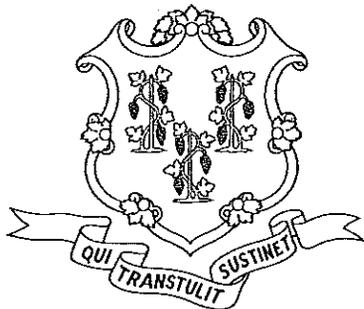


# Commission of Pharmacy

Connecticut  
General Assembly



LEGISLATIVE  
PROGRAM REVIEW  
AND  
INVESTIGATIONS  
COMMITTEE

## SUNSET 1982

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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## PHARMACY COMMISSION

### SUMMARY

In 1881, Connecticut established a Commission of Pharmacy composed of three members appointed by the governor. The commission's major responsibility was to issue licenses to those who met the requirements. The commission was given the power in 1887 to investigate wrongdoing on the part of pharmacists, and suspend or revoke licenses if a violation was found. In 1909, the requirement to register pharmacies was added to the licensing law. Each pharmacy had to be supervised by a registered pharmacist.

In 1947, Connecticut changed its licensing law to require all candidates wishing to sit for the pharmacist's exam to have either successfully completed a recognized college of pharmacy program or held an assistant pharmacist license in Connecticut for ten years, and for three years directly prior to applying for the license, have been actively engaged in the practice of pharmacy.

The Commission of Pharmacy remained independent until 1959, when it was placed under the newly created Department of Consumer Protection. In 1977, the Executive Reorganization Act changed the membership of the commission, replacing two pharmacists with public members and transferring authority to employ personnel for inspections to the department.

The Commission of Pharmacy is currently located within the Department of Consumer Protection, which controls the commission's budgets and staff. For the fiscal years 1979-80 and 1980-81, the commission's expenses were \$87,769 and \$69,592, respectively. During FY 1979-80, the commission realized \$154,615 from various licensing and permit fees.

The current six member commission is comprised of four pharmacists, including one employed full-time in a hospital, and two public members. The commission is charged with a number of powers and duties to fulfill its purpose of regulating the practice of pharmacy. The most important of these functions are: to establish minimum requirements for licensure, to approve the issuance of licenses, to issue permits to patent medicine stores, and to conduct disciplinary hearings and impose sanctions.

In fiscal year 1979-80, the Commission of Pharmacy approved the issuance of 3,117 pharmacists' licenses and 13 assistant

pharmacists' licenses. In addition, 692 pharmacy licenses and 2,476 patent medicine store permits were issued. The commission also conducted 31 compliance hearings, held 5 formal hearings, and handed out 29 letters of warning and 62 letters of advisement. The commission also suspended four licenses and one license was voluntarily surrendered.

The Legislative Program Review and Investigations Committee examined a variety of issues relating to both the Commission of Pharmacy and the practice of pharmacy generally. The following is a summary of the analysis of those issues, along with the resulting recommendations.

#### Existence of the Commission

The committee acknowledges that there is a need to regulate the practice of pharmacy, since the public's health and safety could be endangered if a pharmacist was negligent or incompetent. The committee's analysis then focused on whether the Commission of Pharmacy is necessary to oversee the practice, or if its functions should be transferred to another state agency or program. The committee's analysis showed that in conducting formal hearings and imposing disciplinary sanctions a comprehension of the practice of pharmacy is necessary. A majority of the members of the commission are pharmacists who possess this technical expertise.

Another measure used by the committee to evaluate the effectiveness of the pharmacy commission was a survey of a randomly selected sample of pharmacists licensed in Connecticut. An average of 89 percent of those who responded stated they were satisfied with the commission's performance of its functions. Based on the foregoing, *the Legislative Program Review and Investigations Committee recommends that the Commission of Pharmacy be continued.*

#### Composition of the Commission

Currently there is no practicing retail/community pharmacist represented on the commission. This poses a severe drawback considering 85 percent of the pharmacists in Connecticut are employed in retail pharmacies. Further, the statute requires that a pharmacist employed full-time in a hospital be represented. The committee felt a similar mandate for community/retail pharmacists would be beneficial.

*Therefore, the Legislative Program Review and Investigations Committee recommends that the membership of the Commission of Pharmacy be changed to statutorily require that no less than two of the four pharmacists' representatives be community/retail pharmacists.*

### Regulation of Patent Medicine Stores

Connecticut is one of 18 states which charges a registration fee for patent medicine stores. The state regulations require that these stores maintain standards of cleanliness and order, meet requirements for displaying patent medicines, and have the permittee in the store a substantial part of the day. However, committee analysis revealed that inspections are seldom made and complaints are rarely received. Further, federal law governs the labeling and efficacy requirements of such nonprescription drugs.

*In light of these facts, the Legislative Program Review and Investigations Committee recommends that the regulation for the sale of patent medicines and the registration of patent medicine stores be discontinued.*

### Updating of Statutes and Regulations

In separate questionnaires sent to commission members and to a random sample of pharmacists, a majority of those responding to both instruments indicated that outdated statutes and regulations relating to pharmacy are a severe problem. While much of this problem is due to antiquated language, conflicts in jurisdiction and outright errors do exist in both the statutes and regulations.

*Based on this information, the Legislative Program Review and Investigations Committee recommends that the commissioner of consumer protection appoint a committee, staffed by a member of the Department of Consumer Protection's legal division, to review all statutes and regulations pertaining to the practice of pharmacy for purposes of updating and removing conflicts. The report of this committee should be submitted to the legislature by January 1, 1983.*

### Criteria for Licensing Out-of-State Applicants

The Legislative Program Review and Investigations Committee examined the procedure the Commission of Pharmacy uses to license out-of-state applicants. The committee determined that the major consideration for any type of licensure, whether the applicant be from out-of-state or not, should be competence and not whether that state grants the same privileges to Connecticut.

Further, the Legislative Program Review and Investigations Committee adopted certain criteria in its 1980 sunset report related to licensing out-of-state applicants, and the committee reiterates those same requirements in this review.

Applicants Licensed in Other States. If an applicant is licensed in another state, the department shall issue a license to the applicant upon evidence that:

- 1) The applicant is a currently practicing, competent practitioner;
- 2) The applicant currently holds a valid license in another state;
- 3) No disciplinary proceeding or unresolved complaint is pending anywhere at the time the license is to be issued by this state;
- 4) The licensure requirements in the other state are substantially similar to or higher than those required by this state;
- 5) The applicant has submitted a fee determined by the department; and
- 6) The applicant has taken the Connecticut law portion of the pharmacy exam.

#### Business Practices

The committee's evaluation of the statutes and regulations concerning pharmacy shows that in some cases these requirements relate to neither the protection of public health and safety nor to an economic benefit to the consumer. Where neither criterion was met, the committee determined that there was no need for the statute or regulation to exist.

The above rationale led the LPR&IC to recommend repeal of the following regulations pertaining to business practices: Section 20-175-30 -- Pharmacy sign; Section 20-175-37 -- Certificate of fitness for issuance of druggist liquor permit; and Section 20-175-38 -- Advertising of alcoholic liquor.

#### Compliance Inspections

The compliance inspections of pharmacies are currently conducted by the Drug Control Unit of the Department of Consumer Protection, which also performs investigations into alleged violations. The committee considered whether to transfer the compliance inspection function to the pharmacy commission or maintain the current practice.

Several factors were discussed before the committee reached its decision. First, while one purpose of compliance inspections is to educate the pharmacist, the other is to identify trouble spots or potential violations and follow up on them. Second, because few violations originate through consumer complaints, the compliance inspection is an important tool in detecting violations. Finally, the total separation of the inspection and investigation function from the pharmacy commission is ideal, since the commission serves as the formal hearing structure.

Based on these factors, *the Legislative Program Review and Investigations Committee recommends that the Drug Control Unit of the Department of Consumer Protection continue to conduct all routine compliance inspections and report violations to the Commission of Pharmacy.*

### Reduction of Unnecessary Paperwork

Several sections of the statutes were cited by the Connecticut Pharmaceutical Association as being unnecessarily burdensome, creating needless paperwork, and having no safety or economic benefit to the consumer. After examining the statutes in question, the committee agreed that the requirements appeared problematic. *Therefore, the Legislative Program Review and Investigations Committee recommends the following legislative changes:*

1) *Date to be placed on label of prescription bottle:*

*Amend Section 19-228 to read "date of filling or refilling of such prescription" and amend Section 19-463(b) to read "date of filling or refilling."*

2) *Filing of controlled substance prescriptions:*

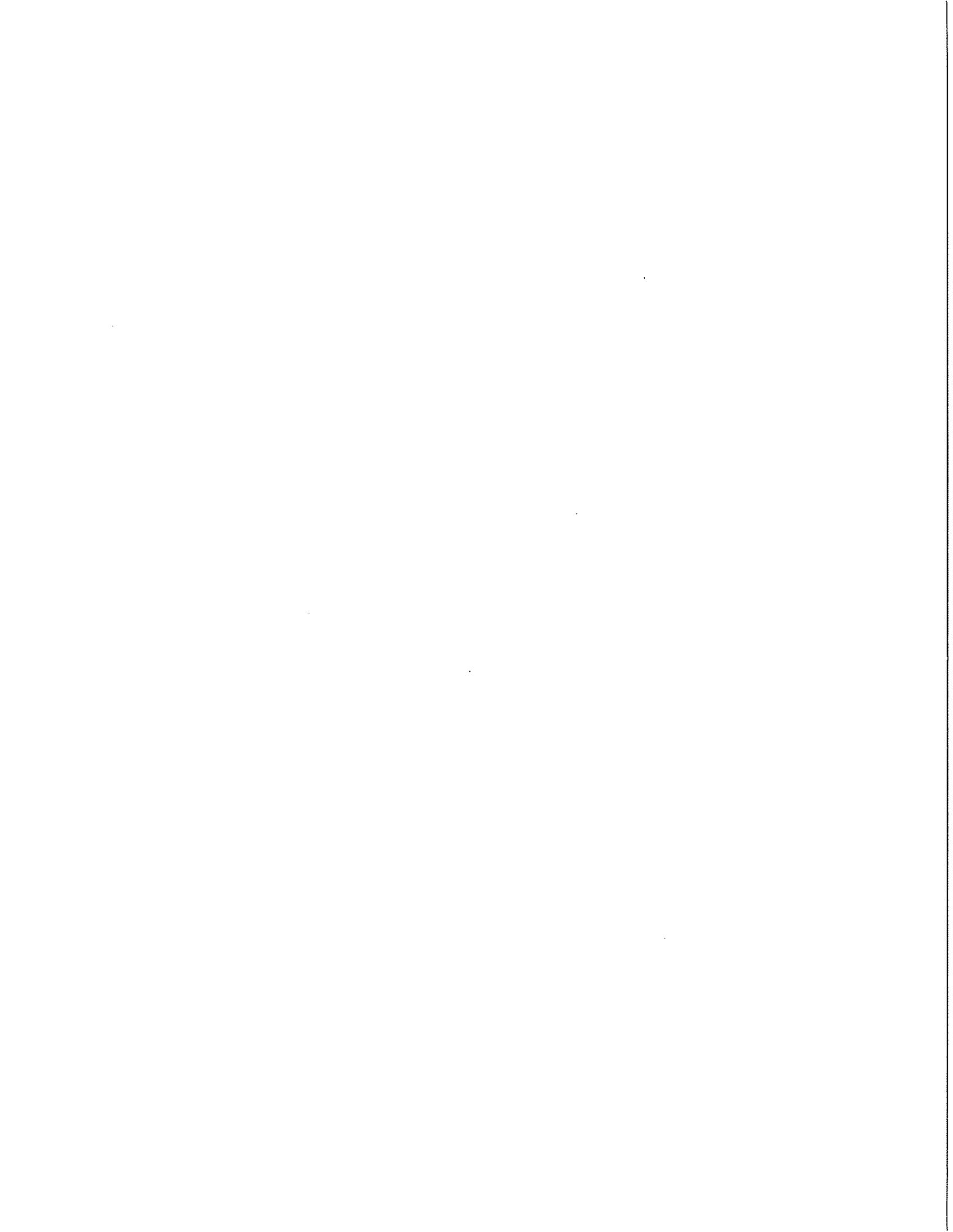
*Repeal Section 19-457(g) to allow pharmacists the flexibility in filing that the Federal Controlled Substance Act allows.*

3) *Dating and initialling of refills:*

*Amend Section 19-458 to delete the requirement that the date of refilling be "written."*

*Delete requirements from Section 20-184b and amend Section 19-457(a) to require that no prescription blank containing a prescription for a Schedule II substance shall contain more than one prescription.*

*Amend Section 19-463(b) to delete the requirement for the physician's "full" name, and require only the last name to be used.*



## 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 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 contained in section 2c-7, 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 sixteen entities and programs scheduled to terminate July 1, 1982. Contained in this report to the General Assembly is the result of the committee's review of the Commission of Pharmacy.

### Methodology

The Legislative Program Review and Investigations Committee's sunset review was divided into three phases. The initial step focused on collecting quantitative and qualitative data related to each entity's background, purpose, powers, duties, costs, and accomplishments. Several methods were used by committee members and staff to obtain this information. These include: (1) a review of statutes, transcripts of legislative hearings, entity records (including minutes, complaint files, test results and reports), and data and statutes of other states; (2) staff observations of numerous meetings held by each entity between January and August of 1981; (3) surveys of persons connected with each entity; (4) formal and informal interviews of selected individuals serving on, staffing, affected by, or knowledgeable about each entity; and (5) testimony received at public hearings.

During the second phase, the staff organized the information into descriptive packages and presented them to the committee. The presentations took place in public sessions designed to prepare committee members for the hearings, identify options for exploration, and alert entity officials to the issues the committee would pursue at the hearings. Seven public hearings concluded this phase.

The final step of the review involved committee members and staff following up on and clarifying issues raised at briefings and public hearings. During this period, the staff prepared decision papers and presented recommendations to the committee. The committee, in public sessions, then debated and voted upon recommendations for the continuation, termination or modification of each entity.

## BACKGROUND

### Legislative History

The Commission of Pharmacy was established in 1881 and consisted of three members--one reputable physician and two pharmacists--to be appointed by the governor for three-year terms from a list of six persons submitted by the Connecticut Pharmaceutical Association. The commission was to keep records of its meetings which by statute were to be held at least four times a year. The commission was responsible for issuing licenses to those candidates who possessed: "a diploma, granted by some reputable college of pharmacy, or [a] certificate of some reputable pharmacist [stating] that the applicant had, for not less than three years prior to his application, received instruction in pharmacy, and possesses the necessary qualifications of a pharmacist, or by other satisfactory evidence."<sup>1</sup>

The cost for obtaining an initial license was set at \$3 while a renewal license cost \$2. Each of the commissioners was paid \$300 annually as compensation for services.

In 1882, the commission issued regulations concerning the sale of certain drugs, specifically requiring that poisons be labeled as such and when sold, that a record be kept. These records were to be deposited with the town clerk. The commission's power was extended in 1887 to include examinations of all cases of alleged abuse, fraud, or noncompliance with the provisions set by the commission, and where wrongdoing was found, to suspend or revoke licenses.

The Commission of Pharmacy was expanded to five members in 1902, adding two more pharmacists to the body, each of whom was required to have at least 10 years experience. That year, the commission was given the authority to hire an attorney for prosecuting violations against provisions overseen by the commission.

In 1909, the commission also established requirements for the registration of pharmacies. The stipulation for registration was that the pharmacy had to be in the charge of a registered pharmacist. The pharmacy commission also began reviewing applications for certificates to sell intoxicating liquors in pharmacies in 1909. To be granted such a certificate, the pharmacist had to be in good standing. The commission had the power to revoke licenses if violations of the law relating to

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<sup>1</sup> Connecticut Public Acts, 1881-1885, Chapter CXXII, pp. 71-72.

intoxicating liquors took place. The commission's authority was also expanded in 1909 so that it could hire staff to inspect licenses and pharmacy premises.

A number of changes in the licensure of pharmacists/pharmacies occurred between 1918 and 1925. In 1918, practicing physicians were exempted from the requirement for licensure; in 1921, pharmacists were given the right of appeal if their license was either suspended or revoked; and in 1925 use of the word "pharmacy" or any synonym was prohibited unless a licensed pharmacist was in charge.

In 1947, the Connecticut General Assembly passed Public Act 209, altering the licensing law. The act stated that in order to be eligible to sit for the pharmacist examination, each candidate had to meet one of the following:

- successful completion of a recognized college of pharmacy program approved by the commission and one year of practical experience; or
- have held an assistant pharmacist license in Connecticut for ten years and, for three years directly previous to applying for this license, have been actively engaged in the practice of pharmacy.

Another act (P.A. 354), also passed in 1947, raised the commissioners' compensation to \$500 each for regular members and \$1,500 for the chairman.

In 1959, two major changes took place affecting the practice of pharmacy. First, Public Act 412 placed the Commission of Pharmacy under the Department of Consumer Protection for fiscal and budgetary purposes, and gave the commissioner of that department authority to supervise the commission's operations. Second, Public Act 616, which dealt with a wide variety of professional and occupational boards, including the Commission of Pharmacy, raised the fees for most permits, certificates, and licenses.

The commission's membership was altered substantially when Public Act 69-593 expanded commission membership from five to six members, including five pharmacists licensed for at least ten years, and one licensed pharmacist employed in a hospital. In 1975, Public Act 254 authorized the Commission of Pharmacy to compel the production of documents and witnesses. The act also required that the commission submit its annual report to the

commissioner of consumer protection rather than to the governor.

The Executive Reorganization Act of 1977 had a major impact on the Commission of Pharmacy. It changed the composition by replacing two of the pharmacists with public members. Public Act 77-614 also diminished the authority of the commission where the adoption of regulations was concerned. The commission was limited to advising the commissioner of consumer protection on regulations affecting pharmacy. This legislation also gave the commissioner consent authority over the examinations for pharmacists required by the commission.

Executive reorganization also removed from the commission, and placed within the Department of Consumer Protection, the authority to employ personnel to inspect all licensed pharmacies, institutional pharmacies and other places in which drugs, medicines or poisons are compounded, dispensed or retailed. Another act also passed in 1977 (P.A. 79), limited the number of terms a commissioner could serve to two full six-year terms.

#### Nature of the Profession

The practice of pharmacy as defined by the National Association of Boards of Pharmacy includes:

the interpretation and evaluation of prescription orders; the compounding, dispensing [and] labeling of drugs and devices (except labeling by a manufacturer, packer or distributor of Non Prescription Drugs and commercially packaged legend drugs and devices); the participation in drug selection and drug utilization reviews; the proper and safe storage of drugs and devices and the maintenance of proper records therefore; the responsibility for advising, where necessary or where regulated, of therapeutic values, content, hazards and use of drugs and devices; and the offering or performing of those acts, services, operations or transactions necessary in the conduct, operation, management and control of pharmacy.<sup>2</sup>

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<sup>2</sup> Model State Pharmacy Act and Model Regulations, National Association of Boards of Pharmacy (Chicago: NABP, 1979) p.2.

While Connecticut law does not define the practice of pharmacy per se, the statute does outline two levels of licensure--pharmacist and assistant pharmacist--and what duties each is allowed by law:

licensed pharmacist--"may have charge of, engage in or carry on, for himself or another, the dispensing, compounding or sale of drugs, medicines or poisons during the period of one year following the date of his license, but no pharmacist shall have personal supervision of more than one pharmacy or drug store at the same time."<sup>3</sup>

assistant pharmacist--"may be employed for the purpose of dispensing, compounding or retailing drugs, medicines or poisons in a licensed pharmacy under the management and direction of a licensed pharmacist or during his temporary absence."<sup>4</sup>

Connecticut no longer issues new licenses at the assistant pharmacist level, but it still issues renewals at that level.

### Structure

The Connecticut Commission of Pharmacy is located within the Department of Consumer Protection. The commission is composed of the following six members, appointed by the governor: three licensed pharmacists; one licensed, practicing pharmacist employed on a full-time basis in a licensed hospital; and two public members. To be eligible for appointment, the three licensed pharmacists must have ten years experience in pharmacy practice, and at the time of appointment, must be actively engaged in the practice of pharmacy.

While the commission is not independent, it does have an executive secretary and a secretary. In addition, an assistant executive secretary is assigned to the commission from the Drug Control Unit of the Department of Consumer Protection.

### Purpose, Powers and Duties

The general purpose of the Commission of Pharmacy is to oversee the practice of pharmacy through regulation, advice and controls. To fulfill this purpose, the commission is statutorily

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<sup>3</sup> General Statutes of Connecticut, Section 20-178.

<sup>4</sup> Ibid.

empowered to perform the following functions:

- advise and assist the commissioner of consumer protection in the adoption of regulations for performance of its duties and for conduct of the business of retailing or dispensing drugs, medicines and poisons;
- present an annual report to the commissioner of consumer protection of its activities, including a statement of its receipts and expenditures during the preceding year;
- keep a record of its official proceedings and a copy of any such records shall be certified by the executive secretary to the commission;
- establish minimum requirements for the licensing of pharmacies and pharmacists;
- review applications for pharmacies and pharmacists and approve the issuance of licenses to those deemed qualified;
- approve recognized colleges of pharmacy;
- issue permits to patent medicine stores;
- conduct hearings on any matter within its statutory jurisdiction (in connection with any such hearing, the commission may administer oaths, issue subpoenas, compel testimony, and order the production of books, records and documents); and
- request the commissioner of consumer protection to conduct an investigation and make findings and recommendations regarding any matter within the statutory jurisdiction of the boards.

#### Fiscal Information

The Commission of Pharmacy has no budget of its own, but its expenditures are accounted for in the Department of Consumer Protection's budget. The department supplied the following figures on the commission's expenses for the last two fiscal years.

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Table I-1. Commission of Pharmacy--Fiscal Years 1979-1980 and 1980-1981.

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	<u>FY 1979-80</u>	<u>FY 1980-81</u>
Board Expenses	\$ 5,352	\$ 5,029
Staff Expenses	68,755	42,956
Other Expenses	9,295	13,607
Administrative Expenses	<u>4,367</u>	<u>8,000</u>
Total Expenses	\$87,769	\$69,592

Source: Department of Consumer Protection

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The fee schedule for licenses and permits issued by the Commission of Pharmacy is contained in Table I-2. Revenues derived from fees totaled \$154,615 during the 1979-80 fiscal year.

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Table I-2. Commission of Pharmacy--Fee Schedule.

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Patent Medicine Store Permits:	Initial - \$35.00
	Renewal - \$25.00
Pharmacy License:	Initial - \$200.00
	Renewal - \$ 50.00
Pharmacist License	Initial - \$50.00
	Renewal - \$15.00
Reciprocity:	\$50.00
Apprentice Registration:	\$10.00

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## ACTIVITIES

The commission is statutorily required to meet quarterly; however, the commission meets monthly at its offices in the State Office Building in Hartford. Average attendance at meetings is five members.

The commission is primarily involved in licensing pharmacies, pharmacists and handling complaints. A description of the commission's role in all three activities is contained in the following sections.

### Licensure of Pharmacies

To obtain a license for a pharmacy, an applicant must prove to the commission that the pharmacy will be under the supervision of a licensed pharmacist and that it meets all regulations established by the commissioner of consumer protection. A \$200 initial licensing fee must also be paid. In order to verify compliance with the regulations, the applicant must appear before the pharmacy commission and submit a copy of the floor plans for the commission's approval.

### Licensure of Pharmacists

To be eligible to sit for the licensing examination, a candidate must be at least 18 years of age and possess the following:

- good moral character;
- a degree from a recognized college of pharmacy approved by the commission, and one year or more of practical experience; or
- ten years as a licensed assistant pharmacist in the state, with the three years prior to applying for licensure, spent actively practicing pharmacy.

The examination for licensure consists of two major parts. Connecticut, along with 46 other states utilizes the National Association of Boards of Pharmacy licensure examination as the written theoretical segment. The other portion involves oral, practical and Connecticut law components, developed and administered by the commission staff.

Table II-2 indicates the number of licenses and permits which were issued during the 1979-80 fiscal year.

Table II-2. Commission of Pharmacy--Licensing Activities.

<u>License/Permit</u>	<u>Initial</u>	<u>Renewal</u>	<u>Total</u>
Pharmacy	15	677	692
Pharmacists	97	3,020	3,117
Assistant Pharmacist		13	13
Patent Medicine	315	2,161	2,476
Apprentice Registration	117	-	117
Reciprocity Licenses	51	-	51

#### Complaint Procedure

The Commission of Pharmacy handles its complaints differently than most other licensing boards. Most alleged violations are reported, not by the consumer, but as a result of inspections conducted by the Drug Control Unit of the Department of Consumer Protection. The violations found on these inspections are then reported to the Commission of Pharmacy. The commission, at its regular business meetings, schedules monthly compliance hearings to consider the alleged violations cited in each report.

The purpose of the compliance hearing is to make a recommendation as to whether the violation warrants a formal hearing or not. The compliance hearing is held by two commission members, appointed by the chairman. The compliance officers hear the evidence both for and against the licensee(s). The compliance officers do not make decisions on the disposition of the case but rather report back to the full commission with a recommendation to: dismiss the case because of a lack of evidence; send a letter of advisement or warning, depending on the seriousness of the violation; or hold a formal hearing. Based on a review of the 1980 commission minutes, the commission has always accepted the report of the compliance officers.

The formal hearings are held on the same day as the commission's regular business meeting. The formal hearing is conducted by all commission members, except for the two who served as compliance officers on that particular case, and who refrain

from discussing or voting on the case. The formal hearings often have to be continued for more than one day. The assistant attorney general assigned to the commission always attends the hearings and all proceedings are recorded for public record. Table III-1 outlines the number of hearings held by the commission, and how the cases were disposed.

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Table II-3. Commission of Pharmacy--Hearings and Disposition.

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<u>Hearings</u>	<u>Disciplinary Action</u>
31 Compliance	29 Letters of Warning
5 Formal	62 Letters of Advisement
	4 Licenses Suspended
	1 License Surrendered

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#### Other Duties

Another major activity the Commission of Pharmacy is involved with is the supervision of the intern or apprenticeship program. As was indicated earlier, one of the requirements for licensure is that the candidate must have one year of practical experience. The regulations require that this internship training must be gained in a retail or hospital pharmacy licensed in Connecticut and must be done under the supervision of a licensed pharmacist or "preceptor." The current regulations require that at least half of the 2,000 hours of needed experience must be gained after graduation from an accredited pharmacy program. The intern must register with the Commission of Pharmacy so that on-site inspections can be made to verify the training of each intern. A fee of \$10 must accompany each application for apprenticeship registration.

Recently, the commission has also appointed two of its members to serve as delegates on the Tripartite Committee, made up of representatives of the Connecticut Pharmaceutical Association, the University of Connecticut School of Pharmacy, and the commission. The committee's mission is to study issues relating to the practice of pharmacy, make recommendations for improving the practice, and introduce legislation relevant to the practice of pharmacy.

The Commission of Pharmacy also assists in administering the written portion of the national examination, which is held twice a year. Commission members take an active role in helping to supervise the candidates, although the exams are processed and evaluated by the national association. The grades are received by the commission so that members can verify that each candidate has actually passed the examination with the required score as set in regulation.

## ANALYSIS AND RECOMMENDATIONS

### Existence of the Commission of Pharmacy

The Legislative Program Review and Investigations Committee determined the potential danger to public health and safety is significant in the practice of pharmacy, therefore, there is a need to ensure that only competent and knowledgeable persons are allowed to engage in the profession. The committee believes there is also a need to ensure that standards of competence are maintained, and where malfeasance or neglect is found, that the practitioner will be disciplined. For these reasons, the Legislative Program Review and Investigations Committee acknowledges that there is a public need to regulate the practice of pharmacy.

The committee then concentrated its examination on whether there was a need to retain the Commission of Pharmacy, or whether another state agency or program could assume the commission's regulatory functions.

One of the major activities of the pharmacy commission is to serve as a hearing mechanism and impose disciplinary sanctions. The vast majority of the cases the commission deals with involve some aspect of drug dispensing and often technical expertise is necessary to fully comprehend the violation that has occurred. The commission is composed of a majority of members who possess such expertise.

The committee realized that the separation of the investigation phase carried out by the Drug Control Unit from the hearing stage conducted by the pharmacy commission is ideal. To terminate the commission would jeopardize this separation of authority.

The need to continue the pharmacy commission was further substantiated by the responses to a questionnaire the Legislative Program Review and Investigations Committee sent to a random sample of licensed pharmacists in Connecticut. For example, as the question below indicates, an average of 89 percent of the respondents are satisfied with the way the commission performs its functions.

*Are you satisfied with the Commission of Pharmacy's performance of the following functions? If you are satisfied, circle yes; if you are dissatisfied, circle no. If you have no opinion on the activity, please circle N/A indicating no answer.*

	<u>Yes</u>	<u>No</u>	<u>N/A</u>
<i>Providing advice and assistance to the Commissioner of Consumer Protection on the adoption of regulations for the practice of pharmacy in the state</i>	40	0	3
<i>Establishing minimum requirements for the licensing of pharmacies and pharmacists</i>	40	1	2
<i>Reviewing applications for pharmacies and pharmacists and issuing licenses to those deemed to be qualified</i>	38	1	4
<i>Approving recognized colleges of pharmacy</i>	40	0	3
<i>Adjudicating complaints, and determining appropriate discipline</i>	40	1	2
<i>Other (please specify) Provides public unmeasured security in the fact that practice of pharmacy is under constant scrutiny (1); Very helpful in every way (1); Controlling and regulating people in their profession (1).</i>	3	0	40

*As a result of these factors, the Legislative Program Review and Investigations Committee recommends that the Commission of Pharmacy be continued.*

The committee discussed where the commission would be most appropriately located. The options focused on whether to transfer it to the Department of Health Services or to continue it in the Department of Consumer Protection. The committee heard differing opinions on the two options throughout this review.

At the public hearing held on August 28, 1981, the Connecticut Pharmaceutical Association, the Connecticut Society of Hospital Pharmacists and the University of Connecticut School of Pharmacy all testified that the Commission of Pharmacy should be located in the Department of Health Services. The reasons cited for transferring the commission were that no other health professional board is located in the Department of Consumer Protection and that the practice of pharmacy is a health profession and, therefore, should be situated in the Department of Health Services with the other health professional boards. The Connecticut Pharmaceutical Association stated "...the interaction on a daily basis with other health professionals dictate(s) that the Commission of Pharmacy should be part of the Department of Health Services."<sup>6</sup>

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<sup>6</sup> Written testimony, Connecticut Pharmaceutical Association, August 28, 1981, p. 3.

On the other hand, the Connecticut Retail Merchants Association, the Proprietary Association and the Department of Consumer Protection all testified that the pharmacy commission should remain in its current location. The advocates for retention in the Department of Consumer Protection stated that the pharmacy commission is working effectively and having the Drug Control Unit and the Commission of Pharmacy in the same department is ideal. In addition, the Proprietary Association representative who testified at the August 28 public hearing said:

the Department (of Consumer Protection) is also dealing with the retail sale of commodities to consumers in an area which is represented by a great deal of economic competition. It prevents a problem found in other states and the federal government where, frankly, regulating agencies are too often found to represent rather than impartially regulate the industries that they are required to oversee.<sup>7</sup>

This notion that the practice of pharmacy is not totally a health profession is underscored by the fact that approximately 85 percent of the pharmacists in Connecticut are employed in retail pharmacies. As such, a large portion of the laws and regulations governing them concerns consumer issues. For example, legislation passed in Connecticut in 1973 and 1975 (P.A. 73-480, P.A. 75-95 and P.A. 75-543) require pharmacists to post charges for 100 common legend drugs as specified in regulation, identifying what those charges include. They also must disclose prices of drugs, medicines or chemicals to any prospective purchaser. Finally, research of the location of pharmacy boards throughout the country shows that of the 19 boards or commissions that are not independent, only three are located in a department of health.

After analyzing the issue, the committee felt it could not make a recommendation at this time. The committee was reluctant to move the pharmacy commission without the Drug Control Unit. However, the committee felt it could not transfer both entities because it was not sure of the full scope of the Drug Control Unit's functions and, therefore, could not forecast the repercussions such a move might have. The program review committee did acknowledge that the issue warrants further clarification

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<sup>7</sup> Mark Ugoretz, the Proprietary Association Public Hearing Testimony, August 28, 1981, p.58.

and suggested that the committee with jurisdiction examine the possibility of transferring both entities.

#### Composition of the Commission

The statute establishing the Commission of Pharmacy stipulates that four pharmacists must be represented on the commission. The law further requires one of the four pharmacists be employed full-time in a hospital. Currently, there is no practicing retail/community pharmacist represented on the commission. This situation limits the commission's perspective, posing a severe drawback, considering that a majority of pharmacists in the state are employed in community/retail pharmacies.

*To remedy this situation, the Legislative Program Review and Investigations Committee recommends that the membership of the Commission of Pharmacy be changed to statutorily require that no less than two of the four pharmacist representatives be community/retail pharmacists.*

#### Regulation of Patent Medicine Stores

Currently, those outlets that sell nonprescription or patent medicines and are not licensed pharmacies, must be registered with the Commission of Pharmacy.

These patent medicine stores are required by state regulations to maintain standards of cleanliness and order, meet requirements for patent medicine displays, and to have the permittee in the store a substantial part of the day. According to the Department of Consumer Protection, due to a lack of staff and resources, inspections of these outlets are seldom conducted so there is no indication whether compliance is being maintained. Further, the department's Drug Control Unit reports that complaints concerning these outlets are rarely received.

The fee of \$35 for an initial registration and \$25 for a renewal registration seem to be revenue-producing only, since no inspection or compliance checks are made. In addition, only 18 states, including Connecticut, charge such a registration fee for these patent medicine outlets. Finally, the U.S. Food and Drug Administration regulates patent medicines through labeling and efficacy requirements. Therefore, the public health and safety is protected beyond the state's involvement.

*In light of these facts, the Legislative Program Review and Investigations Committee recommends that the regulation for the sale of patent medicines and the requirement for registration of patent medicine stores be discontinued.*

## Updating of Statutes and Regulations

The statutes and regulations relating to the practice of pharmacy surfaced as a major problem during the committee's review. A questionnaire was distributed to members of the pharmacy commission, four of whom responded. In the question below--identifying the impediments to the commission's operations--outdated statutes and regulations are cited as the most severe impediment.

*What do you feel is the major impediment? If you choose more than one, please rate in order of severity (i.e., 1 = most severe; 2 = less severe, etc.).*

	<u>1st</u>	<u>2nd</u>	<u>3rd</u>
<i>Poor statutory definition of role and functions the commission is supposed to perform</i>		2	
<i>Department's interpretation of role and functions is too limited</i>			
<i>Lack of staff and funding to carry out the duties mandated by statute</i>	1	0	1
<i>The organizational location within the Department of Consumer Protection impedes the commission's effective operation</i>	0	1	0
<i>The statutes and regulations are too outdated; therefore, making the commission's task more difficult</i>	2	0	0
<i>Lack of participation on the part of some commission members</i>	0	0	2
<i>Lack of inspectors assigned to the Pharmacy Commission</i>			
<i>Other (please specify) _____</i>			

Further, in a survey sent to a random sample of pharmacists licensed in the state, those who responded that a problem exists with the updating of statutes and regulations, indicated that this problem is due to the commission taking too long to perform the function.

While much of this problem is due to antiquated language, and unused drugs that are still being listed, conflicts in jurisdiction and outright errors do exist. For example Section 19-504(a) and (b) of the Connecticut General Statutes, giving the Pharmacy Commission powers to conduct routine inspections of institutional pharmacies, is in conflict with Section 20-179, which states that the commissioner of consumer protection will employ personnel to inspect all licensed pharmacies, including institutional pharmacies. Further, the regulations regarding the fee schedule have not been updated for a number of years, even though there have been substantial changes made to the fees in statute.

A few years ago, a blue ribbon commission was established to update the statutes and regulations and the pharmacy commission was represented on this body. However, this commission could not reach consensus in certain areas and the group fell apart before fulfilling its purpose.

The Department of Consumer Protection representative at the August 28, 1981, public hearing testified that the department recognizes that a problem exists with the antiquated statutes and regulations. He added that it is a priority to have the department's legal section begin working with the commission to bring the laws up to date. On the basis of these facts, *the Legislative Program Review and Investigations Committee recommends that the commissioner of consumer protection appoint a committee, staffed by a member of the Department of Consumer Protection's legal division, to review all statutes and regulations pertaining to the practice of pharmacy for purposes of updating and removing conflicts. The report of this committee should be submitted to the legislature by January 1, 1983.*

#### Criteria for Licensing Out-of-State Applicants

The Legislative Program Review and Investigations Committee examined the procedures the Commission of Pharmacy uses to license those applicants already licensed in another state. The committee determined that criteria employed by the commission were too restrictive. For example, an applicant must appear before the commission, and must either be a state resident or plan to be employed in the state, in order to obtain a license. In addition, the state from which the candidate is applying must have a reciprocal agreement with Connecticut.

The Legislative Program Review and Investigations Committee determined that the criterion for licensure should be competence and not such requirements as stated above. It further believed staff of the commission could determine if all licensing requirements were met. The commission would be involved only if a

problem of documentation or credentials existed and not as a matter of routine.

The Legislative Program Review and Investigations Committee adopted certain reciprocity criteria in its 1980 sunset report and felt it would be appropriate to reiterate the same requirements for the Pharmacy Commission. *Therefore, the Legislative Program Review and Investigations Committee recommends: If an applicant is licensed in another state, the department shall issue a license to the applicant upon evidence that:*

- 1) the applicant is a currently practicing, competent practitioner;*
- 2) the applicant currently holds a valid license in another state;*
- 3) no disciplinary proceeding or unresolved complaint is pending anywhere at the time the license is to be issued by this state;*
- 4) the licensure requirements in the other state are substantially similar to or higher than those required by this state;*
- 5) the applicant has submitted a fee determined by the department; and*
- 6) the applicant has taken the Connecticut law portion of the pharmacy exam.*

### Business Practices

The Legislative Program Review and Investigations Committee examined the statutes and regulations relating to pharmacy to determine whether they met either of the following criteria: a need to protect the public's health and safety or a substantial economic benefit to the consumer.

Where neither of the criterion was met, the committee determined that the statute or regulation should be repealed. This action is in keeping with the general spirit of sunset and reiterates the committee's work of sunset 1980.

*Therefore, the Legislative Program Review and Investigations Committee recommends repeal of the following regulations pertaining to business practices: Section 20-175-30 -- Pharmacy Sign; Section 20-175-37 -- Certificate of fitness for issuance of druggist liquor permit; and Section 20-175-38 -- Advertising of alcoholic liquor.*

## Compliance Inspections

Currently, the Drug Control Unit within the Department of Consumer Protection is responsible for all routine, compliance inspections of pharmacies as well as investigating alleged violations of matters relating to the practice of pharmacy. This procedure came under criticism during this review, with critics stating that the line between the inspection and the investigation is blurred under this system. Further, they state the reason for compliance inspections is to educate the pharmacist, and that this would be most appropriately carried out by pharmacy commission personnel.

The committee found several drawbacks in this proposal. First, while education is certainly one portion of compliance, it is not the only one. The committee believes the purpose of the compliance inspections should also be to identify trouble spots where potential violations might exist and follow-up on them.

Second, staff observation and interviews with the drug control unit indicate that employees in that unit do attempt to educate pharmacists on what the law and regulations require. Only after continued noncompliance does the unit cite a pharmacist for a violation. Further, as was stated previously, very few of the violations that eventually come to the pharmacy commission originate through consumer complaints. Therefore, the compliance inspection is an important tool in the discovery of violations. If these two functions -- compliance inspection and investigation of violations -- were separated, a number of violations might continue without detection.

Finally, the separation of the inspection and investigation function from the purview of pharmacy commission is ideal. When a case comes before a formal hearing and a drug control agent must testify, there is no close alliance between the commission and that inspector. This might not be the case if the staff person testifying were under the direct employ of the commission.

The Legislative Program Review and Investigations Committee weighed the arguments on both sides of the issue and concluded that the empirical evidence weighted in favor of the current system.

*Therefore, the Legislative Program Review and Investigations Committee recommends that the Drug Control Unit of the Department of Consumer Protection continue to conduct all routine compliance inspections and report violations to the Commission of Pharmacy.*

## Reduction of Unnecessary Paperwork

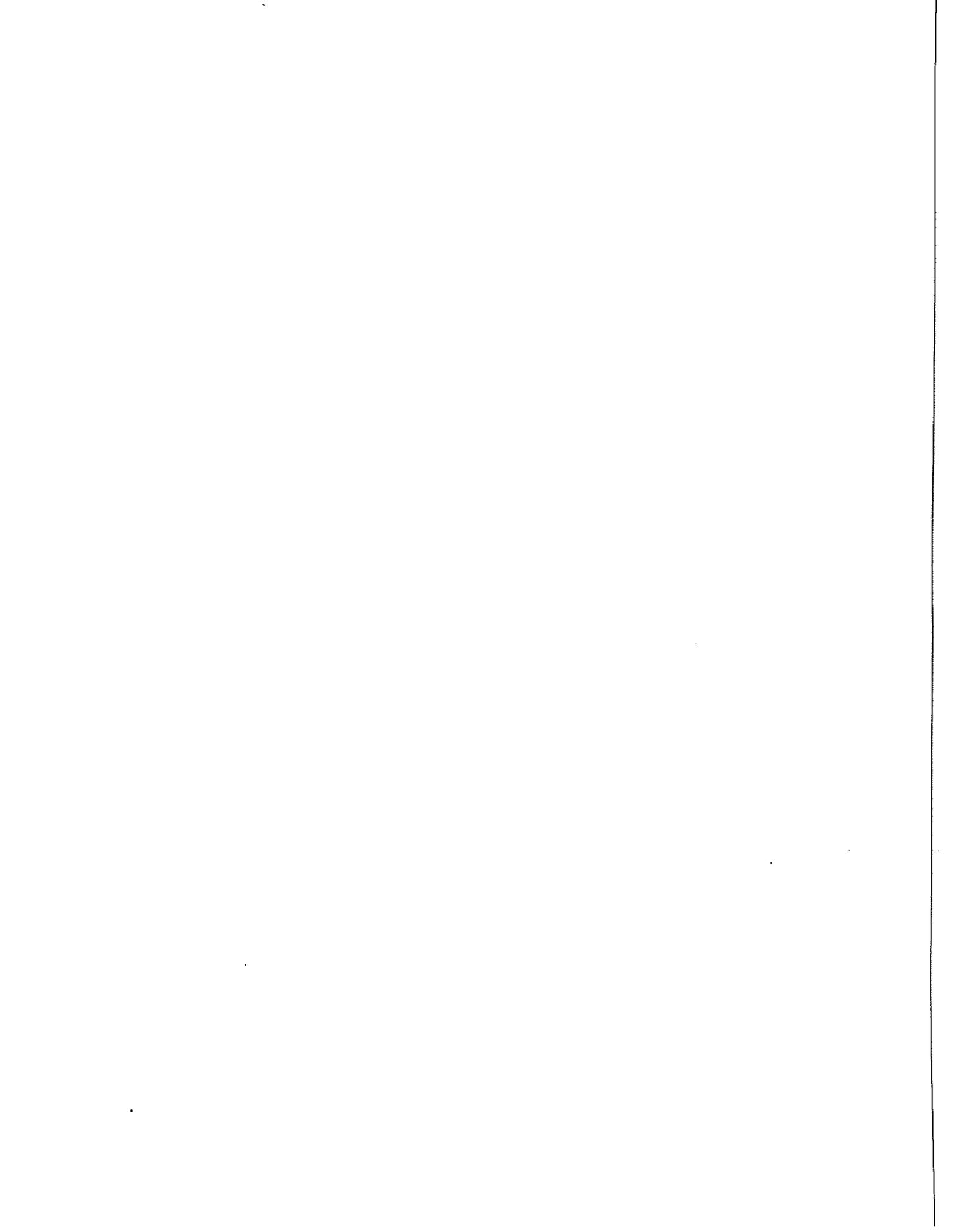
At the committee's public hearing on pharmacy, held on August 28, 1981, the Connecticut Pharmaceutical Association representative stated that several statutes governing the practice of pharmacy are unnecessarily burdensome, create needless paperwork and have no safety or economic benefit to the consumer.

At the committee's request, the association identified areas of the statutes considered to be of limited value. The committee then analyzed the legislative sections and agreed that no public benefit is derived from their continued existence.

*In light of this, the Legislative Program Review and Investigations Committee recommends that legislative changes be made in the following areas:*

- 1) *Date to be placed on label of prescription bottle:*
  - *Amend Section 19-228 to read "date of filling or refilling of such prescription" and amend Section 19-463(b) to read "date of filling or refilling."*
- 2) *Filing of controlled substance prescriptions:*
  - *Repeal Section 19-457(g) to allow pharmacists the flexibility in filing that the Federal Controlled Substance Act allows.*
- 3) *Dating and initialling of refills.*
  - *Amend Section 19-458 to delete the requirement that the date of refilling be "written."*
  - *Delete requirements from Section 20-184b and amend Section 19-457(a) to require that no prescription blank containing a prescription for a Schedule II substance shall contain more than one prescription.*
  - *Amend Section 19-463(b) to delete the requirement for the physician's "full" name, and require only the last name to be used.*

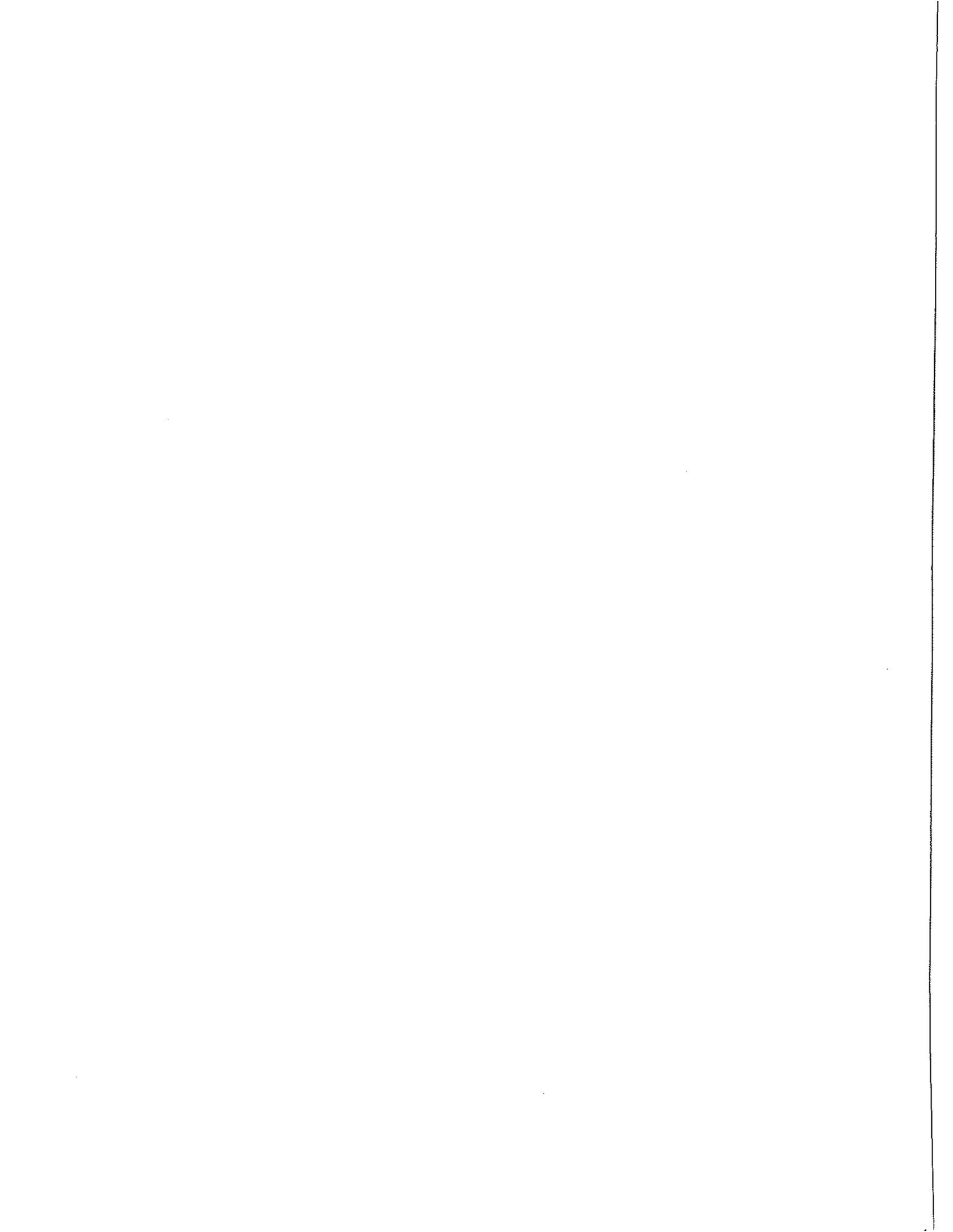
The Legislative Program Review and Investigations Committee also made a series of recommendations applicable to all boards and commissions within the Department of Consumer Protection (see Appendix A). These recommendations are designed to establish uniform policies and procedures for the boards, thereby enhancing their ability to function effectively within the department.



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APPENDICES

- A. General Provisions for Boards and Commissions  
within the Department of Consumer Protection
  - B. Summary Sheet - Commission of Pharmacy
  - C. Survey of Commission Members
  - D. Survey of a Random Sample of Pharmacists  
Licensed in Connecticut
  - E. Legislative Changes
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## APPENDIX A

### General Provisions for Boards and Commissions within the Department of Consumer Protection

While reviewing the entities within the Department of Consumer Protection, the Legislative Program Review and Investigations Committee discovered a number of procedural problems common to all boards and commissions. Rather than address them individually, the committee chose to develop a single set of standards and recommend they be applied uniformly to all boards and commissions in the Department of Consumer Protection.

#### I. Meetings and Quorum

EACH BOARD AND COMMISSION SHALL MEET AT LEAST ONCE IN EACH QUARTER OF A CALENDAR YEAR AND AT SUCH OTHER TIMES AS THE CHAIRPERSON DEEMS NECESSARY OR AT THE REQUEST OF A MAJORITY OF THE BOARD OR COMMISSION MEMBERS. A MAJORITY OF THE MEMBERS SHALL CONSTITUTE A QUORUM. ANY MEMBER WHO FAILS TO ATTEND THREE CONSECUTIVE MEETINGS OR WHO FAILS TO ATTEND FIFTY PERCENT OF ALL MEETINGS DURING ANY CALENDAR YEAR SHALL BE DEEMED RESIGNED FROM OFFICE.

Commentary: The intent of this provision is the automatic elimination from boards and commissions of those members who habitually fail to attend meetings. It is consistent with what the committee recommended and the General Assembly adopted (P.A. 80-484) with respect to licensing boards in the Department of Health Services.

#### II. Terms of Office

MEMBERS OF THE BOARDS AND COMMISSIONS UNDER THE DEPARTMENT OF CONSUMER PROTECTION SHALL BE PROHIBITED FROM SERVING MORE THAN TWO CONSECUTIVE FULL TERMS.

Commentary: In some cases members of the boards and commissions have served since the entity's inception. The committee's recommendation would prevent this practice from continuing, thereby insuring the introduction of a fresh perspective to the boards and commissions.

#### III. Compensation

MEMBERS SHALL NOT BE COMPENSATED FOR THEIR SERVICES BUT SHALL BE REIMBURSED FOR NECESSARY EXPENSES INCURRED IN THE PERFORMANCE OF THEIR DUTIES.

Commentary: Currently there is no consistent policy for compensation of board and commission members. For example, pharmacy commissioners receive a flat rate (\$1,500 chairman, \$500 regular members), members of the occupational licensing boards are entitled to \$48.00 per day plus expenses, and real estate commissioners receive only expenses. This provision would establish a uniform compensation system for members of boards and commissions within the department and would save the state approximately \$25,000.

#### IV. Grounds for Disciplinary Action

1. KNOWINGLY ENGAGING IN FRAUD OR MATERIAL DECEPTION IN ORDER TO OBTAIN A LICENSE UNDER THIS CHAPTER OR DOING SO IN ORDER TO AID SOMEONE ELSE IN OBTAINING A LICENSE.
2. PERFORMING WORK BEYOND THE SCOPE OF THE LICENSE ISSUED BY THE BOARD OR COMMISSION.
3. ILLEGAL USE OR TRANSFER OF LICENSE ISSUED BY THE BOARD OR COMMISSION.
4. PERFORMING GROSSLY INCOMPETENT OR NEGLIGENT WORK.
5. KNOWINGLY MAKING FALSE, MISLEADING, OR DECEPTIVE REPRESENTATIONS TO THE PUBLIC REGARDING THE WORK TO BE PERFORMED OR COVERED BY THE GOVERNING CHAPTER.
6. VIOLATING ANY PROVISION OF THE GOVERNING CHAPTER OR ANY RULES AND REGULATIONS ESTABLISHED THEREUNDER.

Commentary: The grounds identified above are limited to actions which are intended to deceive a governmental authority or practices which directly endanger the public's health, safety or welfare. In general, they either restate, clarify, or unify provisions outlined in the existing statutes and make them applicable to all boards and commissions in the Department of Consumer Protection. The list eliminates vague and difficult-to-enforce grounds such as immoral or unethical conduct. It also eliminates grounds for disciplinary action which are not directly related to a practitioner's competence, including conviction of a felony and drug addiction.

The committee did not intend adoption of the above to preclude grounds unique to a particular profession or occupation from being retained or added to the appropriate chapter.

## V. Receiving and Processing Complaints

THE DEPARTMENT OF CONSUMER PROTECTION SHALL RECEIVE COMPLAINTS CONCERNING THE WORK AND PRACTICES OF PERSONS WHOM IT LICENSES. THE DEPARTMENT SHALL DISTRIBUTE MONTHLY A LIST OF ALL COMPLAINTS RECEIVED WITHIN THE PREVIOUS MONTH TO THE CHAIRPERSON OF THE APPROPRIATE BOARD.

THE DEPARTMENT OF CONSUMER PROTECTION SHALL SCREEN ALL COMPLAINTS AND DISMISS ANY IN WHICH THE ALLEGATION, IF SUBSTANTIATED, WOULD NOT CONSTITUTE A VIOLATION OF ANY STATUTE OR REGULATION. NOTICE OF ALL SUCH DISMISSALS SHALL BE DISTRIBUTED MONTHLY TO THE CHAIRPERSON OF THE APPROPRIATE BOARD.

THE DEPARTMENT OF CONSUMER PROTECTION SHALL INVESTIGATE ANY COMPLAINT IN WHICH THE ALLEGATION, IF SUBSTANTIATED, WOULD CONSTITUTE A VIOLATION OF A STATUTE OR REGULATION UNDER ITS JURISDICTION. IN CONDUCTING THE INVESTIGATION, THE COMMISSIONER MAY SEEK THE ASSISTANCE OF A MEMBER OF THE APPROPRIATE BOARD, AN EMPLOYEE OF ANY STATE AGENCY WITH EXPERTISE IN THE AREA, OR, AS A LAST RESORT, A PERSON FROM OUTSIDE STATE SERVICE LICENSED TO PERFORM THE WORK INVOLVED IN THE COMPLAINT. ANY BOARD MEMBER INVOLVED IN AN INVESTIGATION SHALL NOT PARTICIPATE IN ANY FURTHER DISCIPLINARY PROCEEDINGS.

THE COMMISSIONER OF THE DEPARTMENT OF CONSUMER PROTECTION MAY DISMISS A COMPLAINT FOLLOWING AN INVESTIGATION IF IT HAS BEEN DETERMINED THAT THERE IS NO PROBABLE CAUSE. NOTICE OF ANY DISMISSAL SHALL BE GIVEN ONLY AFTER APPROVAL BY THE CHAIRPERSON OF THE APPROPRIATE BOARD OR COMMISSION. THE COMMISSIONER MAY AUTHORIZE A SETTLEMENT PROVIDED THE SETTLEMENT IS APPROVED BY THE COMPLAINANT, THE LICENSE HOLDER, AND THE BOARD OR COMMISSION. THE COMMISSIONER MAY BRING A COMPLAINT BEFORE THE APPROPRIATE BOARD FOR A FORMAL HEARING IF IT HAS BEEN DETERMINED THAT THERE IS PROBABLE CAUSE TO BELIEVE THAT THE OFFENSE ALLEGED IN THE COMPLAINT HAS BEEN COMMITTED AND THAT THE LICENSE HOLDER NAMED IN THE COMPLAINT WAS RESPONSIBLE. ALL DISPOSITIONS AND FINAL DECISIONS RENDERED BY THE DEPARTMENT OF CONSUMER PROTECTION AFTER AN INVESTIGATION INTO A COMPLAINT HAS BEGUN SHALL BE FORWARDED TO THE CHAIRPERSON OF THE APPROPRIATE BOARD ON A MONTHLY BASIS.

Commentary: The procedure described above would provide a uniform and impartial system for handling complaints. The reporting requirements would reduce the number of complaints which languish within the department without the knowledge of the boards. This procedure would enable the boards to monitor complaints and pressure the department to pursue each one to a final decision.

In turn, the system would limit the practice by some boards of directly conducting investigations by holding informal hearings or asking a license holder to appear for questioning at a regular board meeting.

#### VI. Disciplinary Sanctions

1. REVOKE A LICENSE.
2. SUSPEND A LICENSE.
3. IMPOSE A FINE NOT TO EXCEED FIVE HUNDRED DOLLARS FOR EACH VIOLATION.
4. ISSUE A LETTER OF REPRIMAND TO THE PRACTITIONER AND SEND A COPY TO THE COMPLAINANT AND ALL STATE AND LOCAL OFFICIALS DEEMED APPROPRIATE BY THE COMMISSIONER.
5. PLACE A LICENSE HOLDER ON PROBATIONARY STATUS, AND IMPOSE ANY OR ALL OF THE FOLLOWING SANCTIONS:
  - A. REPORT REGULARLY TO THE BOARD UPON THE MATTERS WHICH ARE THE BASIS OF THE PROBATION.
  - B. LIMIT PRACTICE TO THOSE AREAS PRESCRIBED BY THE BOARD.
  - C. CONTINUE OR RENEW EDUCATION UNTIL A SATISFACTORY DEGREE OF SKILL HAS BEEN ATTAINED IN THOSE AREAS WHICH ARE THE BASIS OF THE PROBATION.
6. SUSPEND SENTENCES AND FINES IN WHOLE OR IN PART.

Commentary: The sanctions outlined above would expand the alternatives available to the boards. Currently, their only options are either to suspend or revoke a license or to seek court imposed penalties. While the existing statute is vague with respect to the boards' authority to impose fines, this specifically gives them that power. The committee concluded that this authority, along with the addition of the official reprimand and probation options and the ability to impose a suspended sentence, would encourage boards and commissions to take action in those cases where license suspension or revocation seems too severe.

#### VII. Definitions

THE FOLLOWING DEFINITIONS APPLY TO THOSE BOARDS AND COMMISSIONS WITHIN THE DEPARTMENT OF CONSUMER PROTECTION WHICH ARE

LISTED UNDER SECTION 2c-2(c).

"CERTIFICATE" INCLUDES THE WHOLE OR PART OF ANY DEPARTMENT OF CONSUMER PROTECTION PERMIT WHICH THE DEPARTMENT IS AUTHORIZED BY THE GENERAL STATUTES TO ISSUE AND WHICH FURTHER: (A) AUTHORIZES PRACTICE OF THE PROFESSION BY CERTIFIED PERSONS BUT DOES NOT PROHIBIT THE PRACTICE OF THE PROFESSION BY OTHERS, NOT CERTIFIED; (B) PROHIBITS A PERSON FROM FALSELY REPRESENTING THAT HE IS CERTIFIED TO PRACTICE THE PROFESSION UNLESS THE PERSON HOLDS A CERTIFICATE ISSUED BY THE DEPARTMENT; (C) REQUIRES AS A CONDITION OF CERTIFICATION THAT A PERSON SUBMIT SPECIFIED CREDENTIALS TO THE DEPARTMENT WHICH ATTEST TO QUALIFICATIONS TO PRACTICE THE PROFESSION.

"LICENSE" INCLUDES THE WHOLE OR PART OF ANY DEPARTMENT OF CONSUMER PROTECTION PERMIT, APPROVAL, OR SIMILAR FORM OF PERMISSION REQUIRED BY THE GENERAL STATUTES AND WHICH FURTHER REQUIRES: (A) PRACTICE OF THE PROFESSION BY LICENSED PERSONS ONLY; (B) DEMONSTRATION OF COMPETENCE TO PRACTICE THROUGH AN EXAMINATION OR OTHER MEANS AND MEETING CERTAIN MINIMUM STANDARDS; (C) ENFORCEMENT OF STANDARDS BY THE DEPARTMENT OR REGULATORY BOARD OR COMMISSION.

"REGISTRATION" INCLUDES THE WHOLE OR PART OF ANY PERMIT WHICH THE DEPARTMENT IS AUTHORIZED BY GENERAL STATUTES TO ISSUE AND WHICH: (A) REQUIRES PERSONS TO PLACE THEIR NAME ON A LIST MAINTAINED BY THE DEPARTMENT BEFORE THEY CAN ENGAGE IN THE PRACTICE OF A SPECIFIED PROFESSION OR OCCUPATION; (B) DOES NOT REQUIRE A PERSON TO DEMONSTRATE COMPETENCE THROUGH AN EXAM OR OTHER MEANS; (C) ALLOWS THE COMMISSIONER TO SUSPEND OR REVOKE FOR CAUSE ANY REGISTRATION.

Commentary: Except for registration, the above definitions are consistent with those recommended by the committee and adopted by the General Assembly during the first sunset review. The definition of registration is slightly different in that it contains a provision whereby the department can take disciplinary action against a registered individual.

#### VIII. Renewals

THE DEPARTMENT OF CONSUMER PROTECTION SHALL PROPOSE TO THE GENERAL ASSEMBLY BY JANUARY 1, 1983 A LICENSE RENEWAL SYSTEM FOR ALL BOARDS AND COMMISSIONS WITHIN THE DEPARTMENT THAT DISTRIBUTES THE ADMINISTRATIVE WORKLOAD AND REVENUE EVENLY THROUGHOUT THE YEAR.

Commentary: At present an independent renewal schedule exists for each board and commission within the Department of Consumer

Protection. As a result, neither the workload nor the revenue generated is evenly distributed. For example, the department staff working with the occupational licensing boards is so busy with renewals during the month of October in odd numbered years that it nearly ceases to perform all other activities. Correspondingly, the revenue generated ranges from approximately 1.4 million dollars in odd numbered years to about \$100,000 in even years.

On the basis of this situation, the committee saw a clear need to develop a standardized license renewal system covering all boards and commissions. However, the committee believes the department, rather than the legislature, may be best suited to develop such a plan and should be given the opportunity to do so.

APPENDIX B

Summary Sheet

COMMISSION OF PHARMACY

Statutory Ref: C.G.S. Sec. 20-163

Year Created: 1881

Organizational Structure: Department of Consumer Protection (DCP)

Purpose: The commission is responsible for general oversight of the practice of pharmacy through regulation, advice and controls.

Powers and Duties:

- To advise and assist the Commissioner of Consumer Protection in the adoption of regulations for performance of its duties and for conduct of the business of retailing or dispensing drugs, medicines and poisons;
- To present an annual report to the Commissioner of Consumer Protection of its activities including a statement of its receipts and expenditures during the preceding year;
- To keep a record of its official proceedings and a copy of any such records shall be certified by the executive secretary to the commission;
- To establish minimum requirements for the licensing of pharmacies and pharmacists;
- To review applications for pharmacies and pharmacists and issue licenses to those deemed qualified;
- To approve recognized colleges of pharmacy;
- To issue permits to patent medicine stores;
- Conduct hearings on any matter within its statutory jurisdiction. In connection with any such hearing, the commission may administer oaths, issue subpoenas, compel testimony, and order the production of books, records and documents;

- May request Commissioner of Consumer Protection to conduct an investigation and to make findings and recommendations regarding any matter within the statutory jurisdiction of the boards.

Composition: Six members:

- three licensed pharmacists
- one licensed practicing pharmacist employed on a full-time basis in a hospital
- two public members

Appointing Authority: Governor

Requirements for Licensure

- Pharmacy:
- Must be under the supervision of a licensed pharmacist;
  - Show satisfactory evidence that the pharmacy will be run according to regulations;

- Pharmacist:
- Good moral character;
  - 18 years of age or more;
  - Graduated from a recognized college of pharmacy approved by the commission;
  - One year or more of practical experience;
  - Passing examination as established by the commission.

Compensation:

Commission chairman - \$1500 (plus expenses)  
 Commission member - \$ 500 (plus expenses)

Statistics

Number of Meetings\*: 12

Average Attendance: 5

\* Does not include meetings on compliance matters.

Licenses/Permits Issued During FY 79-80:

<u>License/Permit</u>	<u>Initial</u>	<u>Renewal</u>	<u>Total</u>
Pharmacy	15	677	692
Pharmacists	97	3,020	3,117
Assistant Pharmacist		13	13
Patent Medicine	315	2,161	2,476
Apprentice Registration	117	--	117
Reciprocity Licenses	51	--	51

Hearings Held:

31 Compliance  
5 Formal

Disciplinary Action:

29 Letters of warning  
62 Letters of advisement  
4 Licenses suspended  
1 License surrendered

Staff:    FY-1980    FY-1981  
                  3                    2

Budget:

<u>Expenses:</u>	<u>FY 1979-80</u>	<u>FY 1980-81</u>
Board Expenses	\$ 5,352	\$ 5,029
Staff Expenses	68,755	42,956
Other Expenses	9,295	13,607
Admin. Expenses	<u>4,367</u>	<u>8,000</u>
	\$87,769	\$ 69,592

Revenue:    FY 1979-80  
                  \$154,615

Fee Schedule:

Patent Medicine Store Permits:

Initial - \$35.00  
Renewal - \$25.00

Pharmacy License:

Initial - \$200.00  
Renewal - 50.00

Pharmacist License:

Initial - \$50.00  
Renewal - \$15.00

Reciprocity - \$50.00

Apprentice Registration - \$10.00

APPENDIX C

Questionnaire

Sunset 1982  
 Review of the Commission of Pharmacy  
 Survey of Commission Members

This questionnaire has been constructed to elicit information about the Commission of Pharmacy. Please read the directions before answering each question, to ensure the validity of the questionnaire's results.

Please feel free to provide additional comment on either a specific question or the board's activities in general. Any such comment may be included directly on the questionnaire or in a separate attachment.

1. Approximately how long have you been a member of the Commission on Pharmacy?

Range from 1 to 27 Years 6 Months

2. On a scale of 1 = High Priority to 4 = Low Priority, please rate the following functions as to their importance for continuing the commission. Please rate every function; if you feel the commission is not involved in a particular activity, please indicate by choosing number 5.

	High Priority		Low Priority		Not Involved	
	4	0	0	0	0	To provide advice and assistance to the Commissioner of Consumer Protection on the adoption of regulations for the practice of pharmacy in the state
	3	1	0	0	0	To establish minimum requirements for the licensing of pharmacies and pharmacists
	3	0	1	0	0	To review applications for pharmacies and pharmacists and issue licenses to those deemed to be qualified
	1	1	2	0	0	To approve recognized colleges of pharmacy



Very Effective		Not Effective	Not Involved		
1	2	1	0	0	Approving recognized colleges of pharmacy
3	1	0	0	0	Adjudicating complaints and determining appropriate discipline
3	1	0	0	0	Establishing minimum requirements for the licensing of pharmacies and pharmacists
4	0	0	0	0	Reviewing applications for pharmacies and pharmacists, and issuing licenses to those deemed to be qualified

5. Do you feel the effective operations of the Commission of Pharmacy is impeded by any statute, regulation, policy or procedure?

3 Yes                      1 No

5a. If yes, what do you feel is the major impediment. If you choose more than one, please rate in order of severity (i.e. 1 = most severe impediment; 2 = less severe, etc.).

1st	2nd	3rd	
	2		Poor statutory definition of role and functions the commission is supposed to perform
			Department's interpretation of role and functions is too limited
1	0	1	Lack of staff and funding to carry out the duties mandated by statute
0	1	0	The organizational location within the Department of Consumer Protection impedes the commission's effective operation
2	0	0	The statutes and regulations are too outdated; therefore, making the commission's task more difficult
0	0	2	Lack of participation on the part of some commission members
			Lack of inspectors assigned to the Pharmacy Commission
			Other (please specify) _____
			_____
			_____

6. This last question is optional. If the Commission of Pharmacy were terminated, what would be the most viable alternative for carrying out the commission's current functions. (For example, transfer the commission's functions totally to the Department of Consumer Protection.)

Should not be terminated or substantially restructured (2).

Transfer functions to Health Department

APPENDIX D

SUNSET 1982

Review of the Commission of Pharmacy

Survey of Pharmacists

This questionnaire has been designed to elicit information on the Commission of Pharmacy. Please read the directions before answering each question to ensure the validity of the questionnaire's responses.

Please feel free to make additional comments either on a specific question, or on the commission's activities in general.

1. Are you aware of the existence of the Commission of Pharmacy? 40 Yes 2 No  
1 No Answer

2. If yes to question 1, are you satisfied with the Commission of Pharmacy's performance of the following functions? If you are satisfied, circle yes; if you are dissatisfied, circle no. If you have no opinion on the activity, please circle N/A indicating no answer.

Yes	No	N/A	
40	0	3	Providing advice and assistance to the Commissioner of Consumer Protection on the adoption of regulations for the practice of pharmacy in the state
40	1	2	Establishing minimum requirements for the licensing of pharmacies and pharmacists
38	1	4	Reviewing applications for pharmacies and pharmacists and issuing licenses to those deemed to be qualified
40	0	3	Approving recognized colleges of pharmacy
40	1	2	Adjudicating complaints, and determining appropriate discipline
3	0	40	Other (please specify) <u>Provides public unmeasured security in the fact that practice of pharmacy is under constant scrutiny (1). Very helpful in every way (1). Controlling and regulating people in their profession (1).</u>

3. Do you think that the effective operation of the commission is impeded by any statute, regulation, policy or procedure?

30 Yes 8 No 5 N/A

3a. If yes to question 3, what do you feel is the major impediment? If you choose more than one, please rate in order of severity (i.e., 1 = Most severe, 2 = Less severe, etc., etc.).

1st	2nd	3rd	
1	0	<u>5</u>	Poor statutory definition of role and functions the commission is supposed to perform
11	4	<u>1</u>	The organizational location within the Department of Consumer Protection impedes the commission's effective operation
11	4	<u>1</u>	Lack of staff and funding to carry out the duties mandated by statute
4	4	<u>1</u>	The statutes and regulations governing pharmacy are outdated
2	0	<u>1</u>	Lack of participation on the part of some commission members
3	0	<u>0</u>	Other (please specify) <u>Influence of politicians too easily forces unfair and inequitable action from commission (1). Nonpharmacists allowed to govern and examine pharmacy (1). Pharmacy Commission does not have copies of statutes and regulations available (1).</u>

4. A number of the Pharmacy Commission functions are listed below on the right. We would like to know if you as a pharmacist are aware that these functions are affected by any of the problems listed in the key below. You may circle as many numbers to the left of the function as you feel appropriate. If you choose number 7, please give the specifics on the two lines provided below each function. If you are not aware of any problems, please indicate by circling number 8.

Key:

- 1 = Takes too long
- 2 = Discipline too lenient
- 3 = Discipline too harsh
- 4 = Decision-making too arbitrary
- 5 = Commission should have no role
- 6 = Commission ignores its responsibility
- 7 = Other, please specify
- 8 = No problem

1 2 3 4 5 6 7 8

Inspection of community pharmacies

4 1 0 5 0 1 3 31

Resent the fact that Drug Control Division is delegated responsibility of inspecting entire premises (1). To my knowledge, the commission does not routinely inspect pharmacies. This is done by Drug Control. Inspectors not always pharmacists, not always qualified, just because exam is passed.

1 2 3 4 5 6 7 8

Inspection of hospital pharmacies

1 1 3 7 31

Don't know (3). Not familiar with hospital pharmacies (2).

1	2	3	4	5	6	7	8
2	0	0	2	0	0	1	38

Holding compliance hearings

Don't know - retired

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1	2	3	4	5	6	7	8
3	0	0	1	0	0	1	38

Holding formal hearings

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1	2	3	4	5	6	7	8
2	1	0	0	1	0	1	38

Licensing through reciprocity

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1	2	3	4	5	6	7	8
2	0	0	0	0	0	2	39

Initial Pharmacy Premise Licensing

Regulations are obsolete in part.

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1	2	3	4	5	6	7	8
1	2	0	0	0	3	4	35

Evaluating intern experience

Not enough staff (2) Commission doesn't seem to have time to get involved very much (1).

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1	2	3	4	5	6	7	8
1	3	0	0	0	1	3	35

Registering of Patent Medicine Stores

Don't know (3)

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1	2	3	4	5	6	7	8
1	2	0	1	0	2	2	37

Restricting the practice of pharmacy to competent/scrupulous pharmacists only

All pharmacies should be pharmacist owned - not just managed.

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1	2	3	4	5	6	7	8
8	1	0	1	1	3	3	28

Updating of statute and regulations

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1	2	3	4	5	6	7	8
2	0	0	0	0	5	0	0

Keeping pharmacists informed of changes in the law/regulation's affecting pharmacy

Laws have not been reprinted in years (1).

I feel the Connecticut Pharmaceutical Association does a better job.

5. Do you feel the current examination and other licensing requirements:

N/A	Yes	No	
6	0	37	Unduly restrict the number of pharmacists entering the profession
6	6	31	Allow unqualified pharmacists to enter the profession
6	12	6	Protect the consumer against incompetent pharmacists
6	25	11	Protect the consumer against unethical/unscrupulous pharmacists

OTHER COMMENTS:

- I. Pharmacy Commission has turned all its inspection, regulatory and oversight function over to Drug Control, I propose the commission be terminated and regulation be done by a Board of Pharmacy Examiners within DOHS, and be responsible for licensing only -- Any inspection would be done by Drug Control.
- II.
  - a) As pharmacy is a profession, I feel that it is important to have a "Pharmacy Commission" made up primarily of pharmacists, especially for peer review. My experience has been that a peer would be fair, but much more demanding than anyone else.
  - b) It would be ideal to divorce the commission from politics but I suppose that would defeat the system.
- III. I believe, as a licensed pharmacist, that we need a Pharmacy Commission to handle our problems as they are most familiar with them. There are many commissioners that don't do their job and are not effective. I believe this commission should remain because it does its job.
- IV. Discipline against such [unethical/unscrupulous] pharmacists is not stern enough.

## APPENDIX E

### Legislative Changes

- Amend Section 20-163 of the Connecticut General Statutes to reflect the change in commission membership requiring that two of the four pharmacist representatives be employed/retail pharmacies.
- Repeal Sections 20-166, 20-167, and Chapter 343 of the Connecticut General Statutes, and Sections 20-175-40, 20-175-41, 20-175-42, 20-175-43, 20-175-44, 20-175-45, 20-175-46, 20-175-47 and 20-175-48 of the regulations relating to the Commission of Pharmacy.
- Amend Section 20-170 to reflect the Legislative Program Review and Investigations Committee recommended criteria for licensing out-of-state applicants.
- Amend Section 19-228 reflecting the change in the required date to be placed on labels of prescription bottle.
- Repeal Section 19-457(g) allowing pharmacists the same flexibility the Federal Controlled Substance Act allows for the filing of the controlled substances.

