



Executive Council of
Physical Therapy and Occupational Therapy Examiners

Texas Board of Physical Therapy Examiners
Texas Board of Occupational Therapy Examiners

333 Guadalupe, Suite 2-510
Austin, Texas 78701-3942
Voice 512/305-6900
Fax 512/305-6951
www.ecptote.state.tx.us

April 22, 2016

Mr. Ken Levine
Director
Sunset Advisory Commission
P.O. Box 13066
Austin, TX 78711-3066

Dear Mr. Levine,

The purpose of this letter is to respond to the Sunset Staff Report on the Executive Council of Physical Therapy and Occupational Therapy Examiners, Texas Board of Occupational Therapy Examiners, and Texas Board of Physical Therapy Examiners. Specifically, this letter provides our position on each issue in the staff report.

Recommendation 1.1

Discontinue the registration of physical and occupational therapy facilities and temporarily authorize the boards to expunge facility-related administrative violations from a licensee's record.

Agency Response to 1.1

The Agency concurs with this recommendation, with one further observation.

If this recommendation is adopted, it will supposedly free up assets (\$45,000/year is given in the narrative). The agency will require those assets to implement other Recommendations if adopted.

Recommendation 2.1

Adopt the Physical Therapy Licensure Compact.

Agency Response to 2.1

The Agency concurs with this recommendation.

Recommendation 2.2

Provide clear statutory authority for licensure by endorsement.

Agency Response to 2.2

The Agency concurs with this recommendation.

Recommendation 2.3

Clarify that occupational therapy assistants licensed in other states may practice in this state temporarily under the same conditions as occupational therapists.

Agency response to 2.3

The Agency concurs with this recommendation.

Recommendation 2.4

Remove provisions prescribing educational requirements beyond completion of an accredited program or substantially equivalent to an accredited program.

Agency response to 2.4

The Agency concurs with this recommendation.

Recommendation 3.1

Clarify statutes to reflect current standards and conditions.

Agency response to 3.1

The Agency concurs with this recommendation.

Recommendation 3.2

Remove the board’s authority to delegate to other entities the responsibility of approving continuing education and continuing competence while clarifying their authority to preapprove course providers.

Agency Response to 3.2

The Agency does not concur with this recommendation based on two points.

The first issue concerns the incongruity between the recommendation and the narrative. When reading the recommendation, it is unclear what changes the Sunset Staff recommends regarding the manner in which the OT Board and PT Board currently administer their continuing education (CE) and continuing competence (CC) programs, respectively.

The Agency requests that the recommendation be clarified in such a manner as to make clear which entity would be preapproving course providers (i.e., the boards or the entities they preapprove to do so). As the recommendation currently reads, it could be interpreted as recommending the removal of the boards’ abilities to preapprove entities that both provide courses and, in turn, preapprove entities that provide other courses. However, this conflicts with the explanatory narrative and its emphasis upon the benefits of allowing the boards to preapprove entities that both offer professional development activities and pre-approve those offered by other providers.

To implement the formal, bolded Recommendation, if it does not represent the accompanying narrative, the agency will have to take over activities which are currently performed by the Texas Physical Therapy Association (TPTA); i.e., evaluate and preapprove continuing competence (CC) activities for over 25,000 licensees, as well as approve other CC providers as determined by their documented history of providing quality, evidenced based, continuing competence.

Also, this contradiction would potentially have similar ramifications for the manner in which the agency administers the OT CE program, affecting over 15,000 licensees, although the narrative

clearly states that “This recommendation would not change the way the OT board currently oversees continuing education....” However, if the narrative serves as the elaboration of the recommendation, then it would not pose any issues for the OT Board.

We interpret the supporting narrative as stating that the PT board could continue to use TPTA as one of its approved course providers with its authority to accredit other providers, while opening the field to other entities who wish to perform the same services. In other words, TPTA would no longer be the sole approver of CC and CC providers; other entities could apply to the PT board to become approved providers of CC and/or with the authority to approve other providers. PT licensees could take courses and activities that have not been preapproved, but if audited, staff would be responsible for determining if course(s) and activities meet the board standards after a licensee has already renewed their license.

The second issue concerns the substance of the narrative with regard to removing the boards’ abilities to approve an entity as the sole approver of continuing education or continuing competence.

The PT board stands by its belief that its current CC approval process is a board program that is administered according to the board’s rules and policies and with board oversight; that the current program is superior in quality to any process the agency could substitute and manage on a day to day basis; that it provides a quality product to its licensees which in turn provides for public protection by ensuring that licensees maintain competency; that is a model copied and used by other states’ PT boards; and that it relieves an administrative burden on the agency which was performed poorly in the past.

Recommendation 3.3

Require the boards to conduct fingerprint –based criminal background checks of licensure applicants and licensees.

Agency Response to 3.3

The Agency concurs with this recommendation with one modification.

We recommend adding the phrase “as currently implemented by other health licensing agencies” to the end of Recommendation 3.3.

Recommendation 3.4

Require the boards to develop a disciplinary matrix.

Agency Response to 3.4

The Agency concurs with this recommendation.

Recommendation 3.5

Remove the “good moral character” standard as a criterion for foreign-trained licensure applicants.

Agency Response to 3.5

The Agency concurs with this recommendation.

Recommendation 3.6

Direct the OT board to adopt rules to specify the types of criminal activities that may result in denial suspension, or revocation of a license.

Agency Response to 3.6

The Agency concurs with this recommendation.

Recommendation 3.7

Direct the OT board to grant administrative dismissal to staff for low-level misdemeanor offenses.

Agency Response to 3.7

The Agency concurs with this recommendation.

Recommendation 3.8

Direct the agency to develop a formal process to refer non-jurisdictional complaints to the appropriate agency.

Agency Response to 3.8

The Agency concurs with this recommendation.

Recommendation 4.1

Continue the Executive Council, PT board, and OT board for 12 years.

Agency Response to 4.1

The Agency concurs with this recommendation.

Recommendation 4.2

Apply the standard Sunset across-the-board requirements to the executive council, PT board, and OT board.

Agency Response to 4.2

The Agency concurs with this recommendation.

Please contact me at 305-6955 or john@ptot.texas.gov if you have any questions or if I have not responded adequately.

Sincerely,

/signed/

John Maline
Executive Director