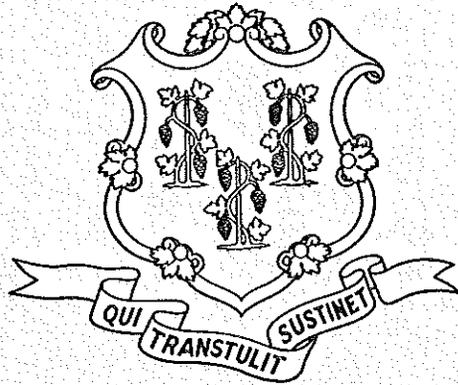


# Connecticut General Assembly



## Legislative Program Review and Investigations Committee

### SUNSET REVIEW

#### Board of Examiners in Podiatry

Vol. I-11

January 1, 1980

CONNECTICUT GENERAL ASSEMBLY

LEGISLATIVE PROGRAM REVIEW AND INVESTIGATIONS COMMITTEE

The Legislative Program Review and Investigations Committee is a joint, bipartisan, statutory committee of the Connecticut General Assembly. It was established in 1972 as the Legislative Program Review Committee to evaluate the efficiency and effectiveness of selected state programs and to recommend improvements. In 1975 the General Assembly expanded the Committee's function to include investigations and changed its name to the Legislative Program Review and Investigations Committee. During the 1977 session, the Committee's mandate was again expanded by the Executive Re-organization Act to include "Sunset" performance reviews of nearly 100 agencies, boards, and commissions, commencing on January 1, 1979.

The Committee is composed of twelve members, three each appointed by the Senate President Pro Tempore and Minority Leader, and the Speaker of the House and Minority Leader.

This is the first of five annual reviews emerging from the first round of "Sunset" research.

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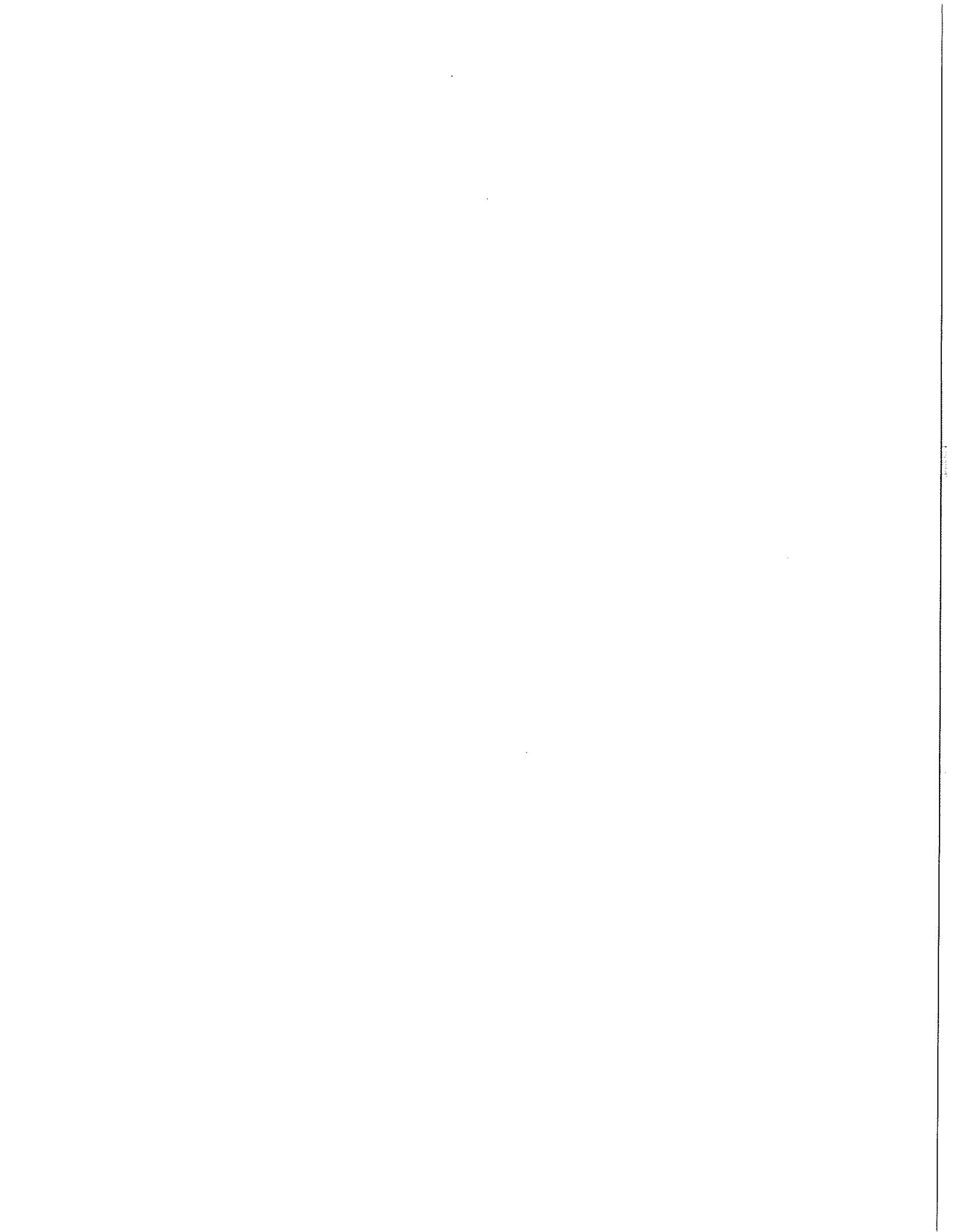
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Michael L. Nauer, Director  
Paul S. Rapo, Staff Attorney  
George W. McKee, Sunset Coordinator  
Elaine A. Anderson, Ph.D., Senior Program Analyst  
Randy J. Garber, Program Analyst, Acting Sunset Coordinator  
Jill E. Jensen, Program Analyst & Principal Analyst on the Study  
L. Spencer Cain, Program Analyst & Principal Analyst on the Study  
Catherine McNeill Conlin, Program Analyst  
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SUNSET REVIEW 1980

CONNECTICUT BOARD OF EXAMINERS IN PODIATRY

Vol. I-11



## CONNECTICUT BOARD OF EXAMINERS IN PODIATRY

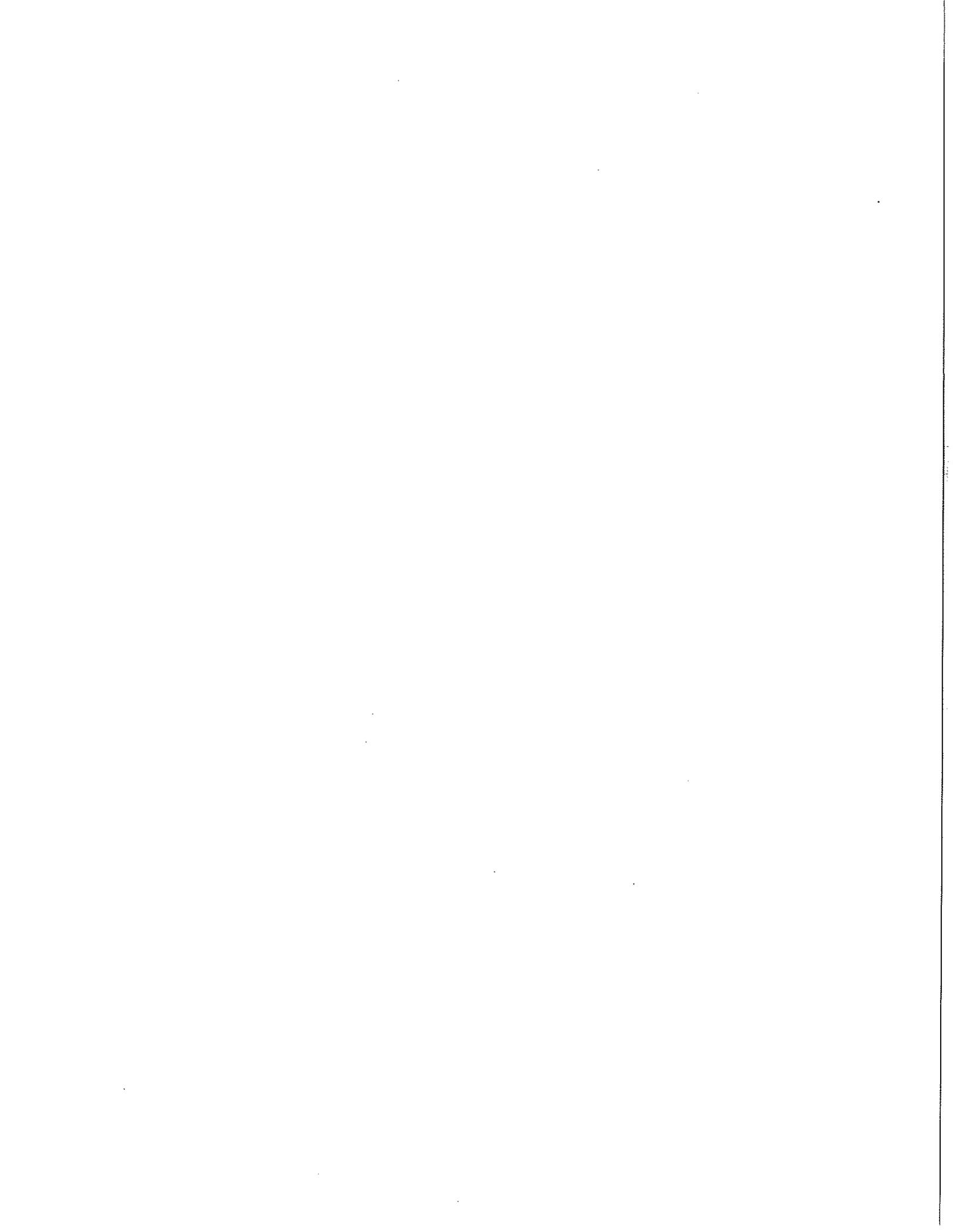
The Connecticut Board of Examiners in Podiatry was reviewed by the Legislative Program Review and Investigations Committee in compliance with the Sunset mandate of P.A. 77-614. The nine criteria outlined in that act (Title 2c, Chapter 28) provided the basis upon which committee decisions were made. These criteria required legislators to address three fundamental questions in evaluating the boards and commissions slated for 1980 Sunset review:

1. Is regulation of the occupation or profession necessary to protect the public from harm?
2. What is the appropriate level of regulation?
3. Who should regulate the occupation or profession and how should it be regulated?

This board-specific report is supplemental to the Sunset Review 1980 - General Report which contains the background, methods, and recommendations of Sunset Review 1980. To appreciate fully the contents of this board-specific report, it is necessary to review and refer to the General Report, particularly the section "Model Legislation" which provides a single statutory framework to be applied uniformly and consistently to all regulated entities under Sunset review.

This specific report contains the following sections:

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



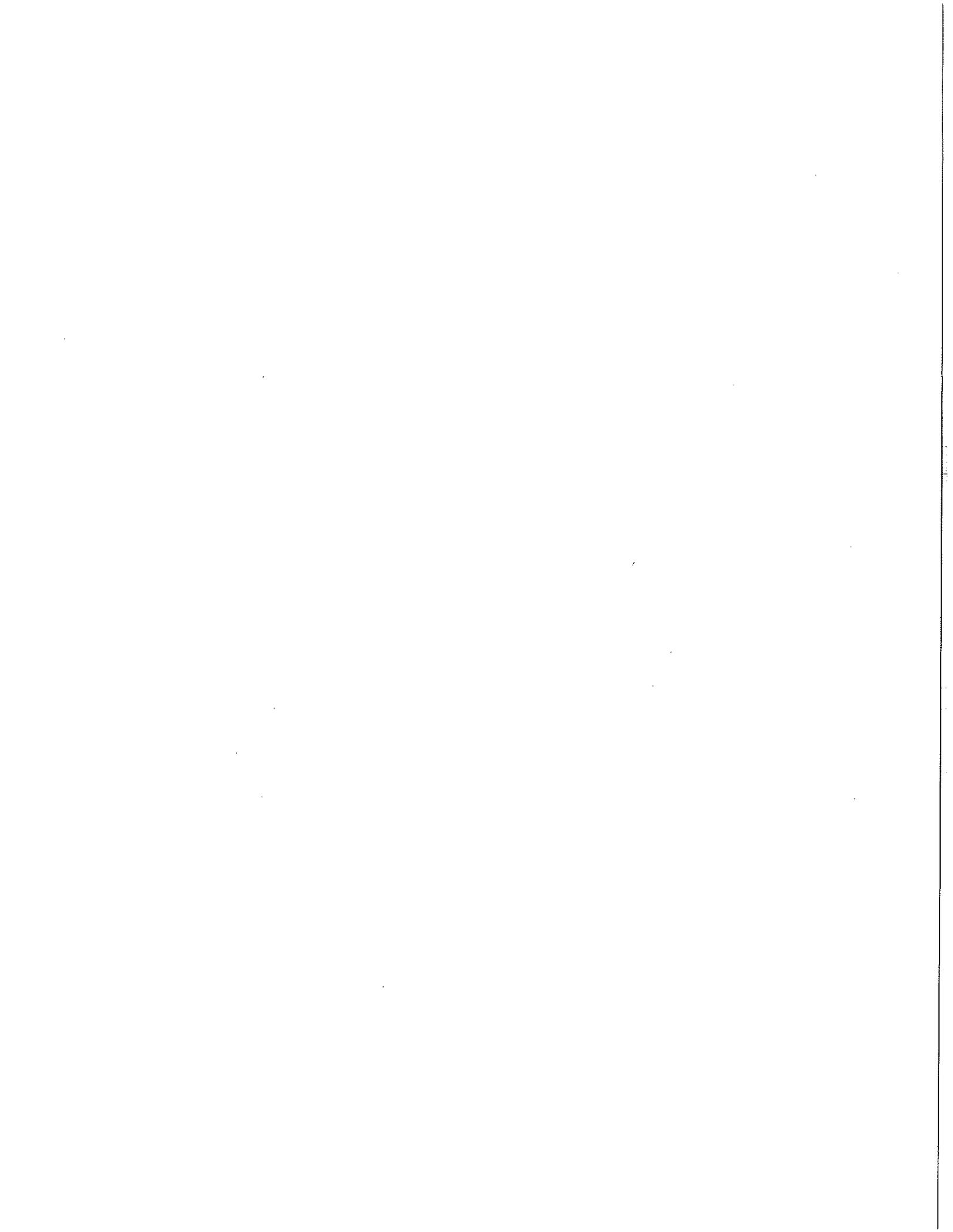
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SECTION I

DESCRIPTION OF ENTITY

Definition and Background  
Structure  
Functions  
Entry Requirements

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## Definition and Background

Podiatry is the diagnosis, prevention and treatment of foot ailments. The practice includes the prescription, administration and dispensing of drugs and controlled substances. Podiatrists may perform surgery of the foot, but are prohibited from amputation or treatment of systemic disease other than local manifestations in the foot. Generally recognized principles of medicine and surgery govern the practice.

Podiatry, like medicine and other healing arts, is a health profession in which individual authority and discretion may be legally exercised in a variety of diagnostic and treatment techniques including x-ray, drugs and surgery. Though podiatry is a limited healing art, abuse or incompetence in any of its functions can result in irreversible physical, emotional and financial harm. Licensure is the necessary level of regulation to insure and enforce minimum standards of competence in this profession which requires a high level of expertise and skill.

Connecticut has regulated podiatry since 1915. At that time a two member board of one physician and one podiatrist regulated the profession, which had a relatively narrow scope of practice. Both board membership and scope of practice were significantly increased over the years. A 1971 act (P.A. 859) broadened the surgical scope of podiatry to authorize any surgical procedure on all structures of the foot except the bones of the tarsus (rearfoot). However, the use of general anesthesia and treatment of systemic diseases remained forbidden. The major expansion in the scope of podiatric practice, and the subsequent increase in the number of practitioners in Connecticut began in 1976. P.A. 76-99 enabled podiatrists to perform surgery on the tarsal bones, to use general anesthesia, and to treat local foot manifestations of systemic disease.

Currently, 193 podiatrists hold valid licenses to practice in Connecticut.

## Structure

The Connecticut Board of Examiners in Podiatry consists of five members appointed by the Governor. Three members are state-resident podiatrists who have practiced in the state for at least three years. These professionals may be appointed from a list submitted by the Connecticut Podiatry Association. Two public members complete the board.

## Functions

To execute its regulatory powers and duties, the board is mandated to perform the following functions:

- prescribe the entrance examination with the consent of the Commissioner of Health Services;
- approve schools and colleges of chiropody and podiatry;
- approve new and reciprocal licensure; and
- preside over and prescribe sanctions in disciplinary hearings.

## Requirements for Licensure

A new applicant for licensure must be of good moral character, a graduate of an approved high school and college of chiropody or podiatry, and must be or intend to be a state resident. In addition, the applicant must satisfactorily complete the prescribed educational requirements and examination. The fee for application is \$100.00.

An applicant for licensure by reciprocity must be a graduate of an approved college of chiropody or podiatry, hold a license from another state with examination standards equivalent to those of Connecticut, have practiced continuously for five years preceding the application and must be or intend to be a state resident. Applicants who hold a certificate from the National Board of Podiatry Examiners are exempt from the practice requirement. Applicants who have once taken and failed the Connecticut exam must practice for ten years in another state before obtaining a license by reciprocity. The board may prescribe, at its discretion, an oral and practical examination for any applicant for reciprocal licensure. The fee for a license by reciprocity is \$150.00.

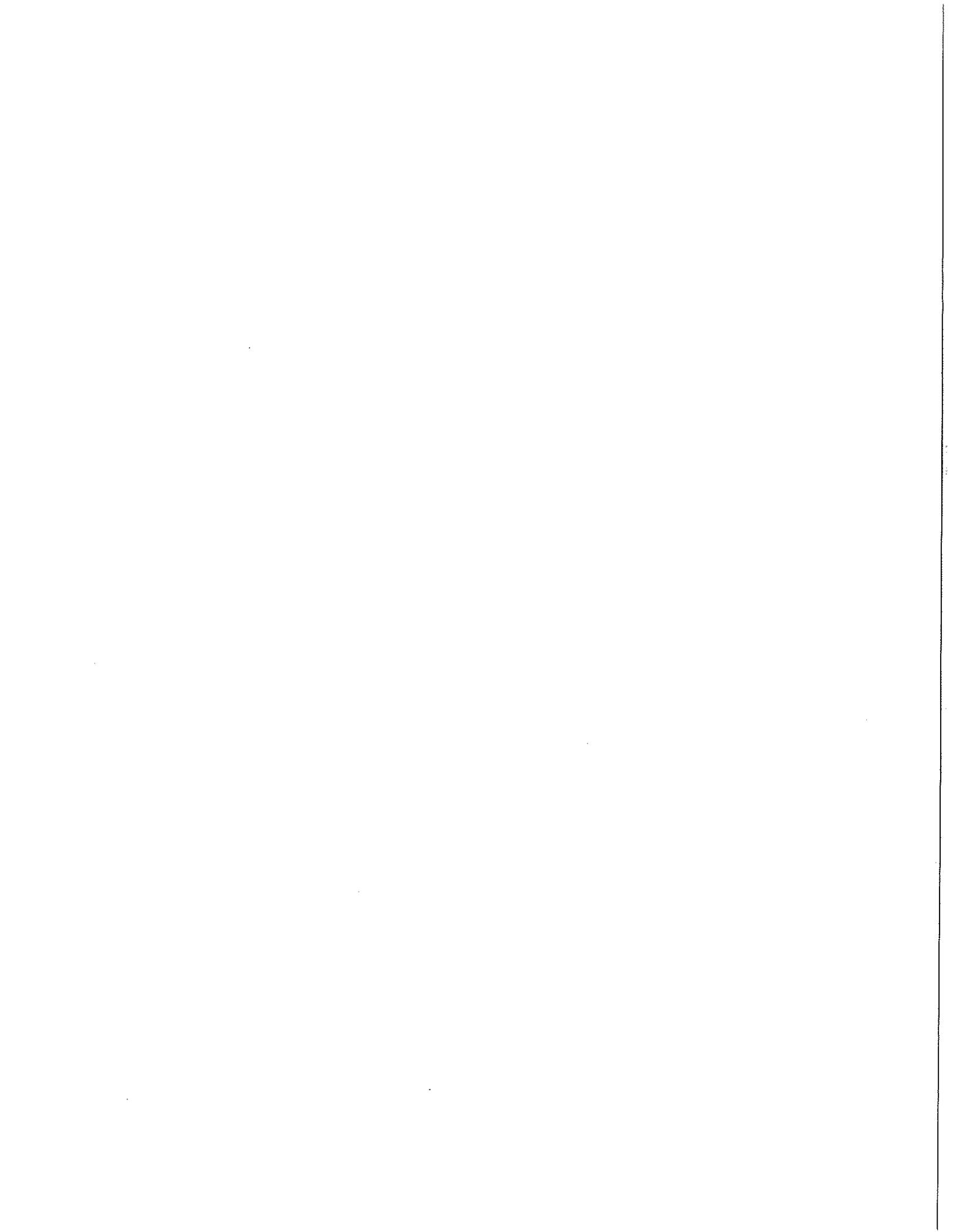
Podiatrists are prohibited from owning or operating any podiatry office under any name other than that of the doctor practicing therein. Podiatrists are also prohibited from operating more than two podiatry offices in Connecticut unless they have the permission of the board to do otherwise.

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SECTION II

RECOMMENDATIONS AND DISCUSSION

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Recommendations for the Regulation  
of Podiatry (Chapter 375)

1. Continue license.

*Licensure has been found to be the most appropriate and necessary level of regulation for this healing art.*

2. Continue the Connecticut Board of Examiners in Podiatry.

*Retention of this board is necessary to provide professional expertise in the entry and enforcement functions of licensure. The board is to be retained as an individual regulatory entity to preserve the distinction between podiatry and the other healing arts.*

3. Amend Chapter 375 to include Model Legislation standards, procedures, responsibilities, appropriate repealed sections and all other relevant sections.

*Model Legislation addresses and ameliorates previous and potential concerns about regulatory procedures and policies. By providing a single regulatory framework for all boards under the aegis of the Department of Health Services (DOHS), the Model Legislation insures consistency, objectivity and uniformity in the execution of regulatory functions. Specific areas of concern in the podiatry board and the solution offered by the Model Legislation are listed below.*

a. Powers and Duties of the Department of Health Services -

*Professional board members and others expressed concern about the perceived unilateral control and authority by this single agency after Executive Reorganization. Model Legislation delineates the Commissioner's powers and duties relative to the regulatory boards and provides mechanisms for countervailing powers and board input where necessary.*

b. Powers and Duties of the Boards - Critics of the boards prior to Executive Reorganization maintained that they had too much authority and lacked a necessary system of checks and balances in their powers and duties. After Executive Reorganization, however, board members and other professionals in particular believed that the board's regulatory role was overly diluted and not clearly specified with respect to the Department of Health Services.

*Model Legislation delineates the board's powers and duties and provides mechanisms to insure professional expertise and input where necessary.*

c. Business Practices - *The Committee found that regulation of business practices and statutory restrictions on business practices were not relevant to ensuring and enforcing minimum standards of competence. Such business practices recommended for repeal are included in the following statutes and regulations (See Model Legislation - Business Practices):*

- Sec. 20-59(f) - Advertising restrictions.
- Sec. 20-64 - Ownership and operation of office.
- Reg. 20-53-24(f) - Advertising restrictions.

d. Entry Requirements - *The Committee found that the podiatry statutes governing entry requirements contained certain qualifications not relevant to determining an applicant's competence. Such requirements --good moral character, state residency, five years of continuous licensed practice for an out-of-state applicant and ten years of continuous licensed practice for an out-of-state applicant who once failed the Connecticut examination--are recommended for deletion.*

*Model Legislation also provides for an intensive review and revision of entry requirements by the board and the Department of Health Services to bring them in conformance with the principles outlined in the Model Legislation and the current state of the art in the practice of podiatry.*

e. Renewal Standards - *The Committee found that standards for licensure renewal required review and revision to bolster the enforcement of continued competence. Model Legislation (Required Reports) provides for such updating.*

f. Grounds for Professional Discipline - *The Committee found a great variance among the statutes in this area. Model Legislation provides grounds for professional discipline which are focused on the delivery of service and quality of care rendered by the practitioner. Application of these grounds to all regulatory boards under the aegis of the DOHS insures a rational and uniform basis for peer review and imposition of disciplinary sanctions.*

g. Receiving and Processing Complaints - *An area of considerable controversy, mechanisms for receiving and processing complaints in the Model Legislation are delineated to provide the professional board with necessary information and input at appropriate stages, while maintaining the separation of powers and duties necessary in this regulatory aspect.*

h. Disciplinary Sanctions - *Model Legislation explicates a range of disciplinary sanctions and requires consistency and uniformity in their application.*

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SECTION III

ENTITY DATA AND ANALYSIS

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## ENTITY DATA AND ANALYSIS

Section 2c-6 of Connecticut's Sunset Law mandates that the entity reviewed demonstrate a "public need for (its) reestablishment" and that "it has served the public interest and not merely the interests of the persons regulated." All boards, commissions and departments evaluated in Sunset Review 1980 received a questionnaire which addressed the nine statutorily specified Sunset criteria.

This questionnaire, the primary instrument used to evaluate the entity's "burden of proof," was followed by staff interviews with key board members and members of the professional associations for further clarification and amplification.

The following section contains the questionnaire sent to the Connecticut Board of Examiners in Podiatry. Where appropriate, Committee staff has edited the agency response without altering or diluting the argument. Committee staff then analysed the agency response. Because of the methodological constraints posed by Sunset evaluation and implementation of Executive Reorganization occurring simultaneously, manageable quantitative data were difficult to obtain. Qualitative analysis, based on relevant information and data derived from a variety of sources, was used primarily in the Committee staff comment. This annotation appears in italics below the agency response.

1. WOULD THE TERMINATION OF LICENSING REQUIREMENTS FOR YOUR PROFESSION SIGNIFICANTLY ENDANGER THE PUBLIC HEALTH, SAFETY, OR WELFARE? PLEASE EXPLAIN.

Without question, the termination of licensing requirements would significantly endanger the public health, safety and welfare. Licensing requirements are designed to ensure a minimum qualification to practice in order to protect the public from inadequately educated and trained practitioners.

*Chapter 375 of the C.G.S. authorizes podiatrists to treat foot problems medically, surgically and mechanically. One of the healing arts with legal judgmental authority and discretion, podiatry may now include diagnosis, prescription and administration of drugs including narcotics, general anesthesia and surgery. Podiatrists enjoy parity with M.D.'s on insurance coverage and reimbursement. Podiatry is licensed in all 50 states.*

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

Not to my knowledge.

*Nationally, there is considerable variety in the composition and form of boards regulating podiatry. Twenty-two states, including Connecticut, have licensing boards whose professional members are all podiatrists. Fourteen other states have boards which include podiatrists and practitioners of other branches of the healing arts. Three states regulate podiatry through medical boards with no representation of the profession and in Mississippi the Board of Health regulates podiatry without podiatry representation.*

*Connecticut has and continues to regulate health professions through individual professional (and recently, public) boards. The rationale has been that the professional expertise and peer review required in regulating each health profession is unique and distinct. Further, the health regulatory boards were enacted separately and at different times making merger difficult. The board of examiners in podiatry, not unlike other healing arts boards, was created simultaneously with mandatory regulation of practitioners. Regulation of these professions by other forms, though feasible, has not been tried in Connecticut.*

*The podiatry profession has strongly resisted change of its regulatory structure. A representative of the podiatry association, critical of Executive Reorganization, noted in 1977 that "reorganization sets up a layer between the boards and government, is dangerous, and creates a bigger bureaucracy." A board representative maintained that a separate board is essential, that there is an "absolute necessity for peer review--an essential part of the democratic process." Peer review, according to this representative, protects complaints from reaching the*

*media--an occurrence which can potentially destroy the "rapport and psychological interface between patient and doctor."*

*It is not the intent of Sunset review to interfere in the special relationship between patients and doctors. The intent is, however, to encourage a more open and participatory process that will maximize objectivity and consumer interests while maintaining professional expertise in the peer review process.*

3. COULD THE PUBLIC BE ADEQUATELY PROTECTED BY A LESS RESTRICTIVE METHOD OF REGULATION THAN THE CURRENT LICENSING REQUIREMENTS, SUCH AS CERTIFICATION OR REGISTRATION? PLEASE EXPLAIN.

Current requirements, while not overly restrictive, have proved to be adequate relative to public protection.

*Licensing has been found to be the most appropriate and necessary level of regulation for the healing arts practitioners. The LPR&IC has found, however, that certain entry requirements in the podiatry statutes--good moral character and state residency--are excessive and not relevant to determinations of competence. These requirements, therefore, are recommended for statutory deletion.*

4. DOES YOUR BOARD OR COMMISSION HAVE THE EFFECT OF INCREASING THE COSTS OF GOODS OR SERVICES TO THE PUBLIC EITHER DIRECTLY OR INDIRECTLY? PLEASE EXPLAIN THE BASIS FOR YOUR ANSWER.

Our board does not have the effect of increasing the cost of medical services to the public either directly or indirectly. Our board does have the effect of lowering the cost of medical services by ensuring only adequately educated and trained practitioners are licensed to practice. In addition, the viability of our mechanism of handling consumer complaints coupled with a strict code of ethics prohibiting false and misleading advertising has the potential of keeping the cost of medical services as low as possible. Monies generated through exam and licensure fees is more than triple the monies spent for public interest board activities each year.

*Monies generated by the board in licensing and examination fees totalled \$10,610 for 1978. This represents a more than double amount of the amount expended by the board (\$4,251) during that year.*

*Research on the economic effects of regulation indicates findings directly opposed to the board's premise that licensing lowers the cost of medical services. In one representative study of dentistry, a limited healing art paralleling podiatry, a noted economist observes that "evidence suggests that the members of some licensed occupations do derive benefits from the use of their licensing powers in the form*

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

1. A broadened scope of practice for qualified practitioners with public safeguards.
2. Mandatory continuing education requirements for relicensure (not implemented for lack of funding).

*The podiatry board has actively pursued legislation to upgrade standards and expand their scope of practice for the last decade. The board-sponsored P.A. 73-634, "An Act Concerning Oral and Practical Examination of Applicants for a License as a Podiatrist," authorized the board to require oral and practical exams when a written exam is waived. Later, P.A. 76-99, "An Act Concerning the Types of Surgery Allowed to be Performed by Podiatrists" significantly expanded the scope of podiatric practice and subsequently increased the number of podiatrists settling in Connecticut. Prior to this act, the board maintained that Connecticut was experiencing a critical shortage of podiatrists. In a 1974-75 Annual Report, the board noted that,*

*A survey undertaken at (its) request showed that most recent podiatry graduates who applied or had indicated an interest in Connecticut did not follow through because of (a) restrictions on the practice of podiatry in Connecticut imposed by statute, (b) lack of 'meaningful' hospital privileges for doctors of podiatric medicine, and (c) the non-availability of podiatric residencies in accredited Connecticut general hospitals.*

*While the updated act clearly benefits licensees in expanding not only the scope of practice but also potential income, it does benefit the public by increasing availability of services.*

*The Board reported that it spent some 200 hours preparing a mechanism to implement mandatory continuing education. Seventeen states require continuing education for relicensure or membership into the professional organization and the American Podiatry Association urges such programs. The direct benefits to the public derived from mandatory continuing education are still subject to considerable debate. No conclusive evidence has demonstrated that such a required program insures continued competence. Although mandatory continuing education proposed by the podiatry board may update the knowledge and competency of podiatrists, it may also result in increased patient fees, a strengthened regulatory board, and restricted entry*

and continued practice. Because of these unresolved complexities, the Sunset committee staff has not recommended mandatory continuing education where it has not already been required. The boards, however, in the required report (see Model Legislation Section 12) will have the opportunity to make such suggestions.

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

It is our intention to strictly apply the conditions of the "Administrative Procedures Act: upon publication of our newly revised "Rules and Regulations." That is, if we are budgeted.

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

Initial investigation by the Board Secretary.  
Compliance Hearing with the Attorney General.  
Formal or Informal Hearing.  
Recommendations.

*The podiatry board, not unlike other regulatory boards prior to Executive Reorganization, had no systematic complaint mechanism. An investigation of board files and documents revealed erratic procedures particularly regarding referrals to the professional association; a lack of systematic record-keeping, making complaint histories difficult, if not impossible, to trace; that practitioners used complaint mechanisms as much as the public; and a circuitous complaint filtering system. One instance shows a letter that traveled the following route: complaint--Department of Consumer Protection--complainant--Commission on Hospitals and Health Care--Department of Health Services--Board of Examiners--Professional Association Peer Review Committee--Board of Examiners. Finally, the board negotiated a settlement with the complainant who refused the offer. No information was found, however, on the closure of the case,*

*Executive Reorganization and recommendations made under this Sunset Review (see Model Legislation) are designed to correct these deficiencies. A clear complaint procedure is delineated which provides for appropriate board input and uniform grounds for disciplinary action. It is believed that this procedure will ease the difficulty consumers often have in filing complaints, and will provide a systematic logging and monitoring mechanism. Evaluation of the effectiveness of this procedure and the board's behavior in the adjudication phase will now be possible.*

13. WITHIN THE PAST FIVE (5) YEARS WHAT STATUTES, RULES, OR REGULATIONS HAS YOUR BOARD OR COMMISSION PROPOSED OR ADVOCATED TO PROTECT YOUR PROFESSION FROM THE LICENSURE OF UNQUALIFIED PERSONS?

Revisions of Chapter 375, Section 20-60.  
Proposed "Rules and Regulations" governing the conduct of the board and members of the podiatric profession.

*The proposed rules and regulations have not been implemented. This Sunset review provides for a redefining of standards and procedures within the context of the Model Legislation.*



