



**ROBERT L. NICHOLS**  
STATE SENATOR

July 14, 2014

Mr. Ken Levine  
Director, Texas Sunset Commission  
P.O. Box 13066  
Austin, Texas 78711

Dear Mr. Levine,

I am writing to express my opposition to the Sunset Staff Recommendations 3.1 and 3.2 for the Department of State Health Services (DSHS). While I appreciate the efforts of Sunset staff to improve the efficiency with which the agency operates, I disagree with the conclusion that several regulatory programs are no longer needed, and are not well-placed within the health and human services system.

The Sunset Report suggests four questions were posed to address several Occupational Licensing programs within DSHS:

- 1) Does the occupational licensing program serve a meaningful public interest and provide the least restrictive form of regulation needed to protect the public interest?
- 2) Could the program's regulatory objective be achieved through market forces, private certification, and accreditation programs, or enforcement of other law?
- 3) Are the skill and training requirements for a license consistent with a public interest, or do they impede applicants, particularly those with moderate or low incomes, from entering the occupation?
- 4) What is the impact of the regulation on competition, consumer choice and the cost of services?

While these are sensible questions from which to consider how to achieve greater efficiency, we must ensure the public's safety and health remains protected. This goal is notably absent from those questions.

I agree with the staff conclusion that regulatory expansion, combined with shrinking resources has created an unmanageable undertaking and ineffective structure at DSHS. However, concluding that the goal of achieving efficiency by streamlining administration has proven to be an impossible task at DSHS shirks the responsibility of the Sunset process to demand and effect

efficiency in state agencies. It gives the agency a pass for failure, and is a disservice both to the public who depends on licensing for health and safety purposes, as well as the licensees who pay fees for the administration of their profession. We must work to solve the core problems, not transfer them to another agency.

Specifically, I oppose the deregulation of Medical Radiologic Technologists and Respiratory Care Practitioners in Recommendation 3.1. I also oppose the transfer of Chemical Dependency Counselors, Fitters and Dispensers of Hearing Instruments, Marriage and Family Therapists, Professional Counselors, Social Workers, and Speech-Language Pathologists and Audiologists to the Texas Department of Licensing and Regulation (TDLR), and converting their independent boards to advisory committees in Recommendation 3.2.

DSHS agency staff does not have the wide range of educational training and experience in these professions to make health-related decisions. Many of these board members already feel DSHS staff usurp critical decisions, and making the boards advisory in nature at TDLR will enhance the danger of unqualified state employees making decisions about the care Texans receive.

Dedicated volunteers who are appointed by the Governor have an interest in protecting the public health and safety within the professions they serve. Notably, much of the licensing fee revenue goes to support other governmental functions, other than regulating the professionals who pay the fee. Adopting these recommendations will blur the already opaque transparency that exists in budgeting for health professional licensing.

I advise my colleagues to instead consider keeping these professions under the umbrella of DSHS and to rework the relationship of their respective boards with DSHS staff. I encourage the Sunset Commission members to implement uniformity in board-structure and agency staff, including making staff directly accountable to the licensing boards.

Thank you for the continued work of the Sunset Staff. Please do not hesitate to contact me with any questions.

Sincerely,



Robert L. Nichols  
State Senator, District 3

Cc: Members of the Texas Sunset Commission

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