

**OCCUPATIONAL AND PROFESSIONAL
LICENSURE SUNRISE TASK FORCE**

1998 GENERAL SESSION

STATE OF UTAH

Sponsor: L. Alma Mansell

AN ACT RELATING TO OCCUPATIONS AND PROFESSIONS; CREATING THE OCCUPATIONAL AND PROFESSIONAL LICENSURE SUNRISE TASK FORCE; PROVIDING FOR MEMBERSHIP; DELINEATING RESPONSIBILITIES AND PROCEDURES; PROVIDING A REPORTING DATE; APPROPRIATING \$23,500 FROM THE COMMERCE SERVICE FUND; AND PROVIDING A REPEAL DATE.

This act enacts uncodified material.

Be it enacted by the Legislature of the state of Utah:

Section 1. Occupational and Professional Licensure Sunrise Task Force -- Creation -- Membership -- Quorum -- Compensation -- Staff.

(1) There is created the Occupational and Professional Licensure Sunrise Task Force consisting of the following 11 members:

(a) three members of the Senate appointed by the president of the Senate, no more than two of whom may be from the same political party;

(b) five members of the House of Representatives appointed by the speaker of the House of Representatives, no more than three of whom may be from the same political party;

(c) the executive director of the Department of Commerce; and

(d) two members of the general public who have occupational and professional licensing expertise, appointed jointly by the President of the Senate and the Speaker of the House of Representatives.

(2) (a) The president of the Senate shall designate a member of the Senate appointed under Subsection (1)(a) as a cochair of the task force.

(b) The speaker of the House of Representatives shall designate a member of the House of Representatives appointed under Subsection (1)(b) as a cochair of the task force.

(3) A majority of the members of the task force constitutes a quorum. The action of a

majority of a quorum constitutes the action of the task force.

(4) (a) Salaries and expenses of the members of the task force who are legislators shall be paid in accordance with Section 36-2-2 and Legislative Joint Rule 15.03.

(b) The public members of the task force may not receive compensation for their work associated with the task force.

(5) The Office of Legislative Research and General Counsel shall provide staff support to the task force.

Section 2. Duties -- Interim report.

(1) The task force shall review and make recommendations on the following issues:

(a) whether there should be a sunrise procedure prior to introducing any new legislation regulating any new profession or occupation; and

(b) if there is a sunrise procedure, analysis and evaluation criteria which should be used to determine whether a new profession or occupation should be regulated, including such questions as:

(i) whether the unregulated practice presents a clear and recognizable danger to the health, safety, and welfare of the public;

(ii) whether the occupation or profession is such a specialized skill that the public is not able to select a competent practitioner without some assurance of professional qualifications;

(iii) whether the public can be protected by other means;

(iv) whether strengthening existing laws would provide adequate protection;

(v) whether licensure or registration is required for recognition of Utah practitioners by the federal government or other states;

(vi) whether regulation will increase the cost of goods or services;

(vii) whether regulation will increase or decrease the availability of goods and services to the public;

(viii) whether regulation will ensure practitioner competency; and

(ix) whether regulation can be provided by an existing board and without an increase in regulatory personnel; and

(c) recommend procedures to be implemented in order to create an effective sunrise review

process, which should include provisions for:

(i) a review study of the profession or occupation sought to be regulated to include:

(A) data on the group proposed to be regulated to include:

(I) the number of persons or entities subject to the regulation; and

(II) names and addresses of associations, organizations, and other groups representing the practitioners;

(B) a determination of specialized skill necessary to practice the occupation or profession proposed to be regulated to include whether the specialized skill is such that the public is not qualified to select a competent practitioner without assurances that minimum qualifications have been met;

(C) the extent of potential harm if the occupation or profession is not regulated, to include:

(I) threat to public health, safety, and welfare from unregulated practice of the profession or occupation; and

(II) evidence of potential harm to include description of complaints filed with law enforcement and various boards and associations against practitioners;

(D) any voluntary and past regulatory efforts to include:

(I) a description of voluntary protective actions by the occupation or profession to protect the public through self-regulation, private certifications, membership in professional or occupational associations, or academic credentials; and

(II) a statement of why self-regulatory efforts are inadequate to protect the public health, safety, and welfare;

(E) the cost-effectiveness of regulation of the profession or occupation to include:

(I) any increase in the cost of goods and services provided by practitioners which will result from regulation; and

(II) the overall cost-effectiveness and economic impact of the proposed regulation, including indirect costs to consumers;

(F) the effect of regulation on the availability of goods and services to the public;

(G) a review of existing laws and regulations to include:

(I) the extent to which existing legal remedies are inadequate to prevent or redress the kinds of harm potentially resulting from nonregulation; and

(II) whether regulation can be provided through an existing state agency or in conjunction with presently regulated practitioners;

(H) the method of regulation to include:

(I) why regulation is being proposed;

(II) why that method of regulation was proposed; and

(III) whether the proposed method of regulation is the most appropriate and least restrictive alternative;

(I) similar regulation in other states to include:

(I) other states that regulate the profession or occupation;

(II) method of regulation in other states;

(III) copies of laws from other states; and

(IV) available evidence, if any, of the effect of regulation of the occupation or profession in other states;

(J) previous efforts, if any, to implement regulation of the profession or occupation;

(K) recognized standards of minimal competence for the profession or occupation and whether the proposed requirements exceed such standards; and

(L) financial analysis to include:

(I) method proposed to finance the proposed regulation; and

(II) financial data to ascertain whether regulation can be reasonably financed by those regulated through dedicated revenue mechanisms; and

(ii) public hearings on the proposed regulation of the profession or occupation to include:

(A) testimony from the public, the executive director of the Department of Commerce, and the group, organization, or individual who proposes the regulation of the occupation or profession;

and

(B) the determinations sought from such hearings as to the need for regulation should include:

(I) whether the unregulated practice of the profession or occupation clearly endangers the health, safety, and welfare of the public or whether such danger is remote;

(II) whether the potential for harm is easily recognizable or whether it is dependent upon conjecture and speculation;

(III) whether an assurance of initial professional or occupational competency is necessary and beneficial for the health, safety, and welfare of the public; and

(IV) whether the public can be adequately protected by other means in a more cost-effective manner.

(2) A final report, including any proposed legislation, shall be presented to the Legislative Management Committee in its November 1998 meeting.

Section 3. Appropriation.

There is appropriated from the Commerce Service Fund for fiscal year 1998-99:

(1) \$3,500 to the Senate to pay for the compensation and expenses of senators on the task force;

(2) \$5,000 to the House of Representatives to pay for the compensation and expenses of representatives on the task force; and

(3) \$15,000 to the Office of Legislative Research and General Counsel to pay for staffing the task force.

Section 4. Repeal date.

This act is repealed November 30, 1998.