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FISCAL IMPACT REPORT

SPONSOR HHHC ORIGINAL DATE 02/01/21
LAST UPDATED 02/16/21 HB 147/HHCS
SHORT TITLE Dietitian Nutritionist Licensure SB _____
ANALYST Hanika-Ortiz

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY21	FY22	FY23	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	NFI	NFI	NFI			

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Regulation and Licensing Department (RLD)

Department of Health (DOH)

SUMMARY

Synopsis of Bill

The House Health & Human Services Committee Substitute for HB147 proposes to amend the Nutrition and Dietetics Practice Act (Act) Sections 61-7A-1 *et seq.* to clarify dietitian and nutritionist licensure requirements and scope of practice for each, establish biennial licensing fees, impose fines and probationary conditions, and add exemptions for certain military households.

The bill changes the composition and duties of the Nutrition and Dietetics Practice Board (board) to modify requirements and experience levels of the licensees that serve on the board, and to establish a procedure for the governor to follow when filling vacant positions on the board.

The bill requires the code of ethics to include practicing during a public health order, recognizes the use of virtual platforms, and clarifies and adds to the department's duties which include issuing licenses, investigating violations, approving staff assigned to the board, performing administrative and budget tasks, and maintaining records including a current register of licenses.

The bill further revises eligibility for licensure, provides for provisional permits if certain educational and supervision requirements are met, establishes biennial license renewals, imposes fines or probationary conditions under certain conditions, and for military members and their

spouses, recognizes their out-of-state licenses and waives their initial licensing fees.

The bill terminates the board July 1, 2027 and repeals the Act July 1, 2028. The bill allows for current licensed dietitians and nutritionists to continue to be licensed without meeting any of the additional licensure requirements. It also prevents those not licensed pursuant to the Act to provide medical nutrition therapy, or use any titles, words or insignias that may suggest otherwise.

Finally, the bill adds a section to require the Criminal Offender Employment Act to govern with respect to criminal records required or permitted by the Nutrition and Dietetics Practice Act.

There is no effective date of this bill. It is assumed that the effective date is 90 days following adjournment of the Legislature.

FISCAL IMPLICATIONS

The board will be required to conduct a rulemaking to recognize the new license types. For each licensee, the initial application fee would be \$200 and \$150 for each biennial renewal.

The requirements in Section 61-1-34 NMSA 1978 of the Uniform Licensing Act (ULA) appear to also apply to licensees licensed pursuant to the Nutrition and Dietetics Practice Act. This section of the ULA waives licensing fees for three years for military service members and spouses.

SIGNIFICANT ISSUES

The bill codifies administrative functions that RLD is currently providing to the board

According to DOH, there is a need to update definitions and curriculum requirements to provide guidance to colleges and universities for degree programs. Furthermore, it is important for the state and businesses that employ licensed nutritionists and dieticians, to be up to date on current and leading standards of practice to ensure health and safety of those who receive nutritional support.

The bill deletes reference to the ULA as it related to rule adoption, filing and publication because the language in the ULA conflicts with what is currently in the State Rules Act.

The bill removes the requirement for licensees to “be of good moral character” because that term grants boards’ broad discretion to deny applicants. Instead, the substitute bill provides that the Criminal Offender Employment Act will apply for determining eligibility for an otherwise qualified applicant that is seeking licensure pursuant to the Nutrition and Dietetics Practice Act.

Because the bill prevents the use of certain titles, words or insignias, it may limit other non-nutritional health professionals from offering supplemental nutrition therapy.

SUBSTANTIVE ISSUES

The New Mexico Telehealth Act also applies to nutritionists. The definition of “telehealth” in the bill does not exactly match the definition in the Act and could be reconciled for greater clarity.