

# **Self-Evaluation Report**



***Executive Council of Physical Therapy and  
Occupational Therapy Examiners***

**September 1, 2015**

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**EXECUTIVE COUNCIL OF PHYSICAL THERAPY AND OCCUPATIONAL THERAPY  
EXAMINERS  
Self-Evaluation Report**

## I. Agency Contact Information

### A.

**Executive Council of Physical Therapy and Occupational Therapy Examiners  
Exhibit 1: Agency Contacts**

	Name	Address	Telephone & Fax Numbers	Email Address
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<b>PT Board Coordinator</b>	Karen Gordon	Same	512-305-6953 512-305-6970 (fax)	karen@ptot.texas.gov
<b>OT Board Coordinator</b>	Lea Weiss	Same	512-305-6962 512-305-6970 (fax)	lea@ptot.texas.gov
<b>Agency's Sunset Liaison</b>	John Maline	Same	Same	same

## II. Key Functions and Performance

### A. Provide an overview of your agency's mission, objectives, and key functions.

For brevity through the remainder of this document, the terms "Executive Council of Physical Therapy and Occupational Therapy Examiners" and "Executive Council" and "ECPTOTE" and "agency" are used interchangeably, as well as "Texas Board of Physical Therapy Examiners" with "Physical Therapy Board" and "PT Board", and "Texas Board of Occupational Therapy Examiners" with "Occupational Therapy Board" and "OT Board". Also, the acronyms "PT", and "PTA" are used interchangeably with "Physical Therapist" and "Physical Therapist Assistant"; and the acronyms OT and OTA with Occupational Therapist and Occupational Therapist Assistant.

The mission of the Executive Council of Physical Therapy and Occupational Therapy Examiners, an independent administrative governmental agency, is to protect the health, safety, and welfare of the people of Texas through the regulation and enforcement of the practices of physical therapy and of occupational therapy. Specifically, it performs **three key functions** in its relationship with the Texas Board of Physical Therapy Examiners and Texas Board of Occupational Therapy Examiners:

- Support the regulation of PTs and OTs.
- Support the regulation of facilities providing PT and/or OT services.
- Support the investigation of violations of the PT and OT practice acts.

All staff employees directly support or carry out the functions of one or both boards. ECPTOTE staff is organized into three functional areas – administrative support, licensing, and investigations. The administrative staff supports the activities of the board members and other two staff groups in general, personnel, financial, general administration, and limited information technology services. The licensing staff responds to the needs of the physical therapy and occupational therapy licensee population they support. The investigation staff receives and investigates all complaints against the boards’ licensees and works closely with the investigation committees of the two boards. The Executive Director is assisted by two Board Coordinators who primarily provide direct support for the activities of their respective boards.

The objectives of the Executive Council, the Physical Therapy Board, and the Occupational Therapy Board are to hold faithfully to the highest standards of ethics, accountability, efficiency, and openness. Also, it is to demonstrate to the public and those they regulate, through all of their actions, the sincerity of their desire to license and regulate consistently, fairly, and sensibly.

**B. Do your key functions continue to serve a clear and ongoing objective? Explain why each of these functions is still needed. What harm would come from no longer performing these functions?**

Each of the Executive Council and two boards’ key functions are needed by the state of Texas. Inherent in the practice of physical or occupational therapy is the complete faith and trust by the patient in the competency of those who lawfully hold themselves out as physical or occupational therapists. Patients under the care of a PT and/or OT are generally vulnerable by virtue of illness or injury. Many of the patients who are especially vulnerable include the elderly, children, the mentally ill, sedated and anesthetized patients, patients whose mental or cognitive ability is compromised, and patients who are disabled and immobilized.

The Executive Council, in keeping with its mission to protect public health, safety, and welfare must assure that individuals who are licensed as physical therapists and occupational therapists have the minimum professional character and basic educational preparation necessary to practice safely. The Executive Council accomplishes this mission by verifying that those who are licensed are qualified by virtue of their competency and professional character. The Executive Council must continually monitor compliance with the legal requirements to assure continued competency and to take action to limit, restrict or revoke the authority to practice physical therapy or occupational therapy if the practitioner poses a danger to the public. The Executive Council and two boards investigate complaints in a timely manner, enforce the laws relating to

the practice of physical therapy and occupational therapy, and ensure that individuals who are proven to have violated the respective laws receive appropriate discipline.

In Attachment 21 is a recent press release of the Department of Justice discussing recent DOJ task force Medicare/Medicaid fraud investigations. Physical Therapists and Occupational Therapists are mentioned throughout the release as among the healthcare providers charged with fraud, thereby reinforcing the need for the two boards.

**C. What evidence can your agency provide to show your overall effectiveness and efficiency in meeting your objectives?**

The Executive Council and PT and OT boards believe they are models of an effective and efficient regulatory body. The agency's current performance of licensing and investigation functions as shown in its performance measures continues to meet or exceed the pre-merger levels of the separate boards in all areas. Each year the licensee performance measures far exceed those during the first year of the Executive Council's existence. ECPTOTE also conducts investigations more efficiently and resolve them quickly. While the number of boards' disciplinary actions increases each year due to population increase, they maintain one of the highest ratios of disciplinary actions taken vs. complaints received among licensing agencies.

ECPTOTE is responsible for licensing, regulating, and monitoring the status of approximately 25,000 physical therapists and physical therapist assistants, 15,000 occupational therapists and occupational therapy assistants, and 4,100 facilities in which they practice (approximate EOY FY2015 numbers). In 1994 the supported population was 7,566 physical therapists, 3,459 occupational therapists and 0 facilities. The ECPTOTE investigated 357 PT related complaints and 182 OT related complaints in FY2014. It met or exceeded 31 of 40 performance measures. All of the measures that were not met can be directly attributed to either poor forecasting on our part or a lack of funding; a situation remedied by the recent 84<sup>th</sup> Legislature. ECPTOTE accomplished this from FY1994 to FY2013 with just 18 full time employees (19 FTEs since FY2014). ECPTOTE is a self-funded agency, i.e., it is required to raise sufficient revenue for GR to cover its appropriations and indirect costs. The agency has achieved years of significant revenue increase; the revenue to expenditures ratio is now well over 300%, and is slowly creeping towards 400%.

Since it was created in FY1994, ECPTOTE has performed its job of consumer protection efficiently and effectively by:

-- Supporting a greater than 300% increase in licensee and registered facilities with an average annual increase of 6-8% per year. This chart says it all:

End of FY	FTEs	Total Licensees	Licenses Issued	Licenses Renewed	Facilities
<b>1994</b>	18	11,025	1,523	8,858	0
<b>2014</b>	19	35,950	3,483	14,841	4,125

-- Always achieving high efficiency and performance statistics despite frequent budget cuts through the years. While the state goal to issue a license is 10 days, in 1994 it took ECPTOTE 35 days to issue a one year PT license and 75 days to issue a one year or less OT license. The 2014 performance measure submission is 3.79 days to issue a PT license, 2.23 days to issue an OT license in FY2014, and 1.0 days to renew either license. These outcomes have increased over the past few years as will be explained later, but they still exceed those of the “premier licensing agency in Texas”.

-- Consistently high Customer Service and Survey of Employee Engagement ratings.

-- Spending the operational funds entrusted us prudently and wisely.

The first point in support of agency competence is that the state legislature has postponed the agency’s originally scheduled FY2005 Sunset review three times, and it will have been 24 years since the three entities of ECPTOTE were last reviewed by the Sunset Commission.

The second point in support of agency competence is cost effectiveness. As already mentioned, the agency has accomplished its mission effectively and efficiently through the years with an increase of one FTE and no contract help, and with a relatively flat-lined GR appropriations pattern. A good comparison between the Executive Council and other agencies is the average cost per licensee with the two largest medical-related consolidated agencies in other states. The average licensee cost in California and Florida is **\$81.81** and **\$56.55** respectively. The Executive Council average cost is **\$33.63**. These figures are as of FY2014. While agency appropriations were increased in FY2016/17, the expected number of new Texas licensees during that period will offset the funding increase, thereby not significantly changing the average licensee cost. Similar studies in the past included the New York statistics, but it was not included in the 2014 study due to lack of information provided by that state. Meanwhile, some states are disassembling their consolidated licensing agencies; the most recent one is Arkansas.

The third point in support of our competency claim is the opinion of those we license and regulate. ECPTOTE has contracted since FY2002 with the Center for Social Work Research at the University of Texas to manage its customer survey system. This survey is offered on the agency website, which is accessed by almost all licensees and potential licensees at least once in a two year period, and the results are collected and provided to ECPTOTE in time for inclusion in the biennial Strategic Plan. The latest data in Attachment 20 that was provided by the Center is based on 2,547 surveys collected between 1/1/2014 and 7/31/2015. All areas surveyed were at or above a “4” average, which the Center describes as “indicate areas of substantial strength for the organization”. Anecdotal comments are sent to the agency from the Center as they are received, and answered by the agency directly to the commenter.

Additionally, the PT Board receives a quarterly report from the Federation of State Boards of Physical Therapy regarding the satisfaction of candidates who took the national examination as reported through the Candidate Satisfaction Survey. The question specific to the state licensure application process on the survey is “How satisfied were you with the processing of your application by the state in which you applied for licensure.” The respondents who had applied for Texas licensure answered that they were 100% satisfied in both March and May 2015, and the overall satisfaction rating through June 2015 is 92.5%. The latest report is included in Attachment 20.

The point of the last two paragraphs is that those who actually fund the agency through their fees feel that they are getting value for their money.

**D. Does your agency’s enabling law continue to correctly reflect your mission, objectives, and approach to performing your functions? Have you recommended changes to the Legislature in the past to improve your agency’s operations? If so, explain. Were the changes adopted?**

**1. Executive Council:**

The agency’s enabling statute generally reflects its mission, objectives, and approach to performing its functions. There have been no changes made to the statute since the agency was created in 1993, because the original document gave ECPTOTE enough latitude to work around the most difficult to execute or obsolete areas through the years. However, there are several recommendations listed in Section IX, Major Issues, that the Executive Council hopes are implemented through the Sunset process which will improve the effectiveness of the agency.

**2. PT Board:**

Though the overall mission and objectives of the PT Board remain the same, with the exception of the Board’s role as an examining board, the approach to performing the functions have significantly changed since the last time the Board underwent the Sunset process in 1993. On the recommendation of the PT Board, several sections of the Practice Act were amended

legislatively since then. Briefly, the following list enumerates the year, the bill number, and a short description of the changes that affected the Board's functioning. A more detailed analysis of the enrolled bills and their effect can be found in Section III., History and Major Events. Recommendations for additional changes are found in Section IX. Major Issues.

1997 – H. B. 1306

- authorized the PT board to impose an administrative penalty against licensees or facilities,
- authorized temporary suspension of a license on an emergency basis.

1999 – H. B. 2382

- required the PT board to authorize licensee peer organizations to evaluate and approve continuing education courses.

2009 – H.B. 3717

- provided for exemption from licensure requirements under certain circumstances.

2009 – H.B. 4281

- required the PT board to adopt rules for continuing competence rather than mandatory continuing education requirements.

2011 – H.B. 3369

- authorized the PT board by rule to exempt facilities from registration.

2013 – H.B. 588

- made the renewal licensing requirements more consistent for all license holders,
- provided for specific information on licensees that could be held confidential and not subject to disclosure,
- eliminated the requirement for display of the license holder's renewal certificate, and
- provided the authority for the Board to develop requirements and procedures to reinstate a license

2013 – S. B. 1099

- codified and protected the terms doctor of physical therapy (DPT) and master of physical therapy (MPT).

### **3. OT Board:**

Due to the many postponements of the Sunset Review process, the OT board's Practice Act has remained in many regards, unchanged. The OT board, whose mission and objectives have remained the same, although the OT Board no longer serves as an examining board, has been able to make process improvements to internal policies within the constraints of current statute. Through the years, the OT board has recommended a number of legislative changes,



the passing of which have enabled the OT board to clarify procedures and to continue to meet its mission and objectives and better serve the public.

The bills related to such are listed below and are discussed in greater detail in Section III, History and Major Events.

1999 –

S.B. 310

- increased board membership from six to nine members and allowed members to be reimbursed for expenses,
- removed the requirement that an applicant for a provisional license be sponsored by a licensee,
- authorized the board to issue subpoenas and impose an administrative penalty, and
- required the board to establish procedures and standards related to temporary suspension of a license on an emergency basis.

S.B. 556

- broadened the criteria of health-care professionals authorized to refer for occupational therapy services for patients being treated for specific health care conditions.

2001 –

S.B. 692

- added a provision allowing the board to authorize license holder peer organizations in Texas to evaluate and approve continuing education courses up until January 1, 2003.

H.B. 2812

- codified in the Act language changes related to provisions from S.B. 310 and S.B. 556 from the 76<sup>th</sup> Legislative Session.

2007 – H.B. 3249

- removed the year “2009” and replaced it with “2013” in §453.003, Application of Sunset Act, of the Act, concerning language stating that unless continued in existence as provided by Chapter 325, Government Code, the OT Board would be abolished and Chapter 454 of the Occupations Code would expire September 1, 2009.

2009 – H.B. 1785

- clarified language to reflect changes in entry-level occupational therapy education and language related to the setting of fees by the Executive Council for a late renewal,
- added language allowing an individual with a license expired more than one year to apply for license reinstatement by meeting the OT board’s requirements,
- removed language requiring an out-of-state practitioner with a current license in another state who was applying for reinstatement of the Texas license to have held the out-of-state license for two years preceding the application for reinstatement, and
- allowed the board to adopt rules implementing its continuing education approval process after January 1, 2003.

2011 – S.B. 652

- removed the year “2013” and replaced it with “2017” in §453.003, Application of Sunset Act, of the Act, concerning language stating that unless continued in existence as provided by Chapter 325, Government Code, the OT Board would be abolished and Chapter 454 of the Occupations Code would expire September 1, 2013.

**E. Do any of your agency’s functions overlap or duplicate those of another state or federal agency? Explain if, and why, each of your key functions is most appropriately placed within your agency. How do you ensure against duplication with other related agencies?**

There is no duplication of functions at either the state or federal level for the Executive Council and both boards, neither are there any related agencies.

When a possible duplication of functions between an entity of the Executive Council and others has existed, we have taken the lead on resolving any overlap. A good example of this occurred several years ago concerning facility registration.

While physical therapy and occupational therapy facility registration was mandated during Sunset 1993, facilities already licensed under Subtitle B, Title 4, of the Health and Safety Code were exempt to avoid undue and duplicate regulation of those facilities. In order to resolve whether a hospital offsite outpatient facility was included in the hospital license or would be subject to physical therapy and/or occupational therapy facility registration, the two boards worked closely with the Department of Aging and Disability Services (DADS) and the Facility Licensing Group of the Texas Department of State Health Services (DSHS) to make that determination. Attachment 21 includes three letters from DADS and DSHS regarding this issue.

**F. In general, how do other states carry out similar functions?**

The situation for the professions of Physical Therapy and Occupational Therapy in other states is similar to that of the Texas PT Board and Texas OT Board. All states and territories provide

similar functions of licensing and enforcement, and all have a governing board to regulate the practice of physical therapy and occupational therapy. This was not the case with OTs a few years ago, but now all states have moved to a licensing model that is similar to Texas'. Each board consists of members of the profession and public members whom are most often appointed by the Governor of the state. All states require the passage of the National Physical Therapy Examination (PTs and PTAs) as administered by the Federation of State Boards of Physical Therapy or the National Board for Certification in Occupational Therapy (OTs and OTAs). A majority of states require mandatory continuing competence or continuing education for license renewal. Some states have independent licensing boards, while others are located within a state level health umbrella agency.

## **G. What key obstacles impair your agency's ability to achieve its objectives?**

### **1. Executive Council:**

Over the past 22 years, the agency has had to overcome significant obstacles that impaired its ability to achieve its objectives, usually associated with funding. The agency budget has never had built in "slack" to take care of unexpected expenditures, nor has it used unfilled FTE positions to fund other needs. These resource decisions have affected budgetary planning and execution during most recent fiscal years. The agency has been able to react to these shortfalls, but in some years it has had a negative impact on performance measures – primarily the enforcement measures.

Today, the only key obstacle to insuring that all fully qualified applicants are licensed efficiently and quickly is the PT and PTA fixed date examination schedule discussed below. This obstacle has also had a negative impact on several Key Performance Measures. For many years before fixed date testing, the average time to issue both PT and OT licenses was between 1.0 and 1.5 days/license. Today that number has almost tripled and has forced the agency to request (and receive) two additional licensing clerks for the upcoming biennium.

### **2. Physical Therapy Board:**

Prior to July 2011, applicants for licensure by examination had the option of registering for the National Physical Therapy Examination (NPTE) and taking the exam on a continuous testing basis. However, to address exam security concerns and to protect the integrity of the NPTE, the Federation of State Boards of Physical Therapy (Federation) eliminated continuous testing to limit the access to the examination, and transitioned to a fixed-date schedule with the NPTE offered only four (4) times per year.

This changeover has had a significant negative impact on the agency's objective to operate an efficient, accurate, and timely process to license physical therapists (PTs) and physical therapist assistants (PTAs) due to both the large number of documents that the Licensing department processes during the peak months just prior to a testing date, the high volume of exam score reports transmitted in a single batch from the Federation, and the attendant number of licenses to issue following each testing date. Additionally,

the span of time between completion of qualifying educational programs and the applicant's ability to test has increased. As a result, the agency has more temporary license applications to process and issue. With the number of new graduates increasing each year (there were three new Texas-located PTA programs and 1 new PT program that came on line in 2015), the licensing staff has found it increasingly difficult to keep up with the demand for services and meet the goals of the licensing performance measures. By cross-training the licensing staff from the Renewals department to assist in easing the burden of these workload spikes, the licensing department has been able to keep the issuance of licenses well below the legislative target of within ten days.

## **2.Occupational Therapy Board:**

The OT Board has not encountered key obstacles that have impaired its ability to achieve its objectives.

### **H. Discuss any changes that could impact your agency's key functions in the near future (e.g., changes in federal law or outstanding court cases).**

The recent Supreme Court ruling in *North Carolina Board of Dental Examiners vs the Federal Trade Commission (FTC)* has the potential to impact the functioning of the agency and both the PT and OT Boards. The Court found that the NC dental board acted without proper state supervision which made it vulnerable to conflicts of interest between the duties of the board and the commercial interests of its members. The Court's decision makes clear that state agencies constituted with a majority of active market participants are subject to the federal antitrust laws unless the state actively supervises their decisions. According to the Majority's conclusion, "active supervision" requirements that must be met are:

- (1) supervisor must review substance, not merely procedures;
- (2) supervisor must have power to veto/modify;
- (3) mere potential for supervision is not enough; and
- (4) supervisor cannot be an active market participant.

In light of this decision, agencies must be prepared for a possible increase in private antitrust claims in response to board actions and complaints brought forth by the FTC. The ECPTOTE consists of three public members and two professional members. That public member majority on the Executive Council and the unique synergistic relationship between the Executive Council and the PT and OT regulatory boards as described in IV. Policymaking Structure, D. should insulate ECPTOTE from this problem.

## I. What are your agency's biggest opportunities for improvement in the future?

### 1. Executive Council:

The two greatest opportunities for the agency to improve its support of the functions of the two boards are retaining its good employees and implementing technology improvements that multiply their work efforts.

In the FY2016/17 budget, ECPTOTE received an exceptional item request for almost \$50,000 to cover classified employee merit raises. The last agency merit raise was given in FY 2009. This is an absolute necessity for retaining quality employees, and avoiding all the costs of constantly hiring and training new employees. This was also requested as an Exceptional Item in 2014, but was not approved for reasons not given to the agency. ECPTOTE is forced to compete with the larger Article 8 agencies in the Hobby Building with their much higher paying positions, and has been hemorrhaging good licensing clerks and investigators after spending the time and effort to train them and retain them. While the agency tries to provide a good work environment, eventually without an occasional raise to reward hard work and loyalty, these good employees finally are forced to move for a higher salary. The additional funds were not for an across the agency pay raise, but are targeted at those personnel and positions the agency can least afford to lose at the lower grade levels. Basically, the agency will try to raise its key administrative and clerk positions' salary so it is comparable to similar Article 8 agencies.

On a related note, to further help improve the work environment; the agency also received funding for new carpet and painting the walls for the first time since before 1995. It also received funding to replace office furniture that is reaching the end of their useful lives. The newer office furniture is as old as ECPTOTE, and the rest is even older.

Technological Improvements planned for the upcoming biennium include:

- A new appropriated receipts funding action to allow e-mail newsletter mail-outs to licensees and stakeholders at least four times/year. Additional opportunities for using licensee emails include sending rule and act changes as they occur, email renewal reminders to supplement the current postcard system, and other targeted "push" information to licensees. Funding will be in place by January 2016 to begin this initiative.

- Funds were appropriated to completely redo the agency web site, even though a web site rewrite was performed in FY2014 to correct due to obsolescence and security issues. ECPTOTE went with the lowest bidder to develop a new web site from scratch, and had to cut many corners to complete it with the limited funds available. Consequently, it is an adequate, but incomplete web site. Also, since the web site host is getting out of the business next year, the agency will have to move its site under the HPC IT support. Integrated with the web site rebuild will be a complete integration with the agency licensing database. The current agency database was developed and came into operation in 1999. The developer and maintainer of the licensing database system continues to make a number of significant modifications to the database structure and reports module caused by rules changes and outside requirements. The database is a fully functional system, but due to the growth of the actual database, it has reached the end

of its useful life and now barely meets the needs of the agency. Funding was appropriated to also develop a new licensing database system. The agency has made the decision to require the integration of the web site and database, and the developer must work in coordination with the Health Professions Council webmaster. ECPTOTE plans to let a contractor do just that in late FY2016. This will concurrently solve the problems with the current web site – inadequate performance and capabilities, and the existing licensing database program – inability to process data in an acceptable amount of time, both of which are exasperated by the ever increasing supported population increase.

## **2. Physical Therapy Board:**

As discussed in part G of this section, the efficiency of licensing PTs and PTAs has been hindered by fixed-date testing. In 2017, the Federation will be offering an alternate path to eligibility of candidates for examination whereby the educational qualifications will be verified by the Federation of State Boards of Physical Therapy prior to authorizing a candidate to test. This model will reduce the time and effort that the agency spends on receiving and reviewing transcripts and letters of completion from educational institutions, and will align the process with that of verification of the educational qualifications of occupational therapists and occupational therapy assistants through the National Board for Certification in Occupational Therapy. Streamlining the application process in this manner will greatly enhance the efficiency of the licensing procedure, lowering the actual time it takes to issue a license back to its earlier levels.

## **2. Occupational Therapy Board:**

The OT Board's greatest opportunities include improving capacities to ensure public protection through the efficient and streamlined licensing and regulation of occupational therapy licensees, which may be assured by increasing automation of the licensing process and the increased dissemination of information related to regulations through electronic means. Please note that the OT board has been able to consistently improve operations and achieve its objectives through policy changes related to this.

In addition, the OT board's opportunities include the adoption of rules that continue to keep pace with advancements and changes in the health-care arena as it pertains to the practice of occupational therapy and the public protection of those receiving such services.

- J. In the following chart, provide information regarding your agency's key performance measures included in your appropriations bill pattern, including outcome, input, efficiency, and explanatory measures.

**Executive Council of Physical Therapy and Occupational Therapy Examiners  
Exhibit 2: Key Performance Measures — Fiscal Year 2014**

Key Performance Measures	FY 2014 Target	FY 2014 Actual Performance	FY 2014 % of Annual Target
Percent of Complaints Resulting in Disciplinary Action (PT)	15%	21%	140%
Percent of Complaints Resulting in Disciplinary Action (OT)	15%	13%	86.7%
Percent of Licensees with No Recent Violations (PT)	99%	99%	100%
Percent of Licensees with No Recent Violations (OT)	99%	99%	100%
Number of Complaints Resolved (PT)	375	348	92.8%
Number of Complaints Resolved (OT)	200	171	85.5%
Average Time for Complaint Resolution (PT)	130 days	141 days	108.5%
Average Time for Complaint Resolution (OT)	130 days	126 days	97%
Number of Jurisdictional Complaints Received (PT)	440	357	81%
Number of Jurisdictional Complaints Received (OT)	220	182	83%
Percent of Licensees Who Renew Online	95%	95%	100%
Percent of New Individual Licenses Issued Online	87%	94%	108%
Number of New Licenses Issued to Individuals (PT)	2,100	2,182	104%
Number of New Licenses Issued to Individuals (OT)	1,200	1,301	108.4%
Number of Licenses Renewed (Individuals) (PT)	9,100	9,643	106%
Number of Licenses Renewed (Individuals) (OT)	4,900	5,198	106.1%
Total Number of Business Facilities Registered	4,100	4,125	100.6%

**Table 1 Exhibit 2 Key Performance Measures**

**Note:** The results of all 40 agency performance measures are included in a 5 year rollup document in Attachment 14.

### III. History and Major Events

Provide a timeline of your agency's history and key events, including:

- the date your agency was established;
- the original purpose and responsibilities of your agency;
- major changes in responsibilities or statutory authority;

- **changes to your policymaking body's name or composition;**
- **significant changes in state/federal legislation, mandates, or funding;**
- **significant state/federal litigation that specifically affects your agency's operations; and**
- **key changes in your agency's organization (e.g., a major reorganization of the agency's divisions or program areas).**

#### **A. Executive Council of Physical Therapy and Occupational Therapy Examiners:**

The Executive Council of Physical Therapy and Occupational Therapy Examiners is an independent state health regulatory agency, operating under the authority of its enabling legislation, Article 4512e-1, V.T.C.S. The 73rd Legislature, Regular Session, created the Executive Council in 1993 to administer and enforce the Physical Therapy Practice Act and the Occupational Therapy Practice Act. This legislation merged the **administrative functions** of the Texas Board of Physical Therapy Examiners and the Texas Advisory Board of Occupational Therapy under the Executive Council, while keeping the **rule and decision-making authority** of the two boards intact. The same legislation changed the Texas Advisory Board of Occupational Therapy to the Texas Board of Occupational Therapy Examiners; i.e., it converted the advisory board to a regular licensing board.

The relationship established between the Executive Council and the two boards is one of the more unique ones in Texas State government. The two boards are tasked by their governing statutes to regulate the occupations of physical therapists (PT), physical therapist assistants (PTA), occupational therapists (OT) and occupational therapy assistants (OTA) through licensing and enforcement. The Texas Board of Physical Therapy Examiners' enabling statute is the Texas Physical Therapy Practice Act, Article 4512e, V.T.C.S. The Texas Board of Occupational Therapy Examiners' enabling statute is the Occupational Therapy Practice Act, Article 8851, V.T.C.S. As a result of recodification of V.T.C.S. as Occupations Code in 1999, the current authority of the Executive Council is Title 3, Subtitle H, Chapter 452, Occupations Code; the authority of the Physical Therapy Board is Title 3, Subtitle H, Chapter 453, Occupations Code; and the authority of the Occupational Therapy Board is Title 3, Subtitle H, Chapter 454, Occupations Code.

The Texas Board of Physical Therapy Examiners was created as an independent agency in 1971 by the 62nd Legislature, Regular Session. The Texas Advisory Board of Occupational Therapy was originally established in 1983 by the 68th Legislature as a self-sustaining licensing board which was to be physically located within the Texas Rehabilitation Commission. The Commission provided administrative support and office space to the board in exchange for an operating fee established by the Legislative Budget Board.

As a result of the Sunset review process during the 73rd Legislature in 1993, the two governing statutes were to continue the Physical Therapy Board and Occupational Therapy Board as state agencies until 2005. However, the 78<sup>th</sup> Legislature postponed the agency's Sunset review until 2009, the 80<sup>th</sup> Legislature postponed it until 2013, and the 82<sup>nd</sup> Legislature postponed it further until 2017.



There have been no changes to the original purpose and responsibilities of the agency since created; or major changes in responsibilities or statutory authority; or the policymaking body's name or composition; or state/federal legislation, mandates, or funding; or state/federal litigation that specifically affected agency operations; or the agency's organization.

## **B. Texas Board of Physical Therapy Examiners**

Physical therapy developed in the United States as a recognized profession largely as a result of two world wars and two of the nation's worst infantile paralysis epidemics. These circumstances created a sharply increased demand for physical therapists and a need for regulation of the practice of physical therapy for public protection against unqualified and unscrupulous persons holding themselves out as physical therapists.

### **1971**

The Texas Board of Physical Therapy Examiners (TBPE) was established by the 62nd Legislature during regular session through Senate Bill 344 in 1971. The Physical Therapy Licensing Act not only created the TBPE, but also defined the practice of physical therapy and established standards for issuing, renewing, denying, revoking, or suspending physical therapist (PT) and physical therapist assistant (PTA) licenses. The Board consisted of nine (9) members, all of whom were required to be qualified for licensure under the Act, and the powers of the Board were to conduct examinations, to issue licenses, to suspend or revoke licenses, and to adopt rules and regulations deemed necessary for the performance of its duties.

### **1981**

As a result of the passage of Senate Bill 750 during the 67<sup>th</sup> Legislature, the composition of the nine-member Board was altered to incorporate three (3) representatives from the general public with provisions delineating conflict-of-interest for all Board members and their families and providing for compensation of the Board through per diem and travel expenses when members engaged in the business of the Board.

Additional changes of note as a result of Senate Bill 750 were increasing the Board's range of disciplinary action, allowing the Board to charge a re-examination fee, prohibiting advertising by licensees that tend to deceive or defraud the public, and subjecting the Board to the Sunset Act with an expiration date of September 1, 1993.

### **1987**

Continuing education (CE) for license renewal was mandated in SB 635 during the 70<sup>th</sup> Legislature. Board authority to set the number of required CE hours and to adopt a mechanism for approval of CE courses was established.

Additionally, SB 635 required that the Board prepare information relating to and reporting disciplinary action taken by the Board against a licensee and to have information available to the public via a toll-free number.

### **1991**

Prior to the passage of House Bill 925 during the 72<sup>nd</sup> Legislature, physical therapists required a referral from a physician, dentist, chiropractor, podiatrist, or other qualified, licensed health care person who is authorized to prescribe treatment in order to legally practice. The bill amended the Physical Therapy Practice Act by setting out additional circumstances under which a physical therapist may see and treat a patient. Those circumstances are:

1. That the patient was previously referred to a physical therapist;
2. That the physical therapist notify the referring professional of the commencement of therapy within five business days;
3. The physical therapist may not treat the patient for more than twenty (20) treatment sessions or thirty calendar days without conferring with the referring profession;
4. Treatment under this provision cannot start later than one (1) year after the initial referral was made;
5. Only physical therapists who have been licensed for at least one year, and who satisfy such other requirements as set by the Board in rule, may see patients in the manner prescribed by this provision.
6. A physical therapist may see persons who do not exhibit any symptoms so they might provide physical assessments or instructions; and
7. In emergency circumstances, a physical therapist may provide assistance to a person without a referral.

### **1993**

Senate Bill 690 (73<sup>rd</sup> Legislative Session), as introduced, contained the Sunset Commission's original recommendations for the Texas Board of Physical Therapy Examiners and the Texas Board of Occupational Therapy Examiners. The introduced legislation would have merged the two boards. The legislature decided to maintain the two boards independently but created the Executive Council of Physical Therapy and Occupational Therapy Examiners to carry out administrative functions and oversee the activities of the two boards. Amendments to the Physical Therapy Practice Act included the following:

- 1. Require board members to participate in training before serving on the board.*

Changes to the physical therapy enabling act required that board members receive training in specific areas before serving on the board to include laws enforced by the board; programs and budget of the board; and the requirements of state laws regarding open meetings, open records, administrative procedures, and ethics.

- 2. Strengthen and standardize the complaint investigation and enforcement provisions.*

A standard approach to complaint investigation to ensure consistent, thorough investigation and resolution of complaints was added which required the board to use a toll-free phone number for complaints, adopt standardized complaint forms, provide assistance to people filing complaints, and maintain specific information in complaint files. Additionally, complaints must be investigated in a timely manner and may not be dismissed without appropriate consideration; and complainants must be notified of investigation timelines and unexpected changes in the timelines. Procedures for the informal disposition of a complaint and for the opportunity for both the complainant and the licensee to be heard were required. Finally, the board was required to develop a schedule of disciplinary sanctions to encourage the consistent use of sanction authority and to develop a procedure for monitoring licensees placed on probation.

*3. Revised mandatory continuing education as a condition of license renewal.*

An addition to the mandatory continuing education requirements established in statute in 1987 authorized the Board to identify the key factors that lead to the competent performance of professional duties, develop a process to assess a licensee's participation and performance in continuing education courses, evaluate the overall effectiveness of the program, assess the continuing education needs of licensees, and require licensees to attend specific continuing education courses as deemed by the board.

*4. Set up a procedure to allow practitioners licensed in other states to come to Texas and, after meeting certain requirements, get a license to practice.*

Amendment created a standardized process for licensing out-of-state practitioners. The process provides for issuance of a provisional license by the board after verification of the applicant's credentials and license status in the state of current licensure. To qualify for a provisional license, an out-of-state practitioner must be in good standing in the state in which the applicant is licensed, must have passed a national or recognized examination, and must be sponsored by a licensed practitioner in Texas. The board is required to issue a permanent license to the provisional license holder if that person passes the state jurisprudence examination and meets education, experience, and other requirements for licensure under the Act. The board must complete processing of a provisional license holder's application for a permanent license within 180 days or at the time licenses are issued following successful completion of an examination.

*5. Require fees be set by the executive council to cover the cost of regulation.*

Authority to set fees was removed from the Physical Therapy Practice Act, and authorized the Executive Council to set fees as necessary to cover the costs of regulating the two professions. This allows the Executive Council by rule to establish and adjust fees to meet the expenses of administering the two boards' enabling acts. The Executive Council may not set a fee at an amount less than the fee levels being used by the two boards as of September 1, 1993.

*6. Prohibit other health care professionals from representing themselves as providers of physical therapy services.*

Changes prohibit practitioners licensed by other health care regulatory agencies from practicing or in any way representing themselves as providers of physical therapy. The provision clarifies that it is not meant to prevent practitioners from using modalities and certain procedures in their services as long as they are properly trained and licensed to practice the procedures under their licensing laws. This provision enhances the protection of the general public by ensuring that only duly licensed physical therapy professionals can represent themselves as providers of physical therapy services.

*7. Provide clear authority to license foreign-trained applicants for physical therapy licensure.*

Based on the Sunset Commission's recommendation, the legislature provided the Texas Board of Physical Therapy Examiners with the authority to license applicants who have been trained in foreign countries. The provision also specifies that applicants should meet all the licensure requirements and that their educational and training background should meet the standards of the Commission on Accreditation of Physical Therapy Education, the national accreditation entity for physical therapy educational programs outside of the United States.

*8. Require the two boards to register, respectively, physical therapy and occupational therapy facilities.*

Based on the Sunset Commission's recommendation that the board registers physical therapy facilities, the legislature adopted provisions that require both the physical therapy board and the occupational therapy board to register their respective facilities. Facilities that are licensed under Subtitle B, Title 4 of the Health and Safety Code, such as hospitals, are exempted from the registration requirements. This requirement enables the two boards to regulate facilities where services are provided to ensure that these facilities meet necessary standards of operation.

*9. Allow a person who is qualified as a physical therapist to be eligible for licensure as a physical therapy assistant.*

The legislature adopted the recommendation by the Sunset Commission that allows the board to license a person who has been trained in a physical therapy program as a physical therapist assistant. The provision also specifies that the applicant should meet all the licensure requirements for physical therapist assistant set by the board and that they must not have had any disciplinary actions in other states or countries.

*10. Require all persons holding temporary physical therapy licenses to practice under supervision of a physical therapist.*

This requirement provides further protection of the public by ensuring that physical therapy services provided by a temporary licensee be under the supervision of a physical therapist.

**1997**

H.B. 3106 (75<sup>th</sup> Legislative Regular Session) amended Section 2A, Article 4512e, V.T.C.S., to authorize a member of the TBPE to receive reimbursement for meals, lodging, and transportation expenses as provided by the General Appropriations Act and deletes existing text prohibiting a member from receiving reimbursement for certain expenses.

Additionally, H.B. 3106 amended Article 4512e, V.T.C.S., by authorizing the TBPE to impose an administrative penalty against a person licensed or regulated under the Act or a facility registered under the Act that violates the Act or a rule or order adopted under the Act, with the penalty for a violation to be in an amount not to exceed \$200 and providing that each day a violation continues or occurs is a separate violation for purposes of imposing a penalty. It also required that the amount of the penalty be based on certain factors; required TBPE to adopt rules that established procedures for assessing an administrative penalty and that provided for notice and a hearing for a license holder or facility administrator that may be subject to a penalty under the section; and provided that all proceedings are subject to Chapter 2001, Government Code.

Furthermore, H.B. 3106 amended Article 4512e, V.T.C.S., by adding Section 20B to set forth the terms by which the TBPE is authorized to temporarily suspend a license issued on an emergency basis if the TBPE determines from the evidence or information presented to the TBPE that the continued practice by the license holder constitutes a continuing or imminent threat to the public health or welfare. It also set forth the terms by which a license temporarily suspended is authorized to be suspended without notice or a hearing, and required the board to adopt rules that establish procedures and standards for the temporary suspension of a license under this section.

**1999**

During the 76<sup>th</sup> Legislative Regular Session, H.B. 2382 amended Section 453.254 by requiring the TBPE to authorize licensee peer organizations to evaluate and approve continuing education courses in accordance with the established process developed by the board in rule in order to enhance the quality of the continuing education courses and to reduce the demands on board support staff.

The Board's enabling statute was re-codified as Occupations Code, Chapter 453 through H.B. 3155.

## **2009**

H.B.3717 (81<sup>st</sup> Legislative Regular Session) amended Section 453.004 by exempting from licensure requirements other physical therapists who may be practicing temporarily in the state, including physical therapists who practice with the Veterans Administration or armed forces, people practicing in a post-professional degree course, or a person providing care for a sports team or dance group. Many of the exemptions under this bill are consistent with how other states license and regulate physical therapists.

H.B. 4281 amended Section 453.254 by requiring the TBPTE to adopt rules for continuing competence of, rather than mandatory continuing education requirements for, licensed physical therapists and physical therapist assistants as a model for determining qualifications for continued practice.

## **2011**

During the 82<sup>nd</sup> Legislative Regular Session, H.B. 3369 amended Section 453.213 by authorizing the TBPTE by rule to exempt other facilities, in addition to those facilities exempt through licensure under Subtitle B (Licensing of Health Facilities), Title 4 (Health Facilities), Health and Safety Code, from the registration requirements under the section as appropriate.

## **2013**

During the 83<sup>rd</sup> Legislative Regular Session, H.B. 588 amended Section 453.253 by addressing the disparity of the requirements for renewal of licensure for physical therapists and physical therapist assistants that have moved to another state and have a current license in good standing in that state in order to make the renewal licensing requirements more consistent for all license holders.

Additionally, H.B. 588 amended a number of sections that had become outdated since their last review by the Sunset Advisory Commission in 1993 including the following:

Section 453.151 provided that information maintained by the Executive Council of Physical Therapy and Occupational Therapy Examiners (ECPTOTE) or the Texas Board of Physical Therapy Examiners (TBPTE) regarding the home address or personal telephone number of a person licensed under this chapter or a person who is an owner or manager of a physical therapy facility registered under this chapter is confidential and not subject to disclosure under Chapter 552 (Public Information), Government Code. It also included a provision to require that a person licensed under this chapter or a person who is an owner or manager of a physical therapy facility registered under this chapter to provide TBPTE with a business address or address of record that will be subject to disclosure under Chapter 552, Government Code.

Section 453.212 provided for a new heading: DISPLAY OF LICENSE and eliminated the requirement for display of the license holder's renewal certificate in a conspicuous place in the principal office in which the license holder practices physical therapy to align with the agency's transition to online licensure verification in lieu of mailing renewal certificates to licensees.

Section 453.252 provided more flexibility in the amount of late renewal fees that can be set by the Executive Council; provided the authority for the TBPTE to develop requirements and procedures to reinstate a license with a reinstatement fee in the amount set by the Executive Council rather than prohibiting a person whose license has been expired for one year or longer from renewing the license; authorized the person, if the person is unable to comply with TBPTE's requirements to reinstate the license, to obtain a new license by submitting to reexamination and complying with the requirements and procedures for obtaining an original license; and requires ECPTOTE, at least 30 days before the expiration of a person's license, to provide the person with notice of the impending license expiration, rather than to send written notice of the impending license expiration to the person at the person's last known address according to the records of ECPTOTE.

In addition to the amendments set forth in H.B. 588, S.B. 1099 amended Section 453.201 relating to the use of certain designations by a physical therapist by codifying and protecting the terms doctor of physical therapy (DPT) and master of physical therapy (MPT) as the education level for physical therapists has increased since the last time the statute was updated.

### **C. Texas Board of Occupational Therapy Examiners**

Occupational Therapy in the United States has had an extensive history, beginning during the World War I with an emphasis on treating wounded soldiers and civilians and supporting their recovery through an emphasis on engagement in occupation (everyday purposeful activities). Since that time, the field of occupational therapy has grown while maintaining its emphasis on helping individuals with mentally, physically, developmentally, or emotionally disabling conditions to develop, recover, or maintain daily living and working skills and compensate for permanent loss of function to achieve independent, productive, and satisfying lifestyles. The need for the regulation of the occupational therapy profession grew likewise as it became necessary to ensure that those practicing occupational therapy maintained compliance with laws and rules promulgated to protect the public.

#### **1983**

In 1983, the 68th Texas Legislature passed Senate Bill 1213 enacting the Texas Occupational Therapy Title Act (Vernon's Texas Civil Statutes, Article 8851) to ensure that when Texas citizens received occupational therapy services, such were delivered by qualified individuals. The legislation established the Texas Advisory Board of Occupational Therapy (TABOT) and attached it as an advisory board to the Texas Rehabilitation Commission. Effective September 1, 1983, TABOT was charged with grandfathering by March 1, 1984, all qualified occupational therapists and occupational therapy assistants who were working in the state of Texas.

### **1993**

In 1993, Senate Bill 690 was passed by the 73rd Texas Legislature, creating the Executive Council of Physical Therapy and Occupational Therapy Examiners. The Texas Advisory Board of Occupational Therapy was renamed the Texas Board of Occupational Therapy Examiners (TBOTE), and the OT Title Act was changed to the Texas Occupational Therapy Practice Act. The Texas Board of Occupational Therapy Examiners was established to protect the health, safety and welfare of the citizens of Texas by establishing the policies and procedures for administering and enforcing the provisions of the Act, Title 3, Subtitle H, Chapter 454, related to occupational therapy.

Senate Bill 690, as introduced, would have merged the OT Board and the PT Board, but the Legislature decided to maintain the two boards and to create the Executive Council of Physical Therapy and Occupational Therapy Examiners to carry out administrative functions and oversee the activities of the boards. In accordance with the bill, all rules proposed by the boards must be approved by the Executive Council before submission to the Texas Register.

Some of the provisions of Senate Bill 690 included requiring board members to participate in training before serving on the board; strengthening and standardizing the complaint investigation and enforcement provisions; requiring mandatory continuing education as a condition of license renewal; setting up a procedure to allow practitioners licensed in other states to come to Texas and, after meeting certain requirements, to obtain a license to practice; requiring fees set by the Executive Council to cover the cost of regulation; requiring the OT Board to register occupational therapy facilities; and clarifying that it is unlawful to act, practice, or represent oneself as a provider of occupational therapy services unless one is licensed by the board. For a further discussion of some of these changes, please see the PT Board's elaboration of its corresponding sections in Section III, History and Major Events.

### **1999**

In 1999, the 76th Texas Legislature codified the Texas Occupational Therapy Practice Act and incorporated it into the Occupations Code, Chapter 454, in order to make the Act conform to current legal citations, terminology, and definitions, and to eliminate obsolete provisions and a number of grammatical errors. Senate Bill 310 was passed, which amended the Occupational Therapy Practice Act to increase the membership of the Texas Board of Occupational Therapy Examiners from six to nine members (requiring four members to be occupational therapists, two members to be occupational therapy assistants, and three to be public members) and to allow board members to be reimbursed for expenses. The bill also removed the requirement that an applicant for a provisional license for the practice of occupational therapy be sponsored by a person licensed by the board with whom the provisional licensee may practice. The changes also authorized the board to issue subpoenas and impose an administrative penalty not to exceed \$200 a day and required the board to establish procedures and standards for the temporary suspension of a license on an emergency basis. In addition, Senate Bill 556 was passed, which amended §454.213 Accepted Practice; Practitioner's Referral. The bill broadened the criteria of health-care professionals authorized to refer for occupational therapy



as prior to this, only Texas doctors licensed by the Texas Board of Medical Examiners could make such referrals.

## **2001**

In 2001, the 77<sup>th</sup> Texas Legislature adopted a change to the Act through Senate Bill 692 to amend §454.254, Mandatory Continuing Education, by adding a provision allowing the board to authorize license holder peer organizations in Texas to evaluate and approve continuing education courses in accordance with the board's evaluation and approval process up until January 1, 2003.

Through House Bill 2812, changes from Senate Bill 310 and Senate Bill 556 from the 76<sup>th</sup> Legislative Session were codified in the Act with regard to the following sections: §454.051, Board Membership, related to expanding the board membership from six to nine members and changes regarding members' terms; §454.056, Per Diem; Reimbursement, regarding reimbursement for board members; §454.153, General Rules Involving Complaint Investigation and Disposition, involving subpoena; §454.211, Provisional License, with regard to requirements for the provisional license; §454.213 Accepted Practice; Practitioner's Referral, regarding referral sources for the implementation of direct occupational therapy to individuals for their specific health care conditions; §454.303, Issuance of License After Denial; Reissuance of License, with regard to emergency suspension; and §454.355, Criminal Offense, with regard to administrative penalty.

## **2007**

In 2007, the 80<sup>th</sup> Texas Legislature adopted a change to the OT Practice Act through House Bill 3249. The bill concerned language stating that unless continued in existence as provided by Chapter 325, Government Code, the OT board would be abolished and Chapter 454 of the Occupations Code would expire September 1, 2009. The bill removed the year "2009" and replaced it with "2013" in §453.003, Application of Sunset Act, of the OT Practice Act.

## **2009**

During the 2009 legislative session, the 81<sup>st</sup> Texas Legislature required changes to the OT Practice Act through House Bill 1785. Such changes concerned §454.204, Educational Requirements, to reflect changes in entry-level occupational therapy education and §454.252, Renewal of a License, to clarify the setting of fees by the Executive Council for a late renewal and to add that an individual may reinstate a license by complying with the board's requirements. Previously, an affected applicant would have been required to retake and pass the NBCOT national examination. A change to §454.253, Renewal of Expired License by Out-of-State Practitioner, added language allowing an individual holding a current license in another state and whose Texas license had been expired more than one year to apply for reinstatement by meeting the board's requirements. Previously, an affected individual would have needed to have met the additional requirement of having held a license in another state for the two years preceding the application for reinstatement. A further change concerned §454.254, Mandatory

Continuing Education, to allow the board to adopt rules implementing its continuing education approval process after January 1, 2003.

**2011**

In 2011, the 82<sup>th</sup> Texas Legislature adopted a change to the OT Practice Act through Senate Bill 652. The bill concerned language stating that unless continued in existence as provided by Chapter 325, Government Code, the OT board would be abolished and Chapter 454 of the Occupations Code would expire September 1, 2013. The bill removed the year “2013” and replaced it with “2017.”

## IV. Policymaking Structure

### A. Policy Making Bodies

#### Executive Council Exhibit 3a: Policymaking Body

Member Name	Term / Appointment Dates	Qualification	City
Arthur <u>Roger</u> Matson	2 year term expires 2/1/2017 reappointed to 3 <sup>rd</sup> 2-yr term ending 02-01-2017 by Gov. Rick Perry	Public Member appointed as presiding officer of Executive Council	Georgetown
Shari Waldie, PT	Until replaced by board Expires 1/31/2019 PT Board	PT Board professional member	Austin
Phillip Vickers	Until replaced by board Expires 1/31/2019 PT Board	PT Board public member	Aledo
Stephanie Johnston, OT	Until replaced by board Expires 2/1/2017 OT Board	OT Board professional member	Magnolia
William N. Hale	Until replaced by board Expires 2/1/2015 OT Board	OT Board public member	Austin

Table 2 Exhibit 3a Policymaking Body

#### Texas Board of Physical Therapy Examiners Exhibit 3b: Policymaking Body

Member Name	Term / Appointment Dates / Appointed by	Qualification	City
Gary Gray, PT, Chair	6-yr term ending 01-31-2011, appointed on 7-12-2006, reappointed to 6-yr term ending 01-31-2017 by Gov. Rick Perry	Physical Therapist	Midland
Shari Waldie, PT, Vice Chair	6-yr term ending 01-31-2013, appointed on 09-05-2008, reappointed to 6-yr term ending 01-31-2019 by Gov. Rick Perry	Physical Therapist	Austin
Melinda Rodriguez, PT, DPT, Secretary	Appointed to unexpired term ending 01-31-2009 on 05-01- 2005, reappointed to 6-yr term ending 01-31-2015 by Gov. Rick Perry	Physical Therapist	San Antonio
Jeff Tout, PT	6-yr term ending 01-31-2019, appointed on 04-30-2013 by Gov. Rick Perry	Physical Therapist	Granbury

<b>Member Name</b>	<b>Term / Appointment Dates / Appointed by</b>	<b>Qualification</b>	<b>City</b>
Harvey Aikman, PT	Appointed to unexpired term ending 01-31-2015 on 04-17-2014 by Gov. Rick Perry	Physical Therapist	Mission
Barbara Sanders, PT PhD	Appointed to unexpired term ending 01-31-2017 on 10-25-2014 by Gov. Rick Perry	Physical Therapist	Austin
Daniel Reyna, CPA	6-yr term ending 01-31-2011, appointed on 7-12-2006, reappointed to 6-yr term ending 01-31-2017 by Gov. Rick Perry	Public Member	Waco
Philip Vickers, JD	6-yr term ending 01-31-2019, appointed on 05-08-2013 by Gov. Rick Perry	Public Member	Aledo
Public Member vacancy		Public Member	

**Table 3 Exhibit 3b Policymaking Body**

**Texas Board of Occupational Therapy Examiners  
Exhibit 3c: Policymaking Body**

<b>Member Name</b>	<b>Term / Appointment Dates / Appointed by (e.g., Governor, Lt. Governor, Speaker)</b>	<b>Qualification (e.g., public member, industry representative)</b>	<b>City</b>
Stephanie Johnston, OT, Chair	Appointed to an unexpired term ending on 2-1-2011 on 8-20-2007, reappointed to 6-yr term ending on 2-1-2017 by Gov. Rick Perry	Occupational Therapist	Magnolia
Todd N. Novosad, OT, Vice Chair	Appointed to unexpired term ending on 2-1-2013 on 5-5-2009, reappointed to 6-yr term ending on 2-1-2019 by Gov. Rick Perry	Occupational Therapist	Bee Cave
DeLana Honaker, OT, PhD, Secretary	Appointed to an unexpired term ending 2-1-2011 on 7-12-2010, reappointed to 6-yr term ending on 2-1-2017 by Gov. Rick Perry	Occupational Therapist	Amarillo
Catherine Benavidez, OT	6-yr term ending on 2-1-2015, appointed on 5-5-2009 by Gov. Rick Perry; Resigned 5/27/2015	Occupational Therapist	Carrollton

Member Name	Term / Appointment Dates / Appointed by (e.g., Governor, Lt. Governor, Speaker)	Qualification (e.g., public member, industry representative)	City
Jennifer B. Clark, OTA	6-yr term ending on 2-1-2019, appointed on 5-14-2013 by Gov. Rick Perry	Occupational Therapy Assistant	Iola
Amanda Jean Ellis, Esq.	6-yr term ending on 2-1-2019, appointed on 5-14-2013 by Gov. Rick Perry	Public Member	Austin
William N. Hale, Esq.	6-yr term ending on 2-1-2015, appointed on 4-26-2011 by Gov. Rick Perry	Public Member	Austin
Sally Harris, OTA	Appointed to an unexpired term ending on 2-1-2015 on 9-16-2014 by Gov. Rick Perry	Occupational Therapy Assistant	Houston
Pamela D. Nelon	Appointed to an unexpired term ending on 2-1-2011 on 8-20-2007, reappointed to 6-yr term ending on 2-1-2017 by Gov. Rick Perry	Public Member	Fort Worth

Table 4 Exhibit 3c Policymaking Body

## B. Describe the primary role and responsibilities of your policymaking body.

### 1. Executive Council:

- Sets overall policy and direction for the Executive Council staff.
- Passes rules to implement the Executive Council statute.
- Reviews the PT and OT Boards' rules prior to their submission for publication in the Texas Register to insure they do not exceed the rulemaking authority of the board.
- Sets fees with input from the affected board(s).
- Hires an Executive Director.
- Holds at least two annual meetings a year.
- Approves various required agency reports including Annual Financial Report, Strategic Plan, and Legislative Appropriation Request.
- Monitors and assesses the financial status of the agency on a quarterly basis.
- Reviews other key documents such as Performance Measure reports and audits.

- Annually evaluates the Executive Director with input from the two boards.
- Consults AG General Counsel on agency lawsuits and other legal issues.
- Monitors agency licensing and enforcement operations.
- Identifies needed changes in the enabling statute.
- Responds to formal inquiries.

## **2. Physical Therapy Board:**

- Reviews, proposes, and adopts rules to implement the PT Board statute including rules pertaining to:
  - physical therapy practice,
  - licensure requirements,
  - continuing competence,
  - disciplinary action,
  - facility registration, and
  - board operations.
- Reviews all complaints against licensees and impose disciplinary action as indicated.
- Identifies needed changes in the Practice Act and makes recommendations for legislative action.
- Recommends fees changes to the Executive Council (EC).
- Provides input to the EC regarding the Executive Director's Annual Performance Review.
- Reviews the agency financial status, and makes recommendations to the EC.
- Reviews various required agency reports including Annual Financial Report, Strategic Plan, and Legislative Appropriation Request, and makes recommendations to the EC.
- Reviews other key documents such as Performance Measure reports and audits, and makes recommendations to the EC.
- Consults the AG assigned General Counsel about board proposed rules, opinions, and other legal issues.
- Responds to formal inquiries and petitions.
- Monitors issues impacting the physical therapy profession.

### 3. Occupational Therapy Board:

- Reviews, proposes, and adopts rules to implement the OT Board statute including rules pertaining to:
  - occupational therapy practice,
  - licensure requirements,
  - continuing education,
  - disciplinary action,
  - facility registration, and
  - board operations.
- Reviews all complaints against licensees and imposes disciplinary action as indicated.
- Identifies needed changes in the Practice Act and makes recommendations for legislative action.
- Recommends fees changes to the Executive Council (EC).
- Provides input to the EC regarding the Executive Director's Annual Performance Review.
- Reviews the agency financial status, and makes recommendations to the EC.
- Reviews various required agency reports including Annual Financial Report, Strategic Plan, and Legislative Appropriation Request, and makes recommendations to the EC.
- Reviews other key documents such as Performance Measure reports and audits, and makes recommendations to the EC.
- Consults the AG assigned General Counsel about board proposed rules, opinions, and other legal issues.
- Responds to formal inquiries and petitions.
- Monitors issues impacting the occupational therapy profession.

#### C. How is the chair selected?

1. **Executive Council:** The Presiding Officer is appointed by Governor for a two-year term, and may be reappointed for additional two year terms. The current holder of the position was just reappointed for his third term.
2. **Physical Therapy and Occupational Therapy Boards:** The Presiding Officer is not appointed by the governor, so the boards elect one of their members for the position. Elections are held

every two years on the second board meeting following the appointment of three new members (three new members are appointed every two years)

**D. List any special circumstances or unique features about your policymaking body or its responsibilities.**

As stated earlier, the 73<sup>rd</sup> Legislature merged the *administrative functions* of the Texas Board of Physical Therapy Examiners and the Texas Advisory Board of Occupational Therapy under the Executive Council, while keeping the rule and decision-making authority of the two boards intact.

In addition to the merged administrative functions, the Executive Council provides oversight of the other functions, especially rule promulgation, of the two boards. All proposed rules from both boards must be reviewed and approved by the Executive Council before being published in the Texas Register for public comment to insure they do not exceed the rulemaking authority of the submitting board. Taking into consideration the recent Supreme Court ruling in *North Carolina Board of Dental Examiners vs the Federal Trade Commission*, this relationship provides a final approval from a majority of non-active market participants, as the Executive Council consists of three public members (one from each board and the presiding officer appointed by the Governor) and one professional member from each Board. Furthermore, the general counsel for each board and the Executive Council is not a staff attorney, but an Assistant Attorney General who reviews all actions of the boards and the Executive Council for statutory authority and potential conflict with any other local, state, or national regulations.

The unique synergistic relationship of the Executive Council, the PT Board, the OT Board, and the AAG legal counsel is not found in any other state agency.

**E. In general, how often does your policymaking body meet? How many times did it meet in FY 2014? In FY 2015?**

The Executive Council and the Physical Therapy and Occupational Therapy boards usually meet 4 times a fiscal year. In the past, the Executive Council has met up to 6 times and as few as 3 times during a fiscal year. The two boards have met up to 5 times and as few as 3 times a year. Availability of funds plays a big part in determining the number of board meetings held in a year, as the two boards feel a sense of obligation to cooperate with the agency when funds are tight. Also, if there is no significant business to conduct, the Executive Council will not meet “just to have a meeting”, and if necessary, the two boards may meet more often than quarterly if business so dictates.



**# of meetings in FY2014:**

Executive Council – 3

Physical Therapy Board – 4

Occupational Therapy Board – 3

**# of meetings in FY2015:**

Executive Council – 3

Physical Therapy Board – 4

Occupational Therapy Board – 5

**F. What type of training do members of your agency’s policymaking body receive?**

The agency training policy applies to members of both the Executive Council and the two boards. Between new board members’ appointments and their first board meeting, the members are brought to Austin for a day of training. Prior to the class, the board members are asked to take the Office of the Attorney General’s two mandatory classes on Open Records and Open Meetings, and bring their completion certificates with them. The training classes last all day, and the members are briefed by the Executive Director, board coordinator, senior accountant, senior investigator, and office manager. The training goal is two-fold – comply with the state law concerning board member training, and spin the board members up to the point that they are conversant with current issues and familiar with their duties and responsibilities as a board member. Some, but not all, of the many topics include agency and board history, organization, major board past and present issues, topics at the upcoming meeting, current financial budget and status, ethics laws, legislative session activities and processes, recent audits, board acts and rules overview, Roberts Rules, and applicable state and federal laws. At the beginning of the board members’ first board meeting, the Executive Director certifies to the board that the new members have received the mandatory training required by law.

Additionally, when invited by the Governor’s office, all new members are strongly encouraged to attend the Governor’s Training Seminar for Appointees. The agency pays for their registration and all travel expenses to attend. Most do attend.

**G. Does your agency have policies that describe the respective roles of the policymaking body and agency staff in running the agency? If so, describe these policies.**

The policy is simple, and is stated in the Executive Director’s job description. The Executive Director is held responsible by the Executive Council and two boards for running an effective

and efficient agency in support of their functions and objectives. The Executive Council director is also the Executive Director of the two boards, although he is assisted by the two board coordinators in the day to day operations and interactions with the board members. The board coordinator positions are required by the respective practice acts, and they manage most of the administrative responsibilities in support of the boards. All policy making decisions are made by the Council and two boards, usually with the recommendations and assistance of the director and two board coordinators. The Executive Director's performance is evaluated in Executive Session by the two boards, which provide their input to the Executive Council's performance review.

**H. What information is regularly presented to your policymaking body to keep them informed of your agency's performance?**

**1. Executive Council:**

Prior to the quarterly council and board meetings, the Executive Director provides a written narrative and standardized charts and graphs for the members' review. During the meetings, the director has an early agenda item in which he provides a verbal briefing to the board/council on the current activities and status of the agency. There may be additional topics discussed in addition to the read-ahead material. Additional information that is board related is provided during the meeting by the board coordinators. A typical recent packet prepared by the director for the board members is provided in Attachment 21, Other.

**2. Physical Therapy Board:**

At the quarterly PT Board meetings, the Executive Director presents an update concerning agency fiscal and budgetary matters, performance measures, ongoing projects, agency personnel matters, and any other agency business that might have occurred since the previous meeting. Recent briefings have also included information regarding legislation during the 84<sup>th</sup> Legislature that has an impact on the agency and Board as well as the Sunset process and Self Evaluation Report.

In addition to the Executive Director's report, the Senior Investigator updates the Board on the number of cases reviewed and informal conferences held at the earlier held Investigation Committee meeting. He also presents details of the agreed orders for the Board to ratify. Licensure and facility registration statistics, National Physical Therapy Examination results, Continuing Competence Audit outcomes, and updated postings to the agency website are among the highlights presented by the PT board coordinator.

To facilitate the dissemination of information to the members prior to each Board meeting, an online Board Members site was initiated in April 2015. A sampling of a PT Board meeting packet is included in Attachment 21. Other.

### 3. Occupational Therapy Board:

During each quarterly board meeting, the Executive Director presents a report concerning fiscal and budgetary matters, performance measures, ongoing projects, agency personnel matters, information related to the current or past legislative session, Executive Council activity, and other agency business.

The Senior Investigator presents information related to current enforcement-related activities as part of the regular board meeting, including presenting agreed orders to be ratified at the board meeting, information related to the number of formal and informal conferences held, and additional information regarding investigative activities to date.

The OT board coordinator at each board meeting provides a report based upon current activity at the agency as it regards the initial licensing, renewal, and facilities departments and other information related to board functions and duties. Such information may include statistics related to the number of current licensees and registered facilities, the progress of the current continuing education audit (which requires that licensees selected as part of the random audit submit their continuing education documentation from their previous renewal period), and any updates regarding occupational therapy educational programs in Texas and their current accreditation status as per the Accreditation Council for Occupational Therapy Education.

Supporting materials for each board meeting are provided to board members prior to the meeting as available, and the board has recently begun accessing such materials from an online site devoted to it. Prior to the creation of the site, meeting materials in electronic form were emailed to the members in advance of the meeting and members were provided with paper binders containing meeting materials. For a representative example of the type of material provided before board meetings, please see the PT Board sample meeting packet information in Attachment 21. Other.

#### I. **How does your policymaking body obtain input from the public regarding issues under the jurisdiction of the agency? How is this input incorporated into the operations of your agency?**

##### 1. **Executive Council:**

Due to the proximity of the Executive Council and two boards, communication between the entities is never a problem. During normal day-to-day activities, routine phone calls and message traffic are directed to the appropriate agency staff for action, and not routed through the boards. Input that directly impacts the two boards is brought to the board membership by the Executive Director and/or board coordinators. Input concerning only the boards that is received by the board coordinators is passed unfiltered directly to their respective boards. Also, all three entities have public comment as an agenda item on all meetings, and the public is given an opportunity to address the council or boards on a subject that is given its own agenda item.

## 2. Physical Therapy Board:

At each PT Board meeting, an agenda item is included for *Public Comment*. Interested parties and stakeholders are allotted time to address the Board regarding issues within the Board's purview that the Board can take into consideration.

Proposed rule changes are published in the *Texas Register* for public comment. The agency website, [www.ptot.texas.gov](http://www.ptot.texas.gov), also affords several opportunities for individuals to provide input into the rulemaking process. In the *Act and Rules* page under the *Texas Board of PT Examiners* section, the sidebar *PT Proposed Rules* contains links to the text of the proposed rules and a link to send a question or comment. Additionally, the Board's online newsletter, *Communiqué*, includes articles regarding rulemaking action taken by the Board and contact information for sending comments. All comments received are presented to the Board by the PT Coordinator for review and deliberation prior to the final adoption of a rule.

Greater than 30% of staff's time is spent answering customer service calls and emails which come in directly or through various links from within the website. The homepage has a *Contact Us* link which is also replicated in the footer of each page. After completing the online *Customer Survey*, a respondent can offer suggestions, complaints, or compliments through the Thought Bubble Comment Handling System administered by the University of Texas' Survey of Organizational Excellence. Outreach to the physical therapy community is accomplished through speaking engagements, including PT/PTA school presentations, and presence in the exhibit hall of the Texas Physical Therapy Association by the Senior Investigator and the PT Coordinator.

All complaints and constructive suggestions are taken into consideration when updating administrative procedures and for appropriate action by the Board as necessitated.

## 3. Occupational Therapy Board:

The OT Board receives input from the public by posting all meeting agendas and proposed rules in the *Texas Register* and on the OT Board's section of the ECPTOTE website, as well as through public comment periods at the beginning of all the scheduled board and committee meetings. In addition, the OT Coordinator posts a newsletter after each board meeting with information about board actions and an introduction regarding and link to access any proposed or adopted rules, which is a good vehicle for eliciting public comments on rules. These comments are consolidated and presented to the board for consideration before rules are formally adopted.

The OT Coordinator also brings to the board and coordinates any formal requests to speak before the board, requests for special consideration of continuing education activities, questions received by the board related to the OT Board Rules and Practice Act, and additional information from the public pertinent to the board's duties and responsibilities. Such information may be received from the public, applicants, and licensees by phone, fax, email,

and in person and through comments submitted through the University of Texas’s Survey of Organizational Excellence linked to the agency website.

The public, applicants, and licensees, for example, routinely interact with the staff of the Executive Council by phone, email, fax, and in person, and a significant portion of the Executive Council staff’s working hours are devoted to communicating with the public. The public may reach during regular business hours staff members including the OT Board Coordinator who routinely communicates with the public, applicants, and licensees regarding board rules related to occupational therapy practice and licensing.

In addition, the staff interfaces with the public at events and visits. For example, the OT Coordinator and Senior Investigator deliver presentations at Texas occupational therapy educational programs covering the topics of licensing and enforcement and answering questions at the end of the presentations regarding board functions and policies.

The OT Board holds one set of board and committee meetings each year at the Texas Occupational Therapy Association’s annual conference location, and since these meetings are open meetings, the public and conference attendees may and are encouraged to attend. These co-located meetings provide high visibility for the board and increased exposure to the public, applicants, and licensees, especially since the conference is held at a different location in Texas each year. In addition, the OT Coordinator and Executive Council staff hosts a booth during the conference with the purpose of providing an arena for conference attendees to interact with staff and discuss questions related to their interaction with the OT board and its functions.

At board and committee meetings, the OT Coordinator shares with the board the nature of the personal communication with licensees and related topics and questions. Rulemaking, board policies, forms, public information, and board discussion topic are all influenced by the day to day interaction with members of the public.

**J. If your policymaking body uses subcommittees or advisory committees to carry out its duties, fill in the following chart.**

**Executive Council of Physical Therapy and Occupational Therapy Examiners  
Exhibit 4: Subcommittees and Advisory Committees**

**Executive Council**

Name of Subcommittee or Advisory Committee	Size / Composition / How are members appointed?	Purpose / Duties	Legal Basis for Committee
None			

**Table 5 Exhibit 4-1 Subcommittees and Advisory Committees, Executive Council**

**Physical Therapy Board**

Name of Subcommittee or Advisory Committee	Size / Composition / How are members appointed?	Purpose / Duties	Legal Basis for Committee
Rules & Practice Committee	4 members/3 PTs, 1 public member/appointed by Chair	to review and make recommendations to the board regarding practice-related rules (Chapter 322) and administrative rules (e.g. rules about getting and renewing licenses, facility registration, board operations, etc.)	Title 3, Subtitle H, Chapter 453, Occupations Code, Sec. 453.102, Rules  TAC Title 22, Part 16, Chapter 325, Rule §325.5. Chairman
Education Committee	4 members/3 PTs, 1 public member/appointed by Chair	to review and make recommendations to the board on all education issues, including educational requirements for licensees , including entry-level education, national examination, and continuing competence for license renewal; to monitor the continuing competence approval program and make recommendations to the board regarding the MOU with the program administrator	Same as above
Investigation Committee	3 members/2 PTs, 1 public member/appointed by Chair	to review all complaints as presented by the Investigations Department and recommend action to the Board as appropriate	Same as above
Vision Committee	4 members/3 PTs, 1 public member/appointed by Chair	to assist agency director with the Strategic Plan and Legislative Appropriations Request; to lead the Board in its relationships with state and national entities (FSBPT, TPTA/APTA, etc.); to monitor issues impacting the physical therapy profession and refer to committee for rule promulgation as appropriate	Same as above

**Table 6 Exhibit 4-2 Subcommittees and Advisory Committees, PT Board**

## Occupational Therapy Board

Name of Subcommittee or Advisory Committee	Size / Composition / How are members appointed?	Purpose / Duties	Legal Basis for Committee
Education Committee	3 Members/1 OT, 1 OTA, 1 Public Member/Appointed by Chair	To review and make recommendations to the Board concerning continuing education requirements, the continuing education approval process, and requests for special consideration of continuing education activities	Title 3, Subtitle H, Chapter 454, Occupations Code, §454.101, General Powers and Duties; §454.102, Rules; §454.254, Mandatory Continuing Education  TAC Title 40, Part 12, Chapter 362, Rule §362.1, Definitions; Chapter 367, Rule §367.2, Continuing Education
Investigation Committee	3 Members/1 OT, 1 OTA, 1 Public Member/Appointed by Chair	To review all complaints as presented by the Investigations Department and recommend action to the Board as appropriate	Title 3, Subtitle H, Chapter 454, Occupations Code, §454.101, General Powers and Duties; §454.153, General Rules Involving Complaint Investigation and Disposition  TAC Title 40, Part 12, Chapter 374, Rule §374.3, Complaint Process
Rules Committee	3 Members/1 OT, 1 OTA, 1 Public Member/Appointed by Chair	To review and make recommendations to the Board concerning matters related to the OT Rules and OT Practice Act and make recommendations for proposed language changes to the OT Rules	Title 3, Subtitle H, Chapter 454: §454.101, General Powers and Duties; §454.102, Rules

Table 7 Exhibit 4-3 Subcommittees and Advisory Committees, OT Board

## V. Funding

### A. Provide a brief description of your agency's funding.

The Executive Council of Physical Therapy and Occupational Therapy Examiners is funded through appropriations issued every two years by the Legislature. The Council's Executive Director and Senior Accountant prepare the Legislative Appropriations Request (LAR) in compliance with the instructions provided by the Legislative Budget Board. The LAR is reviewed and approved by the Presiding Officer of the Executive Council. Once approved the LAR is submitted to the budget offices of the Legislature and the Governor.

**B. List all riders that significantly impact your agency’s budget.**

There are no riders that impact the Executive Council’s budget in this biennium.

**C. Show your agency’s expenditures by strategy.**

The expenditures are not tracked by strategy but by the agency’s operations. The expenses are tracked monthly with a detailed three-page internal budget expense report that has been reconciled with the Comptroller of Public Accounts data. This monthly budget report is prepared by the agency accounting department and submitted to the executive director for review and approval. However, the agency does reconcile expenditure data by strategy quarterly through the ABEST/USAS Reconciliation process through the ABEST data entry program that is provided by the Legislative Budget Board.

**Executive Council of Physical Therapy & Occupational Therapy Examiners  
Exhibit 5: Expenditures by Agency Operations — 2014 (Actual)**

Goal / Strategy	Amount Spent	Percent of Total	Contract Expenditures Included in Total Amount
Goal A: Licensing/Registration			
A.1.1. Strategy Licensing	\$ 646,486	52.06%	0
A.1.2. Strategy Texas.Gov	\$ 205,420	16.54%	0
Goal B: Enforcement			
B.1.1. Strategy Enforcement	\$ 384,590	30.97%	0
Goal C: Indirect Administration			
C.1.1. Strategy Licensing Indirect	\$ 3,161	00.26%	0
C.1.2. Strategy Enforcement Indirect	\$ 2,156	00.17%	0
<b>GRAND TOTAL:</b>	<b>\$ 1,241,813</b>	<b>100%</b>	<b>0</b>

Table 8 Exhibit 5 Expenditures by Strategy

**D. Show your agency’s sources of revenue. Include all local, state, and federal appropriations, all professional and operating fees, and all other sources of revenue collected by the agency, including taxes and fines.**

The revenue listed in Exhibit 6 is the revenue that is available for expenditures. All funds for the Executive Council come from the General Revenue Fund and to a lesser extent from appropriated receipts, specifically the sales of goods and services (mailing lists). From FY1993 through FY1997 the appropriated receipts were not part of or included in the Method of Finance in the GAA. When appropriated receipts became part of the bill pattern in FY1998, there was a shortfall in three of the next four years (FY1999, FY2000, & FY2001). During the next 11 years (FY2002-FY2012) the revenue generated from the appropriated receipts



increased. However the pre-designated amount the agency was required to collect increased from \$35,000 per year in FY2006 to \$80,677 in FY2010-FY2015. The agency again experienced a significant shortfall in appropriated receipts revenue collected in FY2013, FY2014, and FY2015. A detailed exhibit of the history of the appropriated receipts revenue is shown in Attachment 23. The appropriated receipts collection goal was lowered by approximately \$25,000 per year in the FY2016/17 Appropriations Act to reflect actual collections.

Other sources of revenue collected by the agency including fines and all license fees are shown in Attachment 22.

**Executive Council of Physical Therapy & Occupational Therapy Examiners  
Exhibit 6: Sources of Revenue — Fiscal Year 2014 (Actual)**

Source	Amount
General Revenue	\$1,144,500
Appropriated Receipts	80,677
<b>TOTAL</b>	<b>\$1,225,177</b>

Table 9 Exhibit 6 Sources of Revenue

**E. If you receive funds from multiple federal programs, show the types of federal funding sources. See Exhibit 7 Example.**

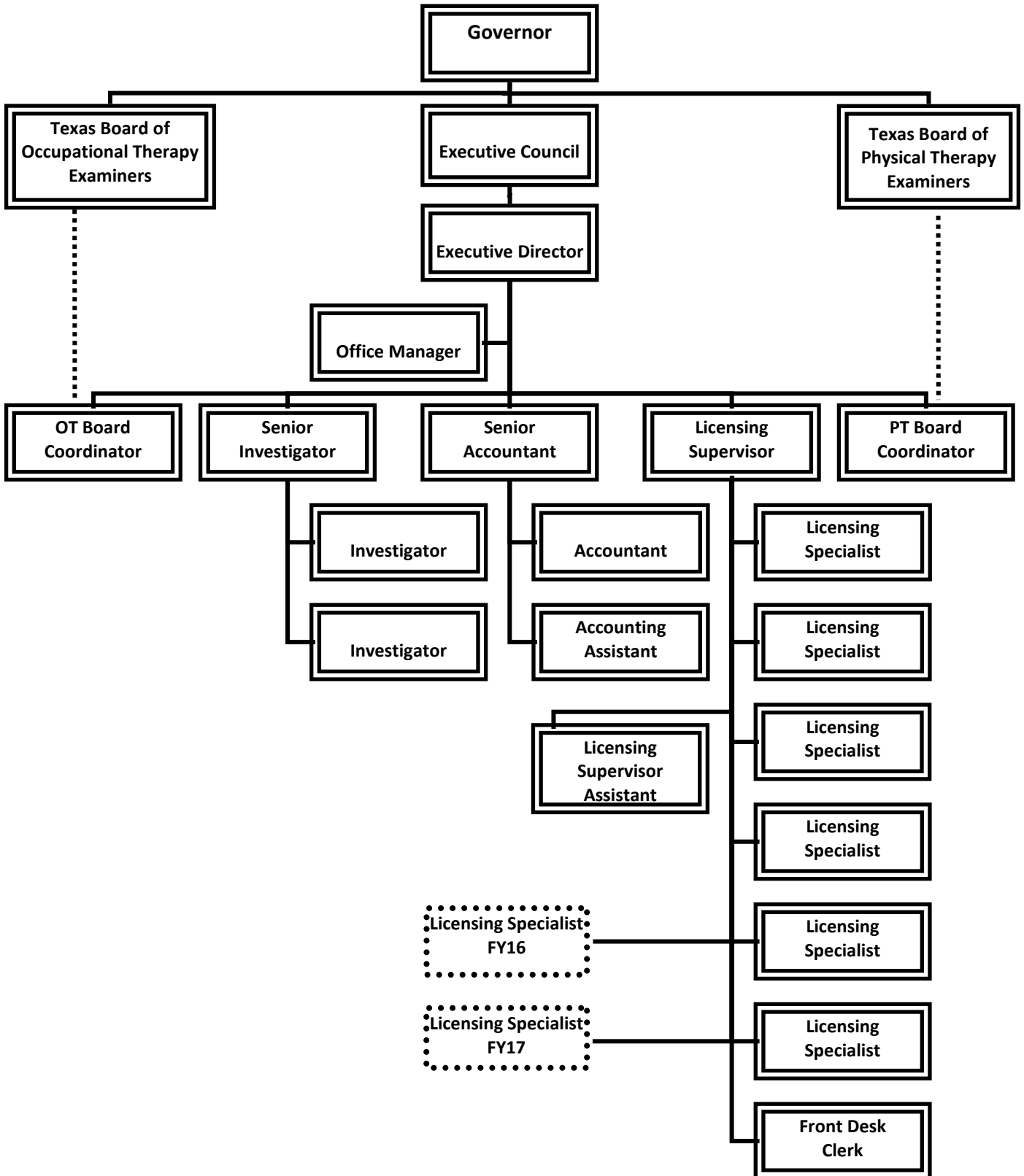
The agency receives no federal funding from any source.

**F. If applicable, provide detailed information on fees collected by your agency**

Due to its complexity, detailed information on collected fees is shown in Attachment 22 to include the fee schedules for physical therapists, physical therapist assistants, occupational therapists, occupational therapist assistants, and the facilities where they practice. All collected revenues are deposited in General Revenue.

## VI. Organization

### A.



**B. If applicable, fill in the chart below listing field or regional offices**

The agency has only one location.

**Executive Council of Physical Therapy & Occupational Therapy Examiners  
Exhibit 9: FTEs by Location — Fiscal Year 2014**

Headquarters, Region, or Field Office	Location	Co-Location? Yes / No	Number of Budgeted FTEs FY 2014	Number of Actual FTEs as of June 1, 2014
Headquarters	333 Guadalupe, Ste 2-510 Austin, Texas	No	19	19
			<b>TOTAL: 19</b>	<b>TOTAL: 19</b>

Table 10 Exhibit 9 FTEs by Location

**C. What are your agency's FTE caps for fiscal years 2014–2017?**

FY1994 to FY2013: 18 FTEs

FY2014: 19 FTEs

FY2015: 19 FTEs

FY2016: 21 FTEs (funding for 20)

FY2017: 21 FTEs (funding for 21)

**D. How many temporary or contract employees did your agency have as of August 31, 2014?**

These personnel may not fall into this category, but there is a database programmer who provides the agency support with licensing database support on an as-needed basis. She was the original developer of the database system in 1995 and again in 1999. The agency web site hosting and maintenance is provided by IEnsemble, a company that has provided this ongoing service and performed upgrades to the web site three times since 1998. The agency's IT support is provided by the Health Professions Council through an interagency contract.

**E. List each of your agency’s key programs or functions, along with expenditures and FTEs by program.**

The Executive Council of Physical Therapy & Occupational Therapy Examiners is organized into three functional areas: administration, licensing, and enforcement.

**Executive Council of Physical Therapy & Occupational Therapy Examiners  
Exhibit 10: List of Program FTEs and Expenditures — Fiscal Year 2014**

Program	Number of Budgeted FTEs FY 2014	Actual FTEs as of August 31, 2014	Actual Expenditures
Licensing	9	9	\$649,647
Administration	7	7	*
Investigations	3	3	386,746
<b>TOTAL</b>	<b>19</b>	<b>19</b>	<b>\$1,041,513</b>

**Table 11 Exhibit 10 List of Program FTEs and Expenditures – Note: \* = expenditures allocated to Licensing and Enforcement strategies. Above amounts does not include pass thru funds to Texas.Gov ( \$205,420).**

## VII. Guide to Agency Programs

### 1. Administration

Name of Program or Function	Administration
Location	333 Guadalupe, Suite 2-510 Austin, TX 78701-3942
Contact Name	John Maline, Executive Director
Actual Expenditures, FY 2014	All expenditures are allocated to either the licensing or enforcement strategy.
Number of Actual FTEs as of June 1, 2015	7
Statutory Citation for Program	Title 3, Subtitle H, Occupations Code Chapter 452 (Executive Council) Chapter 453 (Physical Therapy) Chapter 454 (Occupational Therapy)

**B. What is the objective of this program or function? Describe the major activities performed under this program.**

The administrative staff supports the activities of the board members and other two staff groups in financial administration, information services, personnel administration, and general administration. The two Board Coordinators primarily provide direct support for their respective boards' functions. The Executive Director is responsible for managing the daily office activities of staff members. All staff employees directly carry out the function of supporting one or both boards. The staff consists of 19 full-time positions, including one state exempt and 18 classified. The agency last had to rely on temporary employee assistance a number of years ago, although it is supported by a contractor database administrator, two IT support personnel from the Health Professions Council, and a website administrator from the Health Professions Council – all part-time.

**C. What evidence can you provide that shows the effectiveness and efficiency of this program or function? Provide a summary of key statistics and outcome performance measures that best convey the effectiveness and efficiency of this function or program.**

Since it was created in FY 1994, the agency has performed its job of consumer protection efficiently and effectively by:

- a. Supporting greater than a 300% increase in licensees and registered facilities.
- b. Achieving always high efficiency and performance statistics despite having relatively flat line budgets through the years.
- c. Receiving consistently high Customer Service and Survey of Employee Engagement ratings.

There are two examples of Key Outcome performance measures whose results are directly influenced by the agency administrative function, and both are related to the IT support of the licensing function:

ECPTOTE was one of the first agencies to roll-out online renewals and online applications. In FY2003, the first year of online renewals, the state key measure outcome goal was 27.5% and the agency actual result was 87%. Both numbers have increased so that today, 95-96% of all licensees renew on line through the agency website, coincidentally the state's goal for the Executive Council.

In FY2005, the first year of online applications, the state key outcome measure goal was 10% and the agency actual result was 36%. The following year the state goal was 15% and the agency actual total was 77%. Those numbers have increased so that today the state goal is 87%, while 94% of all ECPTOTE new applications are initiated on the agency website.

**D. Describe any important history regarding this program not included in the general agency history section, including how the services or functions have changed from the original intent.**

All history is covered in the general agency history section. There have been no major changes in how agency administrative functions and services are performed. Internal changes are expected in FY2016 and FY2017 due to authority to hire 2 additional licensing clerks and funding provided for IT related projects.

**E. Describe who or what this program or function affects. List any qualifications or eligibility requirements for persons or entities affected. Provide a statistical breakdown of persons or entities affected.**

The agency's 19 employees license and regulate approximately 25,000 physical therapists and physical therapist assistants, 14,000 occupational therapists and occupational therapy assistants, and register about 4,200 facilities providing therapy services to the whole population of the state of Texas. For comparison purposes, when the Executive Council was created in 1994, its 18 employees reported licensing 7,566 PTs, 3,459 OTs and registering no facilities.

**F. Describe how your program or function is administered. Include flowcharts, timelines, or other illustrations as necessary to describe agency policies and procedures. Indicate how field/regional services are used, if applicable.**

The Executive Director directly supervises the two board coordinators, senior accountant, senior investigator, business manager, and licensing manager. All agency policies and procedures are found in a number of policy documents, employee handbook, and procedure manuals.

There are no field/regional services offices.

**G. Identify all funding sources and amounts for the program or function, including federal grants and pass-through monies. Describe any funding formulas or funding conventions. For state funding sources, please specify (e.g., general revenue, appropriations rider, budget strategy, fees/dues).**

See Section V.

**H. Identify any programs, internal or external to your agency, that provide identical or similar services or functions to the target population. Describe the similarities and differences.**

None

**I. Discuss how the program or function is coordinating its activities to avoid duplication or conflict with the other programs listed in Question H and with the agency's customers. If applicable, briefly discuss any memorandums of understanding (MOUs), interagency agreements, or interagency contracts.**

All internal agency activities are coordinated by the Executive Director to avoid duplication of effort or internal agency conflicts.

The Executive Council is a member of the Health Professions Council (HPC), which is composed of representatives of all independent health regulatory agencies in Texas. The HPC was created by the 1993 Legislature to address certain common areas of cooperation, such as administration, budgeting, board member training, and the administration of complaints. The Physical Therapy Board and Occupational Therapy Board each used to have a representative on the HPC, but now there is just one – the Executive Council ED. The HPC facilitates the exchange of valuable information and expertise; this process is enhanced by the proximity of most member boards in the same building. The Executive Council participates in the progress and direction of the HPC through the Executive Director's participation, and the involvement of many other staff members on HPC sub-committees. The cooperation between members provides a valuable oversight function and forum for discussion without sacrificing the independent efficiency and effectiveness of the agency. Per the Appropriations Act, we provide a prorated, unfunded share of the financial support for the HPC, agency employees serve on several HPC working committees, and we participate in an interagency contract administered under the auspices of the HPC for Information Resources support. The agency also takes advantage of other HPC sponsored activities such as the shared courier service, document reproduction/printing services, legislative tracking, mandatory training opportunities, accounting support, employee recruiting process, document imaging system, and as always, the efforts to maximize the opportunities for member agencies to share knowledge and resources.

The agency has an MOU with the Texas Facility Commission for an off-site location in the event of a disaster, and which is in Attachment 13.

**J. If the program or function works with local, regional, or federal units of government, include a brief description of these entities and their relationship to the agency.**

N/A

**K. If contracted expenditures are made through this program please provide:**

- a short summary of the general purpose of those contracts overall;
- the amount of those expenditures in fiscal year 2014;
- the number of contracts accounting for those expenditures;
- top five contracts by dollar amount, including contractor and purpose;
- the methods used to ensure accountability for funding and performance; and
- a short description of any current contracting problems.

N/A

**L. Provide information on any grants awarded by the program.**

N/A

**M. What statutory changes could be made to assist this program in performing its functions? Explain.**

See Section IX, Major Issues, for recommended statute changes.

**N. Provide any additional information needed to gain a preliminary understanding of the program or function.**

The administration functions performed by ECPTOTE are very similar to agencies of its size and regulatory mission.

**O. Regulatory programs relate to the licensing, registration, certification, or permitting of a person, business, or other entity. For each regulatory program, if applicable, describe:**

- why the regulation is needed;
- the scope of, and procedures for, inspections or audits of regulated entities;
- follow-up activities conducted when non-compliance is identified;
- sanctions available to the agency to ensure compliance; and
- procedures for handling consumer/public complaints against regulated entities.

N//A



- P. For each regulatory program, if applicable, provide the following complaint information. The chart headings may be changed if needed to better reflect your agency's practices.**

N/A

## 2. Enforcement / Investigation

Name of Program or Function	Enforcement / Investigation
Location	333 Guadalupe, Suite 2-510 Austin, TX 78701-3942
Contact Name	Mark Turek, Senior Investigator
Actual Expenditures, FY 2014	\$ 205,420 (direct expenditures) \$ 2,156 (indirect expenditures)
Number of Actual FTEs as of June 1, 2015	3
Statutory Citation for Program	Title 3, Subtitle H, Occupations Code Chapter 452 (Executive Council) Chapter 453 (Physical Therapy) Chapter 454 (Occupational Therapy)

- B. What is the objective of this program or function? Describe the major activities performed under this program.**

The objective of the enforcement program is to investigate and take action on all valid complaints received; resolve all complaints received within the established performance standard; initiate disciplinary action on licensees as necessary; and deter and reduce the incidence of violations of the law through compliance inspections of registered facilities and education of licensees regarding the statutes and rules. The major activities performed under this program include:

- Receiving complaints from the public or through intra-agency referral;
- Investigation of complaints;
- Presentation of investigative findings to the Investigation Committee of the appropriate Board for determination of disciplinary action if warranted;

- Notification of violators of the Investigation Committee's findings with disposition through an Agreed Order.
- Presentation of the Investigation Committee's findings and Agreed Orders to the appropriate Board for ratification;
- Litigation of cases at State Office of Administrative Hearings if no Agreed Order can be reached.
- Monitoring licensees for compliance to imposed disciplinary action.
- Recommending rulemaking to the Rules Committee of the appropriate Board.

**C. What evidence can you provide that shows the effectiveness and efficiency of this program or function? Provide a summary of key statistics and outcome performance measures that best convey the effectiveness and efficiency of this function or program.**

An additional FTE investigator was added to the Enforcement/Investigation section recently, which increased the staff to three investigators, and enabled the staff to more efficiently manage the processing and investigation of complaints. An Investigations module was added to the licensing database several years ago and more recently updated to meet the control and reporting needs of the investigators. This allows for more dependable tracking of investigations and generating of performance measures reports. The automation of a previously manual process has been a multiplier for the investigation efforts. These steps also comply with the State Auditors recommendations on the last agency performance measure audit. All of the paper files of disciplinary actions taken since 2003 have been scanned and electronically filed, and are now available to the public on the agency web site through the online license verification system. A requester is able to download any of these documents without requiring investigative staff assistance. Besides saving the requester's time, it has given the investigators additional time to work active cases instead of dealing with open records requests.

Despite the steady increase in the number of PT/PTA and OT/OTA licensees, the number of violations reported to the boards has remained relatively constant compared to the overall licensee population. The proactive steps as discussed in D below have kept the total number of violations within a manageable level with a lower percentage of licensees violating the practice act and rules than in the past. The percent of licensees with no recent violations has remained at 99% since performance data was first tracked through FY 2014, while the recidivism rate has remained at 0% during the same time period. The performance standard of 80% for the documented complaints resolved in six months was exceeded by both PT and OT with 84% and 87% respectively in FY 2014.

**D. Describe any important history regarding this program not included in the general agency history section, including how the services or functions have changed from the original intent.**

The agency has taken proactive steps to attempt to lower the number of practice act violations which include:

- the use of a jurisprudence exam requirement for all OT and PT license applicants and renewals;
- emphasis on retention and training of our investigators;
- random audits of CCUs/CEUs claimed by renewals;
- including a requirement to post all taken CCUs/CEUs on the webpage license renewal module;
- encouraging the perception among licensees that they stand a strong risk of getting caught violating the practice acts;
- making visits to almost 100% of PT/PTA and OT/OTA graduating classes by board coordinators and investigators to discuss enforcement and the law; and
- encouraging strong (but fair) penalties given by the two boards to violators.

The proactive steps that the agency and boards have taken in previous years have paid off by lowering the number of the most severe violations, which used to be the most common in previous years.

**E. Describe who or what this program or function affects. List any qualifications or eligibility requirements for persons or entities affected. Provide a statistical breakdown of persons or entities affected.**

The Enforcement/Investigation program affects the following:

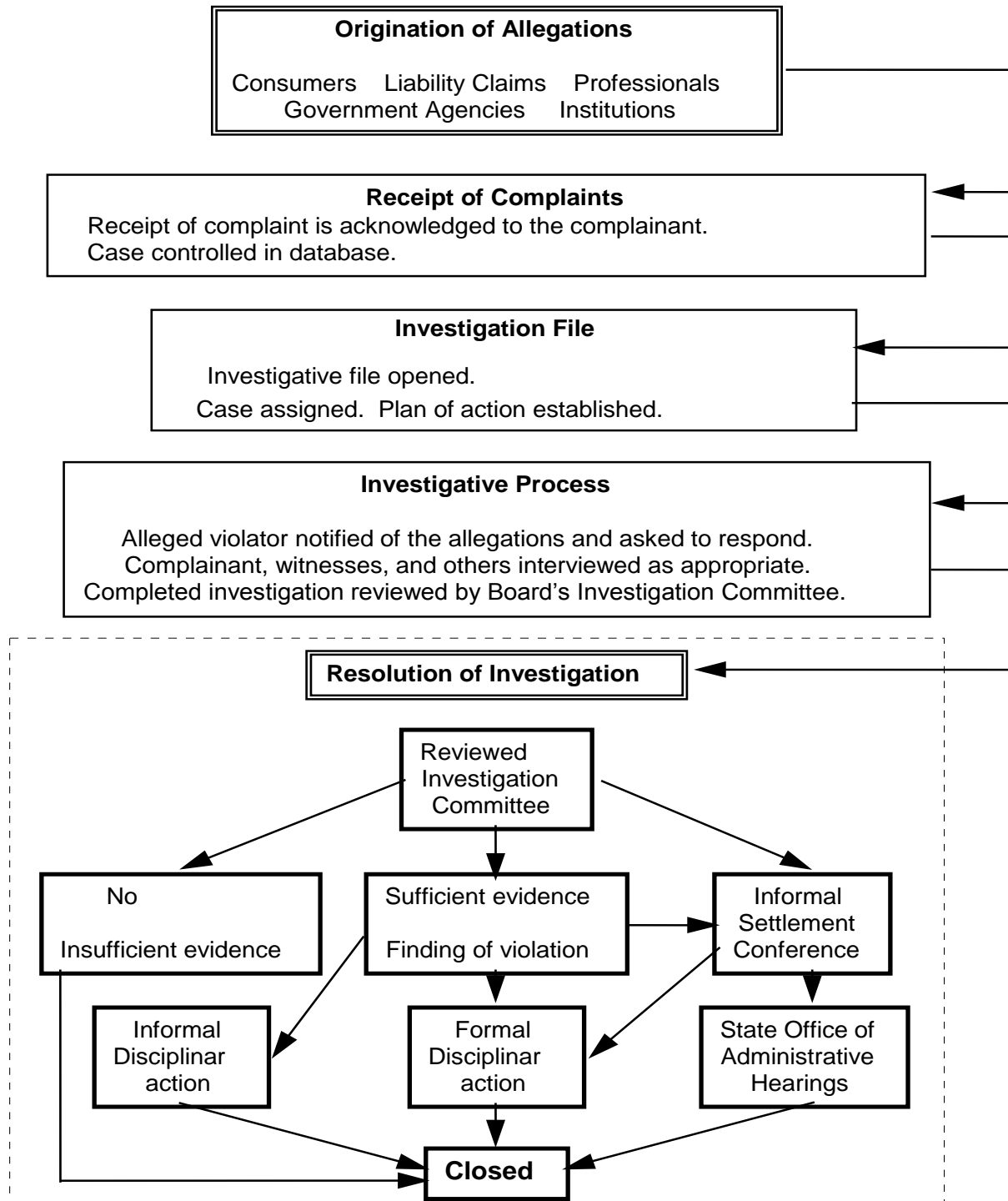
- Texas consumers, particularly recipients of physical therapy or occupational therapy services;
- Applicants for initial Texas licensure as physical therapists, physical therapist assistants, occupational therapists, and occupational therapy assistants;
- Licensed physical therapists, physical therapist assistants, occupational therapists, and occupational therapy assistants and those formerly licensed as such who apply for license restoration.
- Individuals and entities applying for registration or renewing or restoring the registration of facilities registered or previously registered by the PT Board or OT Board; and

- Employers of individuals licensed by the boards.

For the qualifications of PTs, PTAs, OTs OTAs, and facilities along with the statistical breakdown, see VII. Guide to Agency Programs, Licensing Program, E.

**F. Describe how your program or function is administered. Include flowcharts, timelines, or other illustrations as necessary to describe agency policies and procedures. Indicate how field/regional services are used, if applicable.**

The agency maintains an enforcement/investigation procedure manual which the investigation staff adheres to when processing and investigating complaints. The following chart represents an overview of the complaint, investigation, and resolution procedures.



**G. Identify all funding sources and amounts for the program or function, including federal grants and pass-through monies. Describe any funding formulas or funding conventions. For state funding sources, please specify (e.g., general revenue, appropriations rider, budget strategy, fees/dues).**

The agency is funded by the State Legislature through appropriations. Money is appropriated for the enforcement strategy from the State legislature and expended by the agency in support of this function.

Both the PT and OT Boards' statutes authorize the assessment of administrative fines on violators, which are not retained by the agency, but passed through to the general revenue fund when collected.

**H. Identify any programs, internal or external to your agency, that provide identical or similar services or functions to the target population. Describe the similarities and differences.**

None

**I. Discuss how the program or function is coordinating its activities to avoid duplication or conflict with the other programs listed in Question H and with the agency's customers. If applicable, briefly discuss any memorandums of understanding (MOUs), interagency agreements, or interagency contracts.**

N/A

**J. If the program or function works with local, regional, or federal units of government, include a brief description of these entities and their relationship to the agency.**

The Enforcement staff works with local, regional, and/or federal units of government when indicated for the investigation and resolution of complaints. The Senior Investigator testifies in local and federal criminal trials against licensees or facility owners on occasion.

Specifically, the Department of Public Safety's Computerized Criminal History System is utilized for investigating admissions of criminal history on applications for initial licensure and renewal. Also, disciplinary action taken against a licensee is entered into the U.S. Department of Health and Human Resources' National Practitioner Data Bank (NPDB).

**K. If contracted expenditures are made through this program please provide:**

- a short summary of the general purpose of those contracts overall;
- the amount of those expenditures in fiscal year 2014;
- the number of contracts accounting for those expenditures;
- top five contracts by dollar amount, including contractor and purpose;
- the methods used to ensure accountability for funding and performance; and
- a short description of any current contracting problems.

N/A

**L. Provide information on any grants awarded by the program.**

N/A

**M. What statutory changes could be made to assist this program in performing its functions? Explain.**

See Section IX, Major Issues, for recommended statute changes.

**N. Provide any additional information needed to gain a preliminary understanding of the program or function.**

N/A

**O. Regulatory programs relate to the licensing, registration, certification, or permitting of a person, business, or other entity. For each regulatory program, if applicable, describe:**

- why the regulation is needed;

The goal of the enforcement program is to protect the public by investigating allegations against individuals in violation of the laws governing the practice of physical therapy and occupational therapy, and taking appropriate corrective and/or disciplinary action when necessary; and by educating the public, staff and licensees regarding the boards' functions and services. As the PT Board and the OT Board are the only boards granted statutory authority to regulate PTs/PTAs and OTs/OTAs respectively and to register facilities which provide the services, the enforcement regulation is necessary to ensure that individuals licensed and facilities registered by either board adhere to the provisions of the Practice Act and Rules of each board.

- **the scope of, and procedures for, inspections or audits of regulated entities;**

Field calls and facility inspections are made by enforcement staff on a case by case basis as necessitated by the nature of the complaint.

- **follow-up activities conducted when non-compliance is identified;**

Follow-up activities that are conducted when non-compliance is identified can be seen in the flowchart under F of the section.

- **sanctions available to the agency to ensure compliance; and**

Sanctions available to the agency include administrative fines, reprimands, community service, suspension, probation, revocation/surrender, stipulations, and monitoring.

- **procedures for handling consumer/public complaints against regulated entities.**

Procedures for handling consumer/public complaints can be seen in the flowchart under F of this section.

**P. For each regulatory program, if applicable, provide the following complaint information. The chart headings may be changed if needed to better reflect your agency’s practices.**

**Executive Council of Physical Therapy and Occupational Therapy Examiners  
Exhibit 11a: Information on Complaints Against Physical Therapists and Facilities  
Fiscal Years 2013 and 2014**

	Fiscal Year 2013	Fiscal Year 2014
Total number of regulated persons	21,432	22,819
Total number of regulated facilities (both types)	4,123	4,125
Total number of complaints received from the public	431	357
Number of complaints resolved	438	348
Average number of days for complaint resolution	169	141
Complaints resulting in disciplinary action:	66	72
administrative penalty	0	0
reprimand	1	0
probation	0	0
suspension	21	29
Revocation/surrender	3	2
Community service	41	35
Cease & Desist	0	2
License Reinstatement	0	4

**Table 12 Exhibit 11 Information on Complaints Against Physical Therapists and Facilities**



**Executive Council of Physical Therapy and Occupational Therapy Examiners  
Exhibit 11b: Information on Complaints Against Occupational Therapists and Facilities  
Fiscal Years 2013 and 2014**

	Fiscal Year 2013	Fiscal Year 2014
Total number of regulated persons	12,276	13,131
Total number of regulated facilities (both types)	4,123	4,125
Total number of complaints received from the public	169	182
Number of complaints resolved	185	171
Average number of days for complaint resolution	113	126
Complaints resulting in disciplinary action:	34	23
administrative penalty	0	0
reprimand	0	0
probation	0	0
suspension	16	17
Revocation/surrender	2	3
Community service	15	6
Cease & Desist	0	0
License Reinstatement	0	0

**Table 13 Exhibit 11 Information on Complaints Against Occupational Therapists and Facilities**

### 3. Licensing

Name of Program or Function	Licensing
Location	333 Guadalupe, Suite 2-510 Austin, TX 78701-3942
Contact Name	Cynthia Machado, Licensing Manager
Actual Expenditures, FY 2014	\$646,486 (direct expenditures) \$3,161 (indirect expenditures)
Number of Actual FTEs as of June 1, 2015	9
Statutory Citation for Program	Title 3, Subtitle H, Occupations Code Chapter 452 (Executive Council) Chapter 453 (Physical Therapy) Chapter 454 (Occupational Therapy)

**B. What is the objective of this program or function? Describe the major activities performed under this program.**

The objective of the licensing program is to operate an efficient, accurate, and timely licensure process for physical therapists, physical therapist assistants, occupational therapists, and occupational therapy assistants; and to operate an efficient, accurate, and timely registration process for facilities in which the practices of physical therapy and occupational therapy are performed.

The Initial Licensing department issues licenses to PT/PTA and OT/OTA applicants who meet the qualifications for licensure as established by statute and board rule. Licenses are issued to applicants who have never held a license in the state of Texas or any other jurisdiction of the U.S. by method of examination; and to those who hold a valid license in good standing in other jurisdiction by method of endorsement.

The Renewal/Facility Registration department is involved in the biennial renewal of licenses, auditing for compliance with continuing competence (PT) or continuing education (OT) requirements, as well as the registration and renewal of physical therapy and occupational therapy facilities.

**C. What evidence can you provide that shows the effectiveness and efficiency of this program or function? Provide a summary of key statistics and outcome performance measures that best convey the effectiveness and efficiency of this function or program.**

The effectiveness and efficiency of the Licensing Department is reflected in the outcomes of the annual performance measures related to initial licensing, renewals, and facility registration. For initial licensing, the performance standard is the percentage of initial individual license applications that were processed within 10 days for both PT and OT and for renewals, and the percentage of individual license renewal applications that were processed within 7 days of receipt for both PT and OT.

For years, the Licensing Department has consistently achieved a high percentage of licenses issued and renewed, well within the performance standards as shown in the following FY 2014 data.

The total number of new PT/PTA licenses issued was 2,182 with an average of 3.79 days to issue a license. 91.48% of the individuals who applied for a license in FY2014 were issued a license within the 10-days target.

The total number of renewed PT/PTA licensees was 9,643, with an average of 1.0 days to renew a license. This represents an extraordinary turnaround for renewals with 100% of the licensees who renewed their license in FY2014 issued a renewal - significantly lower than the 7-days target.

1,301 OT and OTA licenses were issued. 98% of OT and OTA licenses were issued within the performance standard of issuing a license within 10 days of receiving the last required item for the application, with the average approximate license issuing time 2 days.

5,198 OT and OTA licenses were renewed. Please note that the licensing program surpassed the performance standard of renewing licenses within 7 days after receiving the last required item, as 100% of all OT and OTA license renewals were completed within 6 days of receiving the last required item with the average renewal time for such approximately 1 day.

There were 482 facilities that received their initial registration with either the PT Board or OT Board during FY 2014. One hundred percent (100%) were registered within 10 days of receiving the last required item, with the average registration issuing time of approximately 1 day. The cost average was \$18.00 for each facility registration that was issued. There were a total of 3,326 facilities that renewed their registration with 100% renewing within 7 days of receiving the last required item and with the average renewing time approximately 1 day.

**D. Describe any important history regarding this program not included in the general agency history section, including how the services or functions have changed from the original intent.**

Frequent rule and policy changes have been made to the program since the agency was created in 1994 regarding licensing and renewal requirements changing due to technological changes. For example, in just the area of online website verification of licensure, the two boards accept online applications for initial licensure and license renewal, replaced mailed renewal certificates with online renewal verifications accessed and printed by licensees, and made the online verification database sufficiently valid to allow it to be used as the official verification of licenses and disciplinary action.

In 2000, the agency began a program to cross train staff, changing its concept of licensing from an occupation-based structure to a functional structure. This was based on recommendations of a State Auditor Management Audit. At this time, ECPTOTE also added the position of the licensing manager (the position of an assistant licensing manager was added subsequently). Each group, though, still responds to the unique needs of the physical therapy and occupational therapy licensee population and the needs of facilities registered by each board.

Prior to 2000, one licensing clerk processed physical therapy renewals, one clerk processed occupational therapy renewals, and a third clerk processed applications for initial registration and registration renewal for facilities. Since 2000, all licensing staff in the licensing renewal group rotates with regard to processing physical therapy renewals, occupational therapy renewals, and facility applications and renewals. (Staff also assists licensees and those applying for or holding facility registrations and with other matters related to their compliance with the PT Act and Rules or OT Act and Rules.) Similarly, with regard to the Initial Licensing Department, prior to 2000, one individual oversaw the receipt and processing of all physical therapy applications and initial licenses and another handled all occupational therapy

applications and initial licenses. Since 2000, duties in the Initial Licensing group rotate among processing applications, issuing licenses, and processing incoming mail. All staff members of the Initial Licensing section assist applicants for initial licensure through phone calls, emails or in person.

As the PT Board and the OT Board no longer function as examining boards, internal licensing policies regarding the administration of a licensing examination have changed. Applicants for a PT or PTA license must pass the National Physical Therapy Examination (NPTE), which is developed and administered by the Federation of State Boards of Physical Therapy (Federation), including payment of the examination fee directly to the Federation. After each testing period, score reports for all applicants who took the exam are reported directly to the agency by the Federation.

The OT Board has also experienced changes with regard to policies concerning the administration of the national examination, and due to the multiple postponements of the Sunset Review, the Practice Act has not been amended to reflect these changes.

Throughout the U.S., for example, states are no longer involved in the administration of the national examination - the National Board for Certification in Occupational Therapy (NBCOT) certification examination. Instead, the exam is administered and owned by NBCOT. (The exam was formerly owned by the American Occupational Therapy Association.)

Once potential licensees pass the certification examination for their respective level (those with training as occupational therapists or those with training as occupational therapy assistants), they receive initial certification as either an occupational therapist registered or a certified occupational therapy assistant. However, they still must receive a license from the OT Board before they may practice in Texas.

Due to NBCOT's role with regard to the examination, the OT Board does not set the method of application for the exam, administer it, notify applicants of their examination results, etc. Rule and policy changes related to initial licensure and restoration requirements (some of which require that an applicant for restoration retake and pass the NBCOT examination) have changed to accommodate such developments.

**E. Describe who or what this program or function affects. List any qualifications or eligibility requirements for persons or entities affected. Provide a statistical breakdown of persons or entities affected.**

The licensing program affects:

- Texas consumers, particularly recipients of physical therapy or occupational therapy services;
- Applicants for initial Texas licensure as physical therapists, physical therapist assistants, occupational therapists, and occupational therapy assistants;

- Licensed physical therapists, physical therapist assistants, occupational therapists, and occupational therapy assistants and those formerly licensed as such who apply for license restoration.
- Individuals and entities applying for registration or renewing or restoring the registration of facilities registered or previously registered by the PT Board or OT Board; and
- Employers of individuals licensed by the boards.

Qualifications for licensure/registration and statistical breakdowns for persons/entities affected are as follows:

#### **PT/PTA Qualifications for Licensure**

- Complete an accredited physical therapist or physical therapist assistant educational program; or an educational program that is deemed substantially equivalent if foreign-educated;
- Pass the National Physical Therapy Examination (NPTE); and
- Pass the Jurisprudence Exam pertaining to the Board's Practice Act and Rules.

At the end of FY 2015, there were 16,076 physical therapists and 8,336 physical therapist assistants licensed by the PT Board. Outpatient clinics (28.7%), home health (18.7%), and hospitals (14.2%) are the top settings in which PTs practiced, and Texas ranked third in the nation for employment of physical therapy practitioners.

#### **OT/OTA Qualifications for Licensure**

- Complete an accredited occupational therapist or occupational therapy assistant educational program that includes academic requirements and fieldwork experience;
- Pass the National Board for Certification in Occupational Therapy certification examination for those trained as occupational therapists or occupational therapy assistants; and
- Pass the Jurisprudence Exam pertaining to the OT Board's Practice Act and Rules.

As of August 31, 2015, Texas had approximately 9,174 licensed occupational therapists and 4,811 licensed occupational therapy assistants; Texas is the sixth largest state in most employment categories with regard to occupational therapy and tied for seventh in licensure. Occupational therapists and occupational therapy assistants work in a variety of settings such as home health, assisted living facilities, hospitals, early-childhood intervention settings, schools, and private-practice settings.

## Facility Qualifications for Registration

- Provision of physical therapy or occupational therapy services, unless exempt by law.
- Exempt facilities include:
  - Facilities licensed under Subtitle B, Title 4, of the Health and Safety Code,
  - Home health settings
  - Educational institutions
- Therapist in Charge to ensure compliance with Practice Act/Rules

As of August 31, 2015, there were 2,637 registered physical therapy facilities and 1,469 registered occupational therapy facilities, with a total of 4,106 facilities registered under the two boards.

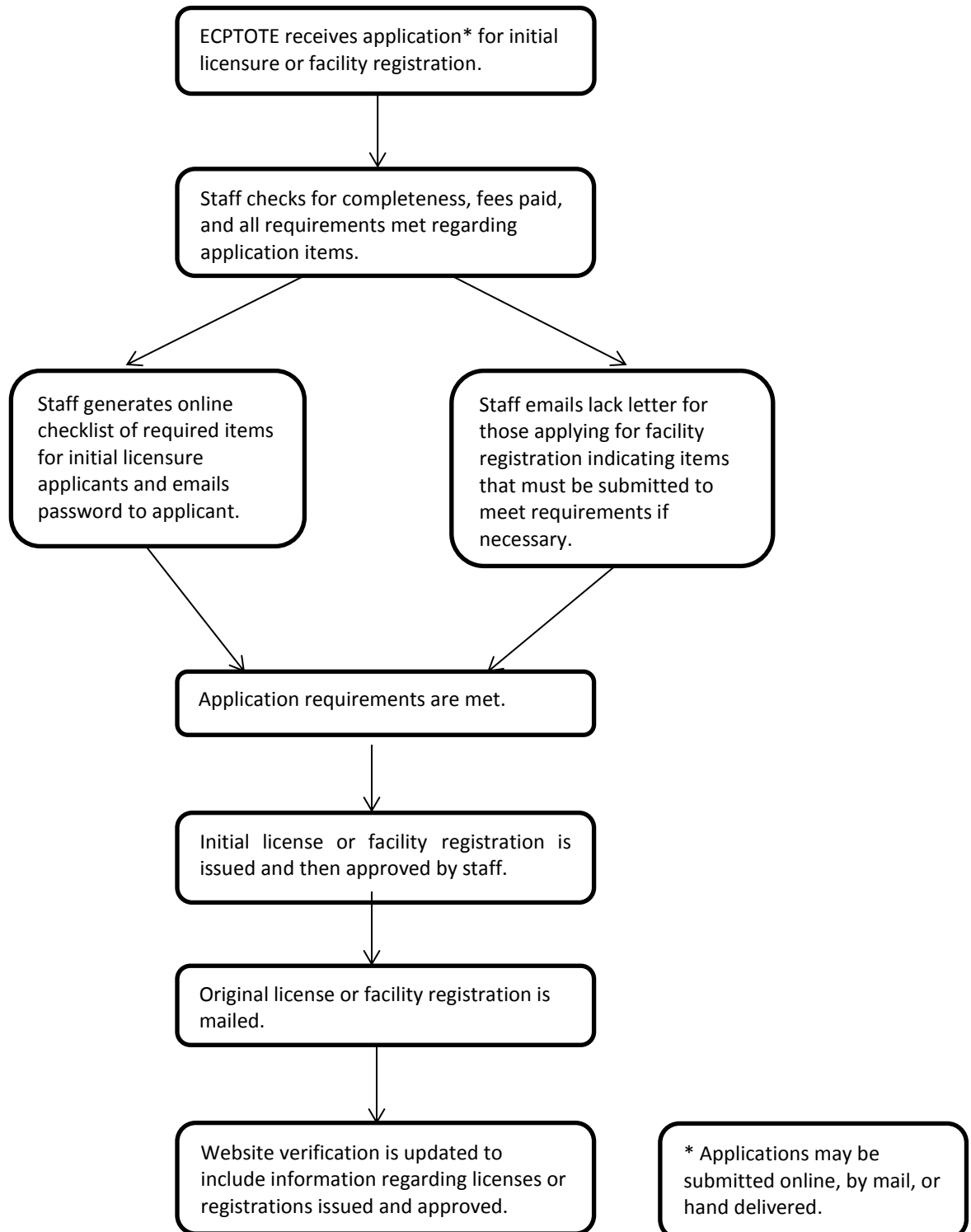
**F. Describe how your program or function is administered. Include flowcharts, timelines, or other illustrations as necessary to describe agency policies and procedures. Indicate how field/regional services are used, if applicable.**

The agency maintains a licensing procedure manual, which all licensing staff may access from a shared drive. The two coordinators maintain the manual and elicit and incorporate input from staff to reflect changes or clarification in procedure. The manual includes policies and procedures under the following topics:

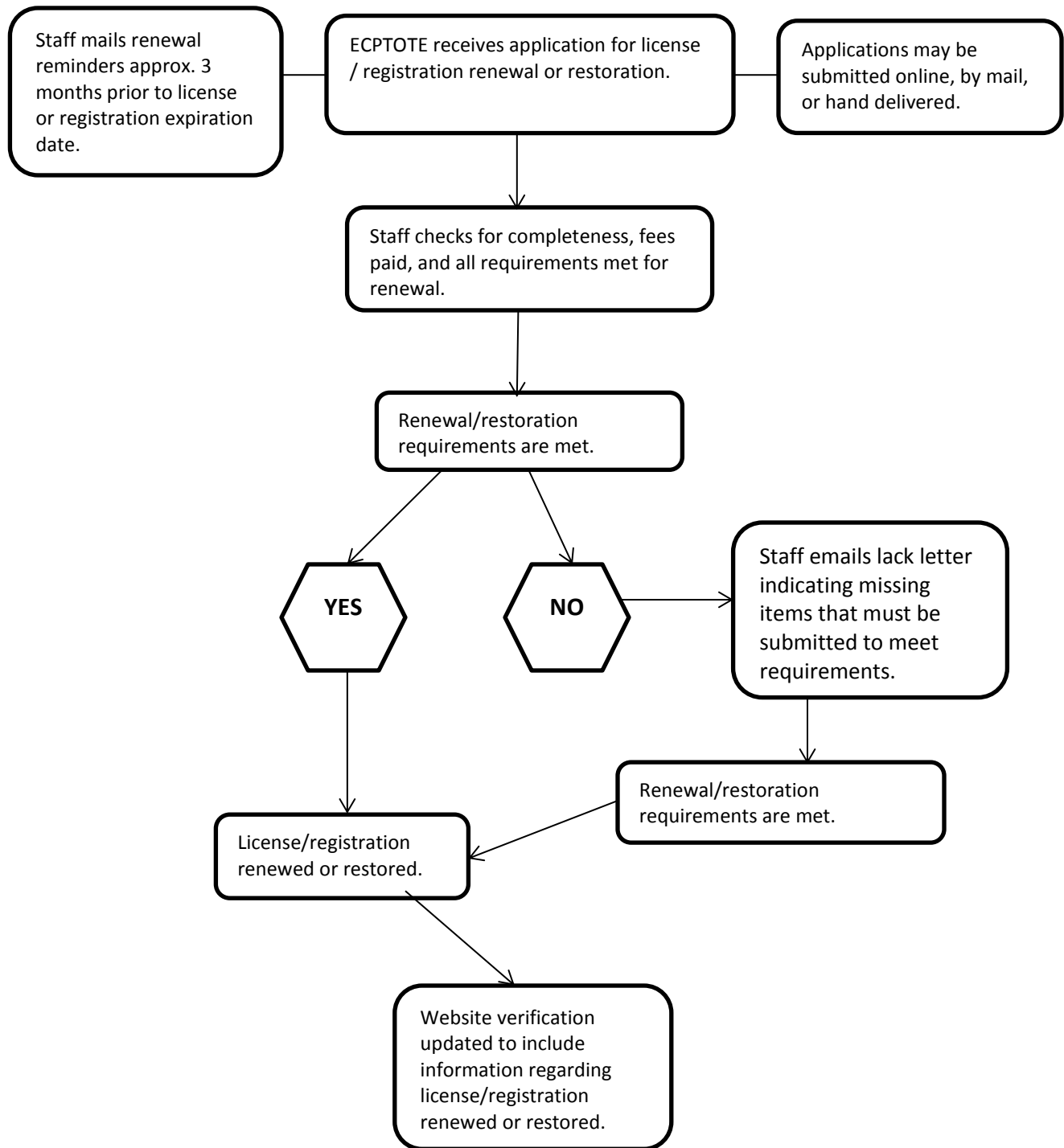
- Database information
- Procedures/Policies Applying To All Licensing Departments
- Procedures for Exporting, Importing, Saving, and Printing Morning Reports
- Daily Verification Database Updates
- Daily Email Reports
- Initial Licensing Procedures for PT/PTA Applicants
- Verification of Licenses to another state
- Continuing Competence/Continuing Education Audit
- Facility Procedures
- Procedures for License Approval by a Licensing Manager or Coordinator
- Licensing/Financial Procedures
- Scanning Project for Facilities, Licensees
- Procedures for Front Desk

Please see the following charts representing an overview of general procedures related to the application and issuance, renewal, and restoration of PT, PTA, OT, and OTA licenses and those for the application and issuance, renewal, and restoration of PT or OT facility registrations.

### Overview of Licensing Department Procedures: License/Registration Issuance



### Overview of Licensing Department Procedures: License/Registration Renewal or Restoration





**G. Identify all funding sources and amounts for the program or function, including federal grants and pass-through monies. Describe any funding formulas or funding conventions. For state funding sources, please specify (e.g., general revenue, appropriations rider, budget strategy, fees/dues).**

The agency is funded by the State Legislature through appropriations. Money is appropriated from the State Legislature for the licensing strategy for expenditures and the Texas Online Appropriation Authority, a pass-through entity.

Fees that are collected for licensing/renewal and facility registration are set by the Executive Council and are enumerated in Texas Administrative Code, Title 22, Part 28, Executive Council of Physical Therapy and Occupational Therapy Examiners, Chapter 651. Fees.

**H. Identify any programs, internal or external to your agency, that provide identical or similar services or functions to the target population. Describe the similarities and differences.**

Facilities which are licensed by the Texas Department of State Health Services (DSHS) or the Texas Department of Aging and Disability Services (DADS) may include the services of physical therapy and/or occupational therapy within the authority of their licensure, and are not required to register those services with the PT Board or OT Board. For example, a hospital which offers physical therapy and occupational therapy does so under the umbrella of their hospital license issued by DSHS, and a home health agency offering the same does so under the umbrella of their license issued by DADS.

**I. Discuss how the program or function is coordinating its activities to avoid duplication or conflict with the other programs listed in Question H and with the agency's customers. If applicable, briefly discuss any memorandums of understanding (MOUs), interagency agreements, or interagency contracts.**

When physical therapy and occupational therapy facility registration was mandated during Sunset 1993, facilities requiring licensure under Subtitle B, Title 4, of the Health and Safety Code were exempt to avoid undue and duplicate regulation of those facilities. By rule, both boards exempted colleges, universities, schools, home health settings, and settings where Early Childhood Intervention (ECI) services take place from registration for the same reason. In order to resolve whether a hospital offsite outpatient facility was included in the hospital license or would be subject to physical therapy and/or occupational therapy facility registration, the boards worked closely with the Facility Licensing Group of the Texas Department of State Health Services (DSHS) to make that determination.

Prior to 1999, licensing staff reviewed submissions of continuing education (CE) courses and determined whether or not the submission was an appropriate course for a PT/PTA licensee to apply towards the CE requirement for renewal. This was a time-consuming, laborious procedure for staff that had no expertise in the field of physical therapy to determine the appropriateness of the offering.

Through the authority granted to the PT Board in Title 3, Subtitle H, Occupations Code, Sec. 453.254. CONTINUING COMPETENCE and pursuant to a Memorandum of Understanding (MOU) with the board, the Texas Physical Therapy Association (TPTA) has been authorized to act as the board-approved organization to accredit providers and to evaluate and approve continuing competence (CC) activities for purposes of compliance with mandatory CC requirements as set by the board. This includes the authority to give, deny, withdraw and limit accreditation of providers and approval of competence activities, and to charge and collect fees as set forth in the MOU and in the statute and rules. This is accomplished through the Continuing Competence Approval Program with panels of PTs and/or PTAs approving the continuing competence activities.

Over the years, the MOU has been amended several times especially when the board transitioned to a more inclusive model of continuing competence with expanded categories for licensees to meet the continuing competence renewal requirement.

With regard to the OT Board, NBCOT verifies applicants' academic and fieldwork experience prior to approving such individuals to take the examination based upon their completion of an occupational therapist or occupational therapy assistant program accredited by the national accrediting organization for education in occupational therapy, the Accreditation Council for Occupational Therapy Education. Consequently, the OT Board, like the preponderance of occupational therapy boards throughout the country, does not primary source verify applicants' training qualifications; instead, the board verifies such upon receiving proof of applicants' examination results from NBCOT. This reduces redundancy and facilitates the expediting of the initial licensing process, as the OT Board does not need to expend resources to primary source verify applicants' transcripts and other training-related documentation.

There are no memorandums of understanding between the OT Board and any other organizations. The OT Board has a continuing education approval process, but does not authorize any organizations to be the sole approver of continuing education. Instead, educational activities approved or offered by the American Occupational Therapy Association or the Texas Occupational Therapy Association are pre-approved by the Board according to criteria in the Act and Rules. Licensees are not required to complete pre-approved continuing education activities, though all continuing education submitted for license renewal must comply with the OT Board's rules regarding such.

**J. If the program or function works with local, regional, or federal units of government, include a brief description of these entities and their relationship to the agency.**

N/A

**K. If contracted expenditures are made through this program please provide:**

- **a short summary of the general purpose of those contracts overall**

The agency has contracted expenditures through two entities, Interactive Ensemble, Inc. and Logical Computer Solutions.

Interactive Ensemble, Inc. provides website development and hosting and maintenance services for the ECPTOTE website, which applicants, licensees, and registered facilities visit in order to access forms and information related to regulations and to begin the online application and renewal process.

Logical Computer Solutions, the company that created the licensing database, provides database maintenance and consulting services. The database is used with regard to application and renewal processing.

- **the amount of those expenditures in fiscal year 2014**

The expenditures for fiscal Year 2014 were \$23,568.

- **the number of contracts accounting for those expenditures;**

The one contract with Interactive Ensemble, Inc., accounts for these expenditures as noted above for website development and hosting.

- **top five contracts by dollar amount, including contractor and purpose;**

The expenditures for Interactive Ensemble, Inc. in fiscal Year 2014 were \$23,568; the purpose was to provide website development, hosting, and maintenance services for the ECPTOTE website. There were no expenditures for Logical Computer Solutions in fiscal Year 2014, as there were no work orders for that year.

- **the methods used to ensure accountability for funding and performance; and**

Companies with which ECPTOTE holds contracts must meet performance benchmarks according to specified timelines. Once such benchmarks have been met, funds are released.

- **a short description of any current contracting problems.**

There are no current contracting problems.

**L. Provide information on any grants awarded by the program.**

None.

**M. What statutory changes could be made to assist this program in performing its functions? Explain.**

Recommended changes to the PT Practice Act related to administration of the licensing examination, qualifications of licensure applicants, and licensure status are set forth in Section IX., Major Issues.

Concerning the OT Practice Act, statutory changes may be made regarding clarification of the administration of the national examination and the academic and fieldwork qualifications required for licensure. Further changes include removing language regarding a renewal certificate and language linking renewal fees to the examination fee, clarifying language regarding reinstatement, and adding a provision related to the license option of retired status. For these and further changes that may assist the licensing program in performing its functions, please see Section IX., Major Issues.

**N. Provide any additional information needed to gain a preliminary understanding of the program or function.**

N/A

**O. Regulatory programs relate to the licensing, registration, certification, or permitting of a person, business, or other entity. For each regulatory program, if applicable, describe:**

• **why the regulation is needed;**

The goal of the Licensing Department is to protect the public health and safety by licensing qualified practitioners of physical therapy and occupational therapy and registering eligible facilities which provide such services. As the PT Board and the OT Board are the only boards granted statutory authority to license PTs/PTAs and OTs/OTAs respectively and to register facilities which provide the services, the regulation is necessary to ensure that individuals issued a license by either board meet minimum standards to practice physical therapy or occupational therapy in the state of Texas, and that facilities that offer physical therapy and/or occupational therapy do so with only qualified practitioners.

• **the scope of, and procedures for, inspections or audits of regulated entities;**

Quarterly, the agency administers an audit of PT licensees' required continuing competence activities and an audit of OT licensees' required continuing education activities. The audit verifies the completion of the required continuing competence or

continuing education of 5% of licensees who renewed during the quarter ending six months prior to the quarter in which the audit is conducted. The list of audited licensees is randomly generated by the database and to comply with the audit, licensees must submit their continuing competence or continuing education documentation and other supporting materials.

- **follow-up activities conducted when non-compliance is identified;**

Individuals who have not passed the continuing competence or continuing education audit are referred to the Investigations Department for further investigation. In addition to audit non-compliance, referrals are made to the Investigations Department from the Licensing Department for self-report of criminal history on initial licensure or license renewal and restoration applications, failure to submit required CC or CE documentation with late renewals over 90 days, and for any suspected fraudulent submission for licensure or renewal.

- **sanctions available to the agency to ensure compliance; and**

Sanctions available to the agency include administrative fines, reprimands, community service, suspension, probation, revocation/surrender, stipulations, and monitoring.

- **procedures for handling consumer/public complaints against regulated entities.**

Procedures for handling consumer/public complaints can be seen in the flowchart under F of the Enforcement portion of this section.

**P. For each regulatory program, if applicable, provide the following complaint information. The chart headings may be changed if needed to better reflect your agency's practices.**

See Investigation program for details.

## VIII. Statutory Authority and Recent Legislation

- A. Fill in the following charts, listing citations for all state and federal statutes that grant authority to or otherwise significantly impact your agency. Do not include general state statutes that apply to all agencies, such as the Public Information Act, the Open Meetings Act, or the Administrative Procedure Act. Provide information on Attorney General Opinions from FY 2011–2015, or earlier significant Attorney General opinions, that affect your agency’s operations.

**Executive Council of Physical Therapy & Occupational Therapy Examiners  
Exhibit 12: Statutes / Attorney General Opinions**

**Statutes**

Citation / Title	Authority / Impact on Agency <i>(e.g., “provides authority to license and regulate nursing home administrators”)</i>
Executive Council of Physical Therapy and Occupational Therapy Examiners Title 3, Subtitle H, Chapter 452, Occupations Code	Administers and enforces Chapters 453 and 454.
Texas Physical Therapy Practice Act Title 3, Subtitle H, Chapter 453, Occupations Code	Provides authority to license and regulate the practice of Physical Therapy
Texas Occupational Therapy Practice Act Title 3, Subtitle H, Chapter 454, Occupations Code	Provides authority to license and regulate the practice of Occupational Therapy

**Table 14 Exhibit 12 Statutes**

**Attorney General Opinions**

Attorney General Opinion No.	Impact on Agency
<b>Executive Council - None</b>	
<b>Texas Board of Physical Therapy Examiners – GA-0914</b>	Board not authorize to disclose licensees’ SSNs or the last four digits of the SSNs to the Federation of State Boards of Physical Therapy (FSBPT) for use in their national database of disciplinary action and licensure information (ELDD) which is the only national database specific to the profession of Physical Therapy. The disclosure of a licensee’s SSN would allow for the FSBPT to link licensure and disciplinary action of individuals with greater certainty and would ensure that the TBPTE have accurate information regarding licensees from other jurisdictions who are seeking licensure in Texas and TX licensees who hold multiple licenses.
<b>Texas Board of Occupation Therapy Examiners - None</b>	

**Table 15 Exhibit 12 Attorney General Opinions**

- B. Provide a summary of recent legislation regarding your agency by filling in the charts below or attaching information already available in an agency-developed format. Briefly summarize the key provisions. For bills that did not pass, briefly explain the key provisions and issues that resulted in failure of the bill to pass (e.g., opposition to a new fee, or high cost of implementation). Place an asterisk next to bills that could have a major impact on the agency.**

**Executive Council of Physical Therapy and Occupational Therapy Examiners  
Exhibit 13: 84th Legislative Session**

***Legislation Enacted***

<b>Bill Number</b>	<b>Author</b>	<b>Summary of Key Provisions</b>
S.B. 807	Primary Author: Campbell  Coauthors: Hinojosa Lucio Menéndez	Relating to occupational license application and examination fees for certain military service members, military veterans, and military spouses. <ul style="list-style-type: none"> <li>The bill requires a state agency that issues an occupational license to a military service member or military veteran to waive the license application and examination fees (if paid to the state) if the applicant's military service, training, or education substantially meets all of the requirements for the license.</li> <li>The bill also requires a state agency to waive such fees for a military service member, veteran, or military spouse who holds a current license issued by another jurisdiction that has substantially equivalent licensing requirements</li> </ul>
S.B. 1307	Primary Author: Menéndez  Coauthors: Campbell Hinojosa Uresti Zaffirini	Relating to occupational licenses for military service members, military veterans, and military spouses. <ul style="list-style-type: none"> <li>The bill amends Occupations Code provisions relating to the occupational licensing of military service members, military veterans, and military spouses to make applicable to military service members and military veterans certain alternative and expedited licensing procedures applicable to military spouses.</li> <li>The bill also requires a state agency that issues an occupational license to post a notice on the agency's website describing licensing provisions applicable to military service members, military veterans, and military spouses.</li> <li>Previous law qualified a military service member who held an occupational license for exemption from a penalty for failing to renew the license in a timely manner because the individual was serving outside Texas. The bill removes that condition and provides that a military service member is entitled to a two-year extension of a license renewal deadline, rather than an extension based on the amount of time the service member serves on active duty.</li> </ul>
H.B. 763	Primary Author: King, Susan	Relating to a petition to a state agency for adoption of rules. <ul style="list-style-type: none"> <li>Amends Government Code §2001.021 concerning petitions for rulemaking.</li> <li>If agency requires multiple signatures on a petition for rulemaking, at least 51 percent of signers must be Texas residents.</li> <li>Organizations filing petitions must be located in Texas.</li> </ul>

**Table 16 Exhibit 13 Legislation Enacted 84th Leg**

**Legislation Not Passed**

Bill Number	Author	Summary of Key Provisions / Reason Bill Did Not Pass
HB 1263	Raymond, Elkins, Lucio III, Guillen	<p>HB 1263 would have amended the Occupations Code to remove statutory provisions conditioning the treatment of a patient's injury or condition by a physical therapist on the prior referral of a practitioner, and to instead authorize a physical therapist to treat a patient for an injury or condition that is within the physical therapist's scope of practice without a referral.</p> <p>Physical therapists would have to be:</p> <ul style="list-style-type: none"> <li>• licensed to practice physical therapy for at least one year,</li> <li>• covered by professional liability insurance in the minimum amount established by Texas Board of Physical Therapy Examiners rule, and</li> <li>• either possess a doctoral degree in physical therapy from an appropriately accredited program or institution or have completed at least 30 hours of continuing competence activities in the area of differential diagnosis.</li> </ul> <p>Also, there would have been a limited period during which a physical therapist may treat a patient without a referral for 20 treatment sessions or 45 consecutive calendar days, whichever occurs first; and a requirement for the physical therapist to obtain a referral from a referring practitioner before continuing treatment exceeding this limit.</p> <p>The bill was not scheduled for consideration by the House Committee on Calendars.</p>
H.B. 1998	<p>Primary Author: Coleman</p> <p>Joint Authors: Bonnen, Greg Walle</p>	<p>Relating to the list of non-physician mental health professionals in the Health and Safety Code, Title 7, Mental Health and Mental Retardation, Subtitle C., Texas Mental Health Code, Chapter 571, General Provisions</p> <p>H.B. 1998 would have added occupational therapists licensed to practice in Texas to the definition of a non-physician mental health professional in the Health and Safety Code, Title 7, Mental Health and Mental Retardation, Subtitle C., Texas Mental Health Code, Chapter 571, General Provisions.</p> <p>The bill would not have authorized an occupational therapist to perform diagnosis or psychological services of the type typically performed by a licensed psychologist.</p> <p>H.B. 1998 passed the House on 5/13/15 and was referred to the Senate Health and Human Service Committee on 5/15/15. The last Health and Human Service Committee meeting was 5/22/15. The bill did not progress further as there was not enough time remaining during the legislative session for it to complete the process leading up to enrollment.</p>



Bill Number	Author	Summary of Key Provisions / Reason Bill Did Not Pass
HB 4113	Coleman	<p>Relating to the licensing and regulation of speech-language pathologists and audiologists by the Executive Council of Physical Therapy and Occupational Therapy Examiners; providing a fee.</p> <p>H.B. 4113 would have added the Speech Language Pathology and Audiology Board to the Executive Council. It would have increased the Executive Council board membership from two boards to three, and the Speech Language Pathology and Audiology Board would have had the same authority, participation, etc. as the other two boards. The Executive Council would have assumed the licensing and regulation responsibilities of the board from DSHS.</p> <p>The bill appeared to be a placeholder for an amendment to HB 2510, the DSHS sunset bill, which failed to advance through the legislative process.</p>

**Table 17 Exhibit 13 Legislation Not Passed 84th Leg**

## IX. Major Issues

### Executive Council - Major Issues

#### ISSUE 1: Change the name of the Agency

##### A. Brief Description of Issue

The Executive Council of Physical Therapy and Occupational Therapy Examiners exists to support the Texas State Board of Physical Therapy Examiners and Occupational Therapy Examiners in their licensing and regulatory missions. These boards are no longer “examining boards” and they are both addressing a name change in their respective Major Issue sections. If their names are changed during the Sunset process, then the Executive Council’s name should also change to better describe its support mission.

##### B. Discussion

During the FY2005 Sunset Review of the other health related agencies, all of their names were changed to drop the word “examiners” from the title. They, like the PT and OT Boards, had also stopped administering examinations to incoming applicants. Since the Executive Council and PT and OT boards have not gone through the Sunset review process since 1993, and it was not worth the time and effort to try and have the legislature change their names, all three entities still have the word “examiner” in their titles. The PT and OT boards have not examined applicants for licenses since the late 1990’s.

##### C. Possible Solutions and Impact

The Executive Council should have its name changed to “Executive Council of Physical Therapy and Occupational Therapy Boards”. That title exactly describes the role of the agency. The title change would occur in multiple locations throughout Chapter 452.

## **ISSUE 2: Change the term length of the Presiding Officer**

### **A. Brief Description of Issue**

The Presiding Officer of the Executive Council is only appointed for a two year term by the governor. The normal appointment term for boards and commissions members is six years. The PT Board and OT Board are tasked to each appoint two board members to the Executive Council for a two year term.

### **B. Discussion**

When the Executive Council was created in 1993, there was no “go-by” as to how it should function, as there was no similar agency in Texas government. The logic behind the creation of parts of the enabling statute is unknown and unexplainable. This is one example. There is no logical reason to limit the term of the presiding officer to only two years instead of the six years term for almost every other board or commission appointee. The Governor’s Appointments Office has had to reappoint each presiding officer for three terms of two years each to allow them to serve a normal board member appointment term.

### **C. Possible Solutions and Impact**

The Executive Officer’s Presiding Officer term should be changed to six years. The recommended change to the statute would be:

Section 452.005. PRESIDING OFFICER.

The member appointed by the governor is the presiding officer of the executive council, and is appointed for a six year term.

## **ISSUE 3: Change the travel reimbursement of the Presiding Officer, and clarify the reimbursement of the other members**

### **A. Brief Description of Issue**

Section 452.057. COMPENSATION; REIMBURSEMENT. is ambiguous and unclear. The agency requested and received an interpretation from the Comptroller in the late 90’s, but that interpretation should be clarified and codified.

**B. Discussion**

Until the Comptroller was asked to formally interpret Section 452.057, the original interpretation was that the presiding officer would receive the standard per diem and travel expenses only. The other council members appointed by their board would receive no per diem or reimbursement of any travel expenses while serving on the council. The final interpretation by the Comptroller was that the Presiding Officer would continue to receive compensation as stated in the statute, but the PT and OT board members appointed to the council would be reimbursed as if they were acting as members of their respective boards. In other words they would receive reimbursement as provided by the Appropriations Act. As a consequence of this, the Governor’s Appointments Office has appointed presiding officers who reside in and around Austin or nearby, like San Antonio.

**C. Possible Solutions and Impact**

Section 452.057 should be rewritten to allow the Executive Council to reimburse the presiding officer in accordance with the travel reimbursement as provided in the Appropriations Act. This would result in a minimum increase in agency travel costs, but that would be more than offset by making the assignment attractive to potential appointees residing throughout Texas, and not just in the Austin area.

**ISSUE 4: Delete the administrative function of administering written examinations**

**A. Brief Description of Issue**

Section 452.152. ADMINISTRATIVE FUNCTIONS. (b) (1), states that “The executive council shall perform the administrative functions relating to issuing and renewing licenses, including: (1) the administration of written examinations and collection of fees;...” Additionally, Section 452.153 (b), states that the administration of examinations is the responsibility of the appropriate board. Neither the executive council nor the two boards now administer examinations.

**B. Discussion**

Prior to the late 90’s, the Executive Council administered the pencil and paper national licensing examination to PT and OT applicants several times a year. When it became a computerized examination offered at nationwide learning centers, the Executive Council no longer administered written examinations. Greater detail is found in the PT and OT boards major issues that follow.

**C. Possible Solutions and Impact**

In Section 452.152 (b) (1) delete “...administration of written examinations and...”

In Section 452.153 (b) delete the first sentence.

**ISSUE 5: Delete the requirement for the Executive Council to examine and evaluate board operations**

**A. Brief Description of Issue**

Section 452.157. REVIEW OF BOARDS, states that the Executive Council will routinely examine and evaluate the operations of the PT and OT boards. This has never happened, because as it is written, it would basically require the Executive Council to examine and evaluate its own internal operations. It makes no sense.

**B. Discussion**

When its mission statement says the Executive Council will support the operations of the two boards, it means just that. All administrative functions of the two boards are performed by the staff of the Executive Council. All decision making is done by the boards. While the two boards certainly have a say so in how the staff of the Executive Council staff performs those duties, it is managed through the Executive Council itself – the five appointed members. This symbiosis works well, and there is no need to “examine and evaluate the operations of the boards” as stated.

**C. Possible Solutions and Impact**

Delete Section 452.157.

**Physical Therapy Board - Major Issues**

**ISSUE 1: Change the name of the Board**

**A. Brief Description of Issue**

The Texas Board of Physical Therapy Examiners (PT Board) was established by the 62nd Legislature during regular session through Senate Bill 344 in 1971. Among the powers granted to the Board was that of conducting examinations to ensure that individuals that were issued a license by the Board met minimum standards to practice physical therapy in the state of Texas. The Board's name was appropriate during the period in which the Board members developed and administered the licensure exam, but the designation of being an "Examiners" Board is now antiquated.

**B. Discussion**

The original members of the Texas Board of Physical Therapy Examiners, with input from Physical Therapy Program Directors, developed the first state physical therapy licensure examination for those individuals who did not qualify for licensure through the grandfather clause of the Act. The examination was called REEX, and was administered, proctored, and scored by the Board members. After the initial licensing cycle, the Board purchased examinations that were developed by a committee of the American Physical Therapy Association (APTA) in conjunction with the Profession Examination Service (PES), but continued with the administration of the exam with site selection, proctoring, and notification of examinees of eligibility to sit for the exam and of individual test scores after receipt from PES.

In the late 1980s, the Federation of State Boards of Physical Therapy (Federation) began negotiating with APTA to purchase the exam, and officially took over the examination in 1991. The exam, now known as the National Physical Therapy Exam (NPTE), has evolved over the last several decades to a psychometrically sound, computer-based exam to test entry-level competence of both physical therapists and physical therapist assistants at secured Prometric testing centers. The PT Board receives the score reports from the Federation one week following each testing date.

**C. Possible Solutions and Impact**

As the PT Board no longer plays a role in the development and administration of the NPTE, changing the name to the **Texas Board of Physical Therapy** would better reflect the current role of the Board, that of licensing and regulation. The name change would impact relevant sections of the Act as follows: Sec. 453.001. DEFINITIONS. (1); Sec. 453.002. APPLICATION OF SUNSET ACT.; SUBCHAPTER B.; and Sec. 453.051. BOARD MEMBERSHIP. (a).

<b>ISSUE 2: Examination references are outdated</b>
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### A. Brief Description of the Issue

As discussed in Issue 1, the PT Board no longer functions as an examining board; thus sections which reference the “examination” are outdated.

### B. Discussion

As the PT Board no longer functions as an examining board, several sections throughout the Act do not reflect the true nature of the Board’s utilization of the National Physical Therapy Examination (NPTE) which is developed, maintained, and administered by the Federation of State Boards of Physical Therapy (Federation).

### C. Possible Solutions and Impact

Sections impacted and solutions are as follows:

Sec. 453.202. LICENSE APPLICATION. Candidates taking the NPTE must register for the exam and pay the associated fee directly to the Federation. Elimination of the requirement that the application for license must be accompanied by an examination fee, (1), and that the examination fee is refundable if the applicant does not take the examination, (c), better reflects the current procedure related to the license application.

Sec. 453.2005. LICENSE EXAMINATION. Deleting the current content of the section and substituting it with the text below will bring alignment with current procedure for examination of prospective licensees.

- (a) The board shall provide for examinations within the jurisdiction.
- (b) The physical therapist examination is a national examination that tests entry-level competence related to physical therapy theory, examination and evaluation, diagnosis, prognosis, treatment intervention, prevention and consultation.
- (c) The physical therapist assistant examination is a national examination that tests for requisite knowledge and skills in the technical application of physical therapy services.
- (d) Licensure applicants must agree to abide by security and copyright provisions related to the national licensure examination.
- (e) Any violation of security and copyright provisions related to the national licensure examination, subversion or attempts to subvert the national examination shall be reported by the board to the Federation of State Boards of Physical Therapy.
- (f) If the board determines that an applicant has engaged or has attempted to engage in conduct that subverts or undermines the integrity of the examination process, including a violation of security and copyright provisions related to the national licensure examination, the

board may disqualify the applicant from taking or retaking the examination for a specified period of time.

Sec. 453.206. EXAMINATION RESULTS. The Federation notifies examinees and the jurisdictions of the results of the examination within a week of when the exam was taken in the form of an Individual Score Report, unless there is a hold on the exam score report due to a suspected exam security breach. Additionally, the Federation offers a Performance Feedback Report which is a detailed analysis of the score presented by content area, by body system, and by section of the exam. Repealing this section and adding a statement regarding the receipt of the exam score reports from the Federation to Sec. 453.205. LICENSE EXAMINATION is recommended, e.g.

(g) The board shall receive an exam score report for each examinee directly from the national examination administrator following each exam testing date.

Sec. 453.207. REEXAMINATION. In order to maintain exam integrity, the Federation has strict policies regarding the total number of times a candidate can take the NPTE (will be a lifetime of six (6) attempts or a low score of 400 or below on two (2) attempts starting January 1, 2016) and regarding the total number of attempts per year which is three (3). Repealing this section and adding a statement regarding the reexamination to Sec. 453.205. LICENSE EXAMINATION is recommended, e.g.

(h) Reexamination of applicants shall be according to the policies established by the national examination administrator. The applicant must submit the following to the board prior to taking each subsequent examination:

- (1) a reexamination application as prescribed by the board, and
- (2) a nonrefundable reexamination fee as set by the executive council.

Sec. 453.252. RENEWAL OF LICENSE and Sec. 453.253 RENEWAL OF EXPIRED LICENSE BY OUT-OF-STATE PRACTITIONER. The registration fee for the national examination is not set nor collected by the PT Board. Reference to other fees as not exceeding the amount or a portion of the amount charged for the examination constrains the authority of the board to recommend and of the executive council to set fees. It is recommended that this language be replaced with reference to the renewal fee instead of the examination fee.



<b>ISSUE 3: Outdated definitions</b>
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### **A. Brief Description of the Issue**

Several definitions in Sec. 453.001. DEFINITIONS are not current in respect to content, terminology, and reference.

### **B. Discussion**

As the profession of physical therapy has evolved, the definitions of “physical therapist,” “physical therapist assistant,” and “physical therapy” in (4), (5), and (6) respectively have become obsolete due to changing times and practices. As in Issue 1, reference to “examining” boards in (9) does not accurately describe the function of boards with the advent of national examination for licensure, and inclusion of the limited listing does not reflect other healthcare practitioners who do have the statutory authority to refer a person for health care services, i.e. physician assistant, advanced nurse practitioner.

### **C. Possible Solutions and Impact**

Recommended substitutions for these definitions are:

(4) “Physical therapist” means a person who is licensed pursuant to this Act to practice physical therapy. The term “physiotherapist” shall be synonymous with “physical therapist.”

(5) “Physical therapist assistant” means a person who is licensed pursuant to this Act and who assists the physical therapist in selected components of physical therapy treatment intervention under the supervision of the physical therapist.

(6) “Physical therapy” means the care and services provided by or under the direction and supervision of a physical therapist who is licensed pursuant to this Act. The term “physiotherapy” shall be synonymous with “physical therapy.”

(9) "Referring practitioner" means a qualified licensed health care professional who, within the scope of their professional licensure, may refer a person for health care services.

**ISSUE 4: Practice of Physical Therapy needs updating**

**A. Brief Description of Issue**

Section 453.005 of the Physical Therapy Act as relates to the practice of physical therapy has not been updated in over twenty-two (22) years and no longer represents the breadth of contemporary physical therapy practice.

**B. Discussion**

The profession of physical therapy has responded to advances in research, technology, science, and health care models over the last twenty-two (22) years. Subsequent changes have been made in the academic and clinical curriculum to ensure that physical therapist and physical therapist assistant graduates become licensees who are competent in today's health care system to safely provide evidence-based and effective physical therapy services. Physical therapy practice crosses the entire human lifespan from the neonate to the frail elderly and encompasses a wide range of practice settings, including academia. It addresses most of the systems of the human body, including musculoskeletal, neurological, integumentary, cardiovascular, and pulmonary. Additionally, physical therapy personnel play essential roles in the current health care environment and are recognized as vital providers of rehabilitation and habilitation services, prevention and risk reduction services, as well as providing consulting, education, research, and administration services.

**C. Possible Solutions and Impact**

Inclusion of the following recommendations would better reflect the scope of physical therapy practice in today's health care environment.

- (a) Addition of "licensure" to the attributes that a person practicing physical therapy must have.
- (b) (1) Addition of "systems review" and "integumentary" to the list of systems.
- (b) (2) Addition of "habilitative" to treatment and "promoting" to function.
- (b) Addition to the ordinal listing, "Reduction the risk of injury, impairment, functional limitation and disability through the promotion and maintenance of fitness, health and wellness."
- (b) Addition to the ordinal listing, "Engagement in administration, consultation, academia, and research."

Section 453.005 would then read:

- (a) The practice of physical therapy requires that a person practicing have education, training, ~~and~~ experience, and licensure in physical therapy.

(b) The practice of physical therapy includes:

(1) systems review, measurement or testing of the function of the musculoskeletal, neurological, pulmonary, integumentary, or cardiovascular system;

(2) examining, evaluating and testing patients/clients with mechanical, physiological and developmental impairments, functional limitations, and disabilities or other health and movement-related conditions in order to determine a diagnosis, prognosis and plan of treatment intervention, and to assess the ongoing effects of intervention.

(3) rehabilitative or habilitative treatment concerned with restoring and promoting function or preventing disability caused by illness, injury, or birth defect;

(4) treatment, consultative, educational, or advisory services to reduce the incidence or severity of disability or pain to enable, train, or retrain a person to perform the independent skills and activities of daily living; ~~and~~

(5) Reduction of the risk of injury, impairment, functional limitation and disability through the promotion and maintenance of fitness, health and wellness.

(6) Engagement in administration, consultation, academia, and research.

(7) ~~(4)~~ delegation of selective forms of treatment to support personnel while a physical therapist retains the responsibility for caring for the patient and directing and supervising the support personnel.

## ISSUE 5: Unnecessary Sections

### A. Brief Description of the Issue

The inclusion of Sec. 453.006. PRACTICE OF MEDICINE and Sec. 453.303. PROHIBITED USE OF CERTAIN PROCEDURES is unnecessary.

### B. Discussion

There are no provisions in the PT Practice Act that imply that a licensee under the Act is practicing medicine or can use an affix implying that they are a physician; or that the scope of physical therapy practice includes the use of roentgen rays or radium for diagnostic or therapeutic purposes, or the use of electricity for surgical purpose, including cauterization. Inclusion of such language is archaic.

Moreover, Sec. 155.001 of the Medical Practice Act (Occupations Code, Title 3, Subtitle B) prohibits a person from practicing medicine in this state unless the person holds a license issued under that Act; and the Healing Art Identification Act (Occupations Code, Title 3, Subtitle A, Chapter 104) has specific provisions for designating the healing art that the person is licensed to practice when using the prefix "Dr." Similar healthcare practitioner practice acts do not include sections regarding practice of medicine or prohibited us of certain procedures, e.g. the

Occupational Therapy Practice Act (Occupations Code, Title 3, Subtitle H, Chapter 455) and the Speech-Language Pathologists and Audiologists Practice Act (Occupations Code, Title 3, Subtitle G, Chapter 401).

### **C. Possible Solutions and Impact**

Repealing Sec. 453.006 and Sec. 453.303 from the PT Practice Act would have no adverse impact on the board's mission of public protection as there are other provisions under Title 3 of the Occupations Code that prevent a licensee under this Act from holding themselves out to be a physician or to be practicing medicine.

## **ISSUE 6: Regular meetings of the board are not addressed**

### **A. Brief Description of the Issue**

Sec.453.059. MEETINGS does not address regular meetings or quorum of the board; and the coordinator of physical therapy programs, not the secretary, currently keeps the record of meetings.

### **B. Discussion**

The section only delineates the requirements for calling a special meeting and does not address regular meetings of the board and what constitutes a quorum. Furthermore, the coordinator of physical therapy programs serves as the recorder for the board and committee meetings.

### **C. Possible Solutions and Impact**

Recommended changes include:

1. Adding "The board shall hold at least two regular meetings each year." and "A quorum shall be a majority of the board members serving."
2. Changing "secretary" to "coordinator of physical therapy programs" as the keeper of records.
3. Reordering the sequence as appropriate.

**ISSUE 7: Maintaining list of license holders procedure is outdated**

**A. Brief Description of Issue**

With the conversion of maintaining the list of license holders from a hand-printed list to electronically stored information in digital form, the procedure in Sec. 453.106 LIST OF LICENSE HOLDERS is outdated.

**B. Discussion**

The list of license holders, both physical therapists and physical therapist assistants, is maintained in the agency's Licensing System database and no longer needs to be physically recorded by the Secretary of the Board. An official list of license holders is included in the Annual Performance Measures that are presented to the Executive Committee and transmitted to the Legislative Budget Board after the close of each fiscal year. This does not occur on March 1<sup>st</sup> as indicated in this section.

**C. Possible Solutions and Impact**

Recommended changes include substituting the following to align with the current procedure of maintaining a list of license holders.

(a) The board shall maintain an official list of the names of each physical therapist and physical therapist assistant licensed under this chapter.

(c) The coordinator of physical therapy programs shall transmit an official copy of the list to the executive council annually and to the legislature and other state agencies as required.

**ISSUE 8: Annual Report section needs to be repealed**

**A. Brief Description of Issue**

The Annual Report as described in Sec. 453.109 ANNUAL REPORT is now an administrative function of the Executive Council.

**B. Discussion**

The Executive Council is responsible for reporting a complete and detailed report accounting for all funds received and disbursed by the agency, including the PT Board.

**C. Possible Solutions and Impact**

Repeal Sec 453.109, as it is no longer a function of the PT Board.

**ISSUE 9: Authority to expunge administrative violations from a licensee's record and changes to investigation and disposition procedures.**

**A. Brief Description of Issue**

The PT Board does not have the authority to expunge disciplinary action that is administrative in nature and Sec. 453.154.GENERAL RULES INVOLVING COMPLAINT INVESTIGATION AND DISPOSITION contains outdated procedural provisions.

**B. Discussion**

Minor infractions of the PT Practice Act/Rules, such as an administrative violation, committed by a physical therapist (PT) or physical therapist assistant (PTA) become a permanent part of the licensee's record and are forever displayed in the License Verification System on the board's website. Expunction of disciplinary action that results from an administrative, clerical, or other minor violation not causing harm to a patient would not provide a risk to the public from continued practice by the PT or PTA.

Previously, the PT Board members investigated complaints and would use an outside private investigator as needed. The agency now has full time investigators on staff and there is no longer a need to utilize the services of a private investigator as indicated in Sec. 453.154. (a) (5). The Chief Investigator, or one of the other staff investigators in his absence, reports the status of investigations directly to the Board at every Board meeting. This is not a function of the coordinator of physical therapy programs as designated in Sec. 453.154 (e).

**C. Possible Solutions and Impact**

Recommendation to delete 453.154 (a) (5) and (e) for reasons noted above and to add the new (e) and (f) which follows. Changes would not impede public protection.

(e) The board may expunge a disciplinary action from a licensee's record if:

- (1) the licensee applies to the board for expunction;
- (2) the disciplinary action is the only disciplinary action the licensee has been the subject of;
- (3) the disciplinary action was an administrative violation not causing harm to a patient; and
- (4) the disciplinary action occurred at least five (5) years before the date the licensee applied for expunction.

(f) The board by rules shall provide the procedure for a licensee to apply for an expunction under this Section.

<b>ISSUE 10: Qualifications for licensure needs revising.</b>
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**A. Brief Description of Issue**

The current qualifications for a physical therapist or physical therapist assistant license in Sec. 453.203 need revising to reflect current standards.

**B. Discussion**

An important qualification for licensure is graduation from an accredited educational program. The entity currently accrediting physical therapy education is the Commission on Accreditation in Physical Therapy Education (CAPTE).

Accreditation is a system that assures that physical therapy educational programs meet a defined set of quality standards. Over the last several decades, these standards have increased in both depth and breadth. Reference to the number of semester credits or specific content is no longer necessary as contemporary physical therapy education far exceeds the outdated requirements currently in this section.

Determination of whether or not an applicant's non-accredited education is substantially equivalent to the entry-level education from an accredited program is essential to the Board's commitment to protect the public. Standardized tools which reflect the minimum general and professional educational requirements to establish substantial equivalence by a credentials review agency are utilized to assure an applicant meets the qualifications for licensure. Adding the ability to determine that a physical therapist assistant education is substantially equivalent would allow the Board to consider licensing PTAs from the military.

**C. Possible Solutions and Impact**

Recommendation to substitute the following for Sec. 453.203. would have no adverse effect on public protection.

(a) An applicant for a physical therapist license must, in addition to other requirements and qualifications established by the board, present evidence satisfactory to the board that the applicant has completed:

- (1) an accredited physical therapist educational program; or
- (2) an educational program that is substantially equivalent to the education in an accredited entry-level physical therapist program as determined by a credentials evaluation from a credentials review agency approved by the board.

(b) An applicant for a physical therapist assistant license must, in addition to other requirements and qualifications established by the board, present evidence satisfactory to the board that the applicant has completed

(1) an accredited physical therapist assistant educational program;

(2) an accredited physical therapist educational program; or

(3) an educational program that is substantially equivalent to the education in an accredited entry-level physical therapist program or physical therapist assistant program as determined by a credentials evaluation from a credentials review agency approved by the board.

(c) A physical therapy educational program or physical therapist assistant program is an accredited program if the program is accredited by the Commission on Accreditation in Physical Therapy Education.

**ISSUE 11: Revision to Foreign-Trained Applicants needed**

**A. Brief Description of Issue**

Section 453.204 does not describe all of the requirements for an applicant who is foreign-educated.

**B. Discussion**

Essential elements in determining a foreign-educated applicant's qualifications include credentials evaluation (as discussed in ISSUE 10), English proficiency examinations, and determination of prior license or authority to practice in the country where the professional education was completed. Additional requirements, such as a supervised clinical experience or completion of a United States healthcare delivery system educational module could be added to further the assurance that the Board is protecting the public by licensing only qualified individuals.

**C. Possible Solutions and Impact**

Rename the section "FOREIGN-EDUCATED APPLICANTS" to reflect terminology now in use and substitute the following for Sec. 453.204:

An applicant for a license as a physical therapist or physical therapist assistant who has been educated outside of the United States shall:

(a) Complete the application process including payment of fees as prescribed in Section 453.202.



(b) Provide satisfactory evidence that the applicant’s education is substantially equivalent to the education of physical therapists educated in an accredited entry-level program as determined by the board. Graduation outside the United States from a professional education program accredited by the same accrediting agency that the board approves for programs within the United States constitutes evidence of substantial equivalency. In all other instances, “substantially equivalent” means that an applicant for licensure educated outside of the United States shall have:

- (1) graduated from a physical therapist education program that prepares the applicant to engage without restriction in the practice of physical therapy;
- (2) provided written proof that the applicant’s school of physical therapy is recognized by its own ministry of education;
- (3) undergone a credentials evaluation as directed by the board that determines that the candidate has met uniform criteria for educational requirements as further established by rule; and
- (4) completed any additional education as required by the board.

(c) Pass a board-approved English proficiency examination if the applicant’s native language is not English or the applicant’s school of physical therapy is not taught in English.

(d) Pass a national physical therapy examination as prescribed in Section 453.205.

(d) Meet all other requirements established by board rule.

## **ISSUE 12: Issuance of license needs clarification**

### **A. Brief Description of Issue**

The section of Issuance of License, Sec. 453.208., needs to reflect that the license is being issued to an applicant receiving an initial license in the United States.

### **B. Discussion**

Licenses are issued by the Board to those applicants who are applying for their initial physical therapist or physical therapist assistant license in the United States, whether they were domestically educated in an accredited program or foreign-educated and qualify through a credentials evaluation; and who pass the national physical therapy examination. This is a process that we describe as Licensure by Examination. Licenses are also issued to applicants who are licensed without restriction in another jurisdiction whose licensing requirements are

substantially equivalent to those of the Board. This process, Licensure by Endorsement, is addressed in ISSUE #13.

Additionally, all applicants for licensure must pass a jurisprudence exam, an open-book test concerning the Board's Act and rules, as well as submit a current "passport-type" photo. This Section does not include a statement for other requirements as prescribed by the Board in rules.

### **C. Possible Solutions and Impact**

Substituting the following for Sec. 453.208. ISSUANCE OF LICENSE will serve to clarify that the license is being issued to those applicants receiving an initial license by taking the national physical therapy examination.

Sec.453.208. LICENSURE BY EXAMINATION.

(a) The board shall issue a license to an applicant for an initial license in the United States who:

(1) passes the examination under Section 453.205;

(2) meets the qualifications prescribed by Section 453.203. or Section 453.204;

(3) has not committed an act that constitutes a ground for denial of a license under Section 453.351; and

(4) meets additional requirements as prescribed by the board.

## **ISSUE 13: Provisional License/Endorsement does not reflect current procedures**

### **A. Brief Description of Issue**

License by Endorsement was omitted from the PT Practice Act in the 1993 Sunset revisions.

### **B. Discussion**

License by Endorsement is the standard method of issuing a license to a physical therapist or physical therapist assistant that is currently licensed in good standing in another jurisdiction that maintains professional standards that are considered to be substantially equivalent to those of the state in which the individual is seeking licensure. During the Sunset revisions of the PT Practice Act in 1993, the method of endorsement was omitted and the section regarding a provisional license was introduced. With increased promptness and efficiency of verifying licensure requirements with the introduction of electronic transfers of documentation, the need for a provisional license is minimized except under extenuating circumstances.

Additionally, applicants for licensure by endorsement must pass a jurisprudence exam, an open-book test concerning the Board's Act and rules, as well as submit a current "passport-type" photo and have verification of a current unrestricted license and any other license that is held or has been held sent to the Board. This Section needs to include a statement for other requirements as prescribed by the Board in rules.

### **C. Possible Solutions and Impact**

Substituting the following for Sec. 453.209. PROVISIONAL LICENSE would have no adverse effect on public safety.

#### Sec. 453.209. LICENSURE BY ENDORSEMENT

(a) The board shall issue a license to an applicant who has a current unrestricted physical therapist or physical therapist assistant license from another jurisdiction whose licensure requirements are substantially equivalent to those of the board, if the applicant:

(1) provides proof of passing the examination under Section 453.205;

(2) meets the qualifications prescribed by Section 453.203 or Section 453.204;

(3) has not committed an act that constitutes a ground for denial of a license under Section 453.351; and

(4) meets any additional requirements as prescribed by the board in rule.

(b) The board shall adopt rules for issuing a provisional license to an applicant who is applying for licensure by endorsement if there is a delay in the submission of required documents outside the applicant's control.

### **ISSUE 14: Retired Status not addressed in Act**

#### **A. Brief Description of Issue**

PT Practice Act does not have a section regarding retired licensees performing charity work.

**B. Discussion**

The PT Board adopted rules consistent with Occupations Code, Title 3. Subtitle A. Chapter 112 which was enacted in 2005 pursuant to H.B. 2680 relating to reduced license requirements for retired health care practitioners performing charity work.

**C. Possible Solutions and Impact**

Addition of language related to Retired Status for licensees Performing Volunteer Charity Care to Sec. 453.211. INACTIVE STATUS would provide consistency with Chapter 112 of the Occupations Code, e.g.

Sec. 453.211. INACTIVE and RETIRED STATUS FOR PERFORMING VOLUNTARY CHARITY CARE

(c) The board shall adopt rules providing for reduced fees and continuing competence requirements for a retired health licensee whose only practice is voluntary charity care.

**ISSUE 15: Facility Registration**

**A. Brief Description of Issue**

The PT Board does not have the authority to adopt a procedure for exempting the registration fee of a facility as does the OT Board.

**B. Discussion**

Facility registration language for both physical therapy and occupational therapy facilities should mirror each other as both healthcare services are often provided at the same location. Theoretically, a facility owner could be required to pay a facility registration fee for the physical therapy services that are being provided at the same location and during the same business hours as occupational services which are exempt from the fee.

**C. Possible Solutions and Impact**

To avoid confusion and to provide equity, the addition of language to authorize the PT Board to exempt the facility registration fee in concert with the OT Board is recommended, e.g.

Sec. 453.213. PHYSICAL THERAPY FACILITY REGISTRATION. (e) The board by rule shall adopt a procedure whereby a physical therapy facility may apply for exemption from any registration fees under this section.

**ISSUE 16: No authority to disclose a licensee's Social Security Number (SSN) to a national physical therapy database.****A. Brief Description of Issue**

The PT Board does not have the authority to disclose a licensee's Social Security Number (SSN) to a national physical therapy database. Attorney General Opinion GA-0914 states that the Texas Board of Physical Therapy Examiners (PT Board) is not authorized to disclose licensees' SSNs or the last four digits of the SSNs to the Federation of State Boards of Physical Therapy (Federation) for use as the unique identifier of a licensee in their national database of disciplinary action, and exam and licensure information.

**B. Discussion**

The Federation owns and administers the entry-level examination for the physical therapy profession, the National Physical Therapy Examination (NPTE). As all entrants into the field must register for the exam through the Federation, this uniquely positioned them to develop and maintain a national database of examination score information, licensure, and disciplinary action. The objective of the database, the ELDD, is to support the member jurisdictions' mission of public protection by electronically distributing exam and licensure information of applicants and providing an alert mechanism for sanctioned licenses. If a licensee holds multiple licenses and gets disciplined in one jurisdiction, the ELDD sends an alert to notify other jurisdictions in which the individual is licensed or is seeking licensure. This prevents sanctioned individuals from moving across state lines to avoid the effects of disciplinary action and is critical to public protection. Full participation in the ELDD would be a requirement of entering into a Compact agreement as discussed in Issue 17.

The Board already reports this information, including the licensee's SSN, to the National Practitioner Data Bank as mandated by federal law.

**C. Possible Solutions and Impact**

Granting the Board the authority to disclose a licensee's SSN or the last four digits of the SSN to the Federation would allow them to link licensure and disciplinary action to individuals nationwide with greater certainty. This, in turn, would enhance the regulatory abilities of the Board by ensuring accurate information regarding licensees from other jurisdictions who are seeking licensure by endorsement in Texas and regarding Texas licensees who hold multiple licenses and are disciplined in another jurisdiction. Recommendation is to add (g) and (h) to

Sec. 453.154. GENERAL RULES INVOLVING COMPLAINT INVESTIGATION AND DISPOSITION as follows:

(g) The board shall report the licensing and disciplinary action of a licensee to the National Practitioner Data Bank including the licensee's social security number through a secure data transmission.

(h) The board may report the licensing and disciplinary action of a licensee to a national physical therapy examination, licensure, and disciplinary database including the licensee's social security number through a secure data transmission.

**ISSUE 17: Statutory authority to participate in the Physical Therapy Licensure Compact**

**A. Brief Description of Issue**

The Federation of State Boards of Physical Therapy (Federation) was charged by its member jurisdiction boards of physical therapy to investigate and develop an interstate licensure compact for physical therapy at its Delegate Assembly in 2010. Statutory language is required for the TX PT Board to participate as a compact state.

**B. Discussion**

The concurrent circumstances of an increasingly mobile workforce, disparities in access to healthcare, and the ability to deliver healthcare through alternative methods has presented the need and the opportunity to practice physical therapy across state borders. In 2000, the National Council of State Boards of Nursing (NCSBN) launched their compact initiative for licensed nurses. Twenty-four (24) states now participate in the nurse compact, including the Texas Board of Nursing. The National Association of EMS Officials (NASEMSO) and the Federation of State Medical Boards (FSMB) are also in the process of establishing licensure compacts.

The Physical Therapy Licensure Compact (currently in draft form) is designed to increase public access to physical therapy services; to enhance the states' ability to protect the public's health and safety; to support spouses of relocating military members; and to enhance the exchange of licensure, investigatory, and disciplinary information between member states.

**C. Possible Solutions and Impact**

Final language of the compact will be ready for implementation in the fall of 2015. Texas has the unique opportunity to participate as one of the original member states and gain a seat at the compact rule-making table by incorporating enabling statutory language in SUBCHAPTER K. PHYSICAL THERAPY LICENSURE COMPACT under CHAPTER 453. PHYSICAL THERAPISTS of

Occupations Code, Title 3, Subtitle H or by adding CHAPTER 456 to Occupations Code, Title 3, Subtitle H.

**ISSUE 18: Inaccurate cite needs to be corrected.**

**A. Brief Description of Issue**

Sec. 453.304. contains an inaccurate cite of the Health and Safety Code Sec. 161.091 which no longer exists and is now a section in the Occupations Code.

**B. Discussion**

Section 161.091 of the Health and Safety Code provided in pertinent part:

(a) A person licensed, certified, or registered by a health care regulatory agency of this state commits an offense if the person intentionally or knowingly offers to pay or agrees to accept any remuneration directly or indirectly, overtly or covertly, in cash or in kind, to or from any person, firm, association of persons, partnership, or corporation for securing or soliciting patients or patronage.

**C. Possible Solutions and Impact**

Correct cite to read Section 102.001, Occupations Code.

**ISSUE 19: Add section related to criminal record check**

**A. Brief Description of Issue**

A section should be added to the Act regarding an applicant's submission of fingerprints for a background check.

**B. Discussion**

Many boards have been authorized in their practice acts to require applicants to submit fingerprints as part of a criminal record check conducted to determine if an applicant has a criminal record and, subsequently, whether the applicant's possible criminal record might pose a threat to the public health and welfare. The Board at this time does not have any provisions in the Act that would allow the board to require such. This would be a requirement for participating in a Licensure Compact as discussed in Issue 17.

### **C. Possible Solutions and Impact**

A section with language such as that appearing below should be added to the Act.

#### **Criminal Record Check**

(a) The board may require that an applicant for license submit to the board, in addition to satisfying the other requirements of this subchapter, a complete and legible set of fingerprints, on a form prescribed by the board, for the purpose of obtaining criminal history record information from the Department of Public Safety and the Federal Bureau of Investigation.

(b) The board may deny a license to an applicant who does not comply with the requirement of Subsection (a). Issuance of a license by the Board may be conditioned on the board's obtaining the applicant's criminal history record information under this section.

By including such a section, the Board would be supported in its goal of protecting the public health and welfare as through a criminal record check, the Board would be apprised of potential information that might inform the Board's decision regarding whether the applicant is fit to be licensed according to the Board's criteria related to criminal history.

## **ISSUE 20: Repeal of Referral Requirement for Physical Therapists Treatment**

### **A. Brief Description of the Issue**

The Texas Physical Therapy Practice Act §453.301 TREATING PATIENT UNDER PRIOR REFERRAL, and §453.302 TREATING PATIENT WITHOUT REFERRAL are unnecessary and should be repealed. §453.152 COMPLAINTS should be modified to clarify the complaint process.

### **B. Discussion**

Under current state law, Texans are prohibited from receiving physical therapy treatment unless they first obtain a referral from another provider. This is despite the fact that state law already requires that all patients be evaluated and assigned a diagnostic classification by a physical therapist at the start of their care. The referral requirement is an arbitrary and unnecessary restriction to access. It does nothing more than limit a patient's choice while increasing their wait times and cost.

Determining if a patient is appropriate for physical therapy is not the sole domain of physicians. Currently, physicians, dentists, chiropractors, podiatrists, physician assistants, and advanced nurse practitioners are all allowed to determine if a patient needs physical therapy, and provide a referral. Physical therapists are at least as qualified, if not more, than the other professions listed to determine if a patient's condition lies within their scope.



Texans may receive treatment from a chiropractor, podiatrist, massage therapist, acupuncturist and even a personal trainer for injuries without the burden of obtaining a referral; yet they cannot do the same with their physical therapist.

Physical therapy treatment without a referral is proven to be safe. Currently, 47 states allow initiation of treatment in some form without a referral. Once allowed, no jurisdiction or state has repealed the removal of a referral requirement, dating back to 1965.

Texas physical therapists are already trained to treat without a referral. All 14 Texas PT programs culminate in a doctorate of physical therapy degree (DPT). Texas graduates who pass their licensure exam do not need any additional training to practice in the 47 states that allow treatment without a referral.

According to *2011-2016 Texas State Health Plan - A Roadmap To a Healthy Texas*, 131 whole counties and 46 partial counties are designated as Health Professional Shortage Areas (HPSA). It further states that “a physical therapist with direct access could be that point of entry for individuals seeking health care especially in areas where primary care physicians are in shortage.”

Those states that have no referral requirement have reported to the TBPTE that eliminating the referral requirement shows no increase in disciplinary actions, demonstrating that it is safe for the public.

### **C. Possible Solutions and Impact**

Repeal Texas Occupations Code §453.301 and §453.302.

There are many benefits to repealing the referral requirement sections, including increased access to care for the public. Removal of the referral requirement does not affect state or private insurance. There is no fiscal note associated with the repeal requests. Physical therapists who wish to continue to practice under a referral system are still able to do so.

**Occupational Therapy Board - Major Issues**

**SECTION 1: Issues in Legislation other than the Occupational Therapy Practice Act**

**ISSUE 1: Occupational Therapists as Mental Health Professionals**

**A. Brief Description of the Issue**

The Texas Occupational Therapy Practice Act states: §454.006(b) “A person practices occupational therapy if the person: (1) evaluates or treats a person whose ability to perform the tasks of living is threatened or impaired by psychological dysfunction.” Occupational Therapists (OTs) are hindered from serving those individuals with psychological dysfunction because occupational therapists are not included in the list of non-physician mental health professionals in the Health and Safety Code, Title 7, Mental Health and Mental Retardation, Subtitle C., Texas Mental Health Code, Chapter 571, General Provisions.

**B. Discussion**

During the 84<sup>th</sup> Regular Session, Representatives Coleman, Bonnen of Galveston and Walle sponsored House Bill 1998 relating to the definition of “non-physician mental health professional” in §571.003, Definitions, in the Texas Mental Health Code. House Bill 1998 passed the House but was not heard in the Senate.

Occupational therapists assist individuals in their daily lives through person-centered, client driven activities and thereby provide a means to adjust behaviors that interfere with effective emotional, social and intellectual function. Under current law, occupational therapists can provide mental health services in inpatient, institutional settings but are largely excluded from providing similar services in less-costly community settings because OTs are not statutorily recognized as non-physician mental health professionals in the Texas Mental Health Code.

According to the Texas Department of State Health Services, nearly one third of all Texas children with severe emotional disturbance received treatment through community mental health services. Likewise, one third of all Texas adults with serious and persistent mental illness received services through the community mental health system.

As of November, 2013, 207 of 254 Texas counties were designated by the federal government as whole or partial Health Professional Shortage Areas for mental health. Recognizing

occupational therapists as mental health professionals could help address the mental health work force shortage in these areas. There are over 13,000 occupational therapists in the state of Texas who can positively impact the shortage issue.

To that end, the House Select Committee of Health Care Education and Training issued a report in 2014 recommending that the legislature “clarify in state law, where appropriate, that occupational therapists can be classified as mental health providers and can be reimbursed for such services when provided for individuals with a mental health diagnosis.” The Texas Health and Human Services Commission said there was no fiscal impact to HB 1998, as OTs were already recognized in Texas as Medicaid providers and their practice act authorized OTs to treat a person impaired by psychological dysfunction.

### **C. Possible Solutions and Impact**

Amend Texas Health and Safety Code, §571.003(15) to add a new (F): “a licensed occupational therapist licensed to practice in this state.”

There are many benefits to including occupational therapists in the list of non-physician mental health professionals. Occupational therapists focus on function. OTs assist individuals with restoring their functional roles in society. Those roles may include the role of parent, homemaker, and/or employee. Occupational therapists assist individuals in learning or relearning activities of daily living such as dressing, bathing, medication management, and/or managing transportation issues.

The inclusion of occupational therapists as non-physician mental health professionals does not negatively impact the current non-physician mental health professionals. The Texas Occupational Therapy Practice Act states: §454.006 (c) “The practice of occupational therapy does not include diagnosis and psychological services of the type typically performed by a licensed psychologist.” Therefore, there is no conflict with psychologist regarding the inclusion of occupational therapists.

## **SECTION 2: Issues in the Occupational Therapy Practice Act**

### **ISSUE 1: Change the name of the OT Board**

#### **A. Brief Description of Issue**

The OT Board's current name in §454.002, Definitions, does not accurately reflect the Board's purpose and function.

#### **B. Discussion**

§454.002(1) states the title of the Board as "Texas Board of Occupational Therapy Examiners." The OT Board is not an examining board; it is a licensing and regulatory board. Applicants for licensure take the national exam, the NBCOT certification examination, which is administered independently by the National Board for Certification in Occupational therapy (NBCOT). The Board then receives directly from NBCOT, upon the applicant's request, the examination score report.

#### **C. Possible Solutions and Impact**

From §454.002(1), "Examiners" should be removed from the agency's name and the Board should instead be named "Texas Board of Occupational Therapy," with the result of serving to represent more accurately the Board's role and function to the public, applicants, and licensees.

Due to such a change, "Examiners" will also need to be struck from the text of §454.003, Application of Sunset Act; from the title of Subchapter B, Texas Board of Occupational Therapy Examiners; and from §454.051, Board Membership, provision (a).

### **ISSUE 2: The definition of an Occupational Therapy Aide**

#### **A. Brief Description of Issue**

The definition of "occupational therapy aide" in §454.002, Definitions, includes language that does not reflect changes in healthcare delivery such as those related to offering services through telehealth.

**B. Discussion**

In §454.002(5)(B), the use of the term “on-the-job training and on-site supervision” in the definition of “occupational therapy aide” reflects a previous era of healthcare in which, routinely, those receiving services and those delivering and assisting in the delivery of services were all present with one another at one physical location. Telehealth is now a means of healthcare delivery in many professions; consequently, the individuals involved in providing or assisting in the provision of services may not always all be physically located at the same site as the individual receiving services.

**C. Possible Solutions and Impact**

From §454.002(5)(B), remove the phrase “on-the-job training and on-site supervision” and replace it with “training and supervision.” This will facilitate better the use of occupational therapy aides by occupational therapists and occupational therapy assistants to support the delivery of occupational therapy services. Language in the Act should be changed to ensure that as healthcare delivery continues to adapt to growing technological advances, the Act will continue to support such growth.

<b>ISSUE 3: Clarify section on applicability of the Act</b>
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**A. Brief Description of Issue**

§454.005, Applicability, needs to be updated for clarity and to reflect changes in the occupational therapy field.

**B. Discussion**

§454.005(b)(5) states that occupational therapists who do not live in Texas and are licensed in another state may come into this state for not more than four consecutive months to provide or attend an educational activity, assist in a case of medical emergency, or engage in a special occupational therapy project. Occupational therapy assistants should also be included in this provision, particularly as §454.005(b)(5)(A) refers to those who are certified occupational therapy assistants.

In addition, §454.005(b)(5)(A) refers to individuals who meet the requirements for certification as a certified occupational therapy assistant or occupational therapist registered by the American Occupational Therapy Association (AOTA). However, AOTA is no longer involved in the certification process; the National Board for Certification in Occupational Therapy (NBCOT) has taken over this certification.

**C. Possible Solutions and Impact**

To §454.005(b)(5), “or occupational therapy assistant” should be added, which will clarify the intent of this provision, which is to allow occupational therapists and occupational therapy assistants to participate in the activities noted above.

From §454.005(b)(5)(A), remove “American Occupational Therapy Association” and replace with “National Board for Certification in Occupational Therapy.” This will ensure the accuracy of the Act and maintain the original intent of the provision.

**ISSUE 4: Revision required related to language regarding the practice of occupational therapy**

**A. Brief Description of Issue**

§454.006, Practice of Occupational Therapy, does not reflect that occupational therapy services are provided in medical and non-medical contexts and settings.

**B. Discussion**

§454.006(b)(3) describes the recipients of occupational therapy services only as patients, with the attending connotation of a primarily medical model of service delivery. The section also includes unclear language, such as stating occupational therapists treat patients through social systems.

**C. Possible Solutions and Impact**

From §454.006(b)(3), remove the phrase “in treating patients on an individual basis, in groups, or through social systems,” and replace with “to a person on an individual basis or in a group.” Such changes will emphasize that occupational therapists treat individuals within medical and non-medical models of occupational therapy service delivery and will clarify the provision.

**ISSUE 5: Use of the title of doctor**

**A. Brief Description of Issue**

The inclusion of §454.007, Use of Title of Doctor, is unnecessary.

**B. Discussion**

There are no provisions in the Act that imply that a licensee is a physician. Furthermore, Sec. 155.001 of the Medical Practice Act (Occupations Code, Title 3, Subtitle B) prohibits a person from practicing medicine in this state unless the person holds a license issued under that Act; and the Healing Art Identification Act (Occupations Code, Title 3, Subtitle A, Chapter 104) has specific provisions for designating the healing art that the person is licensed to practice when using the prefix “Dr.”

Currently, §454.007 prevents an occupational therapist or occupational therapy assistant from using the title doctor or abbreviation “Dr.” Since the writing of the Act, however, the degree options for occupational therapists have changed. Currently, occupational therapists may earn a master’s or doctoral degree in occupational therapy. Those graduating from doctoral programs, for example, may earn an OTD, an occupational therapy doctorate, or a PhD.

**C. Possible Solutions and Impact**

Repeal §454.007, Use of Title of Doctor, which would have no adverse impact on the Board’s mission of public protection as there are other provisions under Title 3 of the Occupations Code that prevent a licensee under this Act from holding themselves out to be a physician.

**ISSUE 6: Public member applicability****A. Brief Description of Issue**

§454.051, Board Membership, needs to be clarified regarding requirements for public members.

**B. Discussion**

§454.051(a)(3) states that the OT Board’s three public members may not be occupational therapists. They also may not according to §454.052(1) be registered, certified, or licensed by an occupational regulatory agency in the field of health care.

**C. Possible Solutions and Impact**

To §454.051(a)(3), the phrase “or occupational therapy assistants” should be added to clarify the intent of the provision that public members may not be occupational therapists or occupational therapy assistants.

**ISSUE 7: Outdated procedure related to list of license holders**

**A. Brief Description of Issue**

§454.106, List of License Holders, needs to be updated to reflect that the Executive Council is apprised of information such as a list of license holders through annual performance measures not through a list transmitted on March 1<sup>st</sup>.

**B. Discussion**

§454.106 states that the coordinator of occupational therapy programs shall maintain a list of the names of each person licensed under the chapter and transmit an official copy of the list to the Executive Council on March 1<sup>st</sup> of each year. However, the names of all licensees are stored in the licensing database and the list of such is transmitted to the Executive Council as part of the performance measures for each fiscal year as specified by the Legislative Budget Board.

**C. Possible Solutions and Impact**

Remove the current §454.106(c), which states that “On March 1 of each year, the coordinator of occupational therapy programs shall transmit an official copy of the list to the executive council” and replace with “The coordinator of occupational therapy programs shall annually transmit an official copy of the list to the executive council.” This revision will ensure that the Act does not have language that may be rendered obsolete by changes, such as those pertaining to reporting guidelines set by governmental agencies such as the Legislative Budget Board.

**ISSUE 8: Outdated provision related to renewal certificates**

**A. Brief Description of Issue**

The description of features of the renewal process in §454.214, Display of License and Renewal Certificate, is no longer current due to the online application process and the verification of license renewal through the Board’s online verification of licensure.

**B. Discussion**

§454.214, Display of License and Renewal Certificate, states that the license holder must display in the principal place in which the licensee practices the renewal certificate, in addition to the license. The requirement to display the renewal certificate is a holdover from before the OT Board was able to provide proof of renewal through electronic means. The OT Board now displays such information on the ECPTOTE website, so renewal certificates are no longer



generated nor mailed. Consequently, licensees must verify license renewal by confirming such on the ECPTOTE website, which is updated at least once each business day to reflect any renewals processed.

### **C. Possible Solutions and Impact**

The phrase “and renewal certificate” should be removed from the provision under §454.214 and from the title of that section. Such changes will give the OT Board additional and appropriate tools to effectively enforce the Act and is more cost effective for the OT Board, as printing and mailing costs are not incurred.

Electronic renewal verification, moreover, allows licensees to verify their renewal in a more efficient, rapid manner, as they no longer must wait to verify such through receipt of a mailed renewal certificate. Furthermore, clients may receive services with greater reliability from their occupational therapist or occupational therapy assistant: licensees must at all times be able to verify current licensure in order to provide services, and the length of time between when a licensee submits the renewal requirements and when he or she may verify renewal has been reduced due to the electronic verification of such.

## **ISSUE 9: Outdated description of Board’s role as it relates to verification of applicants’ educational qualifications**

### **A. Brief Description of Issue**

The section on qualifications for licensure in §454.203, Qualifications for Occupational Therapist or Occupational Therapy Assistant License, contains language that requires revision.

### **B. Discussion**

§454.203 contains information regarding the Board’s verification of an applicant’s academic and supervised field work experience qualifications for licensure as an occupational therapist or occupational therapy assistant. The Board verifies such qualifications through receipt of the applicant’s passing NBCOT certification examination score, as in order to take the exam, the applicant must demonstrate to NBCOT that the applicant has met entry-level educational requirements. Consequently, it is NBCOT that primary-source verifies applicants’ occupational therapy training through that organization’s receipt of, for example, official transcripts from the institutions in which such training was completed and other documentation as required.

Furthermore, §454.203(b) states the number of months of field work experience that applicants must satisfy. However, such minimum requirements may be subject to change due to reforms by AOTA’s Accreditation Council for Occupational Therapy Education (ACOTE) regarding entry-level occupational therapist and occupational therapy assistant degree requirements.

### **C. Possible Solutions and Impact**

To the current language of §454.203(a), add “or to an appropriate organization authorized by the board” as such will reinforce that organizations such as the NBCOT may primary-source verify applicants’ educational credentials.

From §454.203(a)(1), remove the phrase “successfully completed the academic requirements of an educational program in occupational therapy recognized by the board, as provided by §454.204;” and replace with “successfully completed the academic and supervised field work experience requirements of an educational program in occupational therapy recognized by the board, as provided by §454.204; and” as such a change will indicate that both the academic and field work requirements for licensure must be met through the applicant’s completion of a board-recognized educational program in occupational therapy.

Due to this change, §454.203(a)(2) should be removed and §454.203(a)(3) should then be renumbered as the new §454.203(a)(2).

In addition, remove §454.203(b) and the provisions under such to ensure the Act may stay current with ACOTE changes, particularly as the suggestion revision for §454.203(a)(1) would reference §454.204, which states that applicants must meet educational requirements from a program approved by ACOTE, its predecessor organization, or another credentialing agency approved by the Board.

### **ISSUE 10: Outdated description of educational requirements**

#### **A. Brief Description of Issue**

The descriptions of the educational requirements for occupational therapists and occupational therapy assistants in §454.204, Educational Requirements, no longer reflect current educational requirements.

#### **B. Discussion**

§454.204 states that occupational therapists and occupational therapy assistants must obtain degrees of a certain level depending upon whether they are seeking licensure as occupational therapists or occupational therapy assistants and the year they completed their entry-level occupational therapy training. For occupational therapists, this is further delineated, as occupational therapists graduating before January 1, 2007 must have completed their occupational therapy training at the undergraduate level; whereas those graduating after must have earned a post baccalaureate degree.

Language that denotes such degree requirements may become outdated due to changes in accreditation standards, which are set by ACOTE. For example, currently, the entry-level degree for an occupational therapist is a master's degree, but this may change in the future to a doctoral degree, and there are already a number of ACOTE accredited doctoral programs.

### **C. Possible Solutions and Impact**

From §454.204(1), replace “a” with “an educational” in front of “program” to match related language related to educational programs in §454.005, Applicability. Such a change will create greater uniformity in the Act.

From §454.204(1)(A), remove “a baccalaureate degree in occupational therapy, if the applicant graduated before January 1, 2007;” and replace with “an entry-level degree or a degree exceeding entry-level degree requirements in occupational therapy from an educational program that prepares an individual for entry to the field as an occupational therapist; or”.

Remove §454.204(1)(C) as the change to §454.204(1)(A) will refer to those applicants for an occupational therapy license who graduated after 2007, as well.

Add to §454.204(2) “from an educational program approved by the Accreditation Council for Occupational Therapy Education, its predecessor organization, or another national credentialing agency approved by the board” in order to clarify that an applicant for an occupational therapy assistant license must have completed training at an educational program approved by the Accreditation Council for Occupational Therapy Education, its predecessor organization, or another national credentialing agency approved by the Board.

From §454.204(2)(A), remove “an associate degree in occupational therapy” and replace with “an entry-level degree or a degree exceeding entry-level degree requirements in occupational therapy from an educational program that prepares an individual for entry to the field as an occupational therapy assistant; or”. This revision will clarify educational requirements for those seeking occupational therapy licensure.

From §454.204(2)(B), remove “an occupational therapy assistant certificate” and replace with “an entry-level certificate or a certificate exceeding entry-level certificate requirements in occupational therapy from an educational program that prepares an individual for entry to the field as an occupational therapy assistant.”

Such revisions will ensure that such requirements will not be rendered obsolete by changes made at the national level by ACOTE (or by a national credentialing agency approved by the Board that may assume ACOTE's accreditation function in the future) with regard to the entry-level educational requirements for occupational therapists and occupational therapy assistants. This will support the Act in staying current with regard to educational requirements.

**ISSUE 11: Additional requirements for foreign-trained applicants**

**A. Brief Description of Issue**

Requirements for foreign-trained applicants in §454.205, Foreign-Trained Applicants, are greater than those for U.S. trained applicants.

**B. Discussion**

§454.205(b)(1) states that foreign-trained applicants must furnish proof of good moral character. However, this is not a requirement for U.S. trained applicants. This creates confusion and disparities regarding licensing requirements.

**C. Possible Solutions and Impact**

To §454.205(a), remove “§454.203(a)(3)” and replace with “and complete educational and supervised field work requirements substantially equal to those under §454.203.”

In addition, remove §454.205(b) and the provisions under such.

Such changes will ensure that the application requirements for all individuals according to licensing type will be standard, which will eliminate confusion on the part of the public and applicants, and ensure parity.

Please also see Major Issue 12 for further information regarding the removal of §454.205(b) with regard to the approval of applicants for the examination.

**ISSUE 12: Sections related to administering, scoring, and other administrative activities related to the exam**

**A. Brief Description of Issue**

§454.205, Foreign-Trained Applicants; §454.206, Application for Examination; §454.207, License Examination; §454.208, Examination Results; and §454.209, Reexamination, stipulate the manner in which the Board examines applicants. However, the Board no longer examines applicants, but instead requires that they take the NBCOT certification examination, which is the national examination for licensure.

**B. Discussion**

§454.205(b), §454.206, §454.207, §454.208, and §454.209 concern the application and approval to take the examination, the administration and scoring of the examination, the

notification of examination results, and the process to apply for re-examination. Such sections do not reflect that the Board no longer examines applicants with regard to their occupational therapy education. Instead, the Board requires that applicants pass the national certification examination for their level (in other words, the exam for certification as an occupational therapist registered or the exam for certification as a certified occupational therapy assistant) given by the NBCOT. This is the national examination and tests the applicant's knowledge of the basic and clinical sciences relating to occupational therapy, occupational therapy techniques and methods, and other subjects necessary to determine the applicant's fitness to practice. The NBCOT administers and oversees the entire process, including specifying the application and re-examination process and requirements, verifying applicants' education and supervised field work experience, and notifying applicants and the OT Board of the applicants' examination results. The OT Board requires that applicants request that NBCOT notify the Board directly of the examination results.

### **C. Possible Solutions and Impact**

Remove §454.205(b), §454.206, §454.207, §454.208, and §454.209 as such sections are no longer valid due to the administration, etc. of the national examination by NBCOT.

In addition, from §454.203, Qualifications for Occupational Therapist or Occupational Therapy Assistant License, the current language of (a)(3) should be removed and replaced by "passed a national examination as specified by the board to test the applicant's knowledge of the basic and clinical sciences relating to occupational therapy, occupational therapy techniques and methods, and other subjects required to determine the applicant's fitness to practice."

Such changes will ensure that the Act reflects that the Board is not the entity that administers the national examination and will reduce confusion on the part of the public and applicants.

## **ISSUE 13: Clarification of requirements for the Provisional License**

### **A. Brief Description of Issue**

§454.210, Provisional License, requires revision to reflect Board requirements.

### **B. Discussion**

§454.210 requires a number of revisions, including those necessitated by changes related to the verification of education and administration of the examination. §454.210(a) states that the Board "shall" grant a provisional license. However, the Board determines those situations in which a provisional license is warranted, and such is under only extenuating circumstances as specified in rule. In addition, §454.210(a)(2) notes that the Board may recognize an examination other than the national examination; the national examination is the only examination the Board recognizes. Furthermore, §454.210(c)(2) states that the Board verifies

the academic and experience requirements of those applying for the provisional license. NBCOT, instead, is the entity that verifies this experience and only allows those who meet NBCOT's requirements to take the national examination.

**C. Possible Solutions and Impact**

From §454.210(a), eliminate "shall" and replace with "may" to indicate that the issuance of a provisional license is according to the Board's discretion with regard to the appropriateness of the issuance of such.

Remove the current §454.210(a)(2) and replace with "has passed a national examination as specified by the board to test the applicant's knowledge of the basic and clinical sciences relating to occupational therapy, occupational therapy techniques and methods, and other subjects required to determine the applicant's fitness to practice" to be in accord with suggested revisions to §454.203(a)(3).

Remove §454.210(c)(2), "the board verifies that the provisional license holder has the academic and experience requirements for an occupational therapist or occupational therapy assistant license; and" as it is NBCOT, not the Board, that verifies an applicant's meeting of educational requirements.

**ISSUE 14: Retired Status Retired Status not addressed in Act**

**A. Brief Description of Issue**

The Act does not currently offer any provisions related to retired status.

**B. Discussion**

The Board incorporated into rule language regarding retired status due to legislative mandate. However, provisions related to retired status are absent in the Act.

**C. Possible Solutions and Impact**

Change the title of §454.212 from "Inactive Status" to "Inactive and Retired Status" to convey clearly the content of the section as it relates to inactive and retired status.

To §454.212, add a new (c) provision to read "The board by rule may permit a person who holds a license to apply for retired status."

This will allow for greater clarity in the Act with the effect of reflecting in statute the licensing options available to licensees, with the ultimate goal of providing for greater access by the public to licensed occupational therapists and occupational therapy assistants.

<b>ISSUE 15: Revision needed to reflect renewal fees as set by the Executive Council</b>
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**A. Brief Description of Issue**

§454.252, Renewal of License, and §454.253, Renewal of Expired License by Out-of-State Practitioner, tie the renewal fee to the examination fee, which the Board does not set.

**B. Discussion**

§454.252(b) states that a person whose license has been expired for 90 days or less may renew the license by paying to the Executive Council the renewal fee and a late fee set by the Executive Council that may not exceed one-half of the examination fee for the license. The provision also states that if a person's license has been expired for more than 90 days but less than one year, the person may renew the license by paying to the Executive Council all unpaid renewal fees and a late fee set by the Executive Council that may not exceed the amount charged for examination for the license.

Similarly, §454.253(b) states that an out-of-state practitioner must pay to the Executive Council a renewal fee set by the Executive Council in an amount that may not exceed the examination fee for the license.

However, the Board does not set the examination fee; instead, NBCOT, which is the entity that owns and administers the exam, sets the examination fee.

**C. Possible Solutions and Impact**

From §454.252(b), “examination fee” should be changed to “renewal fee” and “examination for the license” should be removed and replaced by “renewal of the license.”

From §454.253(b), “examination fee” should be removed and replaced by “renewal fee.”

Such changes will ensure that the late fee and renewal fee for out-of-state practitioners should not be tied to the examination fee, which is subject to change at any time by NBCOT. Instead, such should be defined as fees set by the Executive Council, which will assist the Board in carrying out the Act.

**ISSUE 16: Revision needed to reflect reinstatement requirements**

**A. Brief Description of Issue**

Revisions to §454.252, Renewal of License, are required to reflect that individuals with licenses expired over one year must reinstate their licenses and may not apply for new licenses; further revisions are needed in §454.253, Renewal of Expired License by Out-of-State Practitioner, to ensure terminology related to the reinstatement process is used to describe such.

**B. Discussion**

§454.252(c) states that a person whose license has been expired for one year or longer must comply with the Board's requirements and procedures to reinstate the license, and pay a reinstatement fee set by the Executive Council and that if the Board requirements cannot be met, the person may obtain a new license by submitting to reexamination and complying with the requirements and procedures for obtaining an original license. However, due to changes in restoration requirements, the applicant may only reinstate his or her license by following reinstatement procedures, in which case, depending upon the reinstatement option selected by the licensee according to his or her licensure status or length of time since the Texas license expired, the individual may choose, but is not required, to retake and pass the NBCOT certification examination, which is the national examination.

In addition, §454.253 states that the Board may renew without reexamination the license of an out-of-state practitioner under certain circumstances. However, §454.252 uses "reinstatement" to more accurately reflect the reinstatement process for an out-of-state practitioner. The renewal process is reserved for those who are renewing either on time or up to one year after their licenses expired.

**C. Possible Solutions and Impact**

From §454.252(c), remove "If the board requirements cannot be met, the person may obtain a new license by submitting to reexamination and complying with the requirements and procedures for obtaining an original license" to reflect the fact that all individuals wishing to return to Texas licensure must reinstate the license and may not apply for a new license. This change will clarify requirements and policy with the result of helping to eliminate confusion on the part of readers of the Act.

This revision will support the Board in offering alternatives to former licensees with regard to reinstatement requirements such that those individuals would not be required to retake and pass the examination (unless they choose a reinstatement option related to such), as such a process can be an impediment to reinstatement for certain individuals. The Board, consequently, is supported in potentially reinstating the licenses of a greater number of former licensees, with the ultimate goal of increasing the number of current licensees able to deliver occupational therapy services to individuals throughout Texas.



Furthermore, from §454.253(a), remove “renew” and replace with “reinstate” in order to clarify the Act by ensuring greater consistency in terminology.

**ISSUE 17: Expand opportunities for continuing education approval and address wording in need of revision related to the continuing education provisions**

**A. Brief Description of Issue**

§454.254, Mandatory Continuing Education, needs to be expanded to state that the Board may authorize a variety of organizations to evaluate and approve continuing education courses.

**B. Discussion**

§454.254 states that the board may authorize license holder peer organizations in this state to evaluate and approve continuing education courses in accordance with the board's evaluation and approval process. The section does not reference organizations located outside of this state, such as the American Occupational Therapy Association (AOTA).

In addition, §454.254(c) states that the Board shall identify the key factors for the competent performance by a license holder of the license holder's professional duties. In other acts, such as the Physical Therapy Practice Act, specifically in §453.254(c), “may” is used rather than “shall” in a corresponding provision, which leaves the identification of such as an option a board may consider.

**C. Possible Solutions and Impact**

From §454.254(d), remove “in this state” to reinforce that a variety of peer organizations authorized by the Board may be included as approved providers of continuing education. This will ensure that licensees will have a broad range of choices and opportunities with regard to CE, particularly those licensees who retain Texas licensure, but reside in other states. This will, furthermore, support the Board in its consideration of a range of peer organizations as approved providers.

In addition, from §454.254(c), replace “shall” with “may” to provide the provide the Board with greater authority to address issues related to practice with regard to individuals licensed by the Act and for greater consistency between the Physical Therapy Practice Act and the Occupational Therapy Practice Act.

**ISSUE 18: Remove inaccurate language related to complaint process**

**A. Brief Description of Issue**

§454.153, General Rules Involving Complaint Investigation and Disposition, contains language that does not accurately represent the complaint process.

**B. Discussion**

§454.153(e) states that the coordinator of occupational therapy programs shall notify the board of a complaint that extends beyond the time prescribed by the board for resolving the complaint so that the board may take necessary action on the complaint.

This information is inaccurate as the coordinator of occupational therapy programs is not involved in the investigation process.

**C. Possible Solutions and Impact**

Provision §454.153(e), “The coordinator of occupational therapy programs shall notify the board of a complaint that extends beyond the time prescribed by the board for resolving the complaint so that the board may take necessary action on the complaint” should be removed from the section.

**ISSUE 19: Add section related to expunging record of disciplinary action**

**A. Brief Description of Issue**

Provisions should be added to §454.153, General Rules Involving Complaint Investigation and Disposition, regarding the expunction of certain elements of a licensee’s record.

**B. Discussion**

The Board may take disciplinary action against a licensee for a number of violations, such as those related to administrative violations, in addition to violations related to practice, such as those that involve harm or injury to an individual receiving occupational therapy services.

The current Act does not permit the Board to expunge from a licensee’s record any disciplinary action, which remains on the licensee’s record permanently. Such disciplinary actions include those that do not present an imminent possibility of harm or injury to the health, safety, or welfare of the public, such as an administrative, clerical, or other minor violation not causing harm to a patient and that would not pose a risk to the public from continued practice by the occupational therapist or occupational therapy assistant.

### C. Possible Solutions and Impact

Language should be added to the Act that may address the expunction from the record of a licensee of disciplinary actions that meet criteria established by the Board.

Possible language regarding the expunction of such records appears below and should be added to §454.153, General Rules Involving Complaint Investigation and Disposition. Please note that as §454.153(e) should be removed as noted in Issue 18 above, the new language would be included as the new §454.153(e) and §454.153(f). This change will support the Board in continuing to protect the public as the expunction of records will not concern the records of licensees that involved or present an imminent threat to the safety or welfare of the public.

(e) The board may expunge a disciplinary action from a licensee's records with the board if:

- (1) the licensee applies to the board for expunction;
  - (2) the disciplinary action is the only disciplinary action the licensee has been subject of;
  - (3) the disciplinary action was an administrative violation not causing harm to a patient;
- and
- (4) the disciplinary action occurred at least five years before the date the licensee applied for expunction.

(f) The board by rule may provide the procedure for a licensee to apply for expunction under this section and may adopt other rules to implement this section.

**ISSUE 20: Add section related to criminal record check**

#### A. Brief Description of Issue

A section should be added to the Act regarding an applicant's submission of fingerprints for a background check.

#### B. Discussion

Many boards have been authorized in their practice acts to require applicants to submit fingerprints as part of a criminal record check conducted to determine if an applicant has a criminal record and, subsequently, whether the applicant's possible criminal record might pose a threat to the public health and welfare. The Board at this time does not have any provisions in the Act that would allow the board to require such.

**C. Possible Solutions and Impact**

A section with language such as that appearing below should be added to the Act.

**Criminal Record Check**

(a) The board may require that an applicant for license submit to the board, in addition to satisfying the other requirements of this subchapter, a complete and legible set of fingerprints, on a form prescribed by the board, for the purpose of obtaining criminal history record information from the Department of Public Safety and the Federal Bureau of Investigation.

(b) The board may deny a license to an applicant who does not comply with the requirement of Subsection (a). Issuance of a license by the Board may be conditioned on the board’s obtaining the applicant’s criminal history record information under this section.

By including such a section, the Board would be supported in its goal of protecting the public health and welfare as through a criminal record check, the Board would be apprised of potential information that might inform the Board’s decision regarding whether the applicant is fit to be licensed according to the Board’s criteria related to criminal history.

**X. Other Contacts**

**A. Fill in the following charts with updated information on people with an interest in your agency, and be sure to include the most recent email address.**

**Executive Council of Physical Therapy & Occupational Therapy Examiners**

**Exhibit 14: Contacts**

***Interest Groups***

*(groups affected by agency actions or that represent others served by or affected by agency actions)*

Group or Association Name/ Contact Person	Address	Telephone	Email Address
None			(

**Table 18 Exhibit 14 Interest Groups**

**Interagency, State, or National Associations***(that serve as an information clearinghouse or regularly interact with your agency)*

Group or Association Name/ Contact Person	Address	Telephone	Email Address
Federation of State Boards of Physical Therapy (FSBPT)	124 West Street South Third Floor Alexandria, VA 22314	703-299-3100	communications@fsbpt.org
American Physical Therapy Association (APTA)	1111 North Fairfax Alexandria, VA 22314	703-684-2782	angelachasteen@apta.org
Texas Physical Therapy Association (TPTA)	900 Congress Ave, Suite 410 Austin, TX 78701	512-477-1818	info@tpta.org
American Occupational Therapy, Inc. (AOTA)	4720 Montgomery Lane, Suite 200 Bethesda, MD 20814-3449	301-652-6611	aotacustomerservice@pbd.com
National Board for Certification in Occupational Therapy, Inc. (NBCOT)	12 South Summit Avenue, Suite 100 Gaithersburg, MD 20877	(301) 990-7979	info@nbcot.org
Texas Occupational Therapy Association (TOTA)	1106 Clayton Lane, Suite 516W Austin, Texas 78723	(512) 454-8682	mary@tota.org

**Table 19 Exhibit 14 Interagency, State, and National Association****Liaisons at Other State Agencies***(with which your agency maintains an ongoing relationship, e.g., the agency's assigned analyst at the Legislative Budget Board, or attorney at the Attorney General's office)*

Agency Name / Relationship / Contact Person	Address	Telephone	Email Address
Legislative Budget Board / agency analyst / Trevor Whitney	1501 N. Congress Ave, 5 <sup>th</sup> Floor, Robert E. Johnson Bldg., Austin, TX 78701	512-463-8203	trevor.whitney@lbb.state.tx.us
Office of Attorney General / assigned counsel / Kara Holsinger	Administrative Law Division PO Box 12548, Austin, TX 78711-2548	512-475-4203	kara.holsinger@texasattorneygeneral.gov
Office of the Governor Appointments Office / Appointments Manager / Morgan Stewart	P.O. Box 12428, Austin, TX 78711	512-936- 3312	morgan.stewart@gov.texas.gov
Governor's Office of Budget & Policy; We have not been contacted by our GOB&P analyst.	Office of the Governor P.O. Box 12428 Austin, Texas 78711-2428	512-463-2000	
Health Professions Council / Administrative Officer / John Monk	333 Guadalupe, St. 2-220, Austin, TX 78701	512-305-8550	john.monk@hpc.state.tx.us

**Table 20 Exhibit 14 Liaisons at Other State Agencies**

Group or Association Name/ Contact Person	Address	Telephone	Email Address
N/A			

Table 21 Exhibit 14 Interest Groups

**Interagency, State, or National Associations**

(that serve as an information clearinghouse or regularly interact with your agency)

Group or Association Name/ Contact Person	Address	Telephone	Email Address
Comptroller of Public Accounts Fiscal Integrity Division Lou Moreno, Appropriations Control Officer	111 E. 17 <sup>th</sup> Street LBJ State Office Building Austin, TX 78701	512-936-3660	<a href="mailto:luis.moreno@cpa.texas.gov">luis.moreno@cpa.texas.gov</a>
Office of the State Auditor Kendra Campbell, Analyst	1501 N. Congress Ave. Robert E. Johnson Building Austin, TX 78701	512-936-9769	<a href="mailto:kendra.campbell@sao.state.tx.us">kendra.campbell@sao.state.tx.us</a>

**XI. Additional Information**

- A. Texas Government Code, Sec. 325.0075 requires agencies under review to submit a report about their reporting requirements to Sunset with the same due date as the SER. Include a list of each agency-specific report that the agency is required by statute to prepare and an evaluation of the need for each report based on whether factors or conditions have changed since the statutory requirement was put in place. Please do not include general reporting requirements applicable to all agencies, reports that have an expiration date, routine notifications or notices, posting requirements, federally mandated reports, or reports required by G.A.A. rider. If the list is longer than one page, please include it as an attachment. *See Exhibit 15 Example.*

The agency has no agency-specific report that it is required by statute to prepare and submit.

**Executive Council of Physical Therapy & Occupational Therapy Examiners  
Exhibit 15: Evaluation of Agency Reporting Requirements**

Report Title	Legal Authority	Due Date and Frequency	Recipient	Description	Is the Report Still Needed? Why?
N/A	(text)	(text)	(text)	(text)	(text)

Table 22 Exhibit 15 Agency Reporting Requirements

- B. Has the agency implemented statutory requirements to ensure the use of "first person respectful language"? Please explain and include any statutory provisions that prohibits these changes.**

ECPTOTE is not aware that it is subject to the statutory requirements which require active implementation of person first respectful language. Despite that, the negative language associated with this initiative is never a part of agency operations, functions, publications, documents, or contacts.

- C. Fill in the following chart detailing information on complaints regarding your agency. Do not include complaints received against people or entities you regulate. The chart headings may be changed if needed to better reflect your agency's practices.**

**Executive Council of Physical Therapy and Occupational Therapy Examiners  
Exhibit 16: Complaints Against the Agency — Fiscal Years 2013 and 2014**

	Fiscal Year 2013	Fiscal Year 2014
Number of complaints received	1	0
Number of complaints resolved	0	0
Number of complaints dropped / found to be without merit	1	0
Number of complaints pending from prior years	0	0
Average time period for resolution of a complaint	0	0

- D. Fill in the following charts detailing your agency's Historically Underutilized Business (HUB) purchases.**

The Executive Council of Physical Therapy & Occupational Therapy Examiners utilizes only two HUB categories: Other Services and Commodities.

**Executive Council of Physical Therapy & Occupational Therapy Examiners  
Exhibit 17: Purchases from HUBs**

***Fiscal Year 2013***

Category	Total \$ Spent	Total HUB \$ Spent	Percent	Agency Specific Goal*	Statewide Goal
Heavy Construction	N/A	N/A	N/A	N/A	11.2%
Building Construction	N/A	N/A	N/A	N/A	21.1%
Special Trade	N/A	N/A	N/A	N/A	32.7%
Professional Services	N/A	N/A	N/A	N/A	23.6%
Other Services	\$12,331	\$1,911	15.50%	33.0%	24.6%
Commodities	\$10,232	\$5,364	52.43%	12.6%	21.0%
<b>TOTAL</b>	\$22,563	\$7,275	32.,25%		

**Table 23 Exhibit 17 HUB Purchases for FY 2013**

**Fiscal Year 2014**

Category	Total \$ Spent	Total HUB \$ Spent	Percent	Agency Specific Goal	Statewide Goal
Heavy Construction	N/A	N/A	N/A	N/A	11.2%
Building Construction	N/A	N/A	N/A	N/A	21.1%
Special Trade	N/A	N/A	N/A	N/A	32.7%
Professional Services	N/A	N/A	N/A	N/A	23.6%
Other Services	\$40,653	\$2,561	6.30%	33.0%	24.6%
Commodities	\$33,495	\$9,839	29.38%	12.6%	21.0%
<b>TOTAL</b>	<b>\$74,148</b>	<b>\$12,400</b>	<b>16.73%</b>		

Table 24 Exhibit 17 HUB Purchases for FY 2014

**Fiscal Year 2015 - As of April 2015**

Category	Total \$ Spent	Total HUB \$ Spent	Percent	Agency Specific Goal	Statewide Goal
Heavy Construction	N/A	N/A	N/A	N/A	11.2%
Building Construction	N/A	N/A	N/A	N/A	21.1%
Special Trade	N/A	N/A	N/A	N/A	32.7%
Professional Services	N/A	N/A	N/A	N/A	23.6%
Other Services	\$8,980	\$1,668	18.58%	30.0%	24.6%
Commodities	\$7,635	\$3,577	46.85%	12.6%	21.0%
<b>TOTAL</b>	<b>\$16,615</b>	<b>\$5,245</b>	<b>31.57%</b>		

Table 25 Exhibit 17 HUB Purchases for FY 2015

- E. Does your agency have a HUB policy? How does your agency address performance shortfalls related to the policy? (Texas Government Code, Sec. 2161.003; TAC Title 34, Part 1, rule 20.15b)**

**Historically Underutilized Businesses**

The agency's HUB policy is simple and the following is extracted from the strategic plan:

We will foster an environment that will enhance participation of Historically Underutilized Businesses in procurement and contracting opportunities.

Through each year of the strategic plan, we will make a good faith effort to award at least 33 percent of the total value of contracts for "Other Services" and 11.5% for "Commodities" to Historically Underutilized Businesses (HUB).



The HUB statistics are reviewed annually by the Executive Director. Since he approves all major purchases, he pays closer attention to addressing shortfalls, and insures the two persons responsible for purchases focus on utilizing HUBs for future purchases to bring the statistics up to acceptable levels.

**F. For agencies with contracts valued at \$100,000 or more: Does your agency follow a HUB subcontracting plan to solicit bids, proposals, offers, or other applicable expressions of interest for subcontracting opportunities available for contracts of \$100,000 or more? (Texas Government Code, Sec. 2161.252; TAC Title 34, Part 1, rule 20.14)**

N/A

**G. For agencies with biennial appropriations exceeding \$10 million, answer the following HUB questions.**

**1. Do you have a HUB coordinator? If yes, provide name and contact information. (Texas Government Code, Sec. 2161.062; TAC Title 34, Part 1, rule 20.26)**

N/A

**2. Has your agency designed a program of HUB forums in which businesses are invited to deliver presentations that demonstrate their capability to do business with your agency? (Texas Government Code, Sec. 2161.066; TAC Title 34, Part 1, rule 20.27)**

N/A

**3. Has your agency developed a mentor-protégé program to foster long-term relationships between prime contractors and HUBs and to increase the ability of HUBs to contract with the state or to receive subcontracts under a state contract? (Texas Government Code, Sec. 2161.065; TAC Title 34, Part 1, rule 20.28)**

N/A

**H. Fill in the charts below detailing your agency’s Equal Employment Opportunity (EEO) statistics.**

**Executive Council of Physical Therapy & Occupational Therapy Examiners  
Exhibit 18: Equal Employment Opportunity Statistics**

**1. Officials / Administration**

Year	Total Number of Positions	Percent African-American	Statewide Civilian Workforce Percent	Percent Hispanic	Statewide Civilian Workforce Percent	Percent Female	Statewide Civilian Workforce Percent
2013	5	0%	8.99%	20%	19.51%	60%	39.34%
2014	6	0%	8.99%	17%	19.51%	67%	39.34%
2015	6	0%	8.99%	17%	19.51%	67%	39.34%

Table 26 Exhibit 18 EEO Statistics for Officials/Administration

**2. Professional / Para-Professional**

Year	Total Number of Positions	Percent African-American	Statewide Civilian Workforce Percent	Percent Hispanic	Statewide Civilian Workforce Percent	Percent Female	Statewide Civilian Workforce Percent
2013	2	50%	11.33%	0%	17.4%	100%	59.14%
2014	2	50%	11.33%	0%	17.4%	100%	59.14%
2015	2	50%	11.33%	0%	17.4%	100%	59.14%

Table 27 Exhibit 18 EEO Statistics for Professionals

**3. Technical**

Year	Total Number of Positions	Percent African-American	Statewide Civilian Workforce Percent	Percent Hispanic	Statewide Civilian Workforce Percent	Percent Female	Statewide Civilian Workforce Percent
2013	0	0%	14.16%	0%	21.36%	0%	41.47%
2014	0	0%	14.16%	0%	21.36%	0%	41.47%
2015	0	0%	14.16%	0%	21.36%	0%	41.47%

Table 28 Exhibit 18 EEO Statistics for Technical

**4. Administrative Support**

Year	Total Number of Positions	Percent African-American	Statewide Civilian Workforce Percent	Percent Hispanic	Statewide Civilian Workforce Percent	Percent Female	Statewide Civilian Workforce Percent
2013	12	16%	13.57%	42%	30.53%	92%	65.62%
2014	17	18%	13.57%	29%	30.53%	88%	65.62%
2015	17	18%	13.57%	29%	30.53%	88%	65.62%

Table 29 Exhibit 18 EEO Statistics for Administrative Support

**5. Service / Maintenance Non Applicable**

Year	Total Number of Positions	Percent African-American	Statewide Civilian Workforce Percent	Percent Hispanic	Statewide Civilian Workforce Percent	Percent Female	Statewide Civilian Workforce Percent
2013	0	0%	14.68%	0%	48.18%	0%	40.79%
2014	0	0%	14.68%	0%	48.18%	0%	40.79%
2015	0	0%	14.68%	0%	48.18%	0%	40.79%

Table 30 Exhibit 18 EEO Statistics for Service and Maintenance

**6. Skilled Craft Non Applicable**

Year	Total Number of Positions	Percent African-American	Statewide Civilian Workforce Percent	Percent Hispanic	Statewide Civilian Workforce Percent	Percent Female	Statewide Civilian Workforce Percent
2013	0	0%	6.35%	0%	47.44%	0%	4.19%
2014	0	0%	6.35%	0%	47.44%	0%	4.19%
2015	0	0%	6.35%	0%	47.44%	0%	4.19%

Table 31 Exhibit 18 EEO Statistics for Skilled Craft

**I. Does your agency have an equal employment opportunity policy? How does your agency address performance shortfalls related to the policy?**

Yes, ECPTOTE does have an EEO policy that is found in the employee handbook, and as a separate document provided to all employees. There has not been an addressable EEO shortfall in the agency in the past. The EEO statistics are posted biennially in the agency strategic plan, which since the Executive Director writes it, would alert him to any shortfalls that would require correction. The policy is enclosed in Attachment 21 (Additional Information).

**XII. Agency Comments**

We look forward to the Sunset Commission review of our agency and two boards, and its observations and recommendations for improvement. However, we believe that we will demonstrate that the Executive Council of Physical Therapy and Occupational Therapy Examiners is a well-run, efficient, cost-effective organization that does an excellent job in executing its mission of protecting the health, safety, and welfare of the people of Texas. The Texas PT and OT boards are considered the "E. F. Hutton" of all things PT and OT by the other state boards.