

## Recommendations

### **Recommendation 1. The General Assembly should establish an Occupational Licensing Commission to improve the effectiveness of occupational licensing boards and assist with resolving disputes between boards.**

As described in Findings 2, 3 and 4, the Program Evaluation Division found that occupational licensing boards do not maintain sufficient information to monitor and evaluate the efficiency or effectiveness of administrative activities. To provide greater transparency and accountability and improve the overall effectiveness of the associated activities and processes performed by occupational licensing agencies, the General Assembly should establish an Occupational Licensing Commission (hereafter referred to as “the Commission”) within the Department of Commerce.

The Commission should be responsible for assisting the General Assembly and occupational licensing agencies in more effectively achieving the primary objective of protecting the public’s health, safety, and welfare.

- **Commission membership.** The Commission would consist of nine members appointed for four-year terms. Four of the members of the Occupational Licensing Commission would be licensed in an occupation regulated by an occupational licensing agency, as defined in North Carolina General Statute 93B-1, with the terms of each of these members staggered so that the term of one licensed member expires each year. Each of the licensed members must be from a different occupational licensing agency. Five of the members of the Occupational Licensing Commission would be public members who are not licensed in an occupation regulated by an occupational licensing agency or affiliated with any associated entity.

The Governor would appoint two of the licensed members and three of the public members and designate one public member as Chair. One licensed member and one public member would be appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives in accordance with N. C. Gen. Stat. §120-121, and one licensed member and one public member would be appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate in accordance with N. C. Gen. Stat. §120-121.

- **Funding.** The General Assembly should authorize the Commission to receive up to 1% of revenues generated by each occupational licensing agency subject to the requirements of Chapter 93B to support Commission operations and up to eight full time state employees. In Fiscal Year 2013–14, 1% of the revenues generated by each of the identified occupational licensing agencies amounted to approximately \$710,000.

The powers and duties of the Commission should include, but not be limited to:

- receive and maintain performance and licensing information for each occupational licensing agency;
- establish and maintain a website that aggregates performance and licensing information for each occupational licensing agency

- including performance metrics and targets used to monitor and evaluate achievement of objectives, agency statutes and regulations, and a searchable licensing database;
- establish term contracts, in consultation with the Department of Administration, for administrative activities performed by occupational licensing agencies;
  - facilitate coordination among occupational licensing agencies choosing to consolidate administrative activities;
  - develop and provide training and educational materials to occupational licensing agency board members and staff;
  - provide assistance to develop and enact proposed modifications to the Practice Acts of OLAs, as identified in Chapter 93B-1 and as requested;
  - mediate disagreements among OLAs, as defined and identified in Chapter 93B-1, regarding jurisdictional authority over licensure and enforcement;
  - evaluate proposals to establish new Practice Acts for occupations requesting new authority for licensure and make recommendations to the General Assembly on the need for regulation of a new occupation;
  - develop and maintain information requirements for complaint processing by licensing agencies; and
  - submit an annual report to the General Assembly.

The General Assembly should direct the Commission to complete the following tasks and provide recommended statutory changes to the Joint Administrative Procedure Oversight Committee by September 30, 2016:

- Review the annual reporting requirements, as identified in N. C. Gen. Stat. § 93B-2, to ensure sufficient information is obtained to monitor and evaluate achievement of the objectives of each occupational licensing agency.
- Determine information requirements for complaint processing by each of the occupational licensing agencies, as identified in N. C. Gen. Stat. § 93B-2. Requirements should be limited to the information necessary to determine whether the occupational licensing agency receiving a complaint has jurisdictional authority as established in the applicable practice act to investigate the associated allegations. In addition, the Commission should establish a term contract for the electronic submission of complaints for OLAs to utilize, if desired.
- Develop a process for mediating disagreements among occupational licensing agencies, as defined and identified in N. C. Gen. Stat. § 93B, regarding jurisdictional authority. Completion of this mediation process should be required as a condition of any legislative or judicial consideration of the disagreement.
- Develop a process to evaluate and provide recommendations for new Practice Acts for those occupations requesting new authority for licensure. A determination by the Commission should be required

as a prerequisite to the General Assembly considering regulation of a new occupation.

**Recommendation 2. The General Assembly should amend state law to list all occupational licensing agencies in N. C. Gen. Stat. § 93B and define the criteria that agencies must meet in order to be listed.**

As described in Finding 2, the Program Evaluation Division found that N. C. Gen. Stat. § 93B does not clearly define and list the regulatory entities that are statutorily subject to reporting requirements.

The General Assembly should amend N. C. Gen. Stat. § 93B and other related statutes to ensure that occupational licensing boards are clearly defined and listed. Regulatory entities subject to requirements of Chapter 93B should meet the following criteria:

- statutory authorization to prohibit anyone from engaging in the activities covered by a “scope of practice” as defined in North Carolina statute; and
- statutory authorization to collect fees and fines to support all agency operations.

To assist the General Assembly with determining which occupational licensing agencies should be listed in N. C. Gen. Stat. § 93B, the Occupational Licensing Commission should be directed to review state law for all occupational licensing agencies and determine which ones meet the applicable criteria. The recommended statutory changes, to include a listing of occupational licensing agencies meeting the proposed definition, should be submitted to the Joint Administrative Procedure Oversight Committee by September 30, 2016.

**Recommendation 3. The General Assembly should enact state law establishing complaint processing requirements for occupational licensing boards.**

As discussed in Finding 3, complaint processing requirements for occupational licensing agencies are not defined in state law. Consequently, each OLA has developed unique requirements for submitting and processing complaints. This variation in submission hinders the public’s access to the complaint process. In addition, state law does not require OLAs to maintain sufficient information to monitor and evaluate whether the complaint process is being performed in accordance with documented procedures.

To ensure that the public has access to the complaint process for occupational licensing agencies and that the complaint process can be monitored and evaluated by an external entity, the General Assembly should enact state law requiring each occupational licensing agency to develop and implement a complaint process on or before January 2, 2018 that includes:

- electronic complaint submission via the internet, to include a prominently displayed link to a complaint form;

- complaint submission requirements limited to the information necessary to determine jurisdictional authority;
- a description of the complaint process including the types of violations that are under its jurisdictional authority;
- the ability to provide complaint status to complainants;
- the ability to provide complainants with a written description of the final disposition of each valid complaint to include complaints determined to be not subject to the jurisdictional authority of the occupational licensing agency;
- documentation of complaint processing procedures; and
- sufficient information for an external entity to monitor and evaluate whether each complaint was processed in accordance with documented procedures.

**Recommendation 4. The General Assembly should require periodic audits of key regulatory activities and associated performance measurement data.**

As described in Findings 2 and 3, the Program Evaluation Division found statutorily required financial audits do not provide sufficient information to monitor and evaluate the performance of occupational licensing boards. To ensure occupational licensing agencies are cost effective and achieving their objectives, the General Assembly should amend N. C. Gen. Stat. § 93B-4(b) to require each occupational licensing agency conduct a financial audit of its operations and a performance audit of key regulatory activities every three years.

The performance audit should include an assessment of the validity and reliability of the information provided in annual reports, as specified in N. C. Gen. Stat. § 93B-2. The performance audit should also include an evaluation of key regulatory activities to ensure the process is performed in accordance with documented procedures. To ensure adequate information is available, performance audits should not be conducted prior to July 1, 2018.

**Recommendation 5. The General Assembly should direct the Joint Legislative Administrative Procedure Oversight Committee to establish a subcommittee to determine whether licensing authority for the 12 occupational licensing agencies should be maintained or limited to certification.**

In Finding 5, the assessment conducted by the Program Evaluation Division determined that 12 occupational licensing agencies did not provide sufficient information to justify continued licensing authority. The identified occupational licensing agencies are:

1. North Carolina Board of Electrolysis Examiners
2. North Carolina State Board of Registration for Foresters
3. North Carolina Interpreter and Transliterators Licensing Board
4. North Carolina Board of Landscape Architects

5. North Carolina Landscape Contractors' Registration Board
6. North Carolina Locksmith Licensing Board
7. North Carolina State Board of Opticians
8. Board of Examiners of Fee-Based Practicing Pastoral Counselors
9. Cape Fear River Navigation and Pilotage Commission
10. Morehead City Navigation and Pilotage Commission
11. North Carolina Board of Recreational Therapy Licensure
12. North Carolina State Board of Refrigeration Examiners

To ensure that these occupational licensing agencies have an opportunity to provide further justification of the need for licensure, the General Assembly should direct the Joint Legislative Administrative Procedure Oversight Committee to evaluate whether licensing authority should be continued for each identified occupational licensing agency or reduced to the level of certification as established in a Title Act or through a professional association.

The newly established Occupational Licensing Commission should be assigned responsibility for providing the necessary clerical, technical, and professional staff and for obtaining such consulting services as the Subcommittee deems necessary to make its determinations. The staff should provide the required information to the subcommittee in a report for each of the identified occupational licensing agencies by September 30, 2016.

The results of the subcommittee's evaluation should be forwarded to the Joint Administrative Procedure Oversight Committee for review and approval before being submitted to the General Assembly for its deliberation.

**Recommendation 6. The General Assembly should direct the Occupational Licensing Commission, in consultation with the affected occupational licensing agencies, to develop a plan to consolidate each of the ten identified occupational licensing agencies with another regulatory entity.**

As seen in Finding 6, an assessment conducted by the Program Evaluation Division determined that ten occupational licensing agencies did not demonstrate possessing the necessary resources to effectively regulate their respective occupations. The operations of the ten identified occupational licensing agencies could be improved through consolidation with another related agency. The identified occupational licensing agencies are:

1. North Carolina Acupuncture Licensing Board
2. North Carolina Board of Athletic Trainer Examiners
3. Cape Fear River Navigation and Pilotage Commission
4. North Carolina Board of Environmental Health Specialist Examiners
5. Board of Examiners of Fee-Based Practicing Pastoral Counselors

6. North Carolina Board of Registration for Foresters
7. North Carolina Locksmith Licensing Board
8. Morehead City Navigation and Pilotage Commission
9. North Carolina Board of Examiners for Nursing Home Administrators
10. North Carolina Board of Opticians

The General Assembly should direct the Occupational Licensing Commission, in consultation with the affected occupational licensing agencies, to develop a consolidation plan for each identified occupational licensing agency. At a minimum, each plan should identify the appropriate regulatory entity for consolidation, statutory changes necessary to ensure effective regulation, disposition of fund balances, composition of the consolidated board, and recommendations for operational changes such as contract, lease and personnel terminations or transfers. The plan should also include a schedule with key milestones to ensure full implementation of the consolidations within one year following legislative approval of the plan. The plan for each occupational licensing agency identified for consolidation should be submitted to the Joint Administrative Procedure Oversight Committee no later than September 30, 2016.

---

## Appendices:

Appendix A: Assessment of OLAs for Elimination of Licensing Authority

Appendix B: Assessment of OLAs for Consolidation with Another Regulatory Entity

Appendix C: Methodologies for OLA elimination of Licensing Authority and Consolidation with Another Regulatory Entity

Appendix D: Results of Analysis to Eliminate Licensing Authority and to Consolidate with Another Regulatory Entity

---

## Agency Response:

The report was submitted to each of the 55 occupational licensing agencies included in the evaluation for review. Responses are provided as an addendum available on the Program Evaluation Division website: <http://www.ncleg.net/PED/Reports/2014/OccupationalLicensing.html>.

---

## PED Contact and Staff

For more information on this report, please contact the lead evaluator, Chuck Hefren, at [chuck.hefren@ncleg.net](mailto:chuck.hefren@ncleg.net).

Staff members who made key contributions to this report include Jeff Grimes, Jim Horne, and Larry Yates. John W. Turcotte is the director of the Program Evaluation Division.