

TEXAS STATE BOARD OF EXAMINERS OF PSYCHOLOGISTS



EXECUTIVE DIRECTOR
Darrel D. Spinks

December 7, 2016

The Honorable Larry Gonzales, Chair
Sunset Advisory Commission
Robert E. Johnson Bldg., 6th Fl.
1501 N. Congress Ave.
Austin, Texas 78701

Re: Alternative Solution to Consolidation with TDLR

Dear Chairman Gonzales:

Since my agency submitted its response to the Health Licensing Consolidation Project report (consolidation report) on November 30th, I have discussed the concept of consolidation with the Board Chairs for the Texas State Board of Examiners of Professional Counselors (LPC Board), Texas State Board of Examiners of Marriage and Family Therapists (LMFT Board), and the Texas State Board of Social Worker Examiners (Social Worker Board). During these discussions, we discussed the pros and cons of consolidation as recommended in the consolidation report, the strengths and weaknesses of advisory and independent boards, as well as the similarities between our regulatory fields. Based upon these discussions, if consolidation were to occur I believe we are all in agreement that consolidation with the Texas Department of Licensing and Regulation (TDLR) would not represent the "best fit" for agencies or boards tasked with licensing and regulating mental and behavioral healthcare providers. With that being said however, we are also cognizant of the Commission's concerns and duty to explore and enhance efficiencies in governmental operations, and actually share many of those same goals. To that end, I wanted to share with the Commission some key points of agreement which I believe exist and which may be useful when the Commission crafts its recommendations to the 85th Legislature.

First and foremost, while I believe my agency has demonstrated that it can operate successfully as an independent stand-alone agency, we also recognize the advantages that a consolidated mental health agency made up of regulatory boards with a similar, if not singular focus could provide. A consolidated mental health agency consisting of the Psychology Board, LPC Board, LMFT Board, and Social Worker Board would share the same mission of ensuring that mental and behavioral health services are provided to the people of Texas by qualified and competent practitioners who adhere to established professional standards. Moreover, this mission could be carried out without the added distraction or confusion of having to regulate wholly unrelated fields such as auctioneers, cosmetologists, polygraph examiners, etc.

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The importance of this singular focus cannot be stressed enough, given the complexity of the mental and behavioral health professions in question.

Second, I believe the LPC Board, LMFT Board, and Social Worker Board would be agreeable to consolidation with the Texas State Board of Examiners of Psychologists (TSBEP) if each board were allowed to retain its independent rulemaking authority, as well as its authority over licensing and enforcement matters, rather than being reconstituted as advisory boards under TDLR or in some other consolidated structure. It is readily apparent when talking to board members and members of the profession alike that great importance is attached to having professionals directly involved in each of these functions. The nuance of issues likely to be encountered and the education and training needed to recognize and understand those issues, together with the potential for unintended consequences when rulemaking, seem to weigh heavily in favor of each board maintaining its independent status if consolidation has to occur.

Lastly, the consolidation as contemplated would not require the creation of a new agency. Rather, I believe the boards in question would be agreeable to being consolidated with TSBEP, with the understanding that it would provide the administrative, licensing, enforcement, and legal staff necessary to carry out each board's functions. Naturally, TSBEP would require some additional resources in order to accommodate this increased responsibility, but the cost estimates show that the increase in appropriations needed to support this expanded role for TSBEP would result in a cost per license very similar to that of TDLR. I have attached a copy of the estimates my agency has prepared for operating a consolidated mental and behavioral health agency consisting of the Psychology Board, the LPC Board, the LMFT Board, and the Social Worker Board. I have also taken the liberty of including the LCDC Program and Council on Sex Offender Treatment Providers in the cost estimate as well since the LCDC Program was specifically mentioned in the consolidation report and the Council on Sex Offender Treatment Providers was mentioned in the November 28th comment received from the Texas Health and Human Services Commission.

In conclusion, when reading the board and agency responses, as well as the public comments to the consolidation report, the recommendation of consolidation with TDLR appears to be both controversial and unpopular. And while I recognize this letter may represent a rather unorthodox step in the review process, each individual I spoke with was very clear that they were not opposed to consolidation per se; they simply objected to the proposed consolidation with TDLR. Thus, in the event the Commission genuinely feels that consolidation is necessary, I believe a compromise solution along the lines of what I have described in this letter would be possible.

Should you have any questions or concerns regarding this matter, or simply wish to discuss the issue of consolidation in greater detail, please do not hesitate to contact me.

Sincerely,



Darrel D. Spinks
Executive Director

Revised TSBEP Estimates on Consolidated Mental Health Board

The following figures represent the estimated expenses and FTEs needed if the following agencies were combined into one consolidated mental health regulatory agency.

- Texas State Board of Examiners of Psychologists (TSBEP)
- Texas State Board of Examiners of Professional Counselors (TSBEPC)
- Texas State Board of Social Worker Examiners (TSBSWE)
- Texas State Board of Examiners of Marriage and Family Therapists (LMFT)
- Licensed Chemical Dependency Counselor Program (LCDC)
- Council on Sex Offender Treatment¹ (CSOTP)

TSBEP Estimate	
4 renewal staff	
• Estimate based upon 80% online renewal rate and 10% CE audits	
11 licensing staff	
12.5 enforcement staff ²	
17 administrative staff	
• Executive Director	
• Manager of Operations/Deputy E.D.	
• Manager of Licensing	
• Manager of Enforcement	
• Chief Public Information Officer	
• Chief Financial Officer	
• General Counsel	
• Legal Assistant (<i>new position</i>)	
• 2 Staff attorneys (<i>new position</i>)	
• Accountant (<i>new position</i>)	
• IT/Database support staff (<i>new</i>)	
• 2 Licensing administrative support (<i>new position</i>)	
• 2 Enforcement administrative support (<i>new position</i>)	
• Receptionist	
Total Estimated FTEs (including TSBEP's current staff)	
44.5	
Total New Estimated FTEs (in addition to TSBEP's current staff)	
31	

For a breakdown of the total fees collected by each agency, as well as the total expenses of each agency, please see the attached *Revised Overview of Important Figures*.

¹ While this agency was not referenced in the Health Licensing Consolidation Report or factored into the calculations set out in that report, it has been included here for informational purposes only since all of its licensees must first be licensed by one of the agencies mentioned in the consolidation report or the Texas Medical Board. Given CSOTP's relatively small size, it is unlikely the estimates in this report would vary significantly if CSOTP were not included in a consolidation solution.

² Two additional investigators could be needed to clear backlog of complaints. However, they would only be needed for up to two years following consolidation, if at all.

Revised TSBEP Estimates on Consolidated Mental Health Board

TSBEP's FY2017 Budget	
\$800,937	
This figure includes only General Revenue	
TSBEP Estimate for Additional Ongoing Costs	
\$601,073	
- Ongoing overhead costs of \$226,534 (postage, printing, copier lease, etc.) - Database Maintenance (@\$3/licensee) \$182,559 - Additional salary/payroll tax for those administrative positions with increased responsibility \$91,980 - Board meeting travel costs of \$80,000 - Professional reviewer/court costs of \$20,000	
TSBEP Estimate for Additional FTE Salaries	
\$1,206,835	
8 new Licensing and Permit Specialists II @\$36,000/year 4 new Licensing and Permit Specialists III @\$40,000/year 6 new Investigator II @\$36,000/year 4 new Investigator III @\$40,000/year 2 new Staff Attorney III @\$60,000/year 1 new Legal Assistant II @\$40,000/year 1 new Accountant III @\$40,000/year 1 new Systems Administrator II @\$45,000/year 4 new Administrative Assistant II @\$30,000/year - This figure includes payroll tax of \$17,835 - This figure does not include salaries for the two additional investigators referenced in footnote 2.	
TSBEP Estimate for One-time Costs³	
\$752,500⁴	
- Database upgrade for TSBEPC \$100,000 - Database upgrade for TSBSWE \$175,000 - Database upgrade for LMFT \$150,000 - Database upgrade for LCDC \$100,000 - Database upgrade for CSOTP \$100,000 - Startup costs of \$2500/new employee	
Total Estimated Expenses for FY 2018 (including one-time startup costs): \$3,361,345	
Total Estimated Expenses for FY 2019 and beyond : \$2,608,845	
Total Expenses by all 6 agencies in FY 2015: \$2,699,658	
Total Fees Collected by all 6 agencies in FY 2015: \$6,042,228	
Costs per License	
TSBEP costs per license: \$37.37	TDLR costs per license: \$42.59
69,808 licenses	779,378 licenses

³ TDLR estimates the one-time startup costs for the TSBEPC, TSBSWE, LMFT, and LCDC boards to be \$950,565. Furthermore, it is not clear from the consolidation report whether TDLR's startup estimate includes the one-time appropriation referenced on pg. 15 of the consolidation report for database upgrade/transfer.

⁴ This figure does not include an estimate for relocation costs.

Revised Overview of Important Figures

	<u>LMFT</u>	<u>LPC</u>	<u>LSW</u>	<u>LCDC</u>	<u>Sex Offender</u>	<u>TSBEP</u>		
Licensing staff	1	4	3			4		
Enforcement staff	1	3	2			3.5		
Licensees	3511	22543	23797	10445	557	8303		
New licenses issued	367	4311	2163	1822	32	668		
License renewals	1522	8437	10860	2450	238	8724		
Complaints received	49	201	146	122	10	271		
<i>Investigations completed</i>	<i>16</i>	<i>88</i>	<i>93</i>	<i>54</i>	<i>0</i>	<i>N/A</i>		
Complaints resolved	28	104	44	87	9	279		
Ave time for comp resol.	639	673	911	317	217	219		
Pending complaints	136	541	497	N/A	N/A	138		
Total fees collected	\$ 280,658	\$ 1,534,175	\$ 1,274,317	\$ 443,200	\$ 100,950	\$ 2,408,928		\$ 6,042,228
Total expenses	\$ 240,319	\$ 612,801	\$ 564,867	\$ 316,295	\$ 68,632	\$ 896,744		\$ 2,699,658
Complaints resolved:								
Cease/Desist	3	1	5	3		10		
License Expiration	3	1		8				
No Violation	10	50	11	6	7	70		
Not Substantiated	1	4	6	15				
Voluntary Surrender	2	5	2					
Warning Letter	9	32	13	35	1			
Admin Penalty/Disciplinary Action		1				24		
Emergency Suspension		1						
Probated Suspension		3	6	1	1			
Reprimand		3		1				
Violation Found - Corrected		1		1				
Withdrawal		2						
Revocation			1			2		
Suspension				17				
Resigned in Lieu						2		
Resigned in Lieu - CE						4		
Dismiss - CE Fine						24		
Dismiss - CE						135		
Applicant Eligibility Order						8		
	28	104	44	87	9	279		