

## Board Policy Options

<p>Policy: Board funding based on self-sufficiency. This means:  <b>--Funding for bureau chiefs, bureau-wide activities are via recharges</b>  <b>--No cost-related reason not to have a board because boards are no cost to state.</b>  <b>--Fiscal oversight possibly not stringent if disconnect between state &amp; board.</b></p>		
Pro	Con	Options
<p>No overall cost to state for boards</p>	<p>a) Boards have no say in staff activities, thus no control over bureau chief costs, bureau-wide costs like training, etc.</p> <p>b) Tendency for boards to proliferate if there is no cost to state and proponents can get votes for board.</p>	<p>a) Abolish boards as function of state. (independent option)</p> <p>b) Funding from general fund for bureau, division, department positions as well as specific bureau-wide activities (e.g. leadership class)  Rationale: Cost to state rather than pro-rated cost to boards may more clearly document costs. Should taxpayers pay for boards if truly a public safety issue?</p> <p>c) Legislature sets guidelines for board creation that emphasizes public safety as a reason for a board. This could limit requests for boards.</p>
<p>Policy: Fees commensurate with costs  37-1-134 (fees commensurate with costs) - "department may establish standardized fees... costs not related to a specific board or program area may be equitably distributed ... as determined by the department"</p>		
Pro	Con	Options
<p>If group wants to be licensed, then paying fees commensurate with costs keeps self-sufficiency in balance.</p>	<p>Licensees/Board cannot determine basic* costs. Some boards might prefer <i>costs</i> commensurate with <i>fees</i> but that does not fit with statute.</p> <p>*Boards can choose additional programs/costs.</p>	<p>a) Legislature could more clearly state that boards, if they do not set fees commensurate with costs, must either be programs or lose the prospect of being licensed by the state. This would be like an automatic sunset law. (Similar to Brd of Denturists needing x# of licensees)  Amendment may be necessary for 37-1-101(9) to clarify the department's responsibility to board once notice given to an interim committee of fiscal woe.</p> <p>b) Specific statute requiring biennial audit of board costs, commenting on rate validity for internal service funds, and the relation to recharges.</p>

Policy issue: All boards should have the same basic services.

Pro	Con	Options
Recognizes that boards serve certain functions and that those functions have costs.	Not all boards have the same needs.	a) Identify board needs and associate with costs.  b) Distinguish those boards that are similar (big boards and small boards) and determine what services are needed for each, then specify in statute or rule.

Policy issue: Certain boards have set number of meetings required by statute.

Pro	Con	Options
Board member can anticipate basic amount of time required to be on a board. Budgeting and other planning easier in advance.	Board meetings required, which means a cost (even if a teleconference cost).  Variation in statute for no obvious reason.	Remove any requirement that specifies more than once a year. Statute could say: meets at least once a year and as often as board determines necessary - this may help costs.

Policy issue: With boards featuring combined professions, typically each profession has representative on board.

Pro	Con	Options
Members of a profession are most able to articulate and understand their own profession's scope of practice and rule issues, disciplinary problems.	A profession may be a minor player in the board and some representatives then serve as something like a public member but one who has an interest in creating coalitions..  Large boards may be more unwieldy than small boards.  Representatives of a profession can be accused of protecting the profession at expense of public health, welfare or safety.	a) Statute could limit members on boards (as now) and reference that combining boards does not guarantee place on board for each profession.  b) Statute could describe role for unpaid/paid committees that work with each profession when necessary - selected through associations or by interested person lists.  c) Increase the number of public member positions on each board. (Apparently there are sometimes problems in finding persons to serve in this role.)

Policy issue: New professions (or existing boards) that want to combine with an existing board typically seek consensus of existing board before obtaining legislation.

Pro	Con	Options
<p>Makes for a happier board and conceivably works out issues of overlapping scopes of practice ahead of time.</p>	<p>Allows one board or profession to blackball another profession, often with a similar scope of practice.</p> <p>Not clearly defined as to how new boards or combination boards should take shape. Role of department unclear.</p>	<p>a) Statute could revise board structure to combine types of professions (health, mental health, therapy, construction-related business, pre-construction design, etc.)</p> <p>b) Statute could state formula for becoming board or program or combining boards.</p> <p>c) Statute could define structure, re-cast 2-15-121, administrative attachment.</p>

Policy issue: Public safety/health/welfare is used as reason for licensing.

Pro	Con	Options
<p>Provides rationale for state involvement when many professions have opportunity for national certification.</p>	<p>Terms are not well-defined and most boards say they exist for public safety/health and welfare reasons.</p>	<p>a) Define terms and link licensing to terms.</p> <p>b) Address reason for board vs. program in terms of public safety/health/welfare as well as cost (e.g.: (1) if there is a potential for few complaints, then program may suffice for profession; or (2) if the penalty for violating statutes is light, then does the board or program need to exist? In other words, penalties are commensurate with health/safety/welfare argument -- see 37-3-325 for physician penalties and 37-4-327 for dentists); or (3) if continuing education is light or nonexistent, is the public welfare/safety/health being served?</p> <p>c) Identify criteria that would prevent profession/occupation from:            --being licensed;            --having a board.</p>

Policy issue: Professional assistance programs for certain professions (doctors, nurses, pharmacists) may open the door to challenges of "aiding and abetting" criminal activity. For example, the programs address habitual intemperate use of narcotic drugs, etc. How does this issue relate to public health, safety and welfare?

Pro	Con	Options
<p>Having assistance programs helps a professional to stay in a profession while combating a disease (e.g. addiction). The program is intended to help and if not successfully completed the person faces penalties.</p>	<p>The public perception may be that crimes have been committed and that the public health, welfare or safety has been put in jeopardy.</p>	<p>a) Programs might be better operated by an organization without connection to a particular board to alleviate the perception of protection. Oversight/jurisdiction could be assigned to the department or the Attorney General's Office.</p> <p>b) Get the state/board out of the business of providing these programs because of potential liabilities.</p>

Policy issue: Attorney General is specified as attorney for some boards. Does the use of a department "pool" conflict with the statutes? Whether yes or no, should the policy be amended for uniformity?

Pro	Con	Options
<p>Status quo generally works, with language of statute providing for AG role if necessary.</p>	<p>Boards are a creation of the Legislature and appointed by Governor. The AG is a separate entity with no direct reason to be involved.</p>	<p>a) Clean up language that includes AG as attorney for boards since boards rely on department attorney pool. These provisions may be a carryover from day when AG's attorney pool helped with boards at Commerce.</p> <p>b) Remove provision on some boards to be quasi-judicial. Department has authority for subpoena power and the quasi-judicial aspect for boards is moot.</p>