

practitioner and an accompanying grant of the exclusive privilege or right to make certain representations. Thus, a certified person may make certain representations that an uncertified person may not make, but the certified person is not authorized to provide any service that an uncertified person may not provide. In a few places in this article, the term "permit" is used to denote the authorization to perform certain limited acts that are related to a particular occupation and that a person without a permit may not perform. None of these terms have any legal significance in themselves, and the Commission easily could have decided to use any of them in a different sense or to use different terms. The real significance lies in the substantive provisions in which these terms appear. However, the Commission believes that, if the terms consistently are used as indicated, the substantive provisions become more easily understandable.

At various places throughout this article, the terms "certificate" and "registered" also appear. "Certificate" is used to signify a sheet of paper used for documentation -- e.g., one that documents the grant of a license or certification. "Certificate" is not used as a substitute for "license", "certification", or "permit". "Registered" is used only as a descriptive adjective and does not denote any sort of grant of authority by this State.

Right of entry:

The Commission notes, for consideration by the General Assembly, that this article contains several provisions that authorize entry into premises to carry out duties imposed by this article. The Commission notes that there are constitutional issues with respect to nonconsensual, warrantless searches of premises and issuance of administrative search warrants.

The Fourth Amendment of the United States Constitution and Article 26 of the State Declaration of Rights require that, absent an emergency or lawful consent, a search warrant is required for an administrative inspection of private dwellings and, except for businesses that are extensively regulated, for business premises. For closely regulated businesses, the Supreme Court has held that a warrantless search is reasonable for a business that has a long history of regulation, as, e.g., the liquor business, Colonnade Catering Corp. v. United States, 397 U.S. 72 (1970), and the firearms business, United States v. Biswell, 406 U.S. 311 (1972).

Most recently, in Donovan v. Dewey, ___ U.S. ___ (June 17, 1981), the Court permitted the warrantless inspection of a stone quarry on the basis that the statutory inspection program, in terms of the certainty and regularity of its application, provided a constitutionally adequate