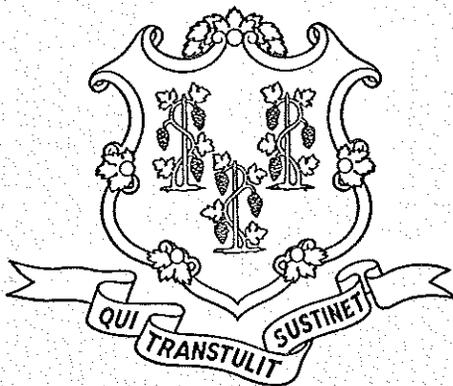


Connecticut General Assembly



Legislative Program Review and Investigations Committee

SUNSET REVIEW

Osteopathic Examining Board

Vol. I-9

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.

1978-80 Committee Members

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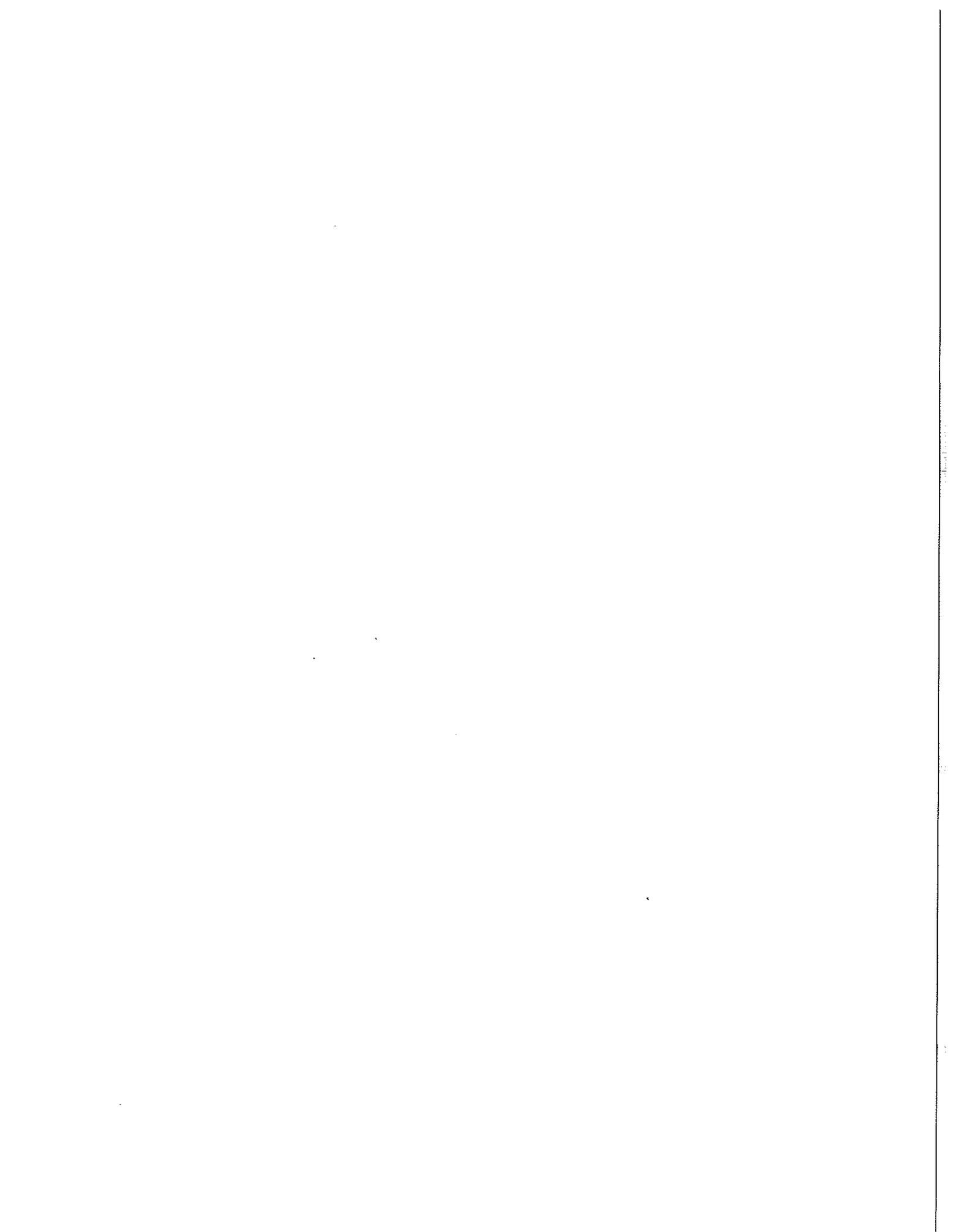
Committee Staff

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SUNSET REVIEW 1980

CONNECTICUT OSTEOPATHIC EXAMINING BOARD

Vol. I-9



CONNECTICUT OSTEOPATHIC EXAMINING BOARD

The Connecticut Osteopathic 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.

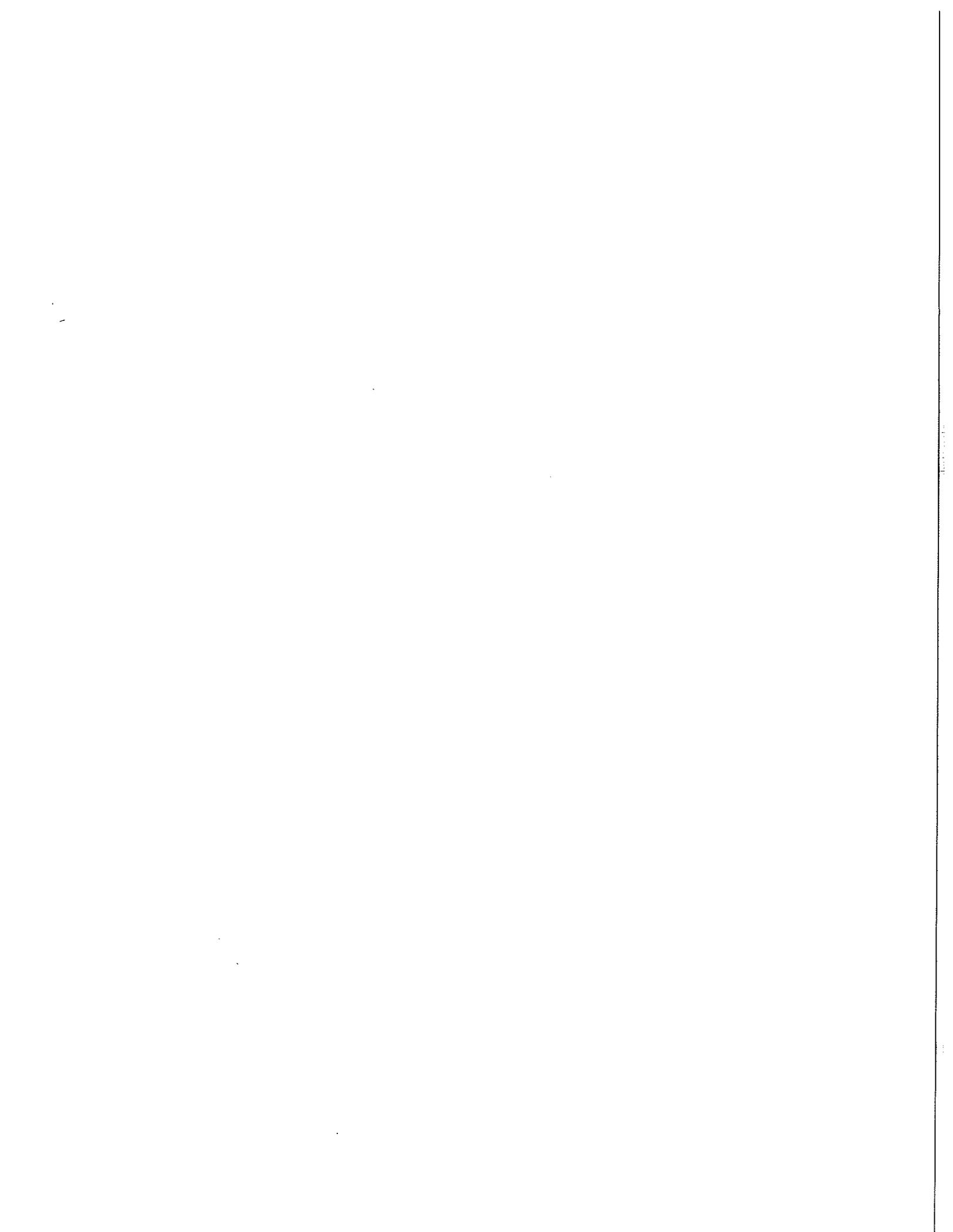
This specific report contains the following sections:

- 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

Osteopathy is a complete school of medicine and surgery which utilizes all methods of diagnosis and treatment in health and disease. The practice of osteopathy places special emphasis on the interrelationship of the musculoskeletal system to all other body systems.

Osteopaths may legally exercise independent authority and discretion in a wide range of diagnostic and treatment techniques including the prescription and administration of drugs, surgery, obstetrics and radiology. Incompetent practice potentially can result in serious physical, emotional and financial harm. Licensure is the appropriate level of regulation to insure and enforce minimum standards of competency in osteopathic practice.

Connecticut has licensed osteopathy since 1901. At that time, a three member professional board with two year appointments regulated doctors of osteopathy, who were then prohibited from performing surgery and using drugs. Over the years, legislation has increased board membership, upgraded entry requirements, and expanded the scope of practice to reflect the profession's advancement and acceptance in the practice of medicine and surgery. A 1973 public act widened the scope of practice of osteopathy to its present definition. Osteopaths in Connecticut now enjoy the same privileges and responsibilities as licensed medical doctors.

In 1978, there were 25 persons holding valid licenses to practice osteopathy in Connecticut.

Structure

The board of examiners presently consists of five members appointed by the Governor. Three members must be resident practicing osteopaths and may be nominated by the Connecticut Osteopathic Society. Two public members complete the board.

Functions

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

- approve osteopathic colleges, schools or institutions;
- prescribe the examination with the consent of the Commissioner of Health Services;

- approve applications for new license and licensure by reciprocity;
- advise and assist the Commissioner of Health Services in establishing regulations to execute statutory provisions; and
- preside over and prescribe sanctions in disciplinary hearings.

Requirements for Licensure

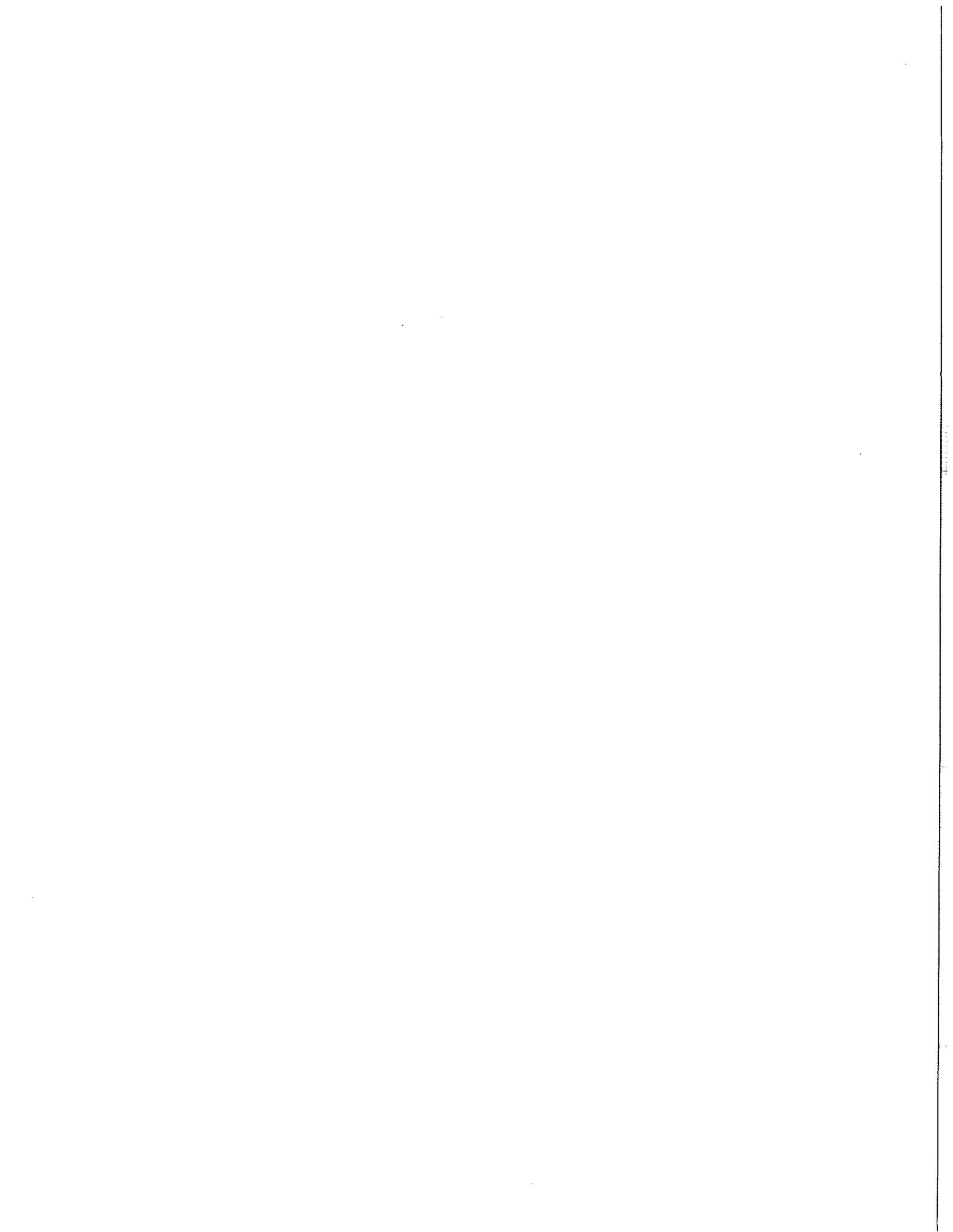
New applicants for Connecticut licensure must be [or intend to be a state resident,] over 18 years old, meet specified residency and educational requirements, and pass an examination prescribed by the board. The fee for application and examination is \$150.00.

Reciprocal licenses may be granted by the board to any person who has a license from any board or agency of osteopathy in the United States provided that the applicant obtained such a license after passing an exam with a score which satisfies Connecticut's requirements, has received a degree of Doctor of Osteopathy from a board approved school or college, is of "good moral character and professional standing," is or intends to be a Connecticut resident, and has practiced osteopathy in the United States for a period of three years during the five year period prior to application. (Diplomats of the National Board of Examiners for Osteopathic Physicians and surgeons are exempt from this final requirement.)

The applicant for reciprocal licensure must pay a fee of \$150.00, \$100.00 of which will be refunded if he is refused a certificate of approval.

SECTION II

RECOMMENDATIONS AND DISCUSSION



Recommendations for the Regulation of
Osteopathic Medicine (Chapter 371)

1. Continue license.

The Legislative Program Review and Investigations Committee (LPR&IC) has found that licensing is the most appropriate and necessary level of regulation for this healing art.

2. Continue Connecticut Osteopathic Examining Board.

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

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

Presently 25 osteopaths hold valid licenses to practice in Connecticut. On an average, only eight new licenses were granted each year since 1976. No complaints have been filed with the board in the last 25 years. The board subscribes to a National Board examination and to the American Osteopathic Association for a list of approved schools.

The board's specific duties and activities have been minimal. It is found that the board will be able to continue to provide adequate and efficient service with a reduced membership.

4. Amend Chapter 371 and Chapter 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 osteopathic 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.

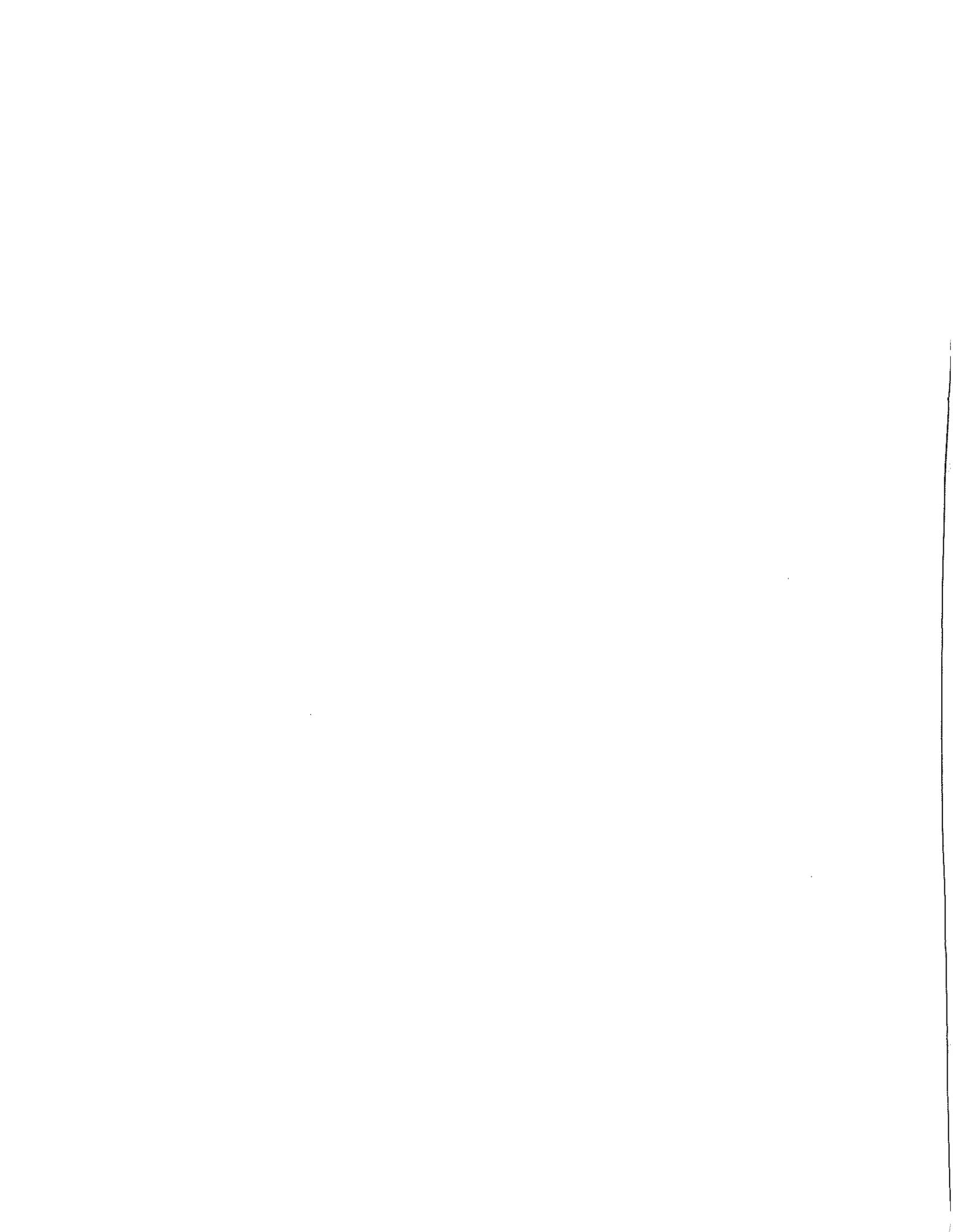
Model Legislation delineates the board's powers and duties and provides mechanisms to insure professional expertise and input where necessary.

- 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 are recommended for statutory repeal (See Model Legislation - Business Practices).
- d. Entry Requirements - The Committee found that osteopathic statutes governing entry requirements contain certain qualifications not relevant to determining an applicant's competence. Such requirements--state residency, age, good moral character and three years of continuous practice for reciprocal licensure--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 osteopathy.

- 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 Osteopathic 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, termination would endanger the public health safety. Our profession requires high standards of academic training and individual recognition of social awareness before entrance to professional school. Since each applicant must meet before our board, any disability which could endanger the public health would be recognized and dealt with accordingly.

A complete school of medicine and surgery, osteopathy requires licensure to insure and enforce minimum standards of competency. Osteopathy is licensed in all 50 states.

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

I'm not aware of any other statute which may do as good a job as the present one.

While merger of the Osteopathic Examining Board and the Medical Examining Board was considered, it was decided to be neither an efficient nor effective alternative. Much of osteopathic practice is indeed directly parallel to medicine and surgery. D.O.'s and M.D.'s share the same statutory responsibilities and privileges. However, the theoretical and practical distinctions between osteopathy and medicine and surgery require separate boards for peer review and judgment in entry and enforcement duties. Testimony at public hearings before the LPR&IC indicated that Connecticut's potential to attract new osteopathic physicians has "greatly improved." It was noted that "Three new colleges of Osteopathic Medicine have opened in the last three years in the north-eastern U.S. Together, the New England, New York and New Jersey colleges of Osteopathic Medicine will be adding 300 new D.O.'s annually within a few years. Because of Connecticut's proximity to these schools, many of these new physicians are expected to locate in Connecticut. History has shown that graduates tend to locate their practice in the same part of the country in which they received their medical education." The Board felt strongly that their continuance was vital to attracting new osteopaths.

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.

I do not consider the present licensing requirements restrictive. Our profession has a fine record of health delivery service. Lowering our standards in my opinion would not offer any improvement in that area.

The Connecticut Osteopathic Examining Board subscribes to a national examination and approves schools recognized by a national accrediting agency. The statutes do not contain requirements that are restrictive or excessive. However, certain entry and endorsement requirements, (age, good moral character, state residency) no longer considered relevant and necessary to insure competency, 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.

Not at all. The nominal cost for operation of this board because of its efficiency, does not have any impact on the cost of goods or services to the public.

I render a secretarial service for this board for \$78.56 per month. If any other board can operate as cheaply, I would gladly relinquish this position.

Incidentally, the \$78.56 includes phone calls, postage, and time spent speaking to prospective licensees.

Indirect costs to the public which may result from the increased prestige, education and investment osteopathic licensure and a professional board incur are difficult to quantify at present. However, research in the economic effects of regulation does indicate that licensing does have the effect of increasing earnings in the licensed occupations and that licensing of an occupation reduces the number who practice in that occupation.¹ These effects can produce increased consumer costs.

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.

The above explains this question.

¹ For an excellent overview of recent literature on the topic, see Simon Rottenberg, A Review of the Professional Literature on Occupational Licensing, conference paper, Crotonville, New York, April 28, 1978.

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.

Not at all.

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

None at all.

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.

Our board meets one to three times per year. When a candidate for licensure is interviewed, it usually takes about two weeks for the Department of Health to issue a license. With the mail service being what it is, it may take three weeks at times. I have found the Division of Registration and Licensure headed by Mary Bayers to be extremely efficient in expediting new licensees.

The board is statutorily required to file with the Department of Health Services within thirty days of each examination, a list of all applicants who passed or failed, stating such status. There have been no violations of this requirement.

The board subscribes to a national examination and has efficiently expedited its duties in professional entry.

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?

There are no restrictions placed upon any applicant regardless of race or sex by this board. We welcome all applicants to become licensed and practice in Connecticut. This board has no control over who or how many apply for licensure.

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?

This board has not recommended any legislation concerning public benefit other than State Department of Health regulations.

Two acts not introduced by the board deserve attention, however:

1. *P.A. 73-148, "An Act Concerning a Modern and Comprehensive Definition of the Practice of Osteopathy and the Licensing of Osteopathic Physicians to Practice Medicine and Surgery," clarified and defined the entire scope of osteopathy. This allows for broader osteopathic practice and thereby offers options to traditional medical practice. It was noted in testimony before the LPR&IC that, "the present total of 18,000 osteopathic physicians will more than double in the next twenty years. The majority of these physicians will be serving in primary care roles--Connecticut's greatest area of physician need. Nationally, over 75% of D.O.'s are in general practice--compared to less than 25% of M.D.'s. Over 50% of all D.O.'s practice in cities of less than 50,000 people." In March of 1978, the Bureau of Health Planning and Resource Allocation reported that "there is a significant problem with the distribution of primary care in Connecticut." Those areas most affected by a shortage are rural.*
2. *P.A. 76-113, "An Act Concerning Citizenship Requirements for Professional and Occupational Licenses," eliminated U.S. citizenship as a requirement for licensure. This too, removed excessive barriers from the entry process.*

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

Since this board is only an enabling group concerned only with licensure of those individuals who meet our standards, we have no direct communication with the public.

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

There have been no public complaints to come before this board.

In the last 25 years there have been no complaints brought before the osteopathic examining board.

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?

We do not require any additional statutes since the present ones are adequate for the protection of the public.



