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Memorandum

To: Legislative Management Committee
Business and Labor Interim Committee

From: Occupational and Professional Licensure Review Committee

Date: November 20, 2013

Re: Annual Report

Introduction

The Occupational and Professional Licensure Review Committee is composed of three members each from the Senate and House of Representatives, appointed by their respective presiding officers, and three members of the public, appointed by the President of the Senate and Speaker of the House, at least one of whom is a former member of an advisory board to the Division of Occupational and Professional Licensing (DOPL).

The committee is responsible for conducting three types of reviews regarding the licensing of occupations and professions: (1) a “sunrise” review of an application for a new occupational or professional license under Utah Code Title 58, Occupations and Professions; (2) a “sunset” review for all statutes that are scheduled for termination under Utah Code Section 63I-1-258; and (3) a review referred to the committee by the Legislature, the Legislative Management Committee, or other legislative committee.

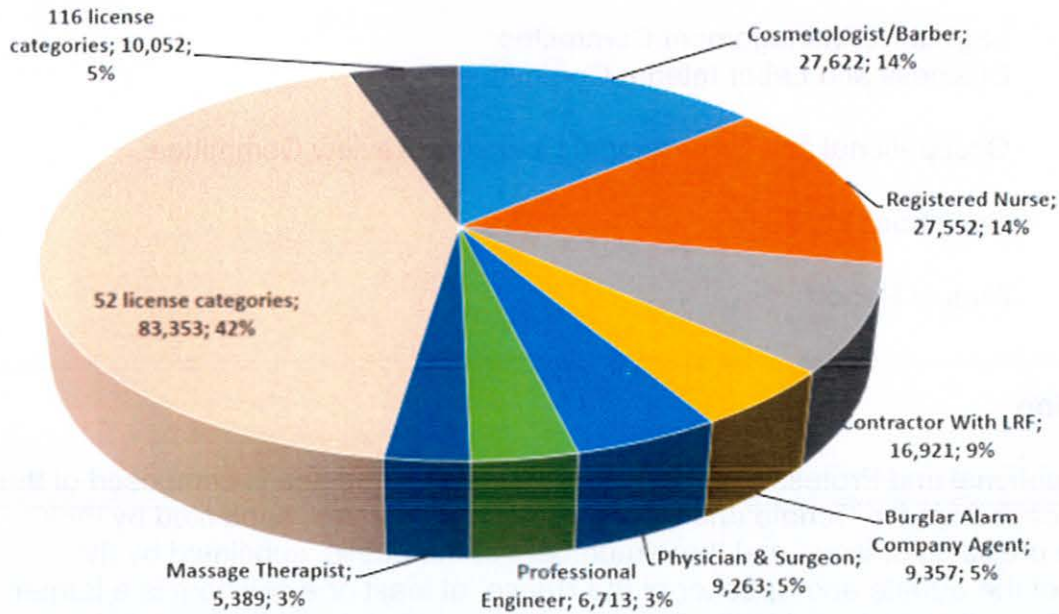
Occupational and Professional Licensing

The state licenses a wide variety of occupations and professions through several executive branch agencies, the State Board of Education, and the Utah Supreme Court. Together, these organizations license nearly 487,000 persons or approximately 38 percent of Utah’s total labor force of 1.2 million.

The committee is charged with reviewing issues regarding licenses issued by DOPL, the largest licensing agency in the state. DOPL issues 174 distinct licenses within 57 separate professions and occupations. As shown in the chart below, of the 196,222

persons licensed by DOPL in October 2013, about 53 percent of the persons were in just seven license categories, 42 percent of the persons were in 52 license categories, and five percent of the persons licensed were spread across 116 license categories.

**State of Utah
Division of Occupational and Professional Licensing
Percent and Number of all Licenses Issued by Selected License Categories**



Committee Review and Actions

Sunrise Review - Music Therapy

The committee received an application from a legislator for a new license for the practice of music therapy that was submitted on behalf of the Utah Association of Music Therapists. After receiving a presentation from representatives of the association on the need for this new license, the committee took no action.

Sunset Review – Massage Therapy Licensing Act

The committee voted unanimously to reauthorize the Massage Therapy Licensing Act for an additional ten years. As part of its review process, the committee received testimony and information from DOPL, including information on the number and types of complaints regarding massage therapists. The committee also received testimony from representatives of the Massage Therapy Board, the Utah Chapter of the American Massage Therapy Association, and the Libertas Institute.

Less Restrictive Alternatives to Licensing

In 2013 General Session H.B. 75, "Occupational and Professional Licensing Amendments," the committee was directed to study potentially less restrictive alternatives to licensing, including registration and certification.

As part of this review, the committee considered a hierarchy of regulatory options for professions, including, from least to most restrictive, market competition, private civil action to recover damages due to harm, inspection, bonding or insurance, registration, certification, and finally, Utah's current system of occupational licensing. These options were reviewed by the committee, including a small number of current occupations that are subject to certification rather than licensure.

Most licensing provisions generally include three pillars: (1) a defined scope of practice; (2) a limit on who may engage in the practice; and (3) definitions of what constitutes standard and unauthorized practices. Under a "certification" or "title licensing" regime, an occupational title may only be used if the person meets certain requirements. Otherwise, a person is free to engage in the lawful practice of this occupation so long as the title is not used. An example of this in Utah is the Dietitian Certification Act.

Under the "registration" option, a person wishing to engage in a given occupation simply gives notice to the government oversight agency. Such notice usually includes at a minimum certain identifying information. There are no qualifications, but a bond or proof of insurance may sometimes be required. For example, the Division of Consumer Protection registers persons under the Immigration Consultants Registration Act.

The committee took no formal action regarding these alternatives but may consider them in the future as part of its regular sunrise review and sunset review responsibilities.

