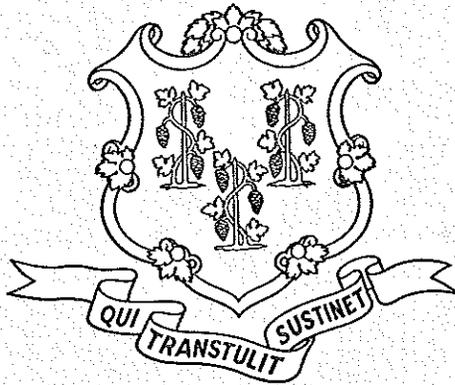


Connecticut General Assembly



Legislative Program Review and Investigations Committee

SUNSET REVIEW Dental Commission

Vol. I-16

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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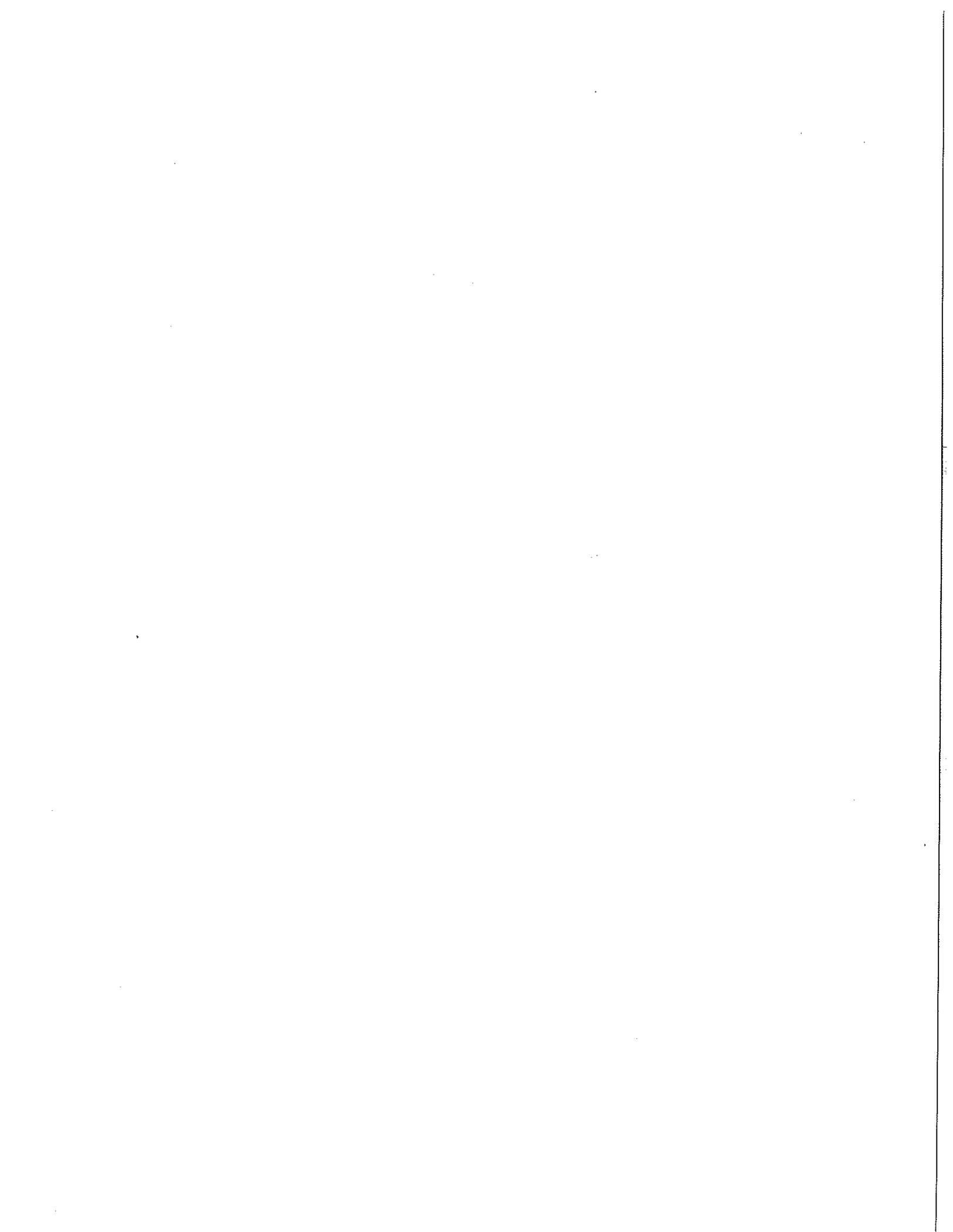
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SUNSET REVIEW 1980

DENTAL COMMISSION

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DENTAL COMMISSION

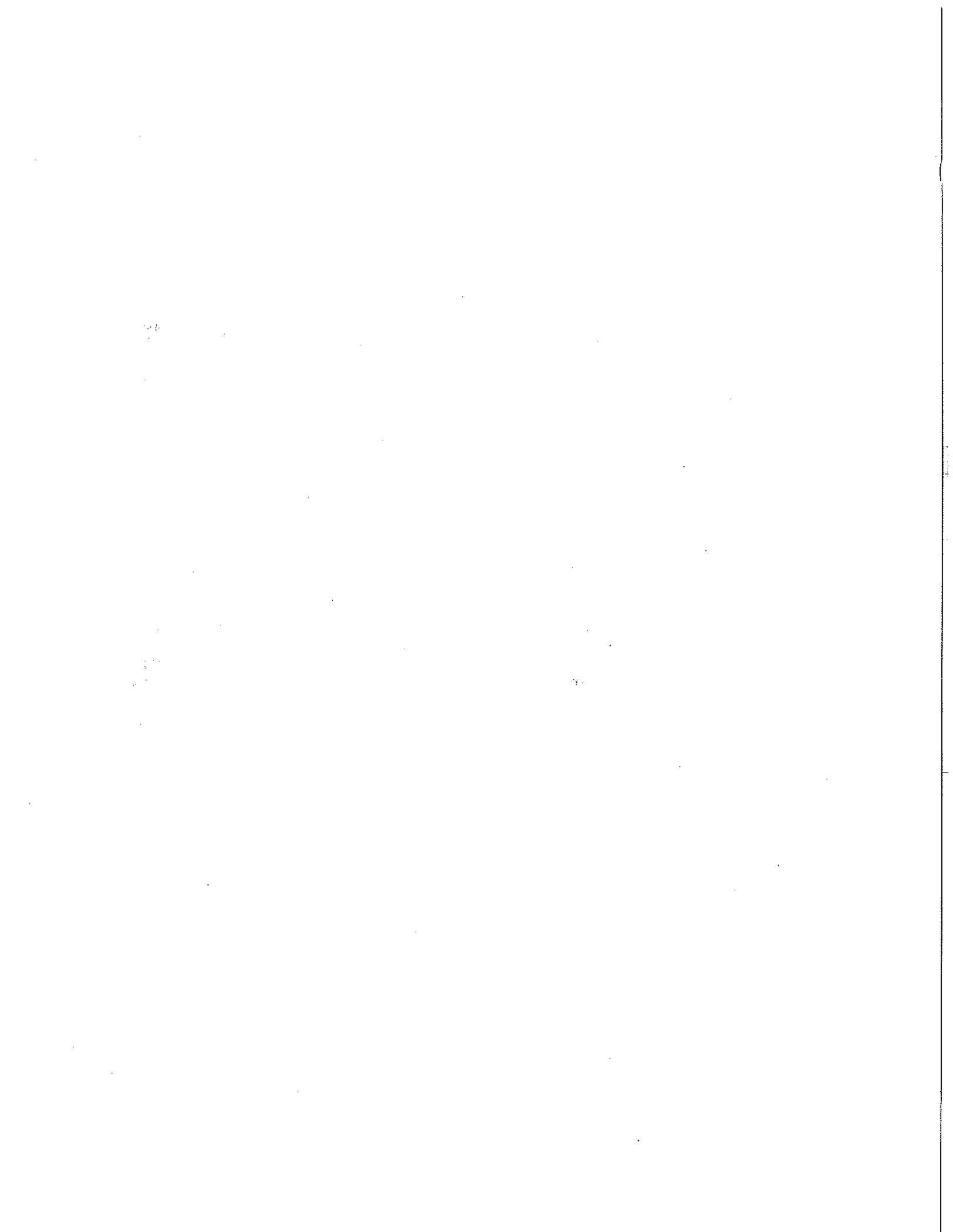
The Dental Commission was reviewed by the Legislative Program Review and Investigations Committee in compliance with the Sunset mandate of P.A. 77-614. The nine criteria outlined in that act (Title 2c, Chapter 28) provided the basis upon which committee decisions were made. These criteria required legislators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

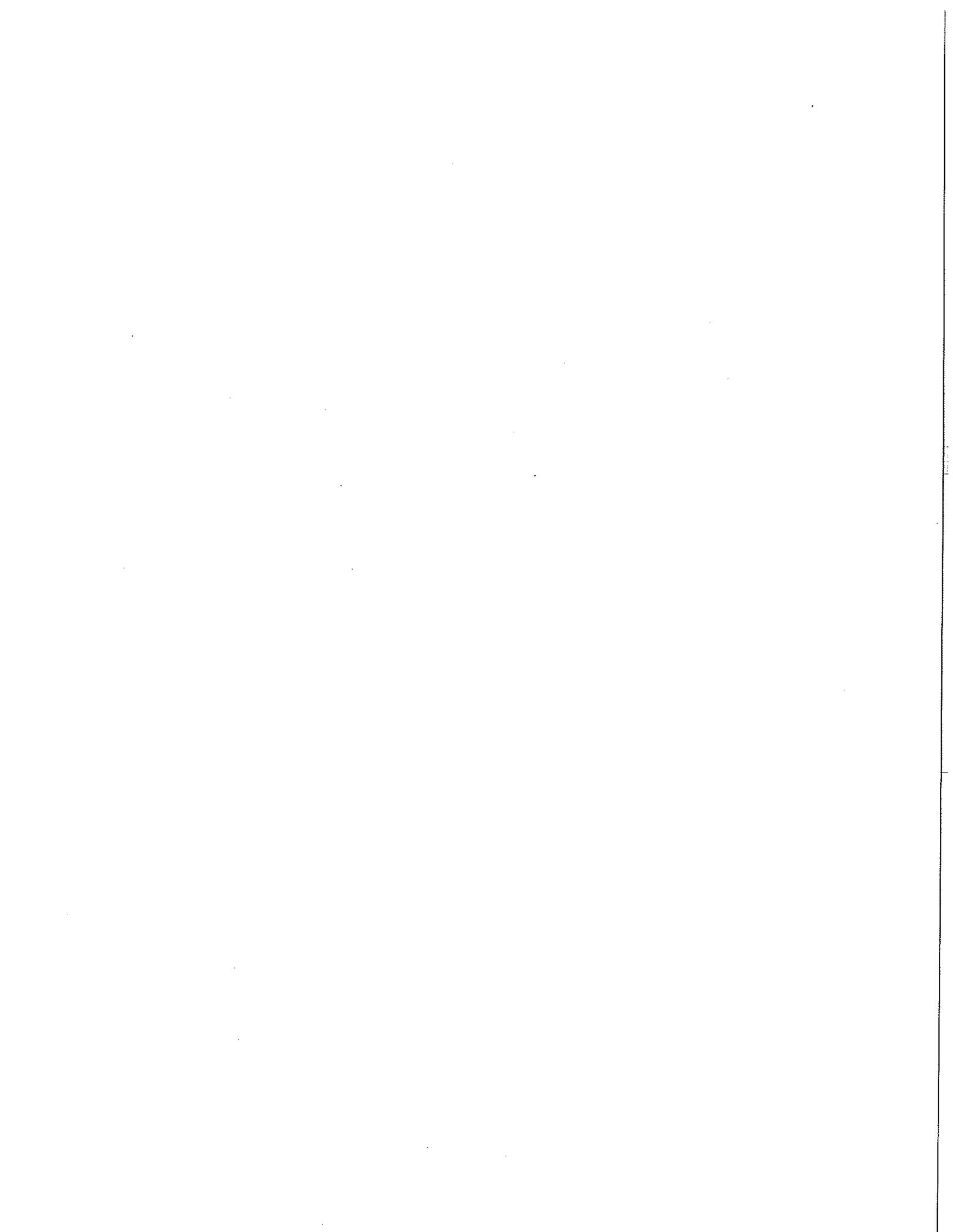
- Description of entity reviewed;
- Recommendations and discussion for entity reviewed; and
- Entity survey and analysis.



SECTION I

DESCRIPTION OF ENTITY

Definition and Background
Structure
Functions
Entry Requirements



Definition and Background

A dentist is a licensed individual who: examines the mouth and surrounding structures; diagnoses and treats diseases of the mouth; replaces lost teeth with artificial ones; and places and repairs bridges, prosthetic dentures, appliances, or any other structures worn in the mouth. Dentists are the only professionals permitted to use the title and provide the scope of services granted by statute.

Dental hygienists and dental assistants also come under the purview of the dental commission. Licensed dental hygienists may remove calcareous deposits, accretions, and stains from the exposed surfaces of the teeth and beneath the free margins of the gums; apply topical solutions to exposed portions of the teeth; mark charts indicating defective teeth; do root planing; and perform other dental procedures under the supervision of a dentist. Dental assistants, on the other hand, are not licensed and are limited in their scope of practice.

The regulation of dentistry to protect the public health and safety began in 1893 when the General Assembly licensed those who wanted to practice. Since then, changes have been made to the dental practice act, although the substance of regulatory authority has remained consistent over the years.

Currently there are 3,435 dentists and 2,438 dental hygienists licensed in the State of Connecticut.

Structure

The Dental Commission is composed of nine members appointed by the Governor. Five are licensed dentists having at least ten years experience, one is a licensed dental hygienist with at least five years experience, and three are public members. The dentists may be selected from a list submitted by the Connecticut State Dental Association.

Functions

To execute its regulatory responsibilities, the commission has the following authority:

- advise the Commissioner of the Department of Health Services in the formulation of rules and regulations;
- approve educational institutions;

- issue licenses to qualified applicants;
- supervise the Department of Health Services in constructing the exam;
- appoint county grievance committees;
- adjudicate charges brought against licensees and impose appropriate sanctions; and
- assess the quality of applicants from other states.

The Dental Commission may suspend or revoke any license if: the practitioner obtains a license through deceit, is incompetent or cruel, commits any crime involving moral turpitude, violates any statutory provision or regulation, advertises, acts in an unprofessional manner, or designates a limited practice without the approval of the Dental Commission.

Requirements for Licensure

The Dental Commission issues dentists' licenses, dental hygienists' licenses, and provisional licenses.

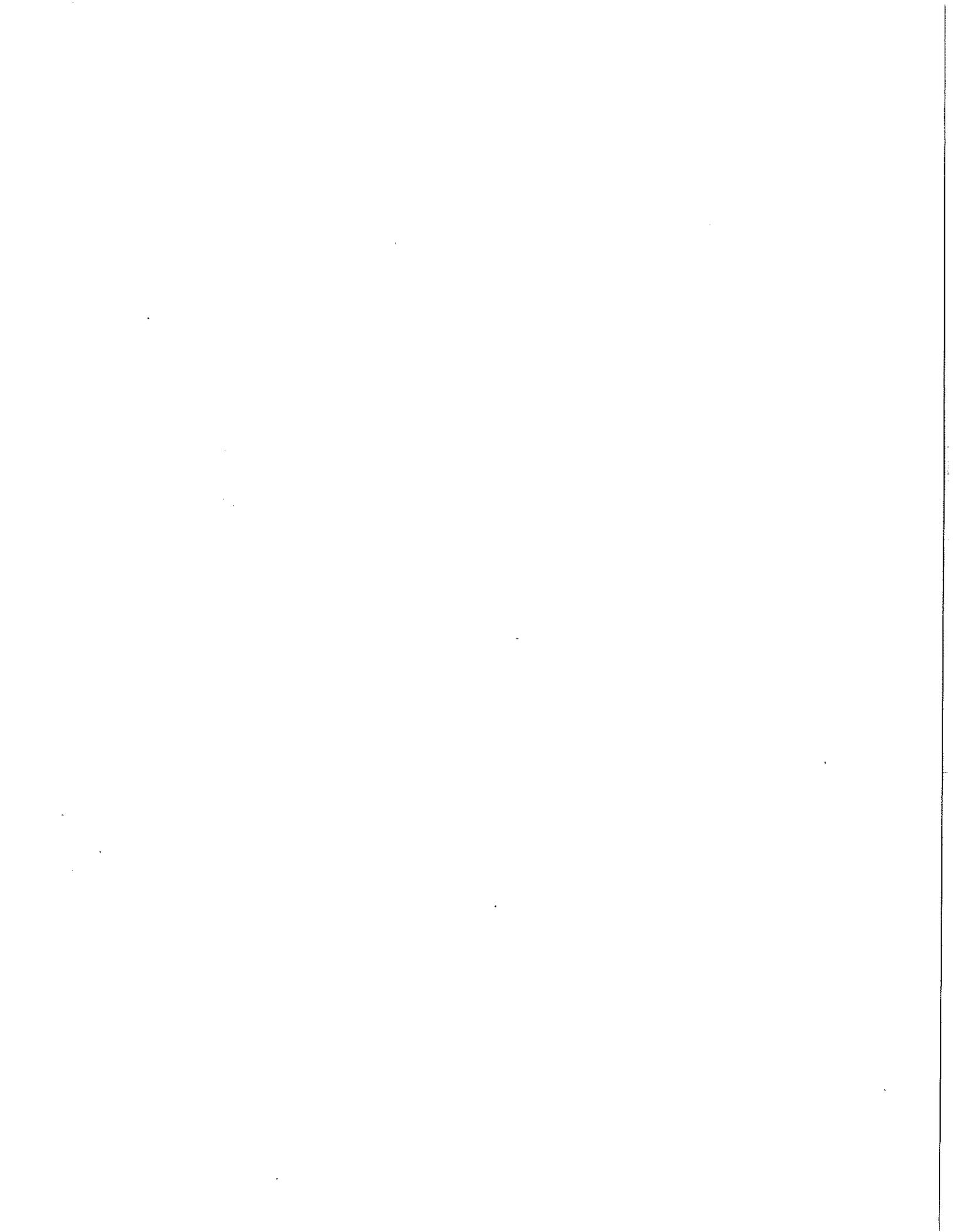
An applicant must present a diploma or certificate of graduation from an approved dental education institution, pass a practical and written examination designed to measure skill and knowledge in the area of dentistry, and submit a \$150 exam fee. To designate a limited practice, the applicant must have completed a two-year post graduate course in the specialty designated.

The requirements for obtaining a dental hygienist's license are: high school graduation, a diploma from an approved institution teaching dental hygiene, and successful completion of a written and practical exam.

Reciprocity is granted on a case-by-case basis to individuals licensed in other states having requirements similar to those of Connecticut and five years experience in the field.

SECTION II

RECOMMENDATIONS AND DISCUSSION



Recommendations for the Regulation of Dentistry
(Chapter 379)

1. Continue licensure for dentists. Replace licensure with certification for dental hygienists.

Licensure has been found to be the most appropriate and necessary level of regulation for dentistry. Certification for dental hygienists would be a less restrictive and sufficient level of regulation.

2. Continue the Dental Commission.

Retention of this commission is necessary to provide the professional expertise needed in the entry and enforcement functions of licensure. Membership on the commission should include a "certified" dental hygienist.

3. Amend Chapter 379 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 dental 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 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 repeal in statutes and regulations (See Model Legislation - Business Practices).*

- o Sec. 20-121 Limitation on the number and ownership of offices;
- o Sec. 20-122 Prohibitions on ownership by unlicensed persons/corporations; and
- o Sec. 20-103a, 20-114(8)-(13), Reg. 20-104(4)-(7) Restrictions on advertising.

d. Entry Requirements - *The Committee found that the dentistry statutes governing entry requirements contained certain qualifications not relevant to determining an applicant's competence. Such requirements--good moral character and five years of practice for out-of-state applicants--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 dentistry.

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 and quality of care rendered by the practitioner. 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.*

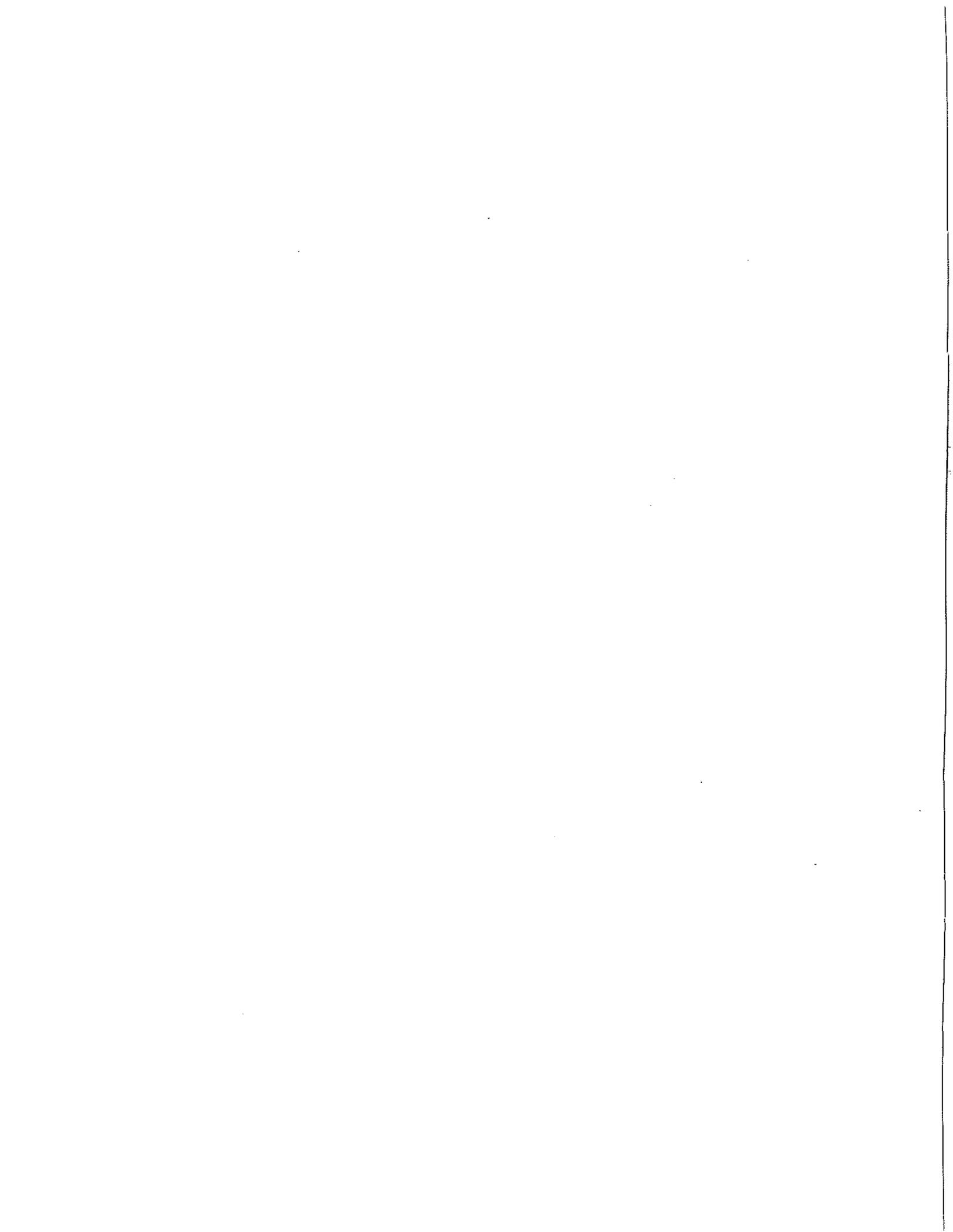
g. Receiving and Processing Complaints - *An area of considerable controversy, mechanisms for receiving and processing*

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.

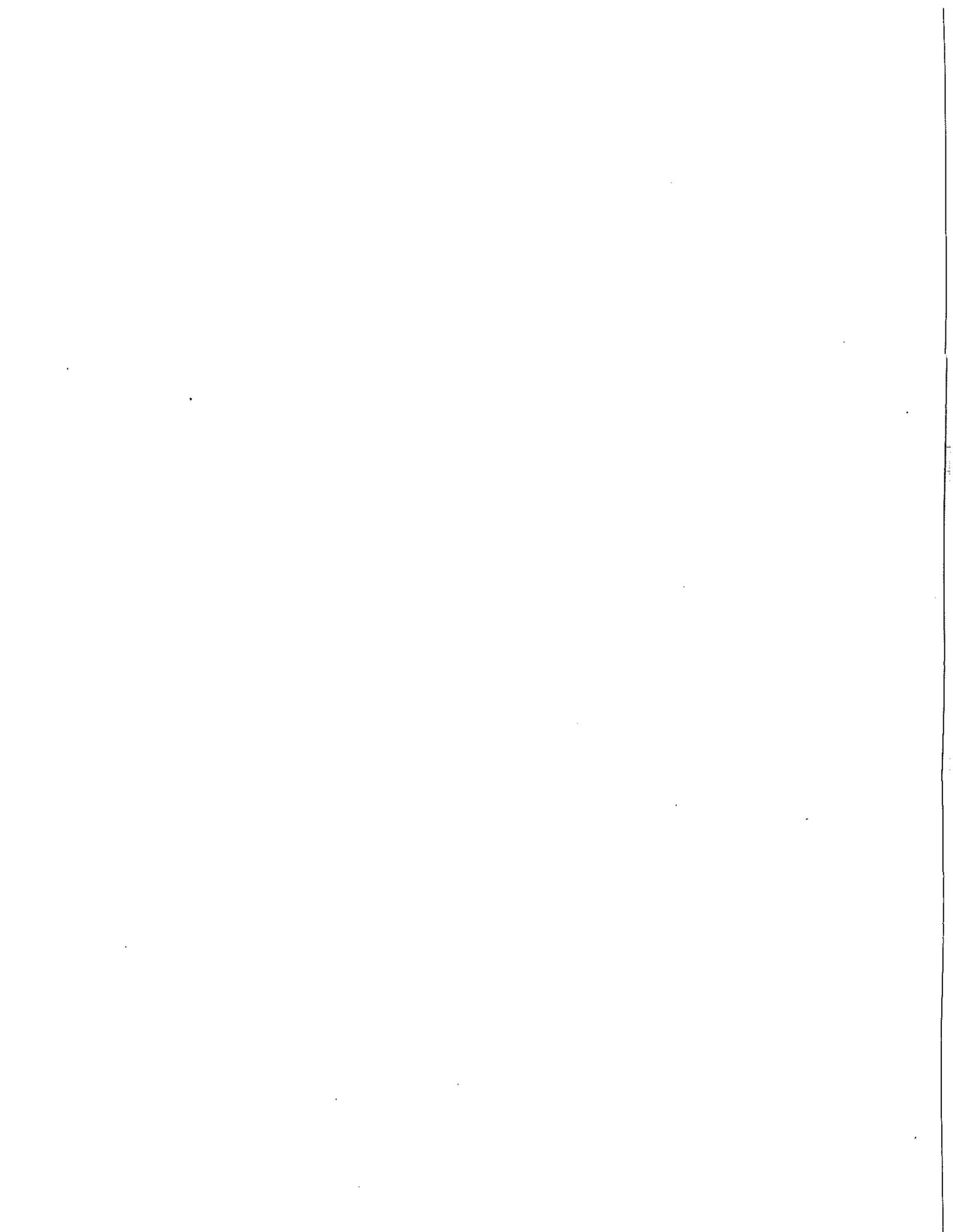
- 4. The Dental Commission should study the scope of practice for dental auxiliaries--dental extenders, dental technicians, denturists, hygienists--and report their recommendations to the Public Health Committee.*

In many professions greater use of paraprofessional employees could help solve problems in the delivery of services. By performing jobs formerly handled by professionals, the auxiliary employees free the professional for more complex tasks and thereby insure a greater total supply of services. In dentistry, the use of auxiliaries has been increasing and revisions in the scope of practice are necessary. The Dental Commission is in the best position to study the issue of expanded duties for auxiliary employees and report their recommendations to the state legislature.



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 Dental Commission. 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.

Absolutely. Our licensees are working directly on patients, doing irreversible procedures. We have to be sure they are qualified and capable of providing proper care and treatment. This is determined by use of a clinical examination. Then we investigate complaints of patients involving negligent dentistry and force licensees to maintain good quality care.

Committee staff concurs that termination of licensing dentists could result in serious consequences to public health and safety.

The dentist's scope of practice includes irreversible procedures that potentially may cause permanent damage to the patient. Licensing restricts dental practice to those individuals able to demonstrate competence and it provides the public with a complaint mechanism. The licensed practitioner is held accountable for his actions and may be disciplined for not meeting the responsibilities as outlined in the Dental Practice Act.

Dental hygienists, on the other hand, do not require as stringent a form of regulation. They operate within a narrow scope of practice under the supervision of a licensed dentist. A high level of technical expertise and education are not necessary for the practice of dental hygiene. The current requirement is two years of post-secondary training. In addition, the probability of serious harm resulting from the work of the dental hygienist is relatively low.

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

The public protection would have to be governed by dental expertise which could only be performed by licensed dentists. Cannot see any other office or program adequately protecting the public.

The Dental Commission in conjunction with the Department of Health Services (DOHS) is best able to provide professional expertise and peer review to adequately protect the public.

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.

Strongly feel the greatest protection is governed by being more restrictive, not less. Current restrictions on licensing

are necessary to make sure licensees are qualified. If you lower the restrictions on licensure, less qualified dentists become licensed. Greatest protection would possibly be mandatory continuing education to insure maintenance of skills. However, this would be extremely difficult to implement.

As indicated under question 1, licensure is necessary to regulate the practice of dentistry.

However, a less restrictive method of regulation is appropriate for dental hygienists. Certification of hygienists would attest to the individual having attained a minimum level of training and/or experience. Certification would restrict the use of the title, but not the practice of dental hygiene techniques. It would allow the dentist greater choice as to who he employs to perform dental hygiene services.

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.

Don't believe the commission is a factor in elevating costs of services. Occasionally a factor in reducing the costs, pertaining to individual complaints, when a patient complains about their bill. Many bills have been reduced upon insistence of our board.

Our board discussed certain dental insurance carrier practices with the deputy insurance commissioner and dental insurance representatives which would reduce dental insurance costs.

Studies of the dental profession¹ indicate that restrictions on entry into the profession have a tendency to limit supply and increase prices to the consumer. Costs associated with entry into the practice of dentistry would also tend to increase consumer costs. The educational investment required to obtain a dentist license is substantial and practitioners are likely to expect a return on their investment. Any increase in entry requirements, leading to an increase in educational investment, could result in higher costs to the consumer for dental services.

The board's restrictions on reciprocity have limited those licensed in other states from practicing in Connecticut, limiting the supply of dentists, minimizing competition and could have an adverse effect on consumer prices.

¹ Alex R. Maurizi, Public Policy and the Dental Care Market, American Enterprise Institute for Public Policy Research, 1975.

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.

If costs were increased, because of our board, which is not so, I would say public benefits would justify the addition. The public can appeal to us with a dental problem. We have as our major function the protection of the public.

Public benefits resulting from the board's regulatory activity accrue as a result of a decreased probability of malpractice and the resolution of consumer complaints.

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.

Our board is hampered because of budgetary policies. We could operate more effectively if we were able to hire more dental inspectors to investigate complaints and investigate sanitary conditions of dental laboratories and offices.

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

The dental practice act is Chapter 379 in the General Statutes involving Sec. 20-103 through Sec. 20-126a.

Section 4-40a--Compensation and expenses of licensing boards and commissions

Section 19-45--Annual registrations of practitioners of the healing arts

Section 33-182a - 33-182j--professional service corporations

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 who become licensed to practice dentistry may provide dental services of all kinds. However, no dentist may designate that he limits his practice to any specialty recognized by the American Dental Association unless he has had at least two years post-graduate study in that specialty. Connecticut accepts the results of N.E.R.B. [New England Regional Board] which is a regional clinical

testing agency. Any dentist who passes that exam is eligible for licensure in Connecticut. We examine applicants for licensure eight months of the year. There is no appreciable delay.

The committee staff found that no licenses through reciprocity were granted by the board in 1978. The board has statutory authority to grant reciprocity. Recommendations made under this Sunset review are designed to encourage maximum mobility of qualified practitioners between states.

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?

Our board would be most happy to encourage women and minorities in our profession, but unfortunately, that is a function of the various schools upon which we have no authority or effect.

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

P.A. 73-183--provided for experimental programs in schools

P.A. 73-399--provided for expanded duties for auxiliary personnel

P.A. 73-205--provided for dental facilities in convalescent homes

P.A. 75-75--required two years post-graduate training before one could designate he limits his practice

P.A. 76-413--provided immunity to peer review board members

P.A. 77-169--added dental hygienist on the board

P.A. 77-485--controlled substances act--registration of drug licenses

P.A. 77-614--reorganization act--added three lay members to the board

P.A. 78-239--regulations to reduce diagnostic use of x-ray

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

Through our present budgetary set-up, would need additional revenue funds to encourage public participation. Basically nothing has been done in this field. Without funds, how could this be done?

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

When our board receives a complaint against a dentist, we must have it in writing. We send a copy to the dentist involved and ask him to respond. The full board reviews both letters and makes a judgment based upon both letters. If the patient must be seen to make a proper judgment, the board selects a member of its county grievance committee to see the patient to examine the work complained about. The grievance committee then makes a report to the full board and a judgment is made based upon that report. The secretary of the board will also investigate complaints and report his findings to the full board.

Under the Executive Reorganization Act, the Department of Health Services is now responsible for receiving and investigating complaints. The board does retain the authority to adjudicate and impose sanctions upon any licensed practitioner. In accordance with the Model Legislation of this Sunset review, this procedure would continue with refinements made in the complaint process to provide for greater efficiency. The informal proceedings of the county grievance committee would continue and are not inconsistent with the formal complaint process. The action of county grievance committee does not preclude the board from seeking disciplinary sanctions.

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?

In the past five years in the legislature, the board has strongly opposed licensure of graduates of foreign dental schools because they do not receive a comparable dental education with that provided by accredited dental schools in this country.

The board has also opposed licensure by reciprocity or endorsement because it would be forced to license individuals they were not sure were qualified to practice on patients.

Annually the board has to oppose bills which would open the practice of dentistry to unqualified personnel. Protecting the profession from unqualified persons usually requires a defensive mechanism because our dental practice act presently is so constituted that it prevents the practice of dentistry by unqualified personnel.

The Model Legislation, along with current statutes, provides for licensing through reciprocity. To comply, the board must take positive action towards those seeking to practice in Connecticut. Under the proposed Model Legislation the commission would establish entry standards and the Department of Health Services would determine if an applicant licensed in another state has credentials similar to or higher than those required by this state.

