



Texas Society for Clinical Social Work

November 16, 2016

Texas Sunset Advisory Commission

P O Box 13066

Austin, Texas 78711

The Honorable Larry Gonzales

Mr. Chairman and Members of the Sunset Advisory Commission,

The Texas Society for Clinical Social Work appreciates the opportunity to respond to The Sunset Advisory Commission Staff Report on the Texas State Board of Social Work Examiners (TSBSWE). We thank the staff for their work and for their responsiveness to feedback from the stakeholders in this process. We appreciate the service of the members of the Sunset Advisory Commission and look forward to further discussion on the recommendations and implementation of this review.

The Behavioral Health Boards of Texas State Board of Examiners of Marriage and Family Therapists, Texas State Board of Examiners of Professional Counselors, and Texas State Board of Social Work Examiners were reviewed together by the Sunset Advisory Commission Staff. The key recommendation is for the Texas Department of Licensing and Regulation (TDLR) to regulate Marriage and Family Therapists, Professional Counselors, and Social Workers in TDLR's newly created health professions division. Currently these three behavioral health boards are independent boards charged with protecting persons receiving behavioral services. These boards are not independent agencies. These independent boards are administratively attached to the Department of State Health Services (DSHS) and receive administrative services from the Professional Licensing and Certification Unit at DSHS. On September 1, 2017, the Health and Human Services Commission (HHSC) will assume DSHS's role as a result of the Sunset Commission-initiated and legislatively-directed transformation of the health and human services system in Texas. Texas Society for Clinical Work concurs with the Sunset Advisory Commission that Texas has a continued interest in regulating the practice of marriage and family therapy, professional counseling, and social work due to the potential harm to clients. Further, we share the concerns of the Sunset Advisory Commission Staff that with finite resources, DSHS cannot devote adequate resources to support the behavioral health boards' missions' to protect the public. The continued regulation of the profession of social work is critical to the health and well-being of the citizens of Texas. Historically, since the 1930's, social workers have been the providers of the majority of mental health services in the United States.

The Texas Society for Clinical Social Work cannot support moving these three behavioral health boards to the Texas Department of Licensing and Regulation. The continuation of the autonomous regulation of the practice of marriage and family therapists, licensed professional counselors, and social workers is essential to the protection of vulnerable individuals in Texas who are experiencing psychological, social, emotional and physical challenges. These three behavioral boards must be retained as independent boards appointed by the governor with rule-making authority and having the responsibility of protection of the public through the enforcement process. Changing the independent boards to advisory committees would negatively impact their missions to protect those persons receiving behavioral health services in Texas.

Currently, none of the occupations regulated by the Texas Department of Licensing and Regulation are engaged in the delivery of mental health/behavioral health services to the citizens of Texas. Oversight of mental health professionals is beyond the scope of TDLR. Transferring these behavioral health boards to TDLR will not resolve the needs of the consumers receiving services or the regulatory challenges that now exist with these independent boards at DSHS.

We do concur that there are serious, ongoing, and systemic problems identified in this review. It is unacceptable to have case resolution times of several hundred days and a backlog of several hundred cases that can endanger the public. We support the appropriate notice of allegations, the findings of the investigative activities to all parties, the inclusion of an informal settlement process, policies allowing staff to dismiss complaints when appropriate without a hearing, and the introduction of more standardized sanctions as related to rule violations. Further, the requirement of conducting fingerprint-based criminal background checks of all licensure applicants and to review disciplinary actions in other states and from other licensing boards would better ensure the protection of the public.

One would want to utilize the expertise of the members of the professions in the enforcement process to protect the public. Certainly board members should not be involved in the investigative activities of the complaint process. Members of the professions should be involved in the creation of policies for staff to dismiss those complaints found through the investigative process to be without merit, and the development of standardized sanctions for rule/statute violations. Due process and confidentiality of the complaint process is essential within the enforcement process.

Best practices of social work practice is understood better by social workers. The actions of an individual practitioner should be evaluated by members of the profession and with sanctions standardized and enforced. There are three categories of licensure for social workers in Texas defined by the scope of practice for each category of licensure with accompanying qualifications related to education, practice experience and supervision. The Profession of Social Work has long held that an individual practitioner not practice outside their scope of practice, i.e., their area of expertise. To practice outside one's scope of practice endangers the public. Therefore, it is essential that the application of sanctions be consistent with the practitioner's scope of practice and the finding of a rule violation with supervision being available to the licensee.

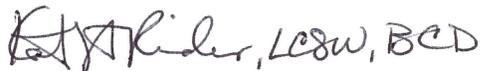
These problems identified in this review probably would not have occurred had the \$3.1 million in fee revenue generated annually by these three boards been allocated by DSHS to the behavioral health boards to support their regulatory functions and responsibilities. It was the inadequate resource allocation that created many of the enforcement processes' dysfunctioning. We support the staff's fiscal implication summary in that the revenue generated annually by these boards is more than sufficient to cover any operating costs needed to address the problems within the enforcement process and to follow commonly accepted standards of licensing boards identified in this review without any additional surcharges or fee increases for applicants or licensees.

Additionally, we request that The Sunset Advisory Commission remove the exemptions for social work practice currently in statute with the exception of those exemptions for other licensed persons, members of the clergy, social work students and faculty teaching within social work programs at colleges and universities within Texas. We believe that legal regulation exists for the protection of the public. We concur with the sunset staff that continued regulation of social work practice is in the best interest of the public. We feel strongly that a consumer of services should be protected regardless of the site of the services delivered or of the method of payment for those services. Current statute exemptions do not provide protection to those consumers of services if services are delivered by a person employed by a governmental entity. Removal of these exemptions would not incur an increase in cost for the state as it is the responsibility of the provider of services to be licensed in Texas and to bear any accompanying costs for said licensure.

The Texas Society for Clinical Social Work is available for consultation as related to the Sunset Advisory Commission Report on the Texas State Board of Social Work Examiners.

Thank you for your consideration and attention to these matters.

Respectfully submitted,



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Governmental Affairs Chair TSCSW

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