
Regulated Occupations Evaluation Report

July 1, 2011

Regulated Occupations
Evaluation Committee

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Background

The Regulated Occupations Evaluation Committee (ROEC) was established pursuant to Indiana Code 25-1-16. The Committee consists of the Dean of the Indiana University School of Public and Environmental Affairs (or designee), the Attorney General (or designee) as a non-voting member, two individuals appointed by the Governor who are licensed in a regulated occupation and two individuals appointed by the Governor who are not licensed in a regulated occupation.¹ Indiana Code directs ROEC to review and evaluate each regulated occupation at least once every seven years.² A report is due to the Governor, Health Finance Commission and Legislative Services Agency by July 1 each year.³

This is the first ROEC report. The report includes a brief overview on: (1) the need for occupational regulation review; (2) the rationale for licensing according to the academic literature; (3) a presentation of the analytic framework that ROEC has developed to evaluate licenses; and, (4) a summary of the review process going forward. The Committee may issue a supplemental report later in this calendar year with the results of its first round of evaluations of specific license types.

The Need for Occupational Regulation Review

In the past 25 years, professional licensing has significantly increased in Indiana. Currently, over 200 occupations and approximately 465,000 individuals possess some type of license, including among others physicians, accountants, cosmetologists, and funeral directors (Exhibit A).⁴ Growth in licensing appears to be related to two main factors: the absence of a formal set of standards to determine whether an occupation should be licensed, and the elimination of the Indiana Sunset Evaluation

¹ Ind. Code § 25-1-16-7

² Ind. Code § 25-1-16-10

³ Ind. Code § 25-1-16-13

⁴ Indiana Professional Licensing Agency as of 6/23/2011 (see Exhibit A)

Commission. The formal charge of the Sunset Evaluation Commission, which was created by the General Assembly in 1979, was to review licensing regulations. In the mid-1980's the Commission was eliminated. Since that time, the State has added over 80 new license types (Exhibit B).

The Academic Literature on Licensing

A principal theoretical argument for licensing is, in essence, a claim that government intervention is necessary when conditions prevent the market from operating efficiently. As the logic goes, the market "fails" under some conditions. One condition is that of information asymmetry. When one party has an information advantage, buyers and sellers do not transact on a level playing field. As a result, prices do not correspond to actual demand levels, but rather reflect a mistaken perception about the value of the service. In other words, consumers are likely to pay more than they otherwise would when they are not fully informed about factors such as quality, or the likelihood of harm associated with a product or service. According to this line of reasoning, government intervention is necessary to mitigate the information problem.⁵ One solution to the problem is what economists refer to as "signaling." Applied to licensing, the idea is that proof of credentials "signal" a level of competency, thereby resolving the information problem.⁶

Thus, in theory, the government regulates professional occupations to protect citizens from harm because consumers may not have the necessary information to protect themselves. Once the information problem is solved, consumers are presumably in a position to make an informed choice regarding the level of risk they are willing to accept given their expectations for quality and price.

Notably, not all licensing boards require that practitioners display their license credential. In addition,

⁵ Akerlof, George A. 1970. The Market for "Lemons": Quality Uncertainty and the Market Mechanism. *The Quarterly Journal of Economics* 84 (3):488-500.

⁶ Friedman, Milton. 1962. *Capitalism and Freedom*. Chicago: University of Chicago Press.

not all licensing boards release information on consumer complaints and some have strict standards for obtaining complaint records. In the latter cases, it could be argued that licensing exacerbates rather than mitigates the information problem. Finally, as some research points out, if the “signal of quality” is important, certification, provides the same benefits of licensing, but is less burdensome on professionals and less costly to the public.⁷

Proponents of licensing sometimes argue that the appropriate role for government is to protect the public. However, the mere existence of a licensing program does not ensure that consumers are protected. For example, a weak licensing program may do little (or nothing) more for consumers than consumers would do for themselves. Moreover, if consumers are lured into a false sense of safety by the existence of weak licensing programs, they may neglect to take more effective safety precautions that are within their control (e.g., seeking advice or recommendations before hiring a specific professional). If a licensing program is not targeted at the specific professional behaviors (or source of incompetence) that cause harm, the program may not be effective in protecting consumers.

According to Morris Kleiner,⁷ one of the top researchers on the topic of licensing, the empirical evidence linking licensing to service quality is dubious. This should not be surprising, since licensing cannot guarantee competency; it can only establish guidelines related to competency. At the same time, one should not conclude from the lack of evidence that licensing is without merit. No doubt, studies on service quality are hampered by differing opinions on how quality should actually be measured. For example, what constitutes evidence that one dental visit is better than another? And, it is difficult to conclusively determine (ruling out other possible causes) that a specific licensing program actually improved services. Conversely, even if there is evidence that consumers are harmed by a non-licensed

⁷ Kleiner (2006). Licensing Occupations. Ensuring Quality or Restricting Competition? Kalamazoo, Michigan: W.E. Upjohn Institute for Employment Research.

practitioner, it is difficult to trace the cause back to the absence of a license. In addition, the same evidence can also be taken to mean different things. For example, evidence on the number of complaints to state boards may be an indication of board vigilance, or it may be an indication of a problem with the efficacy of a particular license. Likewise, more lawsuits might be correlated with general litigiousness, or alternatively, indicate licensing problems. Given these challenges, researchers have attempted to link licensing to quality in varied ways. For example, one study purporting to analyze service quality looked at the correlation between exam pass rates for a profession and malpractice insurance rates; however, the study did not produce statistically significant evidence linking these factors.⁸ The one study that does show a statistically significant positive effect of licensing on service quality is based on subjective assessments; that is, self-reported abilities for licensed workers were higher than those reported by non-licensed workers.⁹

On the other hand, there is a substantial body of evidence on the negative effects of occupational regulation. There are two general areas of impact, the labor market and consumer prices. First, licensing restricts the labor supply. The more requirements there are to obtain a license, the higher the barrier to entry into a profession and, the fewer the practitioners. Moreover, when credentials are not accepted across states, by way of reciprocity, licensing becomes a barrier to labor mobility. The result is a misallocation of labor across states. As a direct consequence of these restrictions on labor supply, occupational licensing increases wages per hour between 10% and 17%.^{9,10} Second, services are offered

⁸ Kleiner, M., & Kudrle, R. (2000). Does Regulation Affect Economic Outcomes? the Case of Dentistry. *The Journal of Law and Economics*, 43(2), 547-582.

⁹ Kleiner, M., & Krueger, A. (2008). The prevalence and effects occupational licensing *Discussion Paper Series*.

¹⁰ Kleiner, M., & Ham, H. (2005). Regulating Occupations: Does Occupational Licensing Increase Earnings and Reduce Employment Growth? *University of Minnesota and NBER (7 June 2005) <http://www.ftc.gov/be/seminardocs/050515kleiner.pdf>*.

at higher prices than would prevail without licensing programs.¹¹ In other words, consumers pay the incremental cost associated with the restricted labor supply. More specifically, the research indicates that, as a result of licensing, consumer prices increase between 4% and 35%, depending on the occupation.^{12,13}

In summary, the theoretical rationale for licensing rests on the concept of market failure and the ability of government to facilitate the market by giving consumers access to information. The policy rationale for occupational regulation is that it leads to improvements in service quality. As to the research evidence, it is clear that regulation depresses the labor supply and imposes costs on consumers, but it is difficult to discern if, and to what degree, licensing programs improve quality. Thus, the Committee's view is that each license type in the state of Indiana needs to be evaluated with care, recognizing that judgments must be made about risks, costs and benefits of specific programs. The Committee's judgments are informed not just by the academic literature but the total body of experience and opinions brought to the attention of the Committee.

ROEC Assessment Framework

In order to evaluate and review all license types, ROEC first established a method for evaluating each of the regulated occupations in a fair, consistent way. ROEC set out to utilize the evidence suggested in the literature while satisfying the requirements of the law. Indiana Code states that the review and evaluation of these occupations must include:

¹¹ The main source for the effects of occupational regulations on the labor market and consumers is Morris Kleiner, a recognized expert on the subject from the University of Minnesota.

¹² Kleiner (2006). Licensing Occupations. Ensuring Quality or Restricting Competition? Kalamazoo, Michigan: W.E. Upjohn Institute for Employment Research.

¹³ Kleiner and Todd (2008). Mortgage Broker Regulations. Analyzing, Employment and Outcomes for Consumers. NBER Working Paper 13684. Available at <http://www.nber.org/papers/w13684>.

1. *The functions, powers, and duties of the regulated occupation and the board, including any functions, powers, or duties that are inconsistent with current or projected practice of the occupation.*
2. *An assessment of the management efficiency of the board.*
3. *An assessment of the regulated occupation's and the board's ability to meet the objectives of the general assembly in licensing the regulated occupation.*
4. *Any other criteria identified by the committee.*¹⁴

To best address these questions, ROEC divided the review into two parts, each centering on a different question: (1) Should the State of Indiana be involved in any form of regulation (e.g. licensing, certification or registration) of a particular occupation (Part A) and, if so (2) Should the State of Indiana reform current regulation of a particular occupation or profession (Part B). The Committee is now in the process of pilot testing and refining the framework (Parts A and B). The Committee seeks public comment on the framework (please send comments to fkelly@pla.in.gov).

Part A

The criteria developed for Part A aims to evaluate the public need for the profession to be regulated by the State of Indiana. The aim of Part A is to evaluate the value of the license by determining the level of risk, alternatives to regulation and ultimately the benefit-cost impact. Five basic scoring criteria were established to do so:

1. **Risk Analysis.** Do consumers face a significant risk of harm from purchasing the goods or services of a particular professional? What is the nature of the harm, the likelihood and severity of the harm, and the potential for irreversible harm to the consumer?
2. **Informed Consumer Choice/Trial and Error.** To what extent do individual consumers have the experience or ability, by means of trial and error, to make informed risk-benefit decisions about purchasing goods or services from a particular professional?

¹⁴ Ind. Code § 25-1-16-8a

3. **Self-regulation by the Profession.** Is the profession capable of organizing itself (on a local, state, national or international basis) to ensure an acceptable degree of competence without any regulatory program?
4. **Legal Alternatives to Regulation.** In the absence of an IPLA regulatory program, would consumers have adequate legal protections to deter incompetent or fraudulent behavior by professionals and to seek redress or compensation for avoidable harms?
5. **Benefit-Cost Determination.** Are the consumer benefits of an IPLA regulatory program (e.g., reduced harm to consumers and/or higher levels of public trust in professionals) likely to justify the anticipated costs of a regulatory system (e.g., licensing fees, potentially higher prices for goods or services, and any administrative costs of implementing and enforcing a meaningful regulatory system)?

Following the presentation of the Board of the regulated occupation under review, including substantial question and answer dialogue and public comments, ROEC members then score each individual license type. The average score of all the ROEC members is used to help address the overall question, “Should the State of Indiana be involved in any form of regulation (e.g. licensing, certification or registration) of a particular occupation?”

The ROEC evaluation calls for a systematic review of all professional license types within a seven year period. This broad review of all license types is similar to a sunset review approach in that all licenses are included in the review and will be evaluated based on their merits under the same framework. However, ROEC acknowledges that many true “sunset” reviews require legislative action in order to continue to license the profession. Findings under Part A of the evaluation could be utilized for such practice. ROEC is considering this option as a possible future recommendation.

Part B

In addition to Part A, a list of questions was developed to explore possible reforms to licensing that might increase consumer protection as well as reduce any regulatory burden. The questions aim to determine whether the program is working properly, whether it is cost-effective, and whether any other reforms are appropriate. Review is ongoing. (Exhibit C)

Review Process Going Forward

Boards Currently Under Review

Once the framework was established, ROEC began evaluation to test the framework by reviewing boards and their license types. At the time this report was written, three separate boards have presented to ROEC: State Board of Cosmetology and Barber Examiners, Indiana State Board of Health Facilities Administrators and the Private Investigators and Security Guard Licensing Board. Together, the three Boards cover 29 different license types. As described earlier in the report, each ROEC member evaluated and scored each license type individually under Part A of the framework after each Board's presentation and thorough review of submitted documentation and presentation materials. The scores are then averaged to determine the overall score. The results are preliminary as ROEC is taking these scores and investigating further into recommendations for each license type. ROEC plans to release recommendations for these license types in a supplemental report to be issued before the end of the calendar year.

Sunrise Review

Every legislative session, professional organizations associated with various occupational groups propose that the state require new licenses. In recent sessions proposals include licenses for midwives,

court reporters and playground installers, among others. Review prior to establishment of the license type could ensure that Indiana only approves new regulations after due consideration of all relevant factors. The review, a “sunrise” review, might be similar to the ROEC evaluation framework outlined in this report, including an assessment of risks, alternatives to regulation, cost-benefit analysis, and consideration of resources available for administrative oversight. The process for such a review is under discussion. ROEC is interested in public comment and feedback on this matter.

EXHIBIT A (Page 1 of 5)
INDIANA PROFESSIONAL LICENSING AGENCY
CURRENT LICENSES @ 06/23/2011

<u>LICENSE CODE/TYPE</u>	<u>NUMBER CURRENT</u>	
1 Physician	26,204	
2 Osteopathic Physician	1,987	
11 Medical Residency Permit	1,590	
50 Medical Corporation	933	
73 Medical Fellowship Permit	14	
74 Genetic Counselor	44	
75 Medical Teaching License	1	
101 CSR-Physician	17,703	
102 CSR-Osteopathic Physician	1,312	
9901 Temporary MD Permit	59	
9902 Temporary DO Permit	3	
9974 Temp Genetic Counselor Permit	4	
9975 Limited Scope MD	5	
TOTAL FOR Medical Licensing Board		49,859
5 Physical Therapist	5,334	
6 Phys Ther Assistant	2,552	
53 Physical Therapy Corporation	42	
9905 Temporary PT Permit	28	
9906 Temporary PTA Permit	24	
TOTAL FOR Physical Therapy Committee		7,980
7 Podiatrist	421	
41 Limited Podiatry TMP	31	
52 Podiatric Corporation	27	
707 CSR-Podiatrist	348	
9907 Podiatrist Temporary Permit	1	
TOTAL FOR Podiatric Medicine Board		828
8 Chiropractor	1,248	
51 Chiropractic Corporation	196	
78 Chiro Graduate Permit	3	
TOTAL FOR Chiropractic Board		1,447
10 Physician Assistant	845	
1010 CSR-Physician Assistant	643	
9910 Temporary PA Permit	5	
TOTAL FOR Physician Assistant Committee		1,493
12 Dentist	3,949	
13 Dental Hygienist	4,697	
42 Dental Intern Permit	20	
43 Dental Anesthesia Permit	221	
54 Dental Corporation	643	
65 Mobile Dental Facility	11	
89 Dental Hygiene Anesthesia Permit	84	
1201 CE Sponsor - Dental	31	
1212 CSR-Dentist	3,482	
1230 Dental Instructor	4	
TOTAL FOR Dentistry Board		13,142
14 Health Facility Administrator	1,289	
15 HFA Preceptor Eligible	171	
16 HFA Residential	9	
47 HFA Provisional	4	
1401 CE Sponsor - HFA	42	
1501 HFA Preceptor	47	
1502 RCA Preceptor	9	
9914 HFA Temporary Permit	1	
TOTAL FOR Health Facility Admin Board		1,572

EXHIBIT A (Page 2 of 5)
INDIANA PROFESSIONAL LICENSING AGENCY
CURRENT LICENSES @ 06/23/2011

<u>LICENSE CODE/TYPE</u>	<u>NUMBER CURRENT</u>	
17 Hearing Aid Dealer	262	
40 Student Hearing Aid Dealer	23	
TOTAL FOR Hearing Aid Dealer Committee		285
18 Optometrist	1,457	
56 Optometry Corporation	201	
1818 Optometric Legend Drug Certificate	1,314	
TOTAL FOR Optometry Board		2,972
19 Psychologist Limited	9	
20 Psychologist	1,662	
57 Psychology Corporation	63	
9820 CE Sponsor - Psychology	30	
9919 Limited Scope Psychologist	14	
9920 Temporary Psychologist Permit	15	
TOTAL FOR Psychology Board		1,793
22 Speech Pathologist	2,509	
23 Audiologist	406	
29 Speech/Lan P/A Aide	126	
46 CFY	138	
58 Speech/Lan P/A Corporation	16	
TOTAL FOR Speech Lang Path & Audio Board		3,195
24 Veterinarian	2,343	
25 Registered Vet Tech	907	
59 Veterinarian Corporation	163	
2424 CSR-Veterinarian	1,510	
TOTAL FOR Veterinary Board		4,923
26 Pharmacist	9,992	
45 Pharmacy Intern	1,316	
48 Wholesale Drug Distributor	367	
49 Pharmacy Corporation	1	
60 Pharmacy	1,398	
61 CSR-Other	666	
64 Non-Resident Pharmacy	630	
67 Pharmacy Technician	12,724	
69 Home Medical Equip Service Provider	631	
1000 CSR-Pharmacy	1,384	
9967 Pharmacy Tech In-Training	1,814	
TOTAL FOR Pharmacy Board		30,923
9 Nurse Midwife	138	
27 Licensed Practical Nurse	27,985	
28 Registered Nurse	98,023	
55 Nursing Corporation	18	
71 Nurse Practitioner	3,218	
2871 CSR-Nurse Practitioner	3,231	
9927 Temporary LPN Permit	34	
9928 Temporary RN Permit	108	
TOTAL FOR Nursing Board		132,755
30 Respiratory Care Practitioner	4,586	
9830 Student Temp RCP	40	
9930 Temporary RCP Permit	42	
TOTAL FOR Respiratory Care Committee		4,668

EXHIBIT A (Page 3 of 5)
INDIANA PROFESSIONAL LICENSING AGENCY
CURRENT LICENSES @ 06/23/2011

<u>LICENSE CODE/TYPE</u>	<u>NUMBER CURRENT</u>	
31 Occupational Therapist	2,758	
32 Occ Therapy Assistant	1,222	
6831 Occupational Therapy Corporation	9	
9831 CE Sponsor - Occ Therapist	19	
9931 Temporary Occ Therapist Permit	11	
9932 Temporary OTA Permit	26	
TOTAL FOR Occupational Therapy Committee		4,045
33 Social Worker	2,196	
34 Clinical Social Worker	4,185	
35 Marriage & Family Therapist	978	
39 Mental Health Counselor	1,699	
85 Marriage & Family Associate	53	
86 Addiction Counselor	163	
87 Clinical Addiction Counselor	835	
6833 Behavioral Sciences Corp.	22	
9833 CE Sponsor - SW Board	139	
9933 Temp Social Worker Permit	50	
9934 Temp Clin Soc Worker Permit	21	
9935 Temp Marr & Fam Ther Permit	2	
9939 Temp Mental Hlth Coun Permit	15	
TOTAL FOR Behavioral Health Board		10,358
36 Athletic Trainer	992	
TOTAL FOR Athletic Trainer Board		992
37 Dietitian	1,234	
6837 Dietitian Corporation	1	
TOTAL FOR Dietitians Board		1,235
68 Multi-Profession Corporation	12	
TOTAL FOR Corporations		12
80 Acupuncture Detox Specialist	14	
81 Acupuncturist - DC	103	
84 Licensed Acupuncturist	97	
6884 Acupuncture Corporation	2	
TOTAL FOR Acupuncture Committee		216
20101 Certified Public Accountant	11,141	
20102 Public Accountant	80	
20103 Accounting Practitioner	11	
20104 Accountancy Professional Corp	331	
20106 Firm Permit to Practice Acct	1,170	
TOTAL FOR Accountancy Board		12,733
20201 Architect	3,314	
20202 Landscape Architect	377	
20203 Architect Professional Corporation	102	
TOTAL FOR Architect Board		3,793
20301 Auctioneer	3,244	
20302 Auction House	313	
20303 Auction Company	330	
20304 CE Provider - Auctioneer	21	
20305 CE Pre-Course - Auctioneer	15	
TOTAL FOR Auctioneer Commission		3,923

EXHIBIT A (Page 4 of 5)
INDIANA PROFESSIONAL LICENSING AGENCY
CURRENT LICENSES @ 06/23/2011

<u>LICENSE CODE/TYPE</u>	<u>NUMBER CURRENT</u>	
20401 Barber	3,950	
20402 Barber Instructor	89	
20403 Barber Shop	1,575	
20404 Barber School	15	
20421 Temporary Barber	14	
20423 Temp Barber Shop	7	
20424 Barber Provisional	2	
TOTAL FOR Barber Board		5,652
20601 Esthetician	2,251	
20602 School Of Cosmetology	93	
20603 Cosmetologist	44,528	
20605 Manicurist	5,408	
20607 Cosmetology Salon	7,201	
20608 Manicuring Salon	815	
20609 Electrology Salon	9	
20611 Beauty Culture Instructor	1,124	
20612 Electrologist	121	
20613 Esthetic Salon	222	
20614 Mobile Salon	2	
20622 Tanning Facility	1,000	
20631 Temporary Esthetician	2	
20634 Temporary Cosmetologist	110	
20635 Temporary Manicurist	12	
20647 Temp Cosmetology Salon	56	
20648 Temp Manicuring Salon	15	
20653 Temp Esthetics Salon	7	
20661 Provisional Esthetician	1	
20664 Provisional Cosmetologist	18	
20665 Provisional Manicurist	3	
TOTAL FOR Cosmetology Board		62,998
20701 Private Investigator Firm	591	
20702 Security Guard Agency	380	
TOTAL FOR Private Investig & Sec Guard		971
20801 Engineer Intern	22,534	
20802 Professional Engineer	13,546	
20803 Engineering Professional Corporation	92	
TOTAL FOR Engineer Board		36,172
20901 Embalmer Only	15	
20903 Funeral Home	614	
20904 Funeral Director	1,715	
20905 Funeral Director Intern	55	
20906 Certificate of Authority	551	
20907 Crematorium	75	
20908 Cemetery	124	
20909 Funeral Branch	58	
20910 CE Provider - Funeral	276	
TOTAL FOR Funeral Board		3,483
21001 Surveyor in Training	427	
21002 Land Surveyor	940	
21003 Land Surveyor Professional Corporation	5	
21010 CE Provider - Land Surveyor	26	
21015 Land Surveyor Firm	107	
TOTAL FOR Land Surveyor Board		1,505

EXHIBIT A (Page 5 of 5)
INDIANA PROFESSIONAL LICENSING AGENCY
CURRENT LICENSES @ 06/23/2011

<u>LICENSE CODE/TYPE</u>	<u>NUMBER CURRENT</u>	
21101 Plumbing Contractor	3,416	
21102 Journeyman Plumber	4,879	
21103 Plumbing Corporation	617	
21104 Plumbing Apprentice	1,109	
21105 Temporary Plumbing Contractor	3	
21110 Plumbing Apprenticeship Program	18	
TOTAL FOR Plumbing Commission		10,042
21201 Appraiser Trainee	281	
21202 Licensed Residential Appraiser	474	
21203 Certified Residential Appraiser	1,187	
21204 Certified General Appraiser	773	
21205 CE Sponsor - Appraiser	18	
21207 Appraiser Temporary Permit	291	
21210 Instructor - Appraiser	95	
21215 Appraisal Management Company	151	
TOTAL FOR Appraiser Board		3,270
21301 Real Estate Broker Company	2,451	
21304 Real Est Principal Broker	9,831	
21306 Real Est Associate Broker	5,691	
21307 Real Est Sales Person	21,731	
21308 Real Estate School	31	
21311 Real Estate Professional Corp	112	
21320 Real Estate Branch Office	125	
21323 CE Sponsor - RE Sales	93	
21324 CE Sponsor - RE Broker	108	
21325 Instructor - Real Estate	1,569	
TOTAL FOR Real Estate Commission		41,742
21401 Licensed Home Inspector	663	
21402 Pre-Course Provider - Home Inspector	22	
21403 CE Provider - Home Inspector	24	
TOTAL FOR Home Inspectors Board		709
21501 Manufactured Home Installer	222	
21502 CE Provider - Mgf Home Installer	1	
21503 Pre-Course - Mgf Home Installer	3	
TOTAL FOR Manufactured Home Installers		226
21601 Massage Therapist	4,044	
TOTAL FOR Massage Therapy Board		4,044
22001 Registered Interior Designer	356	
TOTAL FOR Interior Design Registry		356
TOTAL ACTIVE LICENSES/PERMITS		466,312

EXHIBIT A



PLA/HPB Professions Timeline

by date established in Indiana Code, when available

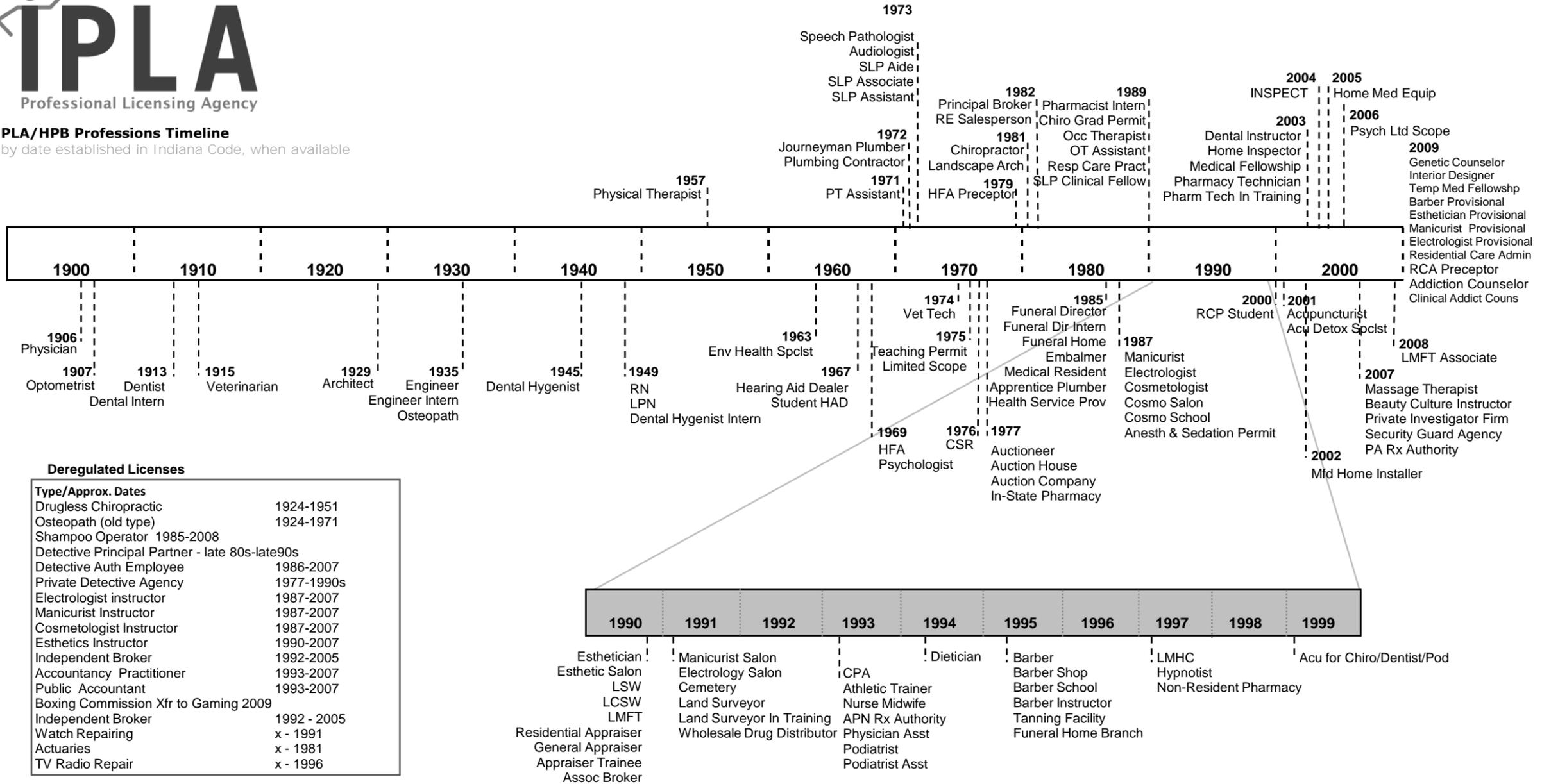


EXHIBIT C (Page 1 of 2)

ASSESSMENT FRAMEWORK FOR OCCUPATIONAL REGULATION

The Regulatory Occupations Evaluation Committee (ROEC) has been formed by the Indiana state legislature and will advise the legislature on the future of occupational regulation in the state, particularly those functions currently formed by the Indiana Professional Licensing Agency (IPLA). In order to guide its work, the ROEC is preparing a conceptual framework aimed at answering two questions: (1) Should the state of Indiana be involved in any form of regulation (e.g., licensing, certification or registration) of a particular occupation and, if so (2) What questions should be asked to determine whether a regulatory program is accomplishing its public purpose in a cost-effective manner or needs to be buttressed or reformed in some specific way. ROEC welcomes comments on this preliminary framework from all interested parties.

- A. Whether the state of Indiana should be involved at all in the regulation of a particular occupation or profession.

In order to determine whether some regulatory role is appropriate, policy makers are advised to consider answers to the following questions:

1. **Risk Analysis.** Do consumers face a significant risk of harm from purchasing the goods or services of a particular professional? What is the nature of the harm, the likelihood and severity of the harm, and the potential for irreversible harm to the consumer? (1= Minimal risk; 5= High risk)
2. **Informed Consumer Choice/Trial and Error.** To what extent do individual consumers have the experience or ability, by means of trial and error, to make informed risk-benefit decisions about purchasing goods or services from a particular professional? (1= High capability/access to information; 5= Minimal capability/access to information)
3. **Self-regulation by the Profession.** Is the profession capable of organizing itself (on a local, state, national or international basis) to ensure an acceptable degree of competence without any regulatory program? (1= High capability; 5= Minimal or no capability)
4. **Legal Alternatives to Regulation.** In the absence of an IPLA regulatory program, would consumers have adequate legal protections to deter incompetent or fraudulent behavior by professionals and to seek redress or compensation for avoidable harms? (1= Adequate alternative protections available; 5= No adequate alternatives available)
5. **Benefit-Cost Determination.** Are the consumer benefits of an IPLA regulatory program (e.g., reduced harm to consumers and/or higher levels of public trust in professionals) likely to justify the anticipated costs of a regulatory system (e.g., licensing fees, potentially higher prices for goods or services, and any administrative costs of implementing and enforcing a meaningful regulatory system)? (1=Costs exceed benefits; 5= Benefits exceed costs)

With information from the professional boards and the PLA, answers to each of the five questions above will be scored by ROEC board members on a five-point scale, and the sum of the five component scores will produce an aggregate score that rates the case for regulation. An aggregate score of 5 would imply that the case for regulation is extremely weak while an aggregate score of 25 would imply that the

EXHIBIT C (Page 2 of 2)

case for regulation is extremely strong. The framework will require judgment to be implemented but the framework is transparent enough so that all interested parties can supply information relevant to the scoring, and anyone can produce their own score and compare it to the scores that are suggested by ROEC or other parties.

B. Whether the state of Indiana should reform regulation of a particular occupation or profession.

Given that the state of Indiana decides that some form of occupational regulation is appropriate, a variety of questions should be asked to determine whether the program is working properly, whether it is cost-effective, and whether it needs to be reformed in one or more ways. Here are some examples of questions that ROEC believes are worth asking.

1. To what extent does the state engage in proactive surveillance, inspections or site visits to determine whether practitioners are in compliance with regulatory requirements?
2. When a complaint is lodged against a particular professional, is the process used to address the complaint fair, timely, defensible, and efficient?
3. What is the nature of complaints received by the board? Do they typically involve potential negative impacts to consumers? Do they typically represent the concerns of impacted consumers or the concerns that professionals have about their colleagues?
4. Are the potential risks to consumers that justify regulation addressed explicitly and adequately in the initial and ongoing regulatory requirements for a particular occupation/profession?
5. Is there evidence that the regulatory system has effectively reduced risk to the consumer?
6. Is the choice of regulatory mechanism (e.g., license, certification or registration) appropriate, given the nature of the occupation/profession and the costs and benefits of regulation?
7. Are the requirements for continuing education of professionals, including associated fees, reasonable and cost-effective given the nature of the risks to consumers, the complexity of knowledge that underpins the profession, and the pace of change in knowledge about how professionals should do their work?
8. Is there evidence that the regulatory system is adversely affecting the supply of professionals and thereby raising the price of goods or services to consumers?
9. Are adequate resources available to carry out the statutory regulatory function in a fair, effective, trustworthy and cost-effective manner?
10. Is there a reasonable relationship between the fees paid by the professionals in a particular occupation and the quality of the regulatory system that is delivered on behalf of consumers?

ROEC Member Biographies

John Graham (Chairman).....	2
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John D. Graham, ROEC Chairman

Indiana University School of Public and Environmental Affairs (Bloomington and Indianapolis)

John D. Graham was born (1956) and raised in Pittsburgh, PA, a son of an accomplished steel industry executive. He earned his B.A. (politics and economics) at Wake Forest University (1978) where he won national awards as an intercollegiate debater. He earned his M.A. degree in public policy at Duke University (1980) before serving as staff associate to Chairman Howard Raiffa's Committee on Risk and Decision Making of the National Research Council/National Academy of Sciences. His Carnegie-Mellon University Ph.D. dissertation on automobile safety, written at the Brookings Institution, was cited in pro-airbag decisions by the U.S. Supreme Court (1983) and by Secretary of Transportation Elizabeth Dole (1985).

Dr. Graham joined the Harvard School of Public Health as a post-doctoral fellow in 1983 and as an assistant professor in 1985. He taught the methods of decision analysis and cost-benefit analysis to physicians and graduate students in public health. His prolific writings addressed both the analytic and institutional aspects of lifesaving policies. Dr. Graham earned tenure at Harvard in 1991 at the age of thirty-four.

From 1990 to 2001 Dr. Graham founded and led the Harvard Center for Risk Analysis (HCRA). By raising over \$10 million in project grants and philanthropic contributions, Dr. Graham helped support eight new faculty positions and dozens of post-doctoral and doctoral students. By 2001 HCRA became internationally recognized for analytic contributions to environmental protection, injury prevention, and medical technology innovation.

In 1995 Dr. Graham was elected President of the Society for Risk Analysis (SRA), an international membership organization of 2,400 scientists and engineers. Dr. Graham reached out to risk analysts in Europe, China, Japan and Australia as he helped organize the first World Congress on Risk Analysis (Brussels, 2000). Later, in 2009, Dr. Graham received the SRA's Distinguished Lifetime Achievement Award, the society's highest award for excellence.

In March 2001 President George W. Bush nominated Dr. Graham to serve as Administrator, Office of Information and Regulatory Affairs, Office of Management and Budget. He was confirmed by the Senate in July 2001. Located in the Executive Office of the President, this small office of 50 career policy analysts oversees the regulatory, information and statistical activities of the federal government. In this capacity, Dr. Graham worked to slash the growth of regulatory costs by 70% while encouraging good regulations that save lives, prevent disease, and protect the environment.

From March 2006 to July 2008 Dr. Graham was Dean of the Frederick Pardee RAND Graduate School at the RAND Corporation in Santa Monica, California. PRGS is the largest doctoral program in policy analysis in the world. In this role, Dr. Graham streamlined the core

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curriculum, established new analytic concentrations, revised the program requirements to enable students to launch their dissertations more promptly, and raised funds from individuals and corporations to support scholarships, dissertation support and policy papers co-authored by students and RAND researchers.

On July 28, 2008 Dr. Graham assumed the Deanship of the Indiana University School of Public and Environmental Affairs (Bloomington and Indianapolis), one of the largest public policy schools in the United States. The School has about 1,500 undergraduate majors, over 300 master's students and about 80 doctoral students. The 75 full-time faculty include laboratory scientists, social scientists, lawyers and policy specialists.

**Barry Boudreaux, ROEC Licensed Member
Pharmacist**

BS in Pharmacy, University of Louisiana @ Monroe - 1978

Licensure (Pharmacist)

1978 Louisiana

1985 Texas

1994 Alabama

1995 Nevada

2000 Florida, Michigan, Arkansas, Tennessee

2001 Pennsylvania

2009 Indiana

2009 Arizona

EMPLOYMENT EXPERIENCE

February 2009 to Present Medco Health Solutions , Whitestown, IN

Director, Pharmacy Practice: Responsible for startup of pharmacy and day-to-day operation of pharmacy. Emphasis on Quality, Regulatory Compliance and Licensure of the site.

April 2001 to February 2009 Medco Health Solutions, Las Vegas, NV

Director of Pharmacy Practice: Responsible for directing more than 1200 employees including 175 pharmacists and 130 technicians at one of the world's largest pharmacies. Emphasis on Quality, Compliance, Licensure and Prescription Dispensing. Member of the core team for 2003 & 2006 Joint Commission (JCAHO) accreditation.

October 1995 to April 2001 Medco Health Solutions , Las Vegas, NV

Staff Pharmacist and Pharmacy Supervisor: Dispensing prescriptions, providing clinical reviews & compounding prescriptions. As supervisor, responsible for activities of 60 employees in Doctor Calling Department.

May 1991 to October 1996 Sav-On Drugs, Las Vegas, NV

Staff Pharmacist: Dispensing, compounding, prescription processing

June 1978 to May 1991 K&B Drugs Various Locations (Louisiana, Alabama)

Managing Pharmacist/Staff Pharmacist: General pharmacy responsibilities in retail pharmacy, Pharmacist-in-Charge, leading & directing employees.

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PROFESSIONAL ORGANIZATIONS

American Pharmacists Association (1976 to present)
Academy of Managed Care Pharmacy (2003 to present)
Phi Delta Chi Professional Pharmacy Fraternity (1977 to present)
Capital Area Pharmacists Association (1980 to 1986)
Alabama Pharmacists Association (1990 to 1991)
Louisiana Pharmacists Association (1978 to 1991)
National Association of Boards of Pharmacy (2006 to present)
American Soc. Of Health System Pharmacists (2008 to present)

ACTIVITIES & HONORS

Delegate to the APhA House of Delegates
Diplomate – GlaxoSmithKline Wharton School of Business Program (2002)
(Two week training aimed at pharmacy business improvement)
National VP of Phi Delta Chi Pharmacy Fraternity (1991-1995)
(Responsible for Alumni participation and fundraising programs)
Member, Nevada State Board of Pharmacy (appointed 2006)
President, Nevada State Board of Pharmacy (2007 – 2009)
2006 Recipient of APhA “Pharmacists One-on-One Counseling Award”
(Awarded for Katrina Relief Effort – Counseling under disaster situations)
2006 Recipient of Medco Health “Chairman’s Award”
(Highest company recognition awarded for setting up a mobile pharmacy during the Katrina Relief Effort and directing a staff of 30 while dispensing prescriptions at no charge to victims. The 3 week effort was recognized as being a unique contribution in disaster response)
Keynote Speaker on Disaster Response at Professional Insurance Marketers Association (2007)
(Event focused on natural disaster response with Katrina as a lesson learned)
Member of the NCPDP Emergency Preparedness Committee (2006 to present)
(Committee charged with preparing action plan to assist pharmacies during future disasters) Clinical / Pharmacy Preceptor for: University of Southern Nevada, Creighton University, Midwestern Univ. School of Pharmacy (Glendale, AZ), Univ. of Massachusetts School of Pharmacy and Univ. of Arizona School of Pharmacy.

Gloria Downham, ROEC Member
Indiana Office of Management and Budget

Gloria Graham Downham was born and raised in Greenwood, Indiana. She is a graduate of the School of Public and Environmental Affairs (SPEA) at Indiana University Bloomington earning a Bachelor of Science in Public Affairs and a Master of Public Administration (MPA).

Gloria has worked at the Government Accountability Office (GAO) and the Office of Federal Financial Management at the U.S. Office of Management and Budget. In 2007, Gloria joined the Indiana Office of Management and Budget (OMB) in the Division of Government Efficiency and Financial Planning. There she has contributed to the development of a performance-informed budget and has identified and implemented various opportunities to improve Indiana State government services and save Hoosiers' tax dollars.

Frances Kelly, ROEC Member
Executive Director, Indiana Professional Licensing Agency

Frances L. Kelly, M.P.A., M.Ed., is the Executive Director for Indiana Professional Licensing Agency. She was appointed to the position March 14, 2005, by Governor Mitch Daniels to guide PLA through the merger with sister agency Health Professions Bureau. Frances and her staff of 85 are responsible the administration of 33 different boards and committees, which include 270 board members and just over 445,000 active license holders. The boards include medical, nursing, pharmacy and oversight for the prescription monitoring program.

Ms. Kelly is a graduate of Indiana University with a B.S. degree in Business from the Kelley School of Business and M.P.A. degree in Public Administration from the School of Public and Environmental Affairs. She also received a M.Ed. in Educational Leadership from Ohio University and was a certified Emergency Medical Technician. Ms. Kelly previously held positions as Chief Deputy Coroner for the Marion County Coroner's Office, Director of the Indiana Pharmacy and Medical Licensing Boards and as Project Coordinator with the Edison Biotech Center in Ohio prior to returning to Health Professions Bureau and Indiana Professional Licensing Agency.

Currently, Ms. Kelly sits on the board of the Center for Excellence in Licensing, the board of directors for Legacy House, which is a domestic violence shelter and is an advisory board member for the Bill and Melinda Gates 1st Candle National Crib Campaign designed to provide infant cribs and reduce the risk of SIDS. She has also participated on the Health Care Workforce Summit, Indiana Foreclosure Prevention Advisory Committee and the Medical Examiner restructuring task force. She has been a participant in research on drug-related overdose deaths in Marion County with the Indianapolis Drug Enforcement Administration office and served on review panels for child fatalities and homicide associations and is the past Chapter President for the National Association for Drug Diversion Investigators and served as Historian and conference chair for the 2009 national chapter of NADDI. She recently completed a term on the Executive Committee for the National Association of State Controlled Substance Authorities.

**David Miller, ROEC Member (Non-voting)
Indiana Attorney General's Office**

Indiana State University Indianapolis, Indiana
1965-1969

- BS Education/Business Administration

Indiana University School of Law Indianapolis, Indiana
1969-1973

- Doctor of Jurisprudence

EMPLOYMENT EXPERIENCE

Special Advisor Indiana Attorney General, 2001-2008 State of Indiana

- Advisor on senior and legislative issues

Private Practice

1992-2008 – Miller and Minglin Indianapolis, Indiana

- Private litigation

Director of Consumer Protection Division Attorney General's Office, 1977-1992 State of Indiana

- Represent the citizens of Indiana regarding Consumer Protection

Assistant/Chief Counsel to Indiana Attorney General

1977-1992 State of Indiana

- Advised Attorney General on legal matters

Deputy Attorney General

1973-1977 State of Indiana

- Assistant to Indiana Attorney General
- Authored a multitude of state laws

Teacher/Coach

1969-1973 Indianapolis Public Schools Indianapolis, Indiana

- Taught Business Courses
- Coached school baseball team

Mr. Miller is admitted to practice by Indiana Supreme Court October 1973; U.S. District Court Southern District of Indiana; U.S. Seventh Circuit Court of Appeals.

Mr. Miller has conducted numerous ICLEF seminars as speaker and leader relating to Consumer Protection and Administrative Law issues and has addressed business groups on legislative/consumer issues for Attorney General.

Sally Spiers, ROEC Member Management Information Systems Analyst

Sally Spiers is a management information systems analyst with extensive experience in government at the local, state, federal and international levels.

Spiers managed constituent correspondence for Mayor Stephen Goldsmith and helped to launch the Mayor's Action Center. She shares his philosophy on reinventing government and making it more responsive, efficient and cost effective. She developed a tracking system for executive correspondence and reduced the average response time from two months to less than two days.

As Executive Assistant to Attorney General Steve Carter, Spiers helped to implement the Do Not Call list and improved the flow of correspondence and internal communications. Spiers was also the Investment Advisor Examiner for the Secretary of State's Securities Division and was responsible for all tracking and monitoring of state-registered investment advisors in the State of Indiana. She overhauled the Securities Division's filing system and developed a reporting mechanism for monthly statistics for the Securities Commissioner.

At the federal level, Spiers was a Congressional Liaison Office with the Department of Housing and Urban Development (HUD) and was responsible for all coordination between HUD and members of Congress. Spiers was also Deputy Administrative Assistant to Senator Richard G. Lugar. She developed the Senator's correspondence system and managed the office administrivia.

Spiers was the Director of Public Affairs and Executive Assistant to the Commissioners of the International Joint Commission, United States and Canada (IJC.) The IJC is a quasi-governmental treaty organization with jurisdiction over the use, obstruction or diversion of boundary waters between the US and Canada. In the 1970s it was also given responsibility for monitoring and reporting on the governments' compliance and progress under the Great Lakes Water Quality Agreement. Spiers worked with her Canadian counterparts to draft the IJC's reports to governments, publish a monthly newsletter and organize biennial meetings on Great Lakes water quality which brought together 400+ policy makers, scientists, academics and citizen activists to review progress of the two federal governments, eight states and two provinces on the cleanup of the Great Lakes.

**Rita Springer. ROEC Licensed Member
Registered Nurse**

Rita Springer, RN is unit manager of 47 bed wing of Miller's Merry Manor in Sullivan, Indiana. Rita graduated from Indiana State University in 1980 with a Bachelor degree in Textiles and Clothing, and IVY Tech State College in 2004 with an associate degree in nursing. She is married to Bill, a 32 year employee of Indiana Department of Transportation, with two sons; Will a network engineer and Gene a college student. Rita is presently serving on the Sullivan City Park Board since 2002, chairman of the board in 2004. Rita has also served on the Sullivan Elementary School Steering Committee for the construction of the elementary school and the Southwest School Corporation Book Selection Committee.

ROEC Agendas

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October 13, 20103
February 17, 20114
April 20, 20116
May 25, 20118
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Regulatory Occupations Evaluation Committee
Indiana Professional Licensing Agency
Government Center South
402 W. Washington Street
Indianapolis, IN 46204
Room W064

AGENDA

August 25, 2010

9:00 a.m. – 11:30 a.m.

- I. Introduction of Members (5 min)
- II. Remarks from Rep. Peggy Welch – Legislative Sponsor (*tentative) (15 min)
- III. A Report on the Study of Professional Licensing in Indiana
Deanna Malatesta, Assistant Professor SPEA, IUPUI (30 min)
- IV. Introduction to PLA – Lisa Bentley, IPLA Deputy Director (20 min)
- V. Introduction to ROEC – Marty Allain, IPLA General Counsel (20 min)
- VI. Options for Evaluation Process (45 min)
 - i. Presentation - Marty Allain, IPLA General Counsel
 - ii. Committee Discussion
- VII. Criteria for Selecting Initial Boards to Review (15 min)
- VIII. Establish Meeting Dates (5 min)

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Regulatory Occupations Evaluation Committee
Indiana Professional Licensing Agency
Government Center South
402 W. Washington Street
Indianapolis, IN 46204
Room W064

AGENDA

October 13, 2010

9:00 a.m. - 11:30 a.m.

- I. Review of Minutes of August 25, 2010 meeting (5 minutes)
- II. Remarks from Rep. Peggy Welch - Legislative Sponsor (*tentative) (15 min)
- III. Review of IPLA Information - Frances Kelly, IPLA Executive Director (30 min)
 - a) IPLA Revenue Breakdown by Board
 - b) IPLA Operating Budget by Board
 - c) Review of PLA license types (distributed via email 8/26/10)
- IV. Assessment Framework for Occupational Regulation - Gloria Downham, ROEC Committee Member & Deanna Malatesta, Assistant Professor SPEA, IUPUI (45 min)
- V. Discussion of Pilot Review of Two Boards (20 min)

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Regulatory Occupations Evaluation Committee
Indiana Professional Licensing Agency
Government Center South - 402 W. Washington Street - Room W064
Indianapolis, IN 46204

AGENDA

February 17, 2011

9:00 a.m. – 2:00 p.m.

- I. Review of Minutes of October 13, 2010 meeting (5 minutes)
- II. Remarks from Rep. Peggy Welch – Legislative Sponsor (*tentative) (15 min)
- III. Presentation of “Part A” Assessment for State Board of Cosmetology and Barber Examiners
David Demuth, Board Chair & Diana Bonn, Board Member
 - a. Introduction of State Board of Cosmetology and Barber Examiners & Questions (15 min)
 - b. Types of Harm & Severity of Harm & Questions (40 min)
 - c. Current Regulation and Alternatives & Questions (15 min)
 - d. Alternatives to Regulation & Questions (15 min)
- IV. ROEC discussion to determine need for Cosmetology and Barber Examiners “Part B” (30 min)
- V. LUNCH BREAK (11:30 p.m. - 12:30 p.m.)
- VI. HFA Presentation
Gabrielle Owens, Office of the Attorney General (15 min)
- VII. Indiana State Board of Health Facilities Administrators – “Part A” presentation
Shelley Rauch, Board Chair
 - a. Introduction of State Board of Health Facilities Administrators & Questions (15 min)
 - b. HFA Board role vs. Indiana Department of Health & Questions (30 min)
 - c. Types of Harm & Severity of Harm & Questions (20 min)
 - d. Current Regulation and Alternatives & Questions (15 min)
- VIII. ROEC discussion regarding Health Facilities Administrators “Part B” (10 min)
- IX. Revision of Review Schedule (15 minutes)

APRIL 20, 2011 – 9am – 3pm

- Private Investigators & Security Guard Licensing Board – “Part A” presentation
- State Board of Cosmetology and Barber Examiners – “Part B” presentation
- Indiana State Board of Health Facilities Administrators – “Part B” presentation

APPENDIX II (Page 5 of 10)

MAY 18, 2011 – 9am – 11:30am

ROEC discussion to determine:

- need for Private Investigators & Security Guard “Part B”
- proposed recommendations for report to Health Finance Commission regarding the licensing and regulations of process by the State Board of Cosmetology and Barber Examiners and the Indiana State Board of Health Facilities Administrators

JUNE 15, 2011– 9am – 11:30am

- Finalize Report to HEALTH FINANCE COMMISSION (due not later than 7/1/2011)

AUGUST 24, 2011 – 9am – 3pm

SEPTEMBER 21, 2011 – 9am-11:30am

OCTOBER 12, 2011 – 9am-3pm

NOVEMBER 16, 2011 – 9am-11:30am

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Regulatory Occupations Evaluation Committee
Indiana Professional Licensing Agency
Government Center South - 402 W. Washington Street - Room W064
Indianapolis, IN 46204

AGENDA
April 20, 2011
9:00 a.m. – 3:00 p.m.

- I. Review of Minutes of February 17, 2011 meeting (5 minutes)
- II. Remarks from Rep. Peggy Welch – Legislative Sponsor (*tentative) (15 min)
- III. Presentation of “Part A” Assessment for Private Investigators & Security Guard Licensing Board
Don Johnson, Board Chair
 - a. Introduction of Private Investigators & Security Guard Licensing Board & Questions (15 min)
 - b. Types of Harm & Severity of Harm & Questions (20 min)
 - c. Current Regulation and Alternatives & Questions (10 min)
 - d. Alternatives to Regulation & Questions (10 min)
- IV. Presentation of “Part B” Assessment for State Board of Cosmetology and Barber Examiners
David Demuth, Board Chair & Diana Bonn, Board Member
 - a. Proactive Surveillance & Questions (10 min)
 - b. Complaint Process & Nature of Complaints & Questions (10 min)
 - c. Effectiveness of Current Regulation – Reduced Consumer Harm & Questions (10 min)
 - d. Appropriate Regulatory Mechanism & CE Requirements & Questions (10 min)
 - e. Affects of Regulatory System & Questions (10 min)
 - f. Adequate Resources/Fees vs. Adequate Regulation & Questions (10)
 - g. Recommendations & Questions (20)
- V. LUNCH BREAK (11:30 p.m. - 12:30 p.m.)
- VI. Indiana State Board of Health Facilities Administrators – “Part B” presentation
Shelley Rauch, Board Chair
 - a. Proactive Surveillance & Questions (10 min)
 - b. Complaint Process & Nature of Complaints & Questions (10 min)
 - c. Effectiveness of Current Regulation – Reduced Consumer Harm & Questions (10 min)
 - d. Appropriate Regulatory Mechanism & CE Requirements & Questions (10 min)
 - e. Affects of Regulatory System & Questions (10 min)
 - f. Adequate Resources/Fees vs. Adequate Regulation & Questions (15 min)
 - g. Recommendations & Questions (30)

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VII. Revision of Review Schedule (20 minutes)

APRIL 20, 2011 – 9am – 3pm

- Private Investigators & Security Guard Licensing Board – “Part A” presentation
- State Board of Cosmetology and Barber Examiners – “Part B” presentation
- Indiana State Board of Health Facilities Administrators – “Part B” presentation

MAY 25, 2011 – 9am – 2pm

ROEC discussion to determine:

- need for Private Investigators & Security Guard “Part B”
- proposed recommendations for report to Health Finance Commission regarding the licensing and regulations of process by the State Board of Cosmetology and Barber Examiners and the Indiana State Board of Health Facilities Administrators

JUNE 15, 2011 – 9am – 11:30am

- Finalize Report to HEALTH FINANCE COMMISSION (due not later than 7/1/2011)

AUGUST 24, 2011 – 9am – 3pm

- State Board of Registration for Professional Engineers – “Part A” presentation
- Committee of Hearing Aid Dealer Examiners – “Part A” presentation
- Private Investigators & Security Guard Licensing Board – “Part B” presentation – *if needed*

SEPTEMBER 21, 2011 – 9am – 2pm

- State Board of Registration for Professional Engineers – “Part B” presentation – *if needed*
- Committee of Hearing Aid Dealer Examiners – “Part B” presentation – *if needed*

OCTOBER 12, 2011 – 9am-2pm

- Indiana Optometry Board – “Part A” presentation
- Indiana Dietitian Certification Board – “Part A” presentation

NOVEMBER 16, 2011 – 9am-2pm

- Indiana Optometry Board – “Part B” presentation – *if needed*
- Indiana Dietitian Certification Board – “Part B” presentation – *if needed*

APPENDIX II (Page 8 of 10)
Regulatory Occupations Evaluation Committee
Indiana Professional Licensing Agency
Government Center South - 402 W. Washington Street
Room Conference Center Room 1
Indianapolis, IN 46204

AGENDA
May 25, 2011
9:00 a.m. – 2:00 p.m.

- I. Review of Minutes of April 20, 2011 meeting (5 minutes)
- II. Remarks from Rep. Peggy Welch – Legislative Sponsor (*tentative) (15 min)
- III. Committee Members’ Presentation of Findings & Recommendations of the Cosmetology and Barber Examiners - Gloria Downham and Frances Kelly (60 minutes)
- IV. Committee Members’ Presentation of the Indiana State Board of the Health Facilities Administrators - Barry Boudreaux and Rita Springer (60 minutes)
- V. LUNCH BREAK (11:30 a.m. - 12:30 p.m.)
- VI. Proposed Recommendations for report to Indiana Health Finance Commission regarding the licensing and regulation of the Cosmetology and Barber Examiners & Indiana State Board of Health Facilities Administrators (60 minutes)
- VII. Proposed Process for Compilation of Report (20 minutes)
- VIII. Revision of Review Schedule (10 minutes)

JUNE 15, 2011 – 9am – 11:30am

- Finalize Report to HEALTH FINANCE COMMISSION (due not later than 7/1/2011)

AUGUST 24, 2011 – 9am – 3pm

- State Board of Registration for Professional Engineers – “Part A” presentation
- Committee of Hearing Aid Dealer Examiners – “Part A” presentation
- Private Investigators & Security Guard Licensing Board – “Part B” presentation – *if needed*

SEPTEMBER 21, 2011 – 9am – 3pm

- State Board of Registration for Professional Engineers – “Part B” presentation – *if needed*
- Committee of Hearing Aid Dealer Examiners – “Part B” presentation – *if needed*
- Findings and Recommendations for Private Investigators & Security Guard Licensing Board

OCTOBER 12, 2011 – 9am-3pm

- Indiana Optometry Board – “Part A” presentation
- Indiana Dietitian Certification Board – “Part A” presentation
- Findings and Recommendations of the State Board of Registration for Professional Engineers and the Committee of Hearing Aid Dealer Examiners

APPENDIX II (Page 9 of 10)

NOVEMBER 16, 2011 – 9am-3pm

- Indiana Optometry Board – “Part B” presentation – *if needed*
- Indiana Dietitian Certification Board – “Part B” presentation – *if needed*
- Findings and Recommendations of Indiana Optometry Board and Indiana Dietitian Certification Board

APPENDIX II (Page 10 of 10)
Regulatory Occupations Evaluation Committee
Indiana Professional Licensing Agency
Government Center South - 402 W. Washington Street - Room W064
Indianapolis, IN 46204

AGENDA
June 15, 2011
9:00 a.m. – 11:30 a.m.

- I. Review of Minutes of May 25, 2011 meeting (5 minutes)

- II. Indiana Department of Health report on possibility of Health Facility Administrator licensing being moved from IPLA to the Department of Health – Terry Whitson, Assistant Commissioner (45 minutes)

- III. Proposed recommendations and framework for report to Indiana Health Finance Commission regarding the licensing and regulation of the Cosmetology and Barber Examiners & Indiana State Board of Health Facilities Administrators (75 minutes)

- IV. Revision of Review Schedule (5 minutes)

AUGUST 24, 2011 – 9:00 am – 3:30 pm

- State Board of Registration for Professional Engineers – “Part A” presentation
- Committee of Hearing Aid Dealer Examiners – “Part A” presentation
- Private Investigators & Security Guard Licensing Board – “Part B” presentation
- Committee deliberation

SEPTEMBER 21, 2011 – 9:00 am – 3:30 pm

- State Board of Registration for Professional Engineers – “Part B” presentation – *if needed*
- Committee of Hearing Aid Dealer Examiners – “Part B” presentation – *if needed*
- Findings and Recommendations for Private Investigators & Security Guard Licensing Board
- Committee deliberation

OCTOBER 12, 2011 – 9:00 am – 3:30 pm

- Indiana Optometry Board – “Part A” presentation
- Indiana Dietitian Certification Board – “Part A” presentation
- Findings and Recommendations of the State Board of Registration for Professional Engineers and the Committee of Hearing Aid Dealer Examiners
- Committee deliberation

NOVEMBER 16, 2011 – 9:00 am – 3:30 pm

- Indiana Optometry Board – “Part B” presentation – *if needed*
- Indiana Dietitian Certification Board – “Part B” presentation – *if needed*
- Findings and Recommendations of Indiana Optometry Board and Indiana Dietitian Certification Board
- Committee deliberation

ROEC Meeting Minutes

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Indiana Regulatory Occupations Evaluation Committee

Minutes of the August 25, 2010 Committee Meeting

Call to Order & Establishment of Quorum

The first Regulatory Occupations Evaluation Committee (ROEC) meeting was held on Wednesday, August 25, 2010 in the Government Center South Room W064 at 9:00 a.m.

Committee members present:

- Dean John Graham, Committee Chair
- Barry Boudreaux
- Gloria Downham
- Frances Kelly
- David Miller
- Rita Springer

IPLA staff members present:

- Gale Albright
- Marty Allain
- Lisa Bentley

Introduction of Members

The meeting started at 9:00 a.m. Per ROEC Chairperson Dean John Graham's request, the committee members and IPLA staff introduced themselves.

Remarks from Rep. Peggy Welch – Legislative Sponsor

Representative Peggy Welch, Legislative Sponsor of the ROEC bill, was invited to the meeting to provide introductory remarks, but was unable to attend the meeting.

A Report on the Study of Professional Licensing in Indiana - Deanna Malatesta, Assistant Professor, I.U. SPEA - Indianapolis

Deanna Malatesta, Assistant Professor Indiana University School of Public and Environmental Affairs (SPEA) - Indianapolis, presented a 30-minute PowerPoint presentation (attached hereto as Exhibit A) to the committee detailing the findings of a SPEA Student Research Team last year. The students attended board meetings, conducted interviews with license holders, and researched other states' websites in conducting their research. Malatesta noted that board surveys were not conducted.

Frances Kelly stated that there are difficulties in comparing professions, licensing boards and governing agencies on a state-to-state basis due to the myriad regulatory structures within each state.

APPENDIX III (Page 3 of 26)

David Miller noted that during the last legislative session boards were given the authority to issue “cease and desist” orders. Committee members asked how someone gets reported for operating under titled protected professions when they are not licensed or certified. Frances Kelly explained that normally other businesses and/or individuals that are licensed or certified report the violation. They can also be reported by the public through a consumer complaint.

Introduction to PLA – Lisa Bentley, IPLA Deputy Director

Lisa Bentley, IPLA Deputy Director, gave a 20-minute introduction to IPLA (attached hereto as Exhibit B). Highlights of the power point are as follows:

- PLA currently has 85 employees and operates on a budget of \$5 million dollars.
- 22 Boards and Commissions which are responsible for more than 1 licensing type.
- 14 Professional Boards.
- Board members normally serve a 3-4 year term.
- Board sizes vary.
- Boards that cannot get a quorum delay the Board’s responses to licensees.

Introduction to ROEC – Marty Allain, IPLA General Counsel

Marty Allain, IPLA General Counsel, provided a brief introduction to ROEC and its purpose (attached hereto as Exhibit C). Allain explained that the board was created by Ind. Code § 25-1-16-8, which states:

The committee shall review and evaluate each regulated occupation at least once every (7) years. The review and evaluation must include the following:

- (1) The functions, powers, and duties of the regulated occupation and the board, including any functions, powers, or duties that are inconsistent with current or projected practice of the occupation.
- (2) An assessment of the management efficiency of the board.
- (3) An assessment of the regulated occupation's and the board's ability to meet the objectives of the general assembly in licensing the regulated occupation.
- (4) Any other criteria identified by the committee.

Options for Evaluation Process - Marty Allain, IPLA General Counsel

Allain presented examples from other states regarding professional licensing regulation review and suggested that the committee begin the process of developing a methodology for review.

Criteria for Selecting Initial Boards to Review & Establish Meeting Dates

Chairperson John Graham suggested that he meet with Gloria Downham and Deanna Malatesta prior to the October 13th ROEC meeting to discuss options for how the review process will be defined.

The committee members requested the following information from IPLA:

APPENDIX III (Page 4 of 26)

- IPLA Revenue Breakdown by Board
- List of PLA License Types
- IPLA Operating Budget by Board

It was suggested that the committee seek to conduct two (2) board reviews that would serve as pilot review following the determination of how the review process is structured.

The board would like to review the work that IPLA has already done during its review this summer.

The board agreed that it would hold its next meeting on Wednesday, October 13, 2010 at 9:00 a.m.

Other tentative dates for future ROEC meetings are as follows:

Wednesday, November 17, 2010

Thursday, January 20, 2011

Wednesday, April 20, 2011

Adjournment

Chairperson Graham adjourned the meeting at approximately 11:50 a.m.

Dean John Graham, Chair
Indiana Regulatory Occupations Evaluation Committee

Date

Next Scheduled Meeting:

October 13, 2010 at 9:00 a.m.
Indiana Government Center South
Room W064 of the Indiana Professional Licensing Agency

**Indiana Regulatory Occupations Evaluation Committee
Minutes of the October 13, 2010 Committee Meeting**

Call to Order & Establishment of Quorum

The Regulatory Occupations Evaluation Committee (ROEC) meeting was held on Wednesday, October 13, 2010 in the Government Center South Room W064 at 9:00 a.m.

Committee members present:

- Dean John Graham, Committee Chair
- Barry Boudreaux
- Gloria Downham
- Frances Kelly
- Gabriella Owens (representing Dave Miller)
- Rita Springer

IPLA staff members present:

- Gale Albright
- Marty Allain
- Lisa Bentley

Review and Approval of Minutes

The August 25, 2010 minutes were reviewed and approved by committee members.

Chairperson John Graham requested an update on the 7th member of the ROEC Committee. Lisa Bentley informed the committee that the request for this member has been made. Dean Graham stated that he will contact the Governors' Office to inquire regarding the status.

He further shared with the Committee that he will attempt to hire a graduate student-intern to work part-time for ROEC. The intern will assist IPLA staff with ROEC requests. Dean Graham indicated that this person would be in place by the next ROEC meeting. He also informed the Committee that he had lunch with Representative Welch a few weeks ago and she would not be coming to this meeting as she was busy preparing for the November 2nd election.

Review of IPLA Information

Frances Kelly distributed the following information to the Committee members:

- IPLA Revenue Breakdown by Board
- IPLA Operating Budget by Board
- Review of PLA License Types (distributed via email 8/26/10)

Kelly stated that all the information she was distributing was for a two-year fiscal review. These are the points she made to the group:

- IT (Information Technology) looked at the revenue based on a person renewing their license and then the number of new applications when a person initially applied.

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- License renewals generate 95% of our fees.
- Nursing, Medical and Pharmacy are the largest generators of licenses.
- Fees are set by rule & statute – no automatic adjustments in place.

Dean Graham asked about continuing education and if that money went to private providers or the state. Frances responded that private providers would receive that money.

Barry Boudreaux stated that as a Pharmacist it has been years since he has paid anything for continuing education because most of it can be obtained through written literature, on-line, or special conventions.

Frances said she broke out the expenditures by how much money IPLA spent last year licensing nurses who make-up 29.96% of our licenses. She then multiplied them by our total expenditure. From this calculation, it can be roughly estimated that IPLA spends \$1.5 million of its \$5 million dollar budget on the Nursing Board. The average revenue that nurses bring into the general fund is \$3.2 million.

Dean Graham asked if the expenditures are reasonable for salary expenses and Frances responded in the affirmative.

Frances explained that the Dietician Board along with many others would not be able to stand alone based solely upon the revenue they generate.

She further stated we are generating far more than we spend. She explained that Marty Allain, IPLA General Counsel, did research during a recent Interim Study Committee and determined that the Ohio Board of Pharmacy was a stand-alone board that retained licensee applications fees and operates on a \$5 million dollar budget, which is greater than IPLA's entire budget to administer the Indiana Board of Pharmacy and thirty four (34) other boards, commissions, and committees.

Frances stated that IPLA budget expenditures have decreased annually since the merger of the Health Professions Bureau and IPLA in 2004 while the total number of licensees regulated has increased. This increase in workload coupled with a decrease in resources has led to changes in customer service, e.g. licensees are no longer mailed wall certificates and pocket cards, but now must print their own licenses via the web or pay a \$10.00 fee to purchase. IPLA is currently in a mandatory 10% budget reversion for fiscal year 2009/2010. Last fiscal, year IPLA was able to revert 8.8% of its allotted budget appropriation.

A question was asked about what RFP's were and why would there be 3rd party vendors. Marty Allain explained, as an example, that at one time IPLA administered the board exams, but they are now farmed out to companies and organizations that provide exam services.

Dean Graham reminded the Committee of ROEC's Legislative mission with regard to the seven (7) year review. Frances Kelly also noted that each profession must be reviewed within the seven (7) year period. She explained that she feels a more practical approach would be to review each board rather than each license type.

Assessment Framework for Occupational Regulation

Gloria Downham distributed a hand-out to the group entitled "Assessment Frame Work for Occupational Regulation". The document is broken into two categories: 1) whether the state should be involved in the regulation of the occupation and/or profession, and 2) whether the State should reform regulation that would in some way improve it.

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The document is based on a 5-point grading system with 1 representing weak and 5 being the highest score. If scored at 5 points there is a strong case for regulation of a profession.

The Committee reviewed the document and the following changes were suggested under Section A:

- #3. **Self-regulation by the Profession.** Is the profession capable of organizing itself (on a local, state, national or international basis) to ensure an acceptable degree of competence without any regulatory program? (1= High capability; 5 = Minimal or no capability).
- #4. **Legal Alternatives to Regulation.** In the absence of an IPLA regulatory program, would consumers have adequate legal protections to deter incompetent or fraudulent behavior by professionals to seek redress or compensation for avoidable harms? (1= Adequate alternative protections available; 5=No adequate alternatives available)
- #5. **Benefit-Cost Determination.** Are the consumer benefits of IPLA regulatory program (e.g., reduced harm to consumers and/or higher levels of public trust in professionals) likely to justify the anticipated costs of a regulatory system (e.g., licensing fees, potentially higher prices for goods or services, and any administrative costs of implementing and enforcing a meaningful regulatory system)? (1=Costs exceed benefits; 5=Benefits exceed costs)

Last paragraph in Section A would read: With information from the professional boards and the PLA, answers to each of the five questions above will be scored by ROEC board members on a five-point scale, and the sum of the five component scores will produce an aggregate score that rates the case for regulation. An aggregate score of 5 would imply that the case for regulation is extremely weak while an aggregate score of 25 would imply that the case for regulation is extremely strong. The framework will require judgment to be implemented but the framework is transparent enough so that all interested parties can supply information relevant to the scoring, and anyone can produce their own score and compare it to the scores that are suggested by ROEC or other parties.

Suggested changes made to the document under Section B were as follows:

- #3. What is the nature of complaints received by the board? Do they typically involve potential negative impacts to consumers? Do they typically represent the concerns of impacted consumers or the concerns that professionals have about their colleagues?
- #8. Is there evidence that the regulatory system is adversely affecting the supply of professionals and thereby raising the price of goods or services to consumers?

Dean Graham said that the Committee should pilot this grading scale during their first two (2) “pilot” Boards to see how this works for them.

Boudreaux suggested that the Committee determine that boards must pass Section A prior to moving to Section B while reviewing the two (2) initial pilot boards. The committee concurred with this idea.

Dean Graham posed a question regarding #3 in Section B: **Do complaints typically represent the concerns of impacted consumers or the concerns that professionals have about their colleagues?** He asked why it might be important to know where the complaints came from – either the consumers or professional colleagues. Frances Kelly responded that sometimes it is a case of a complaint coming from another colleague because they are interested in protecting their profession due to bad business

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practices; however, she also noted that complaints may stem from competitive colleagues motivated by either personal issues or business related animus.

Marty Allain explained that many of our boards are not collecting relevant data and warned that ROEC could reach ill-informed policy decisions based on irrelevant or incomplete data sets if it does not first require the information be collected in a viable format.

Discussion of Pilot Review of Two Boards

The general consensus of the Committee is to have the two (2) pilot boards focus on Section A of the Assessment Framework for Occupational Regulation document. The Committee will score the Section A reports from the boards.

It was decided the two (2) pilot boards the Committee will meet with on January 20, 2011 will be Health Facility Administrators Board and Cosmetology/Barber Board. They will also have the Attorney General's Office present their 30 minute presentation and invite any stakeholders to the meeting that are interested. The January 20, 2011 meeting will be all day from 9:00 a.m. until 3:30 p.m. John Graham asked the W064 be set up in a more functional manner with the tables closer to the Committee members.

The Committee requested that the boards be notified well in advance of the meeting date and that Section A's 5 questions be posted on the IPLA website. The Committee further requested that the boards being reviewed submit their reports to the committee in writing prior to the meetings.

Lisa Bentley reminded the Committee that the Legislature is in a long session from January through April during 2011 and they may want to hold off on reviewing legislatively active boards until after April. It was determined that during the April 20th ROEC meeting the Committee will review Private Investigators/Security Guard Agencies and Dieticians. This will be another all day meeting.

Dean Graham reminded the Committee that it must have its recommendations to the Health and Finance Commission by July 2011.

The meeting for November 17, 2010 has been cancelled and future ROEC meeting dates were to be finalized and sent out by Lisa Bentley.

Adjournment

Chairperson Graham adjourned the meeting at approximately 11:15 a.m.

Dean John Graham, Chair
Indiana Regulatory Occupations Evaluation Committee

Date

Next Scheduled Meeting:

January 20, 2011 at 9:00 a.m.
Indiana Government Center South
Room W064 of the Indiana Professional Licensing Agency

**Indiana Regulatory Occupations Evaluation Committee
Minutes of the February 17, 2011 Committee Meeting**

Call to Order & Establishment of Quorum

The Regulatory Occupations Evaluation Committee (ROEC) meeting was held on Thursday, February 17, 2011 in the Government Center South Room W064 at 9:00 a.m.

Committee members present:

- Dean John Graham, Committee Chair
- Barry Boudreaux
- Gloria Downham
- Frances Kelly
- David Miller
- Gabrielle Owens (representing David Miller during afternoon session)
- Sally Spiers
- Rita Springer

IPLA staff members present:

- Gale Albright
- Marty Allain
- Lisa Bentley
- Tasha Coleman
- Tracy Hicks
- Katie Lowhorn

Review and Approval of Minutes

The October 13, 2010 minutes were reviewed and approved by committee members. The seventh member of the ROEC Committee, Sally Spiers was welcomed and introduced to the other members of the committee.

Presentation of "Part A" Assessment for State Board of Cosmetology and Barber Examiners by David Demuth, Board Chair

David Demuth, Cosmetology and Barber Examiners Board Chair, presented a 30-minute PowerPoint presentation (attached hereto as Exhibit A) to the committee including, but not limited to, the following information:

State Board of Cosmetology and Barber Examiners Board (SBCBD)

- The board regulates thirty (30) license types, which includes all professional, facility, temporary and provisional licenses.
- Board was created in 1937 and was independent until 1981.
- State Board of Beauty Culturist Examiners was created sometime prior to 1941 under IPLA.

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- IPLA merged with Health Professions Bureau in 2004
- Senate Bill 356 merged both boards into SBCBE, effective July 1, 2010

Mr. Demuth explained that he did not have access to the 2010 Office of the Attorney General (OAG) complaint data available for the committee to review during this power point. David Miller responded that he will make inquiries as to why the 2010 data is not available.

ROEC Committee Member: Can anyone be licensed as a Beauty Culture Instructor?

Mr. Demuth: Yes, as long as they have had additional experience and fulfilled the 1000 hour course.

Mr. Demuth explained the types of harm as follows:

1. Chemical
2. Wax
3. UV Exposure
4. Abrasions
5. Allergic Reactions
6. Hair Loss
7. Infectious Disease
8. Lice and Scabies
9. Lewd and Lascivious Conduct.

According to Mr. Demuth, Dr. Rebecca Bushong, Indiana Dermatologist and physician member of the board, estimates \$5000/event and \$1,000,000 per year for the pedicure related harm in Indiana. These costs include doctor visits, prescriptions, pathology and laboratory bills and time missed from work.

Mr. Demuth explained the current regulation and alternatives including:

- No regulation: May use title and practice profession without any form of registration or licensure.
- Title protection (no active state regulation): May not use a specific title unless you are certified by a third party.
- Title protection (state regulation): May not use a specific title unless licensed by the state.
- Title and practice protection: May not use title or practice profession unless licensed by the state.
- Mr. Demuth explained that current regulation by the SBCBD would be title and practice protection.

Mr. Demuth stated that currently there are criminal penalties under IC 25-8-14-5 for any persons that violate the provisions of the SBCBD statutes can be charged with a Class C felony. He further stated that there is also a Cease and Desist Order under IC 25-1-7-14 that was recently enacted which the Board now uses.

Mr. Demuth explained the General Professional Licensure Requirements of the SBCBD, which consist of:

- Meeting age requirement
- Meeting secondary school education requirement
- Graduating from approved professional licensed school
- Filing verified statement
- Passing examination approved by board

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- Pay fee for license issuance

Mr. Demuth also explained General Facility Licensure Requirements, which consists of:

- Selecting business location
- Obtaining building permits, certificate of occupancy if required
- Installing furnishings and obtain salon equipment
- Submitting verified statement
- Pay appropriate fee to board
- Passing inspection.

Mr. Demuth presented alternatives to regulation and explained that this would be a challenge due to the following:

- Limited information is available.
- There are no web-sites available to find quality feedback on providers.
- Pay Websites is limited to members only and do not receive significant feedback for this type of service.
- No advertising available to make an informed decision.
- There is no state or national association.
- There is no state or national certification.
- Civil lawsuits or cost prohibitive.
- Prosecutors will not prosecute.

ROEC discussion to determine need for Cosmetology and Barber Examiners "Part B"

- ROEC Committee Member: Do we know what the cost is for a consumer to file a lawsuit?
Mr. Demuth: Many consumers go to a lawyer "after the fact". Most lawyers are not willing to take cases where monetary recovery is not adequate to cover fees.
- ROEC Committee Member: Is every new facility inspected?
Mr. Demuth: Yes
- ROEC Committee Member: Are facilities re-inspected regularly?
Mr. Demuth: There are unannounced re-inspections but PLA only has 4 inspectors and the annual re-inspection was removed from statute. Most re-inspections are complaint driven.
- ROEC Committee Member: Do licenses have formal continuing education requirements?
Mr. Demuth: No
- ROEC Committee Member: What is the cost of the license?
Mr. Demuth: \$40 every 4 years
- ROEC Committee Member: What is more important to the integrity of the profession, the licensing of the profession or the licensing of the individual?
Mr. Demuth: The individual

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Chairman Graham stated that the committee now needed to determine the level of risk to consumers regarding each of the 17 license types. It was agreed upon that the risk to consumers for barber shops was lower, but that nail facilities and estheticians would be at the higher end of the scale.

After a lengthy discussion regarding the Assessment Framework for Occupational Regulation the committee decided to create a scorecard for each of the ROEC committee members to complete for each of the licenses that fall under the State Board of Cosmetology and Barber Examiners (SBCBE). This information will be tallied by Gloria Downham after all committee members return their scorecard sheets to her.

David Demuth will return to present Part B of the Assessment Framework ***“Whether the State of Indiana should reform regulation of a particular occupation or profession”*** at the next ROEC meeting on April 20th.

Chairman Graham said the committee will post the preliminary determination and invite the public to comment and give feedback for the committee to review.

Health Facility Administrators Presentation by Gabrielle Owens, Office of the Attorney General

Gabrielle Owens distributed and walked the committee through the hand out (attached hereto as Exhibit B) entitled “Health Facility Complaint Investigation and Adjudication Process”. She discussed the MFCU (Medicaid Fraud Control Unit) and its caseload currently in the Attorney General’s Office.

Indiana State Board of Health Facility Administrators “Part A” Presentation by Shelley Rauch, Board Chair

Shelley Rauch, Health Facility Administrators Board Chair introduced some of the representatives from the state associations present, including Robert Decker, Hoosier Owners and Providers for the Elderly (HOPE); Rebecca Bartel, HOPE Regulatory Affairs Director; Becky Carter, Executive Director, Indiana Assisted Living Association; Jim Leich, President, Indiana Association of Homes & Services for the Aging.

She presented a 30-minute PowerPoint presentation (attached hereto as Exhibit C) introducing the committee to the State Board of Health Facilities Administrators.

Her presentation included the following information:

- HFA Board role vs. Indiana Department of Health - The role of the HFA Board is to regulate the administrators and review their overall competency. The role of the Indiana State Department of Health regulates licensed long term care facilities.
- Types of Harm & Severity of Harm
 1. Physical
 - a. Preventable falls
 - b. Malnutrition/Dehydration
 - c. Abuse (physical/sexual)
 - d. Improper/Inappropriate use of restraints (physical/chemical)
 - e. Failure to provide treatment for existing pressure ulcers
 - f. Failure to prevent the development of pressure ulcers

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2. Emotional
 - a. Abuse (verbal/mental)
 - b. Isolation
 - c. Misappropriation of resident property
 - d. Neglect (may result in physical or mental harm)

Ms. Rauch explained current regulation by the board which consists of:

- General HFA Licensure Requirements
 - a. Education
 - b. Completion of the Administrator-In-Training Program
 - c. Pass the NAB
 - d. Pass the Jurisprudence exam
 - e. Complete 40 hours of CE for renewal biennially

Lastly Ms. Rauch explained that there is no alternative to regulation due to the federal mandate for licensure.

ROEC discussion regarding Health Facilities Administrators “Part B”

- ROEC Committee Member: Range of Health Facilities covered by this license
Ms. Rauch: Residential Care Facilities or Assisted Living (Residential Care Administrator License), Nursing Home (Health Facility Administrators License) Anyone participating in the Medicare/Medicaid program for nursing home care would have to have a licensed administrator onsite and they could only serve one building in that capacity.
- ROEC Committee Member: Are hospital administrators licensed?
Ms. Rauch: They can be a licensed health facility administrator but Shelley is uncertain as to what the requirements are for hospitals.
- ROEC Committee Member: Why would they not be licensed?
Ms. Rauch: Feels it would be a good idea for hospital administrators to be licensed but they probably feel they are so far removed from patient care that it is not necessary.
- ROEC Committee Member: Is there anyone from IPLA that goes with the Department of Health the annual surveys?
Ms. Rauch: No. Every immediate jeopardy or substandard quality of care survey is forwarded from the Department of Health to the Board who then forwards to the AOG’s office.

Revision and Review of Schedule

Chairman Graham asked Lisa Bentley about the April and May meetings. Lisa explained that the April meeting will be as follows:

APRIL 20, 2011 – 9 a.m. – 3 p .m.

- Private Investigators & Security Guard Licensing Board – “Part A” presentation

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- State Board of Cosmetology and Barber Examiners – “Part B” presentation
- Indiana State Board of Health Facilities Administrators – “Part B” presentation

Lisa further explained that the May meeting was to hear Part B for the PISG and then formalize recommendations from Part B of Cosmo and HFA. Chairman Graham explained to the committee that he felt the timeline laid out by PLA is reasonable and they concurred. The committee decided to change the time of May’s meeting from 9am – 11:30 am to 8:30 am – 12:30 pm to give them enough time to conduct all business. Chairman Graham then directed Lisa Bentley to come back to the committee with a few options for the next boards to be reviewed.

MAY 25, 2011 – 8:30 a.m. – 12:30 p.m.

ROEC discussion to determine:

- need for Private Investigators & Security Guard “Part B”
- proposed recommendations for report to Health Finance Commission regarding the licensing and regulations of process by the State Board of Cosmetology and Barber Examiners and the Indiana State Board of Health Facilities Administrators

JUNE 15, 2011– 9am – 11:30am

- Finalize Report to HEALTH FINANCE COMMISSION (due not later than 7/1/2011)

AUGUST 24, 2011 – 9 a.m. – 3 p.m.

SEPTEMBER 21, 2011 – 9 a.m. - 11:30 a.m.

OCTOBER 12, 2011 – 9 a.m. – 3 p.m.

NOVEMBER 16, 2011 – 9 a.m. - 11:30 a.m.

Adjournment

Chairperson Graham adjourned the meeting at approximately 2:05 p.m.

Dean John Graham, Chairperson
Indiana Regulatory Occupations Evaluation Committee

Date

Next Scheduled Meeting:

April 20, 2011 at 9:00 a.m.
Indiana Government Center South
Room W064 of the Indiana Professional Licensing Agency

**Indiana Regulatory Occupations Evaluation Committee
Minutes of the April 20, 2011 Committee Meeting**

Call to Order & Establishment of Quorum

The Regulatory Occupations Evaluation Committee (ROEC) meeting was held on Wednesday, April 20, 2011 in the Government Center South Room W064 at 9:00 a.m.

Committee members present:

- Dean John Graham, Committee Chair
- Barry Boudreaux
- Gloria Downham
- Frances Kelly
- David Miller
- Sally Spiers
- Rita Springer

IPLA staff members present:

- Gale Albright
- Marty Allain
- Lisa Bentley

Review and Approval of Minutes

The February 17, 2011 minutes were reviewed and approved by committee members.

**Presentation of “Part A” Assessment for Private Investigators & Security Guard Licensing Board
Don Johnson, Board Chair**

Don Johnson, Board Chair of the Private Investigators & Security Guard Licensing Board presented a 30-minute PowerPoint presentation (attached hereto as Exhibit A) to the committee including, but not limited to, the following information:

Introduction of Private Investigators & Security Guard Licensing Board
Types of Harm & Severity of Harm
Current Regulation and Alternatives
Alternatives to Regulation

ROEC discussion to determine need for Private Investigators & Security Guard Licensing “Part B”

ROEC Committee Member: What is the current Board fee to have this license?
Mr. Johnson: \$150 for a 3-year license.

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- ROEC Committee Member: Is continuing education required for relicensing?
Mr. Johnson: No
- ROEC Committee Member: What would it entail to have this board nationally certified?
Mr. Johnson: First the requirement would need to be incorporated into the Indiana code which is a legislative process. Then a decision about which national certification to use would need to be determined. It can be very diverse and confusing.
- ROEC Committee Member: Are there competing entities out there for business?
Mr. Johnson: Yes for individuals.
- ROEC Committee Member: How are consumer complaints investigated?
Mr. Johnson: The complaint is made to the Office of the Attorney General who investigates and the results are then shared with the Board to determine if there are concerns that they feel need board action.
- ROEC Committee Member: What types of consumer complaints does the board deal with?
Mr. Johnson: An individual posing as an investigator without a license carries a Class A felony. The OAG would have to decide whether or not to prosecute; I feel they do not prosecute as often as they should.
- ROEC Committee Member: Do individuals applying for licensure have to take a drug screen?
Mr. Johnson: Not currently, but we wish it was something they had to do.
- ROEC Committee Member: What is the ratio/percentage of PI and SG clientele?
Mr. Johnson: Attorneys and businesses make up 75%-80% of private investigator clients, while Security Guards clients are 90% businesses.

Review of Assessment Framework for Occupational Regulation

Chairman Graham asked the committee to review the current summary data that they recently received regarding Cosmetology/Funeral boards and Health Facility Administrator boards.

Chairman Graham then asked Dave Miller to insert the needed statutory language into the committee's score sheet. He further stated to the Committee that question #7 was much more important than questions #1-6.

Gloria questioned how the committee could make its recommendations in a report and still make them defensible as well as readable to others.

Dean Graham instructed Gloria to review the variation of the committee's scores cell by cell and produce some type of document so everyone could visually see the differences.

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Presentation of “Part B” Assessment for State Board of Cosmetology and Barber Examiners, David Demuth, Board Chair & Diana Bonn, Board Member

David Demuth, Board Chair & Diana Bonn, Board Member of Cosmetology and Barber Examiners Board presented a 30-minute presentation (attached hereto as Exhibit B) to the committee including, but not limited to, the following information:

- Proactive Surveillance
- Complaint Process & Nature of Complaints
- Effectiveness of Current Regulation – Reduced Consumer Harm
- Appropriate Regulatory Mechanism & CE Requirements
- Affects of Regulatory System
- Adequate Resources/Fees vs. Adequate Regulation
- Recommendations

ROEC Questions & Answers regarding Part B

ROEC Committee Member: Is there any reason why the board cannot begin to improve communications with their licensees immediately?

David Demuth: Currently communication is made through E-gov delivery but plans are in place to create a Facebook page. Unfortunately cosmetologists and barbers do not utilize technology like some other board licensees do.

ROEC Committee Member: Can you elaborate on the citation based program you would like to see implemented?

David Demuth: This would need to be discussed on a license by license basis but the board feels that if there were more inspectors, more salons could be cited for violations. In the long run this would bring more money into the state.

ROEC Committee Member: How many new inspectors do you feel are needed?

David Demuth: At least 8-10 more than we currently have.

Indiana State Board of Health Facilities Administrators “Part B” presentation, Shelley Rauch, Board Chair

Shelley Rauch, Board Chair of the Indiana State Board of Health Facilities Administrators presented a 30-minute PowerPoint presentation (attached hereto as Exhibit C) to the committee. Topics covered were as follows:

- Proactive Surveillance

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Complaint Process & Nature of Complaints
Effectiveness of Current Regulation – Reduced Consumer Harm
Appropriate Regulatory Mechanism & CE Requirements
Affects of Regulatory System
Adequate Resources/Fees vs. Adequate Regulation
Recommendations

ROEC Committee Member: Is the regulation of HFA and nursing homes by two separate entities causing issues?

Shelley Rauch: Standards of practice are very capable in the State of Indiana for holding administrators accountable. IPLA raised the issue in 2009 about moving HFA to the Indiana Department of Health (ISDH) and it did not receive a good response. ISDH cannot move to IPLA because they are not a healthcare agency.

ROEC Committee Member: When ISDH comes to your facility to conduct their survey do you personally feel you are being scrutinized?

Shelley Rauch: Yes because any good administrator will take pride in the results of their facility survey, but feels that ISDH is not looking in depth at the administrator personally.

ROEC Committee Member: Does the ISDH take any action against the facility if it is found in non-compliance?

Shelley Rauch: In an immediate jeopardy situation and the facility must regain compliance right away or there is a penalty or a monitor could be placed into the facility. The facility has 10 days to respond to the written report and they put a plan of action in place. Surveyors would then return within 45 days to check for compliance. If a facility does not come into compliance it can lose its license.

ROEC Committee Member: If a compliance officer is added how would that audit differ from the ISDH audit?

Shelley Rauch: A compliance officer would look at facilities that are having problem surveys then check for compliance. The issues could be with the administrators. He or she could look at how long an administrator has been in a facility, and look at the administrator's work history. If you have an administrator that moves from facility to facility and gets an "immediate jeopardy" wherever he or she is, then there could be a problem with the administrator.

ROEC Committee Member: What would need to happen so that IPLA and ISDH can share information?

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Frances Kelley: The database contains some information but it is not public information. It blocks the IPLA staff from getting personal information regarding a person/facilities license. Currently IPLA can track where an HFA is working, but the ISDH would not have access to this information.

Robert Decker, Hoosier Owners and Providers for the Elderly, responded that ISDH just recently began putting its survey results on the web. In the past individuals had to physically go to the ISDH office to retrieve these reports.

Tasha Coleman, Board Director, stated that in the ILS system there is a tab for employment but we currently do not utilize it at this time unless an HFA is on probation. Our recommendation before ROEC is that HFA's would have to tell us where they are working so that we can enter the information into our system. This would be a requirement they needed to fulfill each time they moved facilities.

ROEC Committee Member: What would this compliance officer be doing that is different than what ISDH is currently doing?

Shelley Rauch: The compliance officer would be looking at the HFA specifically. Sometimes there are individuals who just want a license in Indiana but are not physically at the nursing home or assisted living facility. The compliance officer would be able to look into these types of complaints or issues.

ROEC Committee Member: Is it beneficial to the State of Indiana for two agencies to be reviewing the same facility/individuals and asking the same questions?

Shelley Rauch: The ISDH is interested in whether or not there is someone sitting in the HFA seat, IPLA is interested in knowing more about the HFAs and if they move between facilities and if trouble follows them.

ROEC Committee Member: Regarding recommendation #4 how would they go about seeing the internships paid for Administrators in Training (AIT)?

Shelley Rauch: It would require a rule change to the requirements so that an individual gets his or her degree first and then interns as an undergraduate. The HFA is responsible for the AIT and there is currently no monitoring of programs in the State of Indiana.

Review of Future ROEC Schedule

It was determined that the Private Investigators & Security Guard Licensing Board will present "Part B" at the August 24, 2011 meeting.

Chairman Graham stated that he needs members of the committee to put together findings and results. It was determined that committee members Frances Kelley and Gloria Downham will work on the findings and recommendations for Cosmetology & Barber, while Rita Springer and Barry Boudreaux work together on findings and recommendations for HFA. He instructed these members that it needs to be a detailed "Finding and Recommendation Report" so that once the committee agrees upon language, narratives can be placed underneath each section. This report will be presented and reviewed by the committee at its May 25th meeting. He added that to include the opinion of any disagreeing committee

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member, that this information will be added to the report as a footnote. David Miller was asked to make sure that the ROEC framework is lawful.

MAY 25, 2011 – 9am – 2pm

- Review of the Board’s findings and recommendations
- Draft Language for report due July 1

JUNE 15, 2011 – 9am – 11:30am

- Finalize Report to HEALTH FINANCE COMMISSION (due not later than 7/1/2011)
- Create a web link of the report for the public

AUGUST 24, 2011 – 9am – 3pm

- State Board of Registration for Professional Engineers – “Part A” presentation
- Committee of Hearing Aid Dealer Examiners – “Part A” presentation
- Private Investigators & Security Guard Licensing Board – “Part B” presentation

SEPTEMBER 21, 2011 – 9am – 2pm

- State Board of Registration for Professional Engineers – “Part B” presentation
Committee of Hearing Aid Dealer Examiners – “Part B” presentation
- Deliberation on Findings and Recommendations for Private Investigators & Security Guard Licensing Board, State Board of Registration for Professional Engineers and Committee of Hearing Aid Dealer Examiners

OCTOBER 12, 2011 – 9am-2pm

- Indiana Optometry Board – “Part A” presentation
- Indiana Dietitian Certification Board – “Part A” presentation

NOVEMBER 16, 2011 – 9am-2pm

- Indiana Optometry Board – “Part B” presentation – *if needed*
- Indiana Dietitian Certification Board – “Part B” presentation – *if needed*
- Findings and Recommendations

Adjournment

Chairperson Graham adjourned the meeting at approximately 2:15 p.m.

Dean John Graham, Chairperson
Indiana Regulatory Occupations Evaluation Committee

Date

Next Scheduled Meeting:

May 25, 2011 at 9:00 a.m.
Indiana Government Center South
Conference Center Room 1

**Indiana Regulatory Occupations Evaluation Committee
Minutes of the May 25, 2011 Committee Meeting**

Call to Order & Establishment of Quorum

The Regulatory Occupations Evaluation Committee (ROEC) meeting was called to order on Wednesday, May 25th in the Government Center South Conference Room 1 at 9:00 a.m.

Committee members present:

- Dean John Graham, Committee Chair
- Barry Boudreaux
- Gloria Downham
- Frances Kelly
- Dave Miller
- Sally Spiers
- Rita Springer

IPLA staff members present:

- Gale Albright
- Marty Allain
- Lisa Bentley

Review and Approval of Minutes

The April 20, 2011 minutes were reviewed and unanimously approved by committee members.

Interpretation of Question Two on Scoring Sheet

(Question two was referenced: *Informed Consumer Choice or Access to Information. To what extent do individual consumers have to capabilities and access to information to make informed risk benefit decisions about purchasing goods or services from a particular profession. 1= High Capability or Access of Information; 5 = Minimal Capability or Access of Information.*)

Dean Graham asked Gloria how varied the range of answers was regarding question number two. Ms. Downham responded that she did not have the information immediately available but from her recollection the answers appeared to vary between one and four points.

Due to question two causing erratic degrees of response, the committee decided that the question needed to be removed from the scoring sheet in the future.

Committee Members' Presentation of Findings & Recommendations of the State Board of Cosmetology and Barber Examiners - Gloria Downham and Frances Kelly

Frances Kelly and Gloria Downham distributed four handouts entitled ROEC Report Outline (attached hereto as Exhibit A), Combined Licenses (attached hereto as Exhibit B) and State Cosmetology Board Information (attached hereto as Exhibit C) and Reciprocity Cosmetology Barber Board (attached hereto as Exhibit D). Gloria stated that she feels the report should make mention of how the committee evaluated licenses and include both sunrise and sunset regulation suggestions. She also mentioned that perhaps this committee may want to investigate if there is another format or legislative group that should be tasked with hearing ROEC recommendations other than the Health Finance Committee; specifically whether a license should be created or discontinued in Indiana.

Dean Graham asked for clarification of the sunset/sunrise process. Frances stated that some states have an expiration date on licenses and are required to make their case before the General Assembly of their respective state as to whether or not the license type should be renewed every few years. She further explained that during the sunrise process any new license type would be reviewed prior to licensure.

Dean Graham inquired as to what government entity could be responsible for the sunrise review procedure. It was suggested that the Legislative Services Agency could be the responsible legislative body to oversee the sunrise procedures. It was further recommended that any group hoping to become licensed should be required to use the ROEC assessment tool, to provide information to make a case as to whether a license is really needed. It was also discussed if IPLA could provide research information for specific licenses within a reasonable timeline.

Dean Graham pointed out that ROEC Part B is acting as a type of sunset review for the purpose of deliberation that may induce modernization to those licenses they recommend to retain.

Frances explained that there are currently twenty different license types for Cosmetology/Barber with several of those having a temporary license as well. Recommendations for the Barber/Cosmetology licenses are as follows:

Combine the licenses for:

Barber/Cosmetology

Barber Shops/Cosmetology Shops

Barber Schools/Cosmetology Schools

Barber Instructor/Cosmetology Beauty Culture Instructor licenses

Eliminate temporary licenses for all license types except Salons

Eliminate electrologist license

Eliminate tanning Salon license along with moving the responsibility/regulation to local DOH (Department of Health) offices

Streamline process and requirements for licenses

Reciprocity – readdress requirements due to the fact that many states have lesser requirements for licensing than Indiana

Inspection citation program

General consensus from committee members is that they do not feel they have enough experience to recommend eliminating boards at this time.

David Miller commented that he feels it is better to review and determine whether it is appropriate for tanning salons to be placed back under the Indiana Department of Health, and then allow them to make the final determination whether or not to place the tanning facilities under the local health departments. He strongly feels it is still the state's responsibility to protect people and that there could be considerable negative focus on the health risks associated with tanning beds if the public perception was that the state was decreasing its regulation of them.

Barry Bourdeaux asked for further clarification on the reasoning of eliminating temporary licenses as related to HFA licenses that he reviewed. Gloria responded currently IPLA has both temporary and provisional licenses. In the case of HFA licenses, temporary licenses are given out for ninety days to individuals planning to apply for full Indiana licensure. Also provisional licenses are given for six months to individuals who do not hold an Indiana license but are licensed in another state. Gloria and Frances feel that temporary licenses could be eliminated and broader provisional license language could be instituted.

Committee Members' Presentation of the Indiana State Board of the Health Facility Administrators (HFA) - Barry Bourdeaux and Rita Springer

Barry Bourdeaux and Rita Springer distributed a handout entitled "Findings and Recommendations RE: Indiana State Board of Health Facility Administrators (attached hereto as Exhibit E), containing findings and recommendations on the following topics:

- Education/Presentations
- ROEC Analysis
- Validation of ROEC's Objective Assessment

They presented the following recommendations that they feel need to be included in the ROEC report which is due on July 1, 2011:

- Retain all licenses
- Recommend a study to improve consistency/content of Administrator-in-Training Program
- Recommend a regulation change to require HFA/RCA to report employment status
- Reassign the HFA Board to the ISDH

The committee questioned whether or not there had been any feedback from the Indiana Department of Health (ISDH) regarding placing HFAs back under its jurisdiction. It was pointed out that there has not been any contact with ISDH regarding this matter. It was stated that this committee would also need to recommend that HFA fees would be transferred as well.

APPENDIX III (Page 24 of 26)

Shelley Rauch, of the Indiana State Board of Health Facility Administrators, explained that the education component would also need to be added because she did not feel that ISDH inspectors fully understood the HFA Standards of Practice. General consensus of the committee is that the education of inspectors needs to be put in place immediately even if HFAs remains under the jurisdiction of IPLA.

David Miller stated that there is a debate as to whether or not there is enough accountability of administrators because of it being a critical position within a facility. The facility is being regulated for its health component while the individuals practicing there are regulated for the activities they engage in. David said that he sees the facility versus the HFA falling under a different analysis. He feels that HFA analysis is legitimate because someone must be accountable, probably should be more accountable, and therefore he thinks this is viable.

Dean Graham asked for further discussion on the recommendation to require HFAs/RCAs to report employment statuses. He asked if this is a requirement of where they are currently employed or each time they are employed. Barry responded that he feels they need to notify IPLA or ISDH each time they move to new locations. David Miller inquired as to whether or not this information would be made available to the public. Frances replied that it would not.

Dean Graham instructed IPLA staff to invite the ISDH to attend the ROEC June 15, 2011 meeting to discuss the possibility of HFAs being transferred to them for oversight.

Proposed Recommendations for report to Indiana Health Finance Commission regarding the licensing and regulation of the State Board of Cosmetology and Barber Examiners & Indiana State Board of Health Facility Administrators

Dean Graham stated that during lunch some of the committee members discussed their concerns with making recommendations to the Health Finance Commission at this point in the process. He said that they feel it would be better to submit two reports instead of one. The first one would contain findings and after reviewing a few more boards the committee could submit a second report in October 2011 with recommendations.

Proposed Process for Compilation of Report

The committee discussed the compilation of the report and stated it should be compiled in the following manner:

- General Report
- General Recommendations
- Appendix – Agendas/Minutes/Power-points/Handouts

The allocations of those responsibilities for the report were divided up as follows:

- Dean Graham and Ryan, his research student, will work on streamlining the information from both boards into some type of initial draft report.

APPENDIX III (Page 25 of 26)

- Frances and Gloria will work on the sunrise/sunset portion of the report attempting to weave it in throughout the report.
- Background of the committee and how it came into existence will be delegated to Ryan.
- Frances will work with IPLA staff to gather the agendas, minutes and power points presented.

Gloria will send out information to the committee members with a due date as to when she needs all their information to compile the Private Investigator & Security Guard Licensing Board (PISG) scoring sheets.

Revision of Review Schedule

JUNE 15, 2011 – 9:00 am – 11:30 am

- Indiana Department of Health report on possibility of Health Facility Administrator licensing being moved from IPLA to the Department of Health – Terry Whitson, Assistant Commissioner
- Proposed recommendations and framework for report to Indiana Health Finance Commission regarding the licensing and regulation of the Cosmetology and Barber Examiners & Indiana State Board of Health Facility Administrators

AUGUST 24, 2011 – 9:00 am – 3:30 pm

- State Board of Registration for Professional Engineers – “Part A” presentation
- Committee of Hearing Aid Dealer Examiners – “Part A” presentation
- Private Investigators & Security Guard Licensing Board – “Part B” presentation
- Committee deliberation

SEPTEMBER 21, 2011 – 9:00 am – 3:30 pm

- State Board of Registration for Professional Engineers – “Part B” presentation – *if needed*
- Committee of Hearing Aid Dealer Examiners – “Part B” presentation – *if needed*
- Findings and Recommendations for Private Investigators & Security Guard Licensing Board
- Committee deliberation

OCTOBER 12, 2011 – 9:00 am – 3:30 pm

- Indiana Optometry Board – “Part A” presentation
- Indiana Dietitian Certification Board – “Part A” presentation
- Findings and Recommendations of the State Board of Registration for Professional Engineers and the Committee of Hearing Aid Dealer Examiners
- Committee deliberation

NOVEMBER 16, 2011 – 9:00 am – 3:30 pm

- Indiana Optometry Board – “Part B” presentation – *if needed*
- Indiana Dietitian Certification Board – “Part B” presentation – *if needed*
- Findings and Recommendations of Indiana Optometry Board and Indiana Dietitian Certification Board
- Committee deliberation

Adjournment

Chairperson Graham adjourned the meeting at approximately 1:40 p.m.

Dean John Graham, Chair
Indiana Regulatory Occupations Evaluation Committee

Date

Next Scheduled Meeting:

June 15, 2011

9:00 a.m.

Indiana Government Center South
Room W064 of the Indiana Professional Licensing Agency

PowerPoint Presentations and Handouts

IPLA Introduction (8/25/10)2
Presentation by Dr. Deanna Malatesta Sunset (8/25/10)..... 14
Sunset Introduction (8/25/10).....25
OAG Report (Health Facility Administrators) (2/17/11)55
Cosmetology and Barber Board Part A Presentation (2/17/11)..... 60
Health Facility Administrators Board Part A Presentation (2/17/11)95
Private Investigator and Security Guard Board Part A Presentation (4/20/11)..... 123
Health Facility Administrators Board Part B Presentation (4/20/11) 163
Cosmetology and Barber Board Part B Presentation (4/20/11) 185



Introduction to IPLA

- 206 total licenses, registrations & certifications which include all temporary, intern, technician and apprentice permits
- 70 professions & facilities
- 33 boards & commissions
- 242 board & commission members
- 443,702 active licensees as of August 19, 2010
- 204,632 telephone calls per year
- 39,000 licenses issued per year (average)
- 11,677 walk-ins per year
- 496 administrative disciplinary complaints filed per year

Health Professions Boards

- *Acupuncture Committee*
- *Indiana Athletic Trainers Board*
- *Behavioral Health and Human Services Licensing Board*
- *Indiana Board of Chiropractic Examiners*
- *Indiana State Board of Dentistry*
- *Indiana Dietitians Certification Board*
- *Board of Environmental Health Specialists*
- *Genetic Counselors Committee*
- *Indiana State Board of Health Facility Administrators*
- *Committee of Indiana Hearing Aid Dealer Examiners*
- *Medical Licensing Board of Indiana*
- *Indiana State Board of Nursing*
- *Occupational Therapy Committee*
- *Indiana Optometry Board*
- *Indiana State Board of Pharmacy*
- *Physical Therapy Committee*
- *Physician Assistant Committee*
- *Board of Podiatric Medicine*
- *Indiana State Psychology Board*
- *Respiratory Care Committee*
- *Speech Language Pathology Audiology Board*
- *Indiana Board of Veterinary Medical Examiners*

Professional Boards

- *Indiana Board of Accountancy*
- *Board of Registration for Architects & Landscape Architects*
- *Indiana Auctioneer Commission*
- *State Board of Cosmetology and Barber Examiners*
- *State Board of Funeral & Cemetery Service*
- *Home Inspector Licensing Board*
- *Manufactured Home Installers Licensing Board*
- *State Board of Registration for Professional Engineers*
- *State Board of Registration for Land Surveyors*
- *Indiana Plumbing Commission*
- *Private Investigator & Security Guard Licensing Board*
- *Real Estate Appraiser Licensure & Certification Board*
- *Indiana Real Estate Commission*
- *State Board of Massage Therapy*

APPENDIX IV (Page 6 of 192) Organization & Staff Structure by Board

Nursing Group

Indiana State Board of Nursing (128,825 “Active” Licensees)
Indiana Dietitians Certification Board (1,232 “Active” Licensees)
9 Staff Members

Cosmetology Group

State Board of Cosmetology and Barber Examiners (64,557 “Active” Licensees)
State Board of Funeral and Cemetery Service (3,590 “Active” Licensees)
7 Staff Members

Real Estate Group

Indiana Real Estate Commission (38,975 “Active” Licensees)
Real Estate Appraiser Licensure and Certification Board (2,859 “Active” Licensees)
Appraisal Management Companies (100 approximate)
Home Inspectors Licensing Board (654 “Active” Licensees)
8 Staff Members

Engineering Group

State Board of Registration for Professional Engineers (34,822 “Active” Licensees)
Indiana Plumbing Commission (9,528 “Active” Licensees)
Board of Registration for Architects and Landscape Architects (3,526 “Active” Licensees)
State Board of Registration for Land Surveyors (1,448 “Active” Licensees)
Indiana Hypnotist Committee (60 “Active” Licensees)
4 Staff Members

Medical Group

Acupuncture Committee (214 “Active” Licensees)
Medical Licensing Board of Indiana (47,220 “Active” Licensees)
Physician Assistant Committee (1,288 “Active” Licensees)
7 Staff Members

Pharmacy Group

Indiana State Board of Pharmacy (28,626 “Active” Licensees)
9 Staff Members (Includes 4 pharmacy inspectors)

Dental Group

Indiana State Board of Dentistry (12,499 “Active” Licensees)
Indiana Board of Veterinary Medical Examiners (4,614 “Active” Licensees)
Respiratory Care Committee (4,823 “Active” Licensees)
Indiana Optometry Board (2,923 “Active” Licensees)
Indiana Board of Chiropractic Examiners (1,341 “Active” Licensees)
4 Staff Members

Accounting Group

Private Detectives Licensing Board (793 “Active” Licensees)
Indiana Board of Accountancy (12,182 “Active” Licensees)
Indiana Auctioneer Commission (3,724 “Active” Licensees)
Manufactured Home Installers Licensing Board (218 “Active” Licensees)
4 Staff Members

Social Work Group

Behavioral Health and Human Services Licensing Board (9,019 “Active” Licensees)
Speech Language Pathology and Audiology Board (2,933 “Active” Licensees)
Indiana Athletic Trainers Board (1,019 “Active” Licensees)
Indiana Board of Podiatric Medicine (787 “Active” Licensees)
Committee of Indiana Hearing Aid Dealer Examiners (271 “Active” Licensees)
4 Staff Members

Physical Therapy Group

Physical Therapy Committee (7,552 “Active” Licensees)
Occupational Therapy Committee (4,060 “Active” Licensees)
State Board of Massage Therapy (3,690 “Active” Licensees)
Indiana State Psychology Board (1,854 “Active” Licensees)
Indiana State Board of Health Facility Administrators (1,642 “Active” Licensees)
5 Staff Members

Interior Design Registry (283 Registrants)



IPLA Staff Functions

- Providing **administrative support** for Boards & Commissions
- **Processing** licenses, certifications, and registrations
- **Promulgating Rules** to provide practice guidelines for regulated professionals
- **Regulating** licensees through inspections, investigations, and administrative discipline
- **Educating** consumers & licensed professionals

Protecting consumers through professional regulation

- Do you need a title to practice a profession?
- How do you obtain the title?
- How do you keep the title?
- How do you lose the title?

Do you need a title to practice a profession?

- May use title and practice profession without any form of registration or licensure (Dietitian)
- May not use a specific title unless you are certified by third party (Registered Dietitian)
- May not use a specific title unless you are licensed by the state (Certified Dietitian)
- May not practice profession without licensure through the State of Indiana (Physician)

How do you obtain a title?

Interior Designer Registration

\$100 fee

On-line
certification

No verification

\$100 renewal

Dietitian Certification

\$20 application fee

Verification:
Education & passage of
national exam (CDR)

\$20 renewal fee

Not required to work in
Indiana

Pharmacist License

\$100 application fee

Verification:
Education, passage of
national exam and
state law exam

\$160 renewal

Required in Indiana

How do you keep the title?

Keep the title by **renewing** which includes:

- Completing renewal application and submit to for review
- Attesting to certain things
 - (e.g. Have you been convicted of a felony?)
- Completing continuing education (if applicable)
- Paying fee

How do you lose the title?

- Failure to maintain Continuing Education requirements
- Failure to follow professional practice guidelines
- Criminal behavior
- Physical or mental issues that impede ability to practice competently (e.g. substance abuse)



A Study of Professional Licensing in Indiana

A Foundation for Reform

Presentation to the R.O.E.C.

August 25, 2010

Deanna Malatesta, Assistant Professor SPEA, IUPUI

Questions Addressed in Report

- What does the literature reveal about the effects of occupational regulation?
- How does occupational regulation in Indiana compare to regulation in other states?
- What policy recommendations can be given to reduce regulation?

Why license occupations?

Advocates

- Ensures higher standards for safety
- Preserves integrity of occupations by requiring professionalism
- Increases level of service quality
- Establishes minimum standards of competence

Detractors

- Serves special interests
- Restricts competition among suppliers
- Increases costs to consumers, especially the poor
- Unwarranted government intrusion
- Regulation imposes costs on economy

Comparing Indiana with other States in the Midwest

State	Boards and Commissions	Licenses, Registrations, Certifications
Indiana	33	206
Kentucky	22	301
Illinois	41	437
Michigan	50	164
Ohio	40	109

Workforce Statistics: 2000-2010

	Licenses in 2000	Total workforce in 2000	% licensed 2000.	Licenses in 2010	Total workforce in 2010	% of workforce in 2010
Indiana	367,120	3,066,380	11.97%	443,702	3,141,700	14.55%
Kentucky	223,920	1,868,560	11.98%	303,210	1,860,500	16.30%
Illinois	1,697,540	6,165,300	27.53%	1,737,941	6,630,700	26.00%
Michigan	11,368,620	4,841,900	28.27%	675,000	4,845,200	-----
Ohio	11,153,480	5,647,700	20.42%	1,145,177	5,942,000	19.0%

In Indiana

- PLA is the umbrella “regulatory” agency in Indiana for most occupations.
- PLA’s budget is lower than most states
- Authority varies by licensing board
- Secretary of State oversees a few industries (e.g. banking, car dealers)
- Attorney General handles complaints

More PLA Key Facts

- 206 total licenses, registrations & certifications which include all temporary, intern, technician and apprentice permits
- 70 professions & facilities
- 33 boards & commissions
- 242 board & commission members
- 443,702 active licensees as of August 19, 2010
- 204,632 telephone calls per year
- 39,000 licenses issued per year (average)
- 11,677 walk-ins per year
- 496 administrative disciplinary complaints filed per year

Indiana leaders recognize the need for licensing reform

- There is no clear set of policy guidelines to determine which occupations should be regulated and how.
- There are no policies in place to evaluate the need to continue licensing practices over time (no Sunset regulations).
- Regulatory design makes it difficult to assess licensing effectiveness.
- The PLA's mission and purpose is at odds with its structure and budget.
- There are political obstacles to eliminating, merging, or otherwise changing boards and licensing practices.
- Licensing fees are not linked to appropriations, creating inequities and accountability problems.

Assessing the Need for Licensing

- Is there evidence of consumer demand for regulation (e.g. complaint logs, negligence law suits)?
- Are currently available civil remedies and/or criminal procedures inadequate for consumer protection?
Explain .
- In what ways do you expect the quality of service to be enhanced through licensure?
- What is the expected change in consumer price levels?
- Will all segments of the population be affected equally if licensure is approved?

Assessing the Need for Licensing

- What is the expected fiscal impact of the regulation?
- How will the regulatory requirements be implemented?
- What assurances can be given that regulation will not restrict entry into the profession?

Conclusion

The scope of regulation is just one of several indicators. Reform efforts should also address the effectiveness of regulations. Key questions include:

- What criteria should be used to evaluate the need for licensing ?
- Is there a need for sunset regulations?
- How are licensing fees assessed and appropriated?
- How are complaints documented and resolved?
- How are inspections handled?
- How are fines assessed?

Regulated Occupations Evaluation Committee (ROEC): *Introduction & Options*



Overview of Presentation

V. Introduction to ROEC

- How did we get here? (History of ROEC);
- Why are we here? (Purpose of ROEC); and
- How do other states do it? (Creating a new wheel).

VI. Options for evaluation process

- Developing a process from scratch;
- Suggested approaches to getting started;
- Report format (evaluation criteria);
- Meetings;
- Information gathering (reports; interviews; hearings);
- Board member, board staff & stakeholder involvement; and
- Schedule of board review (see below).

VII. Criteria for selecting initial boards

V. INTRODUCTION TO ROEC

History of ROEC

- No current review of professional licensing: Mid-1980's was the last time Indiana conducted any type of review of professional boards and licensing.
- Since then, the landscape has changed:
 - Indiana added over **ninety (90) license types** in the past 25 years;
 - Combined HPB & PLA in 2004 (370,000 licensees); and
 - PLA has 443,702 licensees as of August 19, 2010.
- General Assembly created Interim Study Committee during 2009 session to review professional licensing.
- PLA submitted a report to Interim Study Committee in September 2009:
 - Built on 2005 OMB PROBE report;
 - Government efficiency-based (e.g. eliminate hypnotists); and
 - Included suggestion for standing committee (i.e. ROEC), which led to proposed legislation.
- General Assembly established ROEC during 2010 session, effective July 1, 2010.

Purpose of ROEC

- To assess the efficiency and effectiveness of boards regulating professions in Indiana and determine if the boards are meeting objectives.
 - *Are we protecting consumers? Are we providing quality customer service? Can we do it better with less money? What is our plan to get better?*
- To report on each profession at least once every seven (7) years and submit the report to the Governor, the Health Finance Commission, and the Legislative Services Agency.

ROEC shall **review and evaluate**

Ind. Code § 25-1-16-8

The committee shall review and evaluate each regulated occupation. The review and evaluation must include the following:

- (1) The functions, powers, and duties of the regulated occupation and the board, including any functions, powers, or duties that are **inconsistent** with current or projected practice of the occupation.
- (2) An assessment of the management **efficiency** of the board.
- (3) An assessment of the regulated occupation's and the board's ability to **meet the objectives** of the general assembly in licensing the regulated occupation.
- (4) **Any other** criteria identified by the committee.

How do you want to review and evaluate?

ROEC's evaluation **report** shall contain

Ind. Code § 25-1-16-8

(b) The committee shall prepare a **report** concerning each regulated occupation that the committee reviews and evaluates. The report must contain the following:

- (1) The **number** of individuals who are licensed in the regulated occupation.
- (2) A **summary** of the board's functions and actions.
- (3) The **budget** and other fiscal factors of regulating the regulated occupation.
- (4) An assessment of the effect of the regulated occupation on the state's **economy**, including consumers and businesses.
- (5) Any **recommendations** for legislation, including whether a regulated occupation should be modified, combined with another board, or terminated.
- (6) Any **recommendations** for administrative changes.

What do you want the report to say and how do you want it to look?

An Overview of Sunset Review

- What is “sunset review”?
 - Regular assessment by a commission or committee of the continuing need for a professional board or commission to exist.
 - The board is abolished by a specific deadline unless legislation is passed to continue its functions.
 - The effectiveness and efficiency of the board or commission is evaluated and recommendations—including its continued existence—are made to the legislature.
- Thirty two (32) states have some form of sunset review.
- Twenty (20) states have sunset review of professional boards, commissions, and licensing procedure.
- Review process is cyclical (e.g. every 7 years).

ROEC evaluation is *similar* “Sunset Review”

- Most prominent and analogous example of this type of review process.
- ROEC is not charged with sunset review of boards:
 - In sunset review, a positive action must be taken to prevent the board from termination.
 - In ROEC’s review, a positive action must be taken to terminate a board.
- The purpose of both sunset review and ROEC is to critically analyze whether the current system works, and, if not, to develop recommendations to implement improvements.
- In spite of the difference, the core structure of sunset review is a helpful guide to creating an evaluation process in Indiana. *It’s a great place to start.*

Other State Examples

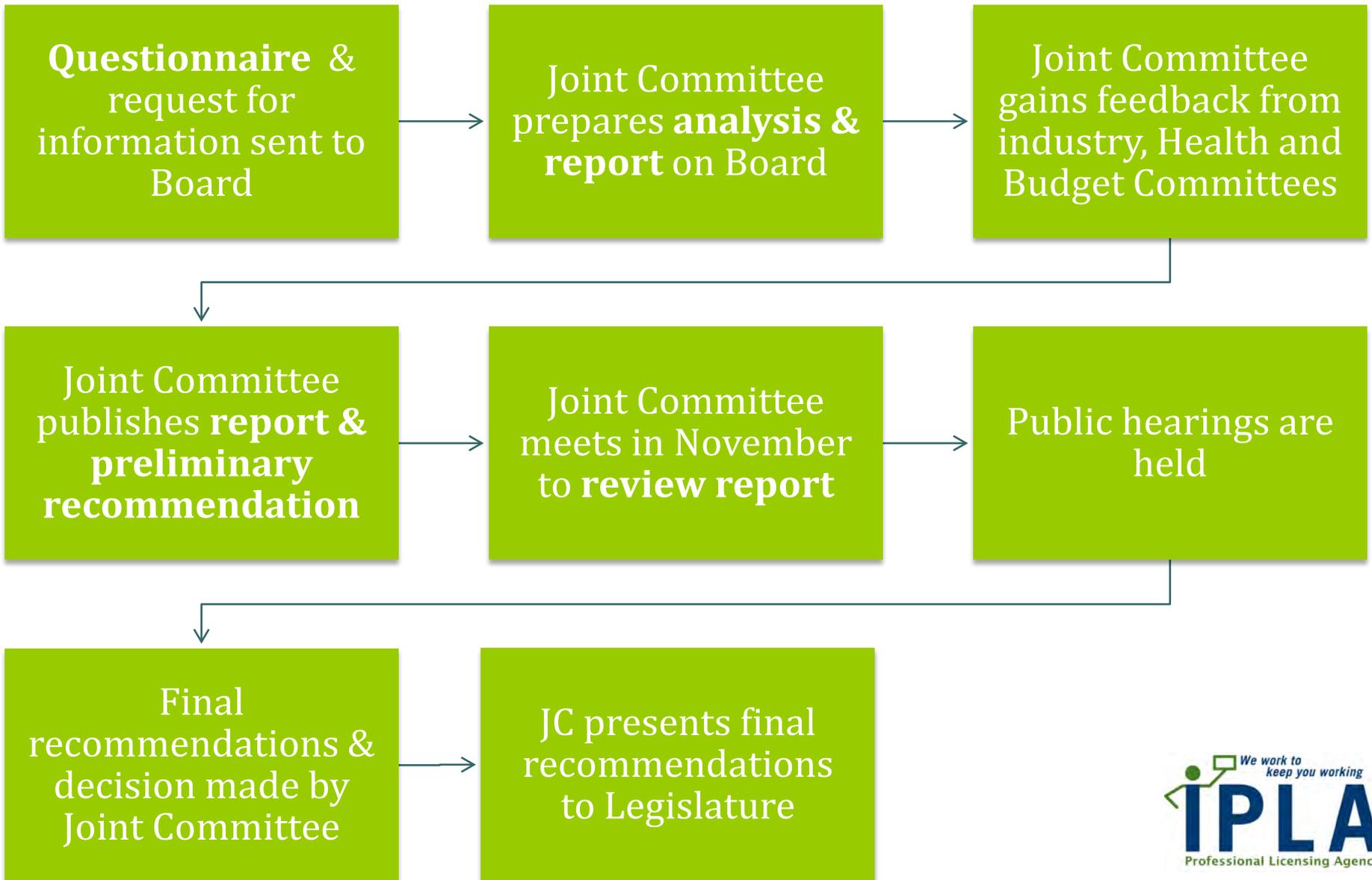
Texas Sunset Advisory Commission

- Model system of sunset review.
- Composed of 12 state legislators, 33 staff members.
- Budget of \$28.6 million for the Commission.
- Reviews 150 agencies and boards every 12 years.

California Joint Committee on Boards, Commissions, and Consumer Protection

- Department of Consumer Affairs (40 regulatory entities; 255 professions; 2.4 million individuals licensed or certified; Budget of \$230 million).
- Umbrella agency similar to IPLA regulating licensed professions.
- Composed of six (6) state legislators, as well as dedicated support staff.

California Sunset Review Process



Example of California's Sunset Review Hearing Agenda

II. REVIEW OF THE MEDICAL BOARD OF CALIFORNIA – 9:15 a.m. to 11:00 a.m.

A. Board Representatives

- Bernard S. Alpert, MD, President
- Gary Gitnick, MD, Vice President
- Ron Joseph, Executive Officer

1. Board Presents Overview of the Current Regulatory Program

2. Board Addresses Issues/Questions

B. Professional Groups, Organizations, and Individuals

- Frank Cuny, Director, California Citizens for Health Freedom
- Burton Goldberg, Editor, Alternative Medicine Magazine
- Faith Gibson, Executive Director, California College of Midwives
- Carrie Sparrevohn, Chair, California Association of Midwives

B. Professional Groups, Organizations, and Individuals (continued)

- Deane Hillsman, MD, Union of American Physicians and Dentists
- Bob McElderry, California Medical Association
- Kelly Landis, The Group for the Scientific Reappraisal of the HIV/AIDS Hypothesis
- Sally LaMont, N.D., L.Ac., Executive Director, California Association of Naturopathic Physicians
- Frank Cousineau, Cancer Control Society
- Colleen Smethers
- Karen Scott
- Dr. Len Saputo
- Elle Griswold, Cancer Control Society (Breast Cancer Survivor)
- Judy Okun, Consumer

C. Closing remarks by Board

Colorado Sunset Review: Board of Nursing

- Department of Regulatory Agencies (DORA) conducts a review and generates a report for the Colorado General Assembly.
- DORA → Division of Registrations → Board of Nursing
- Board of Nursing is appropriated \$2.9 million annually.
- The review process includes the following action:
 - DORA staff attend Board meetings;
 - interview Division staff and board members;
 - review Board records and minutes, including complaint and disciplinary actions;
 - interview officials with state and national professional associations;
 - interview health care providers and licensees;
 - visit nursing education programs;
 - review Colorado statutes and rules; and
 - review the laws of other states.

Colorado Sunset Review (cont.): Stakeholders

- DORA also consulted the following :
 - American Association of Retired Persons ;
 - American Diabetes Association;
 - Center for Nursing Excellence;
 - Center for People with Disabilities;
 - Colorado Board of Medical Examiners;
 - Colorado Board of Nursing;
 - Colorado Community College System;
 - Colorado Cross-Disability Coalition;
 - Colorado Department of Law;
 - Colorado Federation of Nursing Organizations;
 - Colorado Health Care Association;
 - Colorado Hospital Association;
 - Colorado Medical Society;
 - Colorado Nurses Association;
 - Colorado Society of Anesthesiologists;
 - COPIC Insurance Company;
 - Home Care Association of Colorado;
 - National Association of School Nurses; and
 - Visiting Nurses Association.

Colorado Sunset Review (cont.): Board of Nursing Report to General Assembly

- **Background**
 - types of regulation;
 - **methodology for review;**
 - profile of profession; and
 - history of regulation.
- **Legal Framework** (regulatory structure & process)
 - board members including powers & duties;
 - license qualification (initial, renewal, reciprocity, temporary); and
 - complaints & enforcement (action on application; how they discipline (citation-based?))
- **Program Description & Administration**
 - licensing;
 - examinations;
 - inspections;
 - complaints/disciplinary actions
- **Analysis & Recommendations**

Colorado Sunset Review (cont.)

- **Recommendation 1** – Continue the Board of Nursing for 11 years, until 2020.
- **Recommendation 2** – Change the means of assuring geographic diversity on the Board
- **Recommendation 3** – Clarify that Board members who represent the public may not hold a health care license
- **Recommendation 4** – Repeal the requirement that Board members be confirmed by the Senate
- **Recommendation 5** – Lengthen Board member terms from three years to four years
- **Recommendation 6** – Grant the Board fining authority and direct the Board to promulgate rules defining a fining structure
- **Recommendation 7** – Delete licensing provision requiring applicants to submit “proof” that they are not addicted to drugs or alcohol
- **Recommendation 8** – Revise the grounds for discipline to simplify the evidentiary requirements for violations regarding drugs or alcohol, clarify wording regarding the renewal questionnaire, and create a new provision establishing failure to report criminal convictions as grounds for discipline
- **Recommendation 9** – Consolidate language on unlicensed practice
- **Recommendation 10** – Require nurses who have been denied licensure, have had their licenses revoked, or who have surrendered their licenses in lieu of disciplinary action, to wait two years to reapply

VI. OPTIONS FOR EVALUATION PROCESS

ROEC Final Report

- ROEC submits a report to the Governor, the Health Finance Commission, and the Legislative Services Agency by July 1st of each year.
- Report contains (statutorily required):
 - Number of individuals licensed
 - Summary of board functions and actions
 - Budget and fiscal factors
 - Assessment of the occupation's effect on the economy
 - Recommendations to the legislature
 - Recommendations for administrative changes

Methodology of Review (substance & process)

- **Report format & responsibility**

- Other than statutory requirements, what will the evaluative criteria be and in what form should it be presented?
 - Application and renewal application process
 - Continuing education
 - Education and training requirements
 - Proactive regulation (education, compliance officers, background checks)
 - Discipline
- Who will be responsible for gathering data?
 - National and state data
 - Internal IPLA data
 - Interviews (board members, board staff, stakeholders, other agencies)
 - Surveys
 - Other state analysis

- **Standard of Review**

- How does ROEC measure efficiency and effectiveness?
- What measurement/result triggers action (recommendation)?

- **Schedule of meetings**

- Initial report review
- Testimony (board members, board staff, stakeholders)
- Preliminary recommendations
- Final recommendations

- **Schedule of board review**

Differences: Indiana & Other States

Other States

- Composed of legislators
- Dedicated staff to prepare reports
- Larger internal support staff & resources (CO: \$2.9M)
- Provided with budget (TX: \$28.6M)

ROEC

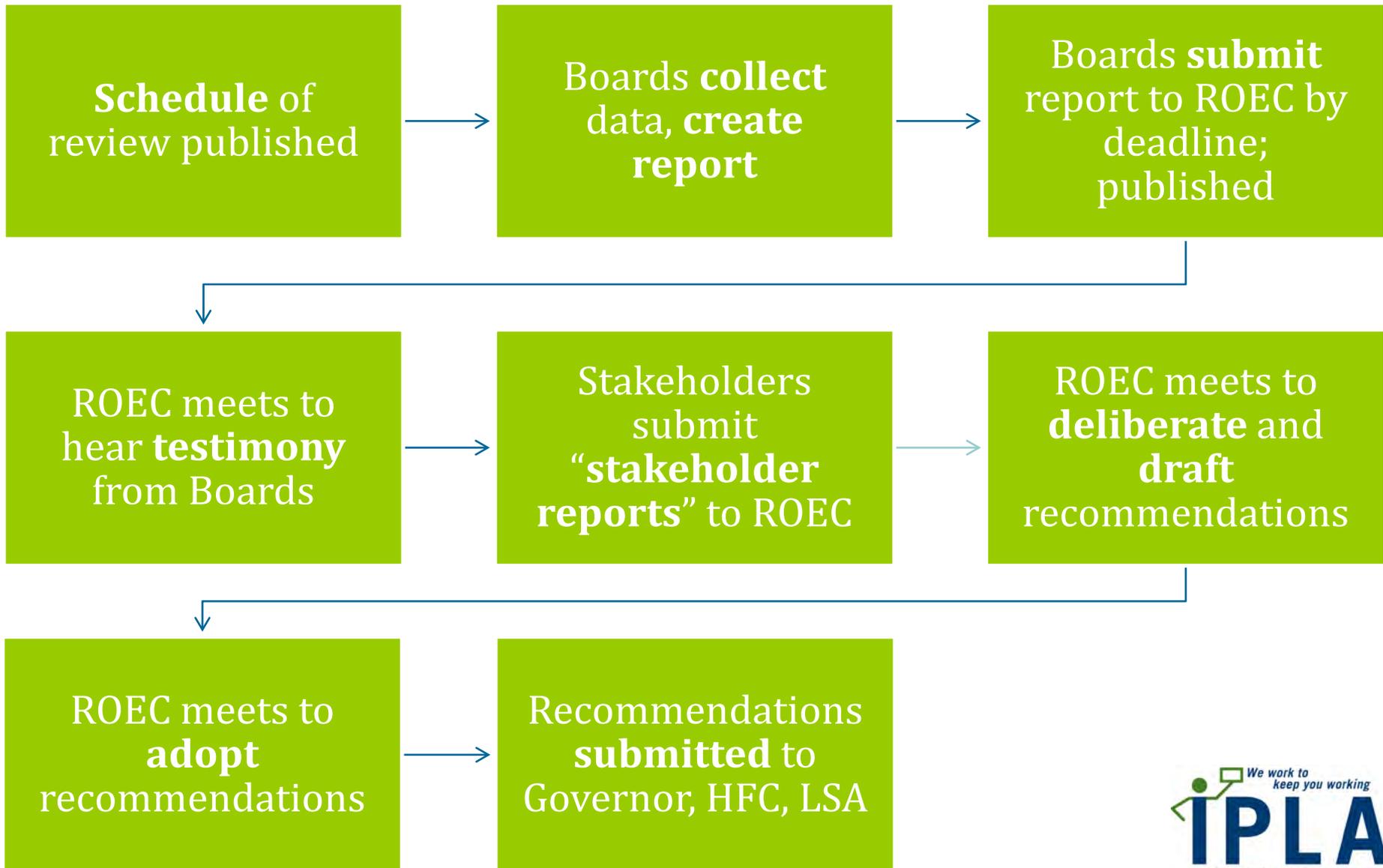
- No legislative involvement
- No dedicated staff to prepare reports
- No involvement from LSA, OMB, or IEDC
- No budget

Suggested ROEC Review re: Process

- Rely on Boards (staff and members) to be responsible for collecting information and creating initial report.
- Rely on Stakeholders to generate reports and be responsive to Board reports before submitting information to ROEC.
- Limit hearing testimony through report-only process (with invitation only).
- Review small number of boards/professions initially.

Optional ROEC Evaluation Process

APPENDIX IV (Page 46 of 192)



Example of Evaluative Criteria

- General Responsibilities, Duties and Composition of the Board.
 - *“Has the board been involved in strategic planning, any type of basic self-assessment, quality management practices, or reorganization to improve the board’s overall effectiveness and efficacy?”*
- Funding and Organization of Board and Staff.
 - *“What is the organizational breakdown of the board and staff and does it provide the most efficient expenditure of funds?”*

Example of Evaluative Criteria (cont.)

- Licensing and Application Process.
 - *“Are the education, examination, and experience requirement excessive when compared with other states and are they necessary to assure that practitioners are competent?”*
- Continuing Education and Review of Professional Competence.
 - *“Is there any other type of review conducted by the board to assure competency of the licensee? Should the board use other methods to determine and improve professional competence?”*

Example of Evaluative Criteria (cont.)

- Examination Process.
 - *“Does the examination test skills, knowledge, and abilities related to the profession or is it being used as a way to bar entry into the profession? Are the passage rates extremely low or too high?”*
- Complaint Process.
 - *“Does there appear to be a disproportionate amount of complaints coming from licensees for a particular violation? Is there a lack of self-reporting by licensees or appropriate organizations? Has the board done anything to encourage reporting?”*

Example of Evaluative Criteria (cont.)

- Efforts to Improve the Current Regulatory Process.
 - *Operational Improvements*
 - *Legislative Efforts*
- Assessment of Need to Regulate.
 - *“Is there sufficient evidence that the unregulated practice of this occupation could endanger the health, safety, or welfare of the public?”*
 - *“Is there significant public demand for some level of regulation of this occupation?”*

Examples of Specific Recommendations

- Educational requirements for a license;
- Other licensure requirements (age, felony, intern hours);
- Title protection only;
- Funds for investigation, compliance, or education;
- Inspectors;
- Renewal requirements (# of years, questions);
- Background checks;
- Board member make-up and terms;
- Retention of fines, costs, or fees;
- Rehabilitation programs;
- Diversion or reentry programs; and
- Registration only.

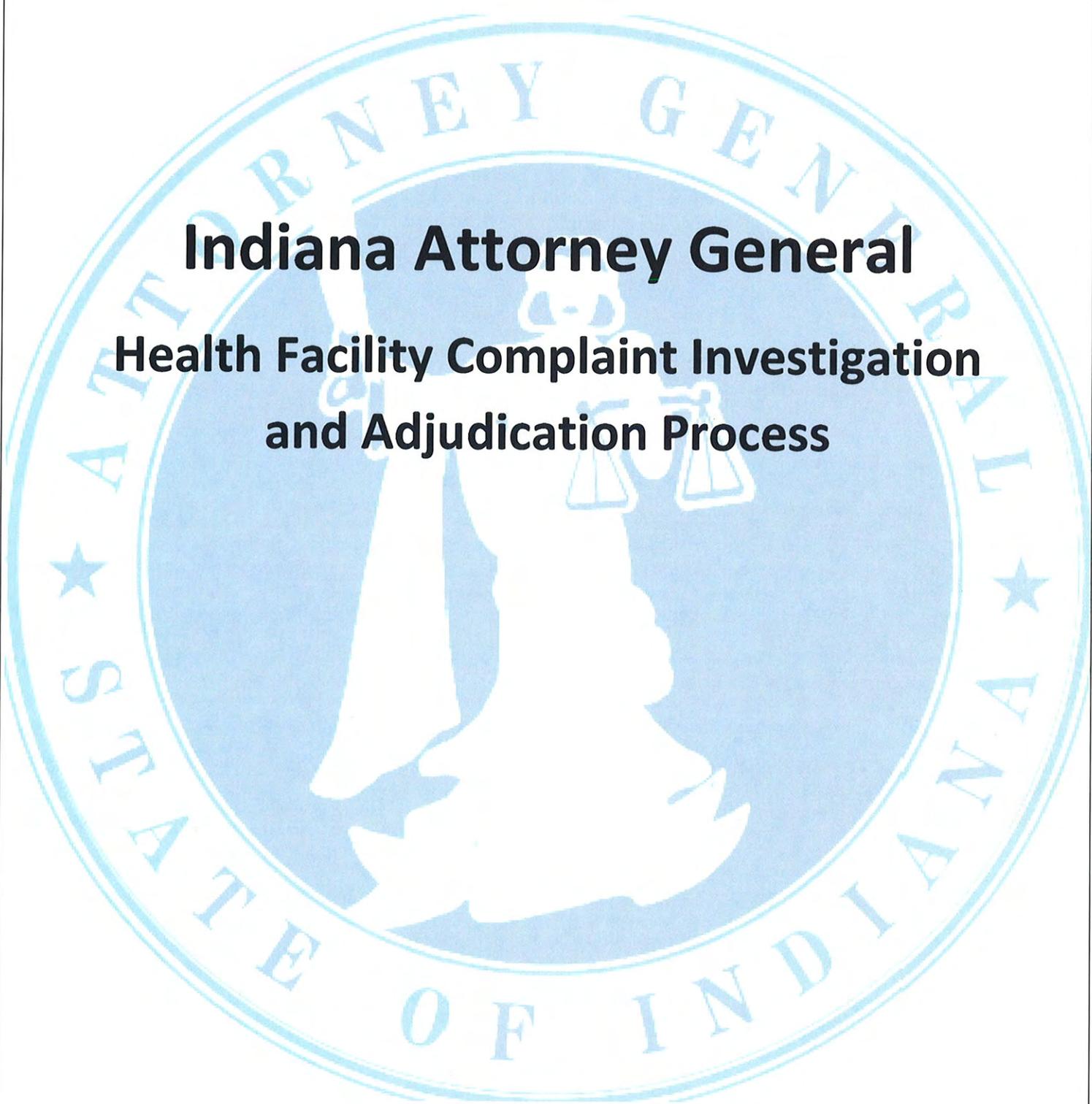
VII. CRITERIA FOR SELECTING INITIAL BOARDS TO REVIEW

ROEC required to create schedule

- Statutorily required by Ind. Code §25-1-16-10. The committee shall establish a schedule to review and evaluate each regulated occupation. Each regulated occupation must be reviewed and evaluated at least every seven (7) years.

Suggested Criteria for Scheduling Board Review

- Director's years of experience
- Volume/size of board (number of licensees)
- Staff to dedicate
- No. & type of issues/concerns board may raise
- Balancing health v. professional boards
- Scheduling over seven (7) years gives boards time to prepare for ROEC and encourages development of long term strategies.

The seal of the Attorney General of Indiana is a circular emblem. It features a central figure of a person in a white robe, holding a scale of justice in their left hand and a sword in their right. The figure is set against a dark blue background. The outer ring of the seal contains the text "ATTORNEY GENERAL" at the top and "STATE OF INDIANA" at the bottom, separated by two five-pointed stars on each side.

Indiana Attorney General

Health Facility Complaint Investigation and Adjudication Process

The Medicaid Fraud Control Unit

Jurisdiction

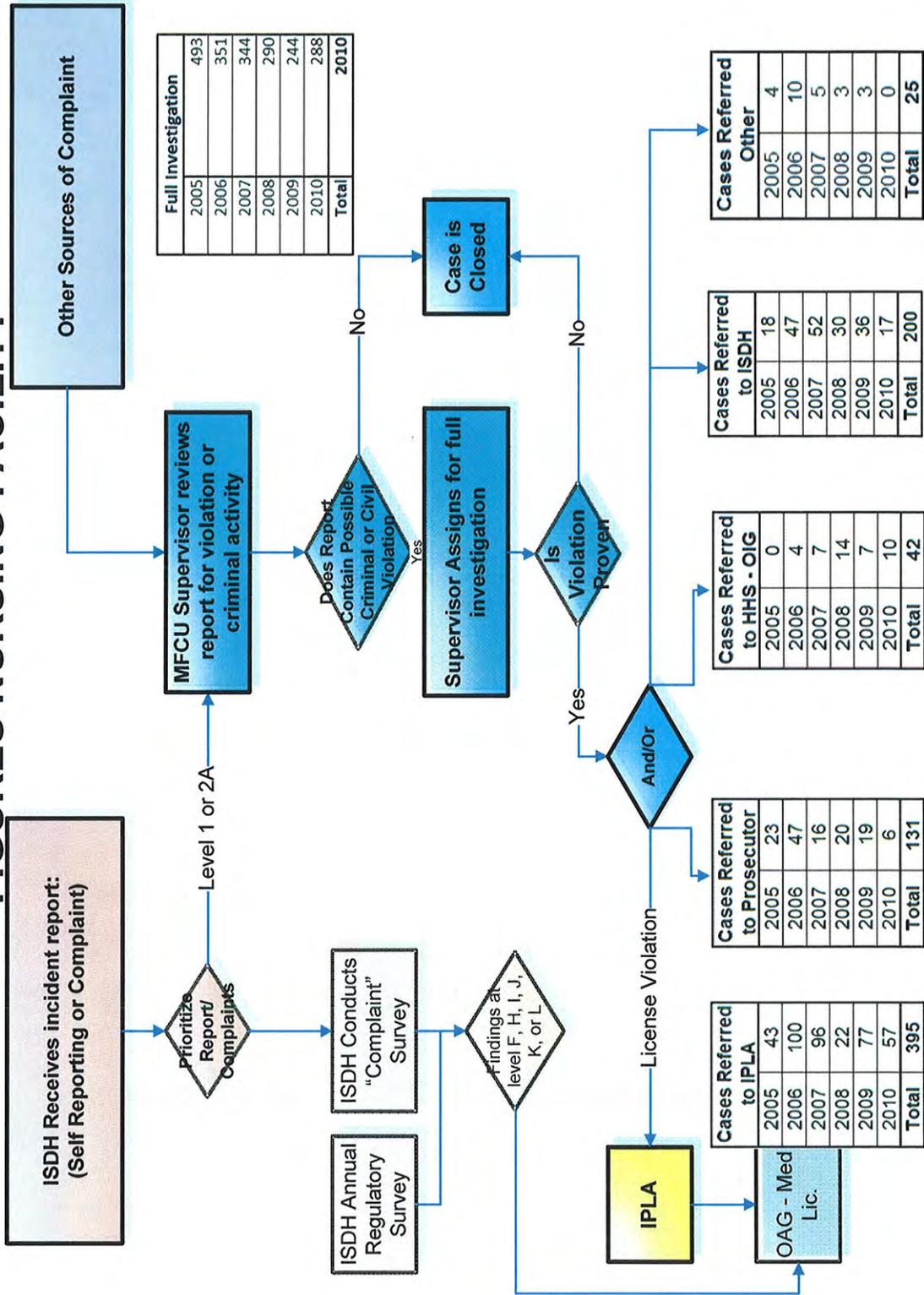
- Medicaid-Provider Fraud
- Theft of Patient Funds
- Abuse of Medicaid Patients
- Neglect of Medicaid Patients
- Theft of Drugs

See IC 4-6-10-1

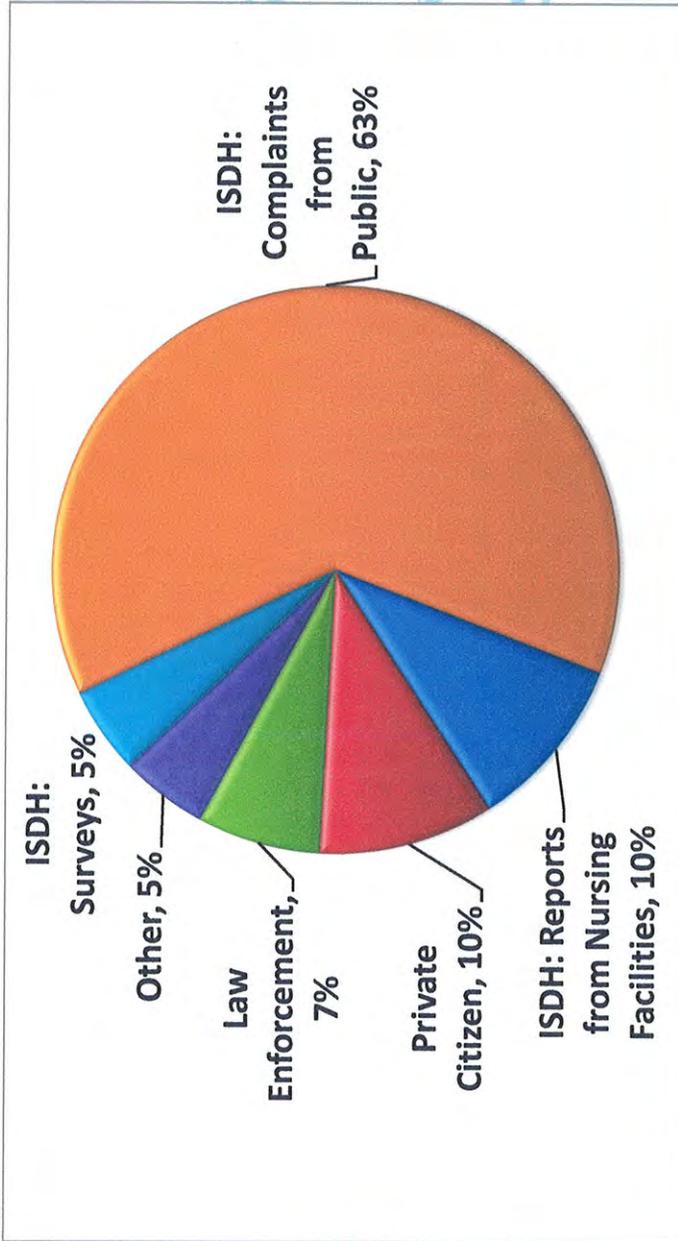
Staff

- 47 Total
- 10 Attorneys
- 25 Investigators
- 3 Auditors
- 2 Information Technology Professionals
- 7 Other
- MFCU Abuse and Neglect Investigators have an average of 18.4 years of law enforcement experience.
- The MFCU has two Nurse Investigators, one with 22 and one with 24 years of professional experience.

MFCU CASE WORKFLOW AND FIGURES NURSING FACILITY



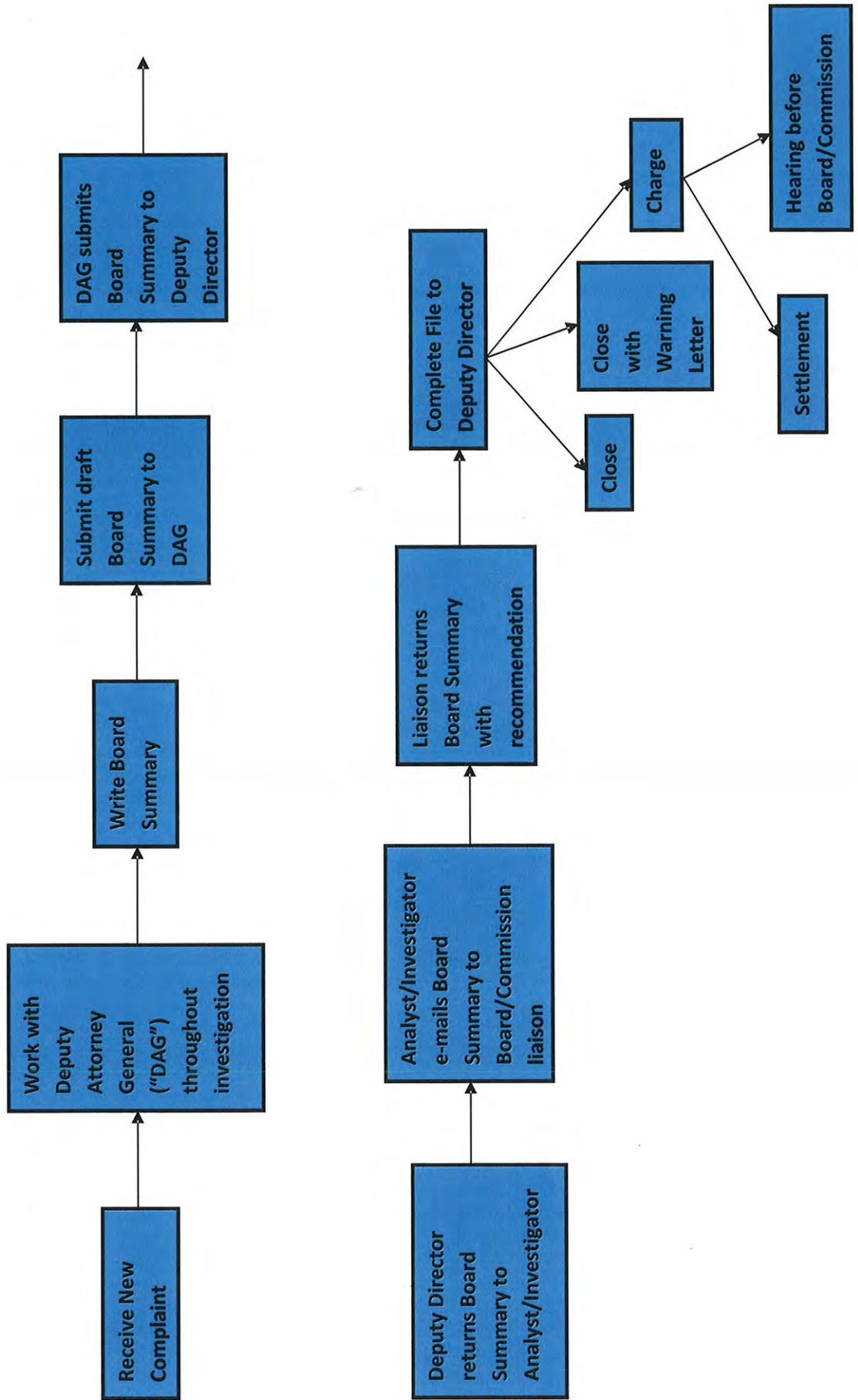
Sources



Referrals

Assigned	2005	2006	2007	2008	2009	2010	Total
Prosecutor	23	47	16	20	19	6	131
HFA Licensing Board	7	18	14	4	15	5	63
Nurses Board	36	78	81	18	59	51	323
Other Boards	0	4	1	0	3	1	9
Boards: Total	43	100	96	22	77	57	395
CNA Registry	18	47	52	30	36	17	200
Exclusion Requests	0	4	7	14	7	10	42
Other Referrals	4	10	5	3	3	0	25
Totals	88	208	176	89	142	90	793

Licensing Enforcement and Homeowner Protection Unit Investigation Flow Chart



State Board of Cosmetology and Barber Examiners



Establishment of the State Board of Cosmetology & Barber Examiners

- 25-8-3-1 establishes the State Board of Cosmetology & Barber Examiners (“Board”)
- Seven (7) member board including a physician.
- Regulate thirty (30) license types including but not limited to cosmetologists, manicurists, and barber schools and salons.
- Board issues licenses permitting an individual to practice a profession or business to operate and disciplines licensees violating statute and rule.
 - Prescribe sanitary requirements for regulated facilities
 - Establish standards for professional practice and operation of regulated businesses and schools
- Board promulgates administrative rules setting standards for professional practice.
- IPLA administers day-to-day board functions.
- OAG investigates and prosecutes complaints.

Board's Role & Volume

- The board regulates thirty (30) license types, which includes all professional, facility, temporary, and provisional licenses
 - 13 types of facility licenses
 - 17 types of individual occupational licenses
- 66,471 active licensees as of January 1, 2011
 - 11,134 facility licenses
 - 55,528 individual occupational licenses
- # new licenses issued per year
 - 5,881 in 2007
 - 5,678 in 2008
 - 5,550 in 2009
 - 5,518 in 2010
- # of inspections – new licenses
 - 1049 in 2007
 - 1021 in 2008
 - 1026 in 2009
 - 909 in 2010
- # of consumer complaints filed with the OAG
 - 201 in 2008
 - 181 against cosmetology type licenses
 - 20 against barber type licenses
 - 141 in 2009
 - 118 against cosmetology type licenses
 - 18 against barber type licenses
 - 2010 unknown
- # of admin complaints filed by the OAG
 - 46 in 2007
 - 22 in 2008
 - 15 in 2009
 - 7 in 2010
- # of final orders/actions taken against licensees
 - 29 in 2007
 - 29 in 2008
 - 20 in 2009
 - 7 in 2010

History of Board

- State Board of Barber Examiners was created sometime prior to 1937.
- Barber board was independent until 1981 when it was absorbed by newly created IPLA.
- State Board of Beauty Culturist Examiners was created sometime prior to 1941 under IPLA.
- IPLA merges with Health Professions Bureau in 2004.
- Senate Bill 356 merges both boards into SBCBE, effective July 1, 2010.

Board Administrative Structure

- IPLA employs 84 individuals, has 10 groups, each group assigned boards,
- Board is housed within Group #12, which consists of seven (7) staff members consisting of one (1) director, one (1) assistant director, five (5) case managers administering:
 - State Board of Cosmetology & Barber Board Examiners (66,471 “Active” Licensees)
 - State Board of Funeral and Cemetery Service (3,297 “Active” Licensees)
- Four (4) IPLA compliance officers are responsible for 12,000 licensed facilities including funeral homes, cemeteries, barber and cosmetology schools, barber and cosmetology salons, and auction houses, among others.
- OAG investigates and prosecutes licensees.

Board's Professional Licenses

Seventeen (17) Separate Professional License Types (“for compensation”)

- **Barber** - May cut, clean, and color hair upon the head; shave or trim hair on the face or neck; apply creams, powders, and lotions either by a hand or by mechanical appliances, in the performance of facial or scalp massage.
- **Cosmetologist** - May cut, clean, and color hair over the entire body; apply creams, powders, and lotions either by a hand or by mechanical appliances over the entire body; arch eyebrows; use depilatories; manicure and pedicure.
- **Esthetician** – May give facials, applying makeup, and giving skin care; massaging or cleaning the body with the use of cosmetic preparations, antiseptics, tonics, lotions, or creams; remove superfluous hair from the body by the use of depilatories, waxing, or tweezers.

Board's Professional Licenses

(Continued)

- **Manicurist** – May clean, dress, polish, sculpt, tip, or wrap the nails of a person.
- **Electrologist** – May remove unwanted hair by an electrified needle.
- **Barber Instructor** – May provide instruction in the practice of barbering.
- **Beauty Culture Instructor** - May provide instruction in the practice of the following professions if the person holds a license for the practice of: Cosmetology (also requires experience & additional training), Electrology, Manicuring, or Esthetics.

APPENDIX IV (Page 67 of 192)
Facility Licenses

Thirteen (13) Separate Facility License Types

Service

- **Barber Shop** - Establishment offering barber services to the public.
- **Cosmetology Salon** - Establishment offering cosmetology to the public.
- **Manicuring Salon** - Establishment offering manicuring to the public.
- **Electrology Salon** - Establishment offering electrology to the public.
- **Esthetics Salon** - Establishment in which a person acts as an esthetician.
- **Tanning Facility** - Facility providing persons with access to a tanning device.

Education

- **Barber School** - Establishment offering training in barbering.
- **School of Cosmetology** - Establishment offering training in cosmetology.

Equipment used to perform acts/services

● COSMETOLOGY

- Combs
- Brushes
- Hair capes
- Scissors
- Razors
- Wax applicators



● BARBERING

- Combs
- Brushes
- Hair capes
- Scissors
- Razors



● ELECTROLOGY

- Needles
- Tweezers

● MANICURIST

- Cuticle nippers
- Fingernail clippers
- Toenail clippers
- Nail files
- Nail brush
- Nail Pushers



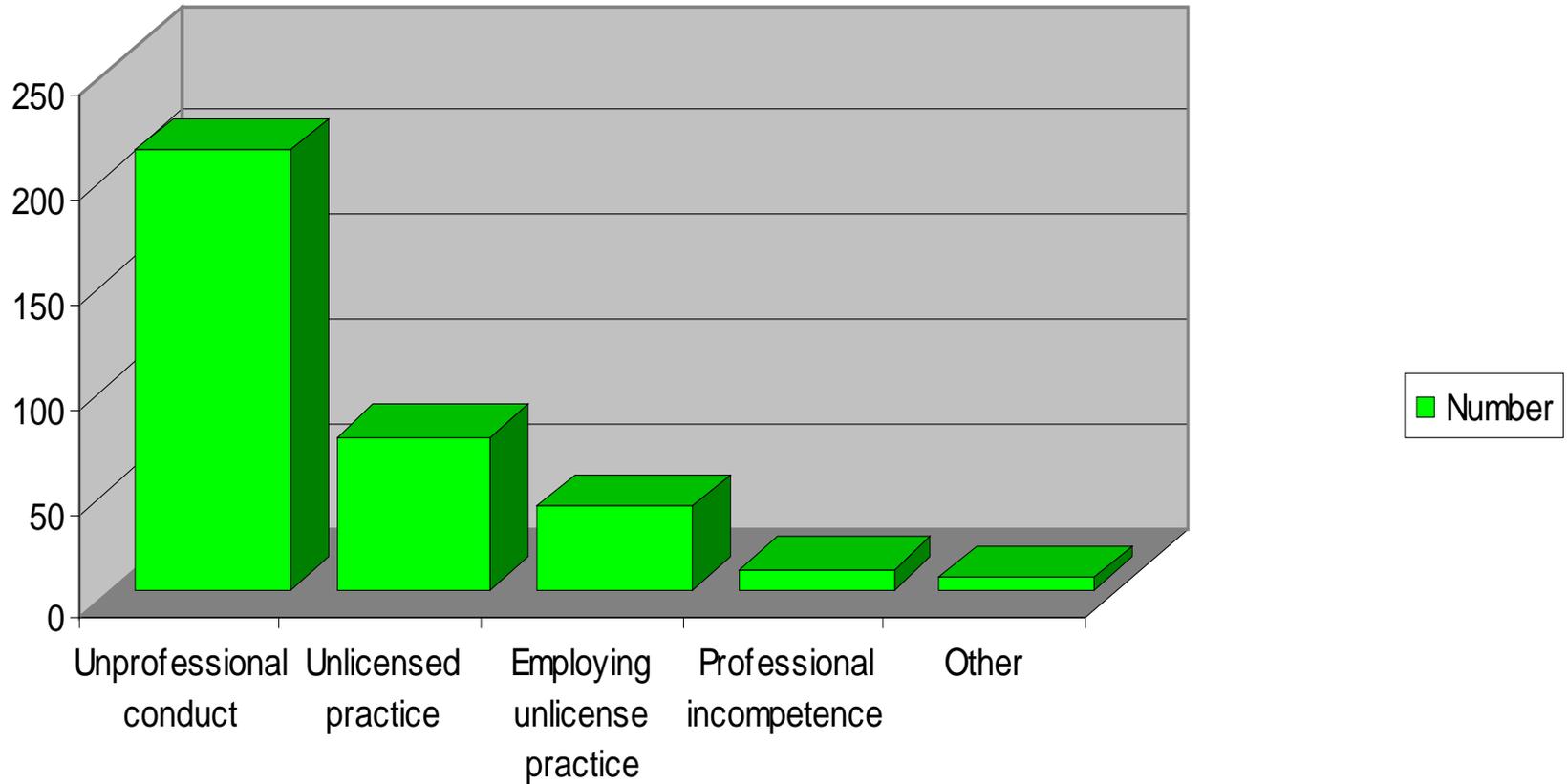
● ESTHETICIAN

- Needles
- Tweezers
- Epilator
- Wax applicators

- CHEMICALS USED TO PROPERLY PERFORM MANY OF THE SERVICES



Types of Consumer Complaints Filed in 2008 & 2009



Types of Harm: Burns

- Chemical. Food & Drug Administration (FDA) warns that hair dye and hair relaxers, “can hurt your skin, hair, and eyes” and provides guidelines on use.

(Source:<http://www.fda.gov/downloads/ForConsumers>)

- Wax

- UV Exposure. FDA is currently considering a ban for those under the age of 18 from using tanning beds following the World Health Organization’s July 2009 recommendation due to the increased cancer risks associated with tanning bed use. (Source:

<http://www.fda.gov/ForConsumers/ConsumerUpdates/ucm186687.htm>

Types of Harm: Abrasions

- Abrasions, cuts, lacerations & puncture wounds
- Rule Change 2010 - (c) The use of razor devices to shave, reduce, or remove calluses or corns is prohibited. *820 IAC 3-1-16*

Types of Harm: Allergic Reactions

- According to the FDA: Infections and allergic reactions can occur with some nail products. As mentioned previously, some ingredients in nail products may be harmful if ingested. Some can easily catch fire if exposed to the flame of the pilot light of a stove, a lit cigarette, or other heat source, such as the heating element of a curling iron. Nail products also can be dangerous if they get in the eyes. Consumers should read labels of nail products carefully and heed any warnings.

(Source: <http://www.fda.gov/Cosmetics/ProductandIngredientSafety>)

- Health Experts consider hair color products pose a emergency risk due to the serious allergic reactions related to ingredients such as PPD, ammonia, peroxide, etc.

(Source: <http://www.hairboutique.com/tips/tip993.htm>.)

Types of Harm: Hair Loss



Types of Harm: Infectious Disease

- Contracting
- Spreading
- Types
 - HIV
 - Hepatitis
 - MRSA
 - TB
 - Herpes
 - Animal Parasitic diseases

Infections



Infections: Furunculosis Due to *Mycobacterium mageritense* from pedicure



Infections: Mycobacterial Skin Sores from pedicure



Infections: Tinea Capitis



Infections: Carbuncle



APPENDIX IV (Page 81 of 192)

Infections: New England Journal of Medicine “An Outbreak of Mycobacterial Furunculosis Associated with Footbaths at a Nail Salon”, May 2, 2002

- The New England Journal of Medicine studied a 110 person bacterial California outbreak in 2000 stemming from unsanitary nail salons and made these findings.
- *“Will similar outbreaks occur in the future? We performed a bacteriologic survey of California nail salons and found rapidly growing mycobacteria to be highly prevalent in whirlpool footbaths. More than one species (*M. fortuitum* and other known pathogens) was found in most machines, even when little debris was present. The nail-care industry is large and growing. In California there are more than 7500 nail salons, and the number of licensed nail technicians has doubled from 40,000 to 80,000 in the past 10 years. There may be similar outbreaks in the future. Salon-associated infections may also occur sporadically and not be recognized.”* [emphasis added].
- Following the articles publication, California suffered another 100+ person outbreak in 2004 and two (2) deaths.

Infections: Examples of outbreaks & death

(Source: http://www.oregon.gov/OHLA/COS/Features/Bacterial_Skin_Infections.shtml)

- **110 infected due to one (1) nail salon (2000).** The first reported bacterial outbreak linked to improperly cleaned and disinfected foot spas infected at least 110 people in Watsonville, California with *Mycobacterium fortuitum*.
- **140 infected linked to thirty four (34) salons (2004).** More than 140 nail salon clients were infected by *Mycobacterium chelonae* from 34 different salons. Three (3) nail salons were linked to the majority of infections.
- **Death linked to staph infection from nail salon (2006).** Kimberly Jackson, a 46-year-old paraplegic, died of a heart attack from a blood infection caused by a staphylococcal infection on her foot. Jackson reportedly received the infection after being cut on her heel with a pumice stone during a pedicure in a Fort Worth, Texas nail salon.
- **Death linked to infection from nail salon. (2006).** Jessica Mears, a 43-year-old woman with Lupus, an autoimmune disease that can affect various parts of the body, including the skin, joints, heart, lungs, blood, kidneys and brain, died after suffering from a mycobacterial infection contracted at a San Jose, California nail salon.
- **Death linked to infection in nail salon (2007).** Gerry Ann Schabarum, 70, wife of former California General Assemblyman Pete Schabarum, died after fighting a staphylococcus infection contracted at a nail salon during a pedicure.

Infections: EPA Recommendations for foot spa basins in salons

- Due to the dangers associated with salon foot spa basins, the EPA provides step-by-step instructions for disinfecting pedicure foot spa equipment.
- **EPA instructions for disinfecting pedicure foot spa equipment after each client:**
 - **Drain** the water from the foot spa basin or bowl and remove any visible debris.
 - **Clean** the surfaces of the foot spa with soap or detergent, rinse with clean water, and drain.
 - After cleaning, **disinfect** the surfaces with an EPA-registered hospital disinfectant according to the manufacturer's directions on the label. Surfaces must remain wet with the disinfectant for 10 minutes or the time stated on the label, which may be shorter.
 - After disinfection, drain and **rinse** with clean water.

Types of Harm: Lice & Scabies



Types of Harm: Lewd & Lascivious Conduct

In 2007, the Board suspended the license of an esthetician for inappropriately touching a customer.

Severity of Harm

- Dr. Rebecca Bushong, Indiana Dermatologist, estimates \$5000/event and \$1,000,000 per year for the pedicure related harm in Indiana.
- Cost include doctor visits, prescriptions, pathology and laboratory bills and time missed from work.
- Dr. Bushong indicates that as a practicing dermatologist, she personally treats several lower leg infections each year that she believes are related to Indiana spa treatments and go unreported to the board and OAG.

Current Regulation: Title & Practice

- No regulation: May use title and practice profession without any form of registration or licensure.
- Title protection (no active state regulation): May not use a specific title unless you are certified by third party.
- Title protection (state regulation): May not use a specific title unless licensed by the state.
- **Title & practice protection**: May not use **title or practice profession unless licensed by the state.**

Current Regulation: Unlicensed Practice

- **Criminal Penalties** - Under IC 25-8-14-5, a person who violates the provisions of the SBCBE statutes or performs any act authorized by a licensee issued under the SBCBE statute without possessing a valid license commits a Class C infraction.
- **Cease and Desist Order** - Under IC 25-1-7-14, the SBCBE may file a complaint with the attorney general if it believes that a person who is not licensed is engaged in activities for which a license is required.

Current Regulation: General Professional Licensure Requirements

Example: Cosmetologist License

- **Meets age requirement**
- **Meets secondary school education requirement**
- **Graduated from approved professional licensed school**
- **Files verified statement** - applicant has not engaged in impermissible activity (e.g. fraud, activity that endangers the public, lewd or immoral conduct, etc.)
- **Passes examination approved by board**
 - Practical portion
 - Written portion
- **Pays fee for license issuance**

APPENDIX IV (Page 90 of 192) Current Regulation: General Facility Licensure Requirements

Example: Cosmetology Salon License

- Select **business location** and meet statutory requirements
- If applicable, obtain **building permits, certificate of occupancy,** or other required approval action
- **Install furnishings,** if applicable, and **obtain salon equipment** required under board adopted rules
- **Submit verified statement** – salon must be under personal supervision of a person with adequate professional experience unless waiver granted by board
- Pay appropriate **fee** to the board
- Pass inspection

Current Regulation: Summary

- Board verifies individual/business meets certain criteria prior to issuing license to practice.
 - Including inspection of facilities; and
 - Review of education and training documentation.
- Board suspends, revokes, or place a license on probation for:
 - Violating practice act;
 - Committing criminal offense; or
 - Failing to meet renewal requirements
- Board provides guidance to public and licensees on best practice.
- Board can order an unlicensed individual to cease and desist the practice of barbering/cosmetology.
- Board sets practice standards in rule.

ALTERNATIVES TO REGULATION

- *To what extent do individual consumers have the capabilities, access to information and experience to make informed risk-benefit decisions about purchasing goods or services from a particular professional?*
- Limited Information Available –
 - Difficult to indentify quality professional services in the industry due to a lack of information for licensees:
 - High volume of salons and barbershops (approx. 10,000) contracting or employing 58,000 individual licensees providing services to a small number of clients.
 - Lack of corporate reputation as most salons and shops are independently owned and operated.
 - Low overhead for start-up leads to high turnover.
 - Free on-line research – There are no websites that provide information on the quality and care of cosmetology professionals.
 - Pay websites: Angie’s List information is limited to members only and salons do not receive significant feedback through this service.
 - Advertising – No information in advertisements to make an informed decision.

ALTERNATIVES TO REGULATION

- *Is the profession capable of organizing itself (on a local, state, national or international basis) to ensure an acceptable degree of competence without any regulatory program?*
 - No national or state association.
 - No national or state certification.
- *In the absence of an IPLA regulatory program, would consumers have adequate legal protections to deter incompetent or fraudulent behavior by professionals and to seek redress or compensation for avoidable harms?*
 - Civil Action – Civil lawsuits are cost prohibitive and overly complex for layperson.
 - Criminal Action – Prosecutors will not pursue.

QUESTIONS



Indiana State Department of Health Health Facility Administrator



History of the Board

- Federal regulations mandate licensure of Health Facility Administrators (HFA) in accordance with 43 CFR § 431.700 , which states “Basis and purpose. This subpart implements sections 1903(a)(29) and 1908 of the Act which require that the State plan include a State program for licensing nursing home administrators.” [emphasis added].
- In 1967, the federal Social Security Act was amended to require states to establish licensing programs for NHAs. Portions of the Social Security Act were re-codified as part of the Omnibus Budget Reconciliation Act (OBRA) reforms of 1985. *2008 Colorado Sunset Review Report.*

Indiana History of The Board

- 1969 - HFA license established and Board created
- 1970 - 1983 Residential Care Administrator established
- 1977 – Provisional license established
- 1979 - HFA Preceptors established
- 2009 – Residential Care Administrator license type re-established
- 2009 – Residential Care Administrator Preceptor

HFA Board Members:

As per IC 25-19-1-2 the Board consists of 13 members:

Names/Positions:

Shelley Rauch (HFA Non-proprietary)
Kelly Borrer (HFA-Non profit)
Kathy Frank (IU Designee)
Arlene Franklin (St. LTC Ombudsman)
Darlene K. Jones (ISDH Designee)
Karen Smith Filler (FSSA Designee)
Jennifer Gappa (HFA Proprietary)
Colleen Jo Matthews (HFA Proprietary)
Christine Shuey (HFA Proprietary)
Nan A. Girton (Consumer Member)
Dr. William Province, II (Physician Member)
Vacant (HFA Proprietary)
Vacant (Consumer Member)



IPLA Dedicated Staff

The staff consists of the Board Director, Assistant Board Director and three full-time case managers:

- Tasha Coleman (Board Director)
- Andre Phillips (Assistant Director)
- Kimberly Oakley (Case Manager)
- Lorrie Ruble (Case Manager)
- Kathleen Dishman (Case Manager)

The staff is responsible for the regulation and maintenance of five professions:

- Indiana State Department of Health Facility Administrators
- State Board of Psychology
- Indiana State Board of Massage Therapy
- Indiana Physical Therapy Committee
- Indiana Occupational Therapy Committee.



Responsibilities of the Board

- Issue licenses permitting the practice of health facility (long-term care) and residential care administration
- Promulgate administrative rules setting standards for professional practice
- Discipline licensees who are found to have violated statutes and administrative rules
- File complaints with the OAG following the receipt of a finding of substandard quality of care determined by an ISDH inspection
- Educate licensure candidates and preceptors

License Type & Volume

The Board regulates eight (8) license types, which includes: HFA, RCA, Preceptor, Provisional, Preceptor Eligible, CE Sponsor, and Temporary Permit:

License Type	Active Licenses (as of 1/20/11)
HFA	1,194
RCA	6
Preceptor	60 (HFA) / 7 (RCA)
Provisional	2 (HFA)
Preceptor Eligible	161
CE Sponsor	49
Temporary Permits	3 (HFA)

License Types

- **Health Facility Administrator:** A person who is responsible for the daily functions/operations of a long-term care nursing facility.
- **Residential Care Administrators:** A person who is responsible for the daily functions/operations of a residential or assisted living nursing facility.
- **HFA/RCA Preceptor:** A licensed health facility or residential care administrator who has agreed to oversee the training and education of administrators in training.
- **HFA Provisional:** An administrator licensed in another state who fills an immediate and unforeseen vacancy in an Indiana facility while a permanent administrator is found.
- **Preceptor Eligible License :** Once an administrator has completed the preceptor training course offered by IAHSA or Martin University, he/she is eligible to serve as a preceptor for five (5) years from the date of certification.
- **Continuing Education Sponsor:** A person, company or organization who offers educational programs which will assist the board in determining the administrator's competency
- **Temporary Permit:** Allows an individual who holds a valid and unrestricted license in another state or jurisdiction to work as an administrator on a temporary basis while waiting to sit for the state jurisprudence examination.

Number of Facilities Licensed by the Department of Health

Date Licensed	Number of Facilities Licensed
10/1/09-9/30/10	505
10/1/08-9/30/09	511
10/1/07-9/30/08	509
10/1/06-9/30/07	515
10/1/05-9/30/06	509

The Role of the HFA Board

versus

The Role of ISDH

The Board regulates
the administrator

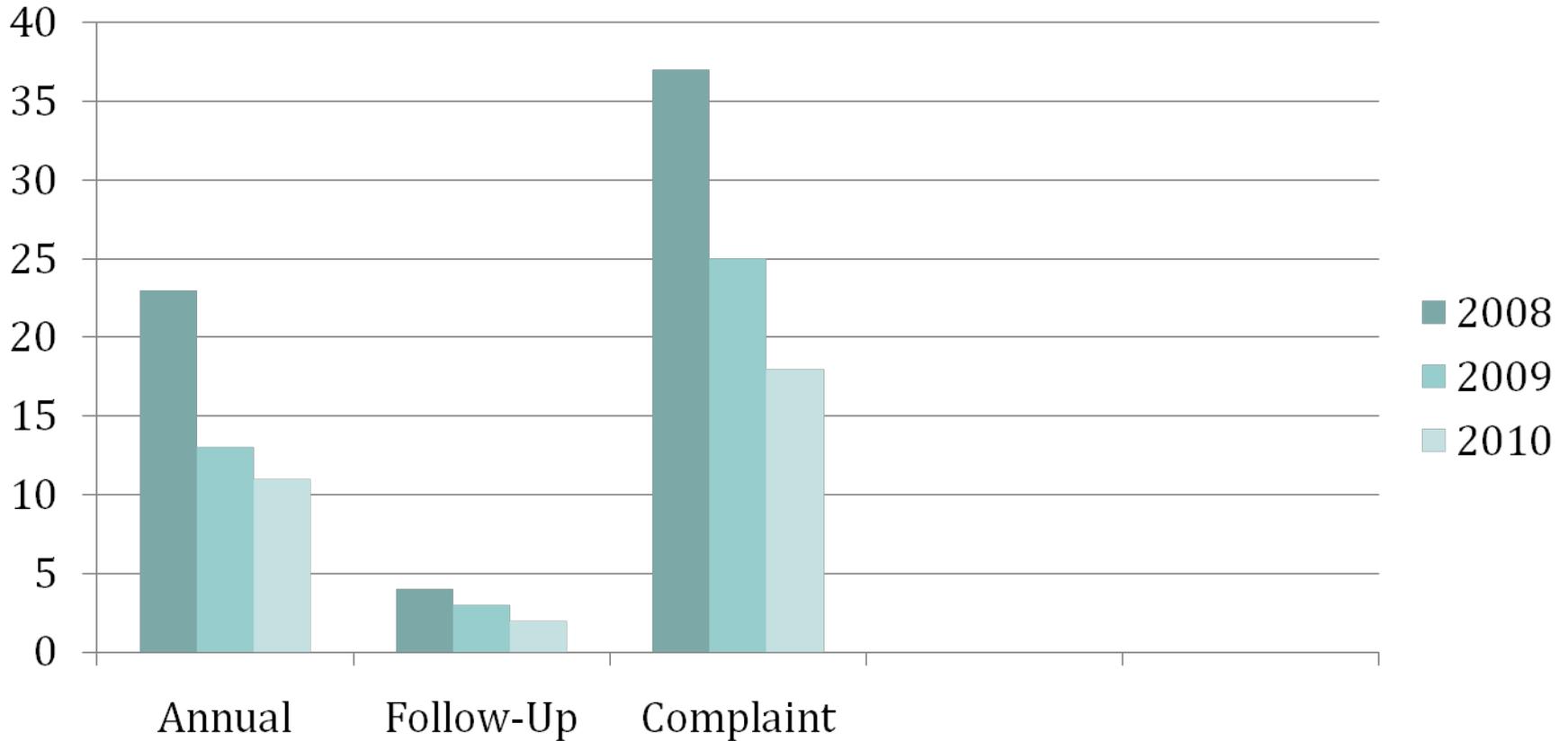
The Indiana State
Department of Health
regulates licensed
long term care facilities



The Role of ISDH

- Approves provider changes which must be reported/submitted to ISDH
(e.g., bed changes, administrator changes, openings, closings, and change of ownership)
- Licenses, certifies, and routinely inspects facilities
- Surveys (inspects) facilities to ensure compliance with state and federal requirements at least annually and as necessary due to complaints reported
- Cites deficient practices, when identified
- Recommends and/or imposes remedies as appropriate as a result of deficient practices identified

Types of ISDH Facility Inspections Completed 2008-2010



The Expectation of CMS/ISDH

- The expectation is that providers remain in substantial compliance with Medicare/Medicaid program requirements as well as State law.
- The expectation is that all deficiencies will be addressed promptly.
- The expectation is that all residents will receive the care and services they need to meet their highest practicable level of functioning.

Areas of Potential Deficient Practice/Deficiency

- 176 Federal Tags
encompassing:

- Resident Rights
- Admission, Transfer, and Discharge
- Resident Behavior & Facility Practices
- Quality of Life
- Resident Assessment
- Quality of Care
- Nursing Services
- Dietary Services
- Physician Services
- Dental Services
- Pharmacy Services
- Infection Control
- Physical Environment
- Administration

*46 of which can constitute
Substandard Quality of Care
(SSQC) if at scope and severity
levels of F, H, I, J, K or L*

Each Deficient Practice is Assigned Severity and Scope

Severity (determined first)

- No actual harm with potential for minimal harm
- No actual harm with potential for more than minimal harm that is not immediate jeopardy
- Actual harm that is not immediate jeopardy
- Immediate jeopardy to resident health or safety

Scope

- Isolated
 - One or very limited number of residents affected
- Pattern
 - More than limited number of residents or staff involved or in several locations
- Widespread
 - Pervasive or systemic

“Scope and Severity Grid” :

Scope Severity/Harm	Isolated	Pattern	Widespread
(4) Immediate jeopardy to resident health or safety	J	K	L
(3) Actual harm that is not immediate jeopardy	G	H	I
(2) No actual harm with potential for more than minimal harm that is not immediate jeopardy	D	E	F
(1) No actual harm with potential for more than minimal harm	Substantial Compliance A	Substantial Compliance B	Substantial Compliance C

Substandard Quality of Care (SSQC)

- A deficient practice at scope and severity of F, H, I, J, K or L on the grid; AND one of the 46 tags within the categories of

-Quality of Life

-Quality of Care

-Resident Behavior and Facility Practices

Immediate Jeopardy

- “A situation in which the provider’s noncompliance with one or more requirement of participation has caused, or is likely to cause, serious injury, harm, impairment, or death to a resident.” (42 CFR Part 489.3)

Potential Types of Harm:

Physical

- Preventable falls with injury
- Malnutrition/Dehydration
- Abuse (physical/sexual)
- Improper/Inappropriate use of Restraints (physical/chemical)
- Failure to provide treatment for existing pressure ulcers
- Failure to prevent the development of pressure ulcers

Emotional

- Abuse (verbal/mental)
- Isolation
- Misappropriation of resident property
- Neglect (may result in physical or mental harm)

A Facility may have a Finding of Immediate Jeopardy with/without SSQC

IJ w/SSQC

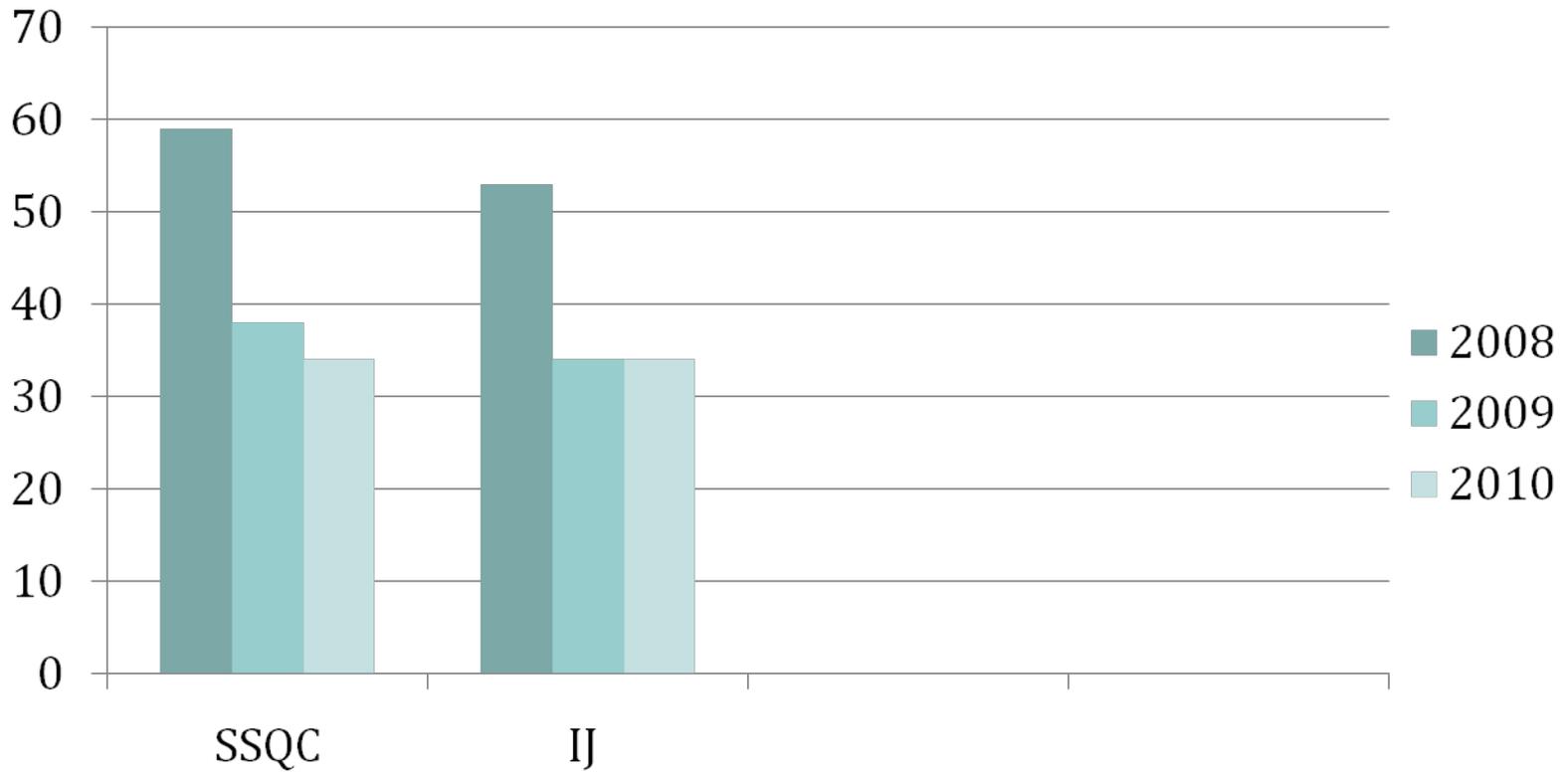
- Medication errors
- Failure to provide necessary care for a specific health need/condition (e.g., tracheostomy)
- Resident elopement

IJ no SSQC

- Inadequate kitchen sanitation
- Malfunctioning sprinkler system
- Improper sanitation/maintenance of health care equipment

Types of Complaints Filed: 2008-2010

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Current Regulation:

General HFA Licensure Requirements

- Educational:
 - Bachelor's degree or higher (any field); or
 - Associate's degree and specialized course; or
 - Specialized course
- Completion of the Administrator-In-Training program
- Pass the NAB (national/Federal) examination
- Pass the Jurisprudence (state) examination
- Complete 40 hours of CE for renewal biennially
 - First time licensees do not have a CE requirement for their first renewal unless they were licensed by endorsement

Current Regulation: Unlicensed Practice

- **Criminal Penalties** - Under IC 25-19-1-11, a person who violates the provisions of the SBHFA statutes or performs any act authorized by a licensee issued under the SBHFA statute without possessing a valid license commits a Class C infraction.
- **Cease and Desist Order** - Under IC 25-1-7-14, the SBHFA may file a complaint with the attorney general if it believes that a person who is not licensed is engaged in activities for which a license is required.

Current Regulation: Summary

- Board verifies that an individual meets the criteria before issuing license to practice.
 - Review of education and training documentation
- Board may suspend, revoke, or place a licensee on probation for:
 - Violating a regulation;
 - Committing a criminal offense; or
 - Failing to meet renewal requirements
- Board provides guidance to public and licensees on industry best practices.
- Board can order an unlicensed individual to cease and desist administration of a health or long-term care facility
- Board sets standards of practice competency

Alternatives to Regulation

There are no alternatives to regulation due to the federal mandate for licensure.

Potential Issues in the Absence of IPLA

- Access to adequate information to make informed risk/benefit decisions about the professional administration of particular facilities
- Misinformation in the public domain
- The need to make a quick placement decision may limit consumer's ability to adequately compare facilities

Potential Issues in the Absence of IPLA

Can the profession ensure competence without IPLA?

- There is no national oversight in place, and none currently under consideration.
- Current international, national, state and other professional associations provide continuing education and training opportunities for their members, both within and beyond the frame work of licensing authorities.

Is there adequate legal protection for consumers in the absence of IPLA?

- Civil Action:
 - Can be complex and cost prohibitive for some consumers
 - Financial recovery can be delayed by overburdened judicial systems
 - Lack of consistency between multiple venues
 - Not proactive in screening unlicensed or incompetent practitioners
- Criminal Action:
 - Prosecutors are tasked with determining professional issues such as severity of harm
 - Not proactive in screening unlicensed or incompetent practitioners

QUESTIONS



Private Investigator & Security Guard Licensing Board



Establishment of the Private Investigator & Security Guard Licensing Board

- **IC 25-30-1-5.2** establishes the Private Investigator and Security Guard Licensing Board (“Board”)
- Seven (7) member board...
 - Superintendent of State Police designee
 - Two (2) individuals who are associated with a private investigator firm
 - Two (2) individuals who are associated with a security guard agency
 - One (1) local law enforcement official
 - One (1) consumer member

History of the Board

- In 1961, Private Detective licensing was established. The Indiana State Police administered and issued all Private Detective and associated licenses.
- The Private Detectives Licensing Board was established in 1989...
 - Private Detective licenses issued for Private Detective agencies and their qualifier.
 - Employees of Private Detective agencies were issued an Authorized Employee card for every company they worked for; their qualifications were not checked.

Recent Changes to the Board

- In 2007, the Private Investigator and Security Guard Licensing Board replaced the Private Detectives Licensing Board.
 - Private Investigator Firm or Security Guard Agency licenses are issued based on the credentials of the qualifier.
 - Employees of Private Investigator Firms and Security Guard Agencies are not issued ID cards by the Board.

Private Investigator & Security Guard Licensing Board Role

- Regulates two (2) license types...
 - Private Investigator Firm
 - Security Guard Agency
- Board issues licenses permitting an individual to operate and disciplines licensees violating statute and rule...
 - The Board establishes standards for professional practice and operation of regulated businesses.

NATIONAL DATA

Of states surveyed the following was found:

- States which issue a license...
 - 41/50 - Private Investigators
 - 43/50 - Security Guards (4/43 – Armed Guards only)
- States which license firms...
 - 33/41 - Private Investigators
 - 34/43 - Security Guards
- States which license individuals...
 - 31/43 - Private Investigators
 - 28/43 - Security Guards

National Data *(continued)*

- States which license both...
 - 24/41 - Private Investigators
 - 21/43 - Security Guards
- States which license the firm, register the individual...
 - 4/41 - Private Investigators
 - 3/43 - Security Guards

ODPS / OHS Private Investigator
& Security Guard Licensing



National Data *(continued)*

- Run background checks on applicants...
 - 41/41 - Private Investigators
 - 42/43 - Security Guards
- Require continuing education for licensees...
 - 14/41 - Private Investigators
 - 11/43 - Security Guards
- Require some reasonable and applicable experience prior to becoming licensed...
 - 34/41 - Private Investigators
 - 34/43 - Security Guards

Private Investigator & Security Guard Licensing Board Role

- Board promulgates administrative rules setting standards for professional practice.
- IPLA administers day-to-day board functions.
- OAG investigates and prosecutes complaints.



License Issuance

Number of New Private Investigator Licenses Issued Per Year

- 317 in 2007*
- 139 in 2008
- 62 in 2009
- 51 in 2010

Number of New Security Guard Licenses Issued Per Year

- 162 in 2007*
- 93 in 2008
- 61 in 2009
- 51 in 2010

** First year of issuance under PISG Statutes*

Active Licenses



- **Private Investigator...**

- 317 in 2007
- 456 in 2008
- 518 in 2009
- 569 in 2010



- **Security Guard...**

- 162 in 2007
- 255 in 2008
- 316 in 2009
- 367 in 2010

Administrative & Consumer Complaints

- No administrative complaints have been filed by the OAG since 2007.
- 27 consumer complaints have been filed with the OAG since 2007.

Board Administrative Structure

- The Private Investigator and Security Guard Licensing Board is housed within Group #11, which consists of five (5) staff members consisting of one (1) director, one (1) assistant director, two (2) case managers and one (1) accountancy compliance officer administering...
 - Private Investigator and Security Guard Licensing Board
 - Indiana Board of Accountancy
 - Indiana Auctioneer Commission
 - Manufactured Home Installer Licensing Board
- The OAG investigates and prosecutes licensees.

Private Investigator Firm Licenses

Actions that Require a PI Firm License...*

- Investigate for hire or reward with the purpose of obtaining information about things such as...
 - The movements, whereabouts, transactions, credibility or character of a person;
 - The location or recovery of lost, abandoned, unclaimed, or stolen property;
 - The person or persons responsibility for fires, accidents or injuries, and damage to property.
- Secure evidence to be used for investigation committees or in trial.
- Provide undercover investigators to detect and prevent fraud and theft.

** Summarized from IC 25-30-1 -2 (3)*

Private Investigator Firm Licenses

...continued

To qualify for Private Investigator Firm Licensing you must exhibit an experience requirement; either...

1. A minimum of two (2) years of experience as verified by a minimum of 4,000 hours of employment in specific areas.

Examples:

- Private investigator or a full-time manager for a licensed PI firm;
- Claims investigator for an insurance company;
- Licensed attorney or as an investigator for a practicing attorney;
- Paid law enforcement officer.

--OR--

2. A bachelor's degree or higher in criminal justice, or a related field *(from an accredited college or university)*.

Private Investigator Defined Further

Examples of Private Investigator work...

- Locating missing persons; including runaway teenagers, missing at-risk adults, missing heirs, and others...



Continued...

Examples of Private Investigator work...

- Investigating for family law attorneys; including children-at-risk custody cases, non-custodial abductions, missing marital assets...



- Assisting in the prevention and detection of identity fraud...

Continued...

Examples of Private Investigator work...



- Working with manufacturers and law enforcement on counterfeit product and trademark infringement cases, and product diversion cases...



- Determining who is responsible for theft in the workplace; to aide in recovering the property, stopping the theft and prosecuting those responsible...

Continued...

Examples of Private Investigator work...

- Investigating the character of staff or potential employees; i.e., background investigations and pre-employment screening...
- Locating or identifying factual and documentary evidence or witnesses for a hearing or trial in civil or criminal court; obtaining statements from witnesses or victims...



- Conducting surveillance on suspected Workers Comp or disability fraud cases...
- Conducting subrogation investigations for insurance companies and third party administrators...

Security Guard Agency Licenses

Actions that Require a Security Guard Agency License...

- Provide a guard or other individual for hire or reward to...
 - Protect persons or property;
 - Prevent the misappropriation or concealment of goods, wares and merchandise, money, bonds, stocks, notes or other valuable documents or papers.

Security Guard Agency Licenses

To qualify for Security Guard Agency Licensing you must exhibit an experience requirement; either...

1. A minimum of two (2) years of experience as verified by a minimum of 4,000 hours of employment in specific areas.

Examples:

- Private investigator for a licensed PI firm;
- Full-time manager for a PI firm or a licensed Security Guard Agency;
- Full-time manager for a proprietary security force of at least 20 employees;
- Claims investigator for an insurance company;
- Licensed attorney or as an investigator for a practicing attorney;
- Paid law enforcement officer;

--OR--

2. A bachelor's degree or higher in criminal justice, or a related field.

TYPES OF HARM: Theft

- An unlicensed investigator took retainers from his clients but failed to provide reports of his investigations, and, on one occasion, failed to appear in court to testify as he had promised. (*Source: Indiana Private Investigator and Security Guard Licensing Board; Indiana Attorney General Files*)
- A private investigator bilked people out of large sums of money by charging for investigations he never performed. He refused to answer phones, letters or e-mails, frustrating the client in addition to taking money without providing a service. (*Source: Washington State Department of Licensing, Public Protection Unit*)
- A plant contracted with a national guard service to provide uniform guards at its facility. Late one evening, security guards were caught on closed circuit cameras stealing TVs from the plant and loading them into a van. (*Source: Archives, Bloomington Herald-Times*)

TYPES OF HARM: Injury

- An employee with a fake weapon held people at gun point while he called local law enforcement, because he thought those he was detaining were driving a stolen car. Local law enforcement was outraged not only for the sake of those held, but the unknown they were walking into responding to a call. (Source: *MN Private Detective & Protective Agent Services Board*)
- Two PIs, whose licenses were revoked in Calif., moved to Colo. and were charged with 1) impersonating a police officer, 2) shaking down the parents of a boy who had outstanding warrants, 3) planting bombs and incendiary devices, and 4) attempting the murder of a federal agent. (Source: *A. Dale Wunderlich, retired U.S. Secret Service agent*)

TYPES OF HARM:

Breach of Confidentiality and Privacy

- A licensed PI and a Department of Health employee were convicted of selling sealed adoption records.
(Source: Indiana Private Investigator and Security Guard Licensing Board; Archives, The Indianapolis Star-News)
- An unlicensed Colorado private investigator was charged with felony stalking for placing a GPS tracking device on the car of a woman involved in a difficult divorce proceeding. The PIs repeated behavior in the surveillance case led to a claim by the woman of “severe emotional distress.” *(Source: The Denver Post, 08/13/2010, and other news sources)*

TYPES OF HARM: Death

- An unlicensed guard company hired a man who was unlicensed and untrained. At a sporting event, the guard shot a motorist who had parked in a spot where the guard said he could not park. Although there was no physical altercation, only verbal, the guard shot and killed the motorist. *(Source: LA State Board of Private Security Examiners)*
- In Washington, a guard on his first day of work shot and killed a citizen who was involved in a domestic dispute in a parking garage. The guard was not licensed, was not trained, and involved himself in the argument without contacting law enforcement. *(Source: Washington State Department of Licensing, Public Protection Unit)*

CURRENT REGULATION: Title & Practice

- ***No regulation:*** May use title and practice a profession without any form of registration or licensure.
- ***Title protection (no active state regulation):*** May not use a specific title unless you are certified by third party.
- ***Title protection (state regulation):*** May not use a specific title unless licensed by the state.
- ***Business licensure only:*** Qualifier may practice profession if licensed by the state. Employers must maintain a record of all employees' fingerprints and a picture according to statute.

CURRENT REGULATION: Unlicensed Practice

- ***Criminal Penalties...***

- Under IC 25-30-1-21, a person who represents or advertises themselves as a licensee or engages in acts that require a license under IC 25-30, without possessing a valid license, commits a Class A misdemeanor.

- ***Cease and Desist Order...***

- Under IC 25-30-1-22, the Board may issue a show cause order if it believes that a person who is not licensed is engaged in activities for which a license is required. If it is found that the activities are in violation, the Board may issue a cease and desist order.
- Under IC 25-1-7-14, the Board may file a complaint with the attorney general if it believes that a person who is not licensed is engaged in activities for which a license is required.

CURRENT REGULATION:

PI Firm & Security Guard Agency Business Licensure Requirements

Requirements for a Qualifier to Obtain Business Licensure...

- Meet the applicable education and/or experience requirements.
- Acceptable city, county, and state background checks from all locations of residence for the past seven (7) years.
- Acceptable Indiana State Police background check.
- Verification of all similar licenses held in all other states.
- Pay appropriate fee to the board.
- Purchase a \$100,000 (minimum) general liability insurance policy.

CURRENT REGULATION: Summary

- Board verifies the business meets certain criteria prior to issuing license to practice...
 - Review application and background checks.
 - Review of education and/or experience verification documentation.
 - Ensure an adequate liability policy is in place.
- Board suspends, revokes or places a license on probation for...
 - Violating practice act;
 - Committing criminal offense; or
 - Failing to meet renewal requirements.
- Board provides guidance to public and licensees on best practices...
- Board can order an unlicensed business to cease and desist the operation of an unlicensed firm or agency...
- Board sets practice standards in rule.

ALTERNATIVES TO REGULATION

To what extent do individual consumers have the capabilities, access to information and experience to make informed risk-benefit decisions about purchasing goods or services from a particular professional?

Limited Reliable Information Available

- Consumers have been misinformed by unrealistic portrayals in various media of what to look for in PIs and Security Guards.
- Most consumers do not need PIs on a frequent basis and lack knowledge on what to look for.
- The only references these firms could offer the consumer would be from past clients, which could be fraudulent information.
- Few have a corporate reputation as a large volume of firms and agencies are independently owned and operated.

Continued...

ALTERNATIVES TO REGULATION

...continued

Limited Reliable Information Available

- Low overhead for start-up could lead to high turnover.
- There are no known exclusive websites that provide information on the quality and safety of PI firms or SG agencies.
- Advertisements do not always provide qualification information (often only a name and address).

...and to re-emphasize...

- Consumers have been misinformed by unrealistic portrayals in various media of what to look for in PIs and Security Guards...



Sourced 04/09/2011 at
<http://www.facebook.com/event.php?eid=162887467072459>
&ref=nf

ALTERNATIVES TO REGULATION

Is the profession capable of organizing itself (on a local, state, national or international basis) to ensure an acceptable degree of competence without any regulatory program?

- No known history in this country of any self-regulation within the PI or SG sectors. The relatively small number of professionals makes self-regulation difficult.
- National certifications exist but are voluntary at this time.
- No current legislation mandating this authority to any association on a local or national level.
- National oversight would require aligning all states and is likely not feasible for the State to initiate.
- The current international and other associations are capable of providing continuing education and training opportunities for their members, both within and beyond the framework of their respective licensing authorities.

ALTERNATIVES TO REGULATION

In the absence of an IPLA regulatory program, would consumers have adequate legal protections to deter incompetent or fraudulent behavior by professionals and to seek redress or compensation for avoidable harms?

Civil Court...

- Civil lawsuits are cost prohibitive and overly complex for the layperson.
- Financial recovery is unlikely and time consuming due to debt collection processes and the already overburdened court systems.

...continued

ALTERNATIVES TO REGULATION

...continued

Civil Court...

- Due to decisions being rendered in multiple and diverse venues, there would be a lack of consistency in outcomes. Information is hard to research for a consumer since there are multiple places to search.
- Reactive approach will not screen out and discourage practice of unlicensed individuals.
- Civil action does not help prevent harm and does not remove the offender from the profession.

ALTERNATIVES TO REGULATION

In the absence of an IPLA regulatory program, would consumers have adequate legal protections to deter incompetent or fraudulent behavior by professionals and to seek redress or compensation for avoidable harms?

Criminal Prosecution...

- Prosecutors will likely not pursue unless severe physical harm or theft comes to someone involved.
- Reactive approach will not screen out and discourage practice of unlicensed individuals.
- A threshold on financial crimes must be met before a case can be prosecuted.

ALTERNATIVES TO REGULATION

Are the consumer benefits of an IPLA regulatory program likely to justify the anticipated costs of a regulatory system?

Consumer benefits achieved through the IPLA regulatory system are significant...

- Establishes legitimacy for a Private Investigator firm or Security Guard agency.
- Consumers have a reliable source to find reputable firms and agencies.
- Consumers are assured that screening and compliance have been demonstrated by licensed firms or agencies resulting in less risk of harm.
- Screening is done by professionals based on industry standards set by professionals, not the media's portrayal of the profession.

...continued

...continued

- Process to address misconduct outside of the time-consuming and costly court system.
- Less risk of “fly by night” operations and inexperienced practitioners.

Anticipated costs to administer the system are distributed...

- Costs, as well as a portion of the fees received, are shared by the boards within IPLA. This helps to even the costs between smaller and larger boards.
- Licensees bear the burden of the expense just as they would if they sought a newly created national certification or if they join an association to enhance credibility.

Thank You!



Questions?



**REPORT TO
Regulatory Occupations Evaluation Committee
April 20, 2011**

**Indiana State Board of Health Facility Administrators
PART B ASSESSMENT**

**Presented by
Shelley Rauch, Chairperson
Indiana State Board of Health Facility Administrators**

INTRODUCTION

The Indiana Regulatory Occupations Evaluation Committee (Committee) has charged the Indiana State Board of Health Facility Administrators (Board) with the task of presenting self-assessment reports regarding: (Part A) Whether or not the State of Indiana should regulate the health facility administrator profession (HFA); and (Part B) Whether or not the current system of regulation offers substantial and measurable protection to the citizens of the State of Indiana and does so in a cost effective manner.

Part A has already been addressed and presented to the Committee by the Board on January 20, 2011. The Board's Part A assessment report detailed Indiana's regulatory oversight of health facility administrators including the requirements for an individual to hold a state license to practice as a health facility administrator in Indiana; the disciplinary process for licensees violating the requirements to maintain licensure (including suspension, probation, and revocation) and regulation of unlicensed practice; and the Board's role in setting practice standards and requirements (e.g. type and hours of continuing education). The Part A report also explained the role of the Indiana State Department of Health (ISDH) in regulating health facilities and the Office of the Attorney General (OAG) in prosecuting licensees.

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Following the Part A report, the Committee concluded that the health facility administrator profession should be regulated by the State of Indiana based, in part, on the federal mandate requiring state licensure of the profession. *See* 42 CFR § 431.700 (Appendix A).

The following addresses Part B of the self-assessment report including an assessment of Indiana's current system of regulation; how this system protects consumers; how Indiana compares to other states; a description of problems with this system; and recommendations for alleviating these problems. Each numbered section below corresponds with the individual questions asked by the Committee in its Part B Assessment Framework.

PART B ASSESSMENT AREAS

1. Proactive Surveillance

Indiana's current oversight of the profession is accomplished primarily through ISDH surveys and the continuing education (CE) audits. Surveys conducted by the ISDH may identify issues that have resulted in an immediate jeopardy (IJ) or a substandard quality of care (SQC). Any issues resulting in an IJ or SQC are immediately forwarded to the Board. The Board, in turn, files a consumer complaint against the administrator, which may lead to discipline following an investigation of the complaint by the OAG and the filing of administrative complaint against the licensee with the Board. Surveys are also retained by the Board for further review. The Board reviews the survey to determine if the issues are due to the administrator's actions and, if so, whether or not the administrator's actions were (1) egregious, (2) due to negligence, or (3) due to ignorance. Close review of the survey can also determine if problems in a facility are a reflection of the supervision of the Director of Nursing.

CE audits provide another method for proactive surveillance. These audits are conducted by the Board staff on a biannual basis and always coincide with renewals. The HFA profession is in a constant state of change and the audits provide the necessary means to ensure that practitioners are staying abreast of current industry practices.

Although effective, the Board and shareholders agree that the two methods described do not adequately gauge the effectiveness of an administrator's performance. Further investigation of surveys and complaints by the Board is often necessary and could be conducted properly with the addition of a full time compliance officer dedicated solely to HFA. *See Recommendation #1.*

2. Complaint Process

The Board believes that a fair process is in place whereby all licensees are provided with an opportunity to respond to charges brought against them (Appendix E); however, the HFA Board believes that OAG staff is neither properly trained nor educated to conduct investigations of these consumer complaints (e.g. conducting interviews of key facility employee) and make determinations on complaint allegations. It is the understanding of the Board that OAG complaint analysts neither hold a professional healthcare license nor have any specialized training or education in healthcare facility administration. This lack of specialized training and experience in this specific industry can cause potential dismissal of valid complaints leading to consumer harm.

The consumer complaint process is timely; however, situations arise when complicated cases combined with lack of staff can cause delays in cases being brought to the HFA Board for review and action when it is necessary.

The consumer complaint process is defensible. Once a complaint has been filed, respondents are given thirty (30) days to review the complaint in its entirety and respond to

charges brought against them. The compliant process could become more efficient by having a trained IPLA staff member dedicated to the HFA Board to conduct preliminary investigation and determinations of ISDH survey results. This would create greater efficiency and effectiveness in the disciplinary process by: (1) ensuring the licensee and the public have trained staff reviewing complaint allegations; (2) prevent unnecessary complaints from being filed; (3) lead to quicker resolution of these issues; and (4) save the OAG the time and monies associated with investigating every ISDH survey with an IJ or SQC. *See* Recommendation #1. This staff member would be responsible for reviewing complaints filed by ISDH and would make a determination as to the level of harm and the parties to be held accountable. A recommendation would then be made to the Board to file a consumer complaint with the OAG, impose sanctions, or require remediation when the level of harm has not risen to the level of substandard quality of care or immediate jeopardy. (Appendix E).

3. Nature of the Complaint

As addressed in Part A, complaints are filed with the OAG based on the results of troubled ISDH surveys (which include confidential complaint investigations; annual surveys; and follow-up conducted by ISDH) resulting in substandard quality of care or immediate jeopardy. Complaints may also be filed directly with the OAG by aggrieved patients, family members of patients, and staff of a facility.

4. Effectiveness of Current Regulation

The Board believes that the current system of regulation can be improved. Other than CE audits, the Board has no method for determining whether practitioners are in compliance with regulatory requirements. As previously discussed, ISDH conducts a facility survey, which may identify IJ's and SQC's issues while subsequent consumer complaints are investigated by OAG

staff who are not trained to conduct the interviews of key employees. The Board's concern is twofold: (1) The surveys themselves do not consider the administrator's practice and actions *per se*, but rather focus on how the facility operates as a whole. The ISDH has been clear in stakeholder meetings with the board and IPLA that its role is to regulate the facility, not the administrator. As such, the resulting surveys pinpoint particular issues within the facility, but only serve as initial evidence of administrator negligence. (2) From that survey stems a complaint that is investigated by the OAG without the involvement of a licensed healthcare practitioner or licensed health facility administrator. The result is a regulatory system that paints only a partial picture of an administrator's practice and then reviews that incomplete picture with a layperson lacking expertise in the practice to determine wrong doing.

5. Evidence Regulatory System Reduces Consumer Harm

There is no evidence due to the lack of a sample study or benchmark considering licensure has been mandated for over forty (40) years. There is currently no way to measure the effectiveness of the regulatory system. *See* Recommendation #4.

6. Appropriate Regulatory Mechanism

The Board believes that licensure is appropriate based on the federal mandate requiring licensure.

7. Continuing Education Requirements

The Board may conduct a continuing education audit of any administrator who renews his or her license to active at the end of the designated biennium. The HFA board agrees that forty (40) hours every two years is reasonable and necessary due to the ever-changing health care regulations for a HFA. According to the national survey completed by the Board staff, 47% of

the states which responded require forty (40) hours of continuing education while 26% require 20-30 hours and 27% require 48 to 50 hours to renew. (Appendix F).

When renewing a HFA license, the administrator attests to having completed a minimum of forty (40) hours of continuing educations during the most recent licensing period. According to IC 25-1-4-3(b) the Board may randomly audit 1% to 10% of all licensees. (Appendix D). Until recently, the Board audited at the minimum of 1%, which revealed less than 2% of those audited to be non-compliant. At the recommendation of the stakeholders the Board completed a 10% audit for the most recent renewal period which indicated that 5% of the licensees audited were not in compliance with the continuing education requirements for licensure. By auditing a higher percentage of licensees, the Board is better able to gauge ongoing competence as well as evaluate the content of the continuing education programs being offered.

8. Evidence Regulatory System Effects Supply of Professionals & Price for Services to Consumer.

Once the Board is satisfied that an applicant has met the educational requirements, he or she must complete a six to twelve month (HFA: 1040 hours; RCA: 860 hours) unpaid administrator-in-training program (akin to internship) under the direct supervision of a licensed HFA or RCA preceptor. Although the Board has not specified the length of time the administrator-in-training (AIT) must spend in each area of the facility, the AIT program must cover the following content areas:

- standards of competent practice
- administration
- housekeeping/laundry
- facility management
- nursing
- dietary
- activities

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- business office
- admissions/marketing
- overall facility management

A waiver of the administrator-in-training program may be granted if the applicant qualifies under the board determined equivalents as stated in 840 IAC 1-1-4(c). (Appendix B). The preceptor must attend training and instruction within the previous five (5) years on how to properly conduct the AIT program, the responsibilities of the preceptor and the AIT, and have been responsible for the operating of a skilled nursing facility or residential care facility for two (2) of the previous three (3) years.

Prospective AIT's typically struggle to secure preceptors willing to train them. Preceptors are not readily available to provide the training service because: (1) the potential liability of introducing an untrained individual into the healthcare environment coupled with (2) the lack of business and professional benefit to a preceptor for participating in the programs. There is consequently a dearth of preceptors volunteering to train administrators. The lack of preceptors compounds the other hurdles of licensure that include the length of time one must serve as an AIT (six months) and the fact that the position is unpaid. All of these issues serve as a deterrent for individuals interested in practicing in the profession.

Nationally, an AIT or internship which is reflected on an official transcript is required prior to being licensed as an administrator. One state surveyed stated that the AIT must be paid while another stated that the AIT may be paid as an intern but not an administrator. All other states who responded indicated that the AIT is generally unpaid and compensation would be determined between the facility and the AIT. 90% of all AIT programs are 6-12 months in length and range from 240 hours to 2000 hours depending on the amount of previous experience in a long-term care facility. *See Recommendation #4.*

9. Adequate Resources

The current resources do not allow the board to engage in proactive regulation to reduce consumer harm. *See* Recommendation #2.

10. Fees & Adequate Regulation

There is a significant lack of funding dedicated to the HFA Board. The staff, referred to as Group Six within IPLA, consists of five (5) full time employees who divide their time between five (5) professions/boards (health facility administrators; physical therapy; psychology; occupational therapy; and massage therapists). Group Six is allocated approximately \$189,191 to administer these five (5) boards¹; based on this approximation and the licensee volume percentage², Group Six appropriates 8% (\$15,143) of its budget to HFA. The national average for HFA boards' operating budgets is ten times greater than the amount of money the State of Indiana expends to regulate healthcare facility administrators (\$150,204.18). (Appendix F). The majority of boards (65%) retain application fees for board licensees.

Compared to a national average application fee of \$233, Indiana is significantly lower at \$100. With 146 applicants in 2010, the HFA Board received \$14,600 in application fees. Renewal fees are \$100 every other year or \$50 annually. With 1,275 active HFA licenses, the Board receives \$127,500 every two years or \$63,750 annually. Total renewal and application fees received annually are \$78,350. This appears to be an adequate amount to provide a quality regulatory system; however, these fees are not retained by the Board, but instead are deposited in the State's general fund. The current budget of \$15,143 is inadequate to provide a high quality regulatory system on behalf of consumers.

¹ Figure based on total salaries and benefits of employees dedicated to Group Six.

² Figure based on total salaries of Group Six employees divided by the number of professions that Group Six oversees.

The Board offers the following recommendations for remediation of these deficiencies:

RECOMMENDATIONS

Recommendation #1:

Designate a compliance officer to the Board for the purposes of creating, for the first time in Indiana, a regulatory expert dedicated solely to healthcare administrators who would identify and act on administrator Standard of Practice (SOP) issues based on ISDH surveys and inspections.

In lieu of merging current regulation, the creation of a compliance officer position will allow the Board to engage in proactive surveillance of administrators to determine whether practitioners are in compliance with regulatory requirements. A compliance officer would be a valuable resource for Deputy Attorney General's (DAG) when investigating complaints and making initial determinations on IJ and SQC surveys. The results of a national survey conducted by the Board staff have shown that 25% of HFA boards have dedicated staff compliance officers regularly monitoring health facility administrators. The creation of this position is seen by the Board as an opportunity for Indiana to become a leader in protecting consumers from harm. With the Board staff comprised of five (5) full time employees who split their time equally between five (5) Boards and Committees, having a full time compliance officer dedicated solely to HFA is essential for Indiana to become engaged in proactive surveillance to determine whether practitioners are in compliance with regulatory requirements.

When a complaint is filed by IPLA following the receipt of an ISDH survey IJ or SQC, the administrator is many times not at fault and in no way has violated SOP. A compliance

officer would have the opportunity to investigate the administrator and determine if the administrator is in non-compliance and whether corrective action should be taken. This Board has already begun to take action to help remediate unjust actions against administrators: ISDH surveys are now being reviewed by the Board Chair to determine if immediate action is required by the Board in addition to being forwarded to the OAG. This is a stop-gap measure that is not sustainable as Board Chairs are elected annually and this assistance is voluntary.

Recommendation #2:

Assess a compliance fee, in addition to current application fees, and retain all disciplinary fines for the purposes of establishing a compliance fund to provide autonomous resources to the Board to be used for public education, licensee retraining and education initiatives, and the funding of a compliance officer.

Allocating fees and disciplinary fines to be used to establish a compliance fund will help offset the salary of a compliance officer. Currently, 63% of state boards responding to the national survey either retained all application fees or, in the alternative, an additional fee was collected for a dedicated fund. With the Board's only measure of continuing competence being random bi-yearly CE audits, more resources invested in education and proactive regulation will contribute to:

1. Increased effectiveness in reviewing and taking action on ISDH surveys;
2. Increased communication with licensees and the public regarding best practice;
3. Further study to remove the barriers currently limiting options for completion of an administer-in-training program (*See Recommendation #4*);
4. More qualified practitioners; and
5. Reduction in consumer harm.

Recommendation #3:

Impose statutory requirements that all HFA's must report any changes of employment.

High turnover for an administrator can be indicative of poor performance. Tracking employment locations for administrators will provide the Board with useful information on potential issues with administrators regularly changing places of employment. This is something that could be investigated by the compliance officer to determine whether an administrator has been asked to correct deficiencies at facilities or if an administrator is “job-hopping” due to poor performance. Initial applicants are already required to disclose this information.

The Board's national survey (Appendix F) revealed that 65% of states are already requiring administrators to report their employment status. Tracking employment changes in administrators will provide a tool to more effectively gauge an administrator's job proficiency and could potentially allow for proper disciplinary actions to be taken. The data obtained from this tool could then be used more effectively to determine potential risk to consumers.

Recommendation #4:

The HFA Board needs to engage in further study of its administrator-in-training program to remove barriers to practice.

Other than the need for better surveillance of administrators, the Board and shareholders agree that significant barriers exist for entry into the HFA profession. These barriers certainly limit the pool of available candidates and even further limit the pool of highly qualified candidates. Licensure requirements were discussed earlier in this report, but it is important to reiterate that the AIT program is long (six to twelve months) and often unpaid. The HFA

profession is typically entered into later in life as a second career making the AIT program financially burdensome due to the fact that it is unpaid.

A revision in the AIT program could increase the supply of qualified administrators allowing facilities to place qualified people in administrator positions. Having a qualified individual in place allows for a significant reduction in operating costs and a reduction in costs to consumers.

CONCLUSION

This assessment has offered insight into the Board's structure and responsibilities in regulating Health Facility Administrators in the State of Indiana. The Board chair and vice-chair along with IPLA's legislative team and board staff have had the opportunity to sit down with the local HFA trade associations, Indiana State Department of Health, and Office of the Attorney General to identify various aspects of the current system.

Currently, Indiana lags behind other states in funding and allocation of resources. There are inefficiencies in the current system due to the disconnect between the agencies designated to regulate the profession and facilities where these professionals work. By creating a dedicated fund, introducing compliance officers, and properly educating practitioners as well as individuals who have a direct bearing on regulation, Indiana has the potential to be a leader in this industry. The Board urges the Committee to adopt the Recommendations herein and to pass these Recommendations onto the Indiana General Assembly for further consideration.

Appendix “A”

A. Title 42: Subpart N—State Programs for Licensing Nursing Home Administrators

§ 431.700 Basis and purpose.

This subpart implements sections 1903(a)(29) and 1908 of the Act which require that the State plan include a State program for licensing nursing home administrators.

§ 431.701 Definitions.

Unless otherwise indicated, the following definitions apply for purposes of this subpart:

Agency means the State agency responsible for licensing individual practitioners under the State's healing arts licensing act.

Board means an appointed State board established to carry out a State program for licensing administrators of nursing homes, in a State that does not have a healing arts licensing act or an agency as defined in this section.

Licensed means certified by a State agency or board as meeting all of the requirements for a licensed nursing home administrator specified in this subpart.

Nursing home means any institution, facility, or distinct part of a hospital that is licensed or formally recognized as meeting nursing home standards established under State law, or that is determined under §431.704 to be included under the requirements of this subpart.

The term does not include—

- (a) A religious nonmedical institution as defined in §440.170(b) of this chapter; or
- (b) A distinct part of a hospital, if the hospital meets the definition in §440.10 or §440.140 of this subchapter, and the distinct part is not licensed separately or formally approved as a nursing home by the State even though it is designated or certified as a skilled nursing facility.

Nursing home administrator means any person who is in charge of the general administration of a nursing home whether or not the person—

- (a) Has an ownership interest in the home; or
- (b) Shares his functions and duties with one or more other persons.

[43 FR 45188, Sept. 29, 1978, as amended at 64 FR 67052, Nov. 30, 1999]

§ 431.702 State plan requirement.

A State plan must provide that the State has a program for licensing administrators of nursing homes that meets the requirements of §§431.703 through 431.713 of this subpart.

§ 431.703 Licensing requirement.

The State licensing program must provide that only nursing homes supervised by an administrator licensed in accordance with the requirements of this subpart may operate in the State.

§ 431.704 Nursing homes designated by other terms.

If a State licensing law does not use the term “nursing home,” the CMS Administrator will determine the term or terms equivalent to “nursing home” for purposes of applying

the requirements of this subpart. To obtain this determination, the Medicaid agency must submit to the Regional Medicaid Director copies of current State laws that define institutional health care facilities for licensing purposes.

§ 431.705 Licensing authority.

(a) The State licensing program must provide for licensing of nursing home administrators by—

(1) The agency designated under the healing arts act of the State; or

(2) A State licensing board.

(b) The State agency or board must perform the functions and duties specified in §§431.707 through 431.713 and the board must meet the membership requirements specified in §431.706 of this subpart.

§ 431.706 Composition of licensing board.

(a) The board must be composed of persons representing professions and institutions concerned with the care and treatment of chronically ill or infirm elderly patients. However—

(1) A majority of the board members may not be representative of a single profession or category of institution; and

(2) Members not representative of institutions may not have a direct financial interest in any nursing home.

(b) For purposes of this section, nursing home administrators are considered representatives of institutions.

§ 431.707 Standards.

(a) The agency or board must develop, impose, and enforce standards that must be met by individuals in order to be licensed as a nursing home administrator.

(b) The standards must be designed to insure that nursing home administrators are—

(1) Of good character;

(2) Otherwise suitable; and

(3) Qualified to serve because of training or experience in institutional administration.

§ 431.708 Procedures for applying standards.

The agency or board must develop and apply appropriate procedures and techniques, including examinations and investigations, for determining if a person meets the licensing standards.

§ 431.709 Issuance and revocation of license.

Except as provided in §431.714 of this subpart, the agency or board must—

(a) Issue licenses to persons who meet the agency's or board's standards; and

(b) Revoke or suspend a license if the agency or board determines that the person holding the license substantially fails to meet the standards.

§ 431.710 Provisional licenses.

To fill a position of nursing home administrator that unexpectedly becomes vacant, the agency or board may issue one provisional license, for a single period not to exceed 6 months. The license may be issued to a person who does not meet all of the licensing requirements established under §431.707 but who—

- (a) Is of good character and otherwise suitable; and
- (b) Meets any other standards established for provisional licensure by the agency or board.

§ 431.711 Compliance with standards.

The agency or board must establish and carry out procedures to insure that licensed administrators comply with the standards in this subpart when they serve as nursing home administrators.

§ 431.712 Failure to comply with standards.

The agency or board must investigate and act on all complaints it receives of violations of standards.

§ 431.713 Continuing study and investigation.

The agency or board must conduct a continuing study of nursing homes and administrators within the State to improve—

- (a) Licensing standards; and
- (b) The procedures and methods for enforcing the standards.

§ 431.714 Waivers.

The agency or board may waive any standards developed under §431.707 of this subpart for any person who has served in the capacity of a nursing home administrator during all of the 3 calendar years immediately preceding the calendar year in which the State first meets the requirements in this subpart.

Appendix "B"

840 IAC 1-1-4 Qualifications for licensure

Authority: IC 25-19-1-4

Affected: IC 25-19-1-3

Sec. 4. (a) All applicants for licensure as an HFA must have completed, at the time of application, the requirements of IC 25-19-1-3(a)(1) and any of the following educational attainments and administrator-in-training programs:

(1) Possession of a baccalaureate or higher degree from an accredited institution of higher learning approved by the board and completion of a required administrator-in-training program for the type of licensure pursued.

(2) Possession of an associate degree in health care from an accredited institution of higher learning approved by the board, completion of a specialized course of study in long-term health care administration approved by the board, and completion of a required administrator-in-training program for the type of licensure pursued.

(3) Completion of a specialized course of study in long-term health care administration prescribed by the board and completion of a required administrator-in-training program for the type of licensure pursued.

(b) Applicants for licensure by endorsement as an HFA may request that the board consider previous experience to satisfy the requirements of subsection

(a). Educational and AIT requirements may be satisfied by two (2) years of active work experience as a licensed HFA in another state. Evidence must be presented to the board demonstrating competency of practice.

(c) Applicants for licensure as an HFA may request that the board consider previous experience to satisfy the AIT requirements of subsection (a). AIT requirements may be satisfied by any of the following:

(1) One (1) year of active work experience as a licensed HFA.

(2) Completion of a training program required for licensure as an HFA in another state that is determined by the board to be equivalent to the AIT requirements of this state.

(3) Completion of a residency-internship in health care administration completed as part of a degree requirement of subsection (a)(1) and (a)(2) that is determined by the board to be equivalent to the AIT requirements of this state.

(4) One (1) year of active work experience as a chief executive officer or chief operations officer in a hospital.

(5) A master's degree in health care administration and six (6) months of active work experience as a licensed HFA in another state.

(d) All applicants for licensure as an RCA must have completed, at the time of application, the requirements of IC 25-19-1-3(a)(1) and at least one (1) of

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the following educational attainments and administrator-in-training programs:

(1) Possession of a baccalaureate or higher degree from an accredited institution of higher learning approved by the board and completion of a required administrator-in-training program for the type of licensure pursued.

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(2) Possession of an associate degree in health care from an accredited institution of higher learning approved by the board, completion of a specialized course of study in long-term health care administration approved by the board, and completion of a required administrator-in-training program for the type of licensure pursued.

(3) Completion of a specialized course of study prescribed by the board and completion of a required administrator-in-training program for the type of licensure pursued.

(e) Applicants for licensure by endorsement as an RCA may request that the board consider previous experience to satisfy the requirements of subsection

(d). Educational and AIT requirements may be satisfied by two (2) years of active work experience as a licensed residential care administrator in another state. Evidence must be presented to the board demonstrating competency of practice.

(f) Applicants for licensure as an RCA may request that the board consider previous experience to satisfy the AIT requirements of subsection (d). AIT requirements may be satisfied by any of the following:

(1) One (1) year of active work experience as a licensed RCA.

(2) Completion of a training program required for licensure as an RCA in another state that is determined by the board to be equivalent to the AIT requirements of this state.

(3) Completion of a residency-internship in health care administration completed as part of a degree requirement of subsection (d)(1) and (d)(2) that is determined by the board to be equivalent to the AIT requirements of this state.

(4) One (1) year of active work experience as a chief executive officer or chief operations officer in a hospital.

(5) A master's degree in health care administration and six (6) months of active work experience as a licensed RCA in another state.

(g) The board may waive portions of the required training hours, up to thirty percent (30%), for an HFA or RCA applicant, based upon criteria approved by the board, provided the applicant's experience under consideration is verifiable to the board's satisfaction.

(Indiana State Board of Health Facility Administrators; Rule 5; filed May 26, 1978, 9:09 a.m.: 1 IR 244; filed May 2, 1985, 10:33 a.m.: 8 IR 1147; filed Sep 29, 1987, 2:08 p.m.: 11 IR 793; filed Dec 22, 1987, 2:36 p.m.: 11 IR 1604; errata filed Mar 25, 1991, 4:40 p.m.: 14 IR 1626; errata filed Jul 8, 1991, 5:00 p.m.: 14 IR 2066; readopted filed May 1, 2002, 10:35 a.m.: 25 IR 2856; filed Jan 24, 2003, 1:55 p.m.: 26 IR 1943; filed Jan 27, 2009, 9:50 a.m.: 20090225-IR-840080216FRA)

840 IAC 1-1-6 Examination

Authority: IC 25-19-1-4

Affected: IC 25-19-1-3

Sec. 6. (a) Every applicant for a license as an HFA or RCA, after meeting the requirements for qualification as set forth in section 4 of this rule, shall pass successfully a written or oral examination, or both, at the discretion of the board that shall include, but need not be limited to, the following:

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- (1) Applicable standards of environmental health and safety.
 - (2) Local health and safety regulation.
 - (3) General administration.
 - (4) Psychology of patient care.
 - (5) Principles of medical care.
 - (6) Pharmaceutical services and drug handling.
 - (7) Personal and social care.
 - (8) Therapeutic and supportive care and services in long-term care.
 - (9) Departmental organization and management.
 - (10) Community interrelationships.
- (b) Every applicant for an HFA or RCA license shall be required to pass the examination for the license with a grade established by the board in accordance with methods and procedures set up by the board.
- (c) All applications for the examination must be complete in every respect, including accompanying data and the required fee, at least thirty (30) days before the examination for which application is being made. Any applicant whose application does not meet these requirements will not be permitted to take the examination.
- (d) An applicant who does not pass the licensing examination in the first attempt shall be entitled to take it two (2) additional times. However, an applicant must successfully pass the licensure examination within one (1) calendar year from the date of sitting for the exam.
- (e) If an applicant exhausts all of the examination attempts within the one (1) year allowed under subsection (d), the applicant shall appear before the board and may be required to submit the following:
- (1) Proof of the completion of at least two hundred (200) contact hours of continuing education approved by the board.
 - (2) A new application for entry into the administrator-in-training program.
 - (3) Proof of completion of the required administrator-in-training program. In addition, the applicant shall meet all other licensing requirements in force and effect at the time of reapplication.

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(Indiana State Board of Health Facility Administrators; Rule 7; filed May 26, 1978, 9:09 a.m.: 1 IR 246; filed May 18, 1979, 9:02 a.m.: 2 IR 842; filed May 2, 1985, 10:33 a.m.: 8 IR 1148; filed Sep 29, 1987, 2:08 p.m.: 11 IR 794; readopted filed May 1, 2002, 10:35 a.m.: 25 IR 2857; filed Feb 6, 2004, 9:15 a.m.: 27 IR 1880; filed Jul 9, 2007, 8:58 a.m.: 20070808-IR-840060513FRA; filed Jan 27, 2009, 9:50 a.m.: 20090225-IR-840080216FRA)

Appendix "C"

IC 25-1-4-3 Sworn statements of compliance; retention of copies of certificates of completion; audits

Sec. 3. (a) Notwithstanding any other law, a board that is specifically authorized or mandated to require continuing education as a condition to renew a registration, certification, or license must require a practitioner to comply with the following renewal requirements:

(1) The practitioner shall provide the board with a sworn statement executed by the practitioner that the practitioner has fulfilled the continuing education requirements required by the board.

(2) The practitioner shall retain copies of certificates of completion for continuing education courses for three (3) years from the end of the licensing period for which the continuing education applied. The practitioner shall provide the board with copies of the certificates of completion upon the board's request for a compliance audit.

(b) Following every license renewal period, the board shall randomly audit for compliance more than one percent (1%) but less than ten percent (10%) of the practitioners required to take continuing education courses.

As added by P.L.269-2001, SEC.4. Amended by P.L.157-2006, SEC.13.

Appendix "D"

IC 25-1-9-4 Standards of professional practice; findings required for sanctions; evidence of foreign discipline

Sec. 4. (a) A practitioner shall conduct the practitioner's practice in accordance with the standards established by the Board regulating the profession in question and is subject to the exercise of the disciplinary sanctions under section 9 of this chapter if, after a hearing, the Board finds:

(1) a practitioner has:

(A) engaged in or knowingly cooperated in fraud or material deception in order to obtain a license to practice, including cheating on a license examination;

(B) engaged in fraud or material deception in the course of professional services or activities;

(C) advertised services in a false or misleading manner; or

(D) been convicted of a crime or assessed a civil penalty involving fraudulent billing practices, including fraud under:

(i) Medicaid (42 U.S.C. 1396 et seq.);

(ii) Medicare (42 U.S.C. 1395 et seq.);

(iii) the children's health insurance program under IC 12-17.6; or

(iv) insurance claims;

(2) a practitioner has been convicted of a crime that

(A) has a direct bearing on the practitioner's ability to continue to practice competently; or

(B) is harmful to the public;

(3) a practitioner has knowingly violated any state statute or rule, or federal statute or regulation, regulating the profession in question;

(4) a practitioner has continued to practice although the practitioner has become unfit to practice due to:

(A) professional incompetence that:

(i) may include the undertaking of professional activities that the practitioner is not qualified by training or experience to undertake; and

(ii) does not include activities performed under IC 16-21-2-9;

(B) failure to keep abreast of current professional theory or practice;

(C) physical or mental disability; or

(D) addiction to, abuse of, or severe dependency upon alcohol or other drugs that endanger the public by impairing a practitioner's ability to practice safely;

(5) a practitioner has engaged in a course of lewd or immoral conduct in connection with the delivery of services to the public;

(6) a practitioner has allowed the practitioner's name or a license issued under this chapter to be used in connection with an individual who renders services beyond the scope of that individual's training, experience, or competence;

(7) a practitioner has had disciplinary action taken against the practitioner or the practitioner's license to practice in any state or jurisdiction on grounds similar to those under this chapter;

(8) a practitioner has diverted:

- (A) a legend drug (as defined in IC 16-18-2-199); or
 - (B) any other drug or device issued under a drug order (as defined in IC 16-42-19-3) for another person;
 - (9) a practitioner, except as otherwise provided by law, has knowingly prescribed, sold, or administered any drug classified as a narcotic, addicting, or dangerous drug to a habitue or addict;
 - (10) a practitioner has failed to comply with an order imposing a sanction under section 9 of this chapter;
 - (11) a practitioner has engaged in sexual contact with a patient under the practitioner's care or has used the practitioner-patient relationship to solicit sexual contact with a patient under the practitioner's care;
 - (12) a practitioner who is a participating provider of a health maintenance organization has knowingly collected or attempted to collect from a subscriber or enrollee of the health maintenance organization any sums that are owed by the health maintenance organization; or
 - (13) a practitioner has assisted another person in committing an act that would be grounds for disciplinary sanctions under this chapter.
- (b) A practitioner who provides health care services to the practitioner's spouse is not subject to disciplinary action under subsection (a)(11).
- (c) A certified copy of the record of disciplinary action is conclusive evidence of the other jurisdiction's disciplinary action under subsection (a)(7).
- As added by P.L.152-1988, SEC.1. Amended by P.L.2-1993, SEC.136; P.L.149-1997, SEC.7; P.L.22-1999, SEC.4; P.L.200-2001, SEC.2; P.L.203-2001, SEC.3; P.L.1-2002, SEC.96; P.L.197-2007, SEC.22.

840 IAC 2-1-1 Statement of policy regarding the practice of health facility administration

Authority: IC 25-19-1-8

Affected: IC 25-19-1-7

Sec. 1. The HFA or RCA is expected to:

(1) exercise ethical and sound decision making and judgment;

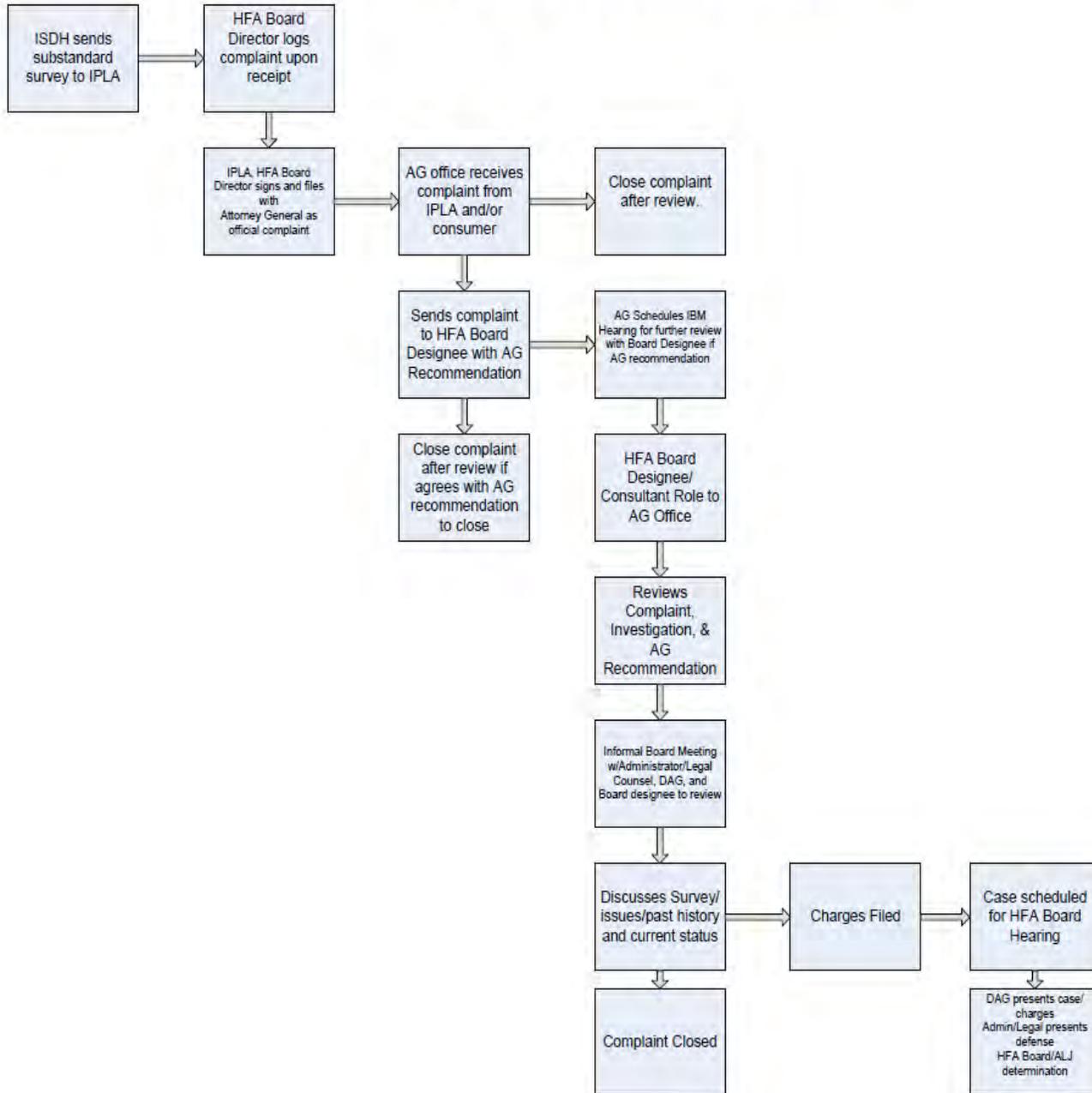
(2) assume leadership in his or her facility; and

(3) exemplify an administrative philosophy congruent with the mission and goals of the organization.

(Indiana State Board of Health Facility Administrators; 840 IAC 2-1-1; filed Feb 1, 1999, 10:52 a.m.: 22 IR 2004; readopted filed Jun 13, 2005, 2:00 p.m.: 28 IR 3353; filed Jan 27, 2009, 9:50 a.m.: 20090225-IR-840080216FRA)

Appendix "E"

HFA Complaint Process



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REPORT TO

Regulatory Occupations Evaluation Committee

April 20, 2011

State Board of Cosmetology and Barber Examiners

PART B ASSESSMENT

Presented by

David Demuth, Chairperson

State Board of Cosmetology and Barber Examiners (SBCBE)

INTRODUCTION: The February 17, 2011 presentation to the committee proved that regulation of the multiple professions within SBCBE is warranted due to the potential for physical harm to the consumer. However, reform is needed due to the fact that SBCBE is one of the lowest resourced boards in the country and there is no current mechanism for timely resolution of complaints against licensees or strong incentive to comply with SBCBE statutes and rules. This presentation will address the committee's questions in part B of the assessment framework as well as provide recommendations for reform.

1. PROACTIVE SURVEILLANCE

Inspections are currently conducted for all new facilities prior to licensure. Random inspections are conducted in the areas where new facility inspections are taking place as time permits. Inspections are also conducted as part of the investigation process as complaints are received by the four (4) inspectors of the Compliance Division of the Indiana Professional Licensing Agency. These inspectors are responsible for approximately 12,200 facilities of the SBCBE and the State Board of Funeral and Cemetery Service. The State Board of Funeral and Cemetery Service is only comprised of 656 of the 12,000 facilities. Until July 2006, mandatory inspections were required as a prerequisite to renewal every four years. The statute was amended in 2006 to indicate inspectors and board members *may* inspect during regular business hours because the agency did not have the manpower to comply with the inspection renewal requirement. The lack of manpower has always been common knowledge among salon owners and licensees. According to board members David Demuth and Diana Bonn, their salons were inspected one to two times in a ten year period. The agency has always been reactive to problems that arise in salons and we do find violations when spot checks are done, however spot checks are so infrequent we can only be reactive rather than proactive to protect the public.

Due to the high volume of initial inspections for licensure (567 initial inspections for store openings in 2010) and a responsibility to investigate complaints, IPLA is unable to conduct regular inspections of any IPLA facilities in Indiana; therefore, there is no proactive regulation of salons in Indiana.

The lack of regulation and the potential for harm was investigated and featured in a May 2010 news report by Indianapolis local news station WRTV Channel 6: <http://www.theindychannel.com/news/23488903/detail.html>

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2. COMPLAINT PROCESS

The disciplinary process is fair and defensible; however it is not timely or efficient. Far too much time lapses from the time a complaint is filed and the time it takes the OAG to file charges with the board. The average age to process a consumer complaint from opening an investigation to the closing of the complaint¹ (Exhibit A) in 2008 and 2009 ranges from 12.74 months for barber complaints in 2009 to 21.06 months for beauty culturists in 2008 (Exhibit A).² The Board is concerned about the length of time an investigation takes prior to making a determination on the complaint. A one (1) to two (2) year delay for a complaint exposes consumers to potential harm by licensees that are continuing to practice regarding an issue that is left unresolved while burdening a licensee with lengthy, open-ended due process. An example of this delay is the recent filing of an administrative complaint against a manicurist salon for causing an infection and partial loss of a toenail. The salon visit that led to this action was April 10, 2009 (Exhibit B); though the Board is not put on notice of the filing of a consumer complaint by the public³, it is reasonable to conclude that the licensee filed the complaint soon after the incident took place (considering the aging averages previously referenced); consequently, this is a complaint making serious practice violations that was not acted on in a timely manner.

In addition to timeliness, the Board is also concerned about the closing of consumer complaints filed by Board staff without communication with staff or notice of the closing. For example, Board staff filed forty-five (45) consumer complaints in 2009 against Board licensees. As of a December 2010 OAG report listing current "open" complaints, thirty (30) of those forty-five (45) complaints had been closed by the OAG without notice to board staff. Fourteen (14) are still pending and one (1) has been filed with SBCBE for possible disciplinary action. There are two (2) issues here: (1) The OAG is required by statute to place the complainant on notice of the closing of a consumer complaint upon the closing. The Board did not receive notice until it received said report, a report that required Board staff to cross reference the complaints it had filed to determine the status. The OAG must provide the board notice of the closing and the reasons for the closing. *See* I.C. 25-17-5(3),

¹ Reasons for the closing of a consumer complaint include the filing of professional charges (i.e. an administrative complaint with the board) or a finding that no violation occurred, among others. (Exhibit A).

² The average time service for Beauty Culturists complaints closed in 2008 was 21.06 months. The OAG closed 306 Beauty Culturists complaints prior to the 21.06 month average. The remaining 143 complaints were closed after the 21.06 month timeframe. The average time service for Barber complaints closed in 2008 was 19.09 months. The OAG closed 40 Barber complaints prior to the 19.09 month timeframe. The remaining 22 Barber complaints were closed after the 19.09 month timeframe. In 2009, the OAG closed 159 complaints associated with SBCBE professions. The average time service for complaints closed in 2009 was 14.30 months. The following graph shows the time service dispersion for all SBCBE complaints closed in 2009. The average time service for Barber complaints closed in 2009 was 12.74 months. The OAG closed 7 Barber complaints prior to the 12.74 month timeframe. The remaining 10 Barber complaints were closed after the 12.74 month timeframe. (Exhibit A)

³ With no notice to Board staff of the filing of a consumer complaint, compliance officers are unaware of these issues when they arise and cannot in turn take corrective action during the time when a consumer complaint is being investigated by the OAG. The Board argues here that the failure to provide notice of the filing of a consumer complaint is a violation of Indiana Code. The OAG may not take any action on a complaint made by a member of the public before it gives the board 30 days to resolve the dispute. *See* I.C. 25-1-7-6, which states, "For a period of thirty (30) days after the director has notified the board and the licensee that a complaint has been filed, the division shall not conduct any investigation or take any action whatsoever, unless requested by the board." [emphasis added].

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which states, "The director shall report any pertinent information regarding the status of the complaint to the complainant."

An even greater concern than the violation of Indiana Code is the closing of a complaint filed by a Board compliance officer. Board compliance officers only file complaints for clear violations of statute, which they have witnessed in their capacity as field staff for the Board. The evidence of the violation is always provided to the OAG upon the filing of the consumer complaint by the compliance officer; yet, these complaints are investigated by the OAG without communication with the complainant (a board officer trained in the inspection of Board licensees) and then closed without notice to Board staff. The Board expects that a complaint filed by its staff be given a modicum of deference in light of the expertise and knowledge of the complainant in these matters.

3. NATURE OF COMPLAINTS

Most complaints are for unlicensed practice and sanitation violations (Exhibit A). When unlicensed individuals that have not been trained and tested for Indiana sanitation requirements and when licensed individuals do not follow sanitation requirements, the consumers are impacted negatively in that their health could be in jeopardy.

Failure to follow SBCBE sanitary requirements could result in transmittal of harmful viruses and infections such as hepatitis and MRSA. Complaints and compliance inspections show specifically that manicuring tools and foot baths are not being properly disinfected and that manicuring salons employ unlicensed individuals. This poses not only a potential medical impact but also a financial impact on consumers that are harmed by the unsanitary conditions in a salon. The board has increased its sanitary requirements to address complaints and concerns regarding sanitation violations. Properly licensed salons and individuals are very concerned about unlicensed practice. Unlicensed individuals and salons do not have the added financial burden of following sanitary procedures and maintaining licenses. They can pay their employees substantially less than those that have obtained education and licensure. All of these results in undercutting the cost of services of surrounding salons that are properly licensed. It is common practice for licensees to report unlicensed practice to inspectors.

4. EFFECTIVENESS OF CURRENT REQUIREMENTS

The SBCBE does have the autonomy and framework to write administrative rules as new recommendations are handed down by the Environmental Protection Agency and other organizations, thereby reducing risk to consumers and keeping current with industry trends. However, the SBCBE feels the time it takes to amend rules is too lengthy to adequately protect the public. On July 28, 2006 the State Board of Barber Examiners filed a notice of intent to promulgate rules to establish fees in compliance with the statutory changes in SEA 139 (P.L.194-2005). After two more attempts and three years later, the rules were promulgated. The Office of Management and Budget would not approve the first two proposed rules in a timely manner even though there was no fee increase from the fees previously in statute. They have since improved on their timeliness however rule promulgation can still take up to a year to complete.

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On February 12, 2010, the SBCBE through the administrative rule process increased its sanitary requirements to protect the consumer. The board requires implements (tools) that have come in contact with blood or body fluids to be disinfected with an EPA registered bactericide, viricide, fungicide, and tuberculocidal disinfectant. Implements that have not come in contact with blood or body fluids must be disinfected with a bactericide, viricide, and fungicide disinfectant. Prior to the rule amendments, the rules indicated implements must be properly sterilized but did not indicate exactly how to do that.

The beauty culture industry is constantly changing and creating new procedures and products. The SBCBE would like to keep up with the changes in a more efficient and timely manner. There is not a national association that has national standards of practice to self regulate the industry.

5. EVIDENCE THAT REGULATORY SYSTEM HAS REDUCED CONSUMER HARM

The SBCBE does not have a good handle on this because there are not enough inspectors to adequately assess and measure this metric. In addition the board does not receive copies of all consumer complaints filed with the Indiana Office of the Attorney General. The agency is working with the OAG to receive information on complaints filed by consumers.

The agency is currently developing an electronic inspection system. Inspector will use electronic tablets in the field to complete salon inspections. This system will allow SBCBE to generate better statistics in the future.

6. APPROPRIATE REGULATORY MECHANISM

The SBCBE agrees that licensure is appropriate but would advocate streamlining the process by combining the licenses for salons, schools and instructors. Currently twenty three (23) other states have combined cosmetology and barber board like Indiana. Of those states, four (4) combine instructors, five (5) combine salons, six (6) combine schools and one (1) combines all three types (Alaska).

7. CONTINUING EDUCATION REQUIREMENTS

Continuing education was enacted July 1, 1996 for the State Board of Cosmetology Examiners and was repealed July 1, 2006. Sixteen (16) hours of continuing education were required every four years to renew active. There was no continuing education requirement to renew inactive. Continuing education was repealed because it was a burden on licensees to pay for and obtain the education. It also served as a barrier to practice for the licensee and proved to be a significant task for SBCBE to manage it properly.

The elimination of the continuing education requirement in 2006 has reduced the SBCBE effectiveness to reduce harm to consumers. Without a mandatory requirement to learn new statutes and rules that are promulgated throughout a licensee's career, it is likely many licensees will not seek out current information from SBCBE. The SBCBE was not consulted on legislation to repeal continuing education and felt they were stripped of a mechanism to protect the consumer.

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Indiana continuing education providers learned of the outbreak of infection in California manicuring salons and developed sanitary courses to teach Indiana licensees how to properly disinfect their manicuring and pedicuring implements and foot spas so that Indiana would not suffer a similar outbreak. Continuing education providers do not have to go through lengthy rule making procedures to address current concerns and new products on the market available to licensees.

Currently twenty-two (22) states require beauty culture continuing education. SBCBE believes continuing education can address current trends and problems in the industry and would educate the licensee in a much timelier fashion than SBCBE could. Please refer to Recommendation # 4 to address this concern.

8. EVIDENCE THAT REGULATORY SYSTEM IS ADVERSELY AFFECTING SUPPLY OF PROFESSIONALS AND/OR RAISING COST TO CONSUMERS

The current system of regulation has been in place since the inception of the board; however, the board has no measureable benchmarks in place. Regulation is required in all states so there is no viable means to determine what would occur without regulation.

9. ADEQUATE RESOURCES

The number of inspectors is inadequate to ensure facilities are following sanitation requirements to protect the consumer.

Please refer to Recommendation #1 and Recommendation #2 for suggestions to address this deficiency.

10. FEES VS. ADEQUATE REGULATION

Individuals, salons, and shops require a renewal fee that equals \$10 per year. This is not adequate to fund the inspections that are needed to protect the consumer. We cannot retain any part of the license or renewal fees to dedicate to compliance or information notification efforts. Board member Diana Bonn participated in a survey of licensees to determine if a fee increase would be favorable. Half of those surveyed indicated they would not be in favor of a fee increase because it would not guarantee more inspectors. The other half would be in favor of a fee increase if the funds were dedicated to hiring more inspectors.

Please refer to Recommendation #1 to address this deficiency.

SBCBE RECOMMENDATIONS

RECOMMENDATION #1 – Increase Inspectors/Increase Proactive Regulation by implementing a fee increase and a citation based program.

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The crux of this recommendation is based on more funding to be designated to the SBCBE for proactive regulation through increased inspections.

Board member and dermatologist, Rebecca Bushong, conducted a survey of her colleagues as part of research for increasing sanitation requirements for the board. Dr. Bushong found that every dermatologist in the state probably sees one or two patients each year that have contracted some type of infection from a manicuring salon. Dr. Bushong estimated medical costs of \$5000 per event and \$1,000,000 per year for pedicure related infections that could have been prevented if the licensee would have followed proper sanitation procedures. Tennessee Podiatrist Dr. Robert Spalding Jr. has spent ten years lecturing on the problems in the nail salon industry that result in foot and nail infections. Dr. Spalding wrote a book on the subject titled Death by Pedicure.

This recommendation of funding is neutral to the state's General Fund and could be generated in the following ways:

Increase fees

The fee increase would be deposited into an SBCBE Compliance Fund to allow for the employment of more investigators that could focus on routine inspection of salons and schools.

A \$20 increase to a licensee once every four years would generate approximately \$300,000 annually. This practice is used in other states. For example, Hawaii has a complaint resolution fund in which \$35 out of the \$175 salon license fee goes into the fund.

Implement a Citation Based Program

The SBCBE recommends a citation-based system that would allow inspectors to mete out immediate discipline and punitive fines in lieu of the lengthy and costly consumer complaint process. This recommendation (1) ensures that salons are better prepared creating a safer environment for the public; (2) generates monies that could be used to fuel additional regulatory activities; and (3) saves resources by replacing the cumbersome consumer complaint process with a more efficient system.

Citation discipline is an effective mechanism to address blatant and easily recognizable violations without the delay and uncertainty of the consumer complaint process. A citation-based system allows inspectors to issue fines for common and readily identifiable violations (e.g. unlicensed practice and visible sanitation issues). The system would include an appeals process akin to traffic violations.

Under our current system when violations are discovered by inspectors, a complaint is filed with the Office of the Attorney General (OAG) for additional investigation and potential prosecution. The process of discipline from consumer complaint to final order takes, on average, between twelve (12) and eighteen (18) months for even minor violations. This delay is common knowledge among salon owners giving them little to no incentive to *timely* correct the violations. With a more streamlined and expedited system of discipline, salon owners would be better prepared for spot-check inspections knowing that they may face immediate discipline and cost for violations. Increased preparedness would lead to fewer health-related and hazardous issues and increase consumer protection.

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Funds from citations would support additional resources to provide higher quality regulation in Indiana. By the very nature of this system, inspectors become more effective and proactive in protecting the public by allowing them to issue monetary citations for common and easily identifiable violations.

Nineteen (19) states presently employ some form of citation-based regulation for licensed salons. Kansas currently has four (4) inspectors to inspect 4400 salons. They have a citation program and collected \$118,000 in fines in 2010. New Hampshire also has a citation program. They have two (2) inspectors to inspect 2000 salons and collected \$26,052 in fines in 2010. Nevada has five (5) inspectors for 2163 salons and collected \$57,000 in 2010 from their citation program.

New Salon Inspection Fees

This could be a fee assessed to all new salons. For example, Montana has an inspection fee of \$150 along with the \$65 license/application fee for issuance of a new salon license.

RECOMMENDATION #2 – Combine Licenses Types

Currently twenty three (23) other states have combined cosmetology and barber board like Indiana. Of those states, four (4) combine instructors, five (5) combine salons, six (6) combine schools and one (1) combines all three types (Alaska).

The SBCBE recommends combining the following license types:

ONE LICENSE

Cosmetology School/Barber School

ONE LICENSE

Beauty Culture Instructor/ Barber Instructor

ONE LICENSE

One facility license for the following professions:

Cosmetology
Manicurist
Esthetician
Electrology
Barber

Salons that have multiple facility licenses currently

- Cosmetology Salon/Barber Shop
- Manicurist Salon/Esthetician Salon

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- Barber Shop/Esthetician Salon
- Barber Shop/Manicurist

Most recently, the total licensed facilities issued by year (all) by the SBCBE is:

2008	1184
2009	1136
2010	989

This efficiency could save \$40 or more for licensees that hold dual licenses in the above mentioned categories. With Indiana having 453 salons/shops with more than one license type at the same facility, there is an estimated loss of \$4,530 annually to the general fund, but would be saved through staff time saved.

Further Indiana only has 4 schools licensed as both a cosmetology and barber school. This requirement of both school licenses seems unnecessary.

RECOMMENDATION #3 – Increase Communications to Consumers and Licensees

Increase Efforts To Make Information More Readily Available

Keep a portion of SBCBE fees to increase communication.

Post best practices online.

Post salon inspections online.

Use E-Gov Delivery e-mail to communicate more than just statute and rule amendments.

Make use of social media available to further communicate with licensees.

Publish periodic newsletters.

RECOMMENDATION #4 – Implement Continuing Education

Currently twenty two (22) other states require continuing education. SBCBE required continuing education until 2006 at which time it was repealed. SBCBE recommends continuing education be required to educate beauty culture professionals to more effectively protect the public.

PUBLIC COMMENTS REGARDING THE STATE BOARD OF COSMETOLOGY
AND BARBER EXAMINERS

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Tracy,

Here is some feedback from a former member of the Indiana Barber Board to also consider.

I have some thoughts concerning a list of questions from the ROEC. I think the licenses rules are in place and they have served us well. It's like going to college. You study the courses and at the end you take your exams.

I think we have adequate regulations in place. They just need to be implemented. If you deregulate, then there is no power. If you are considering that avenue, the customer has no recourse.

I believe that these regulations have done a great service to the public all these years. Today with the spread of lice, bedbugs and infectious diseases, they are still very important.

I don't believe that regulations and licensing has deterred anyone from coming into our profession. It is not difficult to follow the rules. Plus the fact that it is a good profession to enter. It's not that expensive to start a shop and competition is what keeps the cost down.

However, I don't believe that we have enough inspectors to handle the job. When they raised our license fee we were supposed to put on more inspectors. As I read this, I get the impression that there are some thoughts that you want to restrict the power of the Barber Board. You might as well go all the way and take the licenses away from Doctors, Nurses and school leaders and regular driver licenses. That would be very cost effective.

When there are no more rules, how much order do you think you will have?

Respectively yours,

Pat Catanzarite

Former Member of the Barber Board

Risk Analysis-Barbers cut hair with clippers, open unguarded razors, and shears; they also shave faces, heads and necks with unguarded straight razors. Barbers use hair color, permanent waves and hair relaxers as chemical treatments on the skin and hair. Those not trained to use such implements could cause cuts, scratches and abrasions in the skin and scalp leading to permanent scarring, blood loss, and damage to the ears, head, face, neck and eyes. Those not trained in the proper use of chemicals commonly used in the barbershop could cause permanent damage to the client's hair including permanent hair loss as well as permanent damage to the scalp and skin through improper use of chemicals including chemical burns. Sanitation and Infection Control is a large part of the formal training afforded to the students in licensed barber schools. Lack of sanitation and infection control training will certainly contribute to the increased infection rate among the public who now depends on the regulations to protect them.

Informed Consumer Choice-The consumer currently walks into a licensed barbershop knowing that the licensed barber has been trained and is performing his/her duties according to set regulations. If the committee deregulates the barber industry the consumer will have no way to know if the practitioner is a licensed barber who has been specifically trained to shave his face, is a cosmetologist who has not specifically been trained to shave his face but is now offering the service, or is an unlicensed person who has had absolutely no training in shaving or sanitation. Unscrupulous practitioners will prepare certificates and diplomas to post on the walls of the shops and the consumer will have no protection.

Self-Regulation by the Profession- Regulation of barbers is accomplished on the state level in every state in this country except Alabama who has no barber board. There is no professional organization and no national regulating program that is available for Indiana Barbers. If this committee deregulates or joins the barber and cosmetology license into one, there is no protection for the public and no way for the public to know who is training in certain services and who is not trained at all.

Legal Alternatives to Regulation- In the event that the Professional Licensing Agency is dissolved there will be no one to turn to; the consumers and barbers would have no recourse but to flood the Attorney General's Office with questions about the law, to report unlicensed activity, with requests for curriculum in the schools, with complaints about practitioners. Furthermore, if the licenses are made one, the complaints and confusion about who is trained to perform the service will increase dramatically. In the past the barber board handled complaints internally not using the Attorney General's Office and the cost of resolving the complaints was much less than it is today. It costs less to have a Barber Board Member contact an unlicensed shop to cease activity than it does to have an attorney from the Attorney General's Office investigate it and then contact the owner.

Benefit Cost Determination-The benefit of a Professional Licensing Agency to regulate the profession is clear. Indiana consumers deserve to be protected against practitioners performing services for which they have not been trained and from untrained unlicensed practitioners. The structure of the Professional Licensing Agency as it relates to barbering could be altered to perform the same or better services at a reduced cost to the state. The licensed fees and service fees for the services provided by the agency should be increased substantially to be more in line with private industry fees.

Suggestions to improve the revenue flow in relation to the barber profession.

1. Remove state employees that act as inspectors in the barbershops. They visit the shops so rarely that some shops have not been inspected in more than 5 years and they are reluctant to inspect in certain neighborhoods. Create a bank of licensed barbers located across the state to spend one day a week inspecting shops and schools. Choose one barber for each area of the state outside of the city that they work in and provide them with criteria for the inspections. Compensation for the work can per diem and without benefits. The licensed barbers know what to look for, understand the licensing law for barbers and will be able to inspect in all neighborhoods. This practice was done in the past with success.
2. When an inspector falls upon unlicensed activity, either unlicensed shops or unlicensed barbers, a ticket should be issued on the spot. The fines for unlicensed activity should be expensive enough that the offender will think about not repeating the action. Perhaps second offenses should be subject to jail time. The state is losing a great deal of revenue at this time because many infractions are allowed to go unreported and the unlicensed practitioners find it a source of amusement.
3. Licensing fees need to be increased substantially across the board for barbers, barber instructors, and schools. There is no threat to the economic stability of the practicing barber to raise the fees. In addition, barbers should declare affiliation with a licensed shop and if they are not affiliated with a licensed shop their license should be held by the state in reserve for an additional fee.
4. The licensing agency has a database of barber licensees and licensed shops. The barber license and the shop in which they work should be paired up in that database. There should be a fee if the licensee changes shops or for licenses that are held "by the state" because the barber is not actively working. Once the database is complete, the licensing agency should forward via computer the information to the Indiana Department of Revenue

and, in the future, to the US Department of Education proving job placement. The Indiana Department of Revenue could then follow up on licensees with quarterly tax coupons to assure that state income taxes are paid on earnings. This one step alone will increase the state revenue many times over what it would cost of implement it and it would continue to produce state revenue in years to come.

5. At the time of enrollment the barber school could take a photo of the applicant and store it in their database until such time the applicant applies for the barber license. At that time the state could supply the schools with a site in order to download the application for licensure, add the photo and forward the package along with a credit card number to pay the fees to the agency over a secure line. The information would be in a database that then could be utilized by the barber inspector as he/she inspects shop to compare the license photo with the barber in the shop to confirm licensure. This procedure would eliminate handling of the paperwork and cut the cost and time frame of applications. Indiana Licensed Barber Schools should be required to have an online computer in their school.

Joe Barsic
Barber & Barber Instructor
State Board of Cosmetology and Barber Examiners Board Member

Tracy,

This is in response to your request for feedback on state regulated Barber licensing issues. Part of this issue could be a result of the loss of communications. With the loss of our inspector's presence in the barber/style shops, the State is getting ZERO feed back from the working barber and shop owners.

Thanks to great training in our barber schools most shops are self regulated. Barbers are aware of the need for proper sanitary methods that keep their customers and the public safe from harm of possible HIV transmission, ringworm, lice, staph and MERSA infections and other contact diseases.

Barbering is such a personal type of profession that there needs to be some form of State Regulation. There will always be some violations, either through ignorance or intentional non compliance. Without state regulations, I do have a concern that the State may hesitate going after, legally, those shops that choose not to comply with current established regulations of safety and sanitary regulations.

An example would be that barbers and cosmetologists use razors to shave faces and necks and cut hairs which carry obvious risk to customers and the public. This suggests a level of skill and training the public has come to trust and expect. Chemicals such as bleaches, hydrogen peroxide and perm solutions, if improperly used can cause skin burns which could result in painful, costly and lengthy recovery time.

Additionally, the public has some legal recourse besides the barber or cosmetologist own insurance carrier, in the event an issue needs to be addressed.

Consumers of barber and beauty services have been very fortunate because of the high standards and level of training they have received in Barber and Cosmetology Schools. State regulations help support and give guidance to these schools so that they can continue those high standards.

Therefore, in order to address some of the questions poised in your e-mail, dated Feb 21, 2011;

1. I propose that the Barber Shop and individual license fees be raised for the express purpose of hiring inspectors, in the numbers that will be able to inspect barber shops at least bi-annually. Reported unlicensed barber shops can be located and closed and licensed barbers and shops can be fined for violations. This increased revenue will benefit both consumers and barbers.

While talking to several working barber/stylist, the most frequently asked questions were

1. Why hasn't my shop been inspected in many years?
2. Doesn't my license fee go to hire and pay for inspection/inspectors?
3. Who do I call if I know of a barber law violation?
4. Where do my license fees go?

2. Some have suggested that maybe the City or County take control of enforcing regulations thus making violations a local responsibility. This would be an unfunded mandate that cities and counties most likely are not interested in or financially able to do. The County Board of Health could handle the disease prevention issues but they would have to be willing to take on the additional costs and work load. Not likely to happen when there is a board already in place.

There are several reasons for what affect the supply of professionals in the Barber industry, none of which is "the choice of the regulatory system". The cost to the public is directly related to the quality, quantity and cost of those professional services rendered,. Start up costs, local government regulations, taxes, (property, Income, sales etc.) and most of all the personal desire to work hard to be a successful business person. These things have a greater effect on the professional numbers.

As far as manicurists being at the top of the scale for risk to the consumer, could that reflect on improper training, not understanding the importance of sanitary laws or even a simple language issue? The board seems to be handling those problems very well with the help of a couple of inspectors.

In closing, there maybe troublesome issues dealing with our profession but in general nothings so serious that it can't be dealt with by the current system and with the addition of qualified inspectors. There maybe State budgeting issues because of the current economy, but can budgets continue to be based on an economy that will never improve?

Gary O'Dell



**INDIANA ASSOCIATION OF HOMES
& SERVICES FOR THE AGING, INC.**

Assisting members in providing the highest quality of life for those they serve.

**Regulatory Occupations Evaluation Committee
Health Facility Administrator Board Part B Assessment**

The Indiana Association of Homes and Services for the Aging (IAHSA) represents over 150 nonprofit organizations in Indiana that operate nursing homes, low-income senior housing, continuing care retirement communities, assisted living facilities, and a variety of senior home and community based services. IAHSA appreciates this opportunity to provide comments regarding the ROEC Part B assessment of the Health Facility Administrator (HFA) Board.

IAHSA considers the work of the HFA Board to be a critical component of consumer protection provided by the state of Indiana for nursing home residents. As an approved sponsor of HFA continuing education, IAHSA is committed to ongoing quality improvement in the knowledge and skill levels of Indiana's nursing home administrators.

We believe that, in conjunction with the survey process of nursing home compliance with state and federal rules that is the responsibility of the Indiana State Department of Health (ISDH), the work of the HFA Board helps assure that nursing home residents are appropriately cared for and the problems are quickly and effectively addressed. There is always room for improvement and we believe that the ROEC assessment and recommendations will improve the oversight of nursing home administrators and enhance the quality of care provided to Indiana's most vulnerable citizens.

Recommendation 1: The draft ROEC assessment included a recommendation to create on regulatory entity within the IPLA to administer both the HFA licensure process and the oversight and licensure of health facilities currently under the ISDH. IAHSA believes that these two functions should remain independent. The majority of the hearings pending before the HFA Board are related to ISDH survey outcomes. If this function is merged at IPLA, administrators lose the "check and balance" of a truly independent licensing board to determine the culpability of the administrator. The nursing home facility licensure survey and certification process is responsible for not only conducting the survey but also handling all appeals of survey findings. A merged entity under IPLA would also oversee licensure actions against administrators based on these same survey findings. The current system seems to work well and provides a fair hearing for administrators on issues raised by the ISDH.

The IPLA's primary responsibility is to oversee licensure of individuals and not health care facilities. ISDH is responsible for licensure of not only nursing homes but also hospitals, home health agencies, hospice organizations, ambulatory surgery centers, and other health care providers. Common issues arise in all of the programs and the interaction and common management allows ISDH to adopt comprehensive approaches to such issues as reducing pressure ulcers or health facility acquired infections.

nes M. Leich
ident

MAILING ADDRESS:
P.O. Box 68829
Indianapolis, IN
46268-0829

OFFICE LOCATION:
50 Bearberry Lane
Indianapolis, IN 46268

Phone:
317-733-2380

Fax:
317-733-2385

Web Site:
www.iahsa.com



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nes M. Leich
ident

The public health functions of ISDH also interrelate with the health facility oversight functions and benefit from common management. ISDH is responsible for planning for emergency responses to a health crisis such as an epidemic and the nursing home survey component of ISDH has been actively involved in this planning effort.

In terms of efficiencies, ISDH staff outside of the long term care division provides a variety of support functions that would not be available if the nursing home licensing and certification program was moved to IPLA. IPLA's resources are very limited and IPLA would not be able to replace these support functions easily.

Recommendation 2: IAHSA strongly supports the designation of a compliance officer for the HFA Board to serve as a regulatory expert for the Board so that the Board can more effectively and efficiently target its investigations and actions on situations where the administrator is culpable.

Recommendation 3: IAHSA agrees that the HFA Board and IPLA is under resourced and additional revenue sources are needed to support the important work of the Board. By creating a compliance fee and the ability to retain all disciplinary fines will significantly enhance the effectiveness of the Board and help pay for the compliance officer noted in Recommendation 2.

Recommendation 4: IAHSA agrees that the Board needs more information on the employment status and history of licensed administrators both in Indiana and in other states. Job hopping can be a sign that there are issues with the quality of the performance of the administrator. Also, the Board does need information on licensure actions that may have occurred in other states.

Recommendation 5: The administrator in training (AIT) requirement does need further study. AITs are an important part of preparing an individual to become an administrator but the current system makes it difficult for individuals to find preceptors and AIT opportunities and for mid-career individuals to enter the field. Also, there is little oversight and probably a great deal of variability in the quality of different AIT programs and preceptor oversight. IAHSA would be very interested in being part of these discussions.

MAILING ADDRESS:
P.O. Box 68829
Indianapolis, IN
46268-0829

OFFICE LOCATION:
30 Bearberry Lane
Indianapolis, IN 46268

Phone:
317-733-2380

Fax:
317-733-2385

Web Site:
www.iahsa.com

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REGULATORY OCCUPATIONS EVALUATION COMMITTEE

From:

GARY ODELL
JOE BARSK

AS FOR RECOMMENDATION # 2

WE AS BOARD MEMBERS
BACKED BY THE NATIONAL ASSOCIATION
OF BARBER BOARDS OF AMERICA
WE STRONGLY DISAGREE. BARBERING
ITSELF IS AN AGE OLD PROFESSION
STARTING IN ROME AND GREECE.

A. B. MOLAR IN 1893 STARTED THE
FIRST BARBER SCHOOL IN CHICAGO
IN 1897 MINNESOTA PASSED THE
FIRST BARBER LICENSING IN THAT
STATE WE AS BARBERS THROUGHOUT
THE STATE OF INDIANA, REMAIN TO
BE SEPARATE AS FAR WEEDING,
EDUCATION, AND INSTRUCTING

Sincerely,
Joe Barsk
Gary Odell

APPENDIX V (Page 12 of 38)

Regulatory Occupations Evaluation Committee
Indiana Professional Licensing Agency
Government Center South - 402 W. Washington Street - Room W064
Indianapolis, IN 46204

AGENDA

April 20, 2011

9:00 a.m. – 3:00 p.m.

- I. Review of Minutes of February 17, 2011 meeting (5 minutes)
- II. Remarks from Rep. Peggy Welch – Legislative Sponsor (*tentative) (15 min)
- III. Presentation of "Part A" Assessment for Private Investigators & Security Guard Licensing Board
Don Johnson, Board Chair
 - a. Introduction of Private Investigators & Security Guard Licensing Board & Questions (15 min)
 - b. Types of Harm & Severity of Harm & Questions (20 min)
 - c. Current Regulation and Alternatives & Questions (10 min)
 - d. Alternatives to Regulation & Questions (10 min)
- IV. Presentation of "Part B" Assessment for State Board of Cosmetology and Barber Examiners
David Demuth, Board Chair & Diana Bonn, Board Member
 - a. Proactive Surveillance & Questions (10 min)
 - b. Complaint Process & Nature of Complaints & Questions (10 min) *exposing complainant names to the shop owner*
 - c. Effectiveness of Current Regulation – Reduced Consumer Harm & Questions (10 min) *See papers -*
 - d. Appropriate Regulatory Mechanism & CE Requirements & Questions (10 min) *CE Req, necessary for*
 - e. Affects of Regulatory System & Questions (10 min) *Letter from Sam A2, Barbers - 12 ~~4~~ per*
 - f. Adequate Resources/Fees vs. Adequate Regulation & Questions (10) *RAISE THE FEES -*
 - g. Recommendations & Questions (20) *Raise the fees - remove fines so offenders understand we mean business and pay the ~~regulatory~~ inspectors enough.*
- V. LUNCH BREAK (11:30 p.m. - 12:30 p.m.)
- VI. Indiana State Board of Health Facilities Administrators – "Part B" presentation
Shelley Rauch, Board Chair
 - a. Proactive Surveillance & Questions (10 min)
 - b. Complaint Process & Nature of Complaints & Questions (10 min)
 - c. Effectiveness of Current Regulation – Reduced Consumer Harm & Questions (10 min)
 - d. Appropriate Regulatory Mechanism & CE Requirements & Questions (10 min)
 - e. Affects of Regulatory System & Questions (10 min)
 - f. Adequate Resources/Fees vs. Adequate Regulation & Questions (15 min)
 - g. Recommendations & Questions (30)

C

THE NATIONAL ASSOCIATION OF BARBER BOARDS OF AMERICA
2708 PINE STREET
ARCADELPHIA AR 71923
501-682-2806

February 21, 2011

Indiana State Board of Barber Examiners
402 West Washington
Room W072
Indianapolis IN 46204

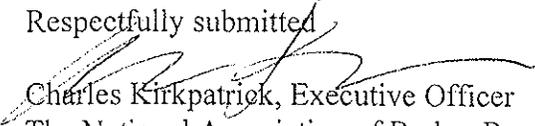
Dear Tracy Hicks, Director

As the Executive Officer of the National Association of Barbers of America, I urge the Barber Board of Indiana to reconsider their intention of either deregulating the board or merging with the Cosmetology Board. There are issues to consider when contemplating the deregulation of the board. One, consider the sanitation and sterilization practices that could be abandoned without the constant supervision of a regulating board. Second, at present the barber board makes sure all students that complete a barber college are tested and approved for the safety of the public. The people that sit in any barber's chair, in any state, should always feel that the practices used by that barber are determined to be safe by the state regulatory board.

There are distinct differences in the Cosmetology and Barber Boards. The barber is tested on clipper cutting and on how to clean and properly sterilize instruments. The barber uses clippers that cut closely to the skin as well as a razor to shave and these tools have to be sterilized and sanitized. The practice of sterilization and sanitation is part of the barber student's test. The Cosmetology test does not include such rigorous testing on the area of clippers and razors. The Cosmetology and Barber Boards are separate entities and your state deserves to have a barber board like all other states that gives a test to ensure a barber is not turned loose on the public without being tested on sterilization and sanitation as well as testing their ability to cut hair, shave, and other services they will use as a licensed barber.

Please seriously consider the steps you are about to take. If you have further questions, please call 501-682-2806.

Respectfully submitted


Charles Kirkpatrick, Executive Officer
The National Association of Barber Boards of America



C

Re Open Customs
HAE m

NANCY HATHAWAY
President
1539 So. Virginia Street
Reno, NV 89509
(775) 688-1988

NATHANIEL K. LaSHORE
Vice President
2665 Las Vegas Blvd. No.
North Las Vegas, NV 89030
(702) 399-9041

ELOY MAESTAS
Secretary-Treasurer
4710 E. Flamingo Rd.
Las Vegas, NV 89121
(702) 456-4769 • Fax (702) 456-1948

IHSAN AZZAM
Health Officer

NEVADA STATE BARBER'S HEALTH and SANITATION BOARD



February 25, 2011

To whom it may concern:

I have heard that the State of Indiana is trying to deregulate the Barber Board or combine it with the Cosmetology Board. I would like to suggest that you should look very hard at this before making this kind of decision.

Let's start with deregulation, that board is in place to protect the consumer's in the State of Indiana. Do you realize that as barber's we use straight razors? If a barber is shaving someone or using clippers and accidentally nicks the client, who is HIV positive or infected with hepatitis and continues to use the implement without properly disinfecting it, the uses the same implement on the next client, and they have a pimple that is opened up with that razor or clipper, you have just created a perfect formula for the spread of a blood borne pathogen. In 2007, 160,000 Americans were diagnosed with MRSA and 5000 of them died. Barbers can do their part by helping to prevent this spread, in our Barber Shops by proper sanitation, washing our hands before and after each client, having our towels in a closed cabinet and properly sanitizing our implements. This is something the Barber Board sees to. Who would take care of this, if there was no barber board? These are just small things that the Barber Boards see to.

How can you merge 2 separate professions? There is a total difference between Barbers and Cosmetologist. There are separate school, separate training, and separate professions. Cosmetologists no nothing about shaving or straight razors. This is like saying a carpenter and a plumber are the same thing. How could you throw those 2 together? They are separate trades. They do different things.

By doing something like this, you would impose great liability to the barbers, barbershop owners, and the consumers of the state of Indiana.

Sincerely,

Eloy Maestas
Nevada State Barbers Board



E
Reduce Customer
Harm

Joe Barsic
Success Schools, LLC
Indiana Barber Board
8101 Polo Club
Merrilville, IN 46410

Hello Joe.

The education of barbers is essential to the long term health of our industry.

The protection of the public is one of the fundamental purposes of the barber school curriculum and programming. Principles and practices of sanitation and disinfection of tools and equipment are at the heart of safeguarding the public from the spread of contagious disease.

Barber Schools and shops use of and training in the proper application of Andis Cool care SinONE spray has been fundamental to communicating the importance of protecting the public and maintaining high standards in the field. Once students graduate from schools their knowledge of Andis Cool Care SinONE and proper use of it serves the people of Indiana well in protecting them.

Thank you for taking a strong leadership position on this area.

Andis and I very much enjoy working with you and the professional barbers of Indiana.

Thank you.

Sincerely,

Ivan Zoot
Andis Company
Director of Education and Customer Engagement

*Redline Consumer
Hampton*

Hampton Mfg., Inc.

135 BETHEA RD
SUITE 501 & 502
FAYETTEVILLE, GA 30214

Virucidal Anti-Bacterial H-42 Clean Clipper Directions for use

Dear Mr. Barsic,
The prevention of cross-contamination between clients is of the utmost. The potential of infection and other skin disorders resulting from dirty clipper blades is tremendous. We recommend the following procedure.

For cleaning electric hair clippers blades. Remove as much hair as possible from the clipper blades with an H-42 Clipper Brush or a soft brush, and submerge cutting end of blades only in cleaner. Turn clippers on and let blades stand in cleaner whiles running for 5 or 6 seconds, turn clippers off and let clipper blades remain wet for ten minutes. Wipe off excess cleaner with a clean dry cloth and clippers are ready for use. Hair clippers should be cleaned this way between each use to prevent cross contamination.

For shears and the like, wipe, dip, or spray being careful not to get into eyes or on the floor. Instruments should remain wet for ten minutes to prevent cross contamination, wipe off excess cleaner with a clean dry cloth and instruments are ready for use.

When used as directed Virucidal Anti-Bacterial H-42 Clean Clipper will prevent Cross-Contamination between clients of Pseudomonas aeruginosa, Salmonella choleraesuis, Staphylococcus aureus, Type A Viruses as in, Human Immunodeficiency Virus HIV-1.

Virucidal Anti-Bacterial H-42 Clean Clipper is EPA Registered, and has a United States Patented on our formula.

Best regards,
Ronald S. Hampton Sr.
President, Hampton Manufacturing Inc.

MANUFACTURERS
DISTRIBUTORS
IMPORTERS
EXPORTERS

WILLIAM MARVY COMPANY, INC.

1540 ST. CLAIR AVENUE • ST. PAUL, MINNESOTA 55105
651-698-0726 • 800-874-2651 • FAX 851-698-4048
wmmarvyco.com

BARBER POLES
DISINFECTANTS
SANITIZING EQUIPMENT
BARBER & BEAUTY SUPPLIES

*C
Reduce Customer Ha*

March 1, 2011

Joe Barsic
Member, Indiana Barber Board

SENT VIA FAX: 219-769-0075

To Whom It May Concern:

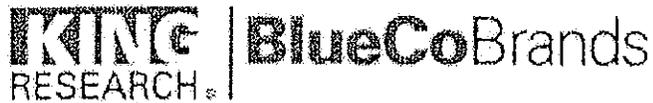
We urge the state of Indiana to continue with the current Indiana Barber Board regulations concerning consumer protection.

As a leading producer of EPA approved disinfectants, we understand the importance of proper disinfectant procedures, which should be regulated in barbershops, for the safety of their patrons.

Very truly yours,


Robert Marvy

RM/jiw

*Reduce Customer
Harm*

March 6, 2011

To Whom It May Concern,

I am writing to express my concern about the discussion to regarding de-regulation of Barber Shops, particularly as it relates to Infection Control. If you ever heard me speak, you would know that I compare the salon/barber shop to healthcare in terms of exposure. In both fields you are required to have personal contact with anyone who presents at your place of business, however, a licensed cosmetologist/barber often touches twice as many people as a hospital nurse. Beyond that, the nurse is required to wear personal protective equipment (gloves) and has access to a clients medical record – something the barber never has! With the advent of so many new multi-drug resistant bacteria, infection control practices should be more stringent rather that de-regulated.

Pathogens such as MRSA (methicillin resistant staphylococcus aureus) and VRE (vancomycin resistant enterococcus) are two very virulent bacteria that could easily be spread in a barber shop and can be life threatening. MRSA for example, is colonized in 2/3 of Americans and for people with weakened immune systems MRSA is very opportunistic. In the susceptible person, the most virulent strains can cause death in less than 24 hours and the flesh eating (necrotizing fasciitis) strain can lead to amputation. To make this situation more dangerous, a lot of people who have immune system impairment are not aware that they are at higher risk. Included in this group are people taking medications for Rheumatoid Arthritis and Asthma as well as Diabetics, Chemotherapy patients and those that lead a generally unhealthy lifestyle.

On a personal note, I recently took my son to a barbershop for a quick haircut. I observed the lack of disinfection, but being in a hurry, I ignored it. The next day, my son had a bad case of folliculitis. My point being, even as an expert in infection control, I didn't ask the questions, but trusted that they were adhering to the state's regulations.

Please feel free to contact me with any questions.

Regards,

Leslie Roste, RN
National Director – Education and Market Development
King Research/Barbicide
7025 Marcia Rd
Milwaukee, Wisconsin 53223

(913)787-4527
lroste@barbicide.com

FXC

Reduce Customs Harm

As a small child I remember going into my uncles' barbershop. The smells of bay rum and fresh soapy lather I can still remember. All the barbers wore fresh white smocks and I thought of them as doctors. It was time of respect, trust, and professionalism and it was regulated that way.

As we understand it today, the primary responsibility of any regulatory agency is to protect the public.

This letter of appeal is meant to place concern and responsibility on those who, legislate, delegate, and enforce bills and laws that secure the safety, sanitation, and care of those people who trust that lawmakers hopefully have their shareholders interests at heart.

No one system is perfect, but the way the economic structure is today, many states are in dire straits. Unfortunately, desperate times call for desperate measures. Lawbreaking becomes the norm and we become inundated with identity theft and the falsification of government documentation as unqualified and unlicensed barbering individuals take the bread off the table of those who are trying to uphold compliancy by following the letter of the law. It isn't that laws are made to be broken, but that we all depend on our lawmakers to protect us when we do obey them and that requires that there be designated regulatory control, and if an individual or location is not in compliance of standards and practices, there will be consequences. Without regulation this becomes impossible.

In the state of Arizona regulatory agencies are 10/90 agencies. All fees collected are monitored by GAO (general accounting office) and then 10 percent goes to the general fund and 90 percent is used to pay total costs running the agency, from paper, phones pc's to salaries. When an individual is cited for infractions and brought before the board and charged fines, 100 percent of that goes into the general fund. I will say it again.....100 percent to the states deficit. De-regulate, sit back and then wonder what a state might have added to this hole that they all are calling state deficit.

Someone once mentioned that cosmetology and barbering should be joined together as one agency because after all, they both basically do the same thing. Hair is hair. If you believe this I challenge you to visit both school curriculums and see the difference.

Someone else said how about if we put the legislature and senate together as one body because after all they both basically do the same thing, Pass or don't pass laws. Very quickly someone claimed that this of course would never work! It is the same in both examples; this will not work because it is not cost effective, and it will cost taxpayers more dollars in attorney's fees for legal assistance when discrepancies occur at many twists and turns.

The tendency today is to get away with whatever you can without being noticed. Deregulation only encourages and invites more barbs on the wire. We need regulation more than ever and it is up to our leaders to listen with their ears and lead with their voices to protect the public. Protect the public that voted for you; you are their voice and they are waiting to hear your answer

Respectfully
Sam Barcelona
4th Vice President

NATIONAL ASSOCIATION OF BARBER BOARDS OF AMERICA

APPENDIX V (Page 20 of 38)

Reduce customer harm C
Protect Public

This petition is directed to the Regulatory Evaluation Committee of Indiana regarding a request to retain the current regulations for barbers and cosmetologists in tact as they are today with the barber and cosmetology professional licenses separate and current state regulation in place to protect the members of the public..

Name	Phone Number
Brian	812-797-4957
Anna Lee	812-653-8065
Dean Lettingain	812-849-5097
Deah Moore	812-653-1423
Billy Carlisle	812-849-3410
Matthew Mann	812-849-3078
Bill Tomlinson	812-936-4611
Mike Bruner	812-868-3965
Chris Nebeck	812-797-4302
Chris Shoopman	278-1340
John C. Ford	278-4565
Jay Pistillo	849-2887
Scott Muth	675-8288
Danny Holt	812-849-3561
Zon Altman	812-849-3720
Dale Deakard	812 849 1639
John	812-278-6718
Leslie Meeter	812-797-4719
Jay Hubbard	812-849-9998
Michael Lee	812-797-1233
Joan Long	812-849-7034
Mike Peters	812-275-0607
Steve Mack	812-653-2500
Gary Mathies	812-583-9724

This petition is directed to the Regulatory Evaluation Committee of Indiana regarding a request to retain the current regulations for barbers and cosmetologists in tact as they are today with the barber and cosmetology professional licenses separate and current state regulation in place to protect the members of the public.

Name	Phone Number
<i>Paul [unclear]</i>	812-849-5286
<i>Col [unclear]</i>	812-849-6179
Jana Russell	849-6185
<i>[unclear]</i>	812-968-9506
<i>[unclear]</i>	812-849-2014
Amy Rayhill	812-849-2014
Scott Arnold	812-583-1012
Carl Lyons	812-849-2659
<i>[unclear]</i>	812-849-3913
<i>[unclear]</i>	812-849-4521
RAUL NEVES	812-391-0791
Martin Sandlin	812-849-6418
<i>[unclear]</i>	812-849-6982
Steven C. Pihllym	812-849-4044
<i>[unclear]</i>	812-849-4525
Dean Henry	812-865-0419
<i>[unclear]</i>	812-278-6387
Kathy Wagner	812-259-5556
<i>[unclear]</i>	812-849-4567
Tim Barden	812-849-3547
Jane Hewitt	812-797-5988
<i>[unclear]</i>	812-675-6532
Eddie Arnold	812-849-2424
Jim Blodgett	812-683-2767

This petition is directed to the Regulatory Evaluation Committee of Indiana regarding a request to retain the current regulations for barbers and cosmetologists in tact as they are today with the barber and cosmetology professional licenses separate and current state regulation in place to protect the members of the public.

Name	Phone Number
<i>Maria Delcumb</i>	812-723-3201
<i>Joseph C. Janga</i>	812-849-0936
<i>George J. Harrison</i>	812-545-1274
<i>[Signature]</i>	812- 545-1274 278-6350
<i>Carl Quinn</i>	812-849-4832
<i>Ed Mc</i>	812 545 9649
<i>Michael E. Mc</i>	812-334-7449
<i>John Wilson</i>	812-570-0775
<i>Ben Garrett</i>	812 849 - 4738
<i>Tom Boe</i>	
<i>Holly Watterson</i>	583-2082
<i>Myra Mast</i>	
<i>Sam Miller</i>	
<i>[Signature]</i>	812-747-5942
<i>Auto O. J.</i>	812-583-2846
<i>[Signature]</i>	812 866 - 2186
<i>William L. Smart</i>	812-849-4645
<i>Juan D. McPherson</i>	812-589-4823
<i>Dean Stewart</i>	812-849-5945

APPENDIX V (Page 23 of 38)

This petition is directed to the Regulatory Evaluation Committee of Indiana regarding a request to retain the current regulations for barbers and cosmetologists in tact as they are today with the barber and cosmetology professional licenses separate and current state regulation in place to protect the members of the public.

Name	Phone Number
Ron Curran	219-433-9479
Wayne Anderton	219-322-0118
William J. Brantley	219-884-4669
Gary Pederson	219-308-1654
Christy John	219-487-0942
Chad Wild	574-350-6927
Henry Humphries	219-756-3866
Jason Tallent	219-678-2236
Zachary Jones	219-614-3642
McKel Robinson	219-796-7511
Bernie Hoyt	33-333-1776
John Nichols	219-928-6521
Eugene Schrage	219-324-9114
Mark Blair	765-588-9737
Denny Madson	219-736-0411
Eliisa Mercado	219-322-5784
Elizabeth Bernier	219/956-4719
Vanessa Rees	219-226-1303
Markene Wall	219-7466275
William Eastland	219-8848553
Tim Bush	219-887-6683
NARAYAN	219-663-1402
J.A.F.	219-793-9192
Loren B... 	219-696-5437



325-228-4111

APPENDIX V (Page 24 of 38)

This petition is directed to the Regulatory Evaluation Committee of Indiana regarding a request to retain the current regulations for barbers and cosmetologists in tact as they are today with the barber and cosmetology professional licenses separate and current state regulation in place to protect the members of the public..

Name	Phone Number
Dolores Lopez	(219) 680-8939
John W. G.	219 775-4258
Ryan Polinski	773 618-9253
Robert Madens	219 746-5705
James Crawford	(849) 800-7292
Simon Ernst	577-4811
Don Childers	209 756 7473
Robert D. Kitts	219-942-2239
John Essex	219 -663-8041
Johnnie Rivers	317 643 0853
Daniel Riedel	219-798-0897
Randy Jacobs	219 219-884-7818
Daniel King	219 306 - 0758
Randall K. Burt	219 512 0854
219	219 746 -8043
Frank C White	219 252-0052
Terry Chapp	219 765-4876
Danielle Virden	219 331-6899
Scott Virden	219 299-0379
Joe Wright	219-512-5662
219	219 753 0857
Dan Loda	219-292-0665
David W. Kelly	219-988-2316

APPENDIX V (Page 25 of 38)

This petition is directed to the Regulatory Evaluation Committee of Indiana regarding a request to retain the current regulations for barbers and cosmetologists in tact as they are today with the barber and cosmetology professional licenses separate and current state regulation in place to protect the members of the public..

Name	Phone Number
Hector Salinas	(219) 256-2798
JEFF LOVE	765 473-5334
Ronald Edwards	(219) 570-5388
William Laws	(219) 743-6555
Donte Taylor	(219) 805-0532
Nick Mojica	(219) 741-6795
JOSEPH TUTOR	(219) 669-8443
RYAN KOLDMET	(708) 769-8559
CHARLES M. Wilson	(219) 322-3926
Sunday Adeyeye	219 433 6805
KaKasha Hunter	713 411
Tom Reed	219 290 3560
Joe Peters	219-405-7267
Lorrie Kelly	219-689-6403
TERRENCE WALKER	219 (743-6998)
Paul Dulla	(708) 258-3372
Matt Barclay	574) 601-1956
Angela Monahan "	(219) 663-7143
Mechelle Brown	(219) 801-8967
Linda Khorovick	(219) 256-0186
Flavio Robles	219-736-23-94
Ataceli Robles	219-736-23-94
RAMON ECHOLS	773-226-9527

0 225-226-272

APPENDIX V (Page 26 of 38)

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Name	Phone Number
LADonna York	219-588-4584
Alex Bravo	219-427-7323
Jeremy Soberanis	312-869-0084
Dana Murray	773-726-6907
Andre de laHoe	219-713-8357
David Ward	815-263-8767
Matt Porter	219-771-4049
Montarey Harris	219-455-5447
Rashawn Carter	219-880-5698
John Carr	(815) 450-1555
Anthony Gian	(317) 433-9932
Roger Smith	(818) 580-4695
Abney Lyon	219-795-1602
Virginia Johnson	(219) 902-5268
Mark M. Roark	(219) 741-5050
Tom O. Fuller	(219) 947-4789
Candice Canon	219-448-1623
Martin Butler	219-577-2399
Glenn S. Hysik	219-738-2514
Timothy Hall	219-840-0741
Beverly Perrethor	(219) 662-7946
Eric Fayer	219-252-0051
Andy Kull	219-924-6897
Robert Brown	708-574-4550

APPENDIX V (Page 27 of 38)

This petition is directed to the Regulatory Evaluation Committee of Indiana regarding a request to retain the current regulations for barbers and cosmetologists in tact as they are today with the barber and cosmetology professional licenses separate and current state regulation in place to protect the members of the public..

Name	Phone Number
Emily Lopez	219 - - - -
Luis Lujan	708-725 - - - -
Michael Brown	219 - - - -
Kyle Jones	708-712-5136
PAUL REINKALL	46321
Rigoberto Cruz	308621
Lol Novaska	21925697
Rich Stiffner	630-776-9500
Vanessa Felton	219-308-2293
Joe Coy	630-340-9060
John Williams	219-808-5609
Rikki Jod	219-555-1212
Sadie Sheffield	219 949 6180
Genevra Myers	219-306-6218
Christopher HALLISON	219-293-1374
JEFF PRUD	219-614-5290
Gary Ainsworth	574-896-4924
Justin Hodges	317 447-3402
Tom Fowler	734-776-0004
Shirley WILLIAMS	219-769-8545
GAM WARD	571-386-8596
modesta Pineda F	
Frank Kasiewicz	

APPENDIX V (Page 28 of 38)

This petition is directed to the Regulatory Evaluation Committee of Indiana regarding a request to retain the current regulations for barbers and cosmetologists in tact as they are today with the barber and cosmetology professional licenses separate and current state regulation in place to protect the members of the public.

Name	Phone Number
Manuel Cortes Jr	219-844-0184
Melanie Poston	219 977-1271
Dorothy Sanders	219 849-0051
CHARLES FOLEY	219-707-7446
Homer Brown	219-938-5502
Fah	219-765-3688
DEBRA BUDEN	219-750-9293
Kathrin J. Panovich	219 996-5912
Losecastivo	219 629 6693
Ricky Ruffin	219-996-5912
Justin Allen	219 680 7230
James	219-781-9776
John	708 275 7277
John	219-512-4437
Barbara Vandoren	773-408-6307
John	219-902-4860
John	219 849 7258
Cheryl Malone	219 838 6115
Allie Stephens	219 308-1927
Dante Malone	219 487-5352
DAVE VANDERHART	219-308-1923
William Fager	317-4572965
	219-629-5464

This petition is directed to the Regulatory Evaluation Committee of Indiana regarding a request to retain the current regulations for barbers and cosmetologists in tact as they are today with the barber and cosmetology professional licenses separate and current state regulation in place to protect the members of the public.

Name	Phone Number
ROBERT SMITH	(219) 682-0994
Fernando Alanis Jr	(219) 617-6116
Amanda Ornelas	(219) 292-3331
Cynthia Blohm	(219) 776-3302
Kurt Woodbury	(219) 402-7532
R. Rye	(219) 689-4849
JOHN WADLATT	708-849-2706
Paula Shindler	219-736-9307
Bill Cox	219 663 7101
ANDREW KRUKOWSKI	219-791-0692
RITA KRUKOWSKI	219-791-0692
John HICKES	219-663-6058
JAMES HAAS	219-588-2095
Matt Kostecki	219-865-6062
BARRY CLANTON	219-769-6311
Jason G. Tellenb	219-0678-2236
Paula [Signature]	219 246-0952
Parlene Fager	219-764-4520
Lisa Thompson	219-617-5884
Bill Spoor	(219) 947-9529
Jan H. [Signature]	319-830-9839
Randy [Signature]	219-616-0091
[Signature]	219-374-5389
[Signature]	219-292-0511

4-6-11

This petition is directed to the Regulatory Evaluation Committee of Indiana regarding a request to retain the current regulations for barbers and cosmetologists in tact as they are today with the barber and cosmetology professional licenses separate and current state regulation in place to protect the members of the public.

Name	Phone Number
Samuel Robinson	219-793-9428
Deloris Jackson	219-793-9428
Robert Jackson	219-793-9428
Anthony Torres	219-588-5395
Robert Stokes	219-951-7457
Rebecca Collins	219-977-1485
Dion Brown	219-884-7514
Shawn Brown	219-884-7514
Charles Franklin	219-884-9022
Cynthia Antosik	219-776-641
Josephine Jenkins	219-725-1215
Anthony Ahern	219-980-0104
Christine Yates	813-787-0727
Carl Burt	812-342-0658
Michael Mull	219-980-4391
Sharon Jones	219-201-884-802
John	219-310-8791
John	219-942-5060
John Renball	219-484-0971
Norma Bazar	219-957-2516
Diane Salinas	219-484-6577
Cecilia Ledezona	616-530-5662
Lauren Schalk	

This petition is directed to the Regulatory Evaluation Committee of Indiana regarding a request to retain the current regulations for barbers and cosmetologists in tact as they are today with the barber and cosmetology professional licenses separate and current state regulation in place to protect the members of the public.

Name	Phone Number
James W. Ogden	484-5614
Mark A. Persin	888-3997
PATRICK McNEIL	608-4453
PETE KROD	718-6868
Tim Cavinder	219-718-4581
JOANNA Pokrywczynski	219-922-6624
John Pokrywczynski	219-322-7402
Stacey Oliver	708-935-7827
Tony Santillan	219-888-1229
Eric Newman	219-712-2899
DAVID Holmes	219-588-2379
William Eldridge	219-902-0810
Karla Zasada	708-941-5771
Theresa Harrison	219-888-3958
Jason Zeman	219-888-3519
GARY HIBBENS	763-5549
Rich Lennex	241-1636
DONALD B TRIPPY	219-730-7401

This petition is directed to the Regulatory Evaluation Committee of Indiana regarding a request to retain the current regulations for barbers and cosmetologists in tact as they are today with the barber and cosmetology professional licenses separate and current state regulation in place to protect the members of the public.

Name	Phone Number
LOUIS BAIN	219 406 5388
Renee E. Hynckel	219 996-7311
Patrick Connell	219 762-6987
STEVE DUNN	219 778-4898
Ralph Swisher	219-759-8968
Harry Stewart	219-912-3869
Franklin J. Freitas	219-750-9190
Vivian Strickland	219-308-0568
Rita Jones Love	219-884-3016
Bernie Davis	219-588-0023
JAMES T. CHAIN	219-881-0309
CORSETTA MARTIN	219-880-0448
William Benford	219-887-5234
JOHN B. LONG	219-325-9609
James Ferrell	219-508-7571
LOBY RIZZO	219-512-5264
David D. Bell	219-730-8839
Frank Paluyewicz	306-6882
Julien Ely	6884566
CHRIS HAMPTON	219-707-6797
Robert A. Spitzer	219 996-7798
Tom Mack	219 510 5503
Nail Thomas	219-845-5650
Dwight Jones	219 324-7973

APPENDIX V (Page 34 of 38)

This petition is directed to the Regulatory Evaluation Committee of Indiana regarding a request to retain the current regulations for barbers and cosmetologists in tact as they are today with the barber and cosmetology professional licenses separate and current state regulation in place to protect the members of the public.

Name	Phone Number
<i>Emily Gibson</i>	219-662-8662
<i>Ronald J. Villedobos</i>	219 308 7543
<i>Greg Spina</i>	769.2676
<i>Warren Goin</i>	854.8102
<i>Stanford</i>	915-2247
<i>Jo Langston</i>	934-9172
<i>Wally [unclear]</i>	219-573-7713
<i>Joe Bruders</i>	219 1063 7854
<i>Lois Bruders</i>	219 1063 7854
<i>William Bruders Jr</i>	219 1063 7854
<i>JAMES THOMAS</i>	219 756-0692
<i>Rich Murray</i>	219 750 894
<i>Leo Vasquez</i>	219-584763
<i>Jakoby Perry</i>	219-779-3227
<i>Mary Melanchon</i>	219-310-8443
<i>Debrah Waters</i>	219-512-0827
<i>JASON L. [unclear]</i>	219 793 9539
<i>Shannon MATHEW</i>	219 219 292 2625
<i>OLIVIA BARNES</i>	219-769-7560
<i>TROY BARNES</i>	219-487-1063
<i>Joe [unclear]</i>	219 742 6667
<i>CANDICE WALKER</i>	219-947-8247
<i>Ann Maden</i>	219 887 9454

APPENDIX V (Page 35 of 38)

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Name	Phone Number
Lisa Milley	219 980 1987
Hectora Sprague	708-539 8636
Paul Sprague	" "
Dennis [unclear]	219 201-0178
[unclear]	630-687-2363
Tom Modica	219 789 1358
Karl [unclear]	219 789 4079
Mark Leckio	219-478-3230
Will Robison	708 -768- 8836
Clarise Davenport	219-455-7153
Steve Nash	219-506-3396
Arash Jajani	219-779-1023
Dennis [unclear]	219 712 1634
Al [unclear]	219-455-7662
Enabelo	(248)-778 6781
Bobby Prots	219 796 9495
Karen Price	219-756-7653
Richard Simecz	219 736 7835
Janet Rodriguez	708 -253-9738
[unclear]	219-987-2336
Fred Blonon	219-805-4221
Jessica [unclear]	614 625 9978
[unclear]	708-783-0296

2/31/2011

This petition is directed to the Regulatory Evaluation Committee of Indiana regarding a request to retain the current regulations for barbers and cosmetologists in tact as they are today with the barber and cosmetology professional licenses separate and current state regulation in place to protect the members of the public..

Name	Phone Number
Louetta Askeed	219-718-1669
Gregorio Bussico	219-726-0279
Saula Kulin	219-985-6242
Auntie Byrass	219-670-1037
Robert J Davi	219-942-9691
Timothy D. Andrew	219-242-0187
Michael VARIKHAK	219-677-6947
Kelly Long	219-756-3716
Crystal Peterman	(219) 803-1396
MARY H-ROBERSON	(219) 455-6854
Herman C. Young	219/838-0956
James Hill	219) 769-0634
Karl Jensen	219-577-4717
WJL Jensen	219-576-4115
Alfred Merten	219-895-9039
Maranda Montero	219-314-5734
David W Foyness	219 613 9864
Cliff Landis	219 956 4247
Steve Landis	219 241 - 4355
Anthony Breault	(219) 736-2976
Dennis Crowl	(219) 664-7762
Walter ALKAF	(219) 408-6047
Ken Cern	219-775-8915
MARK KOFAT	219 558-8020

F

Seas

National Association of Barber Boards of America

HOWARD WARNER
President
77 S. High Street, 16th Floor
Columbus, OH 43215-6108

MIKE McBUNCH
1st Vice President
131 W. Main St.
Tupelo, MS 38804

DAVID REED
2nd Vice President
10412 Lester Lane
Oklahoma City, OK 73139

CHARLES KIRKPATRICK
Executive Officer
2708 Pine Street
Arkadelphia, AR 71923
(501) 682-2806

DEREK E. DAVIS
3rd Vice President
604 Galveston Place SE
Washington, DC 20032

SAM J. BARCELONA
4th Vice President
1400 W. Washington St., Suite 220
Phoenix, AZ 85007

CARL TROUP
5th Vice President
6222 43rd Ave. N.
St. Petersburg, FL 33709

Over the passed several years there have been many attempts to reorganize state regulatory boards by combining or consolidation. The conception is that it reduces staff and provides a substantial savings in operational cost. Evidenced in many states that have tried and then returned to individuals boards is that this approach does not work, as it increases the size of the bureaucracy, creates extensive delays in the licensure process and most of all demonstrates no real cost savings. By maintaining the semi autonomous structure it allows the boards to provide excellent and efficient services to the public, regulated individuals and firms, students and prospective examinees/licensees. The current structure insures that the boards have qualified staff that understands the unique needs of each profession.

The professional organizations served by these boards does not support consolidation. With respect to today's budget deficits, getting the revenue back is the big issue. If the multi million dollar barber industry were deregulated, do you think for a minute that those cutting hair in the back rooms and basements would buy and use manufactured barber tools, supplies and etc. Would they declare the income on their tax returns, would they rent the spaces now rented by today's current barbers? Would they follow sanitation procedures?

I respect the challenges that lawmakers are faced with today, but please, bigger is not always better. Please let these professionals maintain their own autonomy.

Respectfully,

NATIONAL ASSOCIATION OF BARBER BOARDS OF AMERICA

Howard L. Warner
President

