

**OCCUPATIONAL AND PROFESSIONAL
LICENSURE REVIEW COMMITTEE**

2007 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Michael T. Morley

Senate Sponsor: Scott K. Jenkins

LONG TITLE

General Description:

This bill modifies provisions related to the Occupational and Professional Licensure Review Committee.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ modifies provisions related to the structure and conduct of the committee;
- ▶ modifies the duties of the committee including reporting requirements;
- ▶ addresses the sunrise review process; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

36-23-102, as enacted by Chapter 152, Laws of Utah 1999

36-23-103, as enacted by Chapter 152, Laws of Utah 1999

36-23-104, as enacted by Chapter 152, Laws of Utah 1999

36-23-106, as enacted by Chapter 152, Laws of Utah 1999

36-23-107, as last amended by Chapter 248, Laws of Utah 2003

30 ENACTS:

31 **36-23-101.5**, Utah Code Annotated 1953



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

34 Section 1. Section **36-23-101.5** is enacted to read:

35 **36-23-101.5. Definitions.**

36 As used in this chapter:

37 (1) "Committee" means the Occupational and Professional Licensure Review

38 Committee created in Section 36-23-102.

39 (2) "Newly regulate" means to regulate under Title 58, Occupations and Professions, an
40 occupation or profession not regulated under Title 58 before the enactment of the new
41 regulation.

42 (3) "Proposal" means:

43 (a) an application submitted under Section 36-23-105, with or without specific
44 proposed statutory language;

45 (b) a request for review by a legislator of the possibility of newly regulating an
46 occupation or profession, with or without specific proposed statutory language; or

47 (c) proposed or introduced legislation to newly regulate an occupation or profession
48 referred to the committee by another legislative committee.

49 (4) "Sunrise review" means a review under this chapter of a proposal to newly regulate
50 an occupation or profession.

51 Section 2. Section **36-23-102** is amended to read:

52 **36-23-102. Occupational and Professional Licensure Review Committee.**

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

54 [~~2~~] ~~As used in this chapter, "committee" means the Occupational and Professional~~
55 ~~Licensure Review Committee.~~]

56 [~~3~~] (2) The committee consists of 13 members appointed as follows:

57 (a) three members of the House of Representatives, appointed by the speaker of the

58 House of Representatives, no more than two from the same political party;

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

61 (c) seven public members appointed jointly by the speaker of the House of
62 Representatives and the president of the Senate as follows:

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

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

67 [~~(4)~~] (3) (a) The speaker of the House of Representatives shall designate a member of
68 the House of Representatives appointed under Subsection [~~(3)~~] (2)(a) as a cochair of the
69 committee.

70 (b) The president of the Senate shall designate a member of the Senate appointed under
71 Subsection [~~(3)~~] (2)(b) as a cochair of the committee.

72 Section 3. Section **36-23-103** is amended to read:

73 **36-23-103. Committee terms -- Vacancies.**

74 (1) [~~Legislators~~] A legislator serving on the committee shall serve a two-year [~~terms~~]
75 term or until [~~their successors are~~] the legislator's successor is appointed.

76 (2) (a) Except as provided in Subsection (2)(b), a public [~~members~~] member shall serve
77 [~~up to three-year terms~~] a three-year term or until [~~their successors are~~] the public member's
78 successor is appointed.

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

82 (3) A legislative or public member of the committee may serve one or more terms.

83 [~~(3)~~] (4) (a) A vacancy [~~exists whenever a committee~~] occurs:

84 (i) when a legislative member ceases to be a member of the Legislature; or

85 (ii) when a member of the committee resigns from the committee. [~~Vacancies~~]

86 (b) A vacancy shall be filled by the appointing authority, and the replacement member
87 shall serve for the remaining unexpired term.

88 Section 4. Section **36-23-104** is amended to read:

89 **36-23-104. Committee meetings -- Compensation -- Quorum -- Legislative rules.**

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

92 (2) (a) [~~Legislators~~] A legislator on the committee shall receive compensation and
93 expenses as provided by law and legislative rule.

94 (b) (i) [~~Public members~~] A public member on the committee [~~receive no~~] may not
95 receive compensation or benefits for [~~their~~] the public member's service, but may receive per
96 diem and expenses incurred in the performance of the [~~members'~~] public member's official
97 duties at the rates established by the Division of Finance under Sections 63A-3-106 and
98 63A-3-107.

99 (ii) [~~Public members~~] A public member may decline to receive per diem and expenses
100 for [~~their~~] the public member's service.

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

102 (b) If a quorum is present, the action of a majority of members present is the action of
103 the committee.

104 (4) [~~In~~] Except as provided in Subsection (3), in conducting all its business, the
105 committee shall comply with the rules of legislative interim committees regarding motions.

106 Section 5. Section **36-23-106** is amended to read:

107 **36-23-106. Duties -- Reporting.**

108 (1) The committee shall:

109 [~~(1) receive applications from representatives of professions or occupations which are~~
110 ~~seeking legislation to license or regulate that profession or occupation;]~~

111 [~~(2) hold public hearings to review applications received under Subsection (1) and to~~
112 ~~determine, based upon the criteria in Section 36-23-107, if the profession or occupation should~~
113 ~~be licensed or regulated by the state;]~~

114 (a) conduct a sunrise review in accordance with Section 36-23-107 for all applications
115 submitted in accordance with Section 36-23-105;

116 ~~[(3)]~~ (b) conduct a sunset [reviews, based upon the criteria in Section 36-23-107, Title
117 63, Chapter 55, Legislative Oversight and Sunset Act, and other appropriate criteria, for any]
118 review for an occupational or professional license [classifications which are] classification that
119 is referred to the committee by any other legislative committee by applying:

- 120 (i) the criteria in Section 36-23-107;
- 121 (ii) the criteria in Title 63, Chapter 55, Legislative Oversight and Sunset Act; and
- 122 (iii) any other appropriate criteria; and

123 ~~[(4)]~~ (c) submit a written report by no later than December 31 of each calendar year to:

- 124 (i) the speaker of the House of Representatives [and];
- 125 (ii) the president of the Senate [of];
- 126 (iii) the chair of the House Rules Committee;
- 127 (iv) the chair of the Senate Rules Committee; and
- 128 (v) the chairs of the Commerce and Revenue Appropriations Subcommittee.

129 (2) The written report required by Subsection (1)(c) shall include:

130 (a) all findings and recommendations made by the committee under [Subsections (2)
131 and (3)]; Subsection (1) or (3) in that calendar year; and

132 (b) a summary report for each sunrise review conducted by the committee stating:

- 133 (i) whether the sunrise review was conducted under Subsection (1) or (3);
- 134 (ii) whether or not the sunrise review included a review of specific proposed statutory
135 language;

136 (iii) any action taken by the committee as a result of the sunrise review; and

137 (iv) the number of legislative members that voted in favor of the action described in
138 Subsection (2)(b)(iii).

139 (3) The committee may:

140 (a) conduct a sunrise review of any proposal to newly regulate an occupation or
141 profession;

142 (b) conduct any other review referred to it by the Legislature, the Legislative
143 Management Committee, or other legislative committee; or

144 (c) conduct any other study related to regulation of an occupation or profession under
145 Title 58, Occupations and Professions.

146 Section 6. Section **36-23-107** is amended to read:

147 **36-23-107. Sunrise review -- Criteria.**

148 (1) In conducting a sunrise review, the committee may:

149 (a) receive information from:

150 (i) representatives of the occupation or profession proposed to be newly regulated;

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

152 (iii) any other person;

153 (b) review the proposal with or without considering proposed statutory language;

154 (c) evaluate the criteria in Subsection (2) to determine whether or not the occupation or
155 profession should be regulated by the state; and

156 (d) as to the proposal, recommend:

157 (i) that the proposal be adopted by the Legislature;

158 (ii) that the proposal be adopted by the Legislature with recommended changes;

159 (iii) that the proposal not be adopted by the Legislature; or

160 (iv) any other action.

161 (2) When [reviewing applications received under Subsection 36-23-106(2) and when
162 conducting sunset reviews under Subsection 36-23-106(3)] conducting a sunrise review or

163 sunset review under this chapter, the committee shall use the following criteria [to determine
164 whether or not the occupation or profession should be licensed or regulated by the state]:

165 ~~[(+)]~~ (a) whether or not the unregulated practice of the occupation or profession has
166 clearly harmed or may harm or endanger the health, safety, or welfare of the public[~~, and~~];

167 (b) whether or not the potential for harm or endangerment described in Subsection
168 (2)(a) is easily recognizable and not remote;

169 ~~[(2)]~~ (c) whether or not the public needs, and can reasonably be expected to benefit

170 from, an assurance of initial and continuing [~~professional or~~] occupational or professional
171 competence;

172 [~~3~~] (d) whether or not regulation of the [~~profession or~~] occupation or profession:

173 (i) imposes significant new economic hardship on the public[;];

174 (ii) significantly diminishes the supply of qualified practitioners[;]; or

175 (iii) otherwise creates barriers to service that are not consistent with the public welfare
176 or interest;

177 [~~4~~] (e) whether or not the occupation or profession requires [~~possession of~~]
178 knowledge, skills, and abilities that are [~~both~~]:

179 (i) teachable; and

180 (ii) testable;

181 [~~5~~] (f) whether or not the occupation or profession is clearly distinguishable from
182 other occupations or professions that are already regulated;

183 [~~6~~] (g) whether or not the [~~occupational or professional group~~] occupation or
184 profession has:

185 (i) an established code of ethics[;];

186 (ii) a voluntary certification program[;]; or

187 (iii) other measures to ensure a minimum quality of service;

188 [~~7~~] (h) whether or not:

189 (i) the occupation or [~~professional group is seeking licensure for~~] profession involves
190 the treatment of an illness, injury, or health care condition; and

191 (ii) practitioners of the occupation or profession will request payment of benefits for
192 the treatment under an insurance contract subject to Section 31A-22-618;

193 [~~8~~] (i) whether or not the public can be adequately protected by means other than
194 regulation; and

195 [~~9~~] (j) other appropriate criteria as determined by the committee.