



# TOTA

TEXAS OCCUPATIONAL THERAPY ASSOCIATION, INC.

Written Testimony

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TESTIMONY TO THE TEXAS SUNSET ADVISORY COMMISSION  
JUNE 23, 2016

by  
ROBIN CLEARMAN, OTR, PRESIDENT-ELECT,  
and  
MARY HENNIGAN, OTR, MBA, EXECUTIVE DIRECTOR

The Texas Occupational Therapy Association (TOTA) appreciates the hard work of Sunset staff and the opportunity to provide comments to the Sunset Commission today. TOTA supports the recommendations of the Texas Sunset Advisory Commission staff regarding the Texas Board of Occupational Therapy Examiners (TBOTE) under the administration of the Executive Council of Physical and Occupational Therapy Examiners (ECPTOTE).

TOTA supports the recommendations:

- 1.1 discontinuing the registration of occupational therapy facilities and temporarily authorizing the board to expunge facility-related administrative violation(s) from a licensee's record.
- 2.2 providing clear statutory authority for licensure by endorsement.
- 2.3 clarifying that occupational therapy assistants licensed in other states may practice in Texas temporarily under the same conditions as occupational therapists.
- 2.4 removing provisions prescribing educational requirements beyond completion of an accredited program or substantially equivalent to an accredited program.
- 3.1 clarifying statutes to reflect current standards and conditions.
- 3.3 requiring the board to conduct fingerprint-based criminal background checks of licensure applicants and licensees.
- 3.4 requiring the board to develop a disciplinary matrix.
- 3.5 removing the "good moral character" standard as a criterion for foreign-trained licensure applicants.
- 3.6 directing the OT board to adopt rules to specify the types of criminal activities that may result in denial, suspension, or revocation of a license.
- 3.7 directing the OT board to grant administrative dismissal to staff for low-level misdemeanor offenses.
- 3.8 directing the agency to develop a formal process to refer non-jurisdictional complaints to the appropriate agency.
- 4.1 continuing the Executive Council and OT board for 12 years
- 4.2 applying the standard Sunset across-the-board requirements to the Executive Council and OT board.



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In addition to the recommendations made by the Sunset staff, TOTA recommends one additional change to TBOTE's authority. Sunset staff recommendation 1.1 in the report supports discontinuing the current practice of requiring physical and occupational therapy facilities to register with the state, as well as allowing for the expungement of facility-related administrative violations from a licensee's record. In addition to this recommendation, TOTA would like Commission members to consider allowing TBOTE to expunge all disciplinary actions that are administrative, clerical or otherwise minor in nature, as long as they do not pertain to an action resulting in any possibility of harm or injury to a patient.

Over the last year, the board acted on 40 violations. Ten of those violations dealt with therapists not having enough continuing education or the wrong type of continuing education. These are minor violations. The Board does not have the authority currently to expunge any disciplinary actions, and those that fall into the abovementioned categories should not follow a licensee around for the entirety of his or her career, particularly when the infraction has nothing to do with quality of care or patient safety. Other licensing boards are able to treat disciplinary actions related to administrative issues differently; for example, the Board of Nursing uses a "corrective action plan" which usually imposes a fine or remedial education and has no impact on the individual's license status. Similar to Sunset staff's recommendation regarding facility-related administrative violations, the Board should also be given clear statutory authority to expunge other administrative violations from a licensee's record.