

**From:** [Sunset Advisory Commission](#)  
**To:** [Janet Wood](#)  
**Subject:** FW: Public Input Form for Agencies Under Review (Public/After Publication)  
**Date:** Tuesday, June 21, 2016 3:20:37 PM

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-----Original Message-----

From: sundrupal@capitol.local [<mailto:sundrupal@capitol.local>]  
Sent: Tuesday, June 21, 2016 3:02 PM  
To: Sunset Advisory Commission  
Subject: Public Input Form for Agencies Under Review (Public/After Publication)

Agency: TEXAS BOARD PHYSICAL THERAPY EXAMINERS

First Name: Henry

Last Name: Ebem

Title: Physical Therapist

Organization you are affiliated with: NA

Email:

City: Round Rock

State: Texas

Your Comments About the Staff Report, Including Recommendations Supported or Opposed:  
Key Recommendation

Issue 1: Discontinue the registration of physical and occupational therapy facilities and temporarily authorize the boards to expunge facility-related administrative violations from a licensee's record.

“Physical and occupational therapy services in Texas can only be provided in a facility registered by the executive council, and the facility must have a therapist-in-charge responsible for compliance with registration requirements. Statute exempts healthcare and other facilities where physical and occupational therapy services are provided but fall under other regulatory jurisdictions. The registration requirement serves no valid purpose.”

I OPPOSE the recommendation to discontinue facility registration. The SAC staff conclusion that, “The registration requirement serves no valid purpose”, is flatly wrong, especially in context of the TBPTE purpose of public protection. “If CCAP is the vehicle for continuing competence of therapists, facility registration is certainly the road on which it plies.”

A very skilled therapist or even more dangerously, an unqualified person rendering therapy services to the public in an unsafe, poor standard facility that is unregulated, will do more harm or escalate fraud; scenarios that does NOT meet the expectation of public protection for a regulated profession.

I must admit that what SAC staff uncovered a case of inadequate implementation of existing rules, made worse by apparent burdensome violation penalties, which is why I SUPPORT expunging facility-related administrative violations from licensee's record. The Requirements for Registered Facilities includes “Inspection. Registered facilities are subject to random, on-site inspection by investigators of the board.”

This provision is currently NOT being implemented, as part of facility registration. Assessment of the current TBPTE Rules, January 2016, suggests that if structured well, onsite facility inspection that covers: (a) corporate identification – which should verify legal entity, its ownership, corporate communication documents – to verify legitimacy, compliance with Stark Law on self-referral or even checking false advertising requirement compliance

etc.; (b) Administrative Process – which should verify validity & currency of clinical staff licenses, supervisory requirement compliance, safety and sanitary condition of physical site or even display of mandatory certificates on site etc.; & (c) Clinical Processes – to verify maintaining records of clinical work performed for each patient, includes meeting referral requirement, initial examination, re-evaluation, plan of care, discharge summary or even collaboration with other healthcare team members.

This level of facilitation registration not only provides valid purpose of public protection but will also be a strong tool to prevent health care fraud. This model of inspection is already in use in State of Massachusetts.

SAC staff correctly noted that the Statute exempts, healthcare and other facilities where physical and occupational therapy services are provided but fall under other regulatory jurisdictions. This exemption was made to prevent over regulation as these exempt facilities undergo more stringent facility accreditation process, required under the State Health & Safety Code. For instance, DADS used to conduct random onsite inspection for Home Health Agencies for a fee of over \$1,500.00 but has delegated that authority to Private Entities that DADS approves as meeting their standards for accreditation. The table below shows a summary of the fees charged by these private entities for facility accreditation. Based on this comparison, it is apparent that TBPTE’s challenge of fully implementing facility registration is that of capacity and not capability; therefore facility registration should be preserved, but other options like delegating it to private entities, with oversight of TBPTE just like DADS should be considered. Again, given TPTA’s reach with the profession and across the entire state, they are better positioned to administer such onsite inspection, contracting the services of independent practice experts, on a consultancy basis at a much lower cost than for-profit private entities.

Features	TBPTE				
Registration	Joint Commission				
Accreditation	AAAASF				
Accreditation	CHAP				
Accreditation	Proposed TPTA Facility				
Inspection					
Examination					
Method	Mail-in Form				
With Attestation	Site Survey	Inspection	Site Survey	Inspection	Site Survey
Inspection	Site Survey	Inspection			
Corporate Governance	Yes	Yes	Yes	Yes	Yes
Administrative					
Procedure					
No	Yes	Yes	Yes	Yes	Yes
Clinical Staff					
Census	Yes	Yes	Yes	Yes	Yes
Clinical Procedure	No	Yes	Yes	Yes	Yes
Validity Period					
	1 year	3 years	3 years	3 years	3 years
Fees Structure	Initial = \$215				

Renewal = 220 Annual = \$1,500  
 Survey = \$3,240 Total= \$4,740 Annual fee - FTE  
 • 1-5 = \$1,000  
 • 6-10= \$2,000  
 • >11 - \$3,000  
 Survey = \$1400/ day Application Fee = \$700  
 Accreditation = \$3,200  
 Survey =\$1,500/ day Inspection Fee =?

Notes: DADS & Medicare Requires Facility Accreditation for Exempt Facilities – Hospital, Home Health, Nursing Home, CARF AAAASF – Inspectors are Compensated \$500 travel expenses per inspection CHAP accreditation is designed to be a collaborative, consultative and educational process for our customers so you can prioritize providing care.

Apply similar principle for TBPTE facility inspection.

Issue 2: Adopt the Physical Therapy Licensure Compact.  
Provide clear statutory authority for licensure by endorsement.

I SUPPORT the adoption Physical Therapy Licensure Compact, if Texas participates in developing the policy of the Compact, ensuring that licensees from other states meet current Texas CCAP requirement.

Issue 3: Remove the boards' authority to delegate to other entities the responsibility of approving continuing education and continuing competence while clarifying their authority to preapprove course providers.

I OPPOSE the recommendation for the removal of boards' authority to delegate other entities the responsibility of approving continuing education and continuing competency. Physical therapy encompass a large body of knowledge, with 22 specialty areas, TBPTE does not have the capacity to implement this rule cost effectively like TPTA, that have extensive reach within the profession and across the state. Even as it is currently administered, TPTA does not "solely approve" continuing education and continuing competency, but rather contract independent experts on consultancy basis. They probably should delineate their work process clearly further clarify and attest to the independence of the peer reviewers.

I SUPPORT the need to clarify their authority to preapprove course providers, and suggest that such clarification should require Peer Review of all continuing education and continuing competency activities, while leaving provider participation open to any such organization or individual whose course(s) meet TBPTE standards through peer review.

Any Alternative or New Recommendations on This Agency: I recommend that TBPTE should implement the inspection requirement of the facility registration as an alternative to discontinuation of the facility registration as this will provide important public protection and even go further in fraud prevention.

My Comment Will Be Made Public: I agree

**From:** [Sunset Advisory Commission](#)  
**To:** [Janet Wood](#)  
**Subject:** FW: Opposition to Discontinue Facility Registration  
**Date:** Friday, April 22, 2016 8:00:49 AM

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**From:** Henry C. Ebem  
**Sent:** Thursday, April 21, 2016 10:27 PM  
**To:** Sunset Advisory Commission  
**Subject:** Opposition to Discontinue Facility Registration

To Whom it May Concern,

Ref: Issue No.1 -  
The Requirement to Register Physical Therapy and Occupational Therapy Facilities Is Unnecessary.

I am opposed to the "Key Recommendation to Discontinue the registration of physical and occupational therapy facilities". Facility registration is essential for both patient protection and fraud prevention. If the scope of its implementation include monitoring standards of facilities, policies and procedures it will ensure that Texans receive appropriate physical therapy services. Also, if the Boards are required to maintain list of such approved facilities, many payers, especially Auto Insurance Company will certainly prevent fraudulent claims of physical therapy services by illegal practices that does not meet the standards. The Sunset Staff need to benchmark similar facility registration requirement for the State of Massachusetts, and recommend that both PT & OT board expand the scope of implementing the facility registration rule to be detailed enough to provide both benefit of patient protection and fraud prevention. This will be the most rational thing to do than to call for its discontinuation, which loses the essence of the regulation as originally intended and can be implemented to meet that goal.

Please find attached the following:

## **Consumer Affairs and Business Regulation**

### **259 CMR 6.00: Physical Therapy Facilities**

**Henry C. Ebem, M.Sc. PT. CEAS.**  
**Mitroo, LLC.**

"Use me, God. Show me how to take who I am, who I want to be, and what I can do, and use it for a purpose greater than myself."

~ Martin Luther King Jr.

"Do not be afraid, little flock; for it has pleased your Father to give you the Kingdom"

~Luke 12:32