Legislative Analysis

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LICENSURE OF ADVANCED PRACTICE REGISTERED NURSES

House Bill 5400 as enacted
Public Act 499 of 2016
Sponsor: Rep. Ken Yonker
House Committee: Health Policy
Senate Committee: Health Policy
Complete to 1-17-17

BRIEF SUMMARY: House Bill 5400 amended the Public Health Code to license and regulate advance practice registered nurses (APRNs), a classification of nurses with a masters, post-masters, or doctoral degree in a nursing specialty. APRNs may be nurse-midwives, nurse practitioners, or clinical nurse specialists. The bill also raises application fees and licensing fees for nurses in general. The bill took immediate effect when filed with the Michigan Secretary of State on January 9, 2017.

FISCAL IMPACT: House Bill 5400 would increase revenue from nurse license fees by an estimated $10,879,560 over a two-year period, with $2,901,216 of that to be deposited into the Nurse Professional Fund for scholarships. The remainder would go to the Department of Licensing and Regulation for nursing licensure administration. There would likely be increased administrative costs incurred by the department for additional regulatory responsibilities, but increased fees would offset those costs. See **Fiscal Information**, later in the analysis, for additional explanation.

THE APPARENT PROBLEM:

In Michigan, the Public Health Code provides for the certification of registered professional nurses (RNs) who have advanced training beyond that required for a license, and have demonstrated competency through examination or evaluation, as a nurse midwife, nurse practitioner, or nurse anesthetist. Certified RNs must practice under the supervision of a licensed physician and, depending on the RN's certification, a licensed physician may delegate certain authority to an RN.

Advanced practice registered nurses (APRNs) are not recognized by the Public Health Code. In states that recognize APRNs, the title typically encompasses licensed or certified nurse midwives, anesthetists, practitioners, and specialists. Michigan is one of 21 states that do not recognize APRNs. In 16 states and Washington, D.C., APRNs are allowed to practice autonomously with regard to providing diagnosis and treatment, and are allowed to write prescriptions independently. Generally, APRN models vary based on the type of license or certification, and the degree to which an APRN may practice autonomously or prescribe drugs independently.

Many people believe that the use of APRNs can improve the quality and accessibility of health care, and will help address the shortage of medical professionals that currently exists

and is expected to grow. Because Michigan law does not recognize APRNs, however, and the scope of their practice elsewhere is broader than the scope of practice of RNs with advance practice credentials in this state, there is concern that these RNs are leaving Michigan or deciding not to locate here. Therefore, it has been suggested that the Code should provide for, set regulatory standards for, and define the scope of practice for APRNs, and allow APRNs independence to practice, and prescribe drugs, within the context of their education, training, national certification, and scope of practice.

THE CONTENT OF THE BILL:

House Bill 5400 would amend the Public Health Code to license and regulate advance practice registered nurses (APRNs), a classification of nurses with a masters, post-masters, or doctoral degree in a nursing specialty. APRNs may be nurse-midwives, nurse practitioners, or clinical nurse specialists. The bill also raises application fees and licensing fees for nurses in general. The bill took immediate effect when filed with the Michigan Secretary of State on January 9, 2017.

Specialty certification

Under current law, the Michigan Board of Nursing may grant a specialty certification to a registered professional nurse who has advanced training beyond that required for initial licensure and who has demonstrated competency through examination or other evaluative processes, and who practices in one of the following health profession specialty fields: nurse midwifery, nurse anesthetist, or nurse practitioner. The bill would add "clinical nurse specialist" to that list of qualifying fields.

Essential health provider repayment program

Currently under Section 2705 of the Code, the Department of Licensing and Regulatory Affairs must administer an essential health provider repayment program for designated professionals who have incurred a debtor expenses as a result of a loan taken to attend medical school, dental school, nursing program for the training of certified nurse midwives or certified nurse practitioners, or physician's assistant program or as a result of providing services in a health resource shortage area. The bill would extend this repayment program to apply to clinical nurse specialists-certified, as well.

HIV notification and counseling

Now, an individual who is applying for a marriage license must review certain educational materials and may undergo an HIV test. If those test results are positive, a physician or a designee, the physician's assistant, the certified nurse midwife, the certified nurse practitioner, or the local health officer or a designee must immediately inform both applicants of the test results and provide appropriate counseling. The bill would provide that a clinical nurse specialist-certified would also be qualified to notify and counsel the HIV-positive applicant and prospective spouse.

Licensure fees for nurses

The bill would change a "registered nurse," listed under Part 172 along with "licensed practical nurse" and "trained attendant," to "registered ***professional*** nurse." The application processing fee under that part would also be raised from $24 to $75 and the yearly licensing fee from $30 to $60.

Protected terms

The bill would add the following terms to the existing terms restricted in use only to those persons authorized to use them: "certified nurse midwife," "C.N.M.," "advanced practice registered nurse," "A.P.R.N.," "N.P." "certified nurse practitioner," "C.N.P.," "clinical nurse specialist," "C.N.S.," "clinical nurse specialist-certified," and "C.N.S.-C."

Power to prescribe drugs and controlled substances

Under the bill, an advanced practice registered nurse may prescribe any of the following:

- A nonscheduled prescription drug.
- A controlled substance included in Schedules two to five of Part 72, as a delegated act of a physician. If an APRN prescribes under this section, both the APRN's and physician's names and Drug Enforcement Agency (DEA) numbers will be used.

This change does not require new or additional third-party reimbursement or mandated worker's compensation benefits for services rendered by an APRN who is authorized to prescribe under this section.

Dispensing complimentary starter doses

For complimentary starter doses of controlled substances included in schedules two to five of Part 72, an APRN may order, receive, and dispense as delegated by a physician, and both the APRN's and physician's names and DEA numbers will be used. For all other drugs, an APRN may order, receive, and dispense a complimentary starter dose without delegation, and only the APRN's name will be used. The APRN must give the patient information including the complimentary starter dose's name and strength, directions for use, and the expiration date of the drug.

> ***Complimentary starter dose*** means a prescription drug packaged, dispensed, and distributed in accordance with state and federal law that is provided to a dispensing prescriber free of charge by a manufacturer or distributor and dispensed free of charge by the dispensing prescriber to his or her patients.

Health care calls and rounds by APRNs

Under the bill, an APRN may make calls or go on rounds in private homes, public institutions, emergency vehicles, ambulatory care clinics, hospitals, intermediate or extended care facilities, health maintenance organizations, nursing homes, or other health care facilities. Notwithstanding any law or rule to the contrary, an APRN may make calls or go on rounds as provided without restrictions on the time or frequency of visits by a physician or the APRN.

Delegate to Michigan Board of Nursing

The bill would add a clinical nurse specialist to the voting members of the Michigan Board of Nursing, raising the number of members from 23 to 24. The clinical nurse specialist must be certified as such by a national organization. Also, the clinical nurse specialist, as well as the nurse midwife, nurse anesthetist and nurse practitioner already provided in the Code must have a specialty certification granted by the Michigan Board of Nursing in that person's field.

Once one of the eight public members on the board vacates a seat, that seat will cease to exist (bringing the public seat number to seven and the total number of members back to 23), in order to compensate for the seat added for the clinical nurse specialist.

Patient Rights Act

Currently, the Patient Rights Act provides that a health facility or agency that provides services directly to patients or residents and is licensed under Article 17 of the Public Health Code must adopt a policy describing the rights and responsibilities of patients or residents admitted to the health facility or agency. Certain responsibilities are currently owed by physicians and physician's assistants. The bill would state that, **unless medically contraindicated by the attending physician, physician's assistant, or an APRN, patients are entitled to the following, among other rights:**

- A patient is entitled to receive information about his or her condition, course of treatment, and other information.
- A patient is entitled to receive personal mail unopened on the day it is received at a health facility or agency.
- A patient may meet with, and participate in, the activities of social, religious, and community groups at the patient's discretion.
- A patient is entitled to be free from mental and physical abuse, and physical and chemical restraints, except when authorized in writing by the attending physician, physician's assistant, or an APRN. Restraint may only be used as necessary to protect the patient from injury to self or others, and must be reported promptly to the attending physician, physician's assistant, or APRN who authorized the restraint. In the case of chemical restraint, the physician or APRN must be consulted within 24 hours.
- A married couple in a nursing home is entitled to share the same room.
- A nursing home patient or home for the aged resident is entitled to retain personal clothing and possessions as space permits.
- An APRN (in addition to the attending physician or physician's assistant) must fully inform a nursing home patient of the patient's medical condition.
- If a nursing home patient desires treatment by a licensed member of the healing arts, the treatment must be made available.

Additionally, a patient is entitled to have private communications and consultations with his or her physician, physician's assistant, or an APRN. If considered terminally ill by the attending physician, physician's assistant, or an APRN, a nursing home patient has a right to have the next of kin stay at the facility 24 hours a day.

Additional responsibilities

An APRN may refer a patient for speech-language pathology or physical therapy.

Definitions

Advance practice registered nurse (or APRN): a registered professional nurse who has been granted a specialty certification under Section 17210 in one of the following health specialty fields: nurse midwifery, nurse practitioner, or clinical nurse specialist.

Clinical nurse specialist-certified: an individual licensed as a registered professional nurse under Part 172 who has been granted a specialty certification as a clinical nurse specialist by the Michigan Board of Nursing under Section 17210. Section 17210 allows a specialty certification to a registered professional nurse who has advanced training beyond that required for initial licensure and who has demonstrated competency through examination or other evaluative processes and who practices in one of the following health profession specialty fields: nurse midwifery, nurse anesthetist, or nurse practitioner.

MCL 333.2701 et al.

FISCAL INFORMATION:

The bill would have a significant fiscal impact on the Department of Licensing and Regulatory Affairs, due to changes in the fees paid by licensees in nursing and due to increased administrative costs likely to be incurred by the department for additional regulatory responsibilities. Under the changes to the fees proposed in this bill, fees for a new license applicant's initial year would increase to $135.00 (from $54.00 currently). The fee for a nurse seeking renewal of a license would increase to $120.00, with licenses being renewed biennially (from $60.00 currently). It is important to note that $8.00 of the yearly license fee is deposited into the Nurse Professional Fund for nursing scholarships, so the department will not receive the full amount of the aforementioned licensure fees for costs associated with the licensure program.

The bill would increase revenue from nurse license fees by an estimated $10,879,560 over a two-year period. In fiscal year 2015, there were 181,326 nursing licenses held in Michigan. (This number includes RNs, LPNs, specialty nurses, etc.) In FY 15, the costs of nursing licensure were $8,463,756 while revenues were only $5,294,756, leading to a $3,169,000 gap between revenues and expenditures. In a two-year cycle (using simple back-of-the-envelope calculations) the current pool of licensees under current renewal fees will provide the department with $10,879,560 in revenue, less the $2,901,216 that is deposited into the Nurse Professional Fund. That amount would increase to $21,759,120 (less the $2,901,216) under the altered fees established in this bill. These increased revenues will reduce the shortages that have been experienced by the department for the licensure of nurses in previous fiscal years. Under the proposed schedule of fees and anticipated costs, APRN license fees should be sufficient to generate the required revenue to cover the costs of regulation for this category of nurses. Additionally, the increased fees for application should adequately cover the department’s costs to process applications and verify the credentials and examination results of applicants.

The bill would not have any significant fiscal impact on local units of government.

ARGUMENTS:

For:

Proponents argued that increased responsibilities for APRNs could increase access to health care in Michigan, especially given the anticipated shortage in primary care

physicians across the country and in the state.[1] As baby boomers age and retire, there will be higher demand for medical services, and the number of physicians retiring will exacerbate the need for providers. According to a 2006 study by the Center for Health Workforce Studies on current trends,[2] the state will be short 4,400 primary care physicians in 2020. Increased autonomy for highly qualified registered nurses over some prescribing and patient care could help to address this potential shortfall.

Moreover, supporters state that APRNs tend to provide affordable quality health care, particularly in rural and underserved areas, and areas designated as health professional shortage areas (HPSAs). An Annals of Family Medicine 2003 study[3] of health care professionals in California and Washington showed that, when compared with licensed physicians, a higher proportion of CNPs and CNMs tended to work in rural areas and HPSAs. Additionally, the study showed that non-physician primary care clinicians, and family physicians, were more likely to care for underserved populations than specializing physicians. In California, physician assistants had the greatest proportion of their members (48%) practicing in communities with vulnerable populations.

Response:

While allowing increased responsibilities for APRNs is good for both professionals and patients, some question the increase in nursing fees. To cite one example, critics say that RN renewal fees have tripled since 1989 and would now be doubled under this bill. Note that this legislation ties the provisions that benefit APRNs to increased fees for all nurses, including LPNs and trained attendants. Is this the way to encourage entrants into these professions? Perhaps these fees should be in a separate bill rather than tied up with a policy the profession so ardently desires.

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[1] http://crcmich.org/PUBLICAT/2010s/2015/primary_care_physician_shortage-2015.pdf
[2] http://www.ihcs.msu.edu/documents/MichiganPhysicianSupplyandDemandthrough2020-Final.pdf
[3] http://www.ncbi.nlm.nih.gov/pmc/articles/PMC1466573/