

BASIC FACTS ABOUT LICENSING A NEW PROFESSION IN CALIFORNIA

Legislative Process

Legislation should be introduced in the first two months of the legislative session, which begins in January. 2019 is the first year of a two year session. Introduction of difficult or controversial legislation is usually introduced in the first year of a session, but it is not required. The Legislature must pass legislation creating a licensing category for the profession and Governor must sign the legislation.

A profession proposing licensure must go through the “sunrise process.” This process is conducted by the Business and Professions Committees of the Legislature. The profession is required to complete a sunrise questionnaire which asks a series of questions about the profession, including the qualifications of the profession, and need for licensure. The questionnaire provides the legislature information and data about the profession that is meant to inform legislators regarding the basis for licensure. In 2019 the Assembly Business and Professions Committee will be responsible for the sunrise process. When the questionnaire is completed, the committee can choose to hold a hearing on the issues surrounding licensure or can simply wait and consider the licensing bill that is introduced.

Any new profession is subject oversight and regulation by the state. The legislation will define the form of regulation and oversight, the scope of practice, the specific requirements to qualify for licensure and the cost for a license.

The Licensing Body.

The licensed profession can be overseen in one of three ways:

- Creation of a new board specific to the profession.

SACRAMENTO

1415 L STREET, SUITE 1200
SACRAMENTO, CA 95814

T 916.446.6752 F 916.446.6106

SAN FRANCISCO BAY AREA

2350 KERNER BLVD, SUITE 250
SAN RAFAEL, CA 94901

T 415.389.6800 F 415.388.6874

- Placing responsibility with an existing board, such as the Medical Board of California (MBC) which oversees physicians and nurse midwives. It is possible to have a committee or even a board staffed by those managing an existing board that would be devoted to dietitian oversight. An example is the Physician Assistants Board within the MBC.
- Placement of oversight responsibility with a “bureau” which is oversight by staff of the Department of Consumer Affairs (DCA) rather than by a board. Nine Professions are subject to oversight by a bureau. None are health care related.

Creation of a new board is extremely difficult to achieve. There has not been a new board in over 15 years. It requires creation of a new bureaucracy and a showing that no existing board can accommodate the oversight necessary for the new profession. In light of the boards that do exist and the professional activities of dietitians, it is unlikely that the Legislature would see a new board as necessary.

This leaves the options of being placed under the jurisdiction of an existing board or oversight through a bureau.

The existing boards most likely would be either the MBC which oversees physicians and nurse midwives or the Board of Registered Nurses (BRN). These boards and their existing regulated professionals may not support inclusion of dietitians and the Academy may be resistant as well.

The option of being under a bureau is the least costly and would not draw opposition from those regulated by existing boards based upon workload and management issues. However, it lacks the component often sought by professions seeking licensure; a board of likeminded professionals to oversee regulation of the profession.

Scope of Practice.

Often, the most contentious issue facing a profession seeking licensure is over the scope of practice of the profession. All existing professions jealously guard their practice areas and usually resist others’ encroachment. You should expect nurses, physician’s assistants and perhaps others to raise concerns. In

addition, you must decide if you are going to include those holding themselves out as "nutritionists" within the license requirements. There are pros and cons to this which need to be discussed.

The Cost of Licensure.

The cost of creating licensing for the profession is borne by the licensees. This is facilitated through the annual licensing fee. The Department of Consumer Affairs would determine the fee if the profession is to be regulated through a bureau and if through a particular board, it would propose the fee necessary. There are other costs that must be borne by all licensees that would also be included in the fee. As an example of the fees that would apply, currently, nurses pay approximately \$400 for an initial application and \$200 for renewal.

It would take approximately two years from the time a licensing bill went into effect for a license to "go live" in California. Delays have occurred for a variety of reasons.

Finally...Why should the profession be licensed?

As we have discussed with the Academy in the past, the purpose of licensure is consumer protection. Hence, the question will be asked whether consumers in California are at risk because dietitians are not licensed. While all of the issues discussed above must be dealt with, the first and most important question will be how it benefits consumers.