



SMALL BUSINESS & NONPROFIT CLINIC

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Importance of Determining Licensing Requirements

This tutorial is meant to help a clinician determine Michigan licensing requirements in order to support client objectives when forming a business. Determining licensing requirements is important to stay in compliance with the law, and it may alter the client's decisions to pursue the work, to modify the scope of work performed, and to form a specific type of business.

To determine the licensing requirements, one needs to:

1. Determine the specific work to be performed and the level of independence desired,
2. Perform a licensing search, noting basic requirements for the State and municipalities,
3. Contact the licensing body to determine the requirements based on the scope of work to be performed, and
4. Determine if the choice of business entities is restricted.

Determine the Specific Goals

During the initial consultation, the clinician should get a clear idea of what the client intends to accomplish with her new business. The client's purpose is crucial in determining the applicable licensing requirements. The level of independence the client desires should be determined, as this impacts the level of licensing required in several areas. Persons who do not need to work independently may generally work under the supervision of another licensed person; they may need to be registered, but a license may not be required. Persons desiring more independence may require a higher level license and required to hold multiple licenses. After the licensing requirements are determined, the entrepreneur should be advised what is required, so she can make an informed

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decision in forming the business and adjusting the scope of work.

Performing the State Licensing Search

Licensing requirements vary for each occupation and can be researched on the State's website at www.michigan.gov/statelicensesearch. The search field is interactive, updating available matches as characters are entered. The search engine is not limited to the first word found, so a search of "mechanic" will produce matches such as Auto Mechanic, Mechanical Contractor, and Mechanical Inspector.

Although individual keywords may be searched from this location, alternative wordings should be searched, and all categories should be browsed by clicking the link "View ALL Required Licenses." An example of a limitation is that a specific search will not return a result for "lawyer", but will return a result for "attorney", demonstrating the quirkiness of the search function.

Many listed professions which require a license are expected: doctors, electricians, plumbers, etc. Some unexpected occupations require a license, such as auctioneers, auto parts dealers, barbers, and fish breeders. Care should be taken even where the State does not require a license, as local municipalities may require a license. Occupations which fall in this category include fitness trainers, cleaning services, and dog grooming.

Contact the Licensing Body

Contacting the municipal or state licensing body is the best and fastest way to determine the correct licensing requirements for the specific work to be performed. To get an accurate answer, it is essential to describe the scope of work to be performed and the level of independence desired.

Although the DLEG website is helpful in some respects, it rarely lists all requirements for an occupation in an easily useable format. This is especially true for the Construction Divisions, which include the Boiler, Building, Electrical, Elevator Safety, Mechanical, and Plumbing Divisions. The result from the State License Search will direct a researcher to the appropriate Division and list its phone number, but will not list specific requirements to be met. From the DLEG main page, click the link for "Construction Codes" which is located on the left hand side of the web page to list the divisions.

The Construction Codes web page provides access to many details necessary for persons performing traditional construction work. From here, examination schedules, applications, and deadlines may be found for various construction trades. In many cases, the researcher will find the requirements to be considered in test applications, along with several other requirements which are placed in odd locations. A review of the licensing requirements may be crucial to a business owner, as some professions require up to six years experience before an individual can even apply to test at the desired level.

Requirements to perform work are not organized in a user-friendly format. There are no flowcharts to guide an unlicensed person to achieve the correct qualification in a profession. Many times, the requirements are spread across several obscure locations of the DLEG website. Searching permit information will often reveal licensing requirements not listed elsewhere.

Given the lack of a user-friendly format for assessing the requirements, the Division should be contacted to determine the specific requirements. If the relevant statute is not listed on the State's website, it is worth asking the division representative which statute applies to the profession. Once the license requirement is determined, it would be helpful to determine the renewal requirements and costs involved to maintain the license. Several professions will also require training to maintain or renew appropriate licenses. These requirements will help the client make an informed decision.

For example, licensed journeymen tradesmen often must work under the supervision of a licensed master tradesman who possesses a contractor license in that trade or works for a licensed contractor in that trade. An unlicensed, registered person can work under the supervision of that licensed journeyman. For application to a client's specific situation, the appropriate state division should be contacted for individual requirements. See www.michigan.gov/dleg.

Restrictions on Business Entity Formation for Certain Professions

Certain licensed professions are restricted in business types they may form. When these professionals form a limited liability company (LLC), it must be a Professional LLC (PLLC, PLC, or PC). Because licenses are required to be held by the owners of a PLLC, the licensing requirements necessarily need to be determined before the business entity is chosen for these select professions. At this time, the licensed construction trades that form LLC's are not required to form PLLC's. The professions which are restricted in LLC formation are currently limited to dentists, physicians, surgeons, clergy, and attorneys performing work in their profession.

Example of Difficulties and the Necessity to Determine the Desired Scope of the Client's Work

The difficulties encountered and the necessity to determine the exact type of work the client wishes to perform can best be shown by an example. If a client mentions she wishes to perform electrical work, it is important to determine the scope of electrical work to be performed and the independence desired in performing that work.

If the clinician proceeds without determining the scope of work, the State License Search will reveal that any person engaged in electrical contracting is required to be licensed through a local municipality or through the State. The inadequacy of this information is not readily apparent. A search of the electrical division web pages reveals the minimum qualification to perform electrical work is an electrical journeyman license requiring a minimum of four years electrical experience, electrical training, and passing

an electrical exam. One could erroneously conclude that all inexperienced persons need to perform a four year electrical program to perform electrical work.

Becoming a journeyman electrician does not meet the requirement of an electrical contractor. Additional research would reveal that an electrician must become a licensed master electrician prior to working independently. Further research would reveal that the licensed master would then need to pass the electrical contractor licensing exam to independently perform electrical work. The clinician could again arrive at an erroneous conclusion that the client would be required to gain six years of electrical experience, attend electrical training, and pass a minimum of two electrical licensing tests before taking the electrical contractor's licensing exam. Based solely on the information from the website, the clinician would not be able to advise the client of another important factor; the failure rate of these exams is approximately 75%. This information can only be gained through discussion with those involved in the licensing process.

Although it does not appear under licensing requirements, if one browses through the electrical permit requirements, one would find that to perform electrical work, the person must be a licensed electrical contractor or a homeowner performing electrical work on her single family home. An obscure reference to Public Act 217 lists some exemptions to the permit requirement which may be relevant. Researching Public Act 217 would reveal these exemptions, which include minor repair work which does not exceed a value of \$100 under section 7 of the Act.

Discovering these exemptions, a clinician who has not inquired into the specific scope of work or independence may now find that the work falls under an exemption or only requires registration because the work is supervised by a licensed tradesman. The requirements vary from no licensing requirement in the case of minor repair work or homeowner repairs, to the extreme of six years required experience and passing several licensing tests in the case of fully independent electrical contracting.

It is extremely important to determine an accurate scope of work to be performed and the level of independence required. Once this is determined, the best method to determine licensing requirements is to contact the appropriate division rather than traversing the obscure requirements scattered across the State's website.