

OCCUPATIONAL LICENSING AMENDMENTS

2024 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Ryan D. Wilcox

Senate Sponsor: _____

LONG TITLE

General Description:

This bill modifies the review criteria for periodic review standards for occupational licensing under Commerce and Trade.

Highlighted Provisions:

This bill:

- ▶ requires the Office of Professional Licensure Review to document its review of a regulation of an occupation;
- ▶ allows a person to petition the Office of Professional Licensure Review to repeal or modify any occupational regulation within its jurisdiction; and
- ▶ creates a process for a person to appeal the Office of Professional Licensure Review's decision regarding a request to repeal.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

13-1b-302, as enacted by Laws of Utah 2022, Chapter 413

ENACTS:

13-1b-401, Utah Code Annotated 1953



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Be it enacted by the Legislature of the state of Utah:

Section 1. Section **13-1b-302** is amended to read:

13-1b-302. Review criteria.

(1) In conducting a sunrise review or a periodic review, unless otherwise directed in accordance with Subsection **13-1b-203(3)**, the office shall consider the following criteria:

~~(1)~~ (a) whether the regulation of the occupation is necessary to address a present, recognizable, and significant harm to the health, safety, or financial welfare of the public;

~~(2)~~ (b) for any harm to the health, safety, or financial welfare of the public, the harm's:

~~(a)~~ (i) severity;

~~(b)~~ (ii) probability; and

~~(c)~~ (iii) permanence;

~~(3)~~ (c) the extent to which the proposed or existing regulation of the occupation protects against or diminishes the harm described in Subsection (1)(a);

~~(4)~~ (d) whether the proposed or existing regulation of the occupation:

~~(a)~~ (i) affects the supply of qualified practitioners;

~~(b)~~ (ii) creates barriers to:

~~(i)~~ (A) service that are not in the public financial welfare or interest; or

~~(ii)~~ (B) entry into the occupation or related occupations;

~~(c)~~ (iii) imposes new costs on existing practitioners;

~~(d)~~ (iv) affects:

~~(i)~~ (A) license reciprocity with other jurisdictions; or

~~(ii)~~ (B) mobility of practitioners; or

~~(e)~~ (v) if the occupation involves a health care provider, impacts the health care provider's ability to obtain payment of benefits for the health care provider's treatment of an illness, injury, or health care condition under an insurance contract subject to Section **31A-22-618**;

~~(5)~~ (e) if the review involves licensing, the potential alternative pathways for a person to obtain a license;

~~(6)~~ (f) the costs to the state of regulating the occupation;

59 ~~[(7)]~~ (g) whether the proposed or existing administering agency has sufficient expertise
60 and resources;

61 ~~[(8)]~~ (h) the regulation of the occupation in other jurisdictions;

62 ~~[(9)]~~ (i) the scope of the proposed or existing regulation, including:

63 ~~[(a)]~~ (i) whether the occupation is clearly distinguishable from an already regulated
64 occupation; and

65 ~~[(b)]~~ (ii) potential for regulating only certain occupational activities;

66 ~~[(10)]~~ (j) the potentially less burdensome alternatives to the proposed or existing
67 regulation and the effect of implementing an alternative method of regulation on:

68 ~~[(a)]~~ (i) the health, safety, or financial welfare of the public;

69 ~~[(b)]~~ (ii) the occupation; and

70 ~~[(c)]~~ (iii) practitioners of the occupation; and

71 ~~[(11)]~~ (k) any other criteria the office adopts, including criteria suggested in a
72 stakeholder survey.

73 (2) The office shall:

74 (a) articulate with specificity the present, recognizable, and significant harm to the
75 health, safety, or financial welfare of the public addressed by the regulation; and

76 (b) document the office's responses to Subsections (1)(a) and (b).

77 (3) (a) A person may petition the office to repeal or modify an occupational regulation
78 within the office's jurisdiction.

79 (b) Within 90 days after the day on which a person files a petition under Subsection
80 (3)(a), the office shall either repeal the occupational regulation, modify the regulation to
81 achieve the standard described in Subsection (1)(a), or state the basis on which the office
82 concludes that the regulation conforms with the standard described in Subsection (1)(a).

83 Section 2. Section **13-1b-401** is enacted to read:

84 **13-1b-401. Enforcement.**

85 (1) If the office fails to timely comply with Subsection 13-1b-302(3)(b), or if the
86 person who filed the petition described in Subsection 13-1b-302(3)(a) disagrees with the action
87 taken by the office in response to the petition, the person may bring an action in a court with
88 jurisdiction, challenging the regulation upon which the petition is based, on or before the
89 earlier of:

90 (a) 90 days after the day on which the office timely complies with Subsection
91 13-1b-302(3)(a); or

92 (b) 180 days after the day on which the person files the petition described in Subsection
93 13-1b-302(3)(a).

94 (2) The court shall rule in favor of the plaintiff if the court finds that:

95 (a) the challenged occupational regulation is not necessary to address a present,
96 recognizable, and significant harm to the health, safety, or financial welfare of the public; or

97 (b) the present, recognizable, and significant harm to the health, safety, or financial
98 welfare of the public could be addressed by a less burdensome method than the challenged
99 occupational regulation.

100 (3) Upon ruling in favor of the plaintiff, the court shall:

101 (a) enjoin further enforcement of the challenged occupational regulation or public
102 service restriction; and

103 (b) award reasonable attorney fees and costs to the plaintiff.

104 **Section 3. Effective date.**

105 This bill takes effect on May 1, 2024.