

Connecticut Sunset Law

Staff Findings and Recommendations

Legislative Program Review & Investigations Committee

February 22, 2012



Overview of CT Sunset Law

- Enacted in 1977
- Legislative oversight tool
- Proliferation of governmental entities

Overview of CT Sunset Law, Cont'd.

- 75 entities with automatic termination dates (“sunset review list”)
- Terminated unless legislature acts to re-establish each one
- PRI performance audit

Overview of CT Sunset Law, Cont'd.

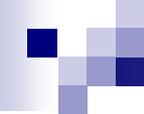
- PRI conducts performance audit
 - Criteria
 - Entity has burden to justify its continued existence
- Repeat five years later

PRI Sunset Review Study

- Conducted performance audits using two methodologies
 - Traditional sunset review
 - Results-Based Accountability (RBA) approach

- Examined two programs on the sunset review list
 - Board of Examiners of Embalmers and Funeral Directors

 - Regulation of Hearing Instrument Specialists



Connecticut Sunset Law

Performance Audit

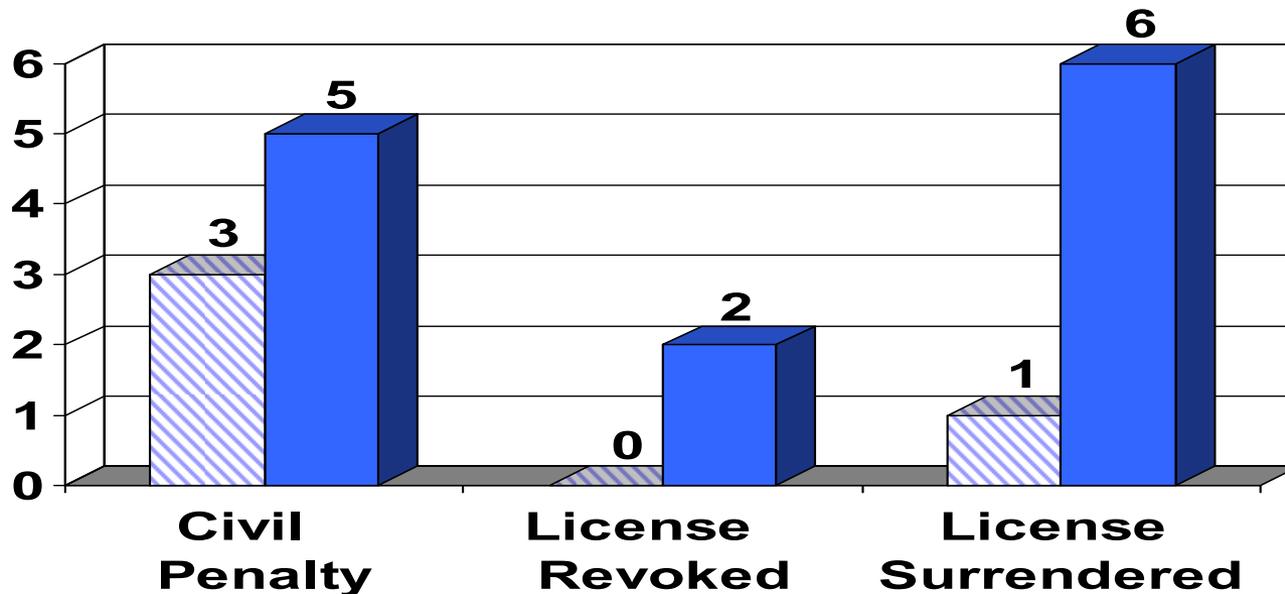
of

Board of Examiners of Embalmers
and Funeral Directors

Overall Embalmer, Funeral Director and Funeral Home Regulation

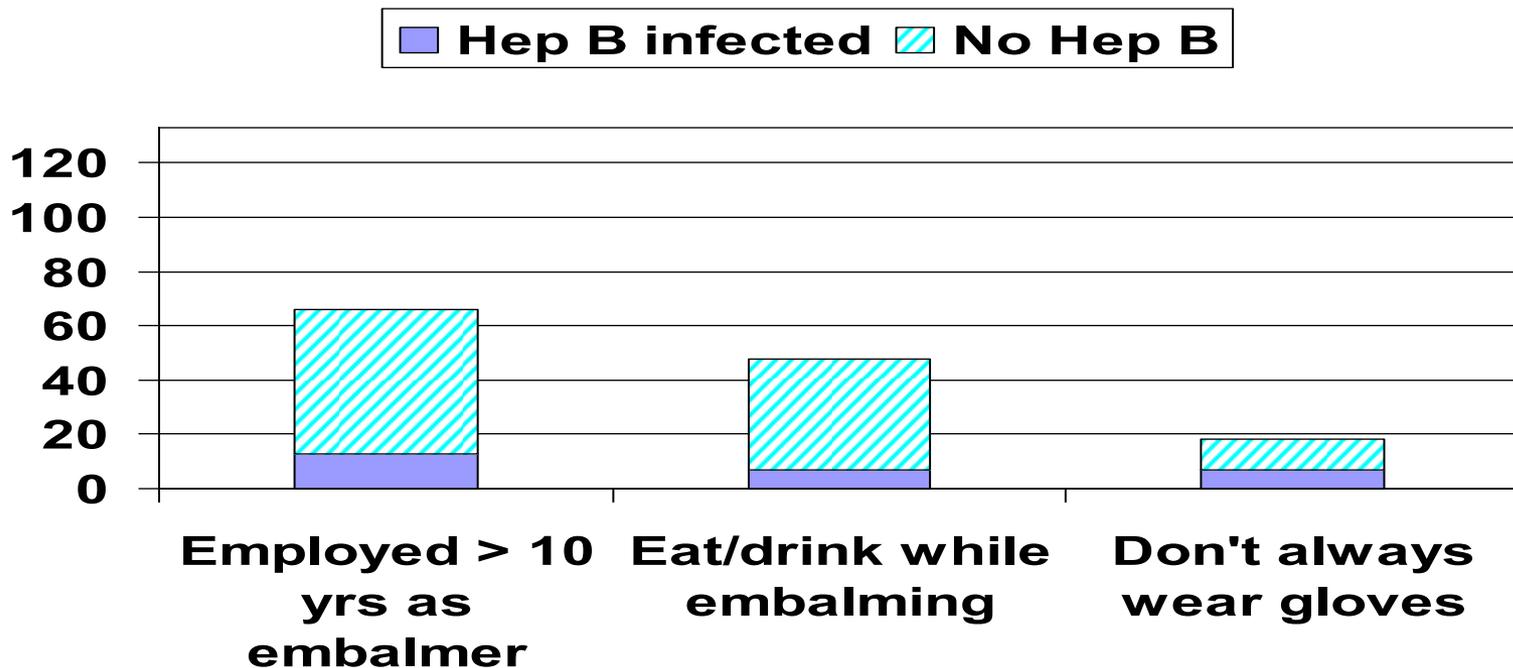
- Compared to a less regulated time, the more regulated time shows more penalties licenses revoked or surrendered

▨ '98-'00 (no inspector) ■ '02-'04 (yes inspector)



Overall Embalmer, Funeral Director and Funeral Home Regulation

- Regulatory requirements help maintain sanitary conditions, protect public health from illness spread through the deceased



Overall Embalmer, Funeral Director and Funeral Home Regulation

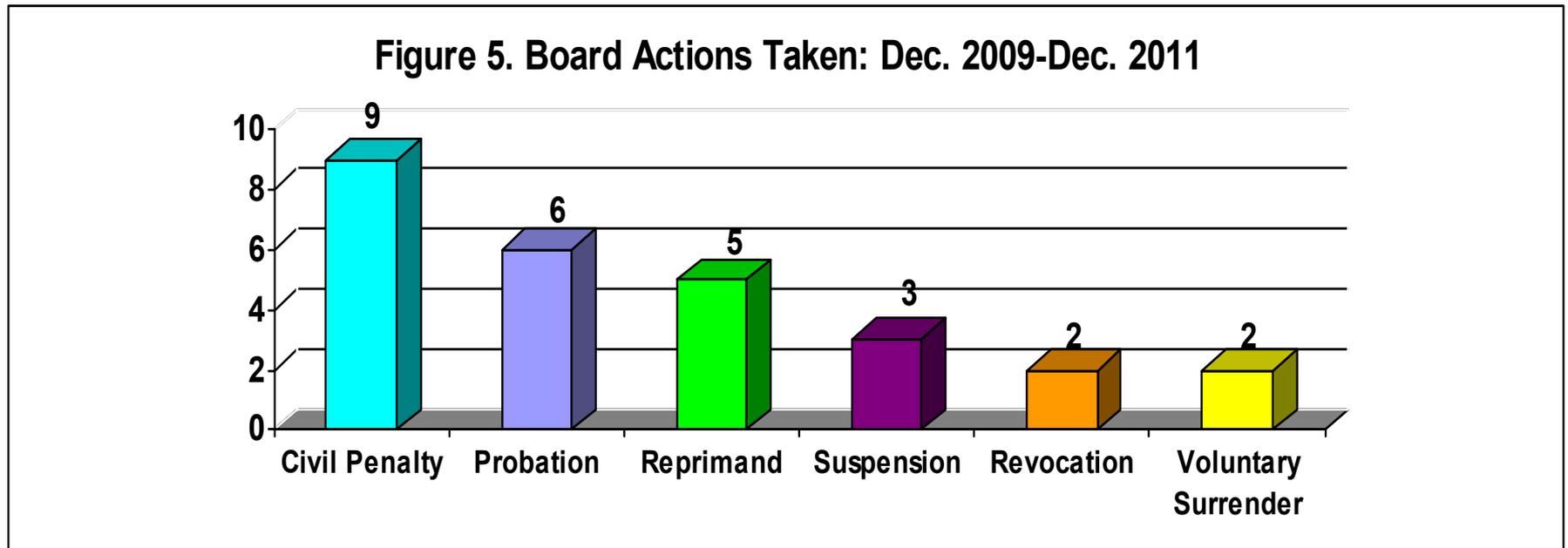
- Pre-need funeral service contracts:
 - Use growing (CT consumers put in \$400 million)
 - Examined as part of DPH funeral home inspection
 - Any suspected irregularities forwarded to DCP
 - Many with these contracts are considered frail and vulnerable

Overall Embalmer, Funeral Director and Funeral Home Regulation

- **Continue licensure of embalmers, funeral directors, and funeral homes (Rec. #7)**
 - Public not able to assess quality
 - Emotional well-being of mourners could be threatened at a vulnerable time

Board of Examiners of Embalmers and Funeral Directors

- Board took 27 actions during Dec. 2009-Dec. 2011
- Board disagreed with DPH-negotiated consent orders 5 times



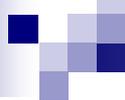
Board of Examiners of Embalmers and Funeral Directors

- 50+ other health profession licensure categories do not have boards
- Board says professional and public members provide unique, combined ability
- Board members generally ask questions not necessarily posed by hearing officers

Board of Examiners of Embalmers and Funeral Directors

■ Continue Board of Examiners of Embalmers and Funeral Directors (Rec. #8)

- Uncertain what advantage would be gained by eliminating the Board
- Is little to no expense
- Board provides readily available expertise



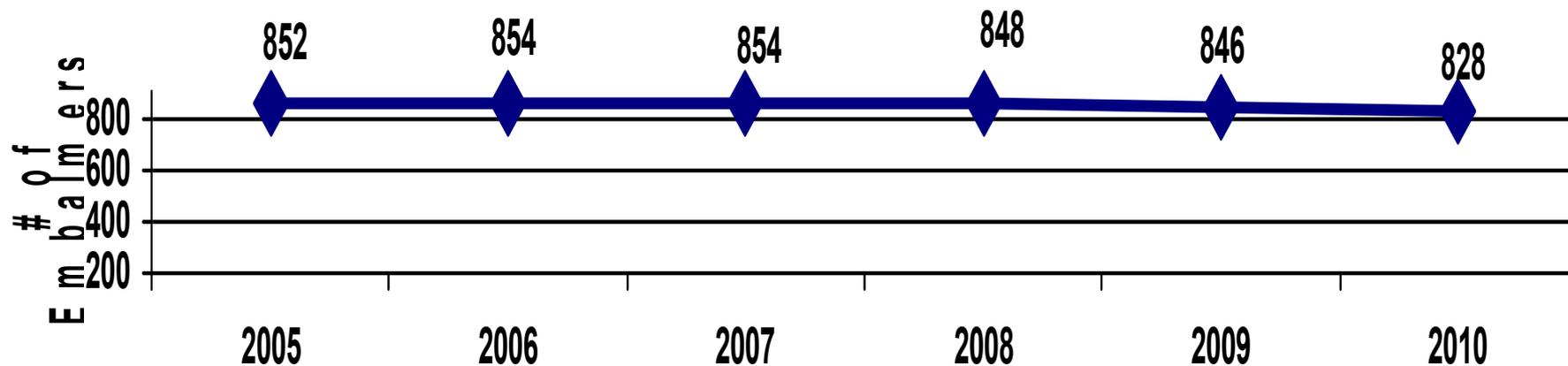
Recommended Modifications

- Current regulations limited
- No definition of “funeral service”
- No specific requirements for funeral home inspections

**Expand current funeral home regulations
(Rec. #9)**

Recommended Modifications

Figure I. Number of Connecticut Licensed Embalmers

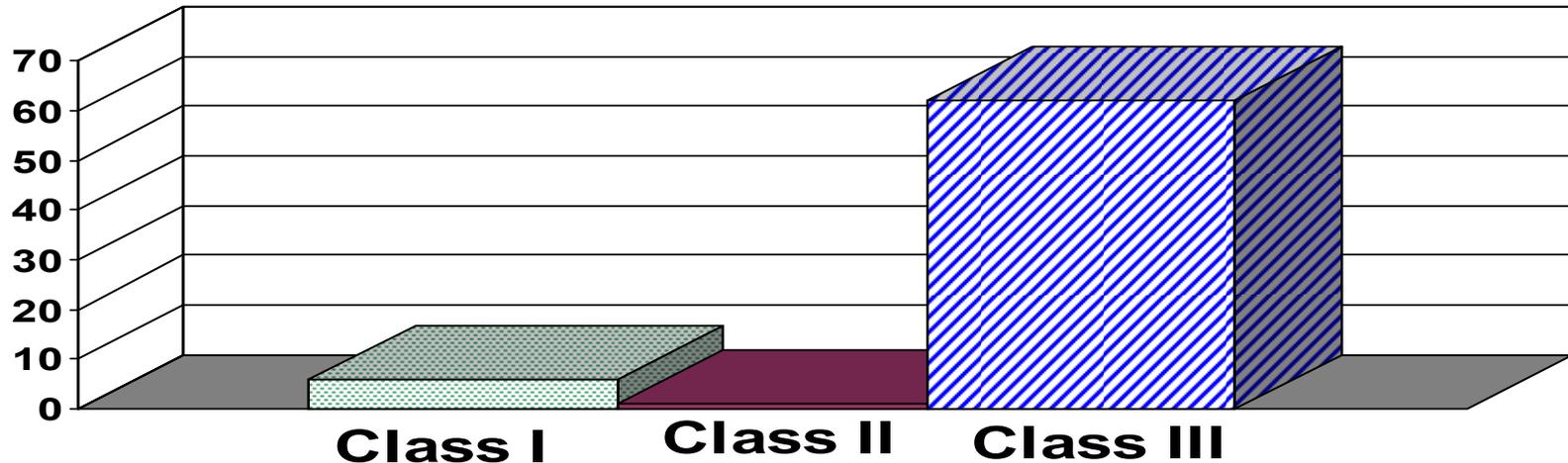


Source: Department of Public Health

Include five years of data in DPH licensure report (Rec. #10)

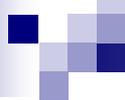
Recommended Modifications, Cont'd.

Severity of 69 Complaints (2009-2011)



- Complaints categorized Class I-III
- DPH guidelines

**Monitor timeliness of complaint processing
(Rec. #11)**



Recommended Modifications, Cont'd.

- Clarify where consumers file pre-need funeral service contract complaints
(Rec. #12, #13)
- Make consumers aware of DCP Pre-Need Funeral Service Contracts Fact Sheet
(Rec. #14, #15)

Recommended Modifications, Cont'd

- Pre-need funeral service contract funds sometimes not deposited into escrow accounts
- CT could establish fund to help consumers
- DCP currently oversees 5 guaranty funds
- Put \$10 from each license renewal fee into fund

Establish a Pre-Need Funeral Service Contract Guaranty Fund (Rec. #16)

Recommended Modifications, Cont'd

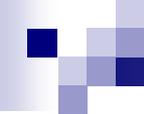
- Governor's Office appoints board members
- Public board member vacancy > 6 mos.

Request timeframe for when board member vacancy will be filled (Rec. #17)

Recommended Modifications, Cont'd

- Board required to have public and professional members
- No reqts. for board member attendance at hearings
- Because both perspectives important, at least 1 public and 1 professional board member should be present at hearings

**Institute a board hearing attendance requirement
(Rec. #18)**



Connecticut Sunset Law

Performance Audit

Of

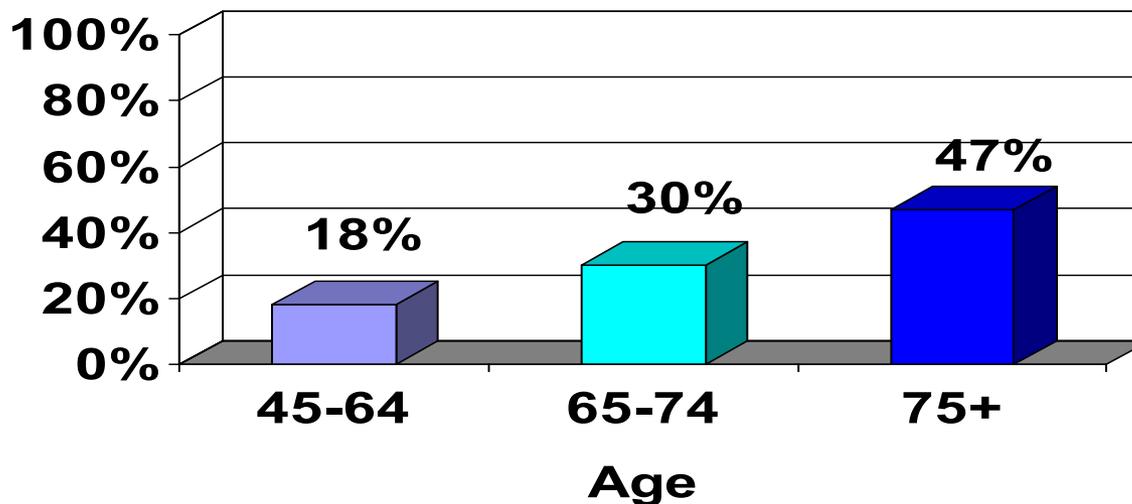
Regulation of Hearing Instrument

Specialists

Hearing Instrument Specialists

- Hearing loss is one of the most prevalent chronic health conditions

Americans with Hearing Impairment by Age



Hearing Instrument Specialists

Continue licensure of hearing instrument specialists (Rec. #19)

- Hearing aids are classified as medical devices
- Hearing instrument specialists are regulated in all 50 states, most often through licensure
- Public not able to assess quality

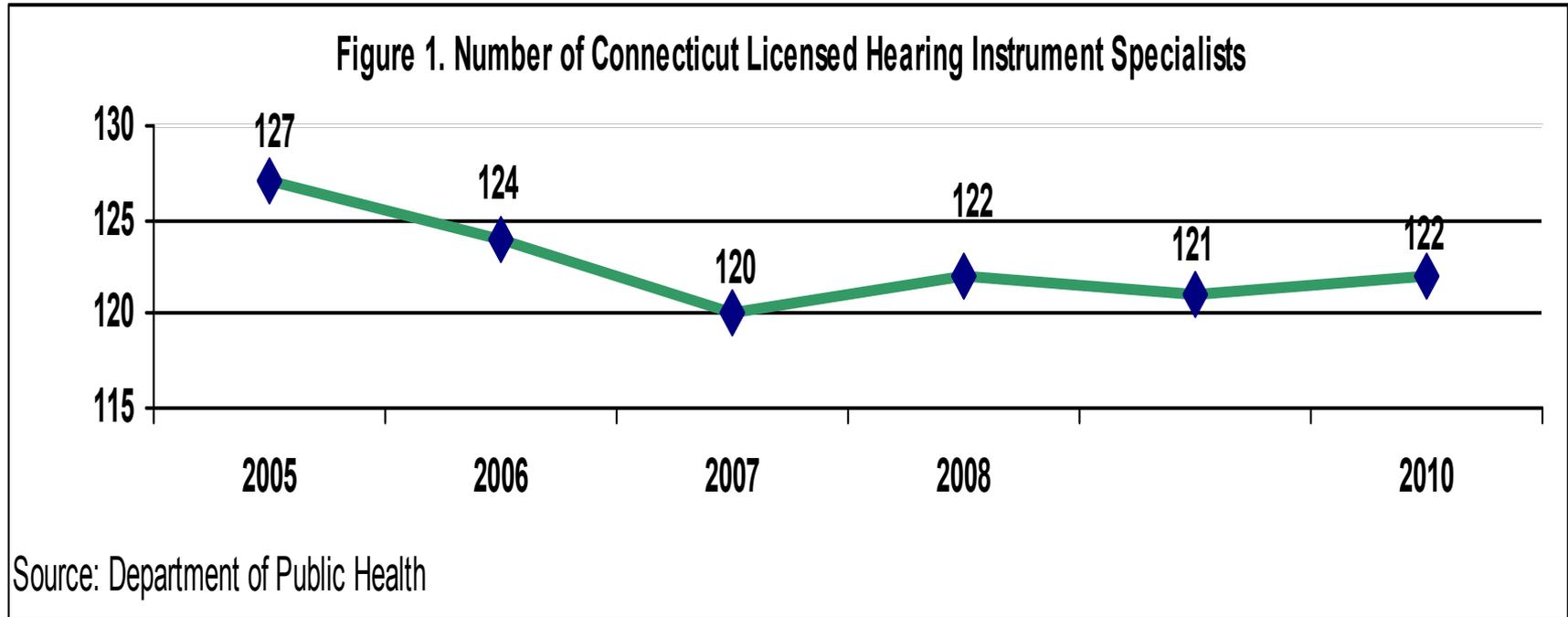


Recommended Modifications

- Hearing instrument specialist statute requires audiologists to either:
 - pass an exam,
 - get another license, or
 - submit documentation to DPH
- Requirement unnecessary as the audiology statute includes fitting or selling hearing aids

Eliminate requirements for audiologists in the hearing instrument specialist statute (Rec. #20)

Recommended Modifications, Cont'd.

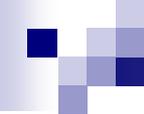


Include five years of data in DPH licensure report (Rec. #21)

Recommended Modifications, Cont'd.

- Unlike many other states, CT has no continuing education requirement
- Hearing aid technology is changing rapidly
- The public may be better served by having a continuing education requirement

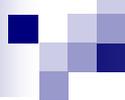
Add continuing education requirement for licensure renewal (Rec. #22)



Overall Examination Of Connecticut Sunset Law

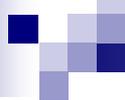
Lessons Learned

- ✓ Automatic termination date
- ✓ Criteria
- ✓ Useful recommendations
- ✓ Traditional/RBA approaches have pros and cons
 - Traditional has specific criteria/standards
 - RBA focuses on outcomes, report card format



Lessons Learned, Cont'd.

- Postponements for almost 30 years
- Current sunset review list
- Continuous review cycle
- Proliferation of governmental entities



List Issues

The List

- Current list primarily small regulatory boards and commissions
- How to make sunset more useful?
- Some states focus their sunset laws on new programs

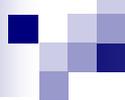


Recommended Modification

- Concern about preponderance of regulation in CT
- Could add a sunset review requirement to any new regulatory requirement
 - see if new regulatory requirement, upon implementation, is actually beneficial

Regulatory Requirements that Passed in the 2011

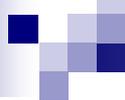
- **AA Mandating Employers Provide Paid Sick Leave to Employees (P.A. 11-52)**
- **AAC Patient Access and Control Over Medical Test Results (P.A. 11-76)**
- **AA Authorizing the Sale of Connecticut Wine at Farmers' Markets and Establishing a Farmers' Market Wine Permit (P.A. 11-164)**
- **AA Requiring Certificate of Need Approval for the Termination of Inpatient and Outpatient Services by a Hospital (P.A. 11-183)**
- **AA Requiring the Adoption of Regulations for the Siting of Wind Projects (P.A. 11-245)**



Criteria Issues

The Criteria

- Still need uniform set of standards
- Current criteria focus readily apply to regulatory requirements
- Criteria could be further improved



Recommended Modifications

Add a new criterion:

the extent to which the regulatory requirement has been implemented in a **streamlined way** that avoids:

- **inconsistent,**
- **duplicative** and/or
- **unnecessary requirements or procedures**

Cycle Issues

The Cycle

- Currently a five-year cycle
- Some states use varied cycle, setting maximum limits
- Maybe once is enough?



Recommended Modifications

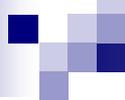
- Variable cycle, up to six years from date new regulatory requirement established
- If reauthorized, only reviewed again if new termination date scheduled by legislature

Recommended Modifications

The Data and Report

- Agency develops results-based measures
 - Submits data development plan to PRI in first year

- Report presents findings in concise, outcomes-oriented format



Summary of PRI Recommendations

New regulatory requirement focus

- **After July 1, 2012, the General Assembly may add a sunset date to any new regulatory requirement. The sunset date shall not be more than six years after the effective date of the regulatory requirement. (Rec. #1)**
- **PRI will conduct a performance audit (Rec. #2)**

Summary of PRI Recommendations

(Rec. #3)

- **elimination endanger public health, safety or welfare?**
- **implemented in a streamlined way?**
- **public adequately protected by a less restrictive regulatory requirement?**
- **benefits outweigh increased cost?**
- **effective implementation impeded by existing statutes, other regulatory requirements, or policies, including budgetary and personnel policies?**
- **qualified applicants or regulated individuals or organizations treated in a fair and equitable manner?**
- **processed and resolved complaints?**

Summary of PRI Recommendations

State agency data requirements (Rec. #4)

- **Establishes results-based measures**
- **Develops and implements a data collection plan**
- **Submits measures and plan to PRI for review and comment**
- **Submits performance info to PRI**

Summary of PRI Recommendations

Reporting requirements (Rec. #5)

- **PRI submits report to the General Assembly by January first of year regulatory requirement is scheduled for termination**
- **Report addresses criteria**
- **Report presents findings in a concise, outcomes oriented format**
- **Includes recommendations on termination, continuation, modification, streamlining**

Summary of PRI Recommendations

Managing sunset list (Rec. #6)

- **Any reauthorized regulatory requirement not reviewed again, unless legislature schedules new date for termination**
- **Remove current programs/entities from the sunset list**