



Senate Fiscal Agency  
P. O. Box 30036  
Lansing, Michigan 48909-7536

BILL



ANALYSIS

Telephone: (517) 373-5383  
Fax: (517) 373-1986  
TDD: (517) 373-0543

House Bill 5614 (Substitute S-1 as reported)  
Sponsor: Representative Roy Schmidt  
House Committee: Health Policy  
Senate Committee: Health Policy

Date Completed: 10-19-10

### **RATIONALE**

State law gives the Department of Community Health (DCH) the responsibility of overseeing health professionals, investigating alleged violations of the Public Health Code, and imposing appropriate sanctions. In the past, this responsibility was interpreted to include investigations of individuals who practiced health professions without the proper license or registration. Several years ago, however, an Assistant Attorney General evidently reviewed the provisions related to investigations and enforcement and concluded that the statutory language gave the DCH authority only over people licensed or registered as health professionals. It has been suggested that the Department's authority should extend to individuals who are not licensees, registrants, or applicants.

### **CONTENT**

**The bill would amend the Public Health Code to require the Department of Community Health to investigate a nonlicensed or nonregistered individual for an alleged violation of the Code.**

Under the Code, a person or governmental entity who believes that a violation of Article 15 (Occupations) or Article 7 (Controlled Substances) exists may make a written allegation to the DCH. If, upon reviewing the allegation, the Department determines there is a reasonable basis to believe the existence of a violation, the Department must investigate with the authorization of the chair of the applicant's, licensee's, or registrant's board or task force. The bill would delete the reference to an applicant,

licensee, or registrant in this provision and instead refer to the *appropriate* board or task force.

Under the Code, within 90 days after an investigation is initiated, the DCH must do one of the following: issue a formal complaint, conduct a compliance conference, issue a summary suspension, issue a cease and desist order, dismiss the complaint, or place in the complaint file a 30-day extension. The bill would refer to an individual, in addition to an applicant, licensee, or registrant, in provisions regarding a compliance conference and a formal complaint.

The Code provides that a person ordered to cease and desist is entitled to a hearing upon request. The DCH must present the notice, if any, 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 to the appropriate disciplinary subcommittee to determine whether the order is to remain in effect or be dissolved. The bill would refer to an individual, rather than an applicant, licensee, or registrant.

MCL 333.16321 & 333.16323

### **ARGUMENTS**

*(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)*

**Supporting Argument**

Current language leaves room for different interpretations of the DCH's authority to investigate complaints and issue cease and desist orders. By referring to an individual, in addition to a licensee or registrant, the bill would eliminate any ambiguity regarding the Department's authority. This change would help protect health and safety by giving the Department the necessary tools to address all bad actors, not just those who are licensed or registered.

Legislative Analyst: Julie Cassidy

**FISCAL IMPACT**

Passage of the bill could lead to a minor increase in the number of investigations conducted by the Department of Community Health. This would result in a small but indeterminate fiscal impact.

Fiscal Analyst: Steve Angelotti

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.