

From: [Sunset Advisory Commission](#)
To: [Janet Wood](#)
Subject: FW: Form submission from: Public Input Form for Agencies Under Review (Public/After Publication)
Date: Tuesday, June 24, 2014 4:05:39 PM

-----Original Message-----

From: sundrupal@capitol.local [<mailto:sundrupal@capitol.local>]
Sent: Monday, June 23, 2014 11:30 PM
To: Sunset Advisory Commission
Subject: Form submission from: Public Input Form for Agencies Under Review (Public/After Publication)

Submitted on Monday, June 23, 2014 - 23:29

Agency: DEPARTMENT STATE HEALTH SERVICES DSHS

First Name: Carl

Last Name: Keener

Title: Medical Physicist

Organization you are affiliated with: Medical & Radiation Physics, Inc.

City: San Antonio

State: Texas

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

I am contacting you as a licensed medical physicist (MP 0431) concerning the Sunset Staff Review published in May 2014. I am concerned that the information in the report does not accurately reflect the current environment of professional regulations and health care in Texas or the importance of medical physicist licensure in protecting Texans from unnecessary or unsafe exposure to radiation.

The report suggests that the programs are unnecessary because; (1) deregulation would have little impact on health and safety, (2) they cover professionals that operate in a highly regulated environment, (3) they have 'regulation' provided by another body or through private sector accreditation, and (4) they generate little regulatory activity.

I would like to address each of the areas to provide you with additional information that is not reflected in the report.

1. The report states "deregulation would have little impact on health and safety." The capabilities of medical imaging advance rapidly, and Texas is home to all of this advanced equipment. In order for this equipment to be operated safely, highly-trained individuals are required. Worldwide and nationwide there have been serious injuries involving radiation-emitting equipment. These have not occurred in Texas, and I credit the Texas licensure law for that. Currently, licensed medical physicists are required to provide annual performance evaluations on the equipment to assure that they meet regulatory standards. Without such requirements these annual quality assurance measures might not be performed or might be performed by others with less or no qualifications. Licensure in Texas requires medical physicists to meet educational and experience requirements and to pass an examination of their knowledge in the specialty field in which they intend to practice. Without licensure, that minimum level of knowledge and experience would no longer be a requirement, and negative future consequences could likely result. We would return to the situation a generation ago when self-

declared “radiation experts” could present themselves as medical physicists. Medical imaging devices have advanced too much since then and the public concern about medical radiation risk has increased too much for Texas to return to that era.

2. The report states the medical physicist licensure program is a “profession that operates in a highly regulated environment.” It is true that exposure to radiation in medical applications is regulated for adherence to equipment specification. It is not true that those who practice in radiation imaging, nuclear medicine or therapy are regulated by any other government entity except for those who provide services to support the Mammography Quality Standards Act (MQSA). Less than professional conduct has been a contributor to numerous medical errors. In 2009, reports of medical errors in the Veteran Administration highlighted lack of professional responsibility and accountability. Professional licenses hold individuals accountable in providing services that meet regulatory compliance. When the services do not meet this requirement, professional licensure standards can be used for enforcement against the professional licensee. Without a medical physicist license, this would not be possible.

3. The third item in the report is the view that medical physicists “have ‘regulation’ provided by another body or through private sector accreditation.” Relying on the private sector to provide patient safety and quality can be risky because that provides an incentive for companies to look for and exploit loopholes. The American College of Radiology (ACR) and American Board of Radiology (ABR) set high standards, but they are not universally required. The Intersocietal Accreditation Commission (IAC) will provide accreditation to MRI and Nuclear Medicine laboratories with no physics requirements at all. RadSite claims to meet Medicare Improvements for Patients and Providers Act (MIPPA) accreditation requirements and claims to have physics requirements, but it does not publish its requirements for the general public to review. Will we see online accreditation mills? For 20 years, the Texas DSHS has provided a model basis for licensing qualified medical physicists and the TDSHS regulations have ensured that physics work is provided by those licensed physicists. It has been much better than the any of the other alternatives we have seen. The TDSHS is the only body in Texas requiring that entering medical physicists be board certified and that all medical physicists, including older, experienced ones, meet continuing education requirements.

4. The last rationale for sunset, medical physicists “generate little regulatory activity,” is actually a reason for keeping the regulation. One of the reasons that there are so few complaints to the Medical Physics Licensure Board is that the Texas licensure law has done a good job of ensuring that the medical physicists working in Texas are qualified to perform that work. It may also be why we have not seen medical radiation accidents in Texas, unlike California (CT perfusion), Pennsylvania (Nuclear Medicine) and the many states which have had radiation therapy performed badly. The Texas licensure law was written and enforced to protect citizens from individuals with little or no knowledge of radiation equipment from providing services that could in fact harm them. Providers cannot hire cheap, unqualified physicists in Texas.

Medical physicists are essential for patient safety in diagnostic imaging (radiology), nuclear medicine and radiation therapy. Professional licensure helps to assure that well-qualified individuals provide these services.

Any Alternative or New Recommendations on This Agency: None.

My Comment Will Be Made Public: I agree