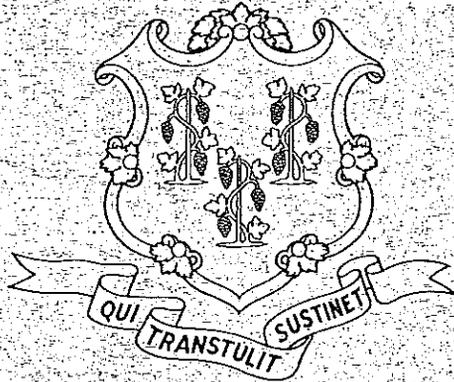


# Connecticut General Assembly



## Legislative Program Review and Investigations Committee

### SUNSET REVIEW

#### Board of Subsurface Sewage Disposal System Examiners

Vol. II-3

January 1, 1981

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 where indicated. 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.

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Gary J. Reardon, Program Analyst  
Lillian B. Crovo, Administrative Assistant  
Mary Lou Gilchrist, Administrative Assistant

Staff on this Project

L. Spencer Cain, Principal Analyst

Legislative Office Building, 18 Trinity St., Hartford, CT 06115 (203) 566-8480

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## SUMMARY

The Connecticut State Board of Subsurface Sewage Disposal System Examiners (C.G.S. Chapter 393a) was established to license installers and cleaners in 1974. Previously, installers were licensed by the state's Occupational Licensing Board as plumbers, while cleaners of septic systems were unlicensed.

For organizational purposes, the Board of Subsurface Sewage Disposal System Examiners is within the Department of Health Services and is provided assistance by the Environmental Health Services Division. The licensing program is administered by the Board of Subsurface Sewage Disposal System Examiners and the Department of Health Services. The board is composed of five members: the commissioner of health services, the commissioner of environmental protection, two public members, and a licensed subsurface sewage disposal system installer or cleaner. All appointments are made by the governor. The Commissioner of the Department of Health Services is responsible for promulgating regulations for the board as well as providing administrative support services.

The State Board of Subsurface Sewage Disposal Examiners is charged with the responsibility for licensing any person offering to the general public services as an installer or cleaner. Such services include the construction, installation, repairing, cleaning, or servicing subsurface sewage disposal systems, including septic tanks, backing pits, trenches, beds or galleries. Licensing of installers and cleaners is intended to insure the proper functioning of subsurface sewage disposal systems, since a poorly operating system could have a detrimental effect on the public's health and safety. Through the board, the state has the power to examine individuals for competency to install or clean subsurface sewage systems and to maintain a minimal level of service by revoking a license for gross incompetence. The board issues separate licenses for cleaners and installers and permits for apprentices. An apprenticeship must be under the supervision of a licensed individual.

The board is required to carry out the following general functions:

- approve qualifications of applicants to take the exam;
- conduct four exams annually;
- approve practical experience;

- protect the public from incompetent practitioners; and
- submit a roster of licensees to Connecticut town clerks.

Licensure is obtained by passing a board prescribed exam approved and administered by the Department of Health Services. An individual failing the exam on three successive occasions must wait a year before retaking the exam. The Department of Health Services is required to hold four exams yearly. Eligibility for examination is based upon the following statutory criteria:

- the applicant must be at least 18 years old, and
- furnish the board with evidence of competency to perform the required work.

An installer's or cleaner's license must be renewed annually with payment of a \$12.50 fee.

Persons holding certain types of plumber's licenses (P-1, P-2, P-3, P-4, P-7, and W-9) are exempted from the examination requirements but must apply for a cleaner's or installer's license if they intend to perform such work. Plumbers are not required to pay an examination fee but must pay the initial license fee of \$12.50. Employees or individuals doing work for the state, local or federal governments or any public service company are exempted from the licensure requirements.

According to data received by the Legislative Program Review and Investigations Committee, the board issued 2,204 licenses to installers and cleaners in 1978-79. Renewals accounted for 1,914 licenses, while 290 individuals received a license for the first time. Nearly two-thirds (189) of those receiving a license for the first time were not required to pass the exam, but were automatically licensed as a result of holding a plumber's license.

The board of examiners has the power to hear and adjudicate all complaints against installers and cleaners. Complaints are received by the Department of Health Services and transmitted, in writing, to the board. The board may conduct hearings in accordance with administrative regulations and impose sanctions upon finding cause. The board may revoke or suspend any license.

According to board records, it received 10 complaints in 1978 and 15 complaints in 1979. During the two-year period, the board neither held a formal hearing nor suspended or revoked a practitioner's license. Most complaints deal with the installation of faulty systems and are investigated by the Environmental Health Services section of the Department of Health Services. All complaints resulted in either no action being taken against an installer/cleaner or voluntary compliance with the board's directive.

For the fiscal year ending June 30, 1979, the Board of Subsurface Sewage System Examiners expended \$96. Fees generated from examinations, licensure and renewals amounted to \$11,837 for the same period. For fiscal year 1978, the board expended \$33 and generated \$10,742 from fees. Expenditures are primarily mileage reimbursements for board members.

The Legislative Program Review and Investigations Committee identified the following six issues: 1) the continuance of the Board of Examiners for Subsurface Sewage Disposal Systems as the regulatory entity; 2) the continuance of licensing as the most appropriate level of regulation; 3) conformance with 1980 sunset legislation; 4) the appropriate organizational location for the regulation of installers and cleaners; 5) the automatic licensing of plumbers as installers, and 6) consumer awareness of the licensing and regulation of the occupation.

In response to the issues identified the Legislative Program Review and Investigations Committee made the following recommendations:

*I. The Legislative Program Review and Investigations Committee recommends that the Board of Examiners for Subsurface Sewage Installers and Cleaners be terminated and the Department of Health Services assume the board's regulatory functions.*

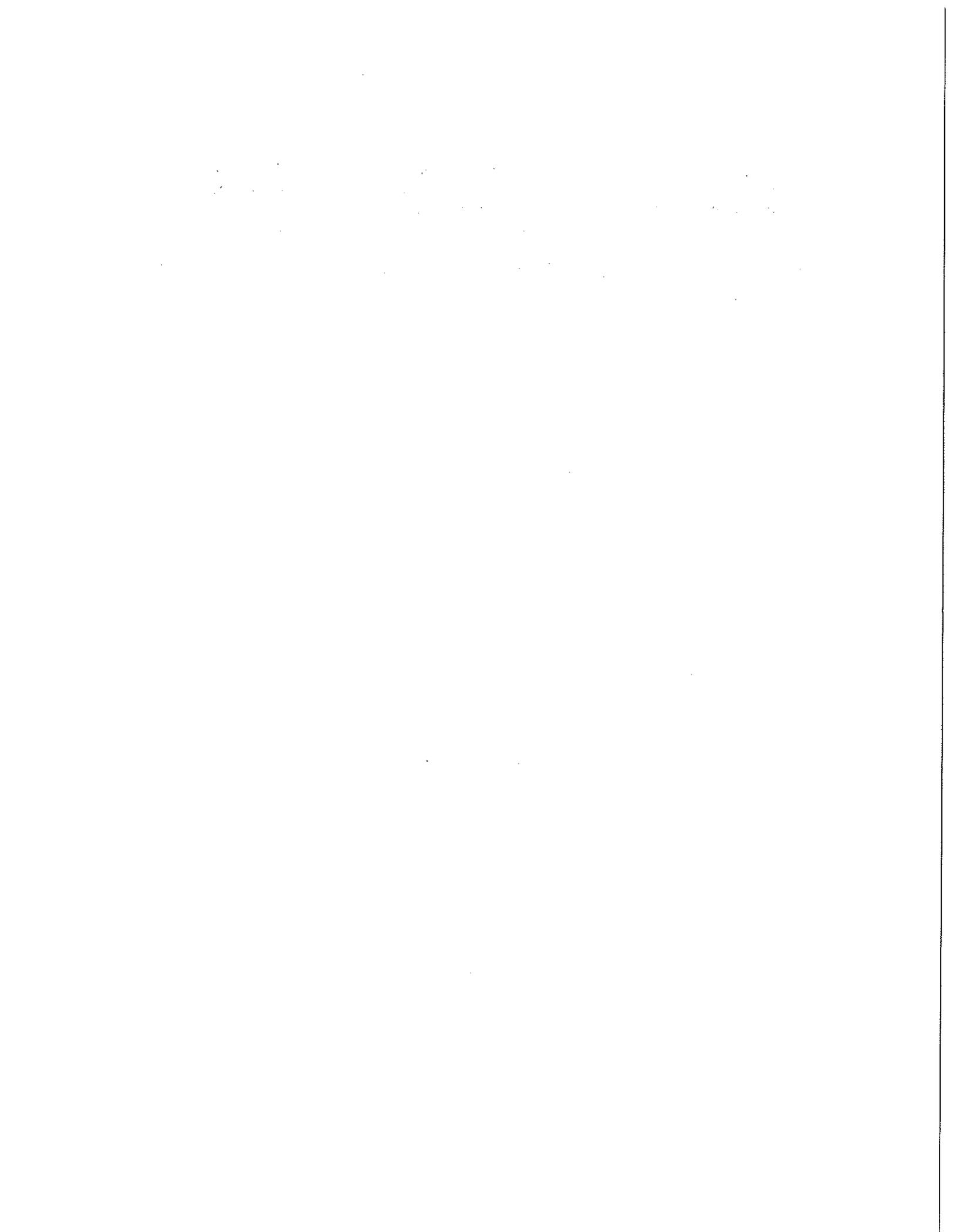
*II. The Legislative Program Review and Investigations Committee recommends continuation of licensing as the most appropriate level of regulation.*

*III. The Legislative Program Review and Investigations Committee recommends that the regulation of subsurface sewage installers and cleaners be brought into conformance with P.A. 80-484.*

*IV. The Legislative Program Review and Investigations Committee recommends that the regulation of subsurface installers and cleaners remain within the Department of Health Services.*

V. *The Legislative Program Review and Investigations Committee recommends that all categories of plumbers be required to pass the subsurface sewage disposal system exam before receiving an installer's license. However, plumbers shall automatically be qualified to take the exam.*

VI. *The Legislative Program Review and Investigations Committee recommends that the current disciplinary sanctions be maintained and consumers be informed, in writing, of the regulatory program and agency.*



## INTRODUCTION

### Purpose and Authority for the Sunset Review

Chapter 28 of the Connecticut General Statutes provides for the periodic review of certain governmental entities and programs and for the termination or modification of those which do not significantly benefit the public health, safety, or welfare. This so-called "sunset" law was enacted in response to a legislative finding that there had been a proliferation of governmental entities and programs without sufficient legislative oversight.

The authority for undertaking the initial review in this oversight process is vested in the Legislative Program Review and Investigations Committee. This committee is charged under the provisions of section 2c-3 of chapter 28 with conducting a performance audit of each entity or program scheduled for termination. This audit must take into consideration, but is not limited to, the four criteria set forth in section 2c-7. These criteria include: (1) whether termination of the entity or program would significantly endanger the public health, safety, or welfare; (2) whether the public could be adequately protected by another statute, entity or program or by a less restrictive method of regulation; (3) whether the governmental entity or program produces any direct or indirect increase in the cost of goods or services and, if it does, whether the public benefits attributable to the entity or program outweigh the public burden of the increase in cost; and (4) whether the effective operation of the governmental entity or program is impeded by existing statutes, regulations or policies, including budgetary and personnel policies.

In addition to the criteria just outlined, the Legislative Program Review and Investigations Committee is required, when reviewing regulatory entities or programs, to consider, among other things: (1) the extent to which qualified applicants have been permitted to engage in any profession, occupation, trade, or activity regulated by the entity or program; (2) the extent to which the governmental entity involved has complied with federal and state affirmative action requirements; (3) the extent to which the governmental entity involved has recommended statutory changes which would benefit the public as opposed to the persons regulated; (4) the extent to which the governmental entity involved has encouraged public participation in the formulation of its regulations and policies; and (5) the manner in which the governmental entity involved has processed and resolved public complaints concerning persons subject to review.

In accordance with its legislative mandate the Legislative Program Review and Investigations Committee reviewed twelve entities and programs scheduled to terminate July 1, 1981. Contained in this report to the General Assembly is the result of the committee's review of the

### Methodology

The Legislative Program Review and Investigations Committee's sunset review began with the transformation of the general and regulatory specific criteria into an analytical framework consisting of fifteen broadly based research questions. The questions, or areas of inquiry, were directed at uncovering information about the background, purpose, functions and results of each entity or program being reviewed.

Several methods were used by the committee and staff to obtain information. These included: (1) a review of the Connecticut statutes, records, minutes and history related to each entity or program; (2) a review of the relevant policies and statutes of selected states; (3) staff observations of selected meetings held by each entity between January and August of 1980; (4) surveys of persons serving on, staffing, or affected by each entity or program; (5) interviews of selected persons serving on, staffing or affected by each entity or program; and (6) written or oral testimony obtained at public hearings and workshops.

The general sequence adhered to in conducting the review was for the committee staff to collect quantitative and qualitative data from documents (e.g., statutes, records, minutes, etc.), surveys, observations of meetings and interviews. This information, after being organized by the staff, was given to each committee member. Subsequently, it was discussed with the full committee at briefing sessions held prior to public hearings.

A total of five public hearings were held. Four were confined to specific topics and one was a general session. The hearings gave persons connected with each entity or program being reviewed an opportunity to discuss with committee members the public need for its reestablishment. In two instances, one involving the Commission on Hospitals and Health Care and the other involving the mental health boards, the committee held an additional workshop session with invited individuals. The purpose of these sessions was to obtain information not covered during the two scheduled public hearings.

Each public hearing or workshop was followed by a debriefing session. Here, questions arising from any of the committee's previous meetings were discussed with the staff. The primary focus of these discussions was to identify issues that the committee felt it needed to address.

At the completion of the issue identification stage, the staff researched and developed a range of options related to each issue. The particular option recommended by the staff, along with all the other options, were then given to the committee members for their discussion and action.

### Organization of the Report

This introductory section is designed to give an overview of the scope, methods and organization of the Legislative Program Review and Investigations Committee's sunset report on the Board of Subsurface Sewage Disposal System Examiners. Section II, Entity Profile, describes the background, structure, purpose and major activities of the board. Section III, Analysis and Issue Identification, explores the information collected from interviews, records, surveys and testimony at the public hearing. In this section the major sunset review issues identified by the committee are presented. Section III, Findings and Recommendations, restates the issues identified in the previous section and outlines the related options considered by the Legislative Program Review and Investigations Committee. Each issue is followed by the committee's formal recommendation and its accompanying rationale. The appendices to the report make up the final section. These include the questionnaires used in conducting the performance audit, a list of the legislative changes needed to implement the recommendations, and selected other materials considered by the committee during this sunset review.

## ENTITY PROFILE

### Background

The Connecticut State Board of Subsurface Sewage Disposal System Examiners (C.G.S. Chapter 393a) was established to license installers and cleaners in 1974. Previously, installers were licensed by the state's Occupational Licensing Board as plumbers, while cleaners of septic systems were unlicensed. By establishing a separate licensing board under the jurisdiction of the Department of Health Services, the legislature's intent was to consolidate within one agency the regulation of subsurface sewage systems. The Department of Health Services enforces standards and issues permits for subsurface sewage systems under the provision of the Public Health Code (Reg. of State Agencies, Sec. 19-13-61 through 19-13-20s), although it has generally delegated the authority to issue such permits to local officials. In addition all systems must be inspected and approved by the local or district health director.

The Department of Environmental Protection is also involved through its power to:

issue, modify or revoke orders prohibiting or abating pollution of the waters of the state or require the construction, modification, extension or alteration of pollution abatement facilities, or adopt such other remedial measures as are necessary to prevent, control or abate pollution. (Public Act 77-416 includes subsurface sewage systems as part of the definition for pollution abatement facilities.)

While DEP does have the authority to insure compliance with the state's Water Pollution Control Act, it is required by statute (Sec. 25-54i(g)) to delegate the authority to issue permits for household and small commercial subsurface sewage disposal systems (under 5,000 gals. per day) to the Department of Health Services. Larger systems must be reviewed and approved by DEP before installation.

### Structure

For organizational purposes, the Board of Subsurface Sewage Disposal System Examiners is within the Department of Health

Services and is provided assistance by the Environmental Health Services Division. The licensing program is administered by the Board of Subsurface Sewage Disposal System Examiners and the Department of Health Services. The board is composed of five members: the commissioner of health services, the commissioner of environmental protection, two public members, and a licensed subsurface sewage disposal system installer or cleaner. All appointments are made by the governor, and terms of office are coterminous with that of the governor. The Commissioner of Department of Health Services is responsible for promulgating regulations for the board as well as providing administrative support services.

#### Purpose and Functions

The State Board of Subsurface Sewage Disposal Examiners is charged with the responsibility for licensing any person offering to the general public services as an installer or cleaner. Such services include the construction, installation, repairing, cleaning, or servicing subsurface sewage disposal systems, including septic tanks, backing pits, trenches, beds or galleries. Licensing of installers and cleaners is intended to insure the proper functioning of subsurface sewage disposal systems, since a poorly operating system could have a detrimental effect on the public's health and safety. Through the board, the state has the power to examine individuals for competency to install or clean subsurface sewage systems, and to maintain a minimum level of service by revoking a license for gross incompetence. The board issues separate licenses for cleaners and installers, and permits for apprentices. An apprenticeship must be under the supervision of a licensed individual.

The board is required to carry out the following general functions:

- approve qualifications of applicants to take the exam;
- conduct four exams annually;
- approve practical experience;
- protect the public from incompetent practitioners; and
- submit a roster of licensees to Connecticut town clerks.

## Activities

### *Licensing*

The board issues licenses for installer-cleaners and for cleaners. The board also issues apprentice permits to individuals, working under a licensed cleaner or installer, who intend to take the exam. The apprentice permit allows an individual to fulfill the work requirement for licensing.

Licensure is obtained by passing a board prescribed exam approved and administered by the Department of Health Services. An individual failing the exam on three successive occasions must wait a year before retaking the exam. The Department of Health Services is required to hold four exams yearly. Eligibility for examination is based upon the following statutory criteria:

- the applicant must be at least 18 years old, and
- furnish the board with evidence of competency to perform the required work.

An installer's or cleaner's license must be renewed annually with payment of a \$12.50 fee.

Persons holding certain types of plumber's licenses (P-1, P-2, P-3, P-4, P-7, and W-9) are exempted from the examination requirements but must apply for a cleaner's or installer's license if they intend to perform such work. Plumbers are not required to pay an examination fee but must pay the initial license fee of \$12.50. Employees or individuals doing work for the state, local or federal governments or any public service company are exempted from the licensure requirements.

Nothing in the statute prevents an owner of a business performing the above described work from operating without a license. Only those employees actually engaged in the work are required to be licensed.

According to data received by the Legislative Program Review and Investigations Committee, the board issued 2,204 licenses to installers and cleaners in 1978-79. Renewals accounted for 1914 licenses, while 290 individuals received a license for the first time. Nearly two-thirds (189) of those receiving a license for the first time were not required to pass the exam, but were automatically licensed as a result of holding a plumber's license.

One hundred and one applicants were licensed after passing the exam. Tables I and II illustrate the data for the fiscal years 1977-78 and 1978-79.

Table I. Licensing Data for 1977-78: Installers and Cleaners.

Area of Licensure	Total Licenses Issued	No. of Licenses Renewed	No. of New Licenses Issued	Licenses Issued Automatically (Plumbers)	Licenses Issued to Applicants Passing Exam	No. Failing the Exam
Installer-Cleaner	2316	2080	236	115	121	16
Cleaner	52	50	2	--	--	--
Apprentice (Permits)	33	--	33	--	--	--

Source: DOHS and LPR&IC Analysis

Table II. Licensing Data for 1978-79: Installers and Cleaners.

Area of Licensure	Total Licenses Issued	No. of Licenses Renewed	No. of New Licenses Issued	Licenses Issued Automatically (Plumbers)	Licenses Issued to Applicants Passing Exam	No. of Applicants Failing Exam
Installer-Cleaner	2204	1914	290	189	101	14
Cleaner	50	48	2	--	--	--
Apprentice (Permits)	21	--	21	--	--	--

Source: DOHS and LPR&IC Analysis

### *Complaint Process*

The board of examiners has the power to hear and adjudicate all complaints against installers and cleaners. Complaints are received by the Department of Health Services and transmitted, in writing, to the board. The board may conduct hearings in accordance with administrative regulations and impose sanctions upon finding cause. The board may revoke or suspend any license if the individual:

- is convicted of a felony;
- is found to be grossly incompetent in his work;
- has knowingly made false, misleading representations regarding work performed or intended to be performed; and
- has violated any Department of Health Services regulation concerning the installation or cleaning of a subsurface sewage disposal system.

An individual whose license has been suspended may apply to the board for relicensure after 90 days. The board shall reinstate the license upon finding "that the disqualification has ceased."

According to board records, it received 10 complaints in 1978 and 15 complaints in 1979. During the two-year period, the board neither held a formal hearing nor suspended or revoked a practitioner's license. Most complaints dealt with the installation of faulty systems and were investigated by the Environmental Health Services section of the Department of Health Services. All complaints resulted in either no action being taken against an installer/cleaner or voluntary compliance with the board's directive.

It should be noted that many complaints concerning subsurface sewage disposal systems are received and investigated by the local or district health department. Due to the fact that a system requires a local permit, most complaints by consumers concerning a faulty installation are directed to the permitting authority. Consumers are generally not aware of the fact that an installer is licensed and responsible for incompetent work. A faulty system that results in the pollution of a waterway might further be investigated by the Department of Environmental Protection.

For the fiscal year ending June 30, 1979, the Board of Subsurface Sewage System Examiners expended \$96.00. Fees generated from examinations, licensure and renewals amounted to \$11,837 for the same period. For fiscal year 1978, the board expended \$33.00 and generated \$10,742 from fees. Expenditures are primarily mileage reimbursements for board members. Table III provides detailed fiscal information on the board since its inception.

Table III. Fiscal information: Board of Examiners.

	FY 75	FY 76	FY 77	FY 78	FY 79
Total Revenue	\$5,937.50	\$9,175.00	\$11,667.50	\$10,742.50	\$11,837.50
Exam Fees	3,100.00	1,837.50	1,862.50	1,837.50	1,662.50
Initial License Fees	2,837.50	4,187.50	362.50	2,350.00	3,650.00
Renewal Fees		2,800.00	5,062.50	5,775.00	5,925.00
Late Penalty Fees		350.00	1,080.00	780.00	600.00
Total Expenditures (mileage exps.)	159.40	117.84	73.92	33.84	96.12

Source: State Auditors Report and DOHS

The board receives funds from a \$12.50 examination fee, an initial license fee of \$12.50 and a renewal fee of \$12.50. All fees are deposited into the state's general fund.

## ANALYSIS AND ISSUE IDENTIFICATION

The Legislative Program Review and Investigations Committee and staff surveyed board members and received testimony from interested parties during a public hearing. In addition, committee staff reviewed board minutes, attended board meetings, and compared exams given plumbers with those administered to subsurface sewage system cleaners and installers.

An analysis of the survey given to members indicates that the board's most important role is to provide expertise during the complaint process and to protect the public from incompetent installers and cleaners. Also cited as important is the board's role in establishing entry requirements for the occupation.

In accordance with the sunset statute the committee must consider whether the termination of the entity under review significantly endangers public health, safety and welfare, and if adequate protection would be afforded by another government agency. The legislative intent is to reduce duplication of government agency efforts and streamline the administrative process. With this in mind, the committee examined the board's activities and the reasons for continuing or eliminating the board.

Board minutes for 1978 and 1979 indicate that six meetings were held in each of those years. Much of the board's time was spent reviewing applications for licensure and discussing the outcome of complaints received by the Department of Health Services. The board also approves the licensing of those applicants who have passed the exam. The Department of Health Services prepares each application and decides on the individual's eligibility for the examination.

According to data kept by the board, its involvement in complaints has been minimal. During the period reviewed, the board had not taken a single formal action against any cleaner or installer.

The committee is required, under the sunset legislation, to consider if a less restrictive method of regulation could adequately protect the public.

A majority of board members argue that there would be a significant decrease in the quality of the environment and

the prevention of health hazards if regulation were not continued. A majority of the board is also concerned that there would be an increase in poor workmanship and violations of the public health code if the occupation was left unregulated. All board members believe that the installation and cleaning of subsurface sewage systems should continue to be restricted to licensed individuals only, but only two members expressed an interest in extending the licensing requirement to owners of an installation and/or cleaning business.

During the public hearing (May 21, 1980, State Capitol), the Legislative Program Review and Investigations Committee received additional testimony favoring continued regulation. The position of the Connecticut Sewage Disposal Association was that subsurface sewage system installation "is a highly technical trade and should be left only in the hands of well qualified practitioners." Information was also submitted by the Department of Environmental Protection detailing the dangers to water quality that result from failing subsurface sewage systems.

The committee considered four options concerning regulation: 1) licensure, 2) certification, 3) registration and 4) deregulation. It defined each option as follows:

- licensing would restrict the practice to licensed individuals only;
- certification would allow the state to attest to a practitioner's credentials, but not limit anyone from practicing;
- registration would place no restrictions on entry, but would provide for the exit of a practitioner convicted of bad practices; and
- deregulation would place no government restrictions on entry or exit from the marketplace.

Another issue explored by the committee was the organizational location of the board. Three options were presented: 1) The Department of Health Services, 2) The Department of Consumer Protection, 3) The Department of Environmental Protection. If regulation were moved to DEP, a licensing mechanism would have to be established and the permitting authority for small systems would also need to be shifted. The Department

of Consumer Protection was considered because it currently administers the Occupational Licensing Board, and installers were once licensed by this board. The Department of Health Services, in which the board is now located, is responsible for maintaining minimum standards of public health and safety. In addition, the Public Health Code, which guides the installation of subsurface sewage systems, is under the jurisdiction of the Department of Health Services.

During the committee research, the question was raised by members of the board as to whether plumbers should continue to be licensed automatically. The committee also considered whether the job description for plumbers was similar to that of installers. The committee found that 103 installer licenses were automatically issued to plumbers during the period July 1, 1978 to June 30, 1979. The Department of Health Services reports that 67 percent of those individuals licensed as installers are also licensed as plumbers. The department states, however, that the majority of septic tank installations are performed by the remaining 33 percent, who are licensed solely as installers.

The Legislative Program Review and Investigations Committee staff reviewed both the plumbers' exams for those automatically qualifying for an installer's license and the exam given to installers by the subsurface sewage board. An analysis of the exam given to subsurface sewage installers indicates that the following subject matter is covered:

- soil types and permeability;
- operation and capacity of septic systems;
- acceptable location of septic systems;
- septic tank capacity in relation to size of residences;
- capacity, operation and construction of leaking systems;
- percolation rates and tests;
- ground water tables;
- public health code (particularly that portion which relates to subsurface sewage systems); and
- blueprint reading and engineering plans.

system under his own license, he need merely apply for an installer's license without meeting any of the entry requirements. The issue raised by the committee is whether or not the automatic licensing of plumbers should continue in light of the discrepancy between the exam content, training and job description of the two occupations.

The last two issues identified by the Legislative Program Review and Investigations Committee were conformity with 1980 sunset legislation and redress for consumers. On conformity with 1980 sunset legislation, the committee had two options: to bring all regulatory activities covering installers and cleaners into conformity with the regulation of other health professions or to require the Department of Health Services to maintain a dual regulatory system. Conforming with 1980 sunset legislation would require statutory changes in the complaint procedure, disciplinary sanctions, and restrictions on entry.

The committee examined the need for greater consumer awareness about the existence of the licensing and regulation of the occupation by a government entity. The committee felt that the level of complaints received did not reflect the number of problems encountered by homeowners. Several options for increasing enforcement were considered, including allowing the regulatory entity to impose civil fines, mandating a warranty period for subsurface sewage disposal systems, and requiring the installer to inform the consumer in writing that redress may be sought from a regulatory agency. The committee felt that the last option would require the least additional cost to both the installer, consumer and governmental entity.

In summary, the Legislative Program Review and Investigations Committee identified the following six issues:

- the continuance of the Board of Examiners for Subsurface Sewage Disposal Systems as the regulatory entity;
- the continuance of licensing as the most appropriate level of regulation;
- conformance with 1980 sunset legislation;
- the appropriate organizational location for the regulation of installers and cleaners;

The exam consists of 100 true/false and multiple-choice questions.

The Occupational Licensing Board gives an exam for each category of licensed plumber qualifying for the installer's license (P-1, 2, 3, 4, 7, W-8, 9). The most difficult exam, P-1, which is given to contractors, consists of 100 questions covering the following subject areas:

- national plumbing code;
- inspection requirements;
- plumbing terminology;
- tests and measurements; and
- piping systems.

In the plumber's exams reviewed, there were only three or four questions that had any relationship to the installation of subsurface sewage systems.

According to information from the Department of Consumer Protection, a plumbing contractor is described as a person who offers his services, by himself or through his employees, to the public in the field of plumbing and piping. Plumbing and piping are defined as the installation, repair, replacement, alteration or maintenance of gas, water and associated fixtures, laboratory equipment, sanitary equipment (with the exception of subsurface sewage disposal systems), fire prevention apparatus, all water systems for human usage, sewage treatment facilities, lateral storm and sanitary lines and all associated fittings within a building. In addition, plumbers holding a P-7, P-6, W-8 or W-9 license are specifically instructed that it does not permit any work on septic tank systems. These categories of licensing are restricted to the installation of sewer, storm, and water lines.

By statute, a subsurface sewage system installer is defined as "any person regularly offering to the general public services of construction, installation, repairing, cleaning or servicing subsurface sewage disposal systems" (Sec. 20-341a(a)). This definition, along with exam content, differs substantially from the job description and exam content given plumbers, who automatically qualify for an installer's license. While a plumber is restricted from doing work on a subsurface sewage

- the automatic licensing of plumbers as installers, and
- consumer awareness of the licensing and regulation of the occupation.

## FINDINGS AND RECOMMENDATIONS

### I. CONTINUATION/REPLACEMENT OF THE BOARD OF EXAMINERS FOR SUBSURFACE SEWAGE DISPOSAL INSTALLERS AND CLEANERS

The Legislative Program Review and Investigations Committee considered whether replacing the board's authority with that of the Department of Health Services would significantly endanger public health, safety or welfare.

*The Legislative Program Review and Investigations Committee recommends that the Board of Examiners for Subsurface Sewage Installers and Cleaners be terminated and the Department of Health Services assume the board's regulatory functions.*

The committee determined that the level of regulatory activity engaged in by the board does not warrant its continuance as a separate government entity. Analysis has shown that most complaints are investigated at the local level or by the Environmental Health Service Division of the Department of Health Services. The board has not been involved in a hearing nor has it suspended or revoked a license in 1978 or 1979.

As previously discussed, the board's principal function has been to review applications for licensing to determine eligibility. The processing of applications is handled by the Department of Health Services staff, who would also become responsible for determining eligibility if regulation of the occupation were brought into conformance with 1980 sunset legislation. Further, it should be noted that a majority of the board's current members are state employees and that the Department of Health Services would have little difficulty in obtaining expertise to advise the commissioner on complaints and examination content.

### II. LICENSING AS THE MOST APPROPRIATE LEVEL OF REGULATION

The Legislative Program Review and Investigations Committee considered three options to licensing. None of the three-- certification, registration or deregulation--as defined earlier were considered to be more appropriate than licensing.

*The Legislative Program Review and Investigations Committee recommends continuation of licensing as the most appropriate level of regulation.*

Data gathered from the questionnaire, the Department of Health Services and the Department of Environmental Protection

indicate that there would be significant danger to public health and safety if a less restrictive form of regulation replaced licensing. A minimal level of skill and competency is necessary before an individual can properly install or clean a subsurface sewage system. In particular, the individual must meet those sections of the public health code that establish standards for the installation of a system and the transportation of subsurface sewage. Additionally, recourse by the consumer is aided by the regulation of the occupation by a governmental entity.

### III. CONFORMITY WITH 1980 SUNSET LEGISLATION

Conformity of the regulation of subsurface sewage installers and cleaners with the 1980 sunset legislation would require statutory changes in the following areas:

- processing and approval of applications for licensure and renewal
- processing complaint and disciplinary sanctions

Nonconformity would require the Department of Health Services to maintain a dual regulatory system.

*The Legislative Program Review and Investigations Committee recommends that the regulation of subsurface sewage installers and cleaners be brought into conformance with P.A. 80-484.*

The 1980 sunset legislation would provide for a more efficient and effective regulatory program, assure that qualified applicants be permitted to engage in the occupation and improve the handling and disposition of complaints.

### IV. ORGANIZATIONAL LOCATION OF REGULATORY FUNCTIONS

The Committee considered two alternatives to the present location: the Department of Consumer Protection and the Department of Environmental Protection.

*The Legislative Program Review and Investigations Committee recommends that the regulation of subsurface installers and cleaners remain within the Department of Health Services.*

If shifted to DEP, the startup of an occupational licensing mechanism would be required; none currently exists. The Department of Consumer Protection once licensed installers and cleaners, but they were transferred to the DOHS because the public health code governed the installation of systems.

The Department of Health Services is responsible for the enforcement of the public health code and the issuing of permits for small subsurface sewage systems and, therefore, is the most logical location for the regulation of the occupation.

#### V. THE AUTOMATIC LICENSING OF PLUMBERS

The committee compared the exam, training, and job description of plumbers with that of installers and found them to be significantly different. As analysis has previously shown, the competencies found in one occupation are unlike those found in the other.

*The Legislative Program Review and Investigations Committee recommends that all categories of plumbers be required to pass the subsurface sewage disposal system exam before receiving an installer's license. However, plumbers shall automatically be qualified to take the exam.*

By requiring plumbers to pass the installer's exam, the public will receive the full benefits of the regulatory program, including the expectation that a minimum level of competency comes with licensing.

#### VI. APPROPRIATE RECOURSE FOR CONSUMERS

The Legislative Program Review and Investigations Committee determined that recourse for consumers and homeowners needed to be strengthened. The committee considered four options:

- maintaining the present sanctions (suspension/revocation of license)
- imposing civil fines
- mandating a warranty period for subsurface sewage disposal systems, and
- requiring that installers and cleaners inform customers in writing that redress may be sought from the regulatory agency (DOHS)

*The Legislative Program Review and Investigations Committee recommends that the current disciplinary sanctions be maintained and consumers be informed, in writing, of the regulatory program and agency.*

After closely examining all options, the committee chose the first and last options as the most cost-effective. Option two and three would result in additional costs to the occupation, consumer and the regulatory agency.

Sunset - 1981

Summary Sheet

NAME: Board of Subsurface Sewage Disposal System Examiners  
(Ch. 393a, C.G.S.)

YEAR CREATED: 1974

TYPE: Regulatory Board                      ORGANIZATIONAL LOCATION: Dept of  
Health Services

PURPOSE: To license individuals offering to the general public services of construction, installation, repairing, cleaning or servicing subsurface sewage disposal systems.

FUNCTIONS:

- Approve qualifications of applicants to take the exam
- Conduct four exams annually
- Approve practical experience
- Protect the public from incompetent practitioners
- Submit a roster of licensees to town clerks

GENERAL DESCRIPTORS:BOARD

Composition: 5 members; Commissioner of DOHS, Commissioner of DEP, (or their designees), 2 public members, 1 licensed installer or cleaner.

Appointing Authority: Governor

Terms: Coterminus                                      1978                      1979

Number of Meetings:                                      6                                      6

Average Attendance:                                      4                                      3.5

Number of Complaints Reviewed  
by Board:                                      10                                      15

Number of Hearings Held:                                      0                                      0

Number of Licenses Suspended/  
Revoked:                                      0                                      0

Revenues:                                      \$10,742                      \$11,837

Expenditures:                                      \$ 33                      \$ 96

Type of Exam: Board Developed, Installer/Cleaner Exam, 50 oral and 50 multiple choice questions; Cleaner Only Exam, 25 oral and 25 multiple choice questions

Entry Requirements: Evidence of ability to perform the work required of a subsurface sewage installer and/or cleaner  
Pass Exam  
Licensed plumbers are exempt from the exam

## GENERAL DESCRIPTORS:

Installers and Cleaners

Number licensed:	<u>1978</u>	<u>1979</u>
Installers/Cleaners	2,316	2,204
Cleaners only	52	50
Apprentice permit	33	21

## Additional Regulatory Activity:

Subsurface sewage disposal systems must meet local health and zoning requirements and the state's Public Health Code (Reg. of State Agencies, Sec. 19-13-b1 through 19-13-20s). All systems must be inspected or approved by the local or district health director.

Complaints are usually investigated by the local or district health department or the Environmental Health Services section of DOHS. The Department of Environmental Protection also has the responsibility of investigating the disposal of sewage that may directly or indirectly result in the pollution of state waters.

BOARD OF EXAMINERS FOR SUBSURFACE SEWAGE DISPOSAL SYSTEMS

ISSUES	OPTIONS	PRINCIPAL IMPACT	GENERAL IMPACT	STAFF RECOMMENDATION
1. Board of Examiners	A. Continue	a. continuing the Board would maintain current structure	- citizen	Option B.
	B. Replace with DOHS	b. DOHS would assume the regulatory functions of the Board	- occupation - government structure	
2. Level of Regulation	A. Licensing	a. Licensing would restrict practice to licensed individuals only	- citizen	Option A.
	B. Certification	b. certification would allow state to attest to credentials, but not limit who could practice	- occupation - government structure	
	C. Registration	c. no restrictions on entry, would allow for exit of practitioners		
	D. Deregulation	d. no restrictions on entry nor procedures for exit		
3. Conformity with 1980 Sunset legislation (P.A. 80-484)	A. Yes	a. changes would occur primarily in the following areas: complaint procedure, sanctions and certain restrictions to entry	- citizen - occupation - government structure	Option A.
	B. No	b. not conforming would mean DOHS would have to maintain a dual regulatory system		
4. Organizational Location	A. DEP	a. regulatory functions would be under the jurisdiction of DEP	- citizen	Option C.
	B. DCP	b. regulatory functions would be under the jurisdiction of DCP	- occupation - government structure	
	C. DOHS	c. regulatory functions would remain within DOHS		

ISSUES	OPTIONS	PRINCIPAL IMPACT	GENERAL IMPACT	STAFF RECOMMENDATION
5. Automatic Licensing of Plumbers	A. Continue	a. plumbers would be automatically licensed	- citizen	Option B.
	B. Eliminate	b. plumbers would be required to pass S/S/D/S exam before being licensed	- occupation - government structure	
	C. Modify (e.g. require S/S/D/S exam content on plumber's exam)	c. plumber's exam would have to be changed		
6. Recourse for consumers	A. Maintain pre-sent sanctions	a. no change	- citizen	A Combination of Option A, C & D.
	B. Allow regulatory entity to impose civil fines	b. administrative mechanisms for imposing civil fines would have to be established	- occupation - government structure	
	C. Mandate a warranty period for S/S/D/S	c. a written contract would be required		
	D. Require installer to inform customer <u>in writing</u> that he may seek redress from the regulatory agency	d. a written statement would be required		

## SUNSET REVIEW - 1981

## SUBSURFACE SEWAGE INSTALLERS AND CLEANERS

## Review Framework

INSTRUCTIONS: For each question, please circle the number to the left of the most appropriate response. Please choose only one response--choosing more than one will invalidate the entire response.

Please feel free to provide additional comment on either a specific question or the field in general. Such comment may be included directly on the questionnaire or in a separate attachment.

What is your occupation? \_\_\_\_\_

1. On a scale from 1 = Very Important to 4 = Not Important, how would you rate the following reasons for continuing the Board?

Very Important		Not Important		
1	2	3	4	
3	1	1	0	To maintain identity of subsurface sewage installers and cleaners
2	3	0	0	To judge qualifications of applicants
3	1	0	1	To approve training courses for subsurface sewage installers and cleaners
4	1	0	0	To provide expertise during the complaint process
3	1	1	0	To provide a forum for discussion
3	1	1	0	To provide expertise into the development of regulations
1	0	0	4	To lobby the legislature on behalf of subsurface sewage installers and cleaners
3	2	0	0	To provide continuous review of entry standards
4	1	0	0	To protect the public from incompetent installers and cleaners
2	2	1	0	To protect the public from the risks of improper installation or cleaning of a subsurface sewage system

2. How important is the Board's role in carrying out the following functions?

Very Important		Not Important		
1	2	3	4	
4	0	1	0	To establish entry requirements for the profession
2	2	1	0	To decide who meets a given set of entry requirements
3	2	0	0	To provide an examination for qualified applicants to insure a minimum level of competence
2	0	2	1	To decide if out-of-state applicants meet Connecticut's standards
3	1	0	1	To receive complaints
3	1	0	1	To hear complaints and impose disciplinary sanctions
2	2	1	0	To revoke or suspend a license
3	1	0	1	To informally resolve complaints

3. What is the Board's primary role in each of the following functions?  
(Circle the most appropriate answer)

Initiate Action	Review DOHS Proposal & Advise	Not Involved	
1	2	3	
2	1	0	To establish entry requirements for the profession
4	0	0	To decide who meets a given set of entry requirements
3	1	0	To provide an examination for qualified applicants to insure a minimum level of competence
3	1	0	To decide if out-of-state applicants meet Connecticut's standards
2	1	1	To receive complaints
3	1	0	To hear complaints and impose disciplinary sanctions
3	1	0	To revoke or suspend a license
2	1	1	To informally resolve complaints

4. How effective is the Board in carrying out the following functions? (Circle the most appropriate answer)

Very Effective		Not Effective		
1	2	3	4	
1	2	2	0	To establish entry requirements for the profession
3	2	0	0	To decide who meets a given set of entry requirements
3	1	1	0	To provide an examination for qualified applicants to insure a minimum level of competence
3	0	2	0	To decide if out-of-state applicants meet Connecticut's standards
1	2	0	1	To receive complaints
2	2	0	0	To hear complaints and impose disciplinary sanctions
2	0	2	0	To revoke or suspend a license
1	3	0	1	To informally resolve complaint

5. What is the Board's primary source of information? (Circle only one)

- 3 DOHS staff
- 0 Board members
- 0 Professional input (associations or individuals)
- 0 Literature (professional journals, books, etc.)

6. To what degree would the following increase or decrease if subsurface sewage installers and cleaners were not regulated?

Significant Increase		No Change	Significant Decrease			
1	2	3	4	5		
0	1	1	2	1	Quality of the environment	
0	1	1	2	1	Prevention of health hazards	
0	0	3	1	1	Incidence of public disease	
1	1	1	1	1	Economic harm to public	
1	2	1	0	1	Violation of public health code regulations	
1	2	0	1	1	Poor workmanship	
0	0	0	0	0	Other (specify) _____	

7. In your opinion, the current entry requirements --

- 2 Are not restrictive enough
- 3 Accurately reflect the needs of the occupation
- 0 Are overly restricting entry into the occupation

8. Should installation and cleaning of subsurface sewage systems be restricted to licensed individuals only?

- 5 Yes
- 0 No

9. Should installation and/or cleaning businesses be licensed also? (Currently only the actual workers need to be licensed)

- 2 Yes
- 3 No

10. How would you rate the Board's success in preventing the improper installation of subsurface of sewage systems?

Excellent	Good	Fair	Poor
0	4	1	0

11. When reviewing applicants, what importance do you give to the following criteria in considering licensing eligibility?

Very Important		Not Important		
1	2	3	4	
1	2	2	0	Practical experience
0	1	0	4	Institutions attended
0	2	2	1	Educational background
1	3	1	0	Moral character
0	0	2	3	Age
4	1	0	0	Examination score

12. Would public health or safety be significantly endangered if the subsurface sewage installers and cleaners were not licensed?

- 2 Yes
- 3 No

13. Do any of the following impede the Board's operation?

<u>Yes</u>	<u>No</u>	
2	3	Unclear Statutes
1	4	DOHS
1	3	Inadequate funding
1	0	Other (specify) <u>Automatic Licensing of</u> <u>Plumbers</u>

14. How often do Board members receive material (e.g. agendas, applications, complaints) prior to Board meetings?

2	Almost always
2	Sometimes
0	Rarely

15. Rate the materials you receive prior to the meeting based upon the following criteria

<u>Excellent</u>		<u>Poor</u>		
<u>1</u>	<u>2</u>	<u>3</u>	<u>4</u>	
1	2	1	0	Timeliness
4	0	0	0	Clarity
3	1	0	0	Completeness
3	1	0	0	Relevance

16. How would you characterize the services provided the Board by the DOHS?

2	Excellent	0	Fair
3	Good	0	Poor

17. Could the DOHS assume the functions of the Board?

3	Yes	1	No
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18. To your knowledge, how many complaints has the Board reviewed in the past two years

Number Individual responses: 15, 27, 20, 24

19. How many disciplinary actions has the Board taken against subsurface sewage installers and cleaners in the past two years?

Revoke license - # 0, 0, 5, 0

Suspend license - # 6, 1, 0, 6

Informal Resolution of Complaint - # 15, 20, 20, 0

20. To what degree would greater public participation increase the Board's effectiveness?

0 Substantially

3 Moderately

2 Not at all

21. To what extent has the Board actively encouraged public participation?

0 Frequently 3 Rarely

0 Occasionally 1 Never

22. How does the Board notify the public of its meetings?

0 Newspapers

2 Legal notifications (Secretary of State)

2 Professional association newsletter

1 Other (specify) Not known

23. How many years have you served on the Board? 2, 1, 4, 8, 6 Years

24. What percentage of the Board's meetings do you attend?

3 100% 0 25-49%

2 50-99% 0 less than 25%

25. On a quarterly basis, how much time outside Board meetings do you spend on Board related business?

2 0-4 hours 0 9-16 hours

1 5-8 hours 1 17 plus hours

## Appendix D

### Legislative Changes

Repeal Section 20-341b of the Connecticut General Statutes to eliminate the state board of subsurface sewage disposal system examiners.

Amend Section 20-341c and 20-341d of the Connecticut General Statutes to allow the Department of Health Services to assume powers and duties previously vested in the board.

Amend Section 20-341f of the Connecticut General Statutes to eliminate the automatic licensing of plumbers but allow plumbers to automatically qualify to take the examination.

Add a new section to Chapter 393a of the Connecticut General Statutes to require installers and cleaners to inform the customer in writing that redress may be sought from the appropriate regulatory agency.

