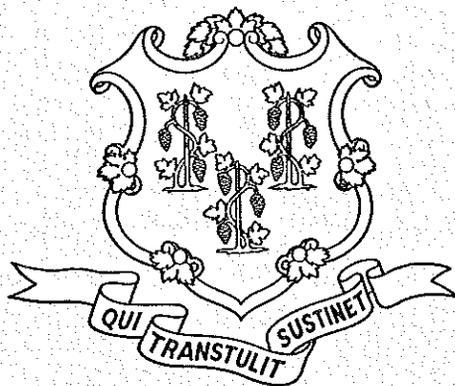


Connecticut General Assembly



Legislative Program Review and Investigations Committee

SUNSET REVIEW

Board of Licensure of Nursing Home Administrators

Vol. I-19

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.

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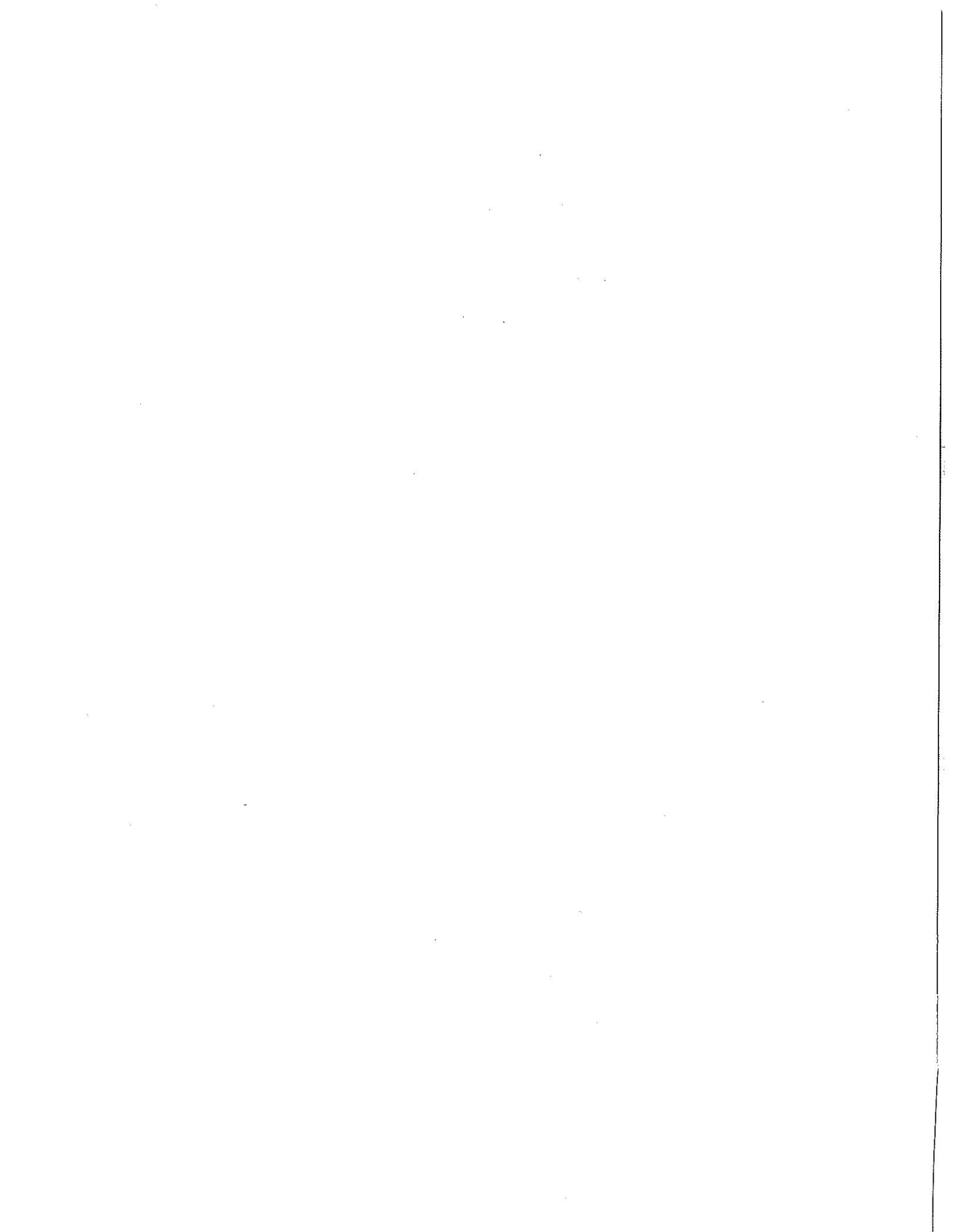
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SUNSET REVIEW 1980

BOARD OF LICENSURE OF NURSING HOME ADMINISTRATORS

Vol. I-19



BOARD OF LICENSURE OF NURSING HOME ADMINISTRATORS

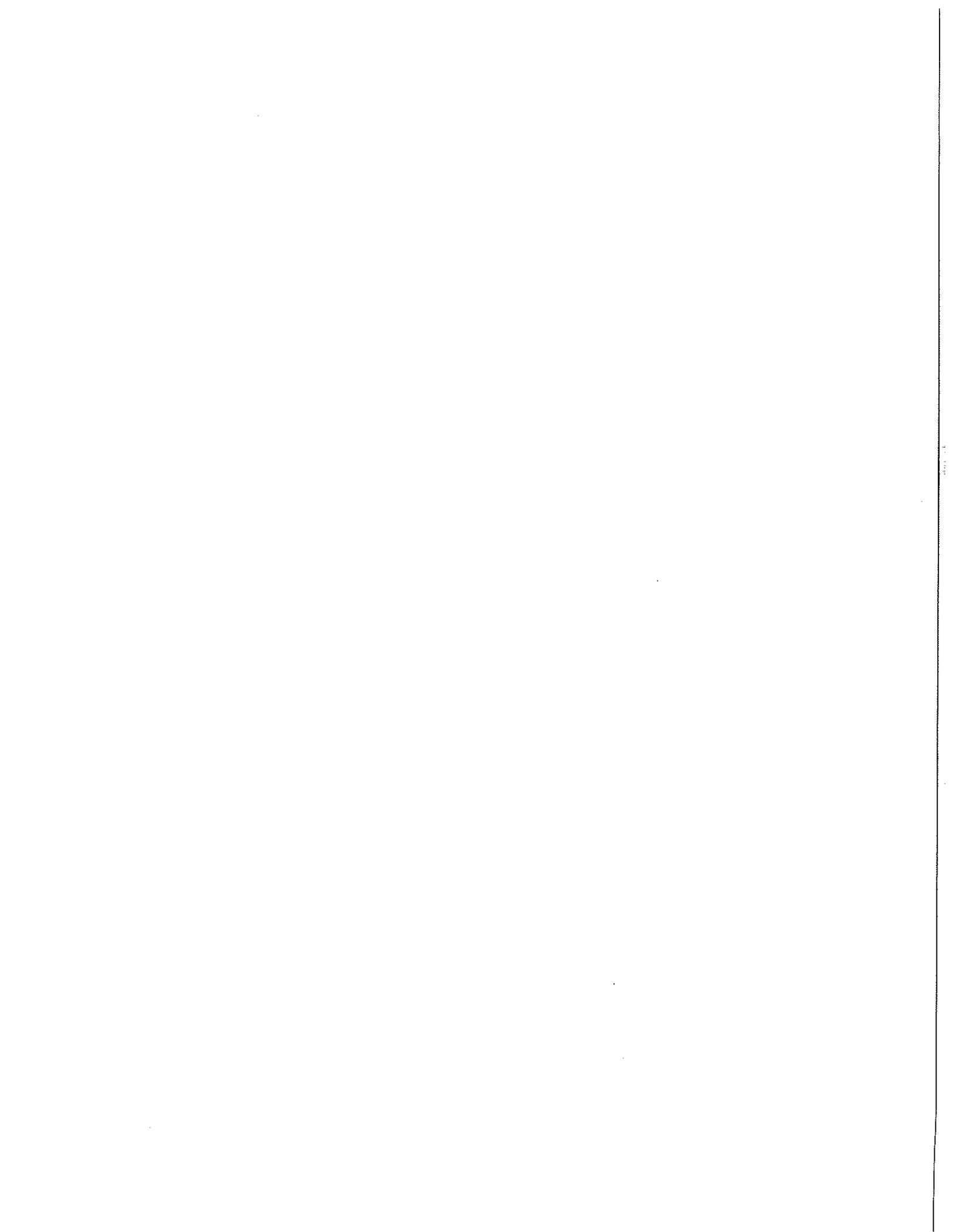
The Board of Licensure of Nursing Home Administrators was reviewed by the Legislative Program Review and Investigations Committee in compliance with the Sunset mandate of P.A. 77-614. The nine criteria outlined in that act (Title 2c, Chapter 28) provided the basis upon which committee decisions were 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:

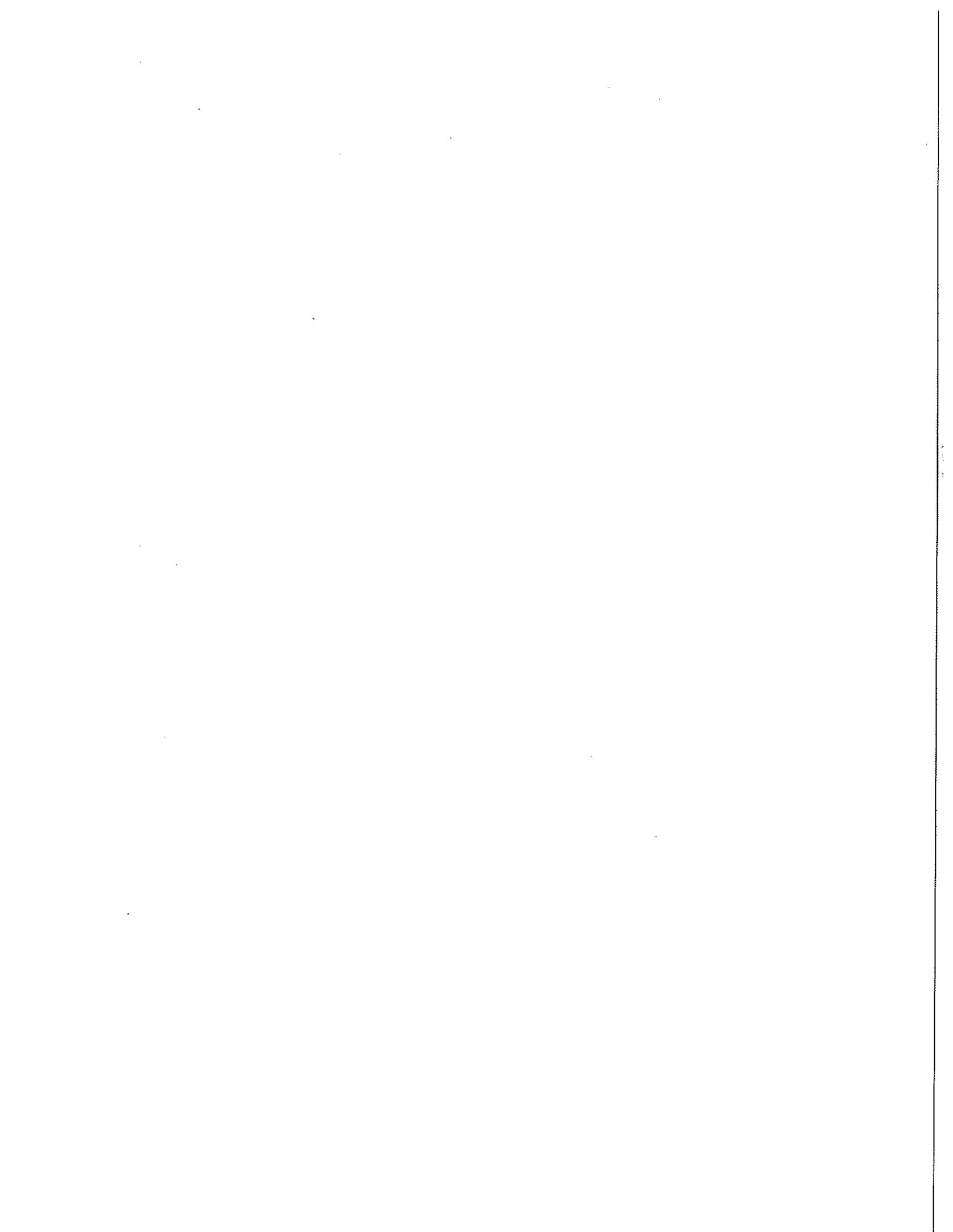
- Description of entity reviewed;
- Recommendations and discussion for entity reviewed; and
- Entity survey and analysis.



SECTION I

DESCRIPTION OF ENTITY

Definition and Background
Structure
Functions
Entry Requirements



Definition and Background

A nursing home administrator is the person responsible for the general administration of a nursing home, and, he or she has a major responsibility for the care of the patients.

Nursing home administrators were first licensed in 1969 when the state recognized a need to take a role in assuring that individuals with such responsibility were competently performing their functions, given the vulnerable condition of the patient population being served.

Changes affecting the regulation of nursing home administrators occurred in 1972, 1973 and 1977. These changes primarily affected the composition and qualifications of the Board of Licensure of Nursing Home Administrators. In 1977, the legislature expanded the board's composition and gave the board the power to promulgate regulations concerning the approval of institutions of higher education and the approval of courses or degree requirements for licensure and renewal. However, this authority conflicted with that granted the Commissioner of Health Services under the Government Reorganization Act passed in the same year, which granted the Commissioner the right to promulgate all regulations for the boards within his jurisdiction.

Structure

The board of examiners is composed of 13 members, who serve four year terms that are coterminous with that of the appointing Governor. Board members include representatives of the health care industry and the interests of elderly patients. Of the 13 members, one is from the Connecticut Association of Extended Health Care Facilities, one is from the Connecticut Association of Non-Profit Homes and Hospitals for the Aged, one is from the American College of Nursing Home Administrators, one is from the Connecticut Hospital Association, one is from the Connecticut State Medical Society, one is a registered nurse and seven are public members. No one who has any type of financial interest, including employment in a licensed chronic or convalescent nursing home may serve on the board, nor may any member serve for more than three consecutive terms.

Functions

To execute its regulatory function, the board is vested with the following powers and duties:

- determine whether candidates for licensure meet the eligibility standards for examination or endorsement;
- approve applicants for licensure;
- adjudicate charges of conduct which fail to conform to the accepted standards of the profession and impose sanctions;
- adopt regulations with respect to standards for the approval of institutions of higher education, course or degree requirements for initial and renewal of licensure, the residency training program, and reinstatement of individuals who fail to renew their license upon expiration; and
- advise and assist the commissioner of health services with changes in rules and regulations relating to licensure.

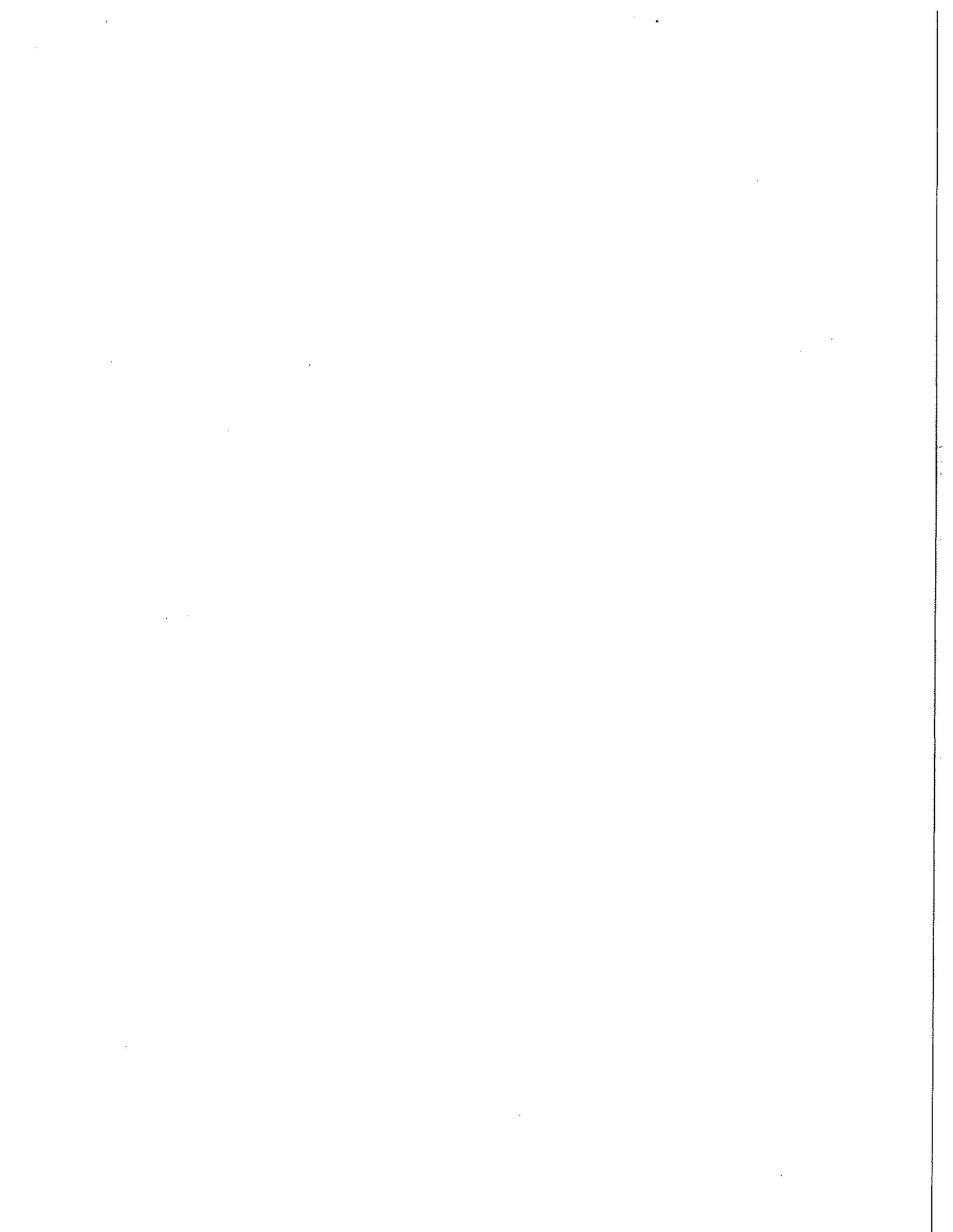
Requirements for Licensure

Applicants for an initial nursing home administrator's license must submit an application with a \$50 fee, showing proof that they are 18 years of age, have graduated from high school or its equivalent, are of good moral character, are physically and emotionally capable of administering a nursing home and that they have satisfactorily completed a program of education and training approved by the board. In addition, they must serve a one year residency period under the joint supervision of a licensed nursing home administrator and an accredited educational institution and pass an examination administered by the board. An applicant is exempt from this residency requirement, if he or she holds a Master's Degree in nursing home administration or another health-related field.

To renew a license, an individual must submit documentation of attendance at continuing education courses or programs that meet the requirements of the board. Renewal is required annually and must be accompanied by a \$25 fee.

SECTION II

RECOMMENDATIONS AND DISCUSSION



Recommendations for the Regulation of Nursing Home Administrators (Chapter 367, Sec. 19-591 to 19-601, inclusive)

1. Continue licensure for Nursing Home Administrators.

Licensure has been found to be the most appropriate and necessary level of regulation for nursing home administrators.

2. Continue the Board of Nursing Home Administrators.

Retention of this board is needed to provide the professional expertise in the entry and enforcement functions of licensure. Board composition should remain as presently constituted to provide for representation from those concerned with the administration of nursing homes.

3. Amend Chapter 367, Sec. 19-591 to 19-601, inclusive, 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 boards under the aegis of the Department of Health Services (DOHS), the Model Legislation insures consistency, objectivity and uniformity in the execution of regulatory functions. Specific areas of concern in the Board of Nursing Home Administrators 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 the regulatory boards and provides mechanisms for countervailing powers and board input where necessary.

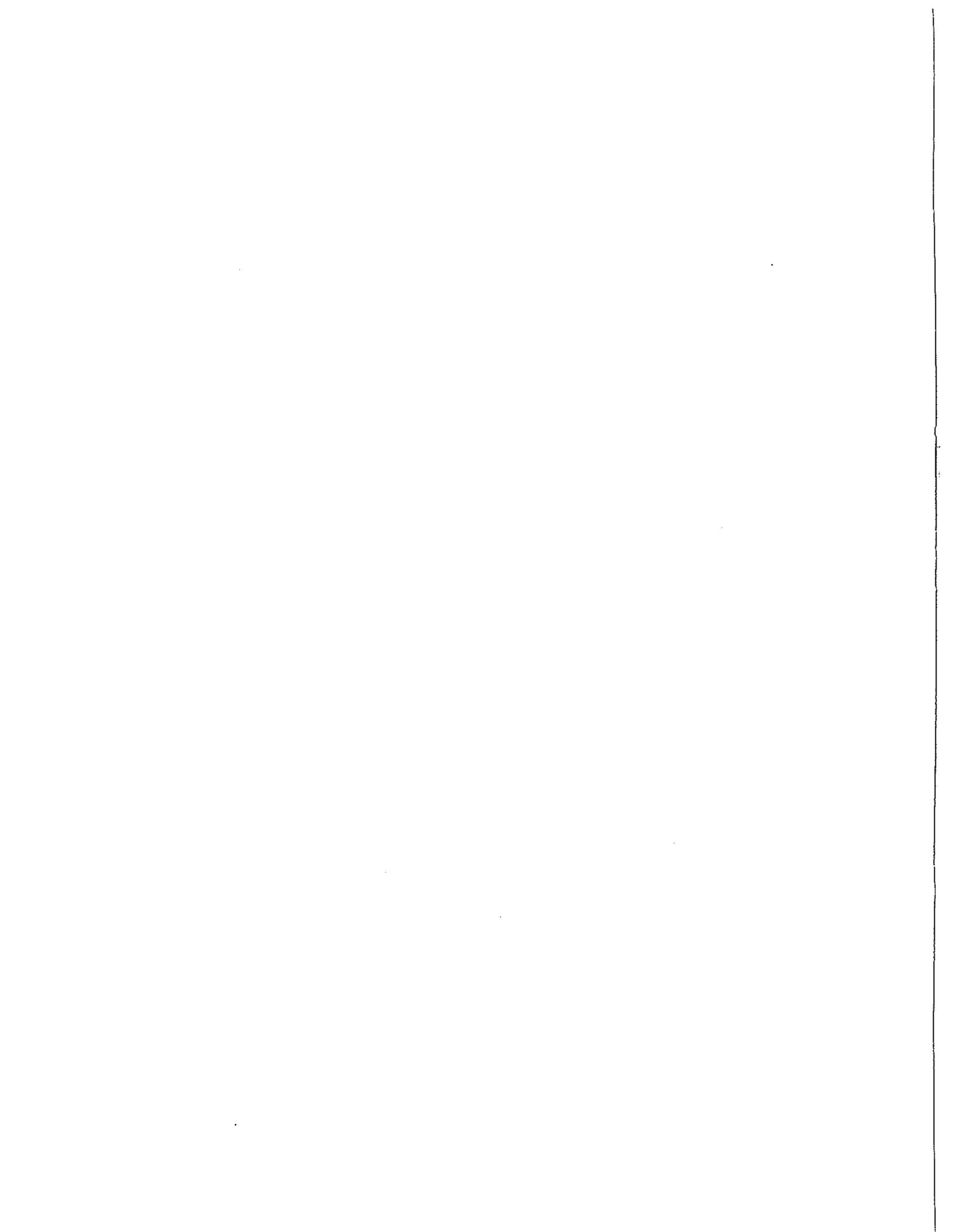
b. Powers and Duties of the Boards - *Critics of the boards prior to Executive Reorganization maintained that they had too much authority and lacked a necessary system of checks and balances in their powers and duties. After Executive Reorganization, however, board members and other professionals in particular believed that the board's regulatory role was overly diluted and not clearly specified with respect to the Department of Health Services.*

Model Legislation delineates the board's powers and duties and provides mechanisms to insure professional expertise and input where necessary.

- c. 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 are recommended for statutory repeal (See Model Legislation - Business Practices).*
- d. Entry Requirements - *The Committee found that the nursing home administrator statutes governing entry requirements contained certain qualifications not relevant to determining an applicant's competence. Such requirements --good moral character, minimum age of 18--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 nursing home administration.*
- e. 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.*
- f. 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 by the administrator. Application of these grounds to all regulatory boards under the aegis of the DOHS insures a rational and uniform basis for peer review and imposition of disciplinary sanctions.*
- g. Receiving and Processing Complaints - *An area of considerable controversy, mechanisms for receiving and processing complaints in the Model Legislation are delineated to provide the professional board with necessary information and input at appropriate stages, while maintaining the separation of powers and duties necessary in this regulatory aspect.*
- h. Disciplinary Sanctions - *Model Legislation explicates a range of disciplinary sanctions and requires consistency and uniformity in their application.*

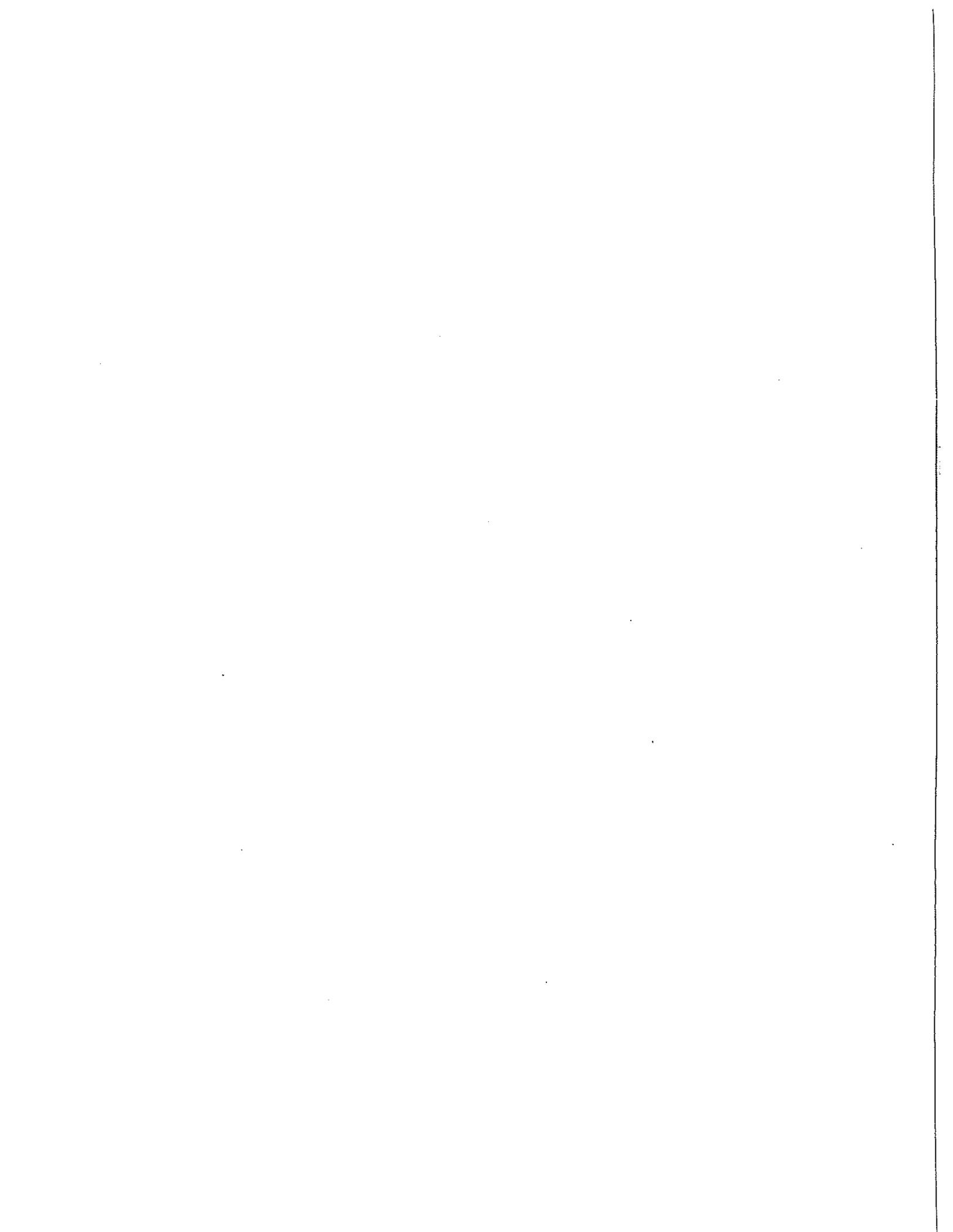
4. The regulation of nursing home administration is recommended for Sunset review in 1981.

The Committee recommends Sunset review again in 1981 after other legislative and executive committees have studied the nursing home industry.



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 Licensure of Nursing Home Administrators. 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.

The education, preparation and training of new administrators has improved significantly since 1971. The patient and his or her family is assured of quality care and management, if the new younger administrators are allowed to operate. To allow business types, engineers or any MBA type to run homes would open the door to fraud, non-compliance and inefficiency. The patients, the public and families would suffer.

Licensure is necessary to insure that nursing home administrators are competent to manage a complex organization providing health and maintenance services for the elderly. Licensure enables the state to hold nursing home administrators accountable for the management of homes. Termination of licensing would weaken the state's ability to regulate this crucial industry.

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

Possibly, but I don't know which one would do so. The unconstitutional basis of the Hospital Cost Commission would negate their involvement, open the door to Federal passivity, mediocrity and political appointees and commissions have not demonstrated that they are responsive to protecting the public health, safety and welfare.

The Department of Health Services, with assistance from the board, is the appropriate agency to regulate nursing home administrators. The Department is charged with licensing and inspecting nursing homes. The committee staff found that clarification and strengthening of enforcement procedures is needed. The Model Legislation provides a mechanism for bolstering the enforcement function.

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.

Most states have less stringent requirements than Connecticut, but now New York, Massachusetts and New Hampshire are coming in to line. The Federal Guidelines call for state licensure. The professional association American College of Nursing Home Administrators and the Federal

Government are funding model programs of recertification for this field with Wharton, Duke University, Medical College of Virginia, UCLA and Trinity University, Texas.

A less restrictive form of regulation (e.g., certification or registration) would not combine the requirements of demonstrated minimal competence with continued accountability as does licensure. Both conditions are critical because of the specialized nature of nursing home administration and the potential harm that could result from incompetent management.

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.

Not to the clients or to the public in any way. Administrator salaries are limited and established by the Hospital Cost Commission on the basis of bed size (probably illegally), and are a small percentage of the costs of patient care to the welfare department, third party payors, or the individual. The direct costs are probably influenced more by the required staffing patterns mandated by the Public Health Code plus changes mandated by inspection teams.

The Commissioner of Income Maintenance has responsibility for setting nursing home rates. The Commissioner must consider the costs connected with the operation of nursing homes which would include the salaries of nursing home administrators. However, the Commissioner considers total costs and does not specifically regulate the administrators' salaries.

Educational requirements do add to the cost of entry into the profession and can result in higher salaries than if the requirements were absent.¹

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.

Does not apply.

¹ Simon Rottenberg, A Review of the Professional Literature on Occupational Licensing, University of Massachusetts, Amherst, April 28, 1978. (conference manuscript)

The board has statutory authority to hold nursing home administrators accountable for conduct in the operation of a nursing home. Public benefits, in the form of improved patient care, could result from effective enforcement. However, the board has yet to have its regulations adopted and has not been able to function as effectively as originally intended.

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.

All of the above. If members of the board since 1971 had not used their own funds, secretaries, postage and hours and days of time, nothing would have happened. For five years the board had a couple of drawers in a file cabinet in the Health Department, and the majority of the records were in Manchester or West Haven or Wallingford. Substantial Federal Funds came to the state for the educational preparation of administrators for licensure, but to this date, the first dollar has yet to be seen. The funds were used for health department personnel training and travel.

This is the only profession in the state that doesn't automatically have their licenses renewed. They must document continuing education courses or programs each year to qualify for the license. The board morally must approve the courses and programs it will accept, but has no staff, travel funds or funds to pay registration fees to attend these offerings to see if they will meet the standards we expect.

We should be traveling to the west coast and to the mid-west to compare what they have been doing in relicensure of many professionals as well as nursing home administrators, but there is no money to do so.

Any research done to find out who is in the field, their age, educational background, and what do they actually do as an administrator in the health delivery system...well it had to be done by myself, at no cost to the state, and even basic computer mail lists had to be brought to the campus in Storrs for programming so that information and mailing could be done for 2.7 cents a letter rather than 15 cents each.

The Attorney General's Office has been absolutely incompetent, slow, and of no help in developing rules and regulations. Since 1971, we have submitted proposed regulations eight to ten times, and six months later, back they would come with another two pages of changes. Two complaints against administrators were buried, lost or pocketed when turned over to their offices.

Section 19-600 of the C.G.S. required the board to adopt regulations with respect to standards for: 1) approving institutions of higher education; 2) course and/or degree requirements for licensing and renewal; and 3) reinstatement of individuals who fail to renew their license. However, government reorganization (Sec. 19-4j) transferred the authority to promulgate regulations for all boards and commissions to the Commissioner of the Department of Health Services. This discrepancy in statutory authority is partially responsible for regulations not being promulgated and has hampered the board's operation. The board would operate more effectively if it received more support services and fostered a closer working relationship with the Department of Health Services. The Department would benefit if it developed an administrative link between the licensing of nursing homes and the licensing of nursing home administrators.

Under the proposed Model Legislation authority for promulgating regulations has been clarified and should correct the current statutory inconsistency.

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

Regulations are absent. They have been submitted time and again since 1971, and suggested changes made each time. We finally got them out of the Attorney General's Office and to the Legislative Review Committee on January 19, 1978, only to have them returned without prejudice, for above all things...more changes and alterations. To citizens who have given so much time and effort to get this far, and not have the Attorney General have these items perfect after so many submissions (is) infantile, archaic and beyond description.

The citizen members of the board trying to do a good job and to meet the intentions of the legislation, leave themselves open to law suits, harassment, and criticism because the system is so cumbersome, and the Health Department is not given the funds to hire personnel to support our efforts.

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.

Applicants who meet all the requirements are given the examinations twice each year in April and November (3rd Friday). The examinations are sent to Texas and the results are usually back within a month. The license is normally issued by the Health Department immediately.

Qualified, licensed applicants from other states must submit and document their applications completely. If the credentials committee feels the applicant has met or exceeded our requirements, he or she will be licensed by endorsement at once. If information is lacking, or documentation is incomplete, there may be a month delay before the application is considered again, at the next meeting.

The lack of regulations has left the qualifications for licensure vague. Continuing education requirements are left to the board's interpretation and are subject to change without adequate professional and public input.

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?

The original board had six nursing home administrators as members, and four non-administrators. The changes to meet Federal guidelines now has only three nursing home administrators, and nine public members. Other states have been very slow to move in this direction.

Of all administrators licensed in the state, only two are minorities. The associations have sponsored four others from minority groups by paying their educational fees and tuition, but they have never moved on to earn their license. 226 administrators are male, 177 are female. The average age is 42.4 years of age with the range running from 21 to 77. In the 56 to 77 year age group, there are 101 licensees.

30% of the administrators have a high school diploma, but less than an associate degree, 20% have the associate, but not a BS degree. 28% have the BS, and 18% have the Masters Degree or better.

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?

Since 1971, the board has attempted to upgrade the educational entry level of new administrators. This was the very first group that did not have some type of grandfather clause in its initial licensure, and from the very onset, the board and all of the professional associations pushed for higher educational requirements. The last legislation, without board input, did back up the suggestions established in 1971. In 1977, the entry level did move from the high school diploma to 60 hours of college, and in 1980, the entry level will be the B.S. degree.

The Administrator in Training Program (internship) has been approved at UConn and Quinnipiac College, two semesters, six credits per semester, in order to have supervision, guidance and field support for trainees (since no funds have been provided). Other states are now copying this strategy.

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

Published notices of hearings, and developed an advisory committee of faculties, and members from interested constituency groups. In addition, parties who might have expressed an interest in proceedings, rules, policies, and so forth were contacted by mail to notify them of meetings of interest. All meetings of the board are open to the public.

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

Two complaints were turned over to the Attorney General's office and were never heard about again. By telephone, they noted that the problems were resolved, but never in writing.

Other complaints were received and all parties notified, including the Advocate's office in the Department on Aging. One complaint was carried through a formal hearing, and the other did not reach the hearing stage.

The complaint process is recommended for clarification in accordance with the Model Legislation. This reflects the need for an efficient, fair and organized method for the handling of complaints and to clearly identify the entity responsible for each phase of the complaint process.

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?

All of the statutes and procedures we have been working with have been aimed at upgrading the educational preparation of the nursing home administrator. We do not receive complaints that would allow us to revoke a license under the terms of legislation, but the board would move quickly to deny a license to anyone not meeting our qualifications. The board has demonstrated that it will hear any complaints against a licensed administrator, promptly and fairly.