

Legislative Analysis



UNLICENSED HEALTH PROFESSIONALS

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House Bill 5614

Sponsor: Rep. Roy Schmidt

Committee: Health Policy

Complete to 1-15-10

A SUMMARY OF HOUSE BILL 5614 AS INTRODUCED 12-1-09

The bill would require the Department of Community Health to conduct an investigation when it receives information that an individual is practicing a regulated health profession without a lawful license or registration. The bill would also allow the DCH to order any individual to cease and desist from conduct that violated Articles 7 (Controlled Substances) or 15 (Occupations) of the Public Health Code.

Currently, the Public Health Code provides a process by which allegations of violations of the code by licensed or registered health professionals are investigated. If a violation is occurring, the DCH has the authority to issue a cease and desist order.

The bill would amend the Public Health Code so that the DCH would have specific authority to investigate persons who are not licensed or registered and also to issue cease and desist orders in such cases.

Specifically, the bill would require DCH to investigate an individual upon receipt of information that may constitute a violation of Section 16294. Section 16294 makes it a felony offense for an individual to practice or hold himself or herself out as practicing a health profession regulated by Article 15 of the code without a license or registration, or under a suspended, revoked, lapsed, void, or fraudulently obtained license or registration; outside the provisions of a limited license or registration; or using the license or registration of another as his or her own.

The code also allows the DCH to order an individual to cease and desist from a violation of Articles 7 or 15. The individual is entitled to a hearing, but if he or she does not file a written request for a hearing within the prescribed time period, the department is required to present a notice to the appropriate disciplinary subcommittee of the applicant's, licensee's, or registrant's failure to respond to a complaint, or attend or be represented at a hearing, or the recommended findings of fact and conclusions of law in order to determine whether the cease and desist order is to remain in effect or be dissolved. The attorney general may also apply in the circuit court to restrain and enjoin, either temporarily or permanently, the individual from further violating the cease and desist order. The bill would replace the underlined passage with the term "individual."

MCL 333.16231 and 333.16233

FISCAL IMPACT:

It is not anticipated that House Bill 5614 will have fiscal implications of significance for the Investigation Division of the Department of Community Health Bureau of Health Professions. The statutory changes may enhance the effectiveness of the investigations process, but it is not anticipated that the number of investigations will be affected. The Investigation Division is funded with health professional licensing fees totaling \$3.8 million, and staffed by approximately 36 persons. In FY 2007-08, DCH processed over 3,200 allegations, completed 820 investigations and took 559 disciplinary actions related to health professions.

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