

One Hundred Second Legislature - First Session - 2011

Introducer's Statement of Intent

LB222

Chairperson: Senator Kathy Campbell

Committee: Health and Human Services

Date of Hearing: January 21, 2011

The following constitutes the reasons for this bill and the purposes which are sought to be accomplished thereby:

LB 222 is a very narrow revision of the Regulation of Health Professions Act. That is the statute that governs the "407" reviews of a health profession's proposal for initial licensure or to expand their scope of practice, before such proposals come to the Legislature. 407 is both optional and advisory and intended to assist the Legislature in their deliberations.

The original (LB) 407 statute was enacted in 1985 and applied only to proposals by an unlicensed profession to be licensed. Three years later, in the 1988 session, the Legislature expanded 407 reviews to include proposals by an already licensed profession to expand its scope of practice. That is quite a different policy question, but the review criteria were not, in 1988 nor since, revised to make them appropriate or specific to scope expansion reviews. Presently both types of 407 proposals are subject to the application of four statutory criteria and are reviewed separately by a technical review committee, the Board of Health, and the Director of Public Health. To receive a recommendation for approval from any of these entities, a proposal must satisfy all four criteria.

LB 222 would remove the application of one of the present 407 criteria to reviews for expanded practice. That criterion requires the proposing profession to demonstrate that a present limitation on their scope of practice creates a situation of harm to the public which is easily perceived and not the subject of supposition or conjecture.

The application of this criterion to proposals for licensure of an unlicensed health profession is both logical and reasonable. It is intended to prevent state regulatory authority from being extended to where it is not needed to protect the health and welfare of the public. However, there is no logical reason for its being applied to a scope expansion proposal, and it does not well serve the 407 process. The criterion creates a kind of Catch-22 situation for the proposing profession, and scope expansions frequently fail their reviews because the proposing profession can not conjure up some sort of "harm" that is occurring because of the present limitation on their ability to practice their profession.

The appropriate - and the most important and critical - of the present criteria for a scope expansion review is the criterion which requires a finding that the expansion would create a new danger of harm to the public. In other words, does the proposing profession possess the education, skill, and experience to expand their practice without posing a risk of harm to the public. That criterion and the others would be left in place by LB 222.

Though the statutory change which would be brought about by this bill is a small one, the benefit to the 407 process, health care, the Legislature, and the public would be significant and important.

Principal Introducer: _____

Senator Mike Gloor