

November 30, 2016

The Honorable Larry Gonzales and
Members of the Sunset Advisory Commission
PO Box 13066
Austin, TX 78711

Dear Mr. Chairman and Members:

Thank you this opportunity to comment on the recommendations contained in the Health Licensing Consolidation Report as they apply to the Executive Council of Physical Therapy and Occupational Therapy Examiners (ECPTOTE) and the Texas Board of Occupational Therapy Examiners (TBOTE). The Texas Occupational Therapy Association (TOTA) is opposed to those recommendations and recommend that you vote to adopt Recommendation 4.1 from the original report on ECPTOTE and TBOTE and do not include those entities in a recommendation for consolidation within the Texas Department of Licensing and Regulation (TDLR).

The reasons for our opposition are as follows:

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's statutory composition has included more public members on the board than professional members.
2. Regarding requiring existing licensees and applicants to undergo a fingerprint 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 TDLR issues a license in 10 days.
4. Regarding the time required to resolve a complaint, currently, on average, TBOTE resolves complaints in 118 days (less than four months). TDLR resolves a complaint in seven months.
5. Regarding the prioritization of high-risk complaints, 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 excellent 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 a stable, well-run agency with an experienced, capable staff". There is no justification to change the existing structure of ECPTOTE or TBOTE.

Please vote to 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 this opportunity to comment. If I can be of assistance, please contact me at mary@tota.org or at 214-384-8834.

Mary Hennigan, OTR, MBA
Executive Director
Texas Occupational Therapy Association

c: The Honorable Van Taylor, Vice Chair
The Honorable Juan Hinojosa
The Honorable Robert Nichols
The Honorable Charles Schwertner
The Honorable Kirk Watson
The Honorable Allen B. West
The Honorable Cindy Burkett
The Honorable Dan Flynn
The Honorable Richard Raymond
The Honorable Senfronia Thompson
The Honorable William Meadows