

From: [Sunset Advisory Commission](#)
To: [Cecelia Hartley](#)
Subject: FW: Comments on ECPTOTE and TBOTE Recommendations
Date: Tuesday, November 29, 2016 8:02:13 AM

From: Jessica Cline
Sent: Monday, November 28, 2016 11:23 PM
To: Sunset Advisory Commission
Subject: Comments on ECPTOTE and TBOTE Recommendations

To The Sunset Commission:

I am contacting you regarding the Sunset Advisory Commission Staff Report which recommends that **ECPTOTE and TBOTE be placed under the Texas Department of Licensing and Regulation Health Professions Division**. Below I have included the reasons I am opposed to this change.

- 1) Regarding the issue of the board being controlled by members of the licensed profession and not qualifying for state action immunity and potentially facing suits for anti-trust violations, this concern does not apply to ECPTOTE. Since its creation in 1993, ECPTOTE has included more public members on the board than professional members.
- 2) Regarding requiring existing licensees and applicants to undergo a finger print background check, TBOTE was advised by their assigned counsel from the Office of the Attorney General that they would need statutory authority to require fingerprinting. In their Self Evaluation Report, TBOTE, requested the Sunset Commission recommend a change to the practice act to allow for fingerprinting. This was included in the Staff report as Issue 3.3 and adopted by the Commission on 8/22/16.
- 3) Regarding applying best practices for the time needed to issue a license, currently on average TBOTE issues a license in 2.54 days. The report indicates the Texas Department of Licensing and Regulation (TDRL) issues a license in 10 days.
- 4) Regarding the time require to resolve a complaint, currently on average TBOTE resolves complaints in 118 days (less than 4 months). TDLR resolves a complaint in seven months.
- 5) Regarding the prioritization of high-risk complaint, TBOTE addresses all complaints immediately. The TBOTE senior investigator is responsible for further prioritizing cases by degree of seriousness of the offense.
- 6) Regarding the exposure of confidential health information during the complaint process, TBOTE assigns all cases a case number. No personal data is shared.
- 7) Regarding turnover posing a high risk to agency functions, TBOTE's OT Coordinator of 14 years retired in 2014, but was replaced by an equally qualified individual. The staffing change was well-planned and well-executed and did not create any risk to licensees or the public that the agency is created to protect. There is no reason to think any future retirements or resignations will not be handled in a similarly professional manner.

8) Regarding the inefficiency of small agencies, TBOTE shares resources with other boards through the Health Professions Council.

The Health Licensing Consolidation Project Report covers nine small health licensing boards. The problems outlined in the report do not apply to TBOTE or the ECPTOTE. As pointed out in the April Sunset staff report of ECPTOTE and TBOTE, the cost to move TBOTE to TDLR would be \$440,000 and no savings or reductions in staff were able to be identified and thereafter, TDLR indicated annual costs would be approximately the same. The report stated, "the executive council has been stable, well-run agency with an experience, capable staff. There is no justification to change the existing structure of ECPTOTE or TBOTE.

I am asking you to recommend that the Sunset Advisory Commission adopt Recommendation 4.1 from the original report on ECPTOTE and TBOTE and do not include those entities in a recommendation for consolidation within TDLR.

Thank you for the opportunity to comment on this important issue.

Regards,

Jessica Cline
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