

Review and Oversight of Occupational Licensing Laws and Rules

I. Methods of Review

Among the states, there are four main methods for reviewing occupational licensing laws and rules.

➤ **Sunrise Reviews** (15 states)

A **sunrise review** is a cost-benefit analysis of a licensing proposal that has not yet been enacted. The entity conducting the sunrise review – usually a legislative committee, legislative staff, or a government office or commission dedicated to oversight – will make recommendations to the legislature on whether the proposal should be adopted.

➤ **Sunset Reviews** (36 states)

A **sunset review** is a cost-benefit analysis applied to an existing law, rule, or agency (such as a licensing board). Sunset reviews are often required by statute to be conducted on a periodic basis (for example, every six years). The entity conducting the sunset review will make a recommendation to the legislature on whether the law, rule, or agency should be retained, modified, or terminated. As with sunrise reviews, sunset reviews are generally conducted by a legislative committee, legislative staff, or a government office or commission dedicated to oversight.

➤ **Comprehensive Reviews** (13 states)

A **comprehensive review** is a review of a state's existing laws and rules relating to occupational licensing. Comprehensive reviews tend to be one-time studies triggered by a bill or an executive order and can take several years. Entities conducting comprehensive reviews include executive branch offices, legislative committees, oversight offices or commissions, state agencies, and task forces.

➤ **Permanent Oversight**

Permanent oversight is ongoing, routine monitoring and review of a state's occupational licensing laws and rules. Permanent oversight tends to be provided by a standing legislative committee or by a government office or commission assigned such oversight duties. Permanent oversight is often provided on a rotating basis, with a certain number of licensing boards or a certain percentage of laws or rules subject to review each year.

II. Entities Providing Review and Oversight

Not all states have a dedicated entity providing review and oversight of occupational licensing laws and rules. Instead, review and oversight tasks are shared among several entities, including standing legislative committees and various executive and legislative branch offices.

The following are examples of entities that exist solely or substantially for review and oversight functions.

➤ Legislative Committees

1. Joint Legislative Oversight and Sunset Committee (Delaware)

This permanent committee performs periodic sunset reviews of Delaware's agencies, commissions, and boards, including those that oversee occupational licensing, to determine if there is a genuine public need for the agency, commission, or board in question, and, if so, to determine whether the agency, commission, or board is meeting that need. Agencies, commissions, and boards are typically scheduled for review every six years (but may be reviewed more often at the committee's discretion). The committee holds hearings, conducts performance evaluations, and reviews reports and other documents before issuing a final report with the committee's recommendations. If the committee recommends termination of the agency, board, or commission, and such agency, board, or commission is not re-established by an act of Delaware's General Assembly, then the agency, board, or commission will be automatically terminated.

2. Legislative Council (Arkansas)

Pursuant to the Arkansas Red Tape Reduction Sunrise and Sunset Act of 2019, the Legislative Council is responsible for conducting sunrise and sunset review, but may establish one or more subcommittees for assistance. The 2019 legislation followed extensive study by the Red Tape Reduction Working Group, referenced below.

3. Jobs Creation Committee (Indiana)

This committee was established in 2014 to conduct a five-year review of the "efficiency and effectiveness of all professional licenses regulated by the Indiana Professional Licensing Agency," which regulates over 70 professional licenses. The committee issues annual reports, including its findings and recommendations, related to its study.

4. Sunset Subcommittee of the Legislative Commission (Nevada)

This permanent subcommittee conducts ongoing oversight and evaluation of agencies, boards, and commissions. The committee must conduct sunset reviews of at least ten boards and commissions per interim. This year, the subcommittee reviewed 23 professional and occupational licensing boards, recommending the elimination of one (the Board of Homeopathic Medicine).

5. Sunset Review Committee (Ohio)

This permanent committee is tasked with evaluating the usefulness, performance, and effectiveness of state agencies and boards, including boards that regulate occupations. The committee's recommendations are made to the full legislature in the form of legislation.

6. Sunset Advisory Commission (Texas)

This permanent commission includes two public members as well as ten legislators. Under the Sunset Act, an agency will be automatically abolished unless the legislature votes to retain the agency. The Sunset Advisory Commission typically conducts its review of an agency every 12 years and develops legislation based on its recommendations for consideration by the full legislature.

7. Occupational and Professional Licensure Review Committee (Utah)

This permanent committee, composed of legislators and a few members of the public, conducts sunrise reviews, sunset reviews, and any review of licensure requirements requested by a legislative committee.

➤ **Other Entities**

1. Regulatory Review Council (Arizona)

This council, located in the governor's office, conducts sunrise reviews of every new agency rule prior to implementation to assess the rule's legality and potential impacts. The council also conducts a rotating review of all existing rules.

2. Red Tape Reduction Working Group (Arkansas)

This working group, appointed by the governor, is tasked with conducting a comprehensive review of the state's occupational laws and rules and identifying ways to reduce regulation without compromising public safety. The working group is expected to issue a report later this year.

3. Office of Policy, Research, and Regulatory Reform (Colorado)

This office, located in Colorado's Department of Regulatory Agencies, reviews every proposed occupational regulation to determine if such regulation is necessary. The office also reviews existing occupational regulations to determine if they are "necessary, fair, effective, and efficient." The office's recommendations are forwarded to Colorado's General Assembly for sunrise or sunset action.

4. Occupational Regulation Review Council (Georgia)

This council reviews all legislation intended to license or certify occupations that are not yet regulated. The council considers whether regulation of the occupation is necessary to protect public health and safety and whether the people may be better protected by means other than licensing or certification. Recommendations are then made to the legislature.

5. Occupational Licensing Review Commission (Louisiana)

Created by HB 372, enacted this year, the commission will be composed of state officers, including the governor, or their designees. Starting in 2019, any licensing board that wants to promulgate occupational regulations must submit the proposed regulations to the commission for approval.

6. Occupational Licensing Review Commission (Mississippi)

Created in 2017, this commission, like Louisiana's, is composed of state officers or their designees, and approves, amends, or disapproves occupational regulations filed by licensing boards.

7. Boards and Commissions Task Force (Missouri)

This task force was appointed by the governor in 2017 to review all of Missouri's boards and commissions, including licensing boards. In its final report, the task force recommended consolidating or eliminating numerous boards and commissions, which would reduce gubernatorial appointments by 450.

8. Occupational Licensing Advisory Commission (Oklahoma)

Created by SB 1475, enacted this year, the commission will conduct reviews of each occupational or professional licensing act every four years and make recommendations to the legislature regarding any action that should be taken on them. Additionally, the commission will review proposed legislation that would impose new licensing requirements.

9. Office of Professional Regulation (Vermont)

This office conducts sunrise reviews and recommends to the legislature whether an occupation should be regulated.