



TEXAS HEALTH AND HUMAN SERVICES COMMISSION

CHARLES SMITH
EXECUTIVE COMMISSIONER

November 16, 2016

Mr. Ken Levine
Director
Texas Sunset Advisory Commission
1501 North Congress Avenue, 6th Floor
Austin, TX 78701

Dear Mr. Levine:

On behalf of the health and human services (HHS) system, we welcome the opportunity to respond to the Sunset staff report on the independent behavioral health boards at the Department of State Health Services (DSHS). Along with Commissioner Hellerstedt, we appreciate diligence and professionalism of the Sunset staff, as they conducted a thorough review of the Board of Examiners of Marriage and Family Therapists, the Board of Examiners of Professional Counselors, and the Board of Social Worker Examiners. Their hard work and understanding of complex issues is nothing short of remarkable, and we applaud your staff on a job well done.

Below is our response to the Sunset staff report. The report captures challenges DSHS faces in overseeing and regulating important occupational practices. As the Executive Commissioner of the HHS system and Commissioner of DSHS, we support the intent and direction of the recommendations laid out in the report and believe the recommendations are in line with the 84th Texas Legislature's direction to focus DSHS solely on its core public health mission. In response to the recommendations given by your staff, we request that you consider the following actions as the Legislature finalizes these recommendations.

Coordinate Timing of Transfers with the HHS Transformation Schedule

As a result of Sunset legislation passed by the 84th Legislature, all DSHS occupational licensing activities, including these three behavioral health boards, will move to the new Regulatory Services Division within the Health and Human Services Commission (HHSC), effective September 1, 2017. Under the Sunset staff recommendations included in its recent report, the boards would move again to the Texas Department of Licensing and Regulation (TDLR) no later than September 1, 2018. We request that HHSC and DSHS be given flexibility to work with TDLR to align when these occupational regulatory programs transfer to TDLR when all other regulatory programs transfer to HHSC. Aligning timeframes would reduce possible confusion from the public and the people these programs regulate, as well as minimize costs associated with moving programs and staff multiple times.

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Other Regulatory Transfers Considerations

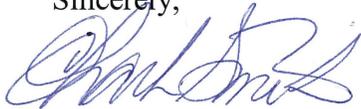
If the three behavioral health boards identified in the Sunset report transfer to TDLR, only two occupational licensing programs will remain within the HHS system – the Licensed Chemical Dependency Counselor program and the Council on Sex Offender Treatment program. Other occupational and facilities-based regulatory programs transferring from the Department of Aging and Disability Services and DSHS relate to programs operated by the system, or the system serves as a payor to the regulated entity, such as acute care facilities or nursing facility administrators. We suggest the Sunset Advisory Commission and staff consider whether these two DSHS occupational programs are more appropriately placed within Regulatory Services Division at HHSC or TDLR.

Budget and Staffing Considerations

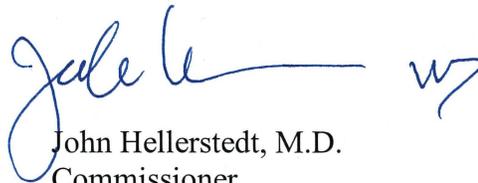
Based on experience with previous program transfers, and to ensure the agency has access to funds to operate the program, we request that the budget allocation for the behavioral health programs remain at DSHS until the programs transfer to TDLR. We similarly request that program staff are protected and move with the programs they support to TDLR. These staff possess the necessary subject matter expertise to perform these program duties at TDLR and will ease the transition of the programs to the new agency.

Thank you for your consideration in these matters. We look forward to discussing these recommendations with the Sunset Commission during the December 8 and 9, 2016 hearing and to work with the Legislature as the Sunset process continues. If you have any questions or need additional information, please contact Stephanie Muth, Deputy Executive Commissioner for Transformation, by telephone at (512) 424-6767, or Carol Miller, Regulatory Operations Manager, by telephone at (512) 992-1522.

Sincerely,



Charles Smith



John Hellerstedt, M.D.
Commissioner

Department of State Health Services