

1 **36-23-107. Sunrise or sunset review -- Criteria.**

2 (1) In conducting a sunrise review or a sunset review under this chapter, the  
3 committee may:

4 (a) receive information from:

5 (i) representatives of the occupation or profession proposed to be  
6 newly regulated or that is subject to a sunset review;

7 (ii) the Division of Occupational and Professional Licensing; or

8 (iii) any other person; and

9 (b) review a proposal with or without considering proposed statutory  
10 language.

11 (2) When conducting a sunrise review or sunset review under this chapter, the  
12 committee shall:

13 (a) consider whether state regulation of the occupation or profession is  
14 necessary to address a compelling state interest in protecting against  
15 present, recognizable, and significant harm to the health or safety of the  
16 public;

17 (b) if the committee determines that state regulation of the occupation or  
18 profession is not necessary to protect against present, recognizable, and  
19 significant harm to the health or safety of the public, recommend to the  
20 Legislature that the state not regulate the profession;

21 (c) if the committee determines that state regulation of the occupation or  
22 profession is necessary in protecting against present, recognizable, and  
23 significant harm to the health or safety of the public, consider whether the  
24 proposed or existing statute is narrowly tailored to protect against present,  
25 recognizable, and significant harm to the health or safety of the public;  
26 and

27 (d) recommend to the Legislature any necessary changes to the proposed or  
28 existing statute to ensure it is narrowly tailored to protect against present,  
29 recognizable, and significant harm to the health or safety of the public.

30 (3) In its performance of each sunrise review or sunset review, the committee may  
31 apply the following criteria, to the extent that it is applicable:

- 32 (a) whether the unregulated practice of the occupation or profession has  
33 clearly harmed or may harm or endanger the health, safety, or welfare of  
34 the public;
- 35 (b) whether the potential for harm or endangerment described in  
36 Subsection (3)(a) is easily recognizable and not remote;
- 37 (c) whether regulation of the occupation or profession will significantly  
38 diminish an identified risk to the health, safety, or welfare of the public;
- 39 (d) whether regulation of the occupation or profession:
- 40 (i) imposes significant new economic hardship on the public;
- 41 (ii) significantly diminishes the supply of qualified practitioners; or
- 42 (iii) otherwise creates barriers to service that are not consistent with the  
43 public welfare or interest;
- 44 (e) whether the occupation or profession requires knowledge, skills, and  
45 abilities that are:
- 46 (i) teachable; and
- 47 (ii) testable;
- 48 (f) whether the occupation or profession is clearly distinguishable from other  
49 occupations or professions that are already regulated;
- 50 (g) whether the occupation or profession has:
- 51 (i) an established code of ethics;
- 52 (ii) a voluntary certification program; or
- 53 (iii) other measures to ensure a minimum quality of service;
- 54 (h) whether:
- 55 (i) the occupation or profession involves the treatment of an illness,  
56 injury, or health care condition; and
- 57 (ii) practitioners of the occupation or profession will request payment  
58 of benefits for the treatment under an insurance contract subject to  
59 Section 31A-22-618;
- 60 (i) whether the public can be adequately protected by means other than  
61 regulation; and
- 62 (j) other appropriate criteria as determined by the committee.