

STATE OF MICHIGAN JUDICIAL DISTRICT Court of Claims JUDICIAL CIRCUIT COUNTY	SUMMONS	CASE NUMBER 25- -MZ
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Court address Hall of Justice 925 W. Ottawa St., P.O. Box 30185 Lansing, MI 48909	Court telephone number 517-373-0807
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Plaintiff's name, address, and telephone number Dr. Kent Wildern, DDS	v	Defendant's name, address, and telephone number Department of Licensing and Regulatory Affairs Ottawa Building 611 W. Ottawa Street P.O. Box 30004 Lansing, MI 48909
Plaintiff's attorney bar number, address, and telephone number Steven W. Dulan (P54914) 5311 Park Lake Road East Lansing, MI 48823. (517) 332-3149		

Instructions: Check the items below that apply to you and provide any required information. Submit this form to the court clerk along with your complaint and, if necessary, a case inventory addendum (MC 21). The summons section will be completed by the court clerk.

Domestic Relations Case

- ☐ There are no pending or resolved cases within the jurisdiction of the family division of the circuit court involving the family or family members of the person(s) who are the subject of the complaint.
- ☐ There is one or more pending or resolved cases within the jurisdiction of the family division of the circuit court involving the family or family members of the person(s) who are the subject of the complaint. I have separately filed a completed confidential case inventory (MC 21) listing those cases.
- ☐ It is unknown if there are pending or resolved cases within the jurisdiction of the family division of the circuit court involving the family or family members of the person(s) who are the subject of the complaint.

Civil Case

- ☐ This is a business case in which all or part of the action includes a business or commercial dispute under MCL 600.8035.
- ☐ MDHHS and a contracted health plan may have a right to recover expenses in this case. I certify that notice and a copy of the complaint will be provided to MDHHS and (if applicable) the contracted health plan in accordance with MCL 400.106(4).
- ☒ There is no other pending or resolved civil action arising out of the same transaction or occurrence as alleged in the complaint.
- ☐ A civil action between these parties or other parties arising out of the transaction or occurrence alleged in the complaint has

been previously filed in ☐ this court, ☐ _____ Court, where

it was given case number _____ and assigned to Judge _____

The action ☐ remains ☐ is no longer pending.

Summons section completed by court clerk.

SUMMONS

NOTICE TO THE DEFENDANT: In the name of the people of the State of Michigan you are notified:

1. You are being sued.
2. **YOU HAVE 21 DAYS** after receiving this summons and a copy of the complaint to **file a written answer with the court** and serve a copy on the other party **or take other lawful action with the court** (28 days if you were served by mail or you were served outside of Michigan).
3. If you do not answer or take other action within the time allowed, judgment may be entered against you for the relief demanded in the complaint.
4. If you require accommodations to use the court because of a disability or if you require a foreign language interpreter to help you fully participate in court proceedings, please contact the court immediately to make arrangements.

Issue date	Expiration date*	Court clerk
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*This summons is invalid unless served on or before its expiration date. This document must be sealed by the seal of the court.

PROOF OF SERVICE

TO PROCESS SERVER: You must serve the summons and complaint and file proof of service with the court clerk before the expiration date on the summons. If you are unable to complete service, you must return this original and all copies to the court clerk.

CERTIFICATE OF SERVICE / NONSERVICE

☐ I served ☐ personally ☐ by registered or certified mail, return receipt requested, and delivery restricted to the addressee (copy of return receipt attached) a copy of the summons and the complaint, together with the attachments listed below, on:

☐ I have attempted to serve a copy of the summons and complaint, together with the attachments listed below, and have been unable to complete service on:

Name	Date and time of service
Place or address of service	
Attachments (if any)	

☐ I am a sheriff, deputy sheriff, bailiff, appointed court officer or attorney for a party.

☐ I am a legally competent adult who is not a party or an officer of a corporate party. I declare under the penalties of perjury that this certificate of service has been examined by me and that its contents are true to the best of my information, knowledge, and belief.

Service fee \$	Miles traveled	Fee \$	
Incorrect address fee \$	Miles traveled	Fee \$	TOTAL FEE \$

Signature _____

Name (type or print) _____

ACKNOWLEDGMENT OF SERVICE

I acknowledge that I have received service of a copy of the summons and complaint, together with

Attachments (if any) _____ on _____ Date and time _____

Signature _____ on behalf of _____

Name (type or print) _____

**STATE OF MICHIGAN
IN THE COURT OF CLAIMS**

KENT WILDERN, DDS,

Plaintiff,

v.

DEPARTMENT OF LICENSING AND
REGULATORY AFFAIRS,

Defendant.

Case No. 25-_____MZ

Hon.

**VERIFIED COMPLAINT FOR
DECLARATORY AND
INJUNCTIVE RELIEF**

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Counsel for Plaintiff

Pursuant to MCR 1.09(D)(2)(a)(i), Plaintiff states there is no other civil action between these parties arising out of the same transaction or occurrence as alleged in this complaint or remains pending in any Court.

I. INTRODUCTION

1. This case raises the question whether a state agency, operating without any legislative authorization, can force Michigan healthcare professionals to choose between undergoing “implicit bias” training—rooted in contested ideological premises—or giving up practicing their profession entirely.

2. In July 2020, in the middle of both the COVID-19 pandemic and the George Floyd protests that rocked the nation, Governor Whitmer promulgated an executive directive entitled “Improving equity in the delivery of health care,” commanding the Michigan Department of Licensing and Regulatory Affairs (LARA) to promulgate rules requiring over 400,000 health professionals to complete racial and equity training as a condition of attaining or renewing their licenses.

3. LARA duly promulgated such a rule, now codified at Mich Admin Code, R 338.7004 in June of 2021. But LARA lacks any statutory authority to impose these sweeping, one-size-fits-all mandates. Moreover, the rule’s ideological content bears no connection to the purposes of LARA’s authorizing statutes.

4. Plaintiff Dr. Wildern is a Grand Rapids dentist who objects to the implicit bias training. When the training was first announced, he sought an exemption because of his bona fide objections to the race-based trainings. He was informed he could take implicit bias training or lose his license.

5. Dr. Wildern chose not to renew his license rather than be subject to training which he regards as illegal and immoral.

6. He now seeks to return to practice and reactivate his license if he can do so without being compelled to take implicit bias training.

7. He brings this suit to vindicate his right to earn a living free from executive overreach and unconstitutional compulsion.

II. PARTIES

8. Plaintiff Dr. Kent Wildern is a resident of Michigan and was licensed to practice dentistry in this state for 40 years until 2021.

9. Defendant Department of Licensing and Regulatory Affairs (LARA) is an executive agency of the State of Michigan. LARA promulgated Rule 338.7004 and enforces its requirements against individuals seeking to attain or renew licenses or registrations to practice healthcare professions under article 15 of the Public Health Code.

III. JURISDICTION AND VENUE

10. This Court has authority to render declaratory judgments pursuant to MCR 2.605(A), MCL 600.6419(1)(a), and MCL 24.264. This Court has authority to issue injunctive relief based upon a declaratory judgment pursuant to MCR 2.605(F) and MCL 600.6419(1)(a).

11. Jurisdiction is proper in this Court pursuant to MCL 600.6419 and MCL 24.264.

12. Venue is proper in this Court pursuant to MCL 600.6419 and MCL 600.1615.

IV. FACTUAL ALLEGATIONS

Executive Directive No. 2020-07 – The Implicit Bias Training Directive

13. On July 9, 2020, Governor Gretchen Whitmer issued Executive Directive No. 2020-07 (Implicit Bias Training Directive), directing LARA to “begin the process of promulgating rules to establish implicit bias training standards as part of the knowledge and skills necessary for

licensure, registration, and renewal of licenses and registrations of health professionals in Michigan.”

14. The Implicit Bias Training Directive described “implicit bias” as “thoughts and feelings that, by definition, often exist outside of conscious awareness, and therefore are difficult to control” and that “can shape behavior.”

15. As stated in Executive Directive 2020-09, the Implicit Bias Training Directive was part of the Governor’s agenda of “addressing racism as a public health crisis” and “build[ing] toward racial justice.”

16. The Implicit Bias Training Directive asserted that LARA had authority pursuant to MCL 333.16148(1) and MCL 333.17060(b) as the statutory bases to take this action.

17. The Implicit Bias Training Directive required LARA to impose implicit bias training on all classes of healthcare professionals licensed or registered under article 15 of the Public Health Code, except for veterinarians.

Mich Admin Code, R 338.7004 – The Implicit Bias Training Requirement

18. Acting on the Governor’s directive, LARA promulgated Mich Admin Code, R 338.7004 in June of 2021.

19. The current version of Rule 338.7004 took effect on May 16, 2024.

20. Rule 338.7004 is located within the “General Rules” portion of LARA’s Bureau of Professional Licensing’s Public Health Code regulations, and its requirements uniformly apply to all healthcare professionals licensed or registered under article 15 of the Public Health Code, except for veterinarians.

21. Rule 338.7004 covers approximately 400,000 healthcare professionals with various different specialties and competencies.

22. The implicit bias training rule requires all healthcare professionals in the state (except veterinary professionals) to undergo continuing education that includes implicit bias instruction. It mandates not only implicit bias “assessments,” but also instruction in one of four topics such as “equitable access to healthcare,” the importance of implicit bias itself, the historical basis of implicit bias, and research on implicit bias.

23. The implicit bias rule, by its own terms, mandates training that is imbued with ideological presuppositions. It applies broadly and uniformly, without any carve-out for specialized practices or differing professional contexts.

24. As of September 2024, the State has conducted at least 132 enforcement actions against healthcare professionals due to the implicit bias training requirement.

25. The state has fined individuals anywhere from \$125 to \$2,500. Some licensees have had their credentials suspended, while others, like Dr. Wildern, responded by voluntarily relinquishing their credentials.

The Governor’s Asserted Statutory Bases for Rule 338.7004

26. The Governor’s Implicit Bias Training Directive invoked MCL 333.16148(1) and MCL 333.17060(b) as the bases for LARA’s authority to act pursuant to the directive.

27. Neither section provides support for Rule 338.7004.

28. Outside of the narrow context of human trafficking training, which is specifically provided for in the text, MCL 333.16148(1) only permits LARA to establish standards for particular professions in consultation with the relevant professional boards. These standards must be “for the purposes of determining whether graduates of a training program have the knowledge and skills requisite for practice of a health profession or use of a title.”

29. This statute has a limited purpose. Under this statute, LARA can, in cooperation with the professional boards, only promulgate standards for evaluating educational and training institutions to determine whether graduates from these institutions have the *necessary* knowledge and skills for the practice of the particular profession covered by the professional board.

30. This section does not grant authority for LARA to promulgate one-size-fits-all continuing education requirements on *all* healthcare professions.

31. This section does not grant the authority for LARA to promulgate ideological continuing education requirements with no connection to what is requisite to the practice of a profession.

32. Rule 338.7004 was not promulgated with the professional boards as required by MCL 333.16148(1)–(5). No Board voted on individual rules tailored to its profession.

33. Rule 338.7004, as promulgated, has no connection to evaluating whether graduates of training programs in particular professions have the knowledge and skills requisite to practice their professions.

34. Similarly, MCL 333.17060(b) does not authorize Rule 338.7004. That section permits LARA only to “promulgate rules to establish the requirements for the education, training, or experience of physician’s assistants.” Furthermore, such rules “must take into account nationally recognized standards for education, training, and experience and the desired utilization of physician’s assistants.”

LARA’s Cited Statutory Bases

35. LARA did not expressly rely on either of the statutory bases asserted in the Governor’s Implicit Bias Training Directive.

36. Instead, LARA's regulation cites the following statutory provisions for its authority to promulgate the rule: MCL 333.16145, 333.16194, 333.16201, 333.16221, 338.3501, 445.2001, 445.2011, and 445.2030.

37. None of these statutes authorized LARA to promulgate Rule 338.7004, nor does any other statutory provision.

38. MCL 333.16145 grants rulemaking authority to boards and task forces to "promulgate rules necessary or appropriate to fulfill its functions." It grants no authority to LARA.

39. MCL 333.16194 authorizes LARA to set dates that health professional's licenses and registrations expire.

40. MCL 333.16201 outlines LARA's duties with respect to putting licensees and registrants on notice regarding renewal of their credentials and lays out procedures and non-substantive requirements regarding renewal.

41. MCL 333.16221 establishes LARA's investigatory and disciplinary authority and procedures over licensees, registrants, and applicants.

42. MCL 338.3501, 445.2001, 445.2011, and 445.2030 are codifications of executive reorganization orders made under the 1963 Michigan Constitution, article 5, section 2, relating solely to the distribution of authority within the executive branch.

43. None of these provisions grant substantive rulemaking authority to LARA, and thus cannot serve as the basis for any rule.

Dr. Wildern Steps Away from Dentistry

44. Dr. Wildern was a practicing dentist in Grand Rapids for 40 years until 2021.

45. During that time, he owned his own practice and later provided consulting dentistry services on a contracting basis.

46. In 2021, he was told that, in order to keep his dentistry license going forward, he would have had to take implicit bias training, the premises of which he fundamentally and deeply disagrees with.

47. Although Dr. Wildern desires to practice dentistry on a contracting basis, he refuses to take the implicit bias training and cannot reactivate his license with the requirement in place.

48. If the implicit bias training requirement is eliminated, Dr. Wildern will restart his dentistry practice on a part-time contracting basis.

V. CLAIMS FOR RELIEF

First Cause of Action – ULTRA VIRES PROMULGATION OF REGULATION

49. Plaintiff incorporates paragraphs 1–48 as if fully stated herein.

50. Executive agencies' powers are limited to the authority granted by the legislature. Agencies cannot lawfully promulgate regulations that fall outside of their statutory authority.

51. Rule 338.7004 is not authorized by any statutory provision, including those cited by LARA in the rule or those cited by the Governor's Implicit Bias Training Directive.

52. Rule 338.7004 is not authorized by any other statutory provision.

53. Rather than remain within the constraints placed upon it by the legislature, LARA promulgated Rule 338.7004 at the Governor's direction in order to implement ideologically imbued public health policy that no statute has authorized.

54. Because Rule 338.7004 was promulgated without lawful statutory authority, it is unlawful and must be enjoined.

Second Cause of Action – VIOLATION OF NONDELEGATION DOCTRINE (Const 1963, art 3, § 2)

55. Plaintiff incorporates paragraphs 1–54 as if fully stated herein.

56. Article III, § 2 of the 1963 Michigan Constitution states: “The powers of government are divided into three branches: legislative, executive and judicial. No person exercising powers of one branch shall exercise powers properly belonging to another branch except as expressly provided in this constitution.”

57. Legislative authority rests alone with the legislature. This power cannot be delegated to executive agencies.

58. LARA’s rulemaking authority has been delegated in perpetuity with no sunset provision or conditions to trigger its rescission. And as interpreted by LARA, it encompasses the power to impose any condition on any healthcare professional to attain or maintain a license to pursue their livelihood.

59. If LARA has authority to promulgate Rule 338.7004, then it can require training on any subject it subjectively deems sufficiently important or necessary; this would effectively give LARA the Legislature’s power to make legislative judgments.

60. There is no intelligible principle governing or even loosely guiding LARA’s discretion under its view of its delegated statutory authority as asserted when promulgating Rule 338.7004—or under the Governor’s view of LARA’s authority in the statutes she cited when directing LARA to promulgate these regulations.

61. If LARA is empowered to promulgate training standards such as Rule 338.7004, then its authority to do so rests upon an unconstitutional delegation of legislative power.

62. Because Rule 338.7004 stems from an unconstitutional delegation, it is unlawful and must be enjoined.

**Third Cause of Action – VIOLATION OF SUBSTANTIVE DUE PROCESS
(Const 1963, art 1, § 17)**

63. Plaintiff incorporates paragraphs 1–62 as if fully stated herein.

64. Substantive due process protects individuals' liberty interests from unjustified governmental incursions.

65. The right to earn a living is a liberty interest protected by substantive due process.

66. Rule 338.7004 encroaches upon the right to earn a living by conditioning that right on ideological education requirements that lack a rational connection to a legitimate end.

67. Rule 338.7004 further infringes upon the freedom of thought and conscience by subjecting individuals to highly ideological training programs designed to pressure them into adopting a particular viewpoint on a topic of ongoing and intense public debate.

68. LARA's arbitrary exercise of authority, without constraint by legislative guidelines, further demonstrates the irrationality of the rule.

69. LARA has no legitimate government interest in requiring what amounts to no more than mandated indoctrination as a condition for the ability to practice a healthcare profession with the purpose of regulating individual healthcare professionals' subjective states of mind.

70. There is no established link or correlation between implicit bias training and improved competency of healthcare professionals or improved healthcare outcomes.

71. Indeed, such programs are demonstrably counterproductive, increasing intergroup hostility and discord.

72. Even if the government has a legitimate interest in regulating individuals' subjective states of mind when they are or want to be credentialed healthcare professionals, there are less-restrictive means to achieve the goal of mitigating any negative healthcare outcomes that could stem from implicit bias. For example, prohibitions of discriminatory action.

73. Rule 338.7004 offers no objective standard to evaluate whether its requirements achieve that government interest they are meant to achieve. By its own terms, the rule is directed

at addressing unconscious and subjective states of mind rather than licensees' objective actions. There is thus no objective standard to even evaluate whether these requirements can justify their incursions on individuals' liberty interests.

VI. PRAYER FOR RELIEF

Wherefore, Plaintiff requests the following relief from this Court:

- A. A declaratory judgment that Rule 338.7004 is not authorized by any statute;
- B. A declaratory judgment that any statute which authorized LARA to promulgate Rule 338.7004 unconstitutionally delegates legislative authority to LARA;
- C. A declaratory judgment that Rule 338.7004 violates substantive due process;
- D. A permanent injunction prohibiting LARA from enforcing Rule 338.7004; and
- E. An award of Plaintiff's costs and any other relief this Court deems just and proper.

Dated April 9, 2025.

Respectfully submitted,

/s/ Steven W. Dulan
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Counsel for Plaintiff

VERIFICATION

I, Kent Wildern, declare under penalty of perjury under the laws of the State of Michigan that the foregoing Verified Complaint is true and correct to the best of my knowledge, except as to matters stated on information and belief, and as to those matters, I believe them to be true.

Date: 4-3-25

[Signature]
KENT WILDERN, DDS

State of Florida)
County of Monroe)

ss.

Subscribed and sworn to before me this 3rd day of April, 2025, by Kent Wildern.

[Signature]
Notary Public Signature

Notary Public Name

Notary Public, State of Florida, County of Monroe.

My Commission Expires: 3/5/26

Acting in the County of Monroe

