

Professional and Occupational Regulation

By Pam Brinegar

State legislatures show signs of departing from their customary professional licensing approach as new professions gain state licensure without initiation by a profession or the public. Unprecedented measures are being enacted, some on behalf of the licensees. Agencies in many states are focusing on emergency preparedness for displaced professional populations.

U.S. Licensing System

Professional and occupational regulation is largely a state function¹ exercised and protected under Article X of the U.S. Constitution. Article X grants states the authority to regulate activities affecting the health, safety and welfare of their citizens. Practitioner disciplinary matters follow each state's administrative procedures act.² Exceptions to this state oversight are the expanding areas of municipal-level licensing³ and professionals employed by the federal government to work within state borders.

Renewed Economist Interest

The occasional economist has long been intrigued by the occupational and professional licensing industry, perhaps most notably in the United States, beginning with Milton Friedman.

Friedman established himself in 1945 with *Income from Independent Professional Practice*, coauthored with Simon Kuznets. In it he argued that state licensing procedures limited entry into the medical profession, thereby allowing doctors to charge higher fees than if competition were more open.⁴

This focus on the medical profession as self- rather than public-serving was subsequently taken to be an accurate description of every profession. During the past decade several economists have expressed a renewed interest in studying licensing and its largely hidden, yet pervasive, costs. Economist Morris Kleiner estimates that more than 20 percent of the U.S. work force is covered by state licensing laws, as well as federal, county and city regulations. He suggests that the benefits of state licensing may not justify the substantial cost passed on to the consumer in the form of higher professional fees. "One result of occupational regulation has been that prices in regulated occupations have increased more—and the earnings of practitioners have become higher—than in comparable occupations with similar levels of human capital investments and experience."⁵

Reed Neil Olsen posits that regulation's very existence can be explained as a reflection of defined interests, either those of the professional, the public or both:

(1) the capture theory, which assumes the professionals 'capture' regulation and use it to deter entry and increase their incomes; (2) the public interest theory, which assumes that professional licensure is used in the public interest in order to insure the quality of professional services; and (3) the political economy theory, which assumes that both professional interests and public interests may simultaneously have an impact upon the existence and nature of licensing...⁶

The popularity of the capture theory⁷ may be yielding to the political economy theory that looks at the interrelationship of the political and economic systems. Olsen points out that so far, very few studies have tested hypotheses designed to consider the possibility that licensure has a more complex explanation than any of the three interest-reflection theories.

Federal Trade Commission

Despite a ruling by the U.S. Supreme Court that it is not good for the public if the "learned professions" are permitted to function freely in the market system, the Federal Trade Commission stands by its position adopted following several antitrust cases involving the professions:

"We conclude that the major economic issues are now settled: There are no good reasons, either from a theoretical or an empirical vantage point, for concern about the effects of competition in the professions. To the contrary, the evidence supports the conclusion that competition yields major benefits to consumers in the form of lower prices, without adverse effects on quality. The concerns articulated by the Supreme Court are not supported by current economic understanding."⁸

LICENSURE

Emerging/Expanding Professions

A Pattern Repeated?

In 1952, The Council of State Governments (CSG) identified “the problem of licensing occupations” as the rate at which new professions were being regulated by the states.⁹ The book identified 75 state-regulated professions of which 14 were regulated by all of the then 48 states. The number of state-regulated professions ultimately grew to more than 1,100, fewer than 60 of which are regulated by every state (see Tables A and B for selected professions). Concerned about the high costs of regulation and armed with a recently published evaluation framework,¹⁰ state houses by the early 1980s were consistently refusing regulation to emerging professions.

Sunset reviews,¹¹ intended to weed out unnecessary licensing, did not result in professional deregulation. On the other hand, sunrise analyses, intended to place the burden of demonstrating the necessity of licensure on the profession, have served as a deterrent to the extraordinary growth in state professional regulation. For a sunrise report currently under review, see “Genetic Counselor Draft Sunrise Review,” Washington State Department of Health.¹²

As a result of the difficulty of obtaining state licensure, new professions began to certify practitioners through private sector voluntary credentialing organizations. Some of these voluntary membership groups, once they had sufficient resources to do so, demonstrated to states that it could be cost-effective to license a new profession. There is some evidence that the larger a professional association’s budgetary and membership resources, the greater the probability of state licensure for the profession.¹³ Legislatures can simply adopt an association’s examination, ethical standards, etc. without trying to recapture development costs from licensing fees.

One group making such progress is paralegals, whose National Federation of Paralegal Associations has a Model Act for Paralegal Licensure ready for adoption by legislatures.¹⁴ Sometimes the national association encounters resistance beyond that offered by legislators. In Florida, the state bar association wants to create a new membership section for paralegals in lieu of state licensure, but the legislature is prepared to reconsider regulating paralegals, and there is strong support for the measure.¹⁵ Other emerging groups include home inspectors, who have gained regulation in 30 states during the past decade, and payday lenders, although state laws vary regarding whether the business, the individual lender, or both, are licensed.

State oversight of a profession is difficult to abolish once it has been granted. The Louisiana legis-

lature has repeatedly declined to do away with its 65-year-old florist licensing law. Unsuccessful candidates recently sued to have the law set aside, but a federal judge upheld the state’s right to determine citizen protection needs. A state’s authority to regulate matters concerning its citizens continues to be upheld. The U.S. Supreme Court declined to consider the question of whether an Oklahoma state law requiring licensed funeral directors to handle casket sales is constitutionally discriminatory. This refusal upholds a 10th Circuit Court of Appeals decision that it is not a judge’s job to “second-guess” laws designed to protect consumers.

Limited State Initiatives

There is some evidence that states have once again started defining and regulating professions in a singular fashion. The conclusion of all early work was that the public was rarely, if ever, involved in the licensing of a new profession, while the professional association was always instrumental. The three growth areas for state licensure in the past 20 years are allied health, construction and environmental (e.g., genetic counselors, home inspectors, mold remediators), all with strong association backing.

What is unusual about some current measures is that the request for regulation is not coming from the professionals or their associations. One impetus may be states’ concern for missed revenue opportunities. An example of this new category is online auctioning. States are beginning to require auctioneer or gallery licenses for individuals who sell items on behalf of others through such venues as eBay.

Other Recent Extraordinary Items

Illinois has enacted a law that will allow nurses from only Puerto Rico and other U.S. territories to work for up to one year in Illinois before they pass the licensure exam. Those nurses must be licensed in their home territory, be proficient in English, and be under the direct supervision of a nurse licensed in Illinois.¹⁶

There is a movement among licensed pharmacists seeking authorization from legislatures to permit their conscience, rather than physician prescriptions for a controlled substance, to act as their guide when filling prescriptions. Some states (e.g., Illinois and Wisconsin) favor requiring their licensees to function under current statutes, while others (e.g., Arkansas, Mississippi, South Dakota) have sided with the pharmacists. At least a dozen states will consider whether to enact “conscience clauses” during upcoming sessions.

New Jersey has enacted a law requiring the state’s lawyers, and many doctors, to pay \$75 a year for

three years to help doctors in high-risk specialties pay for malpractice insurance. Lawyers are challenging the law because of their presumed role in increasing insurance premiums through litigious activity.

In Florida, designated licensees, including architects, contractors, cosmetologists and veterinarians, whose licenses expire due to hardship or circumstances beyond a licensee's control, may have their licenses restored without having to meet the qualifications for initial licensure.

Following New Mexico's lead, some Louisiana psychologists are prescribing drugs. The fight to win prescriptive privileges was high profile, but the actual implementation once the Louisiana law passed was hardly noticed. In both states, prescribing certifications are only issued to licensed psychologists who complete specialized training and pass a national examination.

The speaker of the House in Connecticut has called for licensing of hypnotists (they are currently registered in California and Colorado), and there is a bill in Washington that seeks licensure of Christmas tree growers.

Technology

Licensing agencies continue to increase their reliance on technology to support their examination, licensing and professional discipline activities. Candidates for licensure and renewal are taking increasing advantage of online applications and renewals. Some states now offer live scan fingerprinting for licensing applicants on whom background checks are required.

States continue to make licensee information, including disciplinary actions, available to the public, although there may be challenges to doing so. A licensed nurse in Alaska has filed a class-action lawsuit against the state for providing her address on its Division of Occupational Licensing Web site.¹⁷

Emergency Preparedness

In 1992, Hurricane Andrew's impact made apparent a need to allow licensed personnel from other jurisdictions to practice in a disaster area. The result was the Emergency Management Assistance Compact, which says in part: "Persons holding licenses, certificates, or other permits ... shall be deemed licensed, certified, or permitted by the state requesting assistance."¹⁸

In 2005, Hurricanes Katrina and Rita revealed an additional need: providing for emergency licensing of professional populations displaced during a disaster. Within hours after the hurricanes, numerous health care practitioners were transported out of the Gulf Coast states to provide client care en route to other

jurisdictions. Upon arrival, they could no longer provide client care (unless they were also licensed in the new jurisdiction) and were unable to return to their home areas. The situation intensified as thousands of licensed professionals were displaced without credentials or certainty of when they could obtain them. Many licensing agencies were caught completely unprepared to provide assistance, while some, such as the South Carolina Department of Labor, Licensing and Regulation, were far more prepared to move quickly, partly as a result of their own experience with natural disasters.

A preliminary report, *Licensing Agencies and Emergency Preparedness*,¹⁹ is a first step toward understanding this new situation and helping licensing agencies prepare for future disasters. At least five states (Maine, Missouri, South Carolina, Tennessee and Virginia²⁰) issued post-hurricane executive orders addressing displaced licensed personnel. Numerous agencies and associations also took emergency action, and many of these efforts are identified.

The report provides a brief outline of the necessary emergency capacity an agency should have in place for disasters of any kind:

- authority to issue temporary licenses
- authority to waive fees
- immunity from civil action
- flexibility in scopes of practice (such as smallpox vaccinations by dentists)

Regulatory agencies in disaster areas also have challenges dealing with unlicensed practice. Florida is now struggling with enormous problems caused by charlatan practitioners of construction-related industries who have often left the state before they could be disciplined.

Federal Activity

Congress passed H.R. 2862²¹ "to permit certain health professionals who are displaced by Hurricane Katrina to provide health-related services under the Medicare, Medicaid, SCHIP, and Indian Health Service programs in states to which such professionals relocate."

The federal government is slowly increasing its efforts to provide health services to underserved, rural areas. Despite opposition from the American Dental Association and the Alaska Dental Society, and amid congressional equivocation, dental aides have begun work in rural Alaska under the existing Community Health Aide Program authorized by the federal government and operated by Alaska tribal health programs.²²

Notes

¹Licensure, the most restrictive form of state regulation, specifies that it is illegal to perform any of the activities specified in a scope-of-practice act without meeting state-defined standards, minimally specified educational and additional examination requirements. Certification, also known as title protection, may also have restrictive requirements, but does not prevent individuals from performing the tasks associated with the profession as long as they do not use the regulated title. The term certification is widely used in the private sector with varying definitions, which is a source of considerable confusion not only for consumers, but for those involved with state and voluntary certification programs as well. Registration, the least restrictive form of state regulation, requires individuals to file their names, addresses and qualifications with a designated state agency before performing the duties of the occupation. A useful primer on the U.S. professional licensing system is K. Schmitt, and B. Shimberg, *Demystifying Occupational and Professional Regulation: Answers to Questions You May Have Been Afraid to Ask*, (Lexington, KY: The Council on Licensure, Enforcement and Regulation, 1996).

²The National Conference of Commissioners on Uniform State Laws is currently revising its Model State Administrative Procedures Act. For the October 2005 draft, see <http://www.law.upenn.edu/blllulc/msapa/2005OctMtgDraft.htm>.

³For example, The Bedford Massachusetts County Health Department has begun licensing massage therapists and will continue the program until there is a state law in place to regulate the profession.

⁴<http://www.econlib.org/library/Enc/bios/Friedman.html>.

⁵M. Kleiner, "Our Guild-Ridden Economy," *Wall Street Journal*, Saturday October 15, 2005, Opinion A7.

⁶R.O. Olsen, "The Regulation of Medical Professions," 1999, <http://encyclo.findlaw.com/5870book.pdf>.

⁷G. Stigler's "capture theory" suggested that regulations seldom protect the consumer as intended, but rather industries, by inhibiting new competition (<http://www.econlib.org/library/Enc/bios/Stigler.html>).

⁸J. Kwoka, *The Federal Trade Commission and the Professions: A Quarter Century of Accomplishments and Some New Challenges*, American Antitrust Institute Working Paper 04-04, <http://www.antitrustinstitute.org/recent2/354.pdf>.

⁹*Occupational Licensing Legislation in the States*, (Chicago: The Council of State Governments, 1952).

¹⁰B. Shimberg and D. Roederer, *Questions a Legislator Should Ask*. 2d., K. Schmitt, ed., (Lexington, KY, The Council on Licensure, Enforcement and Regulation), 1994 [orig. 1978]. This influential pamphlet said that regulation should meet a public need, provide the minimum amount of oversight to meet that need, avoid overlap with other regulated services, provide for continued competence and professional discipline, and involve the public in the process. In other words, it educated legislators to understand that the only valid reason to regulate a profession is to protect consumers from any harm they may experience as a result of practice of the profession or occupation. It also pointed out that no consumer group has ever sought licensing for regulation, but that the push for regulation comes from the practitioners of a profession.

¹¹Sunset is the automatic termination of regulatory boards

and agencies unless legislative action is taken to reinstate them. Sunrise is a process under which an occupation or profession wishing to receive state certification or licensure must propose the components of the legislation, along with cost and benefit estimates of the proposed regulation. What is more common at this time is the statutory inclusion of sunset provisions in new laws as well as the periodic examination of agencies through performance audits, also known as legislative or evaluation audits. See "Sunset, Sunrise and Agency Audits," <http://www.clearhq.org/sunset.htm>.

¹²http://www.doh.wa.gov/hsqa/sunrise/gen_couns_draft_sunrise.doc.

¹³Charles J. Whelan, "Politics or Public Interest?," *Perspectives on Work*, Winter 2005.

¹⁴<http://www.paralegals.org/displaycommon.cfm?an=1&subarticlenbr=341>.

¹⁵<http://www.floridabar.org/DIVCOM/JN/jnnews01.nsf/8c9f13012b96736985256aa900624829/9851c792032bd9bf852570c7004ea6b5?OpenDocument>.

¹⁶"History Made in Nursing Legislation," Illinois Nurses Association, www.illinoisnurses.org/files/INA_newsletter.pdf.

¹⁷<http://www.commerce.state.ak.us/occl>.

¹⁸Emergency Management Assistance Compact: <http://www.emacweb.org/>.

¹⁹Emergency Preparedness Working Group, CLEAR, November 2005, http://www.clearhq.org/draft_report.htm.

²⁰Excerpted from Virginia's Executive Order 97, as revised September 23, 2005: During the next 120 days, the Director of the Department of Health Professions shall issue temporary licenses, registrations, and certifications to practice in the Commonwealth, for a period not to exceed one year, to qualified health care practitioners who are displaced residents of Hurricane Katrina or Rita-affected states, who hold like unrestricted licenses, registrations, or certifications in their resident states, and who may be unable to furnish or have furnished on their behalf complete documentation of their credentials and license status as otherwise required by Virginia law or regulation. The Director shall also have authority to defer the payment of licensing fees. Any license, registration or certification so issued may be revoked for cause without a hearing by the Director. Source: http://www.governor.virginia.gov/Press_Policy/Executive_Orders/html/EO_97.html.

²¹<http://www.clearhq.org/hr2862.htm>.

²²Alaska Dental Health Aide Program Brief, The Center for the Health Professions, University of California San Francisco, September 2005, http://www.ucsf.edu/dphaltk/powerpoint/AK%20Dental%20Health%20Aide%20Program_white%20paper%209-05.pdf. The dental aides program has three levels of aides, the most basic of which provides prevention education. The second level practitioner works with a dentist, cleaning and filling teeth. The third, called dental health aide therapists, can perform some tasks usually reserved for dentists, such as extracting teeth and preparing teeth for fillings. Licensed dentists must give permission for the therapists to perform any procedure.

About the Author

Pam Brinegar is executive director of The Council on Licensure, Enforcement and Regulation (CLEAR), which provides educational programs for professional licensing officials.

Table A
STATE REGULATION OF SELECTED NON-HEALTH OCCUPATIONS AND PROFESSIONS: DECEMBER 2005

State or other jurisdiction	Accountant, certified/public	Agriculture inspector	Architect	Auctioneer	Barber	Cosmetologist	Embalmer (a)	Engineer, professional (b)	Environmental science & protection tech.	Forester	Funeral director	Geologist	Hazardous materials removal worker	Insurance agent	Insurance broker	Landscape architect	Polygraph examiner	Real estate agent	Real estate broker	Surveyor, land	Water & liquid waste treatment plant/system operator	
Alabama	L	...	L	L	L	L	L	L	...	L	L	L	L	L	L	L	L	L	L	L	L	L
Alaska	L	...	L	...	L	L	L	L	...	...	L	L	L	L	L	L	...	L	L	L	L	L
Arizona	L	...	L	L	L	L	L	L	...	...	L	...	...	L	L	L	...	L	L	L	L	...
Arkansas	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L
California	L	L	L	...	L	L	L	L	L	L	L	...	...	L	L	L	...	L	L	L	L	L
Colorado	L	...	L	...	L	L	...	L	...	...	...	...	L	L	L	...	...	L	L	L	L	L
Connecticut	L	...	L	...	L	L	L	L	L	L	L	...	L	L	L	L	...	L	L	L	L	L
Delaware	L	...	L	L	L	L	...	L	...	...	L	L	L	L	L	L	...	L	L	L	L	L
Florida	L	...	L	L	L	L	L	L	...	...	L	L	L	L	...	L	...	L	L	L	L	L
Georgia	L	...	L	L	L	L	L	L	...	L	L	L	...	L	L	L	...	L	L	L	L	L
Hawaii	L	...	L	...	L	L	L	L	...	...	L	...	...	L	L	L	...	L	L	L	L	...
Idaho	L	...	L	...	L	L	...	L	...	...	L	...	...	L	L	L	...	L	L	L	L	...
Illinois	L	...	L	L	L	L	L	L	...	...	L	L	...	L	L	L	...	L	L	L	L	L
Indiana	L	...	L	L	L	L	L	L	...	...	L	L	...	L	L	L	...	L	L	L	L	L
Iowa	L	...	L	...	L	L	...	L	...	...	L	...	L	L	...	L	L	L	L	L	L	L
Kansas	L	...	L	...	L	L	L	L	...	...	L	L	...	L	L	L	...	L	L	L	L	...
Kentucky	L	...	L	L	L	L	L	L	...	...	L	L	...	L	L	L	...	L	L	L	L	L
Louisiana	L	L	L	L	L	L	L	L	...	...	L	...	...	L	L	L	...	L	L	L	L	...
Maine	L	...	L	L	L	L	L	L	...	...	L	L	...	L	L	L	...	L	L	L	L	L
Maryland	L	...	L	...	L	L	...	L	...	L	L	...	...	L	L	L	...	L	L	L	L	...
Massachusetts	L	...	L	L	L	L	L	L	...	...	L	...	L	L	L	L	...	L	L	L	L	L
Michigan	L	L	L	...	L	L	...	L	...	L	L	...	L	L	L	L	...	L	L	L	L	L
Minnesota	L	...	L	L	L	L	...	L	...	...	L	L	...	L	L	L	...	L	L	L	L	L
Mississippi	L	...	L	...	L	L	L	L	...	...	L	...	...	L	L	L	...	L	L	L	L	...
Missouri	L	...	L	...	L	L	L	L	...	...	L	...	...	L	L	L	...	L	L	L	L	...
Montana	L	...	L	...	L	L	...	L	...	...	L	...	...	L	L	L	...	L	L	L	L	L
Nebraska	L	...	L	...	L	L	L	L	...	...	L	...	...	L	L	L	...	L	L	L	L	L
Nevada	L	...	L	L	L	L	L	L	...	...	L	...	...	L	L	L	...	L	L	L	L	...
New Hampshire	L	...	L	L	L	L	L	L	...	L	L	L	...	L	L	L	...	L	L	L	L	L
New Jersey	L	...	L	...	L	L	...	L	...	...	L	...	...	L	L	L	...	L	L	L	L	L
New Mexico	L	...	L	...	L	L	...	L	...	...	L	...	...	L	L	L	...	L	L	L	L	L
New York	L	...	L	...	L	L	L	L	...	...	L	...	...	L	L	L	...	L	L	L	L	L
North Carolina	L	L	L	L	L	L	L	L	...	L	L	...	...	L	L	L	...	L	L	L	L	L
North Dakota	L	...	L	L	L	L	L	L	...	...	L	...	...	L	L	L	...	L	L	L	L	...
Ohio	L	...	L	L	L	L	L	L	...	...	L	...	...	L	L	L	...	L	L	L	L	...
Oklahoma	L	...	L	...	L	L	L	L	...	...	L	...	L	L	L	L	...	L	L	L	L	L
Oregon	L	...	L	...	L	L	L	L	...	...	L	...	...	L	L	L	...	L	L	L	L	L
Pennsylvania	L	...	L	L	L	L	...	L	...	...	L	...	...	L	L	L	...	L	L	L	L	...
Rhode Island	L	...	L	L	L	L	L	L	...	...	L	...	...	L	L	L	...	L	L	L	L	L
South Carolina	L	...	L	L	L	L	L	L	...	...	L	L	...	L	L	L	...	L	L	L	L	...
South Dakota	L	L	L	...	L	L	L	L	...	...	L	...	L	L	L	L	...	L	L	L	L	L
Tennessee	L	...	L	L	L	L	L	L	...	...	L	L	...	L	L	L	...	L	L	L	L	L
Texas	L	...	L	L	L	L	L	L	...	...	L	...	...	L	L	L	...	L	L	L	L	...
Utah	L	...	L	...	L	L	...	L	...	...	L	...	...	L	L	L	...	L	L	L	L	...
Vermont	L	...	L	L	L	L	L	L	...	...	L	...	...	L	L	L	...	L	L	L	L	L
Virginia	L	L	L	L	L	L	L	L	...	...	L	L	...	L	...	C	L	L	L	L	L	L
Washington	L	...	L	L	L	L	L	L	...	...	L	...	...	L	L	L	...	L	L	L	L	...
West Virginia	L	...	L	L	L	L	L	L	...	L	L	...	...	L	L	L	...	L	L	L	L	...
Wisconsin	L	L	L	L	L	L	...	L	...	...	L	L	L	L	...	L	...	L	L	L	L	L
Wyoming	L	...	L	...	L	L	L	L	...	...	L	L	...	L	L	L	...	L	L	L	L	L
Dist. of Columbia	L	...	L	L	L	L	...	L	...	...	L	...	...	L	L	...	...	L	L	L	L	...

Sources: Council on Licensure, Enforcement and Regulation, December 2005 and various national associations of state boards.

Key:

C — Certification.

L — Licensure.

R — Registration.

(a) In some states, embalmers are not licensed separately from funeral directors; embalming is part of the funeral director's job.

(b) In addition to licensing professional engineers, some states regulate engineers by specific areas of expertise, such as civil engineers.

LICENSURE

Table B
STATE REGULATION OF HEALTH OCCUPATIONS AND PROFESSIONS: DECEMBER 2005

<i>State or other jurisdiction</i>	<i>Acupuncturist</i>	<i>Chiropractor</i>	<i>Counselor, professional (a)</i>	<i>Counselor, alcohol & drug</i>	<i>Counselor, pastoral</i>	<i>Counselor, substance abuse (b)</i>	<i>Dentist</i>	<i>Dental assistant (c)</i>	<i>Dental hygienist</i>	<i>Denturist</i>	<i>Dietitian</i>	<i>Emergency medical technician (d)</i>	<i>Hearing aid dealer & fitter</i>
Alabama	L	L	L	...	...	...	L	...	L	...	L	L	L
Alaska	L	L	L	...	...	...	L	...	L	...	L	L	L
Arizona	L	L	L	...	...	L	L	C	L	L	...	L	L
Arkansas	L	L	L	...	L	...	L	R	L	...	L	L	L
California	L	L	L	...	...	...	L	L	L	...	R	L	L
Colorado	L	L	L	...	...	C, L	L	...	L	...	...	L	L
Connecticut	L	L	L	C, L	...	...	L	...	L	...	L	L	L
Delaware .....	...	L	L	...	...	L	L	...	L	...	C	L	L
Florida	L	L	L	...	...	...	L	C	L	...	L	L	L
Georgia	L	L	L	...	...	...	L	...	L	...	L	L	L
Hawaii	L	L	...	...	...	C	L	...	L	...	C	L	L
Idaho	L	L	L	...	...	...	L	C	L	L	L	L	L
Illinois	L	L	L	...	...	...	L	...	L	...	L	L	L
Indiana	L	L	...	...	...	...	L	...	L	...	C	L	L
Iowa	L	L	L	...	...	...	L	R	L	...	L	L	L
Kansas .....	...	L	L	...	...	...	L	...	L	...	L	L	L
Kentucky .....	...	L	L	C	L (e)	...	L	...	L	...	L	L	L
Louisiana	L	L	L	...	...	C	L	L	L	...	L	L	L
Maine	L	L	L	L	L	L	L	L	L	L	L	L	L
Maryland	L	L	L	C, L	...	...	L	L	L	...	L	L	L
Massachusetts	L	L	L	...	...	...	L	...	L	...	L	L	L
Michigan .....	...	L	L	...	...	...	L	L	L	...	...	L	L
Minnesota	L	L	L	L	...	...	L	L	L	...	L	L	L
Mississippi .....	...	L	L	...	...	...	L	L	L	...	L	L	L
Missouri	L	L	L	...	...	C	L	...	L	...	L	L	L
Montana	L	L	L	...	...	L	L	...	L	L	L	L	L
Nebraska	L	L	L	L	...	...	L	...	L	...	L	L	L
Nevada	L	L	...	...	...	C, L	L	...	L	...	C	L	L
New Hampshire	L	L	L	L	L	L	L	...	L	...	L	L	L
New Jersey	L	L	L	C, L	...	...	L	L	L	...	...	L	L
New Mexico	L	L	L	L	...	L	L	C	L	...	L	L	L
New York	L	L	L	C	...	C	L	L	L	...	C	L	L
North Carolina	L	L	L	...	L	...	C	L	L	...	L	L	L
North Dakota .....	...	L	L	...	...	L	L	L	L	...	L	L	L
Ohio	L	L	L	...	...	C, L	L	...	L	...	L	L	L
Oklahoma .....	...	L	L	C, L	...	...	L	C	L	...	L	L	L
Oregon	L	L	L	C	...	...	L	...	L	L	L	L	L
Pennsylvania	R	L	L (f)	C	...	...	L	C	L	...	C	L	L
Rhode Island	L	L	L	...	...	L	L	...	L	...	L	L	L
South Carolina	L	L	L	...	...	...	L	...	L	...	...	L	L
South Dakota .....	...	L	L	...	...	C	L	L	L	...	L	L	L
Tennessee	L	L	L	L	L	...	L	L	L	...	L	L	L
Texas	L	L	L	...	...	L	L	...	L	...	L	L	L
Utah	L	L	L	...	...	L	L	...	L	...	L	L	L
Vermont	L	L	L	L	...	...	L	L	L	...	L	L	L
Virginia	L	L	L	...	...	C, L	L	...	L	...	C	L	L
Washington	L	L	L	...	...	C	L	...	L	L	L	L	L
West Virginia	L	L	L	L	...	L	...	L	L	L
Wisconsin	L	L	L	C	L	...	L	...	C	L	L
Wyoming	L	L	L	L	...	L	L	L
Dist. of Columbia	L	L	L	R	L	...	L	...	L	L	...

Key:
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R— Registration.
... — Not regulated.
See footnotes at end of table.

STATE REGULATION OF HEALTH OCCUPATIONS AND PROFESSIONS: DECEMBER 2005—Continued

State or other jurisdiction	Homeopath	Massage therapist	Nurse, licensed practical (g)	Nurse midwife (g)	Nurse, practitioner (g)	Nurse, registered (g)	Nursing home administrator	Occupational therapist	Occupational therapy assistant	Optician (h)	Optometrist	Osteopath	Pharmacist	Physical therapist
Alabama	L	L	L	L	L	L	L	L	...	L	L	L	L
Alaska	L	L	L	L	L	L	L	L	L	L	L	L
Arizona	L	L	L	L	L	L	L	L	L	L	L	L	L	L
Arkansas	L	L	L	L	L	L	L	L	L	L	L	L	L
California	L	L	L	L	L	L	C	L	L	L	L	L
Colorado	L	L	L	L	L	...	...	...	L	L	L	L
Connecticut	L	L	L	L	L	L	L	L	L	L	L	L	L	L
Delaware	L	L	L	L	L	L	L	L	...	L	L	L	L
Florida	L	L	L	L	L	L	L	L	L	L	L	L	L
Georgia	L	L	L	L	L	L	L	L	L	L	L	L
Hawaii	L	L	L	L	L	L	L	...	L	L	L	L	L
Idaho	L	L	L	L	L	L	L	L	L	L	L	L	L
Illinois	L	L	L	...	L	L	L	L	...	L	L	L	L
Indiana	L	L	L	L	L (i)	L	C	...	L	L	L	L
Iowa	L	L	L	L	L	L	L	L	...	L	L	L	L
Kansas	L	L	L	L	L	L	L	L	L	L	L	L
Kentucky	L	L	L	L	L	L	L	L	L	L	L	L	L
Louisiana	L	L	L	C	L	L	L	L	...	L	L	L	L
Maine	L	L	L	L	L	L	L	L	...	L	L	L	L
Maryland	C	L	L	L	L	L	L	L	...	L	L	L	L
Massachusetts	L	L	L	L	L	L	L	L	L	L	L	L
Michigan	L	L	C	L	L	R	R	...	L	L	L	L
Minnesota	L	L	L	L	L	L	L	...	L	L	L	L
Mississippi	L	L	L	L	L	L	L	L	L	L	L	L	L
Missouri	L	L	L	...	L	L	L	L	...	L	L	L	L
Montana	L	L	L	L	L	L	L	...	L	L	L	L
Nebraska	L	L	L	L	L	L	L	L	...	L	L	L	L
Nevada	L	...	L	L	L	L	L	L	L	L	L	L	L	L
New Hampshire	L	L	L	L	L	L	L	L	L	L	L	L	L
New Jersey	C	L	L	L	L	L	L	L	L	L	L	L	L
New Mexico	L	L	L	...	L	L	L	L	...	L	L	L	L
New York	L	L	L	L	L	L	L	L	L	L	L	L	L
North Carolina	L	L	L	L	L	L	L	L	L	L	L	L	L
North Dakota	L	L	L	L	L	L	L	L	...	L	L	L	L
Ohio	L	L	L	L	L	L	L	L	L	L	L	L	L
Oklahoma	L	L	C	L	L	L	L	...	L	L	L	L
Oregon	L	L	L	L	L	L	L	L	...	L	L	L	L
Pennsylvania	L	L	L	L	L	L	L	...	L	L	L	L
Rhode Island	L	L	L	L	L	L	L	L	L	L	L	L	L
South Carolina	L	L	L	L	L	L	L	L	L	L	L	L	L
South Dakota	L	L	L	L	L	L	L	L	...	L	L	L	L
Tennessee	L	L	L	L	L	L	L	L	L	L	L	L	L
Texas	R	L	L	L	L	L	L	L	L	L	L	L	L
Utah	L	L	L	L	L	L (i)	L	L	...	L	L	L	L
Vermont	L	L	L	L	L	L	L	L	L	L	L	L
Virginia	C	L	L	L	L	L	L	...	L	L	L	L	L
Washington	L	L	L	L	L	L	L	L	L	L	L	L	L
West Virginia	L	L	L	L	L	L	L	L	...	L	L	L	L
Wisconsin	C	L	L	C	L	L	L	L	...	L	L	L	L
Wyoming	L	L	L	L	L	L	L	...	L	L	L	L
Dist. of Columbia	L	L	L	C	L	L	L	L	...	L	L	L	L

Sources: Council on Licensure, Enforcement and Regulation, December 2005 and various national associations of state boards.

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See footnotes at end of table.

LICENSURE

STATE REGULATION OF HEALTH OCCUPATIONS AND PROFESSIONS: DECEMBER 2005—Continued

State or other jurisdiction	Physical therapy assistant	Physician	Physician assistant	Podiatrist	Psychologist	Radiologic technologist/technician	Radiation therapist	Respiratory therapist	Sanitarian	Social worker (j)	Speech-language pathologist & aud.	Therapist, marriage & family	Veterinarian	Veterinary technician
Alabama	L	L	L	L	L	...	...	L	...	L	L	L	L	L
Alaska	L	L	L	L	L	...	...	...	...	...	L	L	L	L
Arizona	L	L	L	L	L	L	L	L	R	L	L	L	L	L
Arkansas	L	L	L	L	L	L	L	L	R	L	L	L	L	L
California	L	L	L	L	L	C	L	L	...	L	L	L	L	R
Colorado .....	...	L	C	L	L	...	...	L	...	L	L	L	L	C
Connecticut	R	L	L	L	L	L	...	L	L	L	L	L	L	R
Delaware	L	L	L	L	L	L	L	L	...	L	L	...	L	...
Florida	L	L	L	L	L	L	L	L	...	L	L	L	L	R
Georgia	L	L	L	L	L	...	...	L	...	L	L	L	L	L
Hawaii .....	...	L	L	L	L	L	L	...	L	L	L	L	L	R
Idaho	L	L	L	L	L	...	...	L	L	L	...	L	L	R
Illinois	L	L	L	L	L	L	L	L	...	L	L	L	L	L
Indiana	L	L	C	L	L	C	...	C	R	L	L	L	L	L
Iowa	L	L	L	L	L	L	L	L	...	L	L	L	L	L
Kansas	L	L	L	L	L	...	...	L	...	L	L	L	L	L
Kentucky	L	L	L	L	L	L	...	L	L	L	L	L	L	L
Louisiana	L	L	L	L	L	L	L	L	L	L	L	L	L	R
Maine	L	L	L	L	L	L	L	L	...	L	L	L	L	L
Maryland	L	L	L	L	L	L	L	L	L	L	C, L	L	L	L
Massachusetts	L	L	L	L	L	L	L	L	L	L	L	L	L	R
Michigan .....	...	L	L	L	L	...	...	L	R	L	...	L	L	L
Minnesota .....	...	L	L	L	L	L	L	R	R	L	L	L	L	L
Mississippi	L	L	L	L	L	L	L	L	L	L	L	L	L	R
Missouri	L	L	L	L	L	...	...	L	C	L	L	L	L	L
Montana	L	L	L	L	L	L	...	L	L	L	L	...	L	...
Nebraska	C	L	L	L	L	C	L	L	R	L	L	C	L	L
Nevada	L	L	L	L	L	...	...	L	R	L	L	L	L	L
New Hampshire	L	L	L	L	L	...	...	L	...	C, L	L	L	L	...
New Jersey	L	L	L	L	L	L	L	L	L	L	L	L	L	R
New Mexico	L	L	L	L	L	C	L	L	...	L	L	L	L	L
New York	L	L	L	L	L	L	L	L	...	C, L	L	L	L	L
North Carolina	L	L	L	L	L	...	...	L	L	C, L	L	L	L	L
North Dakota	L	L	L	L	L	L	...	L	L	L	L	L	L	L
Ohio	L	L	L	L	L	L	L	L	L	L	L	L	L	L
Oklahoma	L	L	L	L	L	...	...	L	L	L	L	L	L	L
Oregon	L	L	L	L	L	L	L	L	L	C, L	L	L	L	L
Pennsylvania	R	L	C	L	L	...	...	L	...	L (f)	L	L (f)	L	R
Rhode Island	L	L	L	L	L	L	L	L	L	L	L	L	L	R
South Carolina	L	L	L	L	L	C	C	L	R	L	L	L	L	L
South Dakota	L	L	L	L	L	L	...	L	...	L	L	L	L	L
Tennessee	L	L	L	L	L	L	L	L	C	L	L	L	L	L
Texas	L	L	L	L	L	L	L	L	L	L	L	L	L	R
Utah .....	...	L	L	L	L	L	L	L	L	L	L	L	L	...
Vermont	L	L	C	L	L	L	L	L	...	L	L	L	L	R
Virginia	L	L	L	L	L	L	...	L	...	L	L	L	L	L
Washington .....	...	L	L	L	L	C	L	L	...	L	L	L	L	L
West Virginia	L	L	L	L	L	L	L	L	L	L	L	...	L	L
Wisconsin	L	L	L	L	L	...	...	L	L	C, L	L	L	L	L
Wyoming	L	L	L	L	L	L	L	L	...	L	L	L	L	R
Dist. of Columbia	L	L	L	L	L	...	...	L	...	L	...	...	L	...

Sources: Council on Licensure, Enforcement and Regulation, December 2005 and various national associations of state boards.

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(a) In some states, professional counselors can practice without a license as long as they do not use the title "licensed professional counselor."

(b) In some states, substance abuse counselors use the title "addiction counselor/therapist," "chemical dependency professional," or "substance abuse treatment practitioner." Most states do not distinguish between alcohol and drug counselor and substance abuse counselor.

(c) In some states, certification is only required for dental assistants to perform expanded functions and take x-rays.

(d) There are eight categories of emergency medical technicians, from basic

to paramedic to task-specific certifications. No state regulates all categories, but every state regulates at least one category.

(e) In Kentucky, pastoral counselors must be certified only if their practice is fee-based.

(f) In Pennsylvania, professional counselors, social workers, and marriage and family therapists do not need a license to practice unless they hold themselves out to be licensed.

(g) Some states recognize various categories of advanced practice nurses (e.g., geriatric, school health, and women's health).

(h) In many states, opticians are not licensed separately from optometrists; making and selling eyeglasses is part of the optometrist's job.

(i) In Indiana and Utah, nursing home administrators are not licensed as such, but they are licensed more broadly as health facility administrators.

(j) In some states, social work practice is regulated at one or more of the following levels: basic, intermediate, advanced, and clinical. Certification may be required for practice at the lower levels and licensure required for practice at the higher levels.