

BOARDS AND COMMISSIONS - CONSOLIDATION EFFORTS IN OTHER STATES

BACKGROUND

This memorandum provides information on various states' efforts relating to consolidation of boards and commissions or creation of umbrella licensing organizations. The Council on Licensure, Enforcement and Regulation (CLEAR) is a resource organization based in Kentucky for groups and individuals involved in licensure or registration of regulated occupations and professions. According to CLEAR, state professional licensing boards and commissions are those responsible for protecting consumers from harm resulting from illegal or incompetent practitioner acts. These boards and commissions carry out their mission by ensuring that candidates for professional and occupational licensure, certification, or registration meet all criteria mandated through statutes and regulations.

According to CLEAR, the concept of centralization of regulatory activities has been around for many years. As early as 1892, New York State had placed most of its professional regulatory boards under a board of regents. Centralization of regulatory agencies became widespread during the 1970s. In 1969 there were 16 states with central regulatory agencies and in 1990 there were 33 states in which a central licensure agency was the principal model. In recent years, limited budgets and difficult economic conditions have again led many state governments to consider consolidation or centralization of boards and commissions as a method to reduce costs.

Centralization involves placing the regulatory or licensing function of autonomous boards under an umbrella or central agency. Often, centralization involves boards that are interdisciplinary in nature, dealing with related occupations. Typically, the administrator of the umbrella or central agency is a gubernatorial appointee who provides oversight of the boards' licensing and regulatory activities, personnel, or finances.

The role of boards and agency administrators varies depending upon the state's enabling legislation. In some states, boards have maintained all of their regulatory authority and the central agency merely performs "housekeeping" duties, such as payroll and printing. In other states, the board merely serves in an advisory capacity to the director of the umbrella agency.

Some states have implemented "sunrise" or "sunset" legislation in relation to regulatory boards. Sunrise legislation provides criteria for which any new or increased regulation is to be judged. Sunset legislation mandates that regulatory programs are to be subject to a periodic review in order to be continued past a specific date.

The Council on Licensure, Enforcement and Regulation has identified various perceived benefits of autonomous boards and perceived benefits of central agencies.

The benefits of autonomous boards include:

- Need for professional expertise - Assures appropriate peer review of professional practice standards, qualified personnel to investigate complaints, and professional perspective of the public interest.
- Administrative efficiency - Provides for efficient decisionmaking capabilities, greater visibility to the public, and a deterrent to potential violators.
- Insulation from political interference - Provides for better understanding of the licensees' and public's concerns.
- Accountability - Provides for greater controls over allocation of funds and clearer levels of accountability.

The benefits of central agencies include:

- Administrative efficiency - Provides for consolidation of staff, space, time and equipment, and the capability to hire more professional staff to assist the boards.
- Coordination - Provides executive and legislative branches with a single point for interaction and a single point of contact for consumer questions and complaints.
- Oversight - Increases equity through uniform application of criteria for board decisions.
- Accountability - Provides greater accountability to the legislature and public.

STATE CONSOLIDATION EFFORTS

The Federation of State Medical Boards is a nonprofit organization based in Dallas, Texas, comprised of state medical boards. The federation's primary mission is to improve the quality, safety, and integrity of health care by supporting and assisting state medical boards in the protection of the public. In addition, the federation serves as a conduit for member boards to share information and address current issues. According to the Federation of State Medical Boards, the following states have recently considered proposals relating to consolidation of state boards and commissions.

California

In January 2005 Governor Arnold Schwarzenegger released a reorganization plan to reform all of California's boards and commissions. This reorganization plan would have eliminated 88 boards and

commissions, including the Medical Board of California. In most cases, the activities or functions of the boards and commissions eliminated would have continued and been transferred to a state agency or department. The plan called for the Medical Board of California to be eliminated and for its functions to be transferred to the Department of Consumer Affairs. The Governor's rationale for the reorganization was to improve the productivity of state government by aligning administrative services within agencies and departments, promote clear policymaking authority, strengthen consumer protection, and improve customer service. The Governor's plan was a result of the California Performance Review (CPR) recent evaluation of 339 boards and commissions. The CPR report recommended that one-fourth of the 339 boards and commissions be eliminated and their functions transferred to an existing department. However, the CPR report did not slate the Medical Board of California for elimination. After the Governor's plan drew criticism from the legislature and various consumer groups, Governor Schwarzenegger withdrew the reorganization plan for further study.

Connecticut

In Connecticut the 2005 Legislative Assembly considered but did not approve House Bill No. 6180 which would have abolished the Connecticut Medical Examining Board and established an independent oversight board outside the Department of Public Health to license and regulate physicians.

Ohio

In Ohio the state legislature is considering House Bill No. 77 (2005) which would group the state's 27 independent professional and occupational licensing boards within umbrella agencies under the control of the Department of Commerce, Department of Health, or Department of Public Safety. The bill proposes that health-related boards be placed under the Department of Health as of July 1, 2006. A division of medical professional and state health care system regulation within the Department of Health would be responsible for certification, licensing, investigations, enforcement, adjudication, continuing education, training, and examinations for all Ohio health-related boards. The bill remains pending before the Ohio Legislative Assembly.

Washington

Two bills were introduced during the Washington 2005 regular legislative session that contained language proposing to create an alternative disciplinary process for allopathic physicians and physician assistants by removing the professions from the authority of the Washington State Uniform Disciplinary Act. House Bill Nos. 1781 and 2295 would require the disciplining authority to file statements of

charges with the superior court in the county in which the licensee provided the care or committed the act that is the subject of the complaint. The licensee would then have to file a request for a hearing with the superior court within 20 days after being served the statement of charges. The Washington 2005 regular legislative session adjourned sine die on April 24, 2005, but the bills will carry over to the next legislative session.

In addition to the information provided by the Federation of State Medical Boards, the following states have considered proposals relating to consolidation of state boards and commissions.

Montana

The Montana Legislative Assembly approved 2005 Senate Joint Resolution 35 requesting the Montana Legislative Council to designate an appropriate interim committee to study methods to increase the responsiveness, effectiveness, and efficiencies of professional and occupational boards and programs dedicated to public service in Montana. The Montana Legislative Council assigned the study to the interim Economic Affairs Committee. The study is to address:

- Whether each existing board or a future board is needed to protect public health and safety or whether a board's existence is for other reasons, such as to provide a licensee with the ability to bill insurance.
- Whether different organizational structures would better address jurisdictional issues between departments and boards and between various boards.
- Whether a policy template is needed for creating new boards or providing budgeting and organizational efficiency for existing boards.
- Whether oversight can be improved from a legislative and an executive branch standpoint, particularly regarding whether boards are implementing legislative intent.
- Whether all boards appropriately use rulemaking to implement legislative intent.

Nebraska

The Nebraska Credentialing Division of the Health and Human Services System is the umbrella agency responsible for licensing health-related professions and occupations as well as health facilities and services and child care programs. The division works with various professional licensing boards to license and regulate health and health-related professions and occupations and with other advisory groups on matters involving health and human services. The objectives of the Credentialing Division include establishing and maintaining regulations for public protection; determining whether individuals, facilities, and programs meet regulations for initial and continued

licensure; and providing regulatory education and consultation.

According to the director of the Credentialing Division, Nebraska has had an umbrella health profession licensing organization for many years. In 1997, however, the Legislative Assembly approved Legislative Bill No. 183, which instructed the Department of Health and Human Services to conduct a study of the regulation system for health facilities and professions in Nebraska. The objective of the study was to design a comprehensive model for the credentialing and regulation of health care practitioners, facilities, and providers in Nebraska. For the purpose of this study, credentialing encompassed licensure, registration, and certification. The Department of Health and Human Services issued the *Nebraska Credentialing Reform 2000 Report* which included various recommendations for credentialing and regulating, including:

- Closely related professions should be regulated by the same board when possible.
- Alternatives to a standing board should be considered for professions that have clear and limited scopes of practice and infrequent need of professional expertise for examinations, rule-making, or credentialing decisions.
- The fees for initial and renewed credentials should be based on the actual cost of issuing such credentials.
- Boards should establish methods appropriate for determining continuing competency for the professions they govern.

Illinois

On April 1, 2004, Illinois Governor Rod Blagojevich signed an executive order consolidating the Department of Professional Regulation, Department of Insurance, Department of Financial Institutions, and Office of Banks and Real Estate into the Department of Financial and Professional Regulation. The Department of Financial and Professional Regulation indicated that nearly \$14 million in savings would be realized in the first year as a result of the consolidation. The new department has over 800 employees and serves nearly 1 million licensed professionals.

Texas

In 1993 the state of Texas created the Health Professions Council, which has membership of 13 agencies representing 27 professional licensing boards. The council's purpose is to coordinate administrative and regulatory efforts without sacrificing the quality, independence, and accountability of individual boards. The council has been successful in creating a number of shared initiatives which save money and promote improved quality and consistency for member agencies. The member agencies collocated in one state office building which has facilitated sharing of resources. Some agencies share space, such as reception rooms and break rooms, and the

council manages shared meeting space, including a large board room and six smaller conference rooms. Other major efforts include:

- Creation and operation of a statewide toll-free complaint system for public complaints against any licensed health professional.
- Development of shared manuals, including a board member training manual, risk management manual, disaster recovery plan, and policy and procedure statements on various topics.
- Coordinated staff training.
- Development of backup payroll support among member agencies to assist small agencies through times of staff absence or turnover.

Minnesota

In April 1998 the Minnesota Legislative Audit Commission directed the legislative auditor to conduct a study of occupational regulation, including an assessment of the effectiveness of the system as a whole. The study addressed the following questions:

- What is the history of the policy debate on occupational regulation in Minnesota?
- What constitutes the Minnesota system of occupational regulation?
- How effective is the Minnesota system of occupational regulation?

The Office of the Legislative Auditor report concluded that there are some problems with occupational regulation in Minnesota; however, these same issues have persisted in Minnesota and most other states for decades. Problems identified in the report include:

- Despite its sunrise statute, Minnesota regulates approximately 188 occupations and professions which is more than all but 12 other states.
- Minnesota Century Code Chapter 214, which provides that no regulation shall be imposed upon any occupation unless required for the public health, safety, or well-being, is not applied consistently or effectively.
- Legislative oversight of occupational regulation is inadequate, partly as a consequence of the fact that there are so many separate entities with regulatory responsibilities.

The Office of the Legislative Auditor provided suggestions to improve the administrative structure and procedures of occupational regulation; however, it did not make any recommendations on the core policy issue of whether to regulate, and if so, how much. The recommendations provided included:

- Committees hearing bills that propose new occupational regulation could require proponents to submit specific information as a condition for obtaining a hearing, including whether each major proposal meets the

requirement of Minnesota Century Code Chapter 214.

- The Legislative Assembly may want to revise reporting requirements of regulatory boards,

including which boards are required to submit a biennial report and the type of information required to be included in the report.