The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Health Policy

BILL: SB 1286

INTRODUCER: Senators Gibson and Latvala

SUBJECT: Diabetes Educator Practice

DATE: February 15, 2016 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Rossitto-Van Winkle	Stovall	HP	**Pre-meeting**
2.			AHS	
3.			AP	

I. Summary:

SB 1286 creates a new licensed and regulated profession in Florida, the diabetes educator. The bill prohibits persons, and many licensed health care professionals, from engaging in diabetes education or diabetes self-management education or training (DSME/T) unless he or she holds a diabetes educator license. The bill expands the role of the Dietetics and Nutrition Practice Council under the Board of Medicine (BOM); by assigning it responsibility for the licensing, monitoring, and disciplining of diabetes educators. The bill requires the BOM to adopt rules and set fees for all application, licensure, and renewal processes of the profession.

The effective date of the bill is January 1, 2018.

II. Present Situation:

Diabetes is a group of diseases in which the body produces too little insulin,[1] is unable to use insulin efficiently, or both. When diabetes is not controlled, glucose and fats remain in the blood and eventually cause damage to vital organs.

The most common forms of diabetes are:

- **Type 1**: Sometimes known as juvenile diabetes, type 1 is usually first diagnosed in children and adolescents and accounts for about five percent of all diagnosed cases. Type 1 diabetes is an autoimmune disease in which the body's own immune system destroys cells in the pancreas that produce insulin. Type 1 may be caused by genetic, environmental, or other risk factors. At this time, there are no methods to prevent or cure type 1 diabetes, and treatment requires the use of insulin by injection or pump.

[1] Insulin is a hormone that allows glucose (sugar) to enter cells and be converted to energy. Merriam-Webster, available at: http://www.merriam-webster.com/dictionary/insulin, (last visited Feb. 11, 2016).

- **Type 2**: Sometimes known as adult-onset diabetes, type 2 accounts for about 95 percent of diagnosed diabetes in adults and is usually associated with older age, obesity, lack of physical activity, family history, or a personal history of gestational diabetes. Studies have shown that healthy eating, regular physical activity, and weight loss can prevent or delay the onset of type 2 diabetes or eliminate the symptoms and effects post-onset.
- **Gestational diabetes**: This type of diabetes develops and is diagnosed as a result of pregnancy in 2 to 10 percent of pregnant women. Gestational diabetes can cause health problems during pregnancy for both the child and mother. Children whose mothers have gestational diabetes have an increased risk of developing obesity and type 2 diabetes. [2]

Complications of diabetes include: heart disease, stroke, high blood pressure (hypertension), blindness and other eye problems, kidney disease, nervous system disease, vascular disorders, and amputations. Death rates for heart disease and the risk of stroke are about two to four times higher among adults with diabetes than among those without diabetes. Diabetes and its potential health consequences can be managed through physical activity, diet, self-management training, and, when necessary, medication.[3]

People with "pre-diabetes" are at high risk of developing type 2 diabetes, heart disease, and stroke. Their blood glucose levels are higher than normal, but not high enough to be classified as diabetes. Although an estimated 33 percent of adults in the United States have pre-diabetes, less than 10 percent of them report having been told they have the condition. Thus, awareness of the risk is low. People with pre-diabetes who lose five to seven percent of their body weight and get at least 150 minutes per week of moderate physical activity can reduce the risk of developing type 2 diabetes by 58 percent.[4]

Risk factors for diabetes include:[5]

- Being over the age of 45;
- Overweight;
- Having a parent or sibling with diabetes;
- Having a minority family background;
- Developing diabetes while pregnant, gave birth to a baby weighing 9 pounds or more; and
- Being physically active less than three times per week.

Persons with any of the above risk factors are also at risk of developing pre-diabetes. Individuals with pre-diabetes are five to 15 times more likely to develop type 2 diabetes, heart disease, and stroke.[6] The Centers for Disease Control (CDC) estimates that as many as one out of every three

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[2] U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, *Diabetes Report Card*, 1 (2014), p.4, *available at* http://www.cdc.gov/diabetes/pdfs/library/diabetesreportcard2014.pdf, (last visited Feb. 11, 2016).
[3] U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, *Diabetes Latest* http://www.cdc.gov/features/diabetesfactsheet/ (last visited Feb. 11, 2016).
[4] *Supra* note 2, at 4.
[5] Florida Department of Health, *Diabetes, Warning Signs and Risk Factors* http://www.floridahealth.gov/diseases-and-conditions/diabetes/warning-signs.html (last visited Feb. 11, 2016).
[6] Florida Department of Health, *Prediabetes, What is Prediabetes?,* http://www.floridahealth.gov/diseases-and-conditions/diabetes/prediabetes.html (last visited Feb. 4, 2015).

American adults has pre-diabetes and half of all Americans aged 65 years and older have pre-diabetes.[7]

In 2013, the American Diabetes Association (ADA)[8] released a report updating its earlier studies (2002, 2007) estimating the economic burden of diagnosed diabetes. In 2012, the total estimated cost of diagnosed diabetes in the United States was $245 billion, including $176 billion in direct medical costs and $69 billion in reduced productivity. This represents a 41 percent increase over the 2007 estimate. The largest components of these costs are hospital inpatient care (43 percent) and medications to treat complications (18 percent). People with diagnosed diabetes incur average medical costs of about $13,700 per year, of which about $7,900 is attributed to diabetes. Care for people with diagnosed diabetes accounts for more than one in five dollars spent on health care in the United States, and more than half of that is directly attributable to diabetes. Overall, average medical expenses for a person with diabetes are 2.3 times higher than they are for a person without diabetes.[9]

Diabetes in Florida

Diabetes was the seventh leading cause of death in 2014 in Florida.[10] The prior year, diabetes had been the sixth leading cause of death. As a percentage of total deaths in the state, diabetes accounted for 2.9 percent of all deaths, and over a three year period (2012 - 2014), diabetes had an age adjusted death rate per 100,000 of 19.7 or 15,597 deaths.[11]

Florida's Diabetes Advisory Council

The Diabetes Advisory Council was reinstated in law in 1980 to guide statewide policy on diabetes prevention, diagnosis, education, care, treatment, impact, and costs.[12] It serves in an advisory capacity to the Department of Health (DOH), other agencies, and the public. The council consists of 26 members appointed by the Governor who have experience related to diabetes. Twenty-one of the members are representatives of a broad range of health and public health-related interests. The remaining five members are representatives of the general public, at least three of whom are affected by diabetes. The council meets annually with the State Surgeon

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[7] *Id.*

[8] The ADA was founded in 1940 by 26 physicians. It remained an organization for health care professionals during its first 30 years. In 1970, the Association welcomed general members. In the years since, it has grown to include a network of more than 1 million volunteers. See American Diabetes Association, 75 Years of Progress, available at: http://www.diabetes.org/about-us/75th-anniversary/ (last visited Feb. 10, 2016).

[9] American Diabetes Association, *Economic Costs of Diabetes in the U.S. in 2012*, Diabetes Care 36: 1033 – 1046, 2013, *available at,* http://care.diabetesjournals.org/content/36/4/1033.full.pdf+html (last visited Feb. 11, 2016).

[10] Florida Department of Health, *Florida Vital Statistics Annual Report,* p. 18, available at: http://www.flpublichealth.com/VSBOOK/pdf/2014/Deaths.pdf, (last visited Feb. 11, 2016).

[11] Florida Department of Health, *Florida Charts: Diabetes Deaths - Three Year Trends* http://www.floridacharts.com/charts/DataViewer/DeathViewer/DeathViewer.aspx?indNumber=0090 (last visited Feb. 11, 2016).

[12] Chapter 1980-62, Laws of Fla. (reinstating the Diabetes Advisory Council into Chapter 381, F.S., pertaining to health.) The council had previously been located under ch. 241, F.S., relating to education and had been repealed by the 1979 Legislature. *See Florida Legislature - 1980 Summary of General Legislation,* p. 145, available at: http://www.law.fsu.edu/library/collection/FlSumGenLeg/FlSumGenLeg1980.pdf (Last visited February 11, 2016).

General to make recommendations regarding the public health aspects of the prevention and control of diabetes.[13]

Diabetes Educators

The American Diabetes Association (ADA) defines a "diabetes educator" as, "a health care professional who teaches people who have diabetes how to manage their diabetes."[14] Diabetes educators are found in hospitals, physician offices, managed care organizations, home health care, and other settings.[15]

The State of Florida does not currently license or regulate diabetes educators. The existing scope of practice in Florida for the following health care professions includes patient or client education, and that education can relate to diabetes:

- Medical Physician
- Osteopathic Physician
- Podiatric Physician
- Chiropractic Physician
- Dentist
- Pharmacist
- Advanced Registered Nurse Practitioner (ARNP, CNS, CRNA)
- Physician Assistant
- Registered Nurse
- Dental Hygienist
- Licensed Practical Nurse
- Paramedic
- Emergency Medical Technician
- Dietitian/Nutritionist
- Orthotist
- Acupuncturist
- Athletic Trainer
- Physical Therapist
- Massage Therapist
- Prosthetist
- Midwifery
- Optician
- Optometrist
- School Psychologist
- Orthotic Fitter

[13] Section 385.203, F.S. The Diabetes Advisory Council and the Florida Diabetes Alliance's Florida's Diabetes Strategic Plan 2015 – 2020 contains no recommendations for this new profession of licensed diabetes educators. *See* Florida Department of Health, Diabetes Advisory Council, *Diabetes Strategic Plan 2015 – 2020*, available at: http://www.floridahealth.gov/provider-and-partner-resources/dac/_documents/2015-strategic-plan.pdf, (last visited Feb. 15, 2016).
[14] *See* American Diabetes Association, Diabetes Basics, *Common Terms*, available at: http://www.diabetes.org/diabetes-basics/common-terms/?loc=db-slabnav, (Last visited February 10, 2016).
[15] *Id.*

- Mental Health Counselor
- Clinical Psychologist
- Clinical Social Worker

Kentucky enacted a diabetes educator law in 2013,[16] and Indiana did so in 2014.[17] Both are under the respective state's board of medicine. Kentucky provides three paths for individuals to become licensed as diabetes educators. An individual must file an application, pay a fee, and demonstrate completion of any one of the following:

- A board-approved course in diabetes education with demonstrable experience in the care of people with diabetes under supervision that meets requirements specified in administrative regulations promulgated by the board;[18] or
- The credentialing program of the American Association of Diabetes Educators (AADE) or the National Certification Board for Diabetes Educators (NCDBE); or
- An equivalent credentialing program as determined by the board.

Indian's law is similar to Kentucky's as a diabetes educator license can be obtained by demonstrating completion of one of the four following:

- The AADE core concepts course[19] with demonstrable experience in the care of individuals with diabetes under supervision that meets requirements specified in rules adopted by the board.
- The credentialing program of the AADE;
- The credentialing program of the NCBDE; or
- An equivalent credentialing program as determined by the board.

The AADE was founded in 1973, as a multi-disciplinary professional membership organization dedicated to improving diabetes care through education. It has more than 14,000 members including nurses, dietitians, pharmacists and others. The AADE offers the Board Certified-Advanced Diabetes Management (BC-ADM) credential.[20]

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[16] The Kentucky Board of Licensed Diabetes Educators, *Laws and Regulations Relating to Licensed Diabetes Educators*, s. 309.335, K.R.S., p. 7, available at: http://bde.ky.gov/Documents/Laws%20and%20Regulations.pdf, (last visited Feb. 11, 2016).

[17] See IC 25-14.3-3-3, (2015), available at http://www.in.gov/pla/files/2015_Medical_Compilation.pdf, (last visited Feb. 11, 2016).

[18] 201 KAR 45:110 (2015), requires the apprentice diabetes educator to accumulate at least 750 hours of supervised work experience in 5 years with 250 of the hours being obtained in the 12 months preceding licensure application. The apprentice is required to interact with the supervisor at least two hours quarterly, one hour of which must be in person. A supervisor shall not supervise more than four apprentices at a time. The supervision process shall focus on: (a) Identifying strengths, developmental needs, and providing direct feedback to foster the professional development of the apprentice diabetes educator; (b) Identifying and providing resources to facilitate learning and professional growth; (c) Developing awareness of professional and ethical responsibilities in the practice of diabetes education; and (d) Ensuring the safe and effective delivery of diabetes education services and fostering the professional competence and development of the apprentice diabetes educator.

[19] American Association of Diabetes Educators, *CORE Concepts Course On Line*, is available for a cost of between $386 - $586, *available at* https://www.diabeteseducator.org/education-career/online-courses/ccc-online, (last visited Feb. 11, 2016).

[20] The American Association of Diabetes Educators, *About AADE*, available at: https://www.diabeteseducator.org/about-aade, (last visited Feb. 12, 2016).

Healthcare professionals who hold BC-ADM certification, if within their scope of practice, are trained to:

- Adjust medications;
- Treat and monitor complications and other comorbidities;
- Council patents on lifestyle modifications;
- Address psychosocial issues; and
- Participate in research and mentoring.

Certification as a BC-ADM requires a current active licensure/registration as a registered nurse, dietitian, pharmacist, physician or physician assistant, a master's or higher level degree, and 500 clinical practice hours within 48 months prior to taking the certification exam.[21]

The NCBDE was established in 1986 as an independent organization that promotes the interests of diabetes educators and the public by granting certification to qualified health professionals. The NCBDE offers the Certified Diabetes Educator (CDE) credential. Individuals holding the CDE credential educate people affected by diabetes to manage the condition and promote self-management in order to optimize health outcomes.[22]

Certification as a CDE requires active licensure/registration as a psychologist, registered nurse, occupational therapist, optometrist, pharmacist, physical therapist, physician, podiatrist, dietitian with a Commission on Dietetic Registration (CDR), or a health professional with a master's degree or higher in social work. Professional practice experience, continuing education and an examination are also required.[23]

The CDC has also established the CDC National Diabetes Recognition Program (NDRP) as part of the National Diabetes Prevention Program (NDPP).[24] The NDPP is a partnership of public and private organizations working to reduce the growing problem of lack of public education on prediabetes and type 2 diabetes.[25] A key part of the NDPP is the lifestyle change program to prevent or delay type 2 diabetes. Hundreds of in-person, and online, lifestyle change programs nationwide teach participants to make CDC approved lasting lifestyle changes, like eating healthier, adding physical activity into a daily routine, and improving coping skills. To ensure high quality, the CDC recognizes lifestyle change programs that meet certain standards and show they can achieve results. These standards include following an approved curriculum, facilitation by a trained lifestyle coach, and submitting data each year to show that the program is having an impact. The NDPP must use a lifestyle coach to deliver the program to participants. Many

[21] Id.
[22] National Certification Board for Diabetes Educators, *History*, http://www.ncbde.org/about/history/ (last visited Feb. 12, 2016).
[23] Id.
[24] U.S. Department of Health and Human Services, Center for Disease Control and Prevention, *Diabetes Prevention Recognition Program, Standards and Operating Procedures*, available at: http://www.cdc.gov/diabetes/prevention/pdf/dprp-standards.pdf, (last visited Feb. 11, 2016).
[25] U.S. Department of Health and Human Services, Center for Disease Control and Prevention, *What Is the National DPP?*, http://www.cdc.gov/diabetes/prevention/about/index.html, (last visited Feb. 11, 2016).

lifestyle coaches are registered dieticians or registered nurses, but no credentials are required;[26] and the CDC has a free lifestyle coach facilitator training guide available on its website.[27]

The AADE also offers NDPP diabetes lifestyle coach training based on the curriculum of the CDC in a 2 day, in person, course for $750 - $850 to acquire all necessary skills to deliver a successful CDC NDRP/NDPP Program.[28]

The Sunrise Act and Sunrise Questionnaire

The Sunrise Act (the act), codified in s. 11.62, F.S., requires the Legislature to consider specific factors in determining whether to regulate a new profession or occupation. The legislative intent in the act provides that:

- No profession or occupation be subject to regulation unless the regulation is necessary to protect the public health, safety, or welfare from significant and discernible harm or damage and that the state's police power be exercised only to the extent necessary for that purpose; and
- No profession or occupation be regulated in a manner that unnecessarily restricts entry into the practice of the profession or occupation or adversely affects the availability of the services to the public.

The Legislature must review all legislation proposing regulation of a previously unregulated profession or occupation and make a determination for regulation based on consideration of the following:

- Whether the unregulated practice of the profession or occupation will substantially harm or endanger the public health, safety, or welfare, and whether the potential for harm is recognizable and not remote;
- Whether the practice of the profession or occupation requires specialized skill or training, and whether that skill or training is readily measurable or quantifiable so that examination or training requirements would reasonably assure initial and continuing professional or occupational ability;
- Whether the regulation will have an unreasonable effect on job creation or job retention in the state or will place unreasonable restrictions on the ability of individuals who seek to practice or who are practicing a given profession or occupation to find employment;
- Whether the public is or can be effectively protected by other means; and
- Whether the overall cost-effectiveness and economic impact of the proposed regulation, including the indirect costs to consumers, will be favorable.

The act requires the proponents of legislation for the regulation of a profession or occupation to provide specific information in writing to the state agency that is proposed to have jurisdiction

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[26] *Supra* note 20, at 25.

[27] U.S. Department of Health and Human Services, Center for Disease Control and Prevention, *National Diabetes Prevention Program, Life Coach Facilitation Guide* http://www.cdc.gov/diabetes/prevention/pdf/curriculum_intro.pdf (last visited Feb. 11, 2016).

[28] American Association of Diabetes Educators, *AADE Diabetes Prevention Program Lifestyle Coach Training*, https://www.diabeteseducator.org/practice/diabetes-prevention-program/lifestyle-coach-training (last visited Feb. 11, 2016).

over the regulation and to the legislative committees of reference.[29] This required information is traditionally compiled in a "Sunrise Questionnaire."

III. Effect of Proposed Changes:

SB 1286 creates part XVII of ch. 468, F.S., entitled "Diabetes Educator Practice," to establish a new licensed and regulated profession in Florida, the diabetes educator.

The bill enumerates that the previously unregulated profession or occupation of a diabetes educator requires licensing and regulating for the following reasons:

- The practice of diabetes education or diabetes self-management education and training (DSME/T) requires highly skilled and educated professionals to protect the public health and safety;
- It is difficult for the public to make informed choices about diabetes education;
- The consequences of choosing the wrong diabetic education could seriously endanger the public health and safety; and
- A person practicing diabetes education or DSME/T who falls below a minimum level of competent, safe practice presents a danger to the public.

The bill defines the following terms for the diabetes educator practice:

- "Board Certified–Advanced Diabetes Management Professional" means a health care professional who has passed the BC-ADM examination administered by the AADE.
- "Certified diabetes educator" or "CDE" means a health care professional who:
  - Possesses comprehensive knowledge of and experience in prediabetes, diabetes prevention, and DSME/T; and
  - Has passed the NCBDE certification examination for diabetes educators.
- "Council" means the Dietetics and Nutrition Practice Council which will regulate diabetes educators under the supervision of the BOM;
- "Diabetes self-management education and training" or "DSME/T" means educational services provided for diabetes self-management included in the national standards published by the AADE and the ADA.
- "Licensed diabetes educator" or "LDE" means a person who has met all requirements of this part to receive a license;
- "National Certification Board for Diabetes Educators" or "NCBDE" means the board that conducts the national certification program and administers certification.
- "Practice of diabetes education or DSME/T" means the assessment of a person with or at risk for diabetes, the development of a plan of care for that person, the evaluation of the person's response to the implementation of the plan of care, and the recording and evaluation of the person's experience.

The bill requires that a person have a license issued by the DOH in order to engage in diabetes education or DSME/T for remuneration, or hold himself or herself out as a diabetes educator or DSME/T. To qualify for a license a person must submit a written application and provide evidence that the applicant has met one of the following requirements:

[29] See s. 11.62(4)(a)-(m), F.S.

- Passed the NCBDE examination[30] for and received certification as a CDE;
- Passed the BC-ADM examination[31] and received the AADE's BC-ADMdesignation; or
- Completed 250 hours of experience under the supervision of a CDE, with 40 percent of the hours earned in the 12 months immediately before application, and passed a certification examination administered by the NCBDE.

The bill does not prohibit allopathic or osteopathic physicians, physician assistants, podiatrists, dentists, nurses, optometrists, or pharmacists, or their respective supervised employees, or federal employees discharging their official duties, from practicing diabetes education or DSME/T within the scope their license.

The bill limits the scope of practice for the following Florida healthcare practitioners, currently able to engage in diabetes education and DSME/T under their respective practice acts, from practicing diabetes education or DSME/T without obtaining a separate license:

- Chiropractic Physicians
- Naturopathic Physicians
- Paramedics
- Emergency Medical Technicians
- Dietitians
- Nutritionists
- Orthotists
- Acupuncturists
- Athletic Trainers
- Physical Therapists
- Massage Therapists
- Prosthetists
- Midwives
- School Psychologists
- Orthotic Fitters
- Mental Health Counselors

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[30] In order to sit for the NCBDE examination a candidate must have a current unrestricted active license or registration as a clinical psychologist, registered nurse, occupational therapist, optometrist, pharmacist, physical therapist, physician, podiatrist, master certified health education specialist, certified clinical exercise physiologist, registered clinical exercise physiologist, registered dietitian, dietitian, nutritionist, or registered physician assistant; or hold a minimum of a master's degree in social work from a U.S. college or university accredited by a nationally recognized regional accrediting body. If the candidate does not have these credentials he or she may investigate the NCBDE's Unique Pathway which requires a degree, two calendar years of practice experience within the last four years since receiving the license, registration or advanced degree; 1000 hours of practice experience in DSME within the last 4 years of which 40 percent (400 hours) must have been accrued in the last year; and 15 hours of continuing education applicable to diabetes within the past 2 years. *See* National Certification Board for Diabetes Educators, *2016 Certification Examination for Diabetes Educators*, Rev. November 20, 2015, available at: http://www.ncbde.org/assets/1/7/Handbook_Current.pdf, (last visited Feb. 12, 2016).

[31] Certification as a BC-ADM requires a current active licensure/registration as a registered nurse, dietitian, pharmacist, physician or physician assistant, a master's or higher level degree, and 500 clinical practice hours within 48 months prior to taking the certification exam. *See* American Association of Diabetes Educators, *Candidate Handbook For the American Association of Diabetes Educators (AADE) Board Certified Advanced Diabetes Management (BC-ADM) Examination,* updated May 26, 2015, available at: https://castleworldwide.com/aade/AppSystem/6/Public/Resource/AADE_Candidate_Handbook.pdf, (last reviewed Feb. 12, 2016).

- Clinical Psychologists
- Clinical Social Workers

Under the bill the above listed healthcare practitioners could be subject to discipline for providing diabetes education to their patients or clients under their respective practice acts for violating s. 456.072(1)(o)., F.S., for practicing or offering to practice beyond the scope of law.

The bill allows licensed diabetes educators from any U.S. state or territory, or foreign country, whose licensure requirements were equal to, or exceed, those of Florida, to engage in the practice of diabetes education or DSME/T without obtaining a Florida license.

The bill expands the role of the Dietetics and Nutrition Practice Council (council)[32]giving it the additional responsibility, under the supervision of the BOM, for licensing, monitoring, and disciplining diabetes educators. The BOM is required to certify, and the council is required to issue licenses by endorsement, to qualified applicants who submit an application, fee and evidence of one of the following:

- A CDE or BC-ADM designation; or
- A valid license to practice diabetes education or DSME/T issued by another U.S. state or territory, if the board determines that the criteria for the issuance of such license are substantially equivalent to those of this state.

The bill requires the BOM to set all application, licensure, endorsement and renewal fees, within limits, and to make rules to implement part XVII of ch. 468, F.S.

The bill creates a first degree misdemeanor criminal offense for practicing DSME/T or engaging in diabetes education for remuneration, or holding oneself out as a diabetes educator, unless licensed as required by the act.

The bill also provides grounds for disciplinary action including grounds for denial of a license.

Section 468.506, F.S., relating to the council, is amended to change the composition of the council. Rather than four persons licensed under the Dietetics and Nutrition Practice Act, membership of these practitioners is reduced to three and one person licensed as a diabetes educator is added to the council.

The bill has an effective date of January 1, 2018.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

[32] The Dietetics and Nutrition Practice Council is currently under the Board of Medicine. It approves applications for licensure for dieticians and nutritionists, but the council does not have authority to discipline licensees. The Board is tasked with all matters relating to the discipline of Dietitian/Nutritionists. *See* s.468.505, F.S.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

SB 1286 establishes maximum fees as follows:

- A nonrefundable application fee - $100;
- An initial licensure fee - $100;
- A biennial renewal fee - $50;
- A fee for licensure by endorsement - $350;
- A fee for a temporary permit - $100; and
- A fee for reactivation of an inactive license - $50.

B. Private Sector Impact:

The bill will require chiropractic physicians, naturopathic physicians, paramedics, emergency medical technicians, dietitians, nutritionists, orthotists, acupuncturists, athletic trainers, physical therapists, massage therapists, prosthetists, midwives, school psychologists, orthotic fitters, mental health counselors, clinical psychologists, and clinical social workers to cease diabetes education in the course of their care of patients with, or at risk of having, diabetes or obtain additional training and another license.

Healthcare practitioners providing diabetes education will now require an additional license. Individuals will be required to pay all fees associated with initial licensure and licensure renewal/reactivation. Individuals will also be responsible for any costs associated with obtaining and maintaining the needed certifications and continuing education.

The bill may limit patient and public access to diabetes education by restricting the persons who could provide that information, including the above noted health care providers who may choose not to be dually licensed. Non-profit diabetes education providers as well as health and wellness service providers may also be adversely impacted.

C. Government Sector Impact:

The Division of Medical Quality Assurance (MQA) will be required to license and regulate a new profession. The CBMT indicates that there are over 14,000 diabetes educators with BC-ADM credentials nationwide, yet it is unknown how many are in Florida; therefore the fiscal impact is indeterminate at this time.

VI. Technical Deficiencies:

- Lines 127 - 131 exempt a person licensed under the laws of another state or territory whose licensure requirements are equal to or exceed Florida's from licensure in this state. This appears to allow a person to practice in Florida without being subject to regulation or disciplinary action in the event of a failure to meet practice requirements or criminal conviction. These lines also appear to be in conflict with lines 204 - 208 which provide for a person so licensed in another state to apply for licensure in this state by endorsement.
- The powers and duties vested in the Council in lines 134 - 139 and 362 - 365 appear to be in conflict with s. 468.506, F.S., which limits powers and duties of the Council to those delegated by the BOM.
- Lines 332 - 336 refers to reissuance of a license and final orders issued by the "board" which appears to be in conflict with lines 134 - 139 which specify that the council will license and discipline diabetes educators.
- The bill makes multiple references to the Council issuing/reissuing and renewing licenses. The DOH is the entity that issues/reissues and renews licenses.
- The bill provides for a temporary permit fee, however, it does not specify the requirements for obtaining a temporary permit. Based upon the requirements specified for permanent licensure it is not clear that a temporary permit process is required.

VII. Related Issues:

The Florida Senate Sunrise Questionnaire to aid the Legislature in determining the need to regulate diabetes educators has been provided to the Senate Health Policy Committee.

The bill will impact the scope of practice for some currently regulated health care providers such as chiropractic physicians, naturopathic physicians; paramedics, emergency medical technicians, dietitians, nutritionists, orthotists, acupuncturists, athletic trainers, physical therapists, massage therapists, prosthetists, midwives, school psychologists, orthotic fitters, mental health counselors, clinical psychologists, and clinical social workers. They will no longer be able to provide diabetes education to their patients or clients without obtaining this additional license.

The number of individuals who will qualify for, or pursue licensure is unknown. The restrictions on the practice of providing diabetes education may affect the public's access to these services.

The effective date of the act is January 1, 2018. Providing an effective date prior to the requirement for licensure may facilitate implementation of the act.

VIII. Statutes Affected:

This bill substantially amends section 468.506 of the Florida Statutes.

This bill creates the following sections of the Florida Statutes: 468.931, 468.944, 468.932, 468.933, 468.934, 468.935, 468.936, 468.937, 468.938, 468.939, 468.940, 468.941, 468.942, and 468.943.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.