

**Sunset Advisory Commission
Findings and Recommendations
January 31, 2012
As amended February 24, 2012**

Findings

General

1. The provision of administrative support services is critical to efficient and effective operation of these Boards and Councils.
2. The Commission is acutely aware that numerous issues relating to governance, policy issues and budgeting and accounting have been raised during their review hearings. While the Commission is addressing many of those issues through these findings and recommendations, it is also mindful of not wanting to micro-manage these boards and councils.
3. In conducting their reviews, agencies presented several interpretations of the term “priority-based budget.” The Sunset Commission and the agencies being reviewed struggled in interpreting what this terms means.
4. The Commission will refer to the Attorney General and the Office of the Legislative Auditor any allegations of fraud or other illegal activity by the agencies under review. It is not the Commission's role to investigate crime.
5. The Emergency Medical Services Regulatory Board was inadvertently omitted from the list of state agencies to be reviewed under Minnesota Statutes 3D.21.

Health licensing boards

1. Each of the governing boards and councils reviewed by the Commission is comprised of dedicated professionals and citizens who provide expertise and citizen input.
2. The reports and materials and the presentations provided by the staff reflect professionalism, dedication, and commitment to public service.
3. The collaborative development and use of the Administrative Services Unit seems to be a key means to use financial and staff resources wisely and efficiently.
4. Some of the smaller licensing boards share a single staff, so that they are able to take advantage of that administrative expertise across multiple boards.
5. The roles and relationships are generally positive between health licensing boards and the Office of the Attorney General relating to investigations resulting from complaints against licensees.
6. The Legislature has transferred money from the state government special revenue fund to the general fund numerous times in recent years in dealing with budget deficits. The Health Licensing Boards believe these actions are inappropriate, violate Minnesota Statutes 214.06, and violate the intent that these fees are intended to support the licensing function.
7. The Legislature appropriated \$850,000 to the health licensing boards to upgrade their on-line licensing management system. The boards and the Office of Enterprise

Technology are in disagreement regarding which licensing system would best meet the boards' and the state's needs.

8. During its review of health licensing boards, the Commission recognized the other occupations regulated directly by the Department of Health. Reviews of those occupations were not reviewed in this cycle.

Councils and other boards

9. Each of the boards and councils works hard to comply with their statutory responsibilities.
10. The Councils of Color have statutory duties to bring to the attention of elected officials issues facing their communities, including problems that are unique to each community, steps necessary to ensure that the communities have access to benefits and services provided to Minnesotans, and recommendations for improving the economic and social condition of communities of color.
11. Past audits by the Office of the Legislative Auditor indicate that some councils and commissions struggle and have challenges managing their financial and administrative functions.

Recommendations

1. The Commission has reviewed each of the Health Licensing Boards listed in section 3D.21, Subdivision 1 and recommends that they each not sunset.
2. The Commission has reviewed each of the other boards and councils listed in section 3D.21, Subdivision 1, and except as noted below, recommends that each not sunset.
 - a. Based on previous audit findings and recent re-structuring, the Commission recommends that the Council on Black Minnesotans be continued for two years and added to the 2014 Sunset Commission review schedule. The Office of the Legislative Auditor should conduct a financial audit of this Council in 2013, prior to its review by the Commission in the next cycle. In addition, the Sunset Commission recommends that the Commission conduct an interim review of the Council by December 15, 2012. In its report to the Commission, the Council must submit an interim report and respond to issues raised in previous audits by the Office of the Legislative Auditor.
 - b. The Commission recommends that the Combative Sports Commission be reviewed in further detail. The Department of Administration, in collaboration with the Office of the Legislative Auditor, should conduct a program and financial review and report on the feasibility of a merger with the Amateur Sports Commission, and forming a Minnesota Sports Commission that includes functions of both entities. The Sunset Advisory Commission must review this report and make a recommendation to the Legislature by March 15, 2012 so that the Legislature may act within the 2012 legislative session.

3. In order to promote efficiency and cost effective use of state resources, and to improve financial controls, the Commission recommends that each board and council reviewed by the Commission, including the Board of Cosmetology and the Barber Board, be required to make full use of collaborative administrative support services. These include services offered under the SMART program administered by the Department of Administration, or the Administrative Services Unit managed collectively by the Health Licensing Boards.

In addition, the Department of Administration should have oversight authority for financial, contract and administrative matters for the Councils of Color, the Capitol Area and Architecture Planning Board, the Amateur Sports Commission, the Minnesota State Council on Disability, and the Combative Sports Commission. Services provided under these agreements would be paid for by the agencies receiving these services.

The Commission recommends that the Department of Administration prepare a report evaluating the use of the SMART program by each of the Councils and Boards. We also recommend that the Administrative Services Unit prepare a report evaluating the use of its services by the Health Licensing Boards.

4. The Commission recommends that Health Licensing Boards work with the Attorney General to review and clarify the role of the boards in conducting investigations relating to complaints regarding their licensees.
5. The Commission recommends that the Legislature require the Office of Enterprise Technology to work with the Department of Administration using the Lean Enterprise strategy process. This process will result in an aligned agreement to meet the functional licensing needs of the boards that utilize the Administrative Services Unit. This process is to be completed by June 30, 2012.
6. The Commission recommends that licensing fees be reviewed with the Health Licensing Boards to ensure compliance with Minnesota Statutes, sections 214.055 and 214.06. As needed, fees should be reduced to provide sufficient revenue for operating costs of each board, recognizing the need for reserves for anticipated contested cases or resolution of complaints, without generating a surplus. This review should take into consideration the five-year expenditure recovery requirement in section 214.055.
7. The commission recommends that the Legislature enact language to prohibit the Legislature from transferring surplus amounts in the state government special revenue fund to balance the general fund.
8. The Commission recommends that boards and councils improve efforts for gathering and reporting outcome measures—given the most important goals, how has council

affected the outcomes. In communicating to legislators and others, reporting outcomes may be more effective than reporting number of meetings, collaborations, etc.

9. The Commission makes these recommendations regarding the operations of the Sunset Commission:
 - a. The Legislature should appropriate funds to the Sunset Commission to ensure that it has sufficient resources to properly carry out its work. While legislative staff from the House, Senate, the Office of the Revisor of Statutes, and the Legislative Coordinating Commission served the Commission well, that model is not sustainable.
The Commission should in part use these funds to prepare third party evaluations of agencies under its review.
 - b. The work of the Office of the Legislative Auditor should be aligned with the Sunset Commission so that those detailed financial audits and program evaluations can inform the work of the Sunset Commission.
 - c. When conducting evaluations of agencies in the future, the Sunset Commission should request that the Legislative Auditor provide updates on financial audits and program evaluations it has prepared of those agencies.
 - d. The Sunset Commission recommends that the Legislature clarify the term “priority-based budget” in Minnesota Statutes, section 3D.06 (2).
 - e. The Commission recommends that when the Department of Health is reviewed in 2014, that the issue of licensing occupations by the department or by licensing boards be examined.
10. The Commission recommends that the Emergency Medical Services Regulatory Board be included in the review under 3D.21, subdivision 2, and be reviewed in 2014.
11. The Councils of Color were established by the Legislature to function as advisory bodies. The Commission recommends that if the Legislature appropriates Legacy Amendment funds to the Councils of Color, that it be specific with respect to the purpose and amounts of any grants.
12. The Commission recommends that the Labor Interpretive Center, established in chapter 138A.01, be sunset.
13. The Sunset Commission recommends that the Department of Minnesota Management and Budget review the number of full time equivalents and salary structure of the boards and councils that the Commission reviewed. The report must be submitted to the Sunset Commission by December 15, 2012. In the future the Commission recommends this analysis to be done concurrent with future reviews.

Supplemental recommendation
Adopted February 24, 2012

The Sunset Commission recommends:

1. Increased transparency for the work of the Health Licensing Boards by providing the public with more information concerning criminal convictions, malpractice judgments and disciplinary actions.
 - a. Require licensees to provide the Boards with their business addresses;
 - b. Mandate the reporting of malpractice judgments, convictions and disciplinary actions taken in other jurisdictions. This language should apply to all of the Boards
 - c. Establish an enforcement mechanism for the reporting requirement.
 - d. Require and authorize all boards to conduct criminal background checks.
2. A programmatic and structural review or audit shall be conducted of the Board of Medical Practice. This review may be completed by a state or federal organization (e.g., Federation of State Medical Boards).
3. A study of the Medical Practice Act in order to ensure continuous improvement.