

1                                   **OCCUPATIONAL AND PROFESSIONAL**  
2                                   **LICENSURE REVIEW COMMITTEE**

3                                   1999 GENERAL SESSION

4                                   STATE OF UTAH

5                                   **Sponsor: L. Alma Mansell**

6 AN ACT RELATING TO THE LEGISLATURE; CREATING THE OCCUPATIONAL AND  
7 PROFESSIONAL LICENSURE REVIEW COMMITTEE; PROVIDING FOR MEMBERSHIP;  
8 DELINEATING RESPONSIBILITIES AND PROCEDURES; AND SETTING REVIEW  
9 CRITERIA FOR OCCUPATIONS OR PROFESSIONS SEEKING LICENSURE,  
10 REGULATION, OR REAUTHORIZATION.

11 This act affects sections of Utah Code Annotated 1953 as follows:

12 ENACTS:

13           **36-23-101**, Utah Code Annotated 1953

14           **36-23-102**, Utah Code Annotated 1953

15           **36-23-103**, Utah Code Annotated 1953

16           **36-23-104**, Utah Code Annotated 1953

17           **36-23-105**, Utah Code Annotated 1953

18           **36-23-106**, Utah Code Annotated 1953

19           **36-23-107**, Utah Code Annotated 1953

20           **36-23-108**, Utah Code Annotated 1953

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

22           Section 1. Section **36-23-101** is enacted to read:

23                                   **CHAPTER 23. OCCUPATIONAL AND PROFESSIONAL LICENSURE**

24                                   **REVIEW COMMITTEE ACT**

25           **36-23-101. Title.**

26           This chapter is known as the "Occupational and Professional Licensure Review Committee  
27 Act."

28 Section 2. Section **36-23-102** is enacted to read:

29 **36-23-102. Occupational and Professional Licensure Review Committee -- Definition**  
30 **-- Membership -- Chairs.**

31 (1) There is created the Occupational and Professional Licensure Review Committee.

32 (2) As used in this chapter, "committee" means the Occupational and Professional  
33 Licensure Review Committee.

34 (3) The committee consists of 13 members appointed as follows:

35 (a) three members of the House of Representatives, appointed by the speaker of the House,  
36 no more than two from the same political party;

37 (b) three members of the Senate, appointed by the president of the Senate, no more than  
38 two from the same political party; and

39 (c) seven public members appointed jointly by the speaker of the House and the president  
40 of the Senate as follows:

41 (i) four members who have previously served, but are no longer serving, on any of the  
42 advisory boards created under Title 58; and

43 (ii) three members from the general public who do not hold any type of license issued by  
44 the Division of Occupational and Professional Licensing.

45 (4) (a) The speaker of the House of Representatives shall designate a member of the House  
46 of Representatives appointed under Subsection(3)(a) as a cochair of the committee.

47 (b) The president of the Senate shall designate a member of the Senate appointed under  
48 Subsection (3)(b) as a cochair of the committee.

49 Section 3. Section **36-23-103** is enacted to read:

50 **36-23-103. Terms -- Vacancies.**

51 (1) Legislators serving on the committee shall serve two-year terms or until their  
52 successors are appointed.

53 (2) (a) Except as provided in Subsection (2)(b), public members shall serve up to  
54 three-year terms or until their successors are appointed.

55 (b) The speaker of the House and the president of the Senate shall, at the time of  
56 appointment or reappointment, adjust the length of terms of the public members to ensure that  
57 approximately one-third of the public members are appointed every year.

58 (3) A vacancy exists whenever a committee member ceases to be a member of the

59 Legislature or when a member resigns from the committee. Vacancies shall be filled by the  
60 appointing authority, and the replacement member shall serve for the remaining unexpired term.

61 Section 4. Section **36-23-104** is enacted to read:

62 **36-23-104. Meetings -- Compensation -- Quorum -- Rules.**

63 (1) The committee may meet as needed, at the call of the committee chairs, to carry out  
64 the duties set forth in Section 36-23-106.

65 (2) (a) Legislators on the committee receive compensation and expenses as provided by  
66 law and legislative rule.

67 (b) (i) Public members on the committee receive no compensation or benefits for their  
68 service, but may receive per diem and expenses incurred in the performance of the members'  
69 official duties at the rates established by the Division of Finance under Sections 63A-3-106 and  
70 63A-3-107.

71 (ii) Public members may decline to receive per diem and expenses for their service.

72 (3) Seven members of the committee constitute a quorum.

73 (4) In conducting all its business, the committee shall comply with the rules of legislative  
74 interim committees regarding motions and voting.

75 Section 5. Section **36-23-105** is enacted to read:

76 **36-23-105. Applications -- Fees.**

77 (1) Representatives of occupations or professions who desire to have their occupation or  
78 profession licensed or regulated by the state may, prior to the introduction of any proposed  
79 legislation, submit an application for sunrise review to the Office of Legislative Research and  
80 General Counsel in a form approved by the committee.

81 (2) Applicants shall submit a nonrefundable fee of \$500 with each application. All  
82 application fees shall be deposited in the General Fund.

83 Section 6. Section **36-23-106** is enacted to read:

84 **36-23-106. Duties.**

85 The committee shall:

86 (1) receive applications from representatives of professions or occupations which are  
87 seeking legislation to license or regulate that profession or occupation;

88 (2) hold public hearings to review applications received under Subsection (1) and to  
89 determine, based upon the criteria in Section 36-23-107, if the profession or occupation should be

90 licensed or regulated by the state;

91 (3) conduct sunset reviews, based upon the criteria in Section 36-23-107 and other  
92 appropriate criteria, for any occupational or professional license classifications which are referred  
93 to the committee by any other legislative committee; and

94 (4) submit a written report to the Legislature of all findings and recommendations made  
95 by the committee under Subsections (2) and (3).

96 Section 7. Section **36-23-107** is enacted to read:

97 **36-23-107. Review criteria.**

98 When reviewing applications received under Subsection 36-23-106(2) and when  
99 conducting sunset reviews under Subsection 36-23-106(3), the committee shall use the following  
100 criteria to determine whether or not the occupation or profession should be licensed or regulated  
101 by the state:

102 (1) whether the unregulated practice of the occupation or profession has clearly harmed  
103 or may harm or endanger the health, safety, or welfare of the public, and whether the potential for  
104 harm is easily recognizable and not remote;

105 (2) whether the public needs, and can reasonably be expected to benefit from, an assurance  
106 of initial and continuing professional or occupational competence;

107 (3) whether regulation of the profession or occupation imposes significant new economic  
108 hardship on the public, significantly diminishes the supply of qualified practitioners, or otherwise  
109 creates barriers to service that are not consistent with the public welfare or interest;

110 (4) whether the occupation requires possession of knowledge, skills, and abilities that are  
111 both teachable and testable;

112 (5) whether the occupation is clearly distinguishable from other occupations that are  
113 already regulated;

114 (6) whether the occupational or professional group has an established code of ethics, a  
115 voluntary certification program, or other measures to ensure a minimum quality of service;

116 (7) whether the public can be adequately protected by means other than regulation; and

117 (8) other appropriate criteria as determined by the committee.

118 Section 8. Section **36-23-108** is enacted to read:

119 **36-23-108. Staff support.**

120 The Office of Legislative Research and General Counsel shall provide staff services to the

121 committee.

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**Legislative Review Note**  
**as of 11-20-98 2:26 PM**

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

**Office of Legislative Research and General Counsel**

**Committee Note**

The Business, Labor, and Economic Development Interim Committee recommended this bill.