

Texas Board of Chiropractic Examiners Consolidation Issue

I am Dr. Cynthia Tays, DC and I am the immediate past president of the Texas Board of Chiropractic Examiners (TBCE). I was a board member for almost 9 years and was the chair (president) for 5.5 years, ending in August 2016. I have been able to personally observe the strengths of the agency and have also worked diligently to remedy some of the weaknesses of the agency.

I appreciate the time and attention that the Sunset staff members have spent in our agency review. I hope that the legislature continues to listen and consider opinions of those that have been working in the field of chiropractic regulation, particularly when we have views contrary to the political forces.

I am concerned with some of the ramifications of agency consolidation. I agree that many of the routine tasks of a licensing agency can efficiently and effectively be consolidated, including financial services, human resources, and continuing education audits. However, I have grave concerns about other aspects of consolidation.

I spent 3 years on the Enforcement Committee of the board, most of that as committee chair. During most of my tenure on this committee the TBCE did not have its own attorney. All of our enforcement actions were left up to our assigned Attorney General representative whom also had responsibility for 9 other agencies. The result of this was the failure of simple enforcement activities. The attorneys representing our licensees and our licensees knew well that almost no cases would ever be brought to SOAH for a hearing, so those with sanctions levied simply ignored the board's enforcement actions because they had no teeth. The board's Attorney General representative had time to pursue only cases of criminal felony infractions. So, it is imperative to have an attorney specifically assigned to the TBCE and no other agency. Additionally, the TBCE gets daily requests for clarification of our Chiropractic Act and rules passed by the board. Frequently these requests also require an attorney to appropriately answer. Additionally, the TBCE has been the recipient of several lawsuits and this requires an attorney with excellent working knowledge of the chiropractic profession and board activities. There is enough enforcement activity and other legal needs to keep an attorney full time for the agency.

I am also very concerned about the possibility of the TBCE board to be merely an advisory group and not the maker of policy and rules. There is not an abundance of state employees that know anything about chiropractic. In fact, I was asked to teach a session of "Chiropractic 101" with the Sunset staff members assigned to the agency so that they could understand what a chiropractor does, his or her education and training, and state specific rules and regulations. I don't think that governmental employees or public representatives know enough about my profession to make rules regarding the conduct of chiropractic doctors. I do not think that the people of Texas will be protected and also serviced by Drs. of Chiropractic if the licensing agency and board are completely run by non-D.C.s.

I am a member of the Board of Directors of the Federation of Chiropractic Licensing Boards. This group is composed of members that constitute representatives of all 50 states of the U.S. and many international chiropractic licensing entities. I know of **no** states in this country that have a chiropractic licensing board made up of advisors only.

It appears to me that in the past the legislature intended the health care agencies to be able to partially consolidate their services through the creation of the Health Professions Council (HPC). Although this agency is supposed to provide services common to all of the needs of healthcare licensing agencies, it does not service the health care agencies in an effective manner. The only service now provided is in the category of Information Technology (IT). Some healthcare agencies have not found the help of the HPC to be valid and have decided to use their own funds for things such as database computer programs. I find it logical for the Sunset Commission to consolidate the services of purchasing, legislative bill tracking, state reporting functions, performance measure tracking, continuing education audits and human services for the healthcare agencies by transferring those activities to the HPC rather than to transfer the entire agency to the TDLR. Those are the types of activities that are similar for all healthcare licensing requirements and there would be an improvement through economy of scale. Activities such as compliance and legal service require more extensive individualization and specific knowledge, thus should stay within the individual agency such as the TBCE.

The only other issue that I strongly believe that the Sunset Commission should accomplish is the addition of the word "diagnosis" in the Chiropractic Act. As you have already heard, this oversight has created a lapse that is not in any other state in this country. A group that considers the chiropractic profession to be a competitor to it, the Texas Medical Association, has twice now initiated litigation surrounding this concept and this litigation has cost the State of Texas between \$500,000 and one million dollars in legal services by the Texas Attorney General's office. Doctors of Chiropractic have been legally diagnosing in Texas since 1949, and there is no reason that we should be found unable to continue. We have training equal and similar to medical school training at the doctoral level. Our required National Board written and oral examinations insure our competency to diagnose.

Respectfully,

Cynthia Tays, DC
Former Board President