

EXECUTIVE SUMMARY OF SUNSET STAFF REPORT

Anatomical Board of the State of Texas

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In Texas and many other states, adults can donate their deceased bodies to further medical research, education, and training. These donations serve as a primary resource of affordable cadavers and anatomical specimens for higher education institutions and other health professions. The Anatomical Board of the State of Texas (SAB) oversees the distribution of these donated bodies to the state's 13 Willied Body Programs (WBPs), forensic science institutions, and search and rescue training organizations. Currently, Texas statute also allows WBPs to transfer donated bodies and anatomical specimens to other board-inspected and approved facilities, including bioskills training facilities, medical device companies, search and rescue organizations, and other higher educational institutions that do not operate their own WBPs.

During the 2020-21 biennium, the Sunset Commission voted to abolish SAB as a stand-alone board, reconstitute it as an advisory committee, and transfer its functions to the Texas Funeral Service Commission (TFSC). However, House Bill 1565, the SAB Sunset bill, did not pass during the 87th Legislative Session. Instead, the Legislature passed Senate Bill 713, which continued SAB as a stand-alone board for two years and placed it under full Sunset review again in the 2022-23 biennium. As a result, SAB is currently subject to review and abolishment under the Sunset Act, so the Sunset Commission and 88th Legislature will need to take action to continue SAB and its functions.

SAB cannot continue to effectively oversee whole body donation in Texas.

This Sunset review again questioned the need for and effectiveness of the board's oversight and regulation, and considered alternative methods of performing needed functions. Sunset staff determined the state continues to have an interest in overseeing whole body donations, but SAB cannot continue to perform this oversight effectively or objectively for many reasons both within and outside the board's control. Internally, SAB is not statutorily authorized to hire staff and receives no appropriations, which results in the board going down inappropriate and unsustainable paths, such as board members performing facility inspections. Externally, as the previous review also noted, Texas statutes and regulations have not kept up with the changing nature of the whole body donation industry, creating regulatory gaps and uncertainty. Currently, Texas statutes do not clearly account for or regulate the donation of bodies and

anatomical specimens to Non-Transplant Anatomical Donation Organizations (NADOs), including commercial, for-profit companies like Science Care. As a result of this statutory ambiguity, SAB had to request an attorney general opinion in 2019 to determine whether Science Care is authorized to operate in Texas and subject to SAB oversight.

Since this time, the whole body donation industry has continued to expand nationwide, and some other states have chosen to specifically regulate NADOs. While recommending regulation of NADOs is a policy decision Sunset staff cannot make, this report provides a full picture of this rapidly changing and growing industry for the Sunset Commission and Legislature to have when considering how best to regulate this industry and its participants in Texas. Additionally, while Sunset staff would normally provide recommendations to help address SAB's internal challenges, staff cannot do this without the knowing what level of oversight and regulation the board should provide. As a result, this staff report takes a different approach from the prior review of SAB. Instead of recommendations, this staff report presents a series of options for the Sunset Commission and ultimately the Legislature to consider when determining whether SAB and its functions should be continued and if so, proposes different organizational and regulatory structures that could be considered to meet the needs of the state.

The following material summarizes Sunset staff's proposed options regarding the continuation of the Anatomical Board of the State of Texas.

Sunset Staff Issue and Proposed Options

ISSUE 1

The State Anatomical Board Cannot Continue to Effectively Oversee Whole Body Donation in Texas.

Because SAB is subject to abolishment under the Texas Sunset Act, if policymakers determine a continuing need for the board and its functions exists, both the Sunset Commission and Legislature will need to take action to reauthorize the board. However, the level of oversight and regulation of whole body donation needed in Texas and what the board's role should be in providing it is a policy decision. Therefore, Sunset staff provides, but takes no position on, the following options for the Sunset Commission's consideration. Regardless of whether the Sunset Commission chooses to adopt one of these options, it will need to determine whether or not the board should be continued and if so, recommend an appropriate Sunset review date.

Proposed Options

Option 1. Abolish SAB as a stand-alone board, reconstitute it as an advisory council to the Texas Higher Education Coordinating Board to coordinate and distribute whole body donations among higher education institutions, and remove the board's regulatory authority.

Option 2. Abolish SAB as a stand-alone board, reconstitute it as an advisory committee, and transfer its regulatory and administrative functions to the TFSC or another appropriate state agency.

Option 3. Restructure SAB as a fully resourced state agency, align its regulatory and administrative functions with best practices, and provide the resources necessary to administer its functions.

Option 4. Consider raising the policy question of if and how NADOs should be regulated in Texas for deliberation during the 88th Legislative Session.

Fiscal Implication Summary

Until the Sunset Commission adopts specific recommendations related to the continuation and functions of SAB, the fiscal implication cannot be estimated.

