

## **Sunset Review Criteria**

### **36-23-107. Sunrise or sunset review -- Criteria.**

- (1) In conducting a sunrise review or a sunset review under this chapter, the committee may:
  - (a) receive information from:
    - (i) representatives of the occupation or profession proposed to be newly regulated or that is subject to a sunset review;
    - (ii) the Division of Occupational and Professional Licensing; or
    - (iii) any other person; and
  - (b) review a proposal with or without considering proposed statutory language.
- (2) When conducting a sunrise review or sunset review under this chapter, the committee shall:
  - (a) consider whether state regulation of the occupation or profession is necessary to address a compelling state interest in protecting against present, recognizable, and significant harm to the health or safety of the public;
  - (b) if the committee determines that state regulation of the occupation or profession is not necessary to protect against present, recognizable, and significant harm to the health or safety of the public, recommend to the Legislature that the state not regulate the profession;
  - (c) if the committee determines that state regulation of the occupation or profession is necessary in protecting against present, recognizable, and significant harm to the health or safety of the public, consider whether the proposed or existing statute is narrowly tailored to protect against present, recognizable, and significant harm to the health or safety of the public; and
  - (d) recommend to the Legislature any necessary changes to the proposed or existing statute to ensure it is narrowly tailored to protect against present, recognizable, and significant harm to the health or safety of the public.
- (3) In its performance of each sunrise review or sunset review, the committee may apply the following criteria, to the extent that it is applicable:
  - (a) whether the unregulated practice of the occupation or profession has clearly harmed or may harm or endanger the health, safety, or welfare of the public;
  - (b) whether the potential for harm or endangerment described in Subsection (3)(a) is easily recognizable and not remote;
  - (c) whether regulation of the occupation or profession will significantly diminish an identified risk to the health, safety, or welfare of the public;
  - (d) whether regulation of the occupation or profession:

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- (i) imposes significant new economic hardship on the public;
  - (ii) significantly diminishes the supply of qualified practitioners; or
  - (iii) otherwise creates barriers to service that are not consistent with the public welfare or interest;
- (e) whether the occupation or profession requires knowledge, skills, and abilities that are:
- (i) teachable; and
  - (ii) testable;
- (f) whether the occupation or profession is clearly distinguishable from other occupations or professions that are already regulated;
- (g) whether the occupation or profession has:
- (i) an established code of ethics;
  - (ii) a voluntary certification program; or
  - (iii) other measures to ensure a minimum quality of service;
- (h) whether:
- (i) the occupation or profession involves the treatment of an illness, injury, or health care condition; and
  - (ii) practitioners of the occupation or profession will request payment of benefits for the treatment under an insurance contract subject to Section 31A-22-618;
- (i) whether the public can be adequately protected by means other than regulation; and
  - (j) other appropriate criteria as determined by the committee.

Amended by Chapter 323, 2013 General Session

**63I-1-103. Guidelines for conduct of review.**

- (1) (a) Any statute or agency scheduled for termination may be reviewed by an interim committee at the direction of:
- (i) Legislative Management Committee;
  - (ii) the chairs of an interim committee; or
  - (iii) an interim committee as approved by motion and majority vote of its membership.

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(b) The review shall begin not later than one year before scheduled termination and end before January 1 of the year in which termination is scheduled.

(2) In determining whether to reauthorize the statute or agency, the agency overseeing the statute or agency scheduled for termination shall clearly identify for the interim committee the public purpose and interest for which each statute or agency was originally created and clearly identify whether that public purpose and interest is still relevant.

(3) The interim committee shall then consider:

(a) the extent to which the statute or agency has operated in the public interest and any areas in which the statute or agency needs to improve its ability to operate in the public interest;

(b) the extent to which existing statutes interfere with or assist the legitimate functions of the statute or agency, and any other circumstances including budgetary, resource, and personnel matters that have a bearing on the capacity of the statute or agency to serve the public interest;

(c) the extent to which the public has been encouraged to participate in the adoption of the rules established in connection with the statute or agency;

(d) the extent to which the statute's provisions or agency's programs and services are duplicative of those offered by other statutes or state agencies;

(e) the extent to which the objectives of the statute or agency have been accomplished and their public benefit;

(f) the adverse effect on the public of termination of the statute or agency; and

(g) any other matter relevant to the review.

(4) It is the responsibility of any agency scheduled for termination or any agency which has oversight responsibilities for a statute scheduled for termination to seek its reauthorization with the Legislature.

Renumbered and Amended by Chapter 382, 2008 General Session

**631-1-104. Terminated authority -- Winding up of affairs.**

Any agency terminated under this chapter may continue in existence, if necessary to wind up its affairs, until July 1 of the year next succeeding the year of termination.

Renumbered and Amended by Chapter 382, 2008 General Session

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**63I-1-105. Reviewing committee -- Report of recommendations.**

The reviewing committee shall submit a report of its recommendations, including proposed legislation and recommendations concerning the statute or agency, to the Legislature before January 1 of the year in which the agency is scheduled for termination.

Renumbered and Amended by Chapter 382, 2008 General Session

**63I-1-106. Legislative reauthorization of statute or agency.**

If the Legislature determines that the public interest requires the continued existence of the statute or agency, it shall reauthorize the existence of the statute or agency in this chapter.

Renumbered and Amended by Chapter 382, 2008 General Session