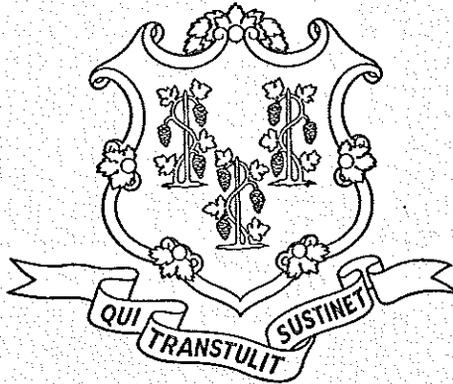


Connecticut General Assembly



Legislative Program Review and Investigations Committee

SUNSET REVIEW

Board of Examiners of Hypertrichologists

Vol. I-4

January 1, 1980

CONNECTICUT GENERAL ASSEMBLY

LEGISLATIVE PROGRAM REVIEW AND INVESTIGATIONS COMMITTEE

The Legislative Program Review and Investigations Committee is a joint, bipartisan, statutory committee of the Connecticut General Assembly. It was established in 1972 as the Legislative Program Review Committee to evaluate the efficiency and effectiveness of selected state programs and to recommend improvements. In 1975 the General Assembly expanded the Committee's function to include investigations and changed its name to the Legislative Program Review and Investigations Committee. During the 1977 session, the Committee's mandate was again expanded by the Executive Reorganization Act to include "Sunset" performance reviews of nearly 100 agencies, boards, and commissions, commencing on January 1, 1979.

The Committee is composed of twelve members, three each appointed by the Senate President Pro Tempore and Minority Leader, and the Speaker of the House and Minority Leader.

This is the first of five annual reviews emerging from the first round of "Sunset" research.

1978-80 Committee Members

Senate

William E. Curry, Jr., Co-chairman
Wayne A. Baker
Lawrence J. DeNardis
Marcella C. Fahey
Nancy L. Johnson
Michael L. Morano

House

Astrid T. Hanzalek, Co-chairman
Robert J. Carragher
Dorothy S. McCluskey
Richard E. Varis
Elinor F. Wilber
Muriel Yacavone

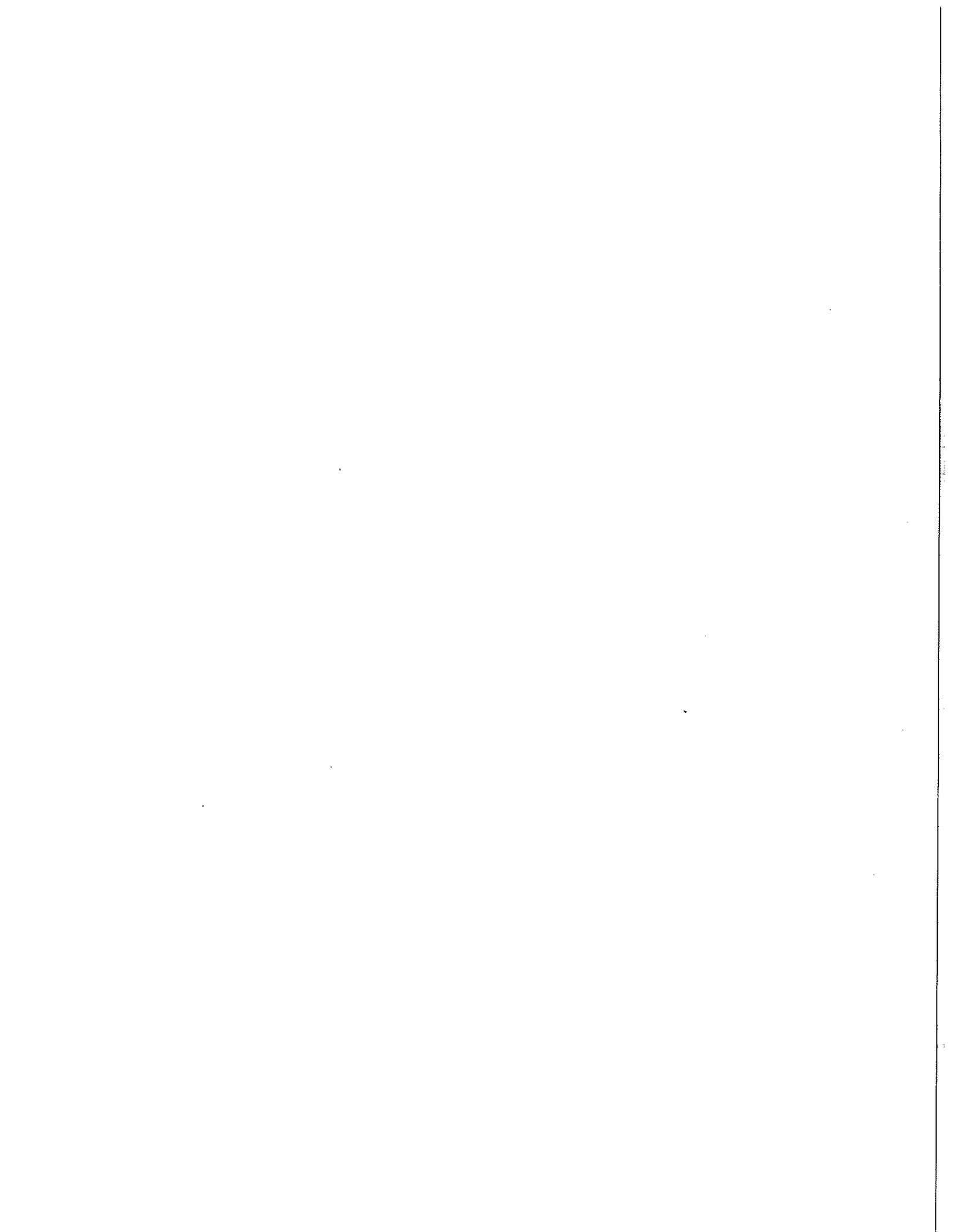
Committee Staff

Michael L. Nauer, Director
Paul S. Rapo, Staff Attorney
George W. McKee, Sunset Coordinator
Elaine A. Anderson, Ph.D., Senior Program Analyst
Randy J. Garber, Program Analyst, Acting Sunset Coordinator
Jill E. Jensen, Program Analyst & Principal Analyst on the Study
L. Spencer Cain, Program Analyst & Principal Analyst on the Study
Catherine McNeill Conlin, Program Analyst
Joanne E. Downs, Program Analyst
Anne E. McAloon, Program Analyst
Lillian B. Crovo, Stenographer
Mary Lou Gilchrist, Committee Secretary

SUNSET REVIEW 1980

BOARD OF EXAMINERS OF HYPERTRICHOLOGISTS

Vol. I-4



BOARD OF EXAMINERS OF HYPERTRICHOLOGISTS

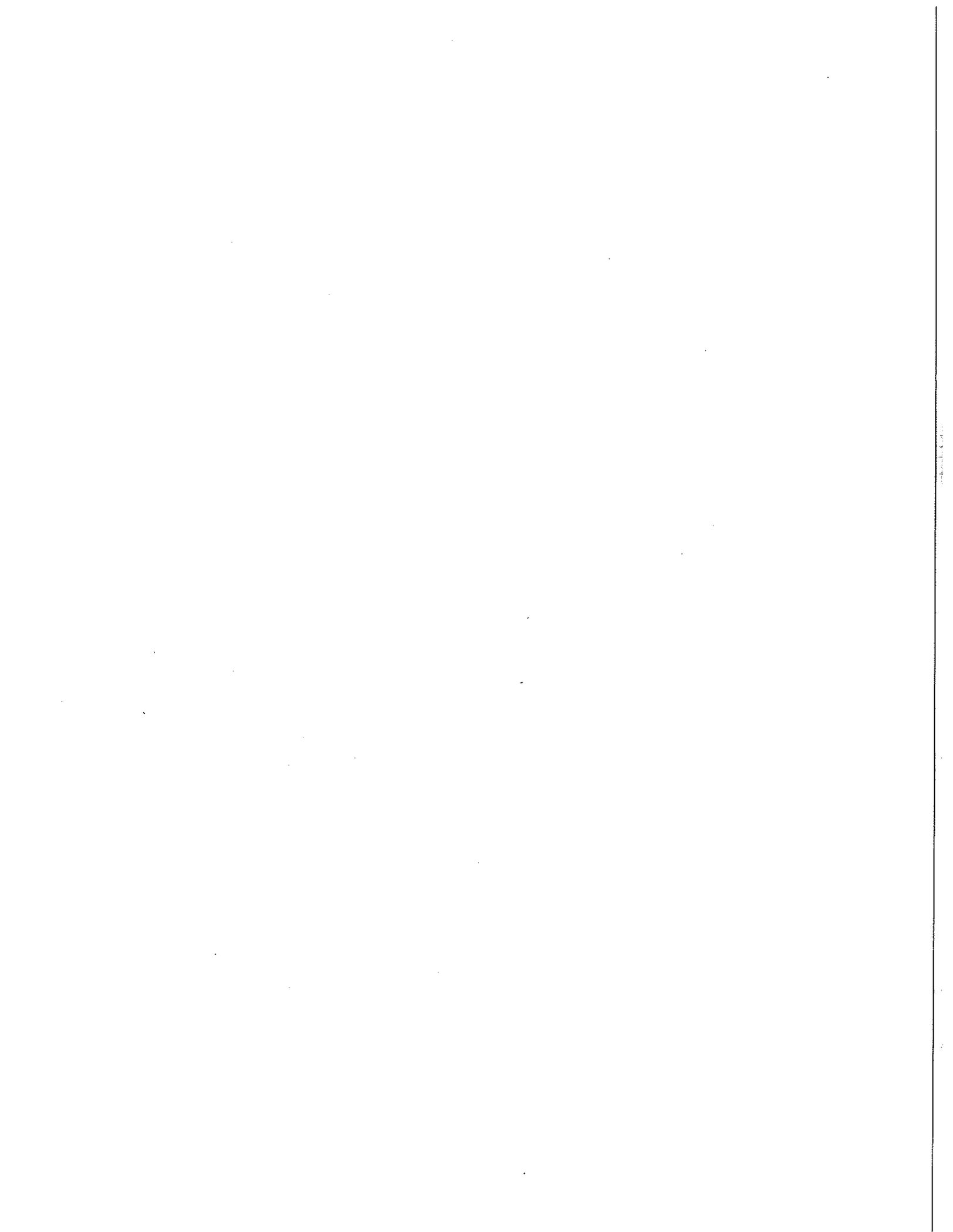
The Board of Examiners of Hypertrichologists was reviewed by the Legislative Program Review and Investigations Committee in compliance with the Sunset mandate of P.A. 77-614. The nine criteria outlined in that act (Title 2c, Chapter 28) provided the basis upon which committee decisions were made. These criteria required legislators to address three fundamental questions in evaluating the boards and commissions slated for 1980 Sunset review:

1. Is regulation of the occupation or profession necessary to protect the public from harm?
2. What is the appropriate level of regulation?
3. Who should regulate the occupation or profession and how should it be regulated?

This board-specific report is supplemental to the Sunset Review 1980 - General Report which contains the background, methods, and recommendations of Sunset Review 1980. To appreciate fully the contents of this board-specific report, it is necessary to review and refer to the General Report, particularly the section "Model Legislation" which provides a single statutory framework to be applied uniformly and consistently to all regulated entities under Sunset review.

This specific report contains the following sections:

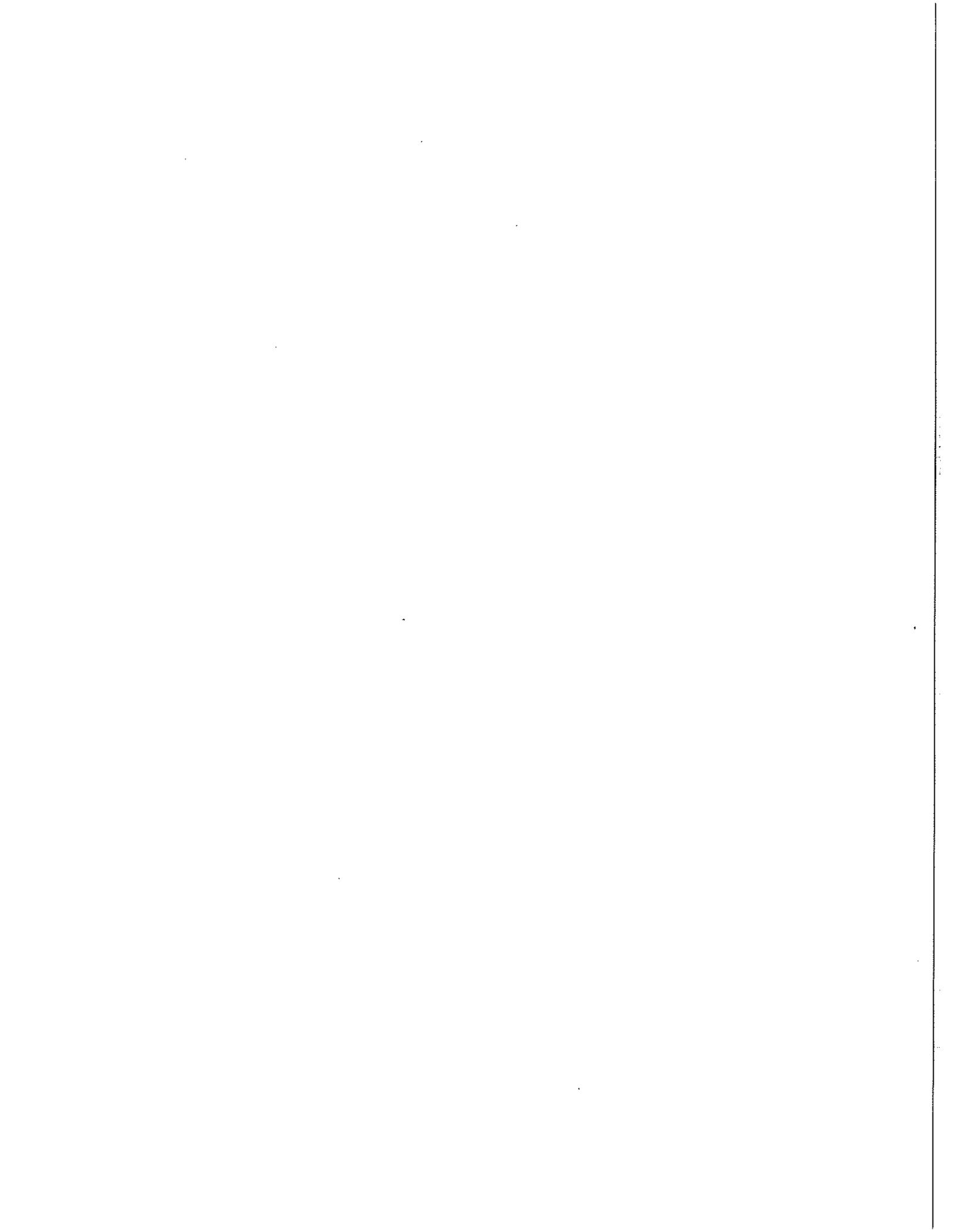
- Description of entity reviewed;
- Recommendations and discussion for entity reviewed; and
- Entity survey and analysis.



SECTION I

DESCRIPTION OF ENTITY

Definition and Background
Structure
Functions
Entry Requirements



Definition and Background

Hypertrichology, the practice of permanent removal of superfluous hair, is performed primarily with an electrical needle. The process may involve direct electric current (galvanic electrolysis) or short wave alternating current. Other methods may be used if approved by the state board of examiners.

Malfeasance in hypertrichology can result in serious health hazards. Improper use of the technique or unsanitary conditions can cause scarring, disfigurement, infection or the spread of communicable disease. To insure and enforce minimum standards of competence in this practice, Connecticut requires that all hypertrichologists be licensed.

Connecticut, the first state to license hypertrichology, has regulated the profession since 1951. Legislation was introduced to protect the public from "malpractice and exploitation." The Board of Examiners of Hypertrichology was created to implement the regulatory function. The original composition and functions of the board have been modified only slightly since its enactment. The Executive Reorganization Act (P.A. 77-614) replaced one of the physician board members and one of the hypertrichologist members with two public members and modified the board's powers and duties.

Currently, 184 persons hold valid licenses to practice hypertrichology in Connecticut.

Structure

The board's present composition includes one licensed physician who is a diplomat of the American Board of Dermatology and may be chosen from a list submitted by the Connecticut State Medical Society. Two members must be licensed hypertrichologists who have practiced in Connecticut for a minimum of five years and may be chosen from nominees of the Connecticut State Hypertrichologist Association. Two public members complete the board. All members are appointed by the Governor.

Functions

In the regulation and enforcement of minimum standards, the board is mandated to perform the following functions:

- Advise the Commissioner of Health Services in making regulations for the administration of the board's duties and for the conduct of the business of hypertrichology;
- Advise and assist the Commissioner in prescribing the course of training and minimum educational requirements for the practice of hypertrichology;
- Prescribe a written, oral and practical examination; and
- Preside over and prescribe sanctions in disciplinary hearings.

Requirements for Licensure

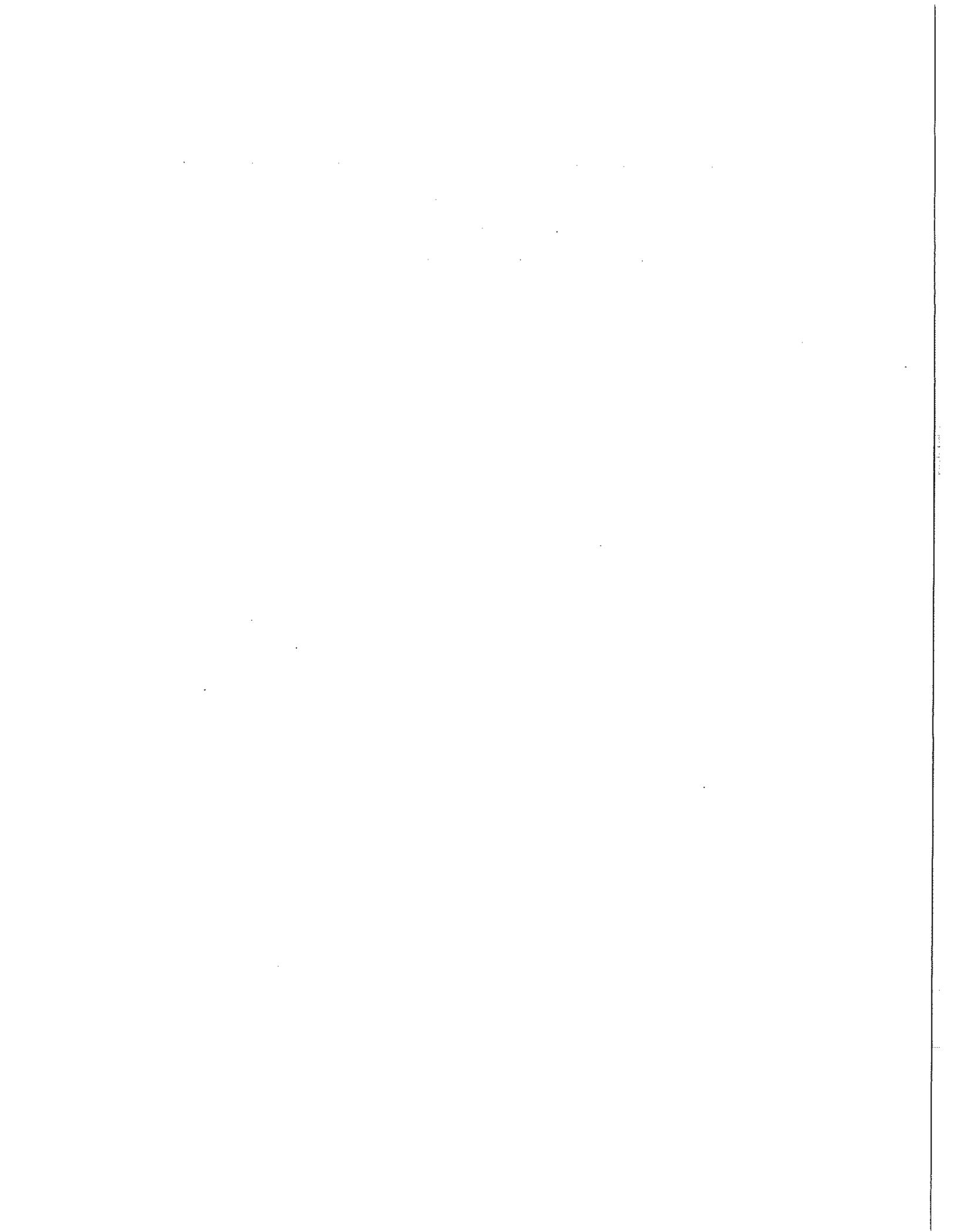
A license to practice hypertrichology may be issued after an applicant has passed a written, oral and practical examination before the board. The fee for application is \$25.00. The applicant must be 18 years old, of good moral character as certified to by two reputable citizens of the state and have met the prescribed educational requirements.

Duplicate registrations for practice in another location may be obtained for an additional \$25.00. Each licensed person must register annually with the Department of Health Services and pay a fee of \$5.00.

Hypertrichologists are prohibited in Connecticut from owning or operating more than two places of business; from owning, operating or granting a concession to anyone for an office for the practice of hypertrichology; and from maintaining an office in which hypertrichology is a portion of regular business.

SECTION II

RECOMMENDATIONS AND DISCUSSION



Recommendations for the Regulation of
Hypertrichology (Chapter 388)

1. Continue license.

Licensure has been found the most appropriate and necessary level of regulation for this practice.

2. Terminate the Board of Examiners of Hypertrichologists.
Transfer regulatory functions to the Department of Health Services (DOHS).

The Legislative Program Review and Investigations Committee has found that the functions performed by the board can be assumed by the Department of Health Services. Distinct regulatory boards have been retained for those healing arts and practices in which professional expertise and peer review is essential in the entry and enforcement aspects of regulation.

3. Amend Chapter 388 to include Model Legislation standards, procedures, responsibilities, appropriate repealed sections and all other relevant sections.

Model Legislation addresses and ameliorates previous and potential concerns about regulatory procedures and policies. By providing a single regulatory framework for all practices under the aegis of the Department of Health Services, the Model Legislation insures consistency, objectivity and uniformity in the execution of regulatory functions. Specific areas of concern in the hypertrichology board and the solution offered by the Model Legislation are listed below.

a. Powers and Duties of the Department of Health Services -

Professional board members and others expressed concern about the perceived unilateral control and authority by this single agency after Executive Reorganization. Model Legislation delineates the Commissioner's powers and duties relative to those professions which are regulated without a board. The uniform provisions of this Model Legislation (See Part II) will apply to regulation of hypertrichology. The Commissioner of Health Services retains his discretionary authority under Executive Reorganization to seek the advice and assistance of a licensed hypertrichologist in the execution of regulatory functions.

b. Business Practices - *The Committee found that regulation of business practices and statutory restrictions on business*

practices were not relevant to ensuring and enforcing minimum standards of competence. Such business practices recommended for repeal are included in the following statutes and regulations (See Model Legislation - Business Practices):

- *Sec. 20-269 - Promulgation of advertising regulations by the Commissioner of Health Services.*
- *Sec. 20-271 - Advertising restrictions.*
- *Sec. 20-278(2)-(4) - Advertising restrictions.*
- *Sec. 20-278a - Prohibitions on operation of offices.*

- c. Entry Requirements - *The Committee found that the hypertrichology statutes governing entry requirements contained certain qualifications not relevant to determining an applicant's competence. Such requirements--age and good moral character--are recommended for deletion.*

Model Legislation also provides for an intensive review and revision of entry requirements by the board and the Department of Health Services to bring them in conformance with the principles outlined in the Model Legislation and the current state of the art in the practice of hypertrichology.

- d. Renewal Standards - *The Committee found that standards for licensure renewal required review and revision to bolster the enforcement of continued competence. Model Legislation (Required Reports) provides for such updating.*
- e. Grounds for Professional Discipline - *The Committee found a great variance among the statutes in this area. Model Legislation provides grounds for professional discipline which are focused on the delivery of service and quality of care rendered by the practitioner. Application of these grounds to all professions regulated under the aegis of the DOHS insures a rational and uniform basis for adjudication and imposition of disciplinary sanctions.*
- f. Receiving and Processing Complaints - *An area of considerable controversy, mechanisms for receiving and processing complaints in the Model Legislation are delineated to provide a standardized and equitable procedure for the complainant and the charged practitioner.*
- g. Disciplinary Sanctions - *Model Legislation explicates a range of disciplinary sanctions and requires consistency and uniformity in their application.*

SECTION III

ENTITY DATA AND ANALYSIS



ENTITY DATA AND ANALYSIS

Section 2c-6 of Connecticut's Sunset Law mandates that the entity reviewed demonstrate a "public need for (its) reestablishment" and that "it has served the public interest and not merely the interests of the persons regulated." All boards, commissions and departments evaluated in Sunset Review 1980 received a questionnaire which addressed the nine statutorily specified Sunset criteria.

This questionnaire, the primary instrument used to evaluate the entity's "burden of proof," was followed by staff interviews with key board members and members of the professional associations for further clarification and amplification.

The following section contains the questionnaire sent to the Board of Examiners of Hypertrichologists. Where appropriate, Committee staff has edited the agency response without altering or diluting the argument. Committee staff then analysed the agency response. Because of the methodological constraints posed by Sunset evaluation and implementation of Executive Reorganization occurring simultaneously, manageable quantitative data were difficult to obtain. Qualitative analysis, based on relevant information and data derived from a variety of sources, was used primarily in the Committee staff comment. This annotation appears in italics below the agency response.

1. WOULD THE TERMINATION OF LICENSING REQUIREMENTS FOR YOUR PROFESSION SIGNIFICANTLY ENDANGER THE PUBLIC HEALTH, SAFETY, OR WELFARE? PLEASE EXPLAIN.

Yes. The practice of Hypertrichology requires certain basic knowledge and skills. The Board of Examiners of Hypertrichologists examines applicants for licensure to ascertain that they are competent before being allowed to treat the public. We also perform inspections of the practitioners offices to see that they meet adequate health and safety standards.

LPR&IC committee staff concurs. The techniques and equipment used in hypertrichology can cause serious health harms if used improperly. Licensure, which tests for an individual's competency, is particularly important here for the electrolysis equipment can be purchased and misused by the lay person.

2. COULD THE PUBLIC BE ADEQUATELY PROTECTED BY ANOTHER STATUTE, OFFICE, OR PROGRAM? IF SO, WHICH ONE(S)?

Not to our knowledge under current statutes. The current statutes pertaining to hypertrichology were carefully thought out when the original ones were proposed.

The LPR&IC committee staff has found that the functions performed by the board can be assumed by the Department of Health Services. The Commissioner has the statutory authority to seek professional expertise in executing functions requiring particular knowledge and skill in hypertrichology. Inspections presently performed by a board member would be more appropriately and objectively done by the Department of Health Services staff. Further, the Department of Health Services performs regulatory activities for the hairdressing and cosmetology professions. In accordance with the above and Sunset's intent to rationalize and make uniform regulatory functions, the Board of Hypertrichology has been recommended for termination. During its one year wind down period the board will have the opportunity to review and revise standards and procedures for the practice of hypertrichology (See Model Legislation--Required Reports).

3. COULD THE PUBLIC BE ADEQUATELY PROTECTED BY A LESS RESTRICTIVE METHOD OF REGULATION THAN THE CURRENT LICENSING REQUIREMENTS, SUCH AS CERTIFICATION OR REGISTRATION? PLEASE EXPLAIN.

Not at the present time. There are no schools in Connecticut currently training hypertrichologists. Therefore, the state has no control over educational standards in the out-of-state schools, especially those in states which do not require that

their hypertrichologists be registered or pass an examination for licensure. Our board's requirements may have had the beneficial effect of increasing the quality of training in the schools in which most of our applicants train.

While hypertrichology is licensed in only thirteen states, the LPR&IC committee staff has found that licensing is the necessary and appropriate level of regulation to insure and enforce minimum standards of competence in hypertrichology. The LPR&IC has found, however, that certain entry requirements in the hypertrichology statutes--age, good moral character and state residency--are excessive and not relevant to determinations of competence. These requirements, therefore, are recommended for statutory deletion.

4. DOES YOUR BOARD OR COMMISSION HAVE THE EFFECT OF INCREASING THE COSTS OF GOODS OR SERVICES TO THE PUBLIC EITHER DIRECTLY OR INDIRECTLY? PLEASE EXPLAIN THE BASIS FOR YOUR ANSWER.

We do not feel that the board contributes directly to increasing the costs of services. A certain minimum training must be taken in order to become competent and dextrous in practicing hypertrichology. These costs plus the cost of adequately equipping an office are beyond our control. Fees in a neighboring state without licensure are not significantly different.

This board is one of few where expenses exceeded revenues generated by licensing and examination fees. In FY 1978 the board expenses totaled \$2,664; revenues totaled \$1,250.

Research on the economic effects of regulation indicates that licensing does increase earnings in the licensed occupations and that licensing of an occupation reduces the number who practice in that occupation. These effects can produce increased consumer costs.

5. IF YOUR BOARD HAS THE EFFECT OF INCREASING COSTS, IS THE ADDITIONAL COST JUSTIFIED THROUGH PUBLIC BENEFITS ATTRIBUTABLE TO THE ACTIONS OF THE BOARD? PLEASE EXPLAIN.

- - -

Despite the above indications that licensing may increase costs, the public protection gained from this level of regulation is considered necessary.

¹ For an excellent overview of recent research on the topic, see Simon Rottenberg, A Review of the Professional Literature on Occupational Licensing, conference paper, Crotonville, New York, April 28, 1978.

6. IS THE EFFECTIVENESS OF YOUR BOARD OR COMMISSION HAMPERED BY EXISTING STATUTES, REGULATIONS OR POLICIES, INCLUDING BUDGET AND PERSONNEL POLICIES. IF SO, PLEASE BE SPECIFIC IN YOUR ANSWER.

- Yes.
1. We need some flexibility in being able to change the time (season) of the examination dates.
 2. Provision might be made for a makeup exam within a month of the complete examination for those who fail in only one subject of the written examination.
 3. We need interested and concerned skilled legal help through the Public Health Department in drafting and passing our Administrative Rules and Regulations to meet current statutory requirements.
 4. The new statutes decrease the professional component of the board to 60% with 40% consumers. A more workable board would be at least 1 Physician (Dermatologist), 3 Hypertrichologists and 2 consumers. We need the professionals for administering the practical examination and for compiling the written examination, unless professionals can be hired on a per diem basis and "deputized" as examiner-proctors.

Executive Reorganization and the recommendations of this Sunset review will remove these impediments. Frequency of examination and examination passing grades will be reevaluated and set to accommodate applicants for licensure. Model legislation (see Required Reports) provides for review and revision of standards, rules and regulations by the board and the Department of Health Services.

7. WHAT STATUTES AND REGULATIONS IMPINGE DIRECTLY ON THE OPERATIONS OF YOUR BOARD? PLEASE LIST OR ATTACH COPIES.

Not that we are directly aware of.

8. TO WHAT EXTENT HAVE QUALIFIED APPLICANTS BEEN PERMITTED TO ENGAGE IN THE PROFESSION(S) OR OCCUPATION(S) LICENSED BY YOUR BOARD? PLEASE COMMENT ON WAITING PERIODS, DELAYS, PAPERWORK, ETC.

Qualified applicants are able to engage in the profession as soon as they have passed their examination and have received their license. The only delays encountered have been: A. due to the weather causing postponement of the examination; B. because the examination is given only twice a year.

The board is statutorily responsible to file with the Department of Health Services a list of all applicants examined including the names of those who failed within thirty days of the examination. There have been no obvious violations of this mandate.

The board and department have not set in statute or regulation specific requirements for hours and courses of training or a list of approved schools. It is found that this is necessary and essential information for prospective licensees and for standardizing requirements. Such requirements should be determined during the board's wind down period.

The board does not license through reciprocity.

9. WHAT ACTIONS HAS YOUR BOARD OR COMMISSION TAKEN TO INSURE COMPLIANCE WITH FEDERAL AND STATE AFFIRMATIVE ACTION POLICIES AND TO ENCOURAGE ACCESS BY WOMEN AND MINORITIES INTO YOUR PROFESSION?

Most of the applicants are women. We do examine a few men each year. Applicants are accepted regardless of sex, race, color or creed or ethnic background. One examination per year is given on a weekday for those who will not take it on a Saturday for religious reasons.

10. WITHIN THE PAST FIVE (5) YEARS, WHAT CHANGES IN STATUTE, RULES OR REGULATIONS HAS YOUR BOARD OR COMMISSION RECOMMENDED WHICH WOULD BENEFIT THE PUBLIC AS OPPOSED TO LICENSEES?

None, either way.

11. WHAT HAS YOUR BOARD OR COMMISSION DONE TO ENCOURAGE PUBLIC PARTICIPATION IN THE FORMULATION OF YOUR RULES, REGULATIONS AND POLICIES?

We have requested that the Connecticut State Hypertrichologist Association tell its members to try to interest concerned consumers in applying for membership to the board as it is to be constituted in 1979.

12. WHAT HAS BEEN YOUR PROCESS THROUGH DECEMBER 31, 1978 TO RESOLVE PUBLIC COMPLAINTS CONCERNING PROFESSIONALS REGULATED BY YOUR BOARD OR COMMISSION?

We have had no formal, notarized complaints. Minor complaints have been handled by investigating their nature by the Board and writing to the person against whom the complaint was raised.

Executive Reorganization and the recommendations of this Sunset review (See Model Legislation) are designed to systematize and standardize the complaint and adjudication process. This will facilitate the monitoring and evaluation of complaint type and frequency.

13. WITHIN THE PAST FIVE (5) YEARS, WHAT STATUTES, RULES, OR REGULATIONS HAS YOUR BOARD OR COMMISSION PROPOSED OR ADVOCATED TO PROTECT YOUR PROFESSION FROM THE LICENSURE OF UNQUALIFIED PERSONS?

We are planning to increase the required number of hours of training to 500, so that applicants for licensure will have more thorough training. Although at the present time there are no plans for a school in Connecticut, it probably would be a good idea to consider the inclusion of rules, regulations, criteria and standards for establishing a school for training hypertrichologists in the new act when it is written. As things stand now, we cannot authorize the chartering of any schools in the state nor regulate their training without going to the Legislature and probably causing a delay of several years.

In its one year wind down period following Sunset termination, the Board of Hypertrichology and the Department of Health Services will be responsible for updating all regulations and standards in accordance with recommended model legislation.