

National Summary of Sunrise Review of Statutes

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SCHOOL OF MEDICINE

BOWEN CENTER FOR HEALTH
WORKFORCE RESEARCH & POLICY

Sunrise Review Processes: A Review of State Statute and Rules

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Contents

Review of Statute/Rules for States with Sunrise Review **Error! Bookmark not defined.**

Sunrise Review Processes: A Review of State Statute and Rules 1

Background 4

Methods 4

Findings..... 4

 Arizona5

 Colorado 6

 Georgia..... 9

 Florida10

 Hawaii12

 Maine.....13

 Minnesota15

 Nebraska.....17

 Virginia18

 Vermont19

 Washington.....21

 West Virginia23

Background

A “sunrise review” is a process implemented by states to review an unregulated occupation and identify appropriate level of regulation. Generally, sunrise reviews have established guidelines in statute that include specified criteria that must be considered when determining the level of regulation.

Implementation of a sunrise review process varies widely by state. The purpose of this document is to advance regulatory policy research by compiling all accessible statutory language associated with sunrise reviews from states with such processes.

Methods

Inclusion Criteria

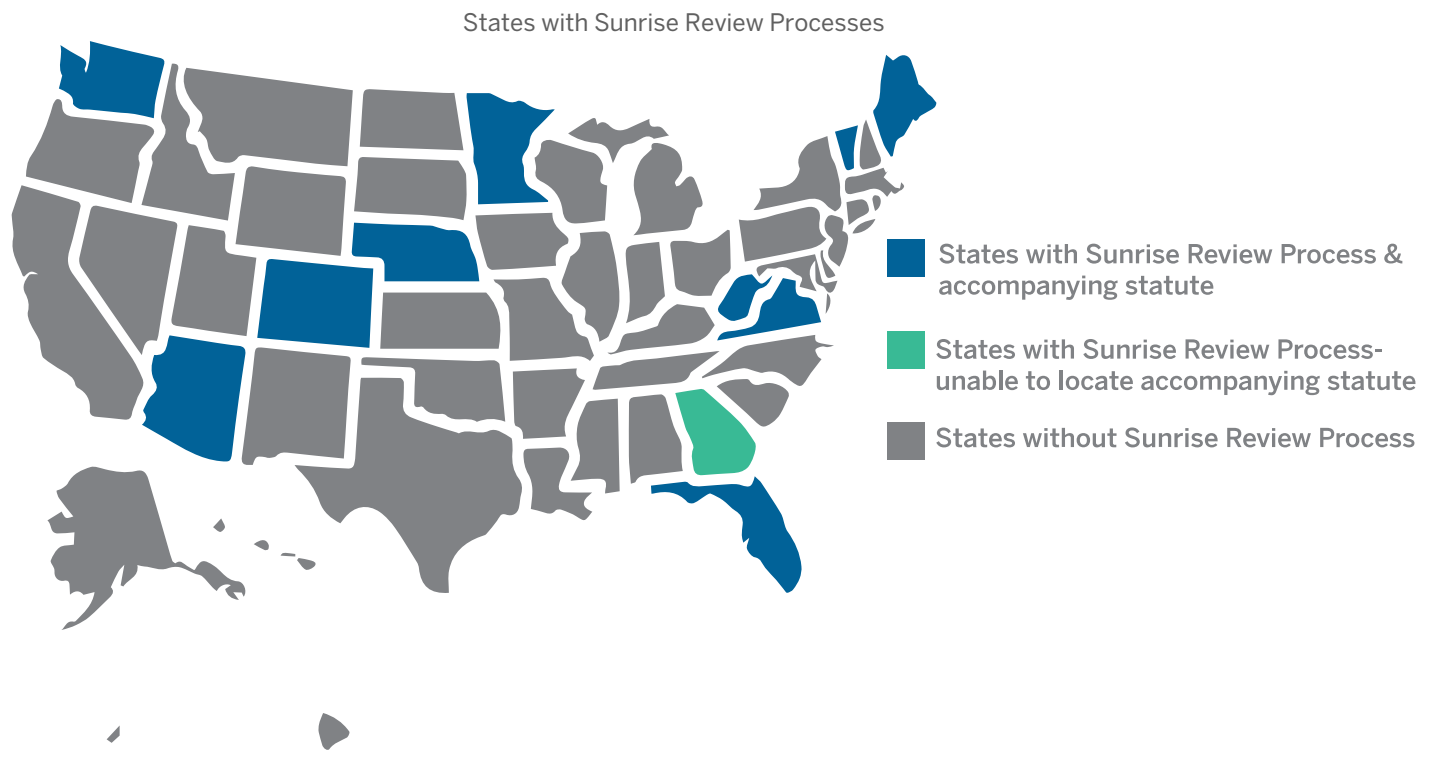
When identifying states with sunrise review processes, we utilized the list of states identified by the Council on Licensure, Enforcement & Regulation.¹ According to their directory, 12 states currently have sunrise review processes, including: Arizona, Colorado, Florida, Georgia, Hawaii, Maine, Minnesota, Nebraska, Vermont, Virginia, Washington, and West Virginia.

Policy Review: Methods and Reporting

Information compiled in this report was identified through a review of state statute or administrative code (note: unable to locate statute for Georgia). Language from the statute or code is directly quoted in this report (as of the date the information was retrieved). Statute citation is also included in the text for reference.

Findings

The remainder of the report contains excerpts from state statute that outline the sunrise review process in each state.



¹ <https://www.clearhq.org/page-486181>

Arizona

Citation(s): A.R.S. §§ 32-3101 through 32-3106 and 32-4401 through 32-4403

Health Profession Regulation:

1. A health professional group shall submit a written report explaining the factors prescribed in section 32-3105 or 32-3106 to the president of the senate and the speaker of the House of Representatives. The report shall be submitted on or before November 1 before the start of the legislative session for which the legislation is proposed, and the health professional group may request informational hearings pursuant to this section. The president of the senate or the speaker of the house of representatives shall assign the written report to the health committee of the house of representatives and the health and human services committee of the senate, or their respective successor committees, and the legislative committees may conduct informational hearings on the written report before the legislative session convenes. The report may be amended after it has been filed but before any hearing on the report. The committees shall study the written report and may take public comment on the report at the informational hearings but shall not vote whether to accept or reject the report filed by the health professional group. If a health professional group proposes to increase the scope of practice of its profession, the health professional group may send copies of the written report to the regulatory board of the health profession and the department of health services for review and comment. A health professional group may seek to introduce legislation in the legislative session regardless of comments, if any, from the informational hearings.
2. If a health professional group's report is not heard by a legislative committee pursuant to subsection A of this section, the health professional group may seek to have legislation introduced in the legislative session for certification, registration or licensure or to increase the scope of practice of an existing regulated health profession. The lack of a hearing shall not be considered as either support or rejection of the health professional group's proposed legislation.

Non-Health Regulation:

3. A profession or occupation shall be regulated by this state only if all of the following apply:
 - a. An unregulated practice can clearly harm or endanger the public health, safety or welfare.
 - b. The actual or anticipated public benefit of the regulation clearly exceeds the costs imposed on consumers, businesses and individuals.
 - c. The public needs and can reasonably be expected to benefit from an assurance of initial and continuing professional ability.
 - d. The public cannot be effectively protected by private certification or other alternatives.
4. After evaluating the criteria prescribed in subsection 3, the legislative committee of reference shall examine data from multiple sources and look for evidence of actual harm to the public related to the industry being considered for regulation. The evidence may include industry association data, federal, state and local government data, business reports, complaints to the respective state law enforcement or consumer affairs divisions or the better business bureau and data from reciprocal agencies in other states with and without similar laws and rules.
5. If the legislative committee of reference finds that it is necessary to regulate a profession or occupation not previously regulated by law, the regulation shall be in the least restrictive manner and shall not be imposed to protect a discrete interest group from economic competition.
6. The legislative committee of reference may hold hearings to evaluate the criteria and examine the data and evidence prescribed in subsections 3 and 4.
7. Notwithstanding any other law, an agency that issues new professional or occupational licenses, registrations or certificates shall not hinder the regulated industry through the delayed awarding of a license, registration or certificate.

Colorado

Citation: *CO Rev Stat § 24-34-104.1 (2016)*

1. The general assembly finds that regulation should be imposed on an occupation or profession only when necessary for the protection of the public interest. The general assembly further finds that establishing a system for reviewing the necessity of regulating an occupation or profession prior to enacting laws for such regulation will better enable it to evaluate the need for the regulation and to determine the least restrictive regulatory alternative consistent with the public interest.

2.
 - a. For proposals submitted on or after July 1, 2012, any professional or occupational group or organization, any individual, or any other interested party that proposes the regulation of any unregulated professional or occupational group shall submit the following information to the department of regulatory agencies no later than December 1 of any year for analysis and evaluation during the following year:
 - i. A description of the group proposed for regulation, including a list of associations, organizations, and other groups representing the practitioners in this state, and an estimate of the number of practitioners in each group;
 - ii. A definition of the problem or problems to be solved by regulation and the reasons why regulation is necessary;
 - iii. A statement of support for the proposed regulation as described in paragraph (b) of this subsection (2);
 - iv. The reasons why certification, registration, licensure, or other type of regulation is being proposed and why that regulatory alternative was chosen;
 - v. The benefit to the public that would result from the proposed regulation;
 - vi. The cost of the proposed regulation; and
 - vii. A description of any anticipated disqualifications on an applicant for licensure, certification, relicensure, or recertification based on criminal history and how the disqualifications serve public safety or commercial or consumer protection interests.
 - b. The department shall review a proposal to regulate a professional or occupational group only when the party requesting the review files a statement of support for the proposed regulation that has been signed by at least ten members of the professional or occupational group for which regulation is being sought or at least ten individuals who are not members of the professional or occupational group.

3.
 - a. Except as provided in paragraph (b) or (c) of this subsection (3), the department of regulatory agencies shall conduct an analysis and evaluation of any proposed regulation submitted on or after July 1, 2012. The analysis and evaluation must be based upon the criteria listed in paragraph (b) of subsection (4) of this section. The department of regulatory agencies shall submit a report to the proponents of the regulation and to the general assembly no later than October 15 of the year following the year in which the proposed regulation was submitted.
 - b. After review of a proposal to regulate a professional or occupational group that was submitted on or after July 1, 2012, the department of regulatory agencies may decline to conduct an analysis and evaluation of the proposed regulation only if it:
 - i. Previously conducted an analysis and evaluation of the proposed regulation of the same professional or occupational group;
 - ii. Issued a report not more than thirty-six months prior to the submission of the current proposal to regulate the same professional or occupational group; and
 - iii. Finds that no new information has been submitted that would cause the department to alter or modify the recommendations made in its earlier report on the proposed regulation of the professional or occupational group.
 - iv. If the department of regulatory agencies declines to conduct an analysis and evaluation pursuant to this paragraph (b), the department shall reissue its earlier report on the proposed regulation to the proponents of the regulation and the general assembly no later

than October 15 of the year following the year in which the proposed regulation was submitted.

- c. If the department receives a proposal to regulate a professional or occupational group indicating, based on documentation verified by the department, that the unregulated professional or occupational group poses an imminent threat to public health, safety, or welfare, the department shall promptly notify the proponents of the proposed regulation and the legislative council of the general assembly of the imminent threat and shall submit to the legislative council the documentation on which it bases its finding of imminent threat. Within thirty days after receipt of the notice and documentation from the department, the legislative council shall conduct a hearing to examine the documentation and determine whether it concurs with the department's finding that an imminent threat exists. In conducting its examination, the legislative council shall consider whether regulation of the professional or occupational group without first obtaining an analysis and evaluation pursuant to paragraph (a) of this subsection (3) will substantially alter the impact on public health, safety, or welfare. The department may forego the analysis and evaluation only if the legislative council notifies the department that the legislative council concurs with the department's finding of imminent threat to public health, safety, and welfare.

4.

- a. (Deleted by amendment, L. 96, p. 796, § 7, effective May 23, 1996.)
- b. In such hearings, the determination as to whether such regulation of an occupation or a profession is needed shall be based upon the following considerations:
 - i. Whether the unregulated practice of the occupation or profession clearly harms or endangers the health, safety, or welfare of the public, and whether the potential for the harm is easily recognizable and not remote or dependent upon tenuous argument;
 - ii. Whether the public needs, and can reasonably be expected to benefit from, an assurance of initial and continuing professional or occupational competence;
 - iii. Whether the public can be adequately protected by other means in a more cost-effective manner; and
 - iv. Whether the imposition of any disqualifications on applicants for licensure, certification, relicensure, or recertification based on criminal history serves public safety or commercial or consumer protection interests.
- c. (Deleted by amendment, L. 96, p. 796, § 7, effective May 23, 1996.)

5. Repealed.

6.

- a. Except as provided in paragraph (b) of this subsection (6), the supporters of regulation of a professional or occupational group may request members of the general assembly to present appropriate legislation to the general assembly during each of the two regular sessions that immediately succeed the date of the report required pursuant to subsection (3) of this section without the supporters having to comply again with the provisions of subsections (2), (3), and (4) of this section. Bills introduced pursuant to this subsection (6) shall count against the number of bills to which members of the general assembly are limited by any joint rule of the senate and the house of representatives.
- b. If, pursuant to paragraph (b) or (c) of subsection (3) of this section, the department of regulatory agencies declines to conduct an analysis and evaluation of the proposed regulation of a professional or occupational group and reissues a prior report on the proposed regulation of the same professional or occupational group or finds that the unregulated professional or occupational group poses an imminent threat to public health, safety, or welfare, as confirmed by the legislative council of the general assembly, the supporters of the regulation of the professional or occupational group may request that members of the general assembly present appropriate legislation to the general assembly during each of the next two regular sessions that begin after the date the department reissues its original report on the proposed regulation or the date on which the legislative council notifies the department that it concurs in a finding of imminent threat pursuant to paragraph (c) of subsection (3) of this section, whichever is applicable.

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7. This section is exempt from the provisions of section 24-1-136 (11), and the periodic reporting requirement of this section shall remain in effect until changed by the general assembly acting by bill.

Georgia

Citation: Title 50, Chapter 6. Department of Audits and Accounts

Unable to find specific provisions relating to sunrise review, but it might be that audit statute is applied broadly.

Florida

Citation: Title III.Chap 11.62

1. This section may be cited as the “Sunrise Act.”
2. It is the intent of the Legislature:
 - a. That no profession or occupation be subject to regulation by the state unless the regulation is necessary to protect the public health, safety, or welfare from significant and discernible harm or damage and that the police power of the state be exercised only to the extent necessary for that purpose; and
 - b. That no profession or occupation be regulated by the state in a manner that unnecessarily restricts entry into the practice of the profession or occupation or adversely affects the availability of the professional or occupational services to the public.
3. In determining whether to regulate a profession or occupation, the Legislature shall consider the following factors:
 - a. Whether the unregulated practice of the profession or occupation will substantially harm or endanger the public health, safety, or welfare, and whether the potential for harm is recognizable and not remote;
 - b. Whether the practice of the profession or occupation requires specialized skill or training, and whether that skill or training is readily measurable or quantifiable so that examination or training requirements would reasonably assure initial and continuing professional or occupational ability;
 - c. Whether the regulation will have an unreasonable effect on job creation or job retention in the state or will place unreasonable restrictions on the ability of individuals who seek to practice or who are practicing a given profession or occupation to find employment;
 - d. Whether the public is or can be effectively protected by other means; and
 - e. Whether the overall cost-effectiveness and economic impact of the proposed regulation, including the indirect costs to consumers, will be favorable.
4. The proponents of legislation that provides for the regulation of a profession or occupation not already expressly subject to state regulation shall provide, upon request, the following information in writing to the state agency that is proposed to have jurisdiction over the regulation and to the legislative committees to which the legislation is referred:
 - a. The number of individuals or businesses that would be subject to the regulation;
 - b. The name of each association that represents members of the profession or occupation, together with a copy of its codes of ethics or conduct;
 - c. Documentation of the nature and extent of the harm to the public caused by the unregulated practice of the profession or occupation, including a description of any complaints that have been lodged against persons who have practiced the profession or occupation in this state during the preceding 3 years;
 - d. A list of states that regulate the profession or occupation, and the dates of enactment of each law providing for such regulation and a copy of each law;
 - e. A list and description of state and federal laws that have been enacted to protect the public with respect to the profession or occupation and a statement of the reasons why these laws have not proven adequate to protect the public;
 - f. A description of the voluntary efforts made by members of the profession or occupation to protect the public and a statement of the reasons why these efforts are not adequate to protect the public;
 - g. A copy of any federal legislation mandating regulation;
 - h. An explanation of the reasons why other types of less restrictive regulation would not effectively protect the public;
 - i. The cost, availability, and appropriateness of training and examination requirements;

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- j. The cost of regulation, including the indirect cost to consumers, and the method proposed to finance the regulation;
 - k. The cost imposed on applicants or practitioners or on employers of applicants or practitioners as a result of the regulation;
 - l. The details of any previous efforts in this state to implement regulation of the profession or occupation; and
 - m. Any other information the agency or the committee considers relevant to the analysis of the proposed legislation.
 5. The agency shall provide the Legislature with information concerning the effect of proposed legislation that provides for new regulation of a profession or occupation regarding:
 - a. The departmental resources necessary to implement and enforce the proposed regulation;
 - b. The technical sufficiency of the proposal for regulation, including its consistency with the regulation of other professions and occupations under existing law; and
 - c. If applicable, any alternatives to the proposed regulation which may result in a less restrictive or more cost-effective regulatory scheme.
 6. When making a recommendation concerning proposed legislation providing for new regulation of a profession or occupation, a legislative committee shall determine:
 - a. Whether the regulation is justified based on the criteria specified in subsection (3), the information submitted pursuant to request under subsection (4), and the information provided under subsection (5);
 - b. The least restrictive and most cost-effective regulatory scheme that will adequately protect the public; and
 - c. The technical sufficiency of the proposed legislation, including its consistency with the regulation of other professions and occupations under existing law.

Hawaii

Citation(s): HI Rev Stat § 26H-6 (2015)

"§26H-2 Policy; sunset required.

1. The legislature hereby adopts the following policies regarding the regulation of certain professions and vocations:
 - a. The regulation and licensing of professions and vocations shall be undertaken only where reasonably necessary to protect the health, safety, or welfare of consumers of the services; the purpose of regulation shall be the protection of the public welfare and not that of the regulated profession or vocation;
 - b. Regulation in the form of full licensure or other restrictions on certain professions or vocations shall be retained or adopted when the health, safety, or welfare of the consumer may be jeopardized by the nature of the service offered by the provider;
 - c. Evidence of abuses by providers of the service shall be accorded great weight in determining whether regulation is desirable;
 - d. Professional and vocational regulations [which] that artificially increase the costs of goods and services to the consumer shall be avoided except in those cases where the legislature determines that this cost is exceeded by the potential danger to the consumer;
 - e. Professional and vocational regulations shall be eliminated when [the legislature determines that] they [have no further benefits to] no longer benefit consumers;
 - f. Regulation shall not unreasonably restrict entry into professions and vocations by all qualified persons;
 - g. Fees for regulation and licensure shall be imposed for all vocations and professions subject to regulation; provided that the aggregate of the fees for any given regulatory program shall not be less than the full cost of administering that program [.] and
 - h. Professional and vocational regulation shall not be imposed or shall be eliminated if:
 - i. Regulatory objectives may be undertaken by the industry to be regulated and governmental participation is not necessary to protect the public health, safety, or welfare;
 - ii. Other private or public agencies provide adequate protections; or
 - iii. Regulatory objectives may be cost-effectively reassigned within the department of commerce and consumer affairs.

2. Upon any finding by the legislative auditor based upon the factors identified in subsection (a)(8), that a professional or vocational board or commission should be eliminated, the department shall immediately sunset the board or commission in the absence of enacted legislation expressly prohibiting the sunset of the board or commission."

SECTION 3. Statutory material to be repealed is bracketed.

New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

Maine

Citation: Title 32 §60-J Chapter 1-A

Pursuant to Title 5, section 12015, subsection 3, any professional or occupational group or organization, any individual or any other interested party, referred to in this section as the "applicant group," that proposes regulation of any unregulated professional or occupational group or substantial expansion of regulation of a regulated professional or occupational group shall submit with the proposal written answers and information pertaining to the evaluation criteria enumerated in this section to the appropriate committee of the Legislature. The technical committee, the Commissioner of Professional and Financial Regulation, referred to in this subchapter as the "commissioner," and the joint standing committee, before it makes its final recommendations to the full Legislature, also shall accept answers and information pertaining to the evaluation criteria from any party that opposes such regulation or expansion and from any other interested party. All answers and information submitted must identify the applicant group, the opposing party or the interested party making the submission and the proposed regulation or expansion of regulation that is sought or opposed. The commissioner may develop standardized questions designed to solicit information concerning the evaluation criteria. The preauthorization evaluation criteria are: [1995, c. 686, §2 (NEW).]

1. Data on group. A description of the professional or occupational group proposed for regulation or expansion of regulation, including the number of individuals or business entities that would be subject to regulation, the names and addresses of associations, organizations and other groups representing the practitioners and an estimate of the number of practitioners in each group;
[1995, c. 686, §2 (NEW) .]
2. Specialized skill. Whether practice of the profession or occupation proposed for regulation or expansion of regulation requires such a specialized skill that the public is not qualified to select a competent practitioner without assurances that minimum qualifications have been met;
[1995, c. 686, §2 (NEW) .]
3. Public health; safety; welfare. The nature and extent of potential harm to the public if the profession or occupation is not regulated, the extent to which there is a threat to the public's health, safety or welfare and production of evidence of potential harm, including a description of any complaints filed with state law enforcement authorities, courts, departmental agencies, other professional or occupational boards and professional and occupational associations that have been lodged against practitioners of the profession or occupation in this State within the past 5 years;
[1995, c. 686, §2 (NEW) .]
4. Voluntary and past regulatory efforts. A description of the voluntary efforts made by practitioners of the profession or occupation to protect the public through self-regulation, private certifications, membership in professional or occupational associations or academic credentials and a statement of why these efforts are inadequate to protect the public;
[1995, c. 686, §2 (NEW) .]
5. Cost; benefit. The extent to which regulation or expansion of regulation of the profession or occupation will increase the cost of goods or services provided by practitioners and the overall cost-effectiveness and economic impact of the proposed regulation, including the indirect costs to consumers;
[1995, c. 686, §2 (NEW) .]
6. Service availability of regulation. The extent to which regulation or expansion of regulation of the profession or occupation would increase or decrease the availability of services to the public;

[1995, c. 686, §2 (NEW) .]

7. Existing laws and regulations. The extent to which existing legal remedies are inadequate to prevent or redress the kinds of harm potentially resulting from nonregulation and whether regulation can be provided through an existing state agency or in conjunction with presently regulated practitioners;
[1995, c. 686, §2 (NEW) .]
8. Method of regulation. Why registration, certification, license to use the title, license to practice or another type of regulation is being proposed, why that regulatory alternative was chosen and whether the proposed method of regulation is appropriate;
[1995, c. 686, §2 (NEW) .]
9. Other states. A list of other states that regulate the profession or occupation, the type of regulation, copies of other states' laws and available evidence from those states of the effect of regulation on the profession or occupation in terms of a before-and-after analysis;
[1995, c. 686, §2 (NEW) .]
10. 10. Previous efforts. The details of any previous efforts in this State to implement regulation of the profession or occupation;
[1995, c. 686, §2 (NEW) .]
11. Mandated benefits. Whether the profession or occupation plans to apply for mandated benefits;
[1995, c. 686, §2 (NEW) .]
12. Minimal competence. Whether the proposed requirements for regulation exceed the standards of minimal competence and what those standards are; and
[1995, c. 686, §2 (NEW) .]
13. Financial analysis. The method proposed to finance the proposed regulation and financial data pertaining to whether the proposed regulation can be reasonably financed by current or proposed licensees through dedicated revenue mechanisms.

Minnesota

Citation: MS 214.002

Subdivision 1

Written report. Within 15 days of the introduction of a bill proposing new or expanded regulation of an occupation, the proponents of the new or expanded regulation shall submit a written report to the chair of the standing committee in each house of the legislature to which the bill was referred and to the Council of Health Boards setting out the information required by this section. If a committee chair requests that the report be submitted earlier, but no fewer than five days from introduction of the bill, the proponents shall comply with the request.

Subd. 2

Contents of report. A report in support of the regulation of a health-related or non-health-related occupation must address the following issues as specifically as possible:

1. the harm to the public that is or could be posed by the unregulated practice of the occupation or by continued practice at its current degree of regulation;
2. any reason why existing civil or criminal laws or procedures are inadequate to prevent or remedy any harm to the public;
3. why the proposed level of regulation is being proposed and why, if there is a lesser degree of regulation, it was not selected;
4. any associations, organizations, or other groups representing the occupation seeking regulation and the approximate number of members in each in Minnesota;
5. the functions typically performed by members of this occupational group and whether they are identical or similar to those performed by another occupational group or groups;
6. whether any specialized training, education, or experience is required to engage in the occupation and, if so, how current practitioners have acquired that training, education, or experience;
7. whether the proposed regulation would change the way practitioners of the occupation acquire any necessary specialized training, education, or experience and, if so, why;
8. whether any current practitioners of the occupation in Minnesota lack whatever specialized training, education, or experience might be required to engage in the occupation and, if so, how the proposed regulation would address that lack;
9. whether new entrants into the occupation would be required to provide evidence of any necessary training, education, or experience, or to pass an examination, or both;
10. whether current practitioners would be required to provide evidence of any necessary training, education, or experience, or to pass an examination, and, if not, why not; and
11. the expected impact of the proposed regulation on the supply of practitioners of the occupation and on the cost of services or goods provided by the occupation.

§Subd. 3

Additional contents; health-related occupations. In addition to the contents listed in subdivision 2, a report submitted by supporters of regulation of a health-related occupation must address the following issues as specifically as possible:

1. typical work settings and conditions for practitioners of the occupation; and
2. whether practitioners of the occupation work without supervision or are supervised and monitored by a regulated institution or by regulated health professionals.

Nebraska

Citation: NE 71-6221

Regulation of health profession; change in scope of practice; when.

1. A health profession shall be regulated by the state only when:
 - a. Unregulated practice can clearly harm or endanger the health, safety, or welfare of the public;
 - b. Regulation of the health profession does not impose significant new economic hardship on the public, significantly diminish the supply of qualified practitioners, or otherwise create barriers to service that are not consistent with the public welfare and interest;
 - c. The public needs assurance from the state of initial and continuing professional ability; and
 - d. The public cannot be protected by a more effective alternative.

2. If it is determined that practitioners of a health profession not currently regulated are prohibited from the full practice of their profession in Nebraska, then the following criteria shall be used to determine whether regulation is necessary:
 - a. Absence of a separate regulated profession creates a situation of harm or danger to the health, safety, or welfare of the public;
 - b. Creation of a separate regulated profession would not create a significant new danger to the health, safety, or welfare of the public;
 - c. Creation of a separate regulated profession would benefit the health, safety, or welfare of the public; and
 - d. The public cannot be protected by a more effective alternative.

3. The scope of practice of a regulated health profession shall be changed only when:
 - a. The health, safety, and welfare of the public are inadequately addressed by the present scope of practice or limitations on the scope of practice;
 - b. Enactment of the proposed change in scope of practice would benefit the health, safety, or welfare of the public;
 - c. The proposed change in scope of practice does not create a significant new danger to the health, safety, or welfare of the public;
 - d. The current education and training for the health profession adequately prepares practitioners to perform the new skill or service;
 - e. There are appropriate post professional programs and competence assessment measures available to assure that the practitioner is competent to perform the new skill or service in a safe manner; and
 - f. There are adequate measures to assess whether practitioners are competently performing the new skill or service and to take appropriate action if they are not performing competently.

4. The division shall, by rule and regulation, establish standards for the application of each criterion which shall be used by the review bodies in recommending whether proposals for credentialing or change in scope of practice meet the criteria.

Virginia

Citation: 54.1-2510

The Board of Health Professions shall have the following powers and duties:

1. To evaluate the need for coordination among the health regulatory boards and their staffs and report its findings and recommendations to the Director and the boards;
2. To evaluate all health care professions and occupations in the Commonwealth, including those regulated and those not regulated by other provisions of this title, to consider whether each such profession or occupation should be regulated and the degree of regulation to be imposed. Whenever the Board determines that the public interest requires that a health care profession or occupation which is not regulated by law should be regulated, the Board shall recommend to the General Assembly a regulatory system to establish the appropriate degree of regulation;
3. To review and comment on the budget for the Department;
4. To provide a means of citizen access to the Department;
5. To provide a means of publicizing the policies and programs of the Department in order to educate the public and elicit public support for Department activities;
6. To monitor the policies and activities of the Department, serve as a forum for resolving conflicts among the health regulatory boards and between the health regulatory boards and the Department and have access to departmental information;
7. To advise the Governor, the General Assembly and the Director on matters relating to the regulation or deregulation of health care professions and occupations;
8. To make bylaws for the government of the Board of Health Professions and the proper fulfillment of its duties under this chapter;
9. To promote the development of standards to evaluate the competency of the professions and occupations represented on the Board;
10. To review and comment, as it deems appropriate, on all regulations promulgated or proposed for issuance by the health regulatory boards under the auspices of the Department. At least one member of the relevant board shall be invited to be present during any comments by the Board on proposed board regulations;
11. To review periodically the investigatory, disciplinary and enforcement processes of the Department and the individual boards to ensure the protection of the public and the fair and equitable treatment of health professionals;
12. To examine scope of practice conflicts involving regulated and unregulated professions and advise the health regulatory boards and the General Assembly of the nature and degree of such conflicts;
13. To receive, review, and forward to the appropriate health regulatory board any departmental investigative reports relating to complaints of violations by practitioners of Chapter 24.1 (§ [54.1-2410](#) et seq.) of this subtitle;
14. To determine compliance with and violations of and grant exceptions to the prohibitions set forth in Chapter 24.1 of this subtitle; and
15. To take appropriate actions against entities, other than practitioners, for violations of Chapter 24.1 of this subtitle.

Vermont

Citation: Title 26, Chapter 57 § 31014-31015

§ 3104. Process for review of regulatory laws

1. The Office may review a regulatory law that is within its jurisdiction, and shall review any regulatory law within or outside its jurisdiction upon the request of the House or Senate Committee on Government Operations. Notwithstanding any provisions of this section to the contrary, the Office shall not review regulatory laws within the jurisdiction of the Agency of Education. The Office shall base its review on the criteria and standards set forth in section 3105 of this chapter.
2. The review shall also include the following inquiries in the discretion of the Office or in response to a Committee request:
 - a. the extent to which a regulatory entity's actions have been in the public interest and consistent with legislative intent;
 - b. the extent to which the profession's historical performance, including the actual history of complaints and disciplinary actions in Vermont, indicates that the costs of regulation are justified by the realized benefits to the public;
 - c. the extent to which the scope of the existing regulatory scheme for the profession is commensurate to the risk of harm to the public;
 - d. the extent to which the profession's education, training, and examination requirements for a license or certification are consistent with the public interest;
 - e. the extent to which a regulatory entity's resolutions of complaints and disciplinary actions have been effective to protect the public;
 - f. the extent to which a regulatory entity has sought ideas from the public and from those it regulates, concerning reasonable ways to improve the service of the entity and the profession or occupation regulated;
 - g. the extent to which a regulatory entity gives adequate public notice of its hearings and meetings and encourages public participation;
 - h. whether a regulatory entity makes efficient and effective use of its funds and meets its responsibilities; and
 - i. whether a regulatory entity has sufficient funding to carry out its mandate.
3.
 - a. The Office shall give adequate notice to the public, the applicable regulatory entity, and the appropriate professional societies that it is reviewing a particular regulatory law and, as applicable, that regulatory entity. Notice to the regulatory entity and the professional societies shall be in writing.
 - b. The regulatory entity shall provide to the Office the information described in section 3107 of this chapter and available data the Office requests for purposes of the review.
 - c. The Office shall seek comments and information from the public and from members of the profession or occupation. It also shall give the regulatory entity a chance to present its position and to respond to any matters raised in the review.
 - d. The Office, upon its request, shall have assistance from the Department of Finance and Management, the Auditor of Accounts, the Attorney General, the Joint Fiscal Committee, or any other State agency.
4.
 - a. The Office shall file a separate written report for each review with the House and Senate Committees on Government Operations, any legislative committees of jurisdiction for the underlying field of regulation, and the applicable regulatory entity. The reports shall contain:
 - i. findings, alternative courses of action, and recommendations;
 - ii. a copy of the regulatory entity's administrative rules; and
 - iii. appropriate legislative proposals.
 - b.
 - i. If the review is in regard to a regulatory law outside its jurisdiction, the Office shall submit the report in conjunction with the agency with jurisdiction over the licensing of the relevant profession.

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- ii. In the event the Office and the agency with jurisdiction do not agree to any aspects of the report, the report shall incorporate separate responses of the Office and that agency.

§ 3105. Criteria and standards

1. A profession or occupation shall be regulated by the State only when:
 - a. it can be demonstrated that the unregulated practice of the profession or occupation can clearly harm or endanger the health, safety, or welfare of the public, and the potential for the harm is recognizable and not remote or speculative;
 - b. the public can reasonably be expected to benefit from an assurance of initial and continuing professional ability; and
 - c. the public cannot be effectively protected by other means.
2. After evaluating the criteria in subsection (a) of this section and considering governmental and societal costs and benefits, if the General Assembly finds that it is necessary to regulate a profession or occupation, the least restrictive method of regulation shall be imposed, consistent with the public interest and this section:
 - a. if existing common law and statutory civil remedies and criminal sanctions are insufficient to reduce or eliminate existing harm, regulation should occur through enactment of stronger civil remedies and criminal sanctions;
 - b. if a professional or occupational service involves a threat to the public and the service is performed primarily through business entities or facilities that are not regulated, the business entity or the facility should be regulated rather than its employee practitioners;
 - c. if the threat to the public health, safety, or welfare, including economic welfare, is relatively small, regulation should be through a system of registration;
 - d. if the consumer may have a substantial interest in relying on the qualifications of the practitioner, regulation should be through a system of certification; or
 - e. if it is apparent that the public cannot be adequately protected by any other means, a system of licensure should be imposed.
3. Any of the issues set forth in subsections (a) and (b) of this section and section 3107 of this chapter may be considered in terms of their application to professions or occupations generally.
4. Prior to review under this chapter and consideration by the General Assembly of any bill to regulate a profession or occupation and upon the request of the House or Senate Committee on Government Operations, the Office shall make, in writing, a preliminary assessment of whether any particular request for regulation meets the criteria set forth in subsection (a) of this section. The Office shall report its preliminary assessment to the appropriate House or Senate Committee on Government Operations.
5. After the review of a proposal to regulate a profession, the Office may decline to conduct an analysis and evaluation of the proposed regulation if it finds that:
 - a. the proposed regulatory scheme appears to regulate fewer than 250 individuals; and
 - b. the Office previously conducted an analysis and evaluation of the proposed regulation of the same profession or occupation, and no new information has been submitted that would cause the Office to alter or modify the recommendations made in its earlier report on that proposed regulation.

Washington

Citation: RCWs Title 18 Chapter 18.120.030

Applicants for regulation—Information.

After July 24, 1983, if appropriate, applicant groups shall explain each of the following factors to the extent requested by the legislative committees of reference:

1. A definition of the problem and why regulation is necessary:
 - a. The nature of the potential harm to the public if the health profession is not regulated, and the extent to which there is a threat to public health and safety;
 - b. The extent to which consumers need and will benefit from a method of regulation identifying competent practitioners, indicating typical employers, if any, of practitioners in the health profession; and
 - c. The extent of autonomy a practitioner has, as indicated by:
 - i. The extent to which the health profession calls for independent judgment and the extent of skill or experience required in making the independent judgment; and
 - ii. The extent to which practitioners are supervised;
2. The efforts made to address the problem:
 - a. Voluntary efforts, if any, by members of the health profession to:
 - i. Establish a code of ethics; or
 - ii. Help resolve disputes between health practitioners and consumers; and
 - b. Recourse to and the extent of use of applicable law and whether it could be strengthened to control the problem;
3. The alternatives considered:
 - a. Regulation of business employers or practitioners rather than employee practitioners;
 - b. Regulation of the program or service rather than the individual practitioners;
 - c. Registration of all practitioners;
 - d. Certification of all practitioners;
 - e. Other alternatives;
 - f. Why the use of the alternatives specified in this subsection would not be adequate to protect the public interest; and
 - g. Why licensing would serve to protect the public interest;
4. The benefit to the public if regulation is granted:
 - a. The extent to which the incidence of specific problems present in the unregulated health profession can reasonably be expected to be reduced by regulation;
 - b. Whether the public can identify qualified practitioners;
 - c. The extent to which the public can be confident that qualified practitioners are competent:
 - i. Whether the proposed regulatory entity would be a board composed of members of the profession and public members, or a state agency, or both, and, if appropriate, their respective responsibilities in administering the system of registration, certification, or licensure, including the composition of the board and the number of public members, if any; the powers and duties of the board or state agency regarding examinations and for cause revocation, suspension, and nonrenewal of registrations, certificates, or licenses; the promulgation of rules and canons of ethics; the conduct of inspections; the receipt of complaints and disciplinary action taken against practitioners; and how fees would be levied and collected to cover the expenses of administering and operating the regulatory system;
 - ii. If there is a grandfather clause, whether such practitioners will be required to meet the prerequisite qualifications established by the regulatory entity at a later date;
 - iii. The nature of the standards proposed for registration, certification, or licensure as compared with the standards of other jurisdictions;
 - iv. Whether the regulatory entity would be authorized to enter into reciprocity agreements with other jurisdictions;

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- v. The nature and duration of any training including, but not limited to, whether the training includes a substantial amount of supervised field experience; whether training programs exist in this state; if there will be an experience requirement; whether the experience must be acquired under a registered, certificated, or licensed practitioner; whether there are alternative routes of entry or methods of meeting the prerequisite qualifications; whether all applicants will be required to pass an examination; and, if an examination is required, by whom it will be developed and how the costs of development will be met; and
 - vi. What additional training programs are anticipated to be necessary to assure training accessible statewide; the anticipated time required to establish the additional training programs; the types of institutions capable of providing the training; a description of how training programs will meet the needs of the expected workforce, including reentry workers, minorities, placebound students, and others;
 - d. Assurance of the public that practitioners have maintained their competence:
 - i. Whether the registration, certification, or licensure will carry an expiration date; and
 - ii. Whether renewal will be based only upon payment of a fee, or whether renewal will involve reexamination, peer review, or other enforcement;
5. The extent to which regulation might harm the public:
- a. The extent to which regulation will restrict entry into the health profession:
 - i. Whether the proposed standards are more restrictive than necessary to insure safe and effective performance; and
 - ii. Whether the proposed legislation requires registered, certificated, or licensed practitioners in other jurisdictions who migrate to this state to qualify in the same manner as state applicants for registration, certification, and licensure when the other jurisdiction has substantially equivalent requirements for registration, certification, or licensure as those in this state; and
 - b. Whether there are similar professions to that of the applicant group which should be included in, or portions of the applicant group which should be excluded from, the proposed legislation;
6. The maintenance of standards:
- a. Whether effective quality assurance standards exist in the health profession, such as legal requirements associated with specific programs that define or enforce standards, or a code of ethics; and
 - b. How the proposed legislation will assure quality:
 - i. The extent to which a code of ethics, if any, will be adopted; and
 - ii. The grounds for suspension or revocation of registration, certification, or licensure;
7. A description of the group proposed for regulation, including a list of associations, organizations, and other groups representing the practitioners in this state, an estimate of the number of practitioners in each group, and whether the groups represent different levels of practice; and
8. The expected costs of regulation:
- a. The impact registration, certification, or licensure will have on the costs of the services to the public;
 - b. The cost to the state and to the general public of implementing the proposed legislation; and
 - c. The cost to the state and the members of the group proposed for regulation for the required education, including projected tuition and expenses and expected increases in training programs, staffing, and enrollments at state training institutions.

West Virginia

Citation: 30-1A-3.

8. The Joint Committee on Government Organization shall refer the completed application of the professional or occupational group or organization to the Performance Evaluation and Research Division of the Office of the Legislative Auditor.
9. The Performance Evaluation and Research Division of the Office of the Legislative Auditor shall conduct an analysis and evaluation of the application. The analysis and evaluation shall be based upon the criteria listed in subsection (c) of this section. The Performance Evaluation and Research Division of the Office of the Legislative Auditor shall submit a report, and such supporting materials as may be required, to the Joint Standing Committee on Government Organization, as set out in this section.
10. For an application proposing the regulation of an unregulated professional or occupational group or organization, the report shall include evaluation, analysis and findings as to:
 11. Whether the unregulated practice of the occupation or profession clearly harms or endangers the health, safety or welfare of the public, and whether the potential for the harm is easily recognizable and not remote or dependent upon tenuous argument;
 12. Whether the practice of the profession or occupation requires specialized skill or training which is readily measurable or quantifiable so that examination or training requirements would reasonably assure initial and continuing professional or occupational competence;
 13. Whether the public can be adequately protected by other means in a more cost-effective manner; and
 14. Whether the professional or occupational group or organization should be regulated as proposed in the application.
15. For an application proposing the establishment, revision or expansion of the scope of practice of a regulated profession or occupation, the report shall include the evaluation, analysis and findings as set forth in subsection (c) of this section inasmuch as applicable, and a clear recommendation as to whether the scope of practice should be established, revised or expanded as proposed in the application.
16. For an application received after December 1, and on or before June 1, the Performance Evaluation and Research Division of the Office of the Legislative Auditor shall present a report to the Joint Committee on Government Organization by December 31 of that year.
17. For an application received after June 1 and on or before December 1, the Performance Evaluation and Research Division of the Office of the Legislative Auditor shall present a report to the Joint Committee on Government Organization by June 30 of the next year.