist, among other requirements. The bill also would prescribe the scope of practice for dietitian nutritionists. Beginning 18 months after the bill's effective date, an individual could not engage in practice limited to dietitian nutritionist licensure or use titles associated with that licensure, unless licensed as such.

Additionally, the bill would create the Michigan Board of Nutrition and Dietetics (Board) within the Department of Licensing and Regulatory Affairs (LARA). Together, LARA and the Board could promulgate rules to supplement the licensure requirements and would have to promulgate rules for continuing education requirements, among other things. Finally, the bill would prescribe licensing fees as seen below in **FISCAL IMPACT**.

PREVIOUS LEGISLATION

(This section does not provide a comprehensive account of previous legislative efforts on this subject matter.)

House Bill 4608 is similar to Senate Bill 614 from the 2021-2022 Legislative Session. Senate Bill 614 received a committee hearing but no further action.

FISCAL IMPACT

The bill would have an indeterminate fiscal impact on LARA. The chart below illustrates the fees the bill would permit:

Fee Type	Amount
Application processing fee	\$75
Annual license fee	\$55
Temporary license fee	\$55

The revenue collected would depend on the number of applications and licenses issued, and LARA likely would incur administrative costs associated with developing and implementing the licensing structure for dietitian nutritionists. Whether additional appropriations and staff would be required is indeterminate since the number of applicants is unknown.

MCL 333.16141 et al. Legislative Analyst: Alex Krabill Fiscal Analyst: Elizabeth Raczkowski

CONTENT

The bill would add Part 183A (Dietetics and Nutrition) to the Public Health Code to do the following:

- Establish a licensing process for dietitian nutritionists and prescribe the requirements an individual seeking licensure as a dietitian would have to meet.**
- Prescribe the scope of practice for a dietitian nutritionist.**
- Prescribe the requirements of a qualified supervisor, which would be a person qualified to oversee the clinical practice of a prospective licensee under the bill.**
- Create the Board in LARA and prescribe its membership.**
- Require LARA, in consultation with the Board, to promulgate rules for appropriate supervision that were consistent with the range of prevailing professional standards and for continuing education requirements as a condition of license renewal.**
- Allow LARA, in consultation with the Board, to promulgate rules to supplement the requirements for licensure as a dietitian nutritionist.**
- Prescribe requirements for temporary licensure under Part 183A.**
- Allow LARA to issue a license by endorsement to an applicant from another state that, at the time the applicant obtained the license from the other state, had licensure requirements substantially equivalent to Part 183A.**
- Restrict the use of certain titles to only dietitian nutritionists.**
- Specify that Part 183A would not require additional third-party reimbursement for services rendered by an individual licensed as a dietitian nutritionist.**

The bill also would amend Part 161 (General Provisions) of the Code to prescribe license fees for an individual seeking licensure as a dietitian nutritionist under Part 183A.

Licensure

Under the bill, except as otherwise provided, if an individual were seeking a licensure as a dietitian nutritionist, that individual would have to meet all the following requirements:

- Hold a baccalaureate, master's, or doctoral degree from a college or university located in the State or another state that, at the time of graduation, was accredited in good standing by a United States institutional accrediting body for higher education recognized by the US Department of Education, and approved by LARA; in addition, the individual could hold a degree from a foreign educational institution that was validated as equivalent by a credential evaluation agency recognized by the US Department of Education and was approved by LARA in consultation with the Board.
- Have successfully completed a didactic program in dietetics accredited by the Accreditation Council for Education in Nutrition and Dietetics.
- Have successfully completed a planned, documented supervised practice experience in the practice of dietetics and nutrition fulfilling the competency requirements of a program in dietetics that was accredited by the Accreditation Council for Education in Nutrition and Dietetics or its successor organization; except as otherwise provided, the practice experience described in the bill would have to include at least 1,000 hours under the supervision of a dietitian nutritionist or a registered dietitian nutritionist.
- Have successfully completed the registration examination for dietitian nutritionists administered by the Commission on Dietetic Registration or its successor organization.
- Was a registered dietitian nutritionist.

"Dietitian nutritionist" would mean an individual who is licensed or otherwise authorized to engage in the practice of medical nutrition therapy under Article 15 (Occupations) of the Public Health Code. "Registered dietitian nutritionist" would mean an individual who is credentialed by the Commission on Dietetic Registration or its successor organization as a registered dietitian or a registered dietitian nutritionist.

The supervised practice experience described above would have to be approved by LARA in consultation with the Board and would have to be completed under a qualified supervisor (see Qualified Supervision below). Any supervised practice experience undertaken after the effective date of the initial rules promulgated under Part 183A would have to be under the supervision of a qualified supervisor.

For a dietitian nutritionist license, LARA, in consultation with the Board, would have to automatically approve an academic program or an applicant's supervised practice experience that was accredited by the Accreditation Council for Education in Nutrition and Dietetics or its successor organization.

An individual who, on the day before the bill's effective date, had and continued to be a registered dietitian nutritionist in good standing, would be eligible for licensure as a dietitian nutritionist under Part 183A. An individual seeking licensure who maintained the credential conferred by the Commission on Dietetic Registration or a successor credential conferred by its successor organization would have to first apply for a license on or before the expiration of two years after the effective date of the initial rules promulgated under Part 183A. Subject to Part 161 and to the continuing education requirements described in the Code, an individual who obtained a license would be eligible for renewal of that license if the individual continued to meet the requirements of the bill.

Temporary Licensure

The Board could grant a temporary license to an applicant who met all requirements for licensure under Part 183A except an examination or other evaluation procedure. A temporary license automatically would be void if the applicant were to fail the examination or other evaluation procedure.

The holder of a temporary license would have to practice under the supervision of a licensee who held a license other than a limited license or temporary license. The holder of a temporary license would be subject to Part 183A and the rules promulgated under Part 183A, except for the requirements for licensure. The Department could automatically void the temporary license if the applicant violated this requirement.

A temporary license would be valid for one year and would not be renewable. An individual could be granted only one temporary license.

Qualified Supervision

Under the bill, to qualify as a qualified supervisor for the purposes of Part 183A, an individual would have to be one of the following:

- A registered dietitian nutritionist.
- A dietitian nutritionist.
- An individual licensed or certified in another state as a dietitian, dietitian nutritionist, nutritionist, or other qualified nutrition professional who was authorized by that state to engage in the practice of medical nutrition therapy.

A qualified supervisor could supervise only a clinical activity or nutrition care service for which the qualified supervisor was qualified and was authorized to perform. A qualified supervisor would have to be licensed under Article 15 if the qualified supervisor were supervising an applicant who was engaging in the practice of medical nutrition therapy to an individual who was located in Michigan.

"Nutrition care services" would mean the provision of any part or all of the following services within a systematic process:

- Assessing and evaluating the nutritional needs of individuals and groups and determining resources and constraints in the practice setting, including ordering laboratory tests to check and track nutrition status, creating dietary plans and orders, and monitoring the effectiveness thereof.
- Interpreting anthropometric, biochemical, clinical, and dietary data in acute and chronic disease states and recommending or ordering nutrient needs based on dietary data, including tube feedings and parenteral nutrition.
- Establishing priorities, goals, and objectives that meet nutritional needs and that are consistent with available resources and constraints.
- Providing nutrition counseling in health and disease, including food and nutrient counseling and counseling on food and prescription drug interactions.
- Developing, implementing, and managing nutrition care systems.
- Evaluating, making changes in, and maintaining appropriate standards of quality in food and nutrition services.
- Ordering therapeutic diets.

"Nutrition counseling" would mean a supportive process, characterized by a collaborative counselor-patient or counselor-client relationship with individuals or groups, to establish food and nutrition priorities, goals, and individualized action plans and general physical activity guidance that acknowledge and foster responsibility for self-care to treat or manage an existing disease or medical condition or to promote health and wellness.

"Therapeutic diet" would mean a diet intervention prescribed by a physician, or another health professional licensed under Article 15, that provides food or nutrients via oral, enteral, and parenteral routes as part of treatment of a disease or clinical condition to modify, eliminate, decrease, or increase identified micronutrients and macronutrients in the diet, or to provide mechanically altered food when indicated.¹

"Practice of medical nutrition therapy" would mean the provision of nutrition care services for the treatment or management of diseases or medical conditions.

A qualified supervisor would have to comply with all the following:

- Develop and carry out a program for advancing and optimizing the quality of care provided by a supervisee.
- Oversee the activities of, and accept responsibility for, the nutrition care services rendered by a supervisee, which would include reviewing charts, records, and clinical notes of a supervisee on a regular basis and maintaining responsibility for the supervisee's clinical record keeping.
- Limit the assignment of nutrition care services to those services that were within the training and experience of a supervisee, were customary to the practice of the qualified

¹ According to the American College of Gastroenterology, "enteral" routes refer to any method of feeding that uses the gastrointestinal tract to deliver nutrition and calories. "Parenteral" routes refer to the delivery of calories and nutrients into a vein.

supervisor, and were within the parameters of the laws and rules of the State and any standards of the facility in which the qualified supervisor practiced.

- Designate an alternate qualified supervisor to oversee a service provided in the event of and during a qualified supervisor's absence.

Additionally, a qualified supervisor and the supervisee would have to identify and document goals for the supervised practice experience, the supervisee's scope of practice, the assignment of clinical tasks as appropriate to the supervisee's evolving level of competence, the supervisee's relationship and access to the qualified supervisor, and an evaluation process for the supervisee's performance. A qualified supervisor also would have to be physically on-site and present where the supervisee was providing nutrition care services or be immediately and continuously available to the supervisee by means of two-way real-time audiovisual technology that allowed for the direct, contemporaneous interaction by sight and sound between the qualified supervisor and the supervisee. If the qualified supervisor assigned a nutrition care service to a supervisee that was to be provided in a setting where the qualified supervisor was not routinely present, the qualified supervisor would have to ensure that the means and methods of supervision were adequate to ensure appropriate patient care, which could include synchronous videoconferencing, or another method of communication and oversight that was appropriate to the care setting and the education and experience of the supervisee.

"Patient" would mean an individual recipient of the practice of medical nutrition therapy, whether in the outpatient, inpatient, or nonclinical setting.

Scope of Practice

Beginning 18 months after the effective date of the initial rules promulgated under Part 183A, an individual could not engage in the practice of medical nutrition therapy unless the individual was licensed or otherwise authorized under Article 15. This provision would not prevent any of the following:

- A physician or other individual licensed under any other part or any other Act from performing activities that were considered the practice of medical nutrition therapy if those activities were within the individual's scope of practice and the individual did not use the titles protected under the bill (see Title Protection below).
- An individual from providing medical weight control for prediabetes or obesity to individuals under a program of instruction that was approved in writing by either a dietitian nutritionist or a health professional licensed under Article 15 whose scope of practice otherwise authorized the health professional to provide nutrition care services for the treatment or management of the disease or medical condition for which the medical weight control was being provided.
- An individual from providing delegated medical weight control services under a plan of care that was overseen by a health professional licensed under Article 15 whose scope of practice otherwise authorized the health professional to provide and delegate nutrition care services for the treatment or management of the disease or medical condition for which medical weight control was being provided.
- Subject to Part 161, an employee or other individual who was assisting a dietitian nutritionist and who was under the dietitian nutritionist's appropriate supervision from performing activities or functions that were delegated by the dietitian nutritionist, that were not discretionary, that did not require the exercise of professional judgment for their performance, and that were within the dietitian nutritionist's authority to perform.
- An individual from providing general nonmedical nutrition information, guidance, encouragement, individualized nutrition recommendations for wellness or primary prevention of chronic disease, behavior change management, coaching, assessments,

services for weight management, or other nutrition care services if the services did not constitute the practice of medical nutrition therapy, if the individual did not use the titles protected under the bill or otherwise hold the individual out as a dietitian nutritionist or as a provider of medical nutrition therapy, and the individual did not otherwise violate the Code.

- An individual from either providing verbal nutrition information as an operator or employee of a health food store or business that sold health products including dietary supplements, food, herbs, or food materials, or disseminating written nutrition information in connection with the marketing and distribution of the products described above, or discussing of the products described above, including explanations of their federally regulated label claims, any known drug-nutrient interactions, their role in various diets, or suggestions as how to best use and combine them.

In addition, the provision would not prevent an individual from doing any of the following if the individual, while doing any of the following, did not engage in the practice of medical nutrition therapy and did not use the titles protected by the bill:

- Furnishing general nonmedical nutrition information.
- Providing evaluation, guidance, information, and education on the use of food, food materials, or dietary supplements.
- Providing explanations to individuals or groups about food or food products, including dietary supplements.

The provision also would not prevent an individual who was pursuing the educational requirements described in the bill from engaging in the practice of medical nutrition therapy, but only if all the following were met:

- The individual was engaging in the practice of medical nutrition therapy as part of a course of study.
- The individual did not engage in the unrestricted practice of medical nutrition therapy.
- The individual was under the appropriate supervision of a qualified supervisor who assumed full professional responsibility for the work of the individual by verifying, directing, and authorizing the work.
- The individual was designated by a title that clearly indicated the individual's status as a student, trainee, or supervisee.

Finally, the provision would not prevent an individual from fulfilling supervised practice experience requirements to qualify for licensure as a dietitian nutritionist under Part 183A, but only if the following applied:

- The individual did not engage in the unrestricted practice of medical nutrition therapy
- The individual was designated by a title that clearly indicated the individual's status as a student, trainee, or supervisee.
- The individual was appropriately supervised by a qualified supervisor who agreed to assume full professional responsibility for the individual's work by verifying, directing, and authorizing the work.
- The individual was engaging in the practice of medical nutrition therapy as part of a planned, continuous supervised practice experience.

"General nonmedical nutrition information" would mean information on any of the following:

- Principles of human nutrition and food preparation.
- Principles of self-care and a healthy relationship with food.
- The essential nutrients needed by the human body.

- The recommended amounts of essential nutrients in the human body.
- The actions of nutrients in the human body.
- The effects of deficiencies or excesses of nutrients in the human body.
- Foods, herbs, and dietary supplements that are good sources of essential nutrients in the human body.

"Medical weight control" would mean medical nutrition therapy for the purpose of reducing, maintaining, or gaining weight.

"Unrestricted practice of medical nutrition therapy" would mean the application of dietetics and nutrition knowledge and skills by an individual who regulates and is responsible for the individual's own practice or treatment procedures.

All the following would apply to a dietitian nutritionist:

- The dietitian nutritionist could accept or transmit orders related to the practice of medical nutrition therapy from a referring health professional licensed under Article 15, as established in rules promulgated by LARA in consultation with the Board.
- The dietitian nutritionist would have to provide nutrition care services using systematic, evidence-based problem-solving methods of the nutrition care process to critically think and make decisions to address nutrition-related problems and provide safe, effective, quality dietetic and nutrition services and medical nutrition therapy for individuals in clinical and community settings.
- The dietitian nutritionist could accept or transmit oral, verbal, delegated, or electronically transmitted orders from a referring health professional licensed under Article 15 consistent with applicable laws and rules and any controlling facility or employer protocols established to implement the practice of medical nutrition therapy.
- The dietitian nutritionist could order patient diets, including oral therapeutic diets, and enteral and parenteral nutrition therapy of specialized intravenous solutions and associated nutrition-related services, including placing nasogastric and nasoenteric feeding tubes, as part of a therapeutic diet.
- The dietitian nutritionist could conduct swallow screens and order medical laboratory tests related to a nutritional therapeutic treatment as provided by Michigan law.
- The dietitian nutritionist could implement prescription drug dose adjustments for specific disease treatment protocols within the limits of the dietitian nutritionist's knowledge, skills, judgment, and informed clinical practice guidelines as indicated in a facility, medical staff, or medical director approved protocol and as approved by and under the delegation of a prescriber.
- In an outpatient setting, the dietitian nutritionist could implement prescription drug dose adjustments for specific disease treatment protocols within the limits of the dietitian nutritionist's knowledge, skills, and judgment and as approved by and under the delegation of a prescriber.
- The dietitian nutritionist could recommend or order dietary supplements or the discontinuance of unnecessary dietary supplements, consistent with any existing controlling protocols.
- The dietitian nutritionist could develop and manage food service operations for the management or treatment of diseases or medical conditions, including operations with the primary function of nutrition care or recommending, ordering, or providing therapeutic diets.
- Except as otherwise provided, the dietitian nutritionist could not prescribe or initiate drug treatment.
- The dietitian nutritionist could not perform an act, task, or function within the practice of dietetics and nutrition that the dietitian nutritionist was not competent to perform.

- The dietitian nutritionist could coordinate nutrition care services between health facilities or agencies, including monitoring, documenting, and deciding how and when to address weight changes and nutrition issues.
- The dietitian nutritionist could oversee the nutritional aspects of patient care within a health facility or agency.

("Health facility or agency" refers to one or more of the following: 1) an ambulance operation, aircraft transport operation, non-transport prehospital life support operation, or medical first response service; 2) a county medical care facility; 3) a freestanding surgical outpatient facility; 4) a health maintenance organization; 5) a home for the aged; 6) a hospital; 7) a nursing home; 8) a hospice or hospice residence; and 9) facility or agency listed above other than a hospice or hospice residence located in a university, college, or other educational institution.)

"Practice of dietetics and nutrition" would mean the integration and application of scientific principles derived from the study of food, nutrition, biochemistry, metabolism, nutrigenomics, physiology, food systems and management, and from behavioral and social sciences in achieving and maintaining health throughout the lifespan and in providing nutrition care services, including the practice of medical nutrition therapy, for the prevention, management, and treatment of diseases or medical conditions. The term would not include the medical differential diagnosis of the health status of an individual, but would include each of the following:

- Nutrition assessment.
- Nutrition diagnosis.
- Nutrition support.
- Dietary and nutrition counseling and education.
- Nutrition intervention.
- Nutrition monitoring and evaluation.
- Development and administration of nutrition care standards and systems.

"Nutrition assessment" would mean the ongoing, dynamic, and systematic process of obtaining, verifying, and interpreting biochemical, anthropometric, physical, nutrigenomic, and dietary data to make decisions about the nature and cause of nutrition-related problems and making recommendations, including recommendations on enteral and parenteral nutrition. The collection of data would not, by itself, constitute nutrition assessment.

"Nutrition diagnosis" would mean identifying and labeling nutritional problems managed and treated by a dietitian nutritionist. The term would not include the medical differential diagnosis of the health status of an individual. "Nutrition intervention" would mean purposefully planned actions and nutrition counseling intended to positively change a nutrition-related behavior, risk factor, environmental condition, or aspect of the health status for an individual. "Nutrition monitoring and evaluation" would mean identifying patient outcomes relevant to a nutrition diagnosis and comparing the outcomes with the patient's previous health status, intervention goals, or reference standards to determine the progress made in achieving desired outcomes of nutrition care and whether nutrition intervention should be continued or revised.

Board of Dietetics & Nutrition

The bill would create the Michigan Board of Dietetics and Nutrition in LARA. The Board would have to consist of the following voting members, each of whom would have to meet the requirements of Part 161:

- Nine dietitian nutritionists.

- One physician licensed under Part 170 (Medicine) or Part 175 (Osteopathic Medicine and Surgery) of the Code.
- Three public members.

The terms of office of individual Board members, except those appointed to fill vacancies, would expire on June 30 of the year in which the term expired.

Continuing Education

Under the bill, notwithstanding the requirements of Part 161, LARA in consultation with the Board would have to by rule prescribe continuing education requirements as a condition of license renewal. At a minimum, the Board would have to accept continuing education approved and provided by entities approved by the Commission on Dietetic Registration or its successor organization and any other organization approved by the Board. The Department, in consultation with the Board, could adopt any updates or amendments to the standards described in this provision by rule.

The Department, in consultation with the Board, would have to promulgate rules requiring each applicant for license renewal to complete as part of the continuing education requirement an appropriate number of hours or courses in pain and symptom management.

The Department, in consultation with the Board, could promulgate rules to supplement the requirements for licensure as a dietitian nutritionist, including adopting updated standards of the Commission on Dietetic Registration or the Accreditation Council for Education in Nutrition and Dietetics or standards of any successor organizations of the organizations described above.

Rule Promulgation

The bill would require LARA, in consultation with the Board, to promulgate rules on appropriate supervision that were consistent with the range of prevailing professional standards. The rules would have to comply with all the following:

- Promulgate rules to establish a code of ethics for licensees.
- Promulgate initial rules to implement this part for individuals seeking licensure as a dietitian nutritionist.

License Fees

Under the bill, fees for an individual licensed or seeking licensure as a dietitian nutritionist or nutritionist would be as follows:

- Application processing fee, \$75.
- License fee, per year, \$55.
- Temporary license fee, per year, \$55.

Title Protection

The Code restricts the use of certain words, titles, and letters only to those individuals authorized to use them. Beginning 18 months after the effective date of the initial rules promulgated under Part 183A, the following words, titles, or letters or a combination of the following words, titles, or letters, with or without qualifying words or phrases, would be restricted in use only to a dietitian nutritionist:

- "Licensed dietitian nutritionist"
- "Dietitian nutritionist"
- "Dietitian"
- "Dietician"
- "Nutritionist"
- "l.d.n."

An individual, including a registered dietitian nutritionist, could use any lawfully earned federally trademarked title, and the words, titles, or letters "registered dietitian", "registered dietitian nutritionist", "r.d.", or "r.d.n."

Third-Party Reimbursement

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 an individual licensed as a dietitian nutritionist under Part 183A.

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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.