

# Occupational Licensing and Regulation in Public Health

By Bernadette Bartlett

**R**egulation and deregulation are big topics of conversation these days in state government. Recently, Gov. Rick Snyder transformed the Department of Energy, Labor & Economic Growth into the Department of Licensing and Regulatory Affairs (LARA), an executive department under which all occupational licensing and regulation will operate, including the health occupations governed by the 1978 Michigan Public Health Code. This opens the door for potentially significant changes to an area of government that interacts with both a specific industry and the general public.

With an emphasis on safe and competent health care and protecting the public health and welfare, the drafters of the 1978 code simplified and expanded the regulation of health occupations in Article 15. They provided general provisions creating a uniform administrative and authoritative framework that applied to all licensed occupations, present and future. The code also included important definitions, such as the distinction between “licensing,” which refers to protection of the scope of practice, and “registration” that protects the use of a title such as “registered sanitarian,” and differentiated between a “health professional” and a person who works in a health occupation.

In conjunction with these general provisions, language was also drafted that established specific occupational governing boards or task forces. Eleven occupations were established within the code (dentistry, dental hygiene, medicine, osteopathic medicine and surgery, podiatric medicine and surgery, nursing, veterinary medicine, chiropractic, optometry pharmacy and physical therapy, and psychology and physician assistants) that individually could be required to promulgate rules to assess and impose

standards for training and practice, advertising requirements, and disciplinary sanctions.

Under the new law, health professionals typically had to achieve specific levels of training, pass tests or inspections to receive a license or registration, and comply with continuing-education requirements to retain or renew a license or registration. To support the added administrative duties within government, the department charged applicants and license holders fees for testing and receiving or renewing a license.<sup>1</sup>

In the years that followed passage of the 1978 code, health occupations continued to grow and subdivide into new specialties and to grapple with the recurring question of disciplinary procedures for incompetent or impaired physicians. Legislation passed in 1993 to address this issue increased public participation and ensured consistent practice in disciplinary activities across all health occupation boards. It also created new programming to address “...non-punitive, treatment-oriented approaches to deal with impaired health professionals” or those suffering from substance abuse and mental impairments.<sup>2</sup>

Today, there are 30 licensed or registered health occupations; some categories, such as body art (tattooing, piercing, etc.), are licenses granted to facilities and not to individuals, and those facilities are regulated by the local health agency instead of a state-

level governing board. Each occupation has a web presence on the LARA website under the Health Systems and Health Profession navigation tab at [www.michigan.gov/lara](http://www.michigan.gov/lara). It is clear that the concept of public accountability introduced in the 1978 code is still a significant aspect of these services. Content varies from board to board, but in general there is a wealth of information available including links to pertinent laws and administrative rules, frequently asked questions, approved training materials and opportunities, information relative to the complaint process, and forms and contact information. Administrative information and records such as minutes of the board of the whole and disciplinary subcommittees are also available on the web pages.<sup>3</sup> One of the commonly requested (yet largely unknown) series of reports made available to the public are disciplinary action reports, which document disciplinary actions or sanctions imposed on individual health professionals who violate established rules. With assistance from the Library of Michigan, LARA makes recent reports available on its website and provides access to the previous year's reports via the library's digital archive of state government information and its print collection.<sup>4</sup>

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of Public Health, the regulation of health occupations went to the Department of Licensing and Regulation, which had the responsibility of overseeing licensing and regulation of all occupations within Michigan. Eventually organized into the Bureau of Health Services, which regulates health professionals, and the Bureau of Health Systems, which deals primarily with licensing of health care facilities and related issues, the program remained under the various incarnations of the state's licensing and regulation departments (Department of Commerce, Department of Consumer and Industry Services) until Gov. Jennifer Granholm issued Executive Reorganization Order No. 2003-1. This order moved many of the licensing and regulation responsibilities from what would become the Department of Labor and Economic Growth to departments that governed related programming, essentially decentralizing licensing and regulation activities. The bureaus that administered health occupation regulation were moved by Type II transfer to the Michigan Department of Community Health (MDCH), retaining statutory authority, powers, duties and function, and personnel and property, but giving MDCH control over the administrative structure and promulgation of rules. Eight years later, Executive Order No. 2011-4, which took effect in April 2011, has transferred these same bureaus and their inclusive responsibilities back to LARA, a centralized licensing and regulation agency.

Executive Order 2011-4 does not address changes to regulatory structure or role, and a related press release offers a rationale that "[t]he transfer will allow MDCH to concentrate on the actual health care delivery aspects of its duties while allowing Licensing and Regulatory Affairs to oversee the licensing and professional regulatory aspects of these functions."<sup>5</sup> Within LARA, however, is

the new Office of Regulatory Reinvention, which is charged with a systematic review of rules and non-rule regulatory actions to eliminate or amend duplicate, obsolete, unnecessary, or unduly restrictive rules. The potential for change to health occupation regulation is high, as both occupational licensing and health care are listed as specific areas to be examined under this review.<sup>6</sup> ■

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## FOOTNOTES

1. Strichartz, *Commentary on the Michigan Public Health Code* (The Institute of Continuing Legal Education, Ann Arbor, Mich 1982), Art 15, pp 477-574 <[http://www.michigan.gov/documents/mdch/LGE\\_GuideBooklet\\_November2006\\_180010\\_7.pdf](http://www.michigan.gov/documents/mdch/LGE_GuideBooklet_November2006_180010_7.pdf)>. All websites cited in this article were accessed May 18, 2011.
2. House Legislative Analysis, HB 4076 *et al.*, January 25, 1994.
3. Michigan Dept. of Licensing and Regulatory Affairs, Health Systems and Health Professions <<http://www.michigan.gov/lara/0,1607,7-154-27417--,00.html>>.
4. Michigan Dept. of Licensing and Regulatory Affairs, *Current Disciplinary Action Reports for the Bureau of Health Professions* <<http://www.michigan.gov/lara/0,1607,7-154-27417-43008--,00.html>>.
5. Michigan.Gov, Office of the Governor Rick Snyder, Press Release, *Snyder Reorganizes DELEG to Sharpen Mission Focus*, February 23, 2011 <[http://www.michigan.gov/snyder/0,1607,7-277-57577\\_57657-251961--,00.html](http://www.michigan.gov/snyder/0,1607,7-277-57577_57657-251961--,00.html)>.
6. Executive Order No. 2011-5.