



Montana Department of
LABOR & INDUSTRY

Licensing Reform Task Force Sunset Subcommittee

SUNSET REVIEW CRITERIA SURVEY RESULTS

The Sunset Subcommittee conducted a survey of its members from April 24 - May 8. The goal of the survey was to gather individual views on various sunset review criteria in order to identify where there is a consensus with the subcommittee and where more discussion is needed. Four survey questions were presented to the subcommittee concerning the:

- scope of review
- burden of proof
- review structure
- frequency

Ten subcommittee members responded to the survey. The following pages summarize the responses by the contributing members.

Scope of Review:

What elements of a license should be subject to the sunset review process?

Choose all that apply:

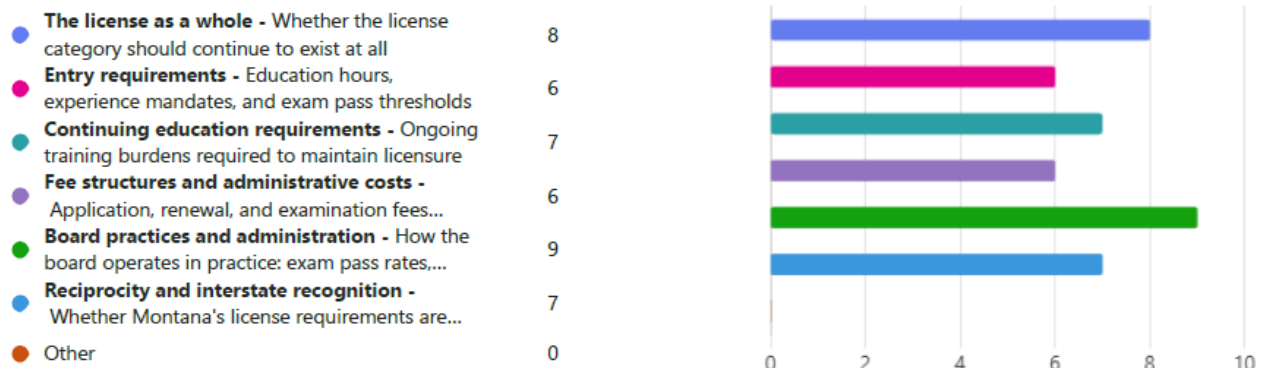
- **The license as a whole** - Whether the license category should continue to exist at all
- **Entry requirements** - Education hours, experience mandates, and exam pass thresholds
- **Continuing education requirements** - Ongoing training burdens required to maintain licensure
- **Fee structures and administrative costs** - Application, renewal, and examination fees assessed against licensees
- **Board practices and administration** - How the board operates in practice; exam pass rates, complaint handling, disciplinary patterns, and de facto barriers not visible in statute
- **Reciprocity and interstate recognition** - Whether Montana's license requirements are compatible with other states and whether recognition compacts are in place

Respondents expressed broad support for a comprehensive sunset review process. The strongest area of agreement was that reviews should examine board practices and administration, which was selected by 9 of the 10 respondents.

A substantial majority also supported reviewing the license as a whole, selected by 8 respondents, indicating that members generally believe the review should include the threshold question of whether a license category should continue to exist.

Continuing education requirements and reciprocity/interstate recognition were each selected by 7 respondents, while entry requirements and fee structures/administrative costs were each selected by 6 respondents.

Overall, the results suggest a consensus that sunset review should not be limited to statutory licensing requirements alone but should also assess how licensing boards operate in practice, whether requirements remain justified, and whether Montana's licensing framework supports mobility and access.



Burden of Proof:

In the review process, who should carry the burden of justification?

Choose one of the following:

- **Agency must prove it's needed** - The responsible entity must show the requirement reduces harm and is necessary. If not, it is removed.
- **Remove unless justified** - Requirements are removed unless the responsible entity gives a good written reason to keep them.
- **Stronger rules need stronger proof** - More restrictive requirements need stronger evidence to stay.
- **Both sides make their case** - No set burden. Both sides present arguments, and the reviewers decide.
- **Keep unless harm is proven** - A requirement stays unless someone proves it causes harm.
- **Keep unless clearly unnecessary** - Requirements stay in place unless there is strong evidence they are not needed.

The responses were divided on who should carry the burden of justification, but they leaned toward requiring affirmative justification for occupational licensing requirements. Of the 10 valid survey responses, 9 respondents provided a substantive answer to this question.

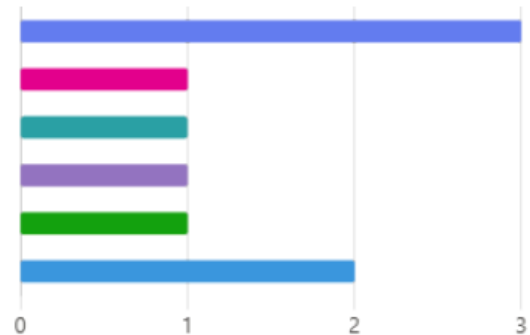
The most frequently selected option was that the agency must prove the requirement is needed, which was chosen by 3 respondents.

Two respondents selected the option that requirements should be kept unless clearly unnecessary.

The remaining responses were distributed across “remove unless justified,” “both sides make their case,” “keep unless harm is proven,” and “stronger rules need stronger proof,” with 1 respondent selecting each.

No single option commanded a majority, suggesting that this question may require further discussion. However, the combined responses show meaningful support for placing at least some burden on the responsible entity to justify continued regulation, rather than presuming that existing requirements should remain unchanged.

- **Agency must prove it's needed** - The responsible entity must show the requirement... 3
- **Remove unless justified** - Requirements are removed unless the responsible entity gives a... 1
- **Stronger rules need stronger proof** - More restrictive requirements need stronger evidence... 1
- **Both sides make their case** - No set burden. Both sides present arguments, and the reviewer... 1
- **Keep unless harm is proven** - A requirement stays unless someone proves it causes harm. 1
- **Keep unless clearly unnecessary** - Requirements stay in place unless there is strong evidence the... 2



Review Structure:

What type of body should conduct the sunset review?

Choose one of the following:

- **Advisory committee** - A dedicated body (which may include board members, legislators, and agency staff) conducts the review and issues a formal recommendation but does not have final authority to act on it.
- **Agency staff review** - The relevant agency (e.g., Department of Labor and Industry) conducts the review internally and produces a report.
- **Legislative audit or research staff** - The Legislative Audit Division or Legislative Services Division conducts the review as a formal audit or research project.
- **Legislative committee acting directly** - A standing or interim legislative committee conducts the review and has authority to recommend legislation without a separate advisory body.
- **Independent commission or outside reviewer** - A body with no direct institutional stake in the license (e.g., an independent commission)
- **The licensing board itself** - The board conducts a self-review and submits findings to the Legislature or relevant agency.

Respondents did not identify a single preferred review structure, but the results show limited support for allowing licensing boards to conduct the review themselves.

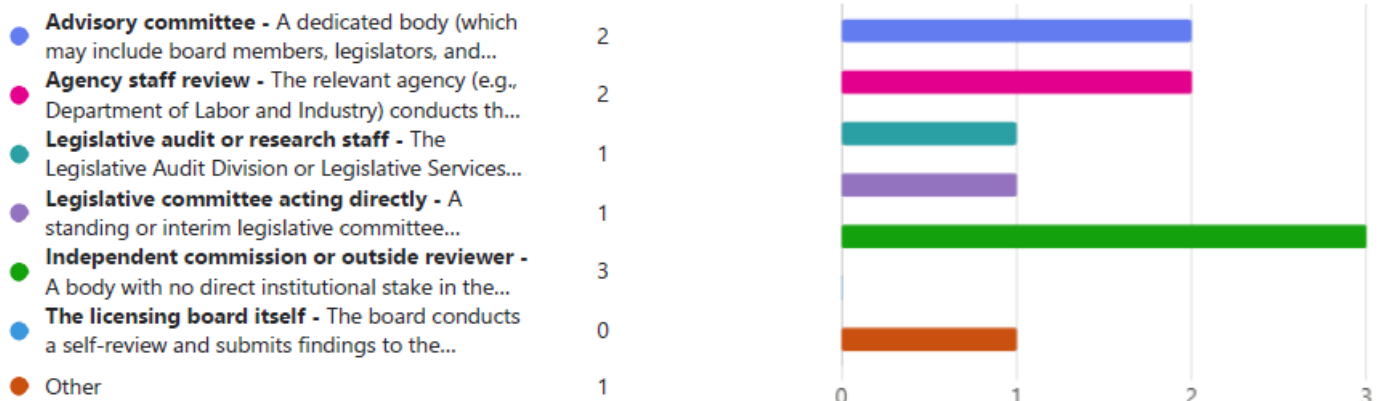
The most common response was an independent commission or outside reviewer, selected by 3 respondents.

Advisory committee review and agency staff review were each selected by 2 respondents.

Legislative audit or research staff and a legislative committee acting directly were each selected by 1 respondent.

One respondent proposed a tiered approach, with staff conducting an initial review followed by legislative body review.

Taken together, the results suggest interest in a process that includes some degree of independence, legislative involvement, or structured external review, rather than relying solely on the licensing board whose requirements are under review.



How Often:

What schedule should the reviews follow?

Choose top 3:

- Every 2 years
- Every 4 years
- Every 6 years
- Every 8 years
- Every 10 years
- Every 12 years
- Every 15 years

Respondents generally favored a recurring review cycle in the middle range, with the strongest support for review every 4, 8, 10, or 12 years.

Because respondents were asked to choose their top three options, the results reflect relative preference rather than a single selected schedule.

Review every 4 years received the most selections, with 6 respondents including it among their top three choices.

Review every 8 years, every 10 years, and every 12 years each received 5 selections.

Review every 6 years received 4 selections, while review every 2 years and every 15 years each received 2 selections.

These results suggest that respondents generally prefer a review process that occurs regularly enough to maintain accountability, but not so frequently that the process becomes administratively burdensome. The strongest cluster of support falls between 4 and 12 years.

● Every 2 years	2
● Every 4 years	6
● Every 6 years	4
● Every 8 years	5
● Every 10 years	5
● Every 12 years	6
● Every 15 years	2

