MINNESOTA OFFICE OF THE LEGISLATIVE AUDITOR

Occupational Regulation

SUMMARY

Many separate state agencies and boards are responsible for occupational regulation.

The statutory purpose of occupational regulation is to protect public health, safety, and welfare. Today there are almost 200 regulated occupations in Minnesota (not counting teachers' licences), but many policy makers in Minnesota and across the country question whether occupational regulation is needed as often as it is used. Many occupations have been newly regulated in Minnesota in the last 25 years. Many separate state agencies and boards are responsible for occupational regulation, and it is difficult for legislators and others to provide necessary oversight to be sure the public interest is being served.

An interim Senate subcommittee held hearings on occupational regulation in the fall of 1997, but no major action was taken during the 1998 session. In April 1998, the Legislative Audit Commission directed the Legislative Auditor to conduct a study of occupational regulation that would look at the effectiveness of the system as a whole. This study addresses the following questions:

- **What is the history of the policy debate on occupational regulation in Minnesota and other states?**

- **What constitutes Minnesota's system of occupational regulation? What occupations and professions are regulated and which state agencies and boards have regulatory authority? How does the system of regulation in Minnesota compare with occupational regulation in other states?**

- **How effective is Minnesota's system of occupational regulation? Is the state's policy on occupational regulation applied consistently? How effective is Legislative oversight of occupational regulation?**

Our overall assessment is that there are some problems with occupational regulation. But, generally, the problems we found are the same problems that have been uncovered and discussed in previous reports by others. Moreover, we do not think Minnesota has a crisis in occupational regulation. In our view, Minnesota today simply has many of the same occupational regulation issues that have persisted here and in most other states for decades.

We suggest ways to improve the administrative structure and procedures of occupational regulation. We do not, however, make recommendations on the core policy issues of "whether to regulate, and if so, how much." Those are policy decisions that must be made by elected officials. And, we think the Legislature already has enacted into law good criteria for making those choices. The "key" is the Legislature's willingness to apply those criteria more rigorously and consistently, both in deliberations on proposals for new or expanded regulation and in retrospective reviews of regulatory authority already enacted.

BACKGROUND

Occupational regulation has been the subject of much criticism.

Occupational regulation is intended to protect the public, but it has been the subject of much criticism, both in concept and execution. Regulating an occupation through the imposition of entry requirements such as education, experience, and examinations necessarily restricts the number of individuals employed in the occupation. A risk of occupational regulation is that it will be used to "fence out" competitors, allowing those in the profession to charge higher prices. Several studies have found that occupational regulation is linked to higher prices, leading researchers to conclude that legislators should carefully weigh the costs and benefits of every proposal to regulate an occupation.[1] Over the years occupational regulation has received other criticism as well. Critics claim that it limits inter-state mobility, excludes marginalized groups from regulated professions, is controlled by the professions it is supposed to regulate, and does not vigorously investigate consumer complaints or discipline practitioners who are guilty of unprofessional conduct.

A principal concern is that occupational regulation will "fence out" competition.

Nationally, occupational regulation has undergone several reforms. Many states have increased the number of public members on their regulatory boards, which some studies show to have a positive impact on the responsiveness of regulatory boards to public interests.[2] In Minnesota, most regulatory boards have at least two public members, but some analysts of occupational regulation continue to call for increased public representation.[3] Another major reform effort has been the centralization or coordination of regulatory activities under umbrella agencies. Advocates of this reform suggest that centralization provides administrative efficiency, reduces the influence of professional organizations, and simplifies the process of legislative oversight of occupational regulation. In Minnesota various commissions, reports, and legislators have proposed forms of regulatory centralization, but no major changes have been enacted.

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1 Carolyn Cox and Susan Foster, *The Costs and Benefits of Occupational Regulation* (Washington, D.C.: Federal Trade Commission, 1990).

2 Elizabeth Graddy and Micheal B. Nichol, "Structural Reforms and Licensing Board Performance," *American Politics Quarterly*, 18 no. 3 (July 1990), 394.

3 Moris M. Kleiner and Mitchell Gordon, "The Growth of Occupational Licensing: Are We Protecting Consumers?" *CURA Reporter* (Minneapolis: December 1996); L. J. Finocchio, C. M. Dower, N. T. Blick, C. M. Gragnola, and the Taskforce on Health Care Workforce Regulation, *Strengthening Consumer Protection: Priorities for Health Care Workforce Regulation* (San Francisco, CA: Pew Health Professions Commission, October 1998).

Across the country, several important legislative reforms have been prompted by concern about occupational regulation.

Two legislative reforms with particular application to occupational regulation are known as "sunrise" and "sunset." In 1976, Minnesota became one of the first states to pass sunrise legislation when it amended Minnesota Statutes Chapter 214 to include criteria for occupational regulation against which any new or increased regulation were to be judged. The regulatory policy articulated by Chapter 214 recognizes the potential danger of occupational fencing and challenges proponents of regulation to demonstrate that regulation serves the public interest.

Sunset legislation mandates periodic reviews of regulatory programs in order for them to continue past a specified date. Sunset has not resulted in the widespread success which it once seemed to promise, and has never been a regular part of occupational regulation in Minnesota, but several authorities continue to call for the implementation of sunset reviews to improve legislative oversight and to eliminate regulatory programs that have become outdated.

The 1976 amendments to Chapter 214 also defined an active role for the Minnesota Department of Health in studying proposals for new regulation of health professions. It established the Human Services Occupations Advisory Council (HSOAC) to advise the Commissioner of Health on regulatory policy. The Council conducted 11 studies between 1976 and 1982, and 13 studies between 1984 and 1990. The 1976 amendments authorized the department to enact "title protection," a form of occupational regulation, through administrative rulemaking; and a number of HSOAC studies recommended title protection to the Commissioner.[4] Other sunrise studies recommended licensure to the Legislature. Still others recommended no regulation.

There have been several executive branch and legislative studies of occupational regulation over the years. In the mid-1970s the Department of Administration conducted a major study and published reports in 1976 and 1977. Among other things, the department recommended replacing all autonomous regulatory boards with advisory boards housed in various state departments. Following the study, a Senate Government Operations Committee task force on occupational regulation was established to follow up on the report's recommendations. The task force did not agree with the suggestion that the independent boards be abolished, although it recommended strengthening the relationship between boards and host departments that provided administrative services. Over the years, however, the relationship between boards and host agencies has become attenuated rather than strengthened, especially for the boards affiliated with the Minnesota Department of Health. Copying and data processing, a major concern in the Department of Administration report, have become less expensive in the last 20 years and the economies available from centralization of these services have greatly diminished or vanished altogether.

In the 1990s, there have been two interim committees of the Legislature, one in the House and one in the Senate, that studied the issue of occupational regulation

4 Title protection restricts the use of a title, such as "athletic trainer," to those who are credentialled by the state, but does not prohibit others from providing the same services if they use a different title. Minnesota law refers to this type of credential as registration, but the nationally used term for title protection is "certification."

and took testimony. However, neither committee proposed legislative reforms that were passed into law.

MINNESOTA'S SYSTEM OF OCCUPATIONAL REGULATION

One of the primary purposes of our study was to assemble a detailed description of Minnesota's system of occupational regulation. We describe the types of regulation, the organization of regulation, and we compare the system of occupational regulation in Minnesota to occupational regulation in other states.

There are various types of occupational regulation, including licensure, certification, and registration.

Occupational regulation can be accomplished in several ways. The most restrictive form of regulation is *licensure* which restricts the right to practice a legally defined occupational scope of practice to license holders.[5] An example is the right to practice medicine or law. A less restrictive form of occupational regulation is *certification* which legally restricts the use of a professional or occupational title, but not the right to provide similar or identical services.[6] For example, no one but certified athletic trainers can use that title. A still less restrictive form of regulation is *registration* where a roster of enrolled practitioners is maintained by state government without any restriction on the right to practice or the right to use a title.[7] Pharmacy drug researchers are registered by this definition of the term.

There are still other forms of occupational regulation used in Minnesota. One model that has been the subject of considerable discussion in recent years is illustrated by the regulation of unlicensed mental health practitioners by the Office of Mental Health Practice in the Minnesota Department of Health.[8] While a number of mental health professions are licensed by regulatory boards (including clinical psychologists, marriage and family therapists, and social workers) others may provide psychotherapy and other mental health services for remuneration without any state license or certification. Minnesota law, nevertheless, specifies prohibited conduct for unlicensed mental health practitioners as well as reporting requirements that they must meet. Failure to meet these statutory requirements can be the basis for disciplinary action.[9]

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5 Scope of practice is defined as the techniques and activities legally reserved for license holders.

6 We are referring here to statutory certification. There are many important private certification programs.

7 These are the predominant national definitions of licensure, certification, and registration, used by the Council of Licensure, Enforcement, and Regulation (CLEAR) and the Pew Health Professions Commission. However, this usage is not generally followed in Minnesota. The term "registration" is often used in Minnesota to mean title protection, for example, and certification is often the term used for practice protection. Chapter 214 defines registration and licensure, but not certification.

8 Established by *Minn. Stat.*§148B.60

9 *Minn. Stat.* §148B.68

In addition, there are common law and statutory causes of civil action as well as criminal prohibitions that can sanction or prevent illegal practices by a wide variety of service providers. Prosecutors and dissatisfied consumers can use these laws to seek punishment and restitution whether or not occupations are regulated. Consumers can also be protected against incompetent practice through business, industrial, or facility regulation. In fact, Chapter 214 specifies the conditions under which occupational regulation is required and calls for the least restrictive form of regulation to be preferred.

Minnesota has a complex multifaceted system of occupational regulation.

Minnesota has a complex, multifaceted system of occupational regulation. Occupations are regulated by 14 health-related licensing boards, 12 non-health-related boards, and 7 departments of state government. Minnesota regulates more occupations than most other states and regulates professions through a variety of organizational arrangements. Our report presents a complete list of regulated occupations, and we have separately published a Directory of Regulated Occupations which provides basic information on each occupation.[10] In general, we found:

- **There are about 188 regulated occupations and professions in Minnesota, not counting many separate teachers' licenses.**

Some of the regulated occupations are familiar: there are about 112,000 teachers, 88,000 nurses, 15,000 physicians, and 21,000 attorneys. On the other hand, some regulated occupations are small and obscure, such as crop hail adjuster or professional karate referee. Weather modifier has been a licensed occupation since 1977 but no licenses have ever been issued.

There are many separate organizational entities with regulatory authority. While most of the small occupations are regulated by state departments, some independent regulatory boards regulate fairly small occupational groups such as the Board of Optometry (801 optometrists), the Board of Podiatry (142 podiatrists), or the Board of Private Detectives and Protective Agents (300 detectives and agents).

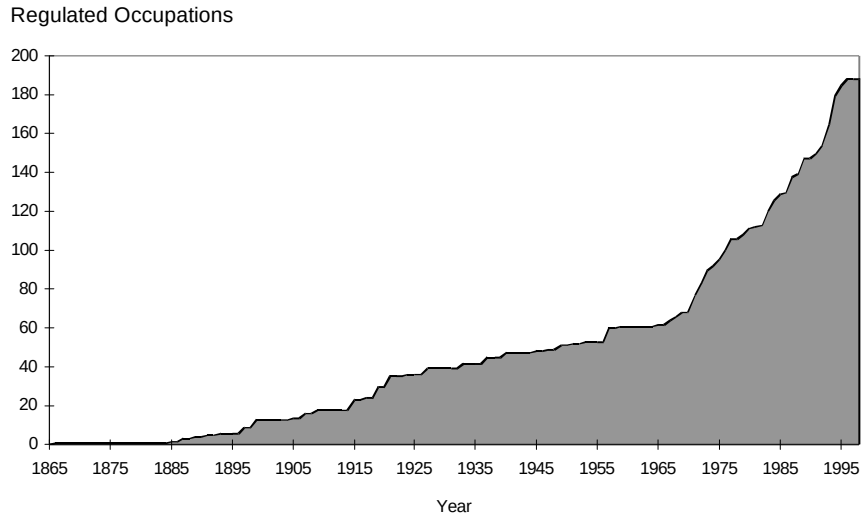
Figure 1 illustrates the explosive growth of regulated occupations in recent decades. During the period 1866-99, there were 13 occupations licensed, including physicians, dentists, attorneys, and barbers. In the period 1900-09, there were five new occupations regulated; in the 1910s there were 12. Between 1920 and 1970, the number regulated each decade was 10 or fewer. But there were 40 newly regulated occupations in the 1970s, 39 in the 1980s, and 41 so far in the 1990s. Indeed, we found that:

- **Despite its sunrise statute, Minnesota regulates more occupations than all but 12 other states, and now regulates about 31 occupations that are regulated by fewer than nine other states.**

10 The Directory is available at http://www.auditor.leg.state.mn.us/pe9905.htm.

The number of regulated occupations has grown rapidly in recent decades.

Figure 1: Cumulative Number of Occupations Regulated in Minnesota by Year



SOURCE: Program Evaluation Division survey.

EFFECTIVENESS OF OCCUPATIONAL REGULATION

Several problems with occupational regulation merit legislative attention. First:

- **The state's policy on occupational regulation articulated in Chapter 214 is not applied consistently or effectively.**

Chapter 214 says that no regulation shall be imposed upon any occupation unless required for the public health, safety, or well-being, and it lays out four criteria for regulation:[11]

- Whether the unregulated practice of an occupation may harm or endanger the health, safety, and welfare of citizens, and whether the potential for harm is recognizable and not remote;

- Whether the practice of an occupation requires specialized skill or training and whether the public needs and will benefit by assurances of initial and continuing occupational ability;

- Whether citizens are or may be effectively protected by other means; and

11 Minn. Stat. §214.001

- Whether the overall cost effectiveness and economic impact would be positive.

If regulation is found to be necessary, Chapter 214 requires the least restrictive mode of regulation to be used. The basic thrust of the statute is that the burden of proof is on the proponents of regulation to make a case for regulation. A threat to public health or safety must be shown to be immediate, not remote.

The state has a policy on occupational regulation, but it is not applied consistently.

There are several reasons why the criteria have not been applied in a rigorous, consistent manner. While Minnesota has a policy governing the regulation of occupations, it does not have a process that might ensure that the policy is applied in a consistent fashion. The application of the Chapter 214 criteria or the collection of data that might make this possible is not the specific responsibility of any state agency or legislative staff office. The Human Services Occupational Advisory Council in the Minnesota Department of Health performed this function on and off between 1976 and 1996 for health occupations. Currently, legislative committees develop some of the information through hearings or staff work, but most of the time occupational regulation issues do not command the time and attention by committees that application of the criteria requires.

Another important factor that interferes with the process is the political influence exercised by occupational groups and their representatives. This was mentioned by many legislators we talked with and ranked high on the list of problems mentioned in a survey we conducted of board and agency managers responsible for occupational regulation. Some larger occupational groups have considerable power, but even small groups with narrow concerns can be influential over time and can interfere with the process by which statutory policy is applied in a given situation. As a recent national report makes clear, this is not a problem that is limited to Minnesota, but is an important national concern related to occupational regulation.[12]

We conclude that there is a need for a mechanism that will control the number of proposals and provide better information bearing on the statutory criteria for regulation. We suggest several options for improving the process by which the Legislature handles proposals for occupational regulation. Some of these are recommendations that have been made before and even tried before, but we think there are compelling reasons to try again. As one option:

- **The Legislature could require a study of whether each major proposal for new or increased regulation meets the Chapter 214 requirements.**

As we mentioned, the Minnesota Department of Health (MDH) used to perform such studies for the health professions, and many in the Legislature and elsewhere believe the studies were useful, even though the recommendations of MDH to the Legislature were not always heeded. We think similar studies should continue to be carried out for every major proposal for new regulation by MDH or other agencies in the case of non-health occupations or professions.

12 Finocchio et al., *Strengthening Consumer Protection*, 21.

Another option worth considering is:

- **Committees hearing bills that propose new occupational regulation could require proponents to submit specific information as a condition for obtaining a hearing.**

Proponents of new occupational regulation should be required to provide specific information.

Proponents could be asked to respond to some of the same questions MDH asked health occupations seeking regulation to address in the HSOAC studies it conducted in the past. Other states have developed questionnaires that cover similar ground, and these could be used as a model. Maine has put a set of questions into its statutes governing occupational regulation. One way or another it would be beneficial for legislative committees to use an expanded and operationalized version of the criteria for occupational regulation contained in Chapter 214.[13]

It can be anticipated that some groups seeking regulation would be unable to provide the required information and analysis. The ability to do so is not irrelevant to the regulatory issue under consideration, however. If an occupation or profession has not reached a certain level of maturity and separate identity, it cannot be regulated effectively. To be regulated, an occupation ought to require knowledge, skills, or abilities that are teachable and testable; the skills should be taught in accredited programs; these programs should be distinguishable from related occupational or professional programs; and the occupation should have its own trade or professional association. It should not be unduly burdensome for an occupation or profession that has reached this level of separate identity to respond to a detailed request for information.

Looking at Minnesota's history and at other states with sunrise laws, we see a number of organizational alternatives that could be used to carry out the studies described above. These include specialized legislative committees, possibly a joint legislative commission, organizational units in the Department of Health or Commerce (depending on the type of regulation under consideration), or a newly created council or organization of some kind. There are arguments in favor and against each of these alternatives. For example, we have observed that sustained focus on applying the policy articulated in Chapter 214 tends to get lost in state agencies with ongoing regulatory programs, and in legislative committees with other, often more compelling issues before them.

Legislative Oversight

Seven departments of state government regulate over 100 occupations. In addition, there are 14 independent boards responsible for regulating 34 health professions and 10 non-health-related boards that regulate 51 other occupations and professions, not counting 2 boards appointed by the Supreme Court that license and regulate lawyers. These boards are independent state agencies in that they are not subject to the authority and control of any state agency. All but a few of the boards are appointed by the Governor. We talked with legislators and state

13 Figure 3.2 of our full report lists some of the specific questions that could be asked.

agency and board staff and reviewed the biennial reports that many boards are required to produce and conclude:

- **Legislative oversight of occupational regulation is inadequate, partly as a consequence of the fact that there are so many separate entities with regulatory responsibilities.**

Legislative oversight of occupational regulation is difficult, but needs to be improved.

One indication of the problem is the use of the biennial reports that Chapter 214 requires 24 boards and the Department of Health to produce. We reviewed the available biennial reports of each of the boards and agencies. We formally requested the reports due in 1996 and reviewed the 1998 reports that were available by November 1998. We found:

- **Several boards or agencies did not submit a report for 1996.**

The Board of Assessors, the Board of Dietetics and Nutrition, the Board of Optometry, and the Office of Mental Health Practice did not submit reports for 1996 as required. In addition, the Minnesota Department of Health is supposed to submit a summary of the health-related reports by December 15 of each even-numbered year, but it has not done this at least since 1990.

In addition,

- **The biennial reports are not widely read, and in many cases they appear to not be read at all.**

The reporting requirements have been changed little since 1976 when Chapter 214 was amended and substantially put into its current form. In our judgment, the Legislature ought to review these requirements and revise them. The reports are required to provide some data that may no longer be of interest. For example the reports must include the hours spent by all board members in meetings and other activities and the locations and dates of examinations. Most of the boards respond quite literally to the statutory specifications, even though the specifications are awkward and the results less than useful. While Chapter 214 invites the boards to include any information which board members believe will be useful, few reports make an effort to provide such information.

Almost all the boards issuing the reports say their readership and use is extremely limited. The reports vary in quality, but, in our judgment, even the best of the reports are not forthcoming and easy to read. There is an absence of needed explanatory notes and considerable expertise is required to understand the reports. The reports have changed little over the years, and without feedback from users there has been little incentive for the boards to improve the usefulness and readability of the reports.

Some of the topics covered by the reports are of significant interest, however, and deserve attention. One example is the statutory requirement to report on the number of complaints against licensed professionals, the nature of the complaints, and the outcome of complaint investigations. Most of the reports provided this data, although it was often not presented completely or clearly, and none of the reports provided historical tables drawn from previous reports which could have

shown how the numbers were changing over time. Most reports did not report the number of open cases at the start and at the end of the biennium, an essential point of information if legislators or the public want to know if the "backlog" is increasing or decreasing over the biennium.

Regulatory boards and state agencies that regulate occupations need to improve their biennial reports.

We conclude that Chapter 214 does not adequately specify the contents of a truly useful report. It requires information that is not necessary or available from other sources, and it does not require important information such as adequate data on complaint investigations and the outcome of investigations. Furthermore, the boards and agencies that are required to report have not designed a useful, readable report on their own. It may not be realistic to expect the boards to put potentially embarrassing information in the reports, so it is important for the Legislature to consider the contents of the reports. We think the most important issue is whether the boards are providing a timely and competent investigation of complaints.

The boards and agencies should meet with interested legislators and staff to revise the reporting requirements. Also, the health boards and MDH should negotiate a way to produce a summary report that would allow the Legislature to oversee the health occupations without reviewing 15 separate reports.

Complaint Investigation

Occupational regulation is supposed to protect the public by establishing occupational entry requirements and by providing a check on the continued competence of practitioners. Clients and other professionals can file a formal complaint against practitioners they feel are not delivering services consistent with professional standards. In some situations, professionals are required to report on other professionals. Effective occupational regulation depends on a timely and competent investigation of complaints. It was beyond the scope of this study to measure the quality of complaint investigations, but it was possible to learn if some boards or agencies had accumulated a significant backlog of pending cases.

We found that the number of complaints filed against regulated professionals varies widely. Many regulatory authorities seldom receive complaints against license holders in the occupations under their authority. But some of the larger professions attracted hundreds of complaints or more per year in recent years. In the two year period ending June 30 1998, there were nearly 2,300 complaints against attorneys, 1,968 against insurance agents, and 1,779 against physicians. We also found:

- **In the case of some regulated occupations, there are many open complaint investigations suggesting that complaints are not always investigated and resolved in a timely fashion.**

A few professions have about as many open investigations as cases filed in a two year period. The Board of Psychology, for example, received 372 complaints in fiscal years 1997-98 and had 432 open cases in August 1998. The Office of Mental Health Practice reported 154 complaints against unlicensed mental health practitioners in fiscal years 1997-98 and had 151 open cases in August 1998.

Other professional groups with a significant ratio of open cases to cases filed include nurses, commercial pesticide applicators, teachers, physicians, and dentists.

We interviewed the executive directors and other staff of five health-related boards with a relatively high volume of complaints to discuss complaint data and to learn more about their case-tracking systems and the availability of data needed for proper management of the caseload and for producing the type of information legislators and the public ought to see. We learned that several of the boards are in the process of developing new information systems, and all recognized to some degree that their reporting of complaint investigations could be made more useful. We also learned that the Board of Dentistry, the Board of Nursing, and the Board of Medical Practice had significantly reduced their backlogs in recent years.

We also reviewed the status of investigations that had been referred to the Attorney General's Office by the boards. The Attorney General investigates about 10 to 15 percent of cases filed with the health boards and is required to be involved in all cases alleging sexual misconduct or an active chemical dependency problem. The purpose of the Attorney General's involvement is to assure public accountability in investigations of licensed professionals by boards dominated by professionals.

A few years ago, the Attorney General's Office was the target of criticism from many of the health boards, because of a backlog of investigative cases and delays in the investigation and resolution of cases. To some extent the boards still complain about the time and money they must spend on legal and investigative services from the Attorney General's Office. We inquired about the current status of the backlog and found:

- **The Attorney General's Office has implemented an effective case tracking system and has made progress in reducing the backlog of investigative cases that existed a few years ago.**

The Attorney General's Office has reduced its backlog of cases in recent years.

There were 246 investigative cases open in the Attorney General's Office at the end of fiscal year 1995. By the end of fiscal year 1998, this number had declined to 170 cases.

Review of Existing Programs

In Chapter 214, Minnesota has an explicit policy governing proposals for new occupational regulation, and statutory statements about the purpose of regulation and the conditions justifying regulation. It is not clear to what extent these principles or criteria should apply to existing regulatory programs, many of which were implemented prior to enactment of the sunrise criteria in 1976. However, there is a need to periodically re-examine the contemporary need for regulatory programs and the Chapter 214 criteria are a useful place to start. Specifically, it is useful to ask if currently regulated occupations would pose a serious threat to the public health or safety if they were not regulated, or if the practice of an occupation requires specialized skill or training. (These are two of the criteria for occupational regulation articulated by Chapter 214.) It is obvious that the

application of these criteria requires the exercise of judgment by policy makers aided by relevant data and information.

We have collected some information that is relevant to such a judgment although it is by no means sufficient. The Directory of Regulated Occupations that we are separately publishing shows the education, experience, examination, and continuing education requirements of each regulated occupation in Minnesota. In tabulating this information, we found:

The Legislature should continue to review existing regulated occupations.

- **Out of 188 regulated occupations, 82 have no statutory educational requirements beyond a high school diploma, 69 have no requirements for specialized experience, and 32 have no examination requirements. Twelve occupations have neither specialized education, experience, or examination requirements.**

In addition, 75 occupations of the 188 regulated occupations have no continuing education requirements. We also found that many of the occupations without extensive education or experience requirements have recorded no complaints against license-holders or other regulated workers in a two year period. This may call into question whether these occupations need to be regulated. The issue of whether the state should continue to regulate these or other occupations obviously requires more detailed study, but a review of the Directory we have put together can suggest where to start.

We think a systematic review might show that there are many currently regulated occupations that do not need to be regulated by the state and independent boards that could be consolidated with other boards or state agencies. We discuss a few examples in our full report. For example, we think the regulation of assessors, if necessary, should be carried out by the Department of Revenue rather than the Board of Assessors. Two other independent boards that should be reviewed are the Board of Boxing and the Board of Private Detectives and Protective Agents.

Every regulated occupation can assert a reason why occupational regulation protects the public. The issue for policy makers is whether the threat to public health or safety is real rather than theoretical and whether it exceeds the threat of many unregulated occupations. Do barbers or cosmetologists (regulated) present a greater threat to the public health than waiters or cooks (unregulated)? Do architects (regulated) pose a greater threat than auto mechanics (unregulated)? Are there more direct and effective ways of protecting the public than occupational regulation, such as inspection of facilities?

The Directory of Regulated Occupations we compiled can help focus those reviews.

The organization of occupational regulation also deserves some attention. We think the division of responsibility between the independent health-related boards and the Minnesota Department of Health could be drawn along functional lines. Clinical health occupations could be regulated by the boards and facilities and public health occupations by MDH. Currently, MDH regulates occupational therapists and speech and language pathologists, for example, but the health boards regulate most other clinical practitioners. Previous studies of occupational regulation have focused on the efficiency with which the boards are administered and envisioned that large state agencies could provide administrative services more efficiently than many small boards. The merit of this idea has been called

into question by the fact that over the years the health boards have distanced themselves from the Department of Health and set up a joint administrative services unit, an arrangement that appears to be working well in providing a limited number of services.

There are undoubtedly further opportunities for more collaboration among the boards and improvements in efficiency, but our analysis does not conclude that administrative efficiency is the primary problem with occupational regulation. We think the main issues policy makers should address are applying the policies in Chapter 214 more consistently and improving legislative oversight of regulatory authorities, especially in complaint investigation and enforcement.