

From: [Sunset Advisory Commission](#)
To: [Janet Wood](#)
Subject: FW: Form submission from: Public Input Form for Agencies Under Review (Public/After Publication)
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-----Original Message-----

From: sundrupal@capitol.local [<mailto:sundrupal@capitol.local>]
Sent: Monday, June 09, 2014 9:39 PM
To: Sunset Advisory Commission
Subject: Form submission from: Public Input Form for Agencies Under Review (Public/After Publication)

Submitted on Monday, June 9, 2014 - 21:38

Agency: DEPARTMENT STATE HEALTH SERVICES DSHS

First Name: Lynda

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Organization you are affiliated with: McLennan Community College, Texas State University, American Association for Respiratory Care, National Board for Respiratory Ca

City: Dawson

State: Texas

Your Comments About the Staff Report, Including Recommendations Supported or Opposed:

Please allow me to address the Commission's conclusions:

1. That deregulation would have little impact on public health or safety.
 - This conclusion is profoundly incorrect. Public health and safety will be directly and adversely affected if we have no way to monitor, tract, and regulate those who practice our profession.
 - RCP's play a pivotal role in managing respiratory complications for a multitude of sick patients. We manage the airways of patients ranging from premature infants to the rapidly growing elder population.
 - Deregulation would diminish expectations and accountability. It is unimaginable that we would allow practitioners to manage the airways of critically ill patients without ensuring they are competent and qualified to practice.
 - Our patients would suffer the most from the resulting poor quality of care.

2. That RCPs operate in a highly regulated environment.
 - This statement is incorrect. Our profession depends on the Texas DSHS to regulate practitioners. Our professional organizations, the American Association for Respiratory Care (AARC), the National Board for Respiratory Care (NBRC), and our state organization (TSRC) have NO regulatory powers. Our credentials are voluntary. The only agency responsible for monitoring unethical behavior, illegal actions, professional misconduct and medical negligence is the Texas DSHS.
 - Please take a look at the Texas DSHS Enforcements Action page:

http://www.dshs.state.tx.us/respiratory/rc_enforce.shtm

- This page lists the disciplinary actions taken by the Texas DSHS. Without the regulatory actions, these practitioners might still be managing life support systems for critically ill patients.
- One might argue that hospitals conduct random staff drug testing, for just cause. Problem is, if a practitioner is found to be positive, what then? The hospital will take action but that action will not be known by other hospitals. The Texas DSHS serves as a clearinghouse to maintain public records for all health care institutions. Without the Enforcements Action page, we will lose communication among our health care institutions.
- One might also argue that hospitals require criminal background checks. Problem is, hospitals don't share criminal background information with other healthcare institutions. Again, we will lose communication among our health care institutions without a regulatory agency.
- Who will be responsible for overseeing these offenses without a licensing agency?

3. That regulation is provided by another state or local regulatory program or private sector accreditation agency.

- This statement is incorrect. There is no other regulatory agency.
- The commission is under the misconception that the NBRC regulates our profession. The NBRC has no legal authority. They do not check criminal backgrounds. They do not monitor substance abuse among practitioners. They have no investigative or subpoena powers to investigate malpractice.

4. That the current licensure division generates very little regulatory activity.

- Thankfully, our number of regulatory actions is not excessive. This observation makes me proud of my colleagues.
- Sadly, even ONE incidence of practicing respiratory care while under the influence, stealing medication, or medical malpractice is too many.
- Without regulation, who would monitor even ONE such event?

My greatest concern is public health and safety. Without licensure, how can I be sure that the therapist breathing for a premature infant has a clean criminal background? Or the therapist managing the ventilator for a post-open heart patient is not under the influence? Or the therapist breathing for a near-drowning 4 year old child in the Emergency Room is up-to-date on current trends in practice? Our professional organizations do not regulate these situations. We need a regulatory body to help us manage the expected level of professional behavior.

Any Alternative or New Recommendations on This Agency: My recommendation is NOT to deregulate RCPs', but for the Respiratory Care Practitioners program to either remain with the DSHS or to be transferred to the Texas Department of Licensing and Regulation.

My Comment Will Be Made Public: I agree