CHAPTER 18

Review of Occupational Registration & Licensing

**SECTION 1‑18‑10.** Definitions.

(A) "Licensure" means the process by which an agency, board, or commission of the State grants permission to persons meeting predetermined qualifications to have the exclusive use of an occupational title and to engage in an occupation to the exclusion of unlicensed persons.

(B) "Registration" means the process by which an agency, board, or commission identifies and lists those persons who meet predetermined qualifications and who are the only persons permitted to use an occupational title.

(C) "Commission" means the State Reorganization Commission.

HISTORY: 1988 Act No. 572, Section 1.

**SECTION 1‑18‑20.** Public hearings on whether occupation should be regulated.

Upon the filing of any bill proposing to regulate an occupation not regulated by the State, the subcommittee of the standing committee of the House of Representatives or the Senate to which the bill has been referred may request that the commission conduct the public hearing or that the commission assist the subcommittee in conducting the public hearing. Upon the request of the subcommittee, the commission may hold hearings for the purpose of determining whether or not occupations not regulated by the State should be regulated.

HISTORY: 1988 Act No. 572, Section 1.

**SECTION 1‑18‑30.** Notice of hearings; review panel; report of commission.

When requested by the subcommittee, the commission shall provide notice of the hearings to the public and to any organizations or state agencies or boards whose members could reasonably be expected to be affected by any proposed regulation or changes in regulation. In addition, the commission may solicit the participation, as part of the review panel, of representatives of state agencies currently authorized to regulate a profession related to that under review. The subcommittee, as referred to in Section 1‑18‑70, shall sit in conjunction with the commission at the hearings. Upon receipt of testimony at the hearing, and pursuant to any other research or inquiries it considers appropriate, the commission shall report its findings and conclusions to the subcommittee of the Senate and the House, as referred to in Section 1‑18‑70.

HISTORY: 1988 Act No. 572, Section 1.

**SECTION 1‑18‑40.** Factors to be considered in evaluating whether occupation should be regulated; limits on recommendation to regulate.

In evaluating whether an occupation should be regulated, the commission shall consider whether:

(1) the unregulated practice of an occupation presents a clear and recognizable danger to the health, safety, or welfare of the public;

(2) the practice of the occupation requires such a specialized skill that the public is not qualified to select a competent practitioner without assurances that he has met minimum qualifications;

(3) the public is or may be effectively protected by other means, such as academic credentials, certification by a nongovernmental entity, or membership in occupational associations;

(4) current laws are ineffective or inadequate to protect the public health, safety, and welfare and whether strengthening the laws would not provide adequate protection to the public;

(5) the practitioner performs a service for others which would qualify for payment of part or all of those services by a third party if the practitioners were to be regulated by the State;

(6) regulation will increase the cost of goods;

(7) regulation will increase or decrease the availability of services to the public;

(8) regulation will assure the competency of practitioners of the occupation;

(9) regulation can be provided through an existing agency or under supervision of presently licensed practitioners.

In determining any recommendation for regulation of an occupation, the commission shall recommend the least extensive and restrictive form of regulation consistent with the public interest. The commission may not recommend any regulation unless necessary to protect the health, safety, or welfare of the public.

HISTORY: 1988 Act No. 572, Section 1.

**SECTION 1‑18‑50.** Degrees of regulation of occupation; limits on recommendation of regulation by licensure.

(A) If the commission determines that existing remedies do not adequately protect the public health, safety, or welfare, it shall consider the following degrees of regulation of the practice of that occupation in the following order:

(1) statutory change to provide for civil causes of action or criminal penalties;

(2) inspection of a practitioner's premises and activities and authorization of an appropriate state board, agency, or commission to enjoin an activity which is detrimental to the public health, safety, or welfare;

(3) listing of a practitioner's location, nature, and operation of practice;

(4) registration as defined in this chapter;

(5) licensure as defined in this chapter.

(B) Licensure must be recommended only where the commission determines that registration or other means of regulation is not adequate to protect the health, safety, or welfare of the public. The commission may recommend one or more means of regulation or statutory change, whether or not it is included in subsection (A) of this section.

HISTORY: 1988 Act No. 572, Section 1.

**SECTION 1‑18‑60.** Recommendations to General Assembly.

In making its recommendations to the General Assembly, the commission may recommend that no regulation be created, that regulations be assigned to an existing board, agency, or commission, or that a new board be established. If registration or licensure is recommended, the commission shall recommend what qualifications are specified for the registration or licensure and describe the activities that may be engaged in by persons pursuing the occupation.

HISTORY: 1988 Act No. 572, Section 1.

**SECTION 1‑18‑70.** Recommendations to be based on evidence; recommendations to be in writing; persons who are to receive copy of recommendations.

All recommendations formulated by the commission must be based upon evidence gathered by the commission in public hearings from testimony submitted orally or in writing by interested parties including the commission and upon evidence compiled by the commission in studies conducted by the commission. The recommendations of the commission must be made in writing and delivered to the chairman of the subcommittee of the standing committee of the House or the Senate to which a bill proposing to regulate an occupation has been referred. Copies of the commission's recommendations must also be delivered to the President of the Senate, the Speaker of the House of Representatives, and the Governor. Copies of the commission's recommendations must be mailed to any person who has made a request concerning occupational regulation that was considered by the commission. If the commission recommends no changes with respect to the regulation of an occupation, then the commission shall notify by mail any person who has requested that regulations or changes be recommended.

HISTORY: 1988 Act No. 572, Section 1; 2019 Act No. 1 (S.2), Section 6, eff January 31, 2019.

Effect of Amendment

2019 Act No. 1, Section 6, in the third sentence, substituted "President of the Senate" for "President Pro Tempore of the Senate", and in the fifth sentence, made a nonsubstantive change.