



Donald F. Haydon

**Texas Physical Therapy Association
Testimony for the Texas Sunset Commission
Public Hearing
December 8, 2016
On the:
Healthcare Licensing Consolidation Project**

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Mr. Chairman, and members of the Sunset Commission my name is Don Haydon. I am the Executive Director for the Texas Physical Therapy Association. I too will keep my comments brief.

From the perspective of the professional association, this Sunset review process has not been what it could have been, or perhaps what it should have been. Months of interaction and thoughtful discourse between Sunset policy analysts and representatives of the profession and PT Board staff were summarily set aside at the August 22nd Sunset decision meeting when an unexpected "motion-to-table" was made and agreed to without explanation other than a mention of "...had we been prescient, this process might have been handled differently". Those of us affected by the TDLR consolidation proposal do not have an expectation of prescience for Sunset staff leadership, but we do have an expectation that candor, transparency and inclusiveness are reasonable standards for the formation of public policy...and that simply did not happen.

The Sunset staff report published in April concluded that there was no economy or efficiencies to be had consolidating the Executive Council of Physical Therapy and Occupational Therapy Examiners into the TDLR. This Sunset staff position remained intact up until the 11th hour of the Sunset decision hearing in August. It begs the question...what changed, certainly not the facts that led to the Sunset staff recommendation to retain the PT/OT licensure board as an independent state agency for 12 years thru 2029.

There is another factor that may be worth considering as it relates to the retention of an independent PT/OT Board, and that is the recent Supreme Court case that originated in North Carolina. This was a case related to the scope of immunity of state agencies from U.S. antitrust law. The Supreme Court held that a state occupational licensing Board that was primarily comprised of persons active in the market or the profession it regulates were not immune from antitrust law. This case has captured the attention of state governments across the country.

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It is worth noting that the Executive Council of Physical Therapy and Occupational Therapy, the governing licensure structure for these two professions in Texas, is one of the few healthcare licensing boards controlled by public members. Sixty percent (60%) of the PT/OT Executive Council Board members are public members, compared to the Texas Nursing Board where nurses have a 69% controlling majority on their licensure board, the dental board with a 67% controlling board majority of professionals and the medical board with a 58% physician majority. The PT/OT governance structure should be emulated, not eliminated.

Thank you for the opportunity to offer our comments.