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## Consumer Protection & Business Committee

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### HB 1402

**Brief Description:** Establishing review standards for professional licensing regulation.

**Sponsors:** Representatives Vick, Kirby, Jacobsen and Dufault.

#### Brief Summary of Bill

- Requires any professional license created after January 1, 2022, to be for the exclusive purpose of protecting the public interest.
- Establishes evaluation criteria to be used in determining whether and how the state should regulate an unlicensed profession.

**Hearing Date:** 2/8/21

**Staff:** Serena Dolly (786-7150).

#### Background:

The Department of Licensing (DOL) regulates a number of businesses and professions. For regulated professions, the DOL issues licenses and ensures compliance with professional standards and laws. Examples of professions regulated directly by the DOL, or in coordination with a board or commission, include:

- architects;
- cosmetologists;
- funeral directors;
- real estate brokers; and
- security guards.

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.*

Requirements for a professional license, certificate, registration, or permit vary considerably.

Some professions may require:

- college-level coursework;
- experience;
- an examination;
- some type of background check;
- a surety bond, insurance, or other minimum financial standards;
- minimum safety standards;
- continuing education for licensees; or
- duties of care for clients.

Many professions have provisions for some form of reciprocity or consideration of experience from other states or military service. In addition, the DOL and other licensing authorities must expedite the issuance of a broad range of professional licenses, certificates, registrations, or permits for qualified military spouses.

### **Summary of Bill:**

After January 1, 2022, the state may not impose regulations on an unlicensed profession except for the exclusive purpose of protecting the public interest. Bills introduced to regulate or implement a new professional license for the first time should be enacted by the state only when:

- unregulated practice can clearly harm or endanger the health, safety, or welfare of the public and the potential for the harm is easily recognizable and not remote or dependent upon tenuous argument;
- the public needs can reasonably be expected to benefit from an assurance of initial and continuing professional ability; and
- the public cannot be effectively protected by other means in a more cost-beneficial manner.

The Legislature must evaluate regulation of new professional licenses using this criteria and consider governmental and societal costs and benefits. If the Legislature finds that it is necessary to regulate an occupation by implementing a professional license requirement not previously required by law, the least restrictive alternative method of regulation should be implemented as follows:

- Where existing common law and statutory civil actions and criminal prohibitions are not sufficient to eradicate existing harm, the regulation should provide for stricter civil actions and criminal prosecutions.
- Where a service is being performed for individuals involving a hazard to the public health, safety, or welfare, the regulation should impose inspection requirements and enable an appropriate state agency to enforce violations by injunctive relief in court including, but not limited to, regulation of the business activity providing the service rather than the employees of the business.
- Where the threat to the public health, safety, or economic well-being is relatively small as a result of the operation of the profession, the regulation should implement a system of

registration.

- Where the consumer may have a substantial basis for relying on the services of a practitioner, the regulation should implement a system of certification.
- Where apparent that adequate regulation cannot be achieved by means other than licensing, the regulation should implement a system of licensing.

"Public interest" is defined as protection from a present and recognizable harm to public health, safety, or welfare. The term does not include speculative threats, or other nondemonstrable menaces to public health, safety, or welfare. The term "welfare" includes the financial health of the public when the absence of governmental regulation unreasonably increases risk and liability to broad classes of consumers.

**Appropriation:** None.

**Fiscal Note:** Requested on February 1, 2021.

**Effective Date:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.