

From: [Sunset Advisory Commission](#)
To: [Janet Wood](#)
Subject: FW: Sunset Review Comments
Date: Friday, April 22, 2016 4:22:38 PM

From: Bryan Boyea
Sent: Friday, April 22, 2016 3:37 PM
To: Sunset Advisory Commission
Subject: Sunset Review Comments

Sunset Advisory Commission:

Thank you to the Texas legislation for endorsing this review and to the Sunset Advisory Commission for research into the Executive Council and the Physical Therapy and Occupational Therapy Board of Examiners (ECPTOTE) and the Texas Board of Physical Therapy Examiners (TBPTE) governance and policies and procedures to protect the citizens of Texas.

I am a Texas licensed physical therapist who graduated in 1990 from the Army-Baylor Physical Therapy program in San Antonio, Texas. Since graduation, I have had the opportunity to work in a wide variety of settings and with a wide variety of professions both in and out of federal service. I was anxious to receive long overdue feedback on the functioning of the ECPTOTE and TBPTE, as my perception, as was yours, is the organization “has been a stable, well-run agency, with an experienced, capable staff”.

As stated, the review was overdue; unfortunately, the tone of the report suggests that the ECPTOTE purposely attempted to fly “under the radar”. This is not true; delays in this review were directed by the legislature, not the ECPTOTE, who on the contrary, were anxious for input.

Issue 1: The Requirement to Register Physical Therapy and Occupational Therapy Facilities Is Unnecessary.

STANCE A: I strongly oppose the recommendation to no longer require facility registration.

BACKGROUND: The registration requirement was enacted to protect the public. The registration safeguards the public by establishing a mechanism so that only a facility with a physical therapist can say they are providing physical therapy. To be a registered facility, requires presence of a physical therapist supervising the provision of physical therapy. Eliminating registration will reduce facility accountability and reduce consumer protections.

RECOMMENDATION: a) Retain the requirement that facilities must be registered in order to say they are providing physical therapy, b) Develop a basic, but tiered fee structure based on the size of the facility (likely number of employees).

STANCE B: I support the expunging of facility related administrative violations from a licensee’s record only if the licensee was not the PT of record for the facility.

BACKGROUND: The potential for a licensee not directly involved with registration was to gain increased accountability and ensure all played an active role.

RECOMMENDATION: Refine the penalties system for infractions. I do agree with the

recommendation that the individual licensee, one that does not have a direct ability to impact facility registration, should not be formally penalized when the facility within which they work has a lapse in registration. One potential method to maintain accountability of all is that if the licensee can demonstrate an active attempt to work with facility management to maintain current registration, the licensee could be exempted from the violation.

Issue 2: The Physical and Occupational Therapy Statutes Unnecessarily Impede Increasingly Mobile Workforces.

STANCE: I support a physical therapy licensure compact.

BACKGROUND: Greater workforce mobility may enhance access to physical therapy services in border towns and low population density areas. This action will enhance care to the public we diligently serve. Based on compact organization, I recommend that Texas be within the first ten to join the compact. It is my understanding that the first ten are permitted an active voice in compact governance.

RECOMMENDATION: To protect the public, the compact must ensure there is a well-defined and consistent procedure established to expedite the reporting of negative practice patterns, negligence, non-ethical practices, or failure to comply with state board requirements.

Issue 3: Key Elements of the Boards' Statutes, Rules, and Policies Do Not Conform to Common Licensing Standards

STANCE A: I oppose the recommendation to remove the TPTBE authority to delegate responsibility for approving continuing education and continuing competence training (the Continuing Competence Approval Program (CCAP))

BACKGROUND: The current CCAP program was jointly developed with the TPTBE and the TPTA to ensure a viable process was in place to approve continuing education offerings for Texas licensees. Essential elements of the validation included review of the topic, objectives, content, and references by professionals with explicit knowledge on the topic with goal of ensuring safe, evidence-supported, and relevant continuing education was provided. While stationed in Germany, our organization explicitly utilized the Texas CCAP program to provide continuing education approval because of its high rate of acceptance with other state boards, focused standards, and responsiveness. The TPTBE attained approval to delegate the running of the CCAP program from the Texas Attorney General's office in approximately 1999. Prior to this time, continuing education was approved by a TPTBE administrative clerk. This process was clearly flawed and did not serve the public's or the PTs best interest. This current CCAP program is a cost-effective and respected peer critiqued validation process run that enhances provider competence in order to protect the public interest.

RECOMMENDATION: I strongly endorse that the TPTBE retain authority to delegate administration of the CCAP program.

STANCE B: Support fingerprint based criminal background checks.

BACKGROUND: a current best practice.

RECOMMENDATION: Implement fingerprinting for criminal background checks consistent with other organizations. Recommend researching the utility of permitting current fingerprints secured in trusted databases be accessed when possible. This would streamline the process and reduce the monetary and time burden of repeating new fingerprints.

Issue 4: The State Has a Continuing Need to Regulate Physical Therapy and Occupational Therapy

STANCE: Strongly support

BACKGROUND: Physical Therapy, similar to other health professions including physicians, dentists, and nursing, has a continued requirement for oversight to ensure public safety and that public interests are protected.

RECOMMENDATION: Retain the ECPTOTE as an independent agency. Retain the ECPTOTE as the administrative oversight agency of the TBPTE.

TBPTE Self-Evaluation: Issue 20 – Repeal of the Referral Requirement for PT Treatment

STANCE: I strongly support this recommendation.

BACKGROUND: 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. As an Army Physical Therapist, I have provided physical therapy evaluation and treatment without referral for 26 years. During this time, the practice pattern has proven safe, effective and efficient. My direct access experience in the military in regards to patient safety and efficiency of care is supported by literature. Physical therapist education supports practice without referral. Despite this, patient access to physical therapy in Texas currently requires a referral from a physicians, dentists, chiropractors, podiatrists, physician assistants, or advanced nurse practitioners. Patient access to physical therapy without a referral is available in 47 states (including all states bordering Texas). Further, direct access is available in many countries around the world to include Australia, New Zealand, Canada, and throughout Europe. I strongly feel the requirement to be referred is an arbitrary barrier to health care and an unnecessary and burdensome regulation. The referral requirement does not enhance public safety. There is no increased risk published in the literature and the rate of malpractice insurance is no higher in states with direct access over states that require referral. The requirement increases the cost of healthcare and delays access to care. Numerous studies report that early access to care, particularly for conditions such as low back pain, speeds recovery and reduces disability.

RECOMMENDATIONS: Allow Texans a choice in healthcare and permit enhanced access and outcomes without increasing risk by repealing the burdensome and expensive requirement that a patient must obtain a referral in order to be seen by their physical therapist.

Thank you again for your time and serving the public's interest.

Respectfully,
Bryan L. Boyea, PT, MPT, OCS