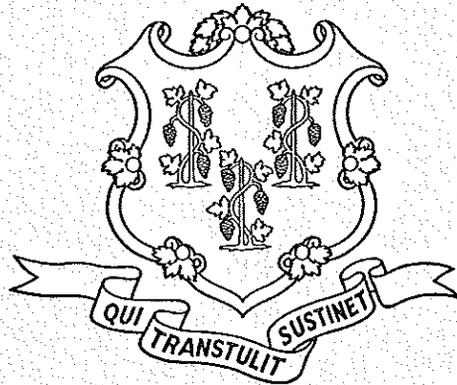


Connecticut General Assembly



Legislative Program Review and Investigations Committee

SUNSET REVIEW

Homeopathic Medical Examining Board

Vol. I-8

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 Reorganization 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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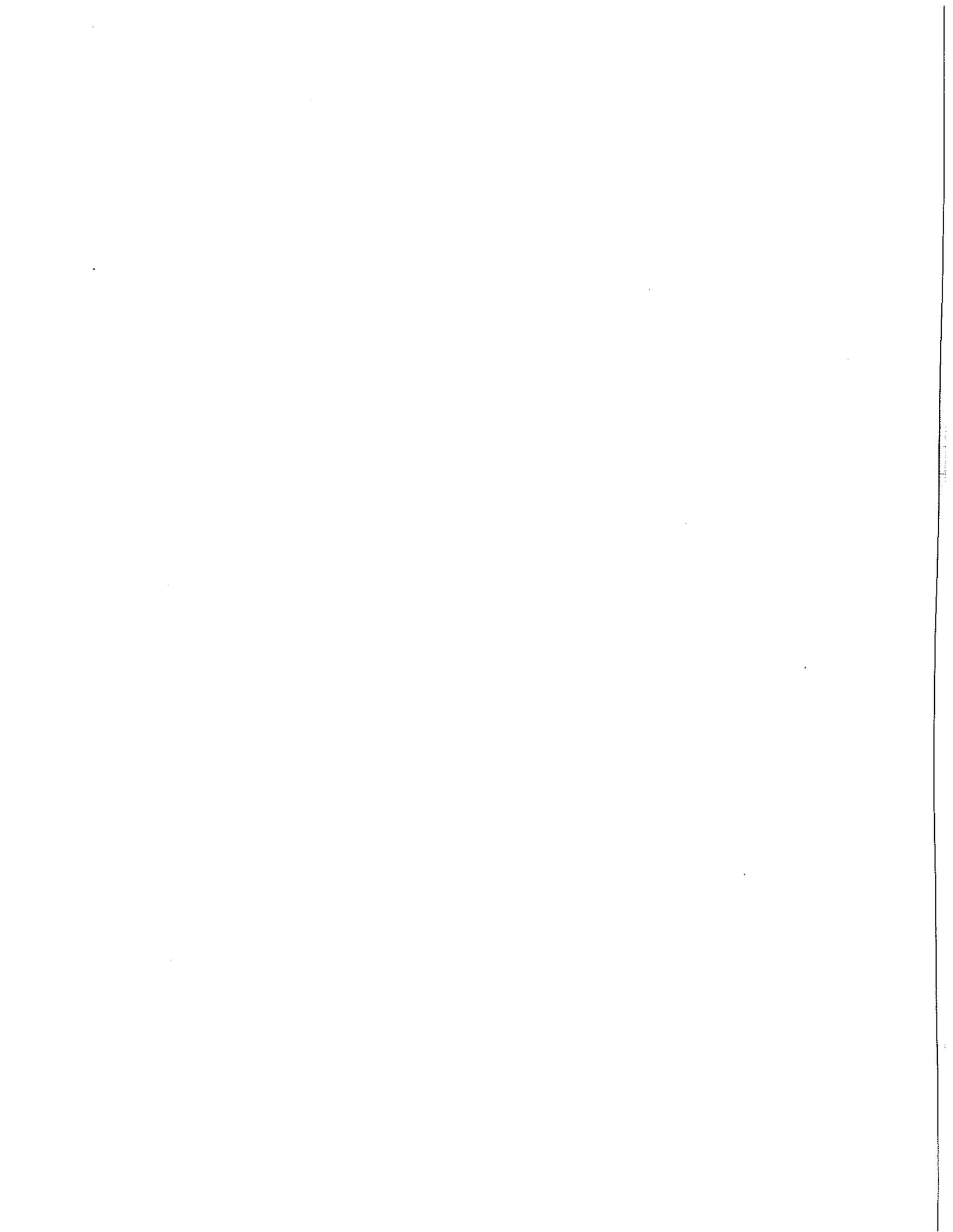
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SUNSET REVIEW 1980

CONNECTICUT HOMEOPATHIC MEDICAL EXAMINING BOARD

Vol. I-8



CONNECTICUT HOMEOPATHIC MEDICAL EXAMINING BOARD

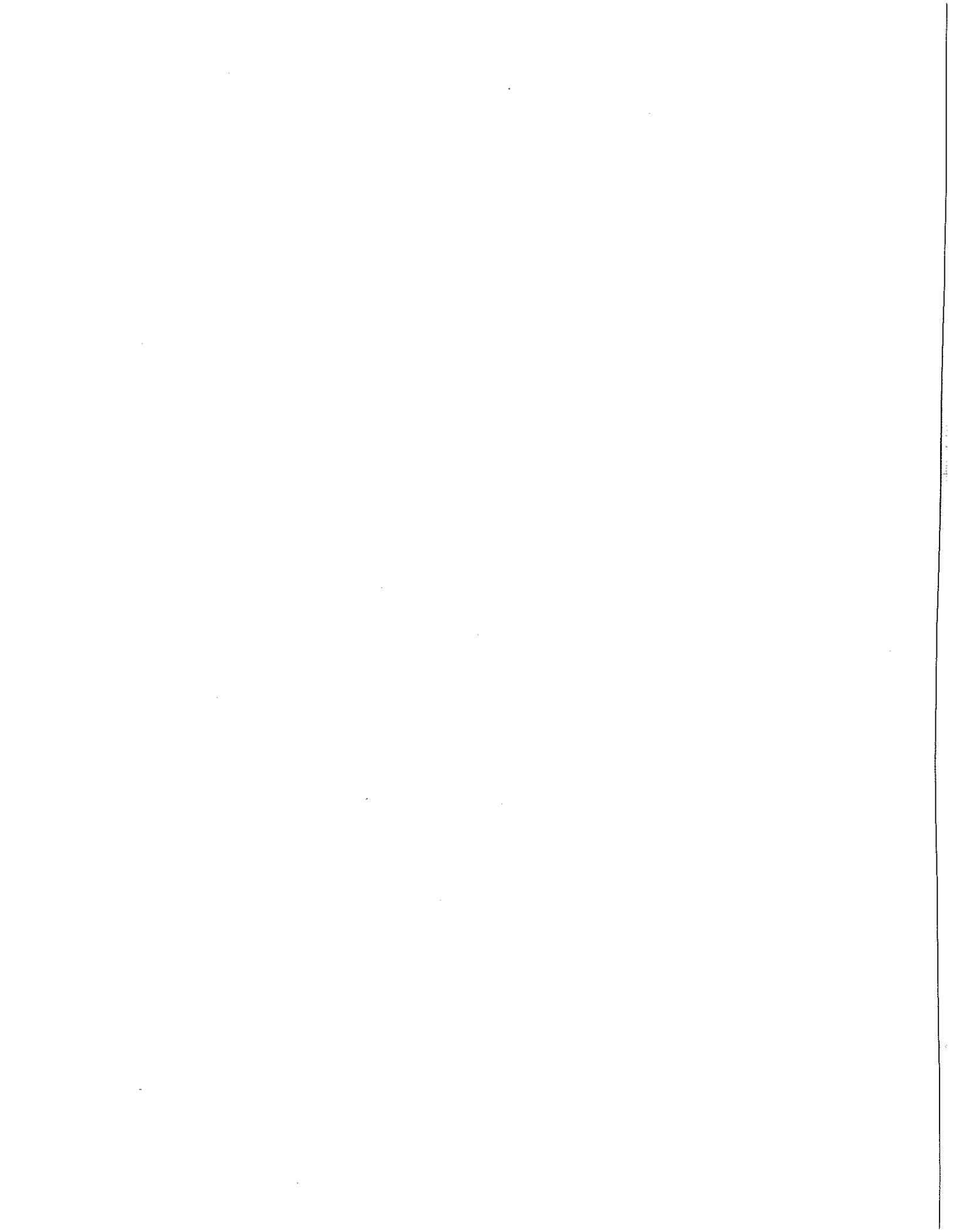
The Connecticut Homeopathic Medical Examining Board was reviewed by the Legislative Program Review and Investigations Committee in compliance with the Sunset mandate of P.A. 77-614. The nine criteria outlined in that act (Title 2c, Chapter 28) provided the basis upon which committee decisions were made. 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.



SECTION I

DESCRIPTION OF ENTITY

Definition and Background
Structure
Functions
Entry Requirements

Definition and Background

Homeopathy refers to the art of selecting and administering medicines in accordance with the rule of similia similibus currentor ("like cures like").¹ It is based on the principle that in a given case of disease, the drug that produces the symptoms most like the disease (in a healthy person) will, when administered homeopathically, work a cure.

Competent practice of homeopathy, as with any medical cure, requires special skill and knowledge. Incorrect diagnosis or improper administration of homeopathic remedies can seriously endanger a patient's health and possibly cause death. The Connecticut Homeopathic Medical Examining Board was created in 1893 to assure the public of competent homeopathic practice through its licensure and enforcement powers.

Homeopathy originated as an alternative to traditional or allopathic medicine in Germany during the late 1700's. At the peak of its popularity at the turn of this century, about one out of every six American physicians was a homeopath. Currently, less than 50 licensed homeopaths practice in Connecticut, the only state with an active licensing program and separate examining board for homeopathy. The practice of homeopathy is still prevalent in India, however, and homeopathic medical schools and hospitals operate in England as well as India.

Structure

The board consists of five members, all appointed by the Governor, including three physicians and two public members. The Connecticut Homeopathic Medical Society recommends three practicing physicians to serve on the board; however, the Governor is not limited to these nominations.

¹ For the definition and background information on homeopathy, the following sources were consulted:

Garth W. Boericke, Homoeopathy, (Delhi: M/s. N. S. and Co., n.d.).

John Henry Clarke, Homoeopathy Explained, (New Delhi: B. Jain Publishers, 1905).

John Weir, The Science and Art of Homoeopathy, (Delhi: M/s. N. S. and Co., [1927]).

Functions

Presently, the board is responsible for the following regulatory functions:

- advise and assist the Commissioner of Health Services in promulgating regulations concerning homeopathy and the operation of the board;
- approve schools or institutions whose graduates may be admitted to the homeopathic licensure examination;
- prescribe a homeopathic licensure examination and supervise its administration; and
- adjudicate complaints concerning licensed homeopaths by holding hearings and imposing disciplinary actions.

Requirements for Licensure

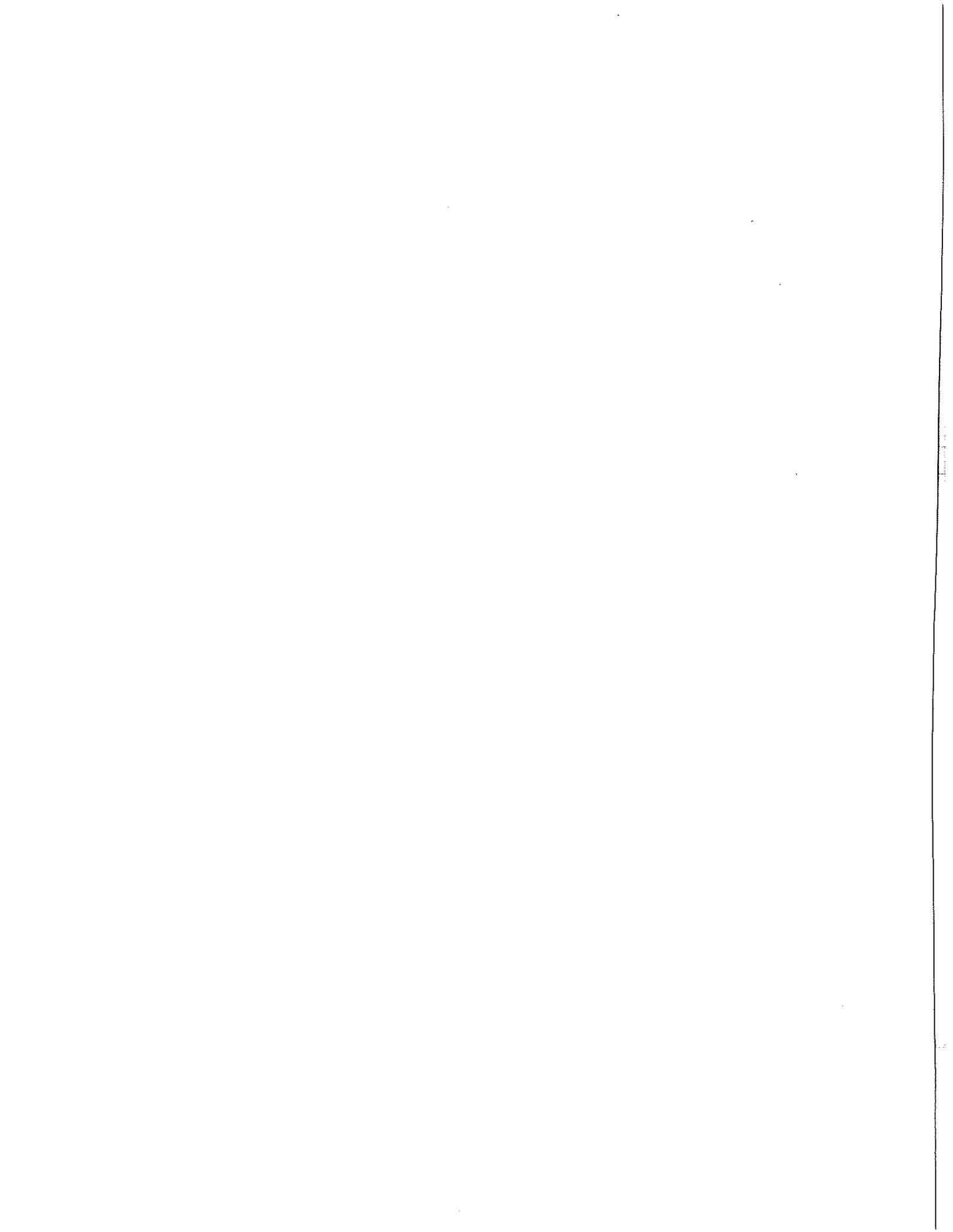
Statutory provisions concerning homeopathy are contained in the medical practice act (C.G.S. Chapter 370). Both the homeopathic and (traditional) medical boards are established by this act and both grant licenses to practice medicine and surgery (there is no statutory definition of homeopathic medicine and surgery). Applicants for medicine and surgery licenses, however, must be examined with respect to the school of practice in which they graduated (either homeopathy or traditional medicine) and once licensed are overseen by the appropriate board.

To receive a license to practice medicine and surgery, homeopathic applicants must have graduated from a board-approved school, completed a one-year internship (in a homeopathic hospital), and passed a three-part examination. An initial \$150.00 licensure fee must be submitted with the application. Once licensed, each homeopathic physician must register annually with the Department of Health Services and pay a \$150.00 fee.

Endorsement of another state's license is not available as an alternative entry mechanism since no other state provides for homeopathic licensure. In addition, there are no approved schools or homeopathic hospitals currently operating in the United States. The board only recently approved one Indian homeopathic medical school and is now investigating the credentials of other foreign schools. Therefore, very few applicants have been eligible for licensure in recent years.

SECTION II

RECOMMENDATIONS AND DISCUSSION



Recommendations for the Regulation
of Homeopathy (Chapter 370)

1. Continue license for homeopathic physicians.

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

2. Continue the State Homeopathic Medical Examining Board.

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 homeopathy and the other healing arts.

3. Reduce board membership to three (two professionals and one public member).

The current workload for the homeopathic board can be handled adequately by two rather than the present three professional members. The number of practicing homeopathic physicians is relatively small (only 45) and applicants eligible for examination are few (only 2 in the past ten years). Entry and enforcement activities of the board have been minimal.

4. Amend Chapters 370 and 374 to establish a statutory definition of homeopathy and a separate licensure program for homeopathic medicine and surgery in conformance with Model Legislation.

Statutory provisions concerning homeopathy presently are contained in the medical practice act. There is no legal definition of the practice of homeopathic medicine and surgery and the statutes do not recognize the distinction between the two schools of medical practice. Implementation of this recommendation would clearly establish a separate licensing process for homeopathy consistent with the other healing arts and Model Legislation.

5. Amend Chapters 370 and 374 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 regulation of homeopathy 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.

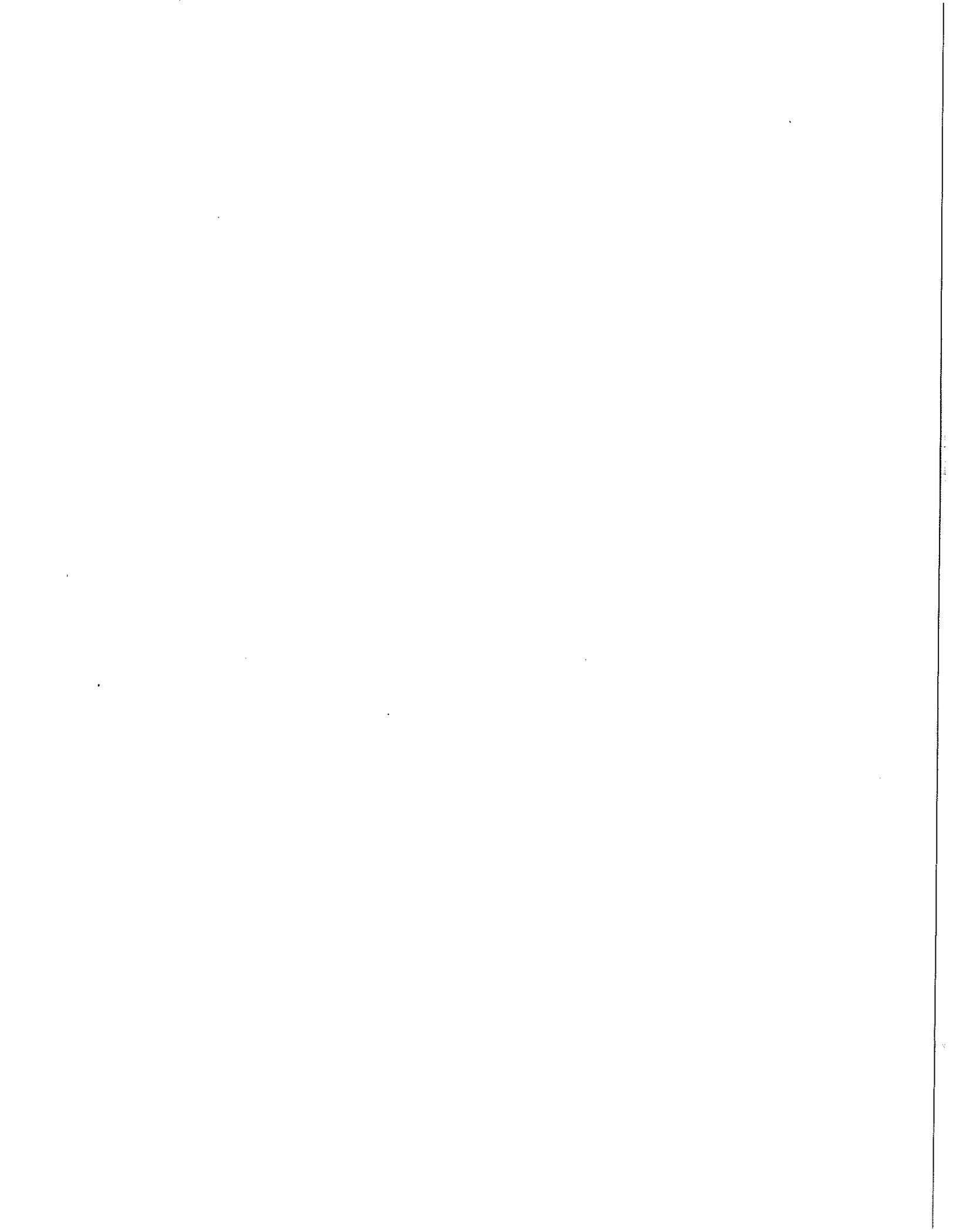
- c. Business Practices - The Committee found that regulation of business practices and statutory restrictions on business practices were not relevant to ensuring and enforcing minimum standards of competence. Such business practices recommended for statutory repeal include the following statutory sections (See Model Legislation - Business Practices):
- C.G.S. Sec. 20-44 - Advertising restrictions.
 - C.G.S. Sec. 20-45 - Advertising restrictions.
- d. Entry Requirements - The Committee found that the homeopathy statutes governing entry requirements contained certain qualifications not relevant to determining an applicant's competence. Such requirements --minimum age and good moral character-- 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 homeopathy.

- e. Renewal Standards - The Committee found that standards for licensure renewal required review and revision to bolster the

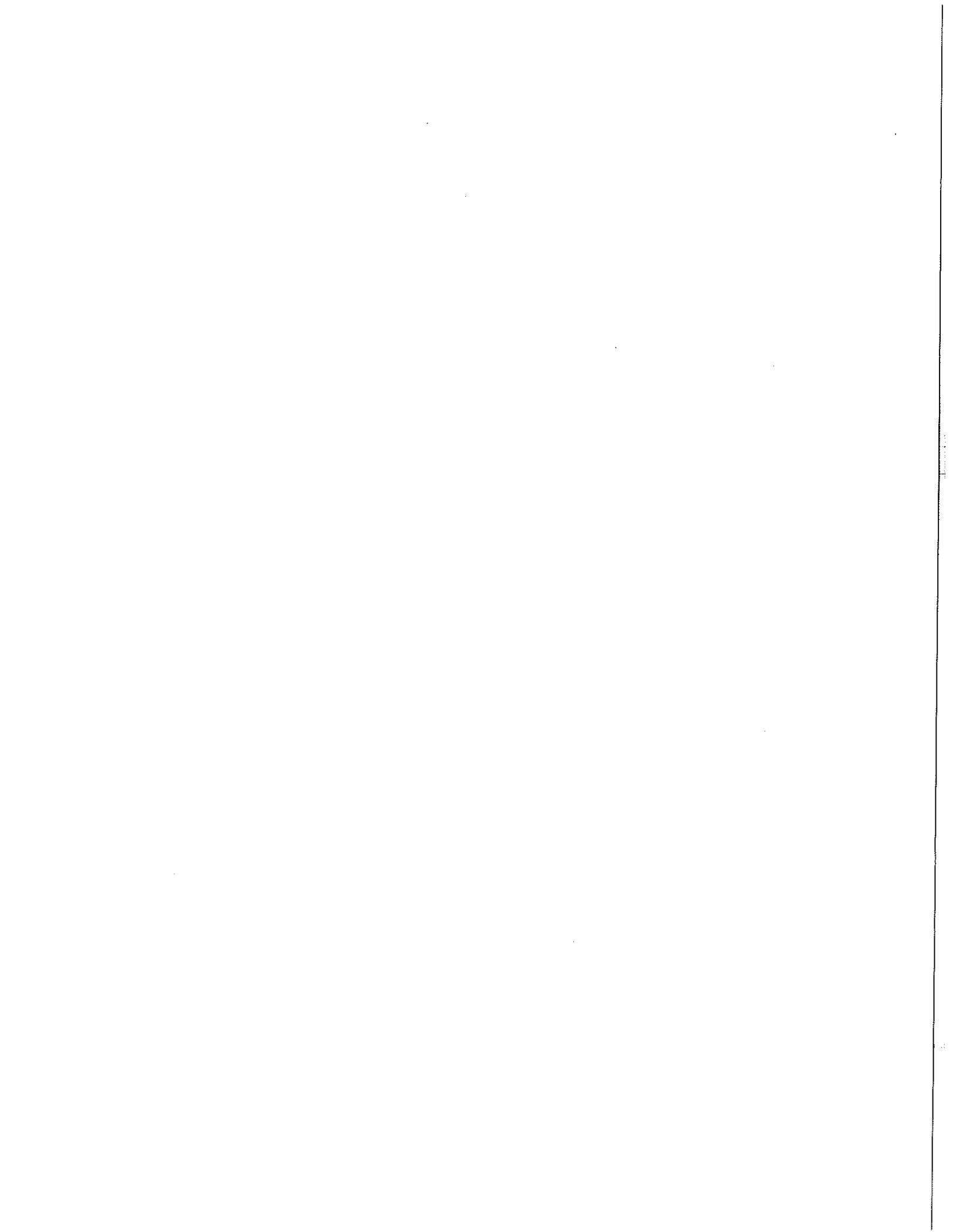
enforcement of continued competence. Model Legislation (Required Reports) provides for such updating.

- 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.*



SECTION III

ENTITY DATA AND ANALYSIS



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 Homeopathic Medical Examining Board. 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.

Yes. Because of the nature of homeopathic¹ philosophy, materia medica and therapeutics, it is known that the administration of commonly used drugs is detrimental to the human organism, thereby adversely affecting the public health, safety and welfare.

Furthermore, the termination of licensing requirements for homeopathic physicians would constitute discrimination against a minority group of physicians and patients.

Homeopathy, an alternative school of medical practice, is "directed towards the treatment of the whole person, not just his parts." Unlike allopathic (traditional) medicine, homeopathic medicine and surgery is based on the principle that "like cures like." Treatment, which includes administration of "homeopathic remedies" rather than prescription drugs, usually involves no serious side effects.

However, improper administration of homeopathic remedies can, according to board testimony, result in a "permanent disease state" or even cause death. Furthermore, individuals licensed by the homeopathic board, while few in number, are authorized to practice medicine and surgery (i.e., perform the full range of medical functions from diagnosis to surgical treatment--see comments below, #6).

Current patients of homeopathic physicians and the growing number of persons seeking alternative medical care require state assurance of competent homeopathic practice.

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

No. No other entity is qualified to judge the competence or qualifications of a homeopathic physician.

Under the state's current regulatory structure, a board comprised of homeopathic physicians and public members shares responsibility with the Department of Health Services for enforcing entry and practice standards. The board provides the professional expertise and peer review needed to resolve questions of competence and

¹ The alternative spelling of homeopathy (homoeopathy) was used in the board's original survey response. For consistency, the statutory spelling (homeopathy) is used throughout this report.

quality in homeopathic practice.

A merger of the homeopathic board with the medical board was considered since similar backgrounds and training as a physician are required for both types of medical care. However, the theory and practice of homeopathic therapeutics is significantly different from traditional medical treatment. In addition, the long-standing antagonism between these two schools of medical practice makes their professional relationship one of conflict and distrust. Therefore, unless or until adequate homeopathic input and representation could be assured in a combined board, a separate board to provide homeopathic expertise is needed.

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.

No. Any less restrictive method of regulation than the current licensing requirements would permit an inferior quality of practitioner to practice homeopathic medicine in the state.

Competent homeopathic practice requires special knowledge through extensive education and training. State assurance of competency is needed to protect current patients and persons seeking alternative medical care from unqualified homeopathic practitioners. Licensure is the most appropriate level of regulation for the practice of homeopathy.

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.

No. The board has no control or jurisdiction of fees other than those paid to the board, which, in turn, are transmitted directly to the Treasurer of the State.

According to the economic literature, professional licensing indirectly increases the costs of services by restricting entry to the profession (limiting "supply") and by requiring applicants to make a substantial investment in education and training to meet entry standards. While state regulation of homeopathic physicians may increase the costs of services, the licensure program also allows the public to choose a safe and often less expensive alternative to traditional medical care. According to testimony presented by the

homeopathic board: "The cost of homeopathic remedies is much less than that of prescription drugs, and hence the existence of the board [through its role in homeopathic regulation] actually tends to decrease the cost of medical care to the public."

5. IF YOUR BOARD HAS THE EFFECT OF INCREASING COSTS, IS THE ADDITIONAL COST JUSTIFIED THROUGH PUBLIC BENEFITS ATTRIBUTABLE TO THE ACTIONS OF THE BOARD? PLEASE EXPLAIN.

Not applicable.

See above comment, #4.

6. IS THE EFFECTIVENESS OF YOUR BOARD OR COMMISSION HAMPERED BY EXISTING STATUTES, REGULATIONS OR POLICIES, INCLUDING BUDGET AND PERSONNEL POLICIES. IF SO, PLEASE BE SPECIFIC IN YOUR ANSWER.

No.

Current statutory provisions concerning the board and the practice of homeopathy are contained in the medical practice act (C.G.S. Chapter 370). There is no legal definition of homeopathy and the statutory requirements for homeopathic licensure are confusing and outdated. Both homeopathic and traditional physicians are authorized to practice medicine and surgery since there is no statutory distinction between their licenses. While licensees are subject to peer review by their respective medical licensing board, homeopaths may practice traditional medicine and traditional physicians may practice homeopathy under current law. The substantive differences in treatment approach is not recognized in the statutes.

In its public hearing testimony, the homeopathic board agreed with the staff's statutory interpretation and recommended clarifying the statutes by establishing a separate license to practice homeopathy.

7. WHAT STATUTES AND REGULATIONS IMPINGE DIRECTLY ON THE OPERATIONS OF YOUR BOARD? PLEASE LIST OR ATTACH COPIES.

None at present.

See above comment, #6.

Under the 1977 Reorganization Act, the Commissioner of Health Services is responsible for making regulations with the appropriate board's advice and assistance. The Committee staff found that no regulations to implement the statutory provisions concerning homeopathy have been promulgated by the board or the Commissioner.

8. TO WHAT EXTENT HAVE QUALIFIED APPLICANTS BEEN PERMITTED TO ENGAGE IN THE PROFESSION(S) OR OCCUPATION(S) LICENSED BY YOUR BOARD? PLEASE COMMENT ON WAITING PERIODS, DELAYS, PAPERWORK, ETC.

None, until the permanent license has been issued by the State Department of Health, which follows the recommendation and certification of the Examining Board. This takes an indefinite period of time, usually within sixty days.

Only two applicants for homeopathic licensure, one in 1979 and another in 1978, have been eligible for examination in more than 10 years.

A basic science background equivalent to the first four years of American (traditional) medical education is necessary to pass Parts I and II of the FLEX examination, a national test now used by both Connecticut medical examining boards. The homeopathic board, however, substitutes its own examination in homeopathic therapeutics for clinical or treatment section (Part III) of FLEX since the significant difference between homeopathy and traditional medicine is in treatment approach. Most foreign trained homeopaths, while extensively trained in therapeutics, do not have the basic science (traditional medical education) background required to pass the first two parts of the FLEX exam. In contrast, American (traditional) medical graduates cannot obtain the level of knowledge and training in homeopathic therapeutics necessary to pass the board-prepared examination in this country.

According to the board, these two factors have contributed to the lack of qualified applicants for licensure. Now that the board is considering approval of certain foreign (homeopathic) schools, the number of qualified applicants may increase.

9. WHAT ACTIONS HAS YOUR BOARD OR COMMISSION TAKEN TO INSURE COMPLIANCE WITH FEDERAL AND STATE AFFIRMATIVE ACTION POLICIES AND TO ENCOURAGE ACCESS BY WOMEN AND MINORITIES INTO YOUR PROFESSION?

In 1978, this board began investigating the credentials of foreign homeopathic medical schools. One Indian homeopathic medical school was certified. The directors of two Mexican homeopathic medical schools were written concerning the credentials of their schools. The World Health Organization was consulted concerning homeopathic medical schools listed in their directory of medical schools. The Indian Consulate was consulted in regard to submitting to the board a list of accredited Indian homeopathic medical schools.

Committee staff found no evidence of noncompliance.

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?

The inclusion of the World Health Organization's consultation on credentials of foreign homeopathic medical schools.

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

Nothing.

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

If any complaints against any physicians licensed through this board arise, the matter is referred to the Division of Medical Quality Assurance of the State Department of Health.

Formal charges concerning professionals certified by this board will be adjudicated by this board effective January 1, 1979.

Board records indicated no complaints concerning the approximately 40 licensed homeopaths practicing in Connecticut had been filed for at least the past 10 years. The board itself initiated a complaint in July 1979 which was referred to and handled by the Department of Health Services.

During public hearing testimony, the board expressed concern over the handling of the complaint noted above. The board's concerns are addressed by the Committee's Model Legislation which provides for professional input during the Department's investigatory phase of the complaint process.

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?

In 1978, the board sent to the State Department of Health its recommendations concerning the Proposed Regulations for Receipt, Investigation and Adjudication of Complaints Per Public Act 77-614.

