

Sunset Commission

May 1, 2018

RE: Additional Written Testimony Regarding TSBEF

Dear Chairman Birdwell and Members of the Commission,

I had the pleasure of testifying in front of you on Wednesday, April 25, 2018 regarding the review of the Texas State Board of Examiners of Psychologists (TSBEP). I had prepared testimony which included reading portions of a letter written to you by Dr. Douglas Ris, Section Chief and Chair of Psychology at Texas Children's Hospital in Houston. However, based on some of the testimony that I heard throughout the day prior to being called, I altered my verbal testimony to help provide some clarification specifically regarding the claim that the BHEC model may offer protections from anti-trust concerns that were raised as a result of the *N.C. Dental Board* case. As such, I offer this written submission to summarize the points I made in person last week.

During the course of the hearing last week, Senator Watson inquired as to whether an independent legal review of the impact of the *NC Dental Board* case on the Board of Psychologists had been conducted. I believe that one such review was submitted to the Commission directly by the American Psychological Association, but I have attached a copy of it to this response for your convenience.

If Texas adopts the BHEC model due to concerns related to the *NC Dental Board* case, every licensing board in the state of Texas will require oversight by people other than the market participants. This will mean that the Texas Medical Board that is also currently under review will also be require oversight. In the future, the Nursing and Dental Boards as well as all other Texas professional Boards will face this same concern.

There has been no guidance issued since the final Supreme Court ruling to define what will constitute active state oversight. Thus, it is possible that even one market participant in the BHEC model could open the agency up to suit. And yet, we heard repeatedly last week from members of every one of the mental health professions how vital it is to include the professional expertise of licensed mental health professionals when discussing complaints made by consumers. We must prioritize the protection of the public over fears of lawsuits.

Also, one of our Texas Psychological Association members contacted the Executive Director of the North Carolina Dental Board to ask what has changed since the lawsuit. We were informed that their Board composition is the *exact* same as it was prior to the suit and thus continues to include a majority of dentists. We were informed that their *only* change is that their Board no longer issues cease and desist letters. Rather than altering their entire structure and functioning of their Board, they simply take any concerns to court to see if a judge concurs.

We believe that TSBEP's current structure and composition is sufficient to offer appropriate oversight while ensuring protection of the public. The Board is required to include 4 Licensed Psychologists, 2 Licensed Psychological Associates, and 3 public members. Further, 1 of the professional members must also be a practicing Licensed Specialist in School Psychology. Thus, our Board is already comprised of 3 different kinds of mental health licensees as well as public members. It is well-functioning and we implore you to consider that the BHEC model does not necessarily improve upon the protections from anti-trust concerns and may well detract from protections for the public.

Respectfully submitted,

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