

Dr. Karen Champion

Dr. Karen Champion D.C.
Vice President of TBCE
Chairman of Rules Committee
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Good afternoon Chairman Gonzales and distinguished members of this Sunset committee. I am Dr. Karen Champion and have been a Doctor of Chiropractic for 27 yrs. I was appointed to the TBCE in 2011. I am currently Vice President of the board and Chairman of the Rules Committee. I would like to speak to you today regarding the topic of consolidation of our board.

Cost savings vs cost of reorganizing and expanding TDLR.

The TBCE, unlike other agencies considered for consolidation, currently has no financial or efficiency issues of concern. We are currently carrying all of our fiduciary responsibilities and have had some reserves remaining after the fiscal year expenses were allocated. We have the resources financially to be a standalone agency. We feel that the TBCE can best serve the citizens of Texas if we remain a standalone board. Also, consolidating of this agency in particular could take longer than anticipated resulting in loss of efficiency. We feel that our standalone board with the existing Sunset oversight process is the best strategy for public service at least for the next few years.

We suggest shared administrative services such as through the Health Professions Council for combining administrative or clerical functions to reduce costs and improve efficiency.

Enforcement:

I have been serving on the enforcement committee for 4 of the last 5 years. TBCE board members are concerned that TDLR staff may not be qualified to handle enforcement issues with regard to the chiropractic profession. We have learned that many enforcement issues require experience from within the profession by practicing DC'S. In our current system, once a complaint has been filed against a licensee, the case is investigated, prepared and sent out to the enforcement committee members composed of 2 licensed DC'S and 1 public member. All 3 members review the cases separately and forward comments sheets to the Director of Compliance prior to the enforcement committee meeting. The number of cases under review can range from 35-55 per month with investigative reports sometimes totaling up to 630 pages in the more complex cases. The Chair of Enforcement reviews and assigns these Informal Conference cases to the committee members regarding their qualifications and expertise. For example, the public member is best suited for hearing cases regarding facility and administrative violations, but generally not cases involving physical examination and chiropractic techniques. In the IC process, the complainant has an opportunity to share their concerns one-on-one with the enforcement committee member prior to us meeting with the respondent.

Most of these IC cases are heard by the licensed DC's due to the complexity and specific nuances that only a licensed chiropractor could evaluate. There are often specific details that are unique to the practice of chiropractic, so that recommendations to the board for corrective actions and /or sanctions are best made by the DC regulators. Then at the next full board meeting, the entire board votes on each of these cases based on the recommendations from the Enforcement Committee.

We strongly believe that this process is most effective in serving the public and most accepted by the licensed chiropractors who appreciate being regulated by their peers who understand the complexities

of practice & standard of care issues. Reaching "Agreed Orders" in this fashion is not only fair to all concerned but also cost effective because it results in less cost of SOAH hearings. We predict that enforcement by TDLR may result in more SOAH hearings and greater cost to the public.

Offenses that we classify as high priority violations such as those involving "Threat of Injury to a Patient" and "Fraud and Deception" require specific professional knowledge, responsibility, and oversight, and need to be heard ONLY by a licensed chiropractor to assure that the process is handled in a proper and fair manner. This requires rigorous analysis and thought. A one-size fits all approach regarding enforcement actions will not work.

RULE MAKING PROCESS:

We have recently taken steps to carry out sunset's recommendations regarding improvement in stakeholder input before making rules and publishing them on the Texas Register for comment. We held a stakeholder meeting on October 19, 2016 regarding rules 78.1 and 78.10. There were members present at the meeting from the chiropractic colleges in Texas, practicing chiropractors from the Dallas, Austin, Houston and San Antonio area, Texas Chiropractic Association, as well as attorneys who represent chiropractors facing disciplinary actions. From this meeting, the Rules committee made changes to the sanction table and re-prioritized violation categories with more clear boundaries and penalties. These changes ensure a more timely response and therefore better public protection from category 1 violations such as "Threat of Injury to Patient violations". We have condensed the sanction table into 4 categories: Category 1: Threat of Injury to Patient, Category 2: Fraud and Deception, Category 3: General Practice Violations, Category 4: Administrative Violations.

We have assigned Category 3 & 4 violations to agency staff so the enforcement committee can handle the Category 1 & 2 infractions that pose greater risk to the public. This also contributed to our success in greatly reducing our average time-to-closure.

We just finished another stakeholder meeting yesterday (12/7/16) regarding several topics: 1) Effective process of fingerprinting all pre-2004 licensees and appropriate action to take upon discovering background issues. 2) Upgrading CE requirements. 3) Restructuring audit of CE'S- use a random selection to audit compliance of all licensees. 4) Facility owner declaration of DC's practicing in a facility. (Simply make the last page of the Facility registration form a declaration page for DC's. The DC needs to sign this page. The facility owner needs to obtain a signature if he/she intends to hold out that a particular DC is practicing there.)

One other item regarding concern for consolidation:

TBCE respectfully request that consolidation at this time is not appropriate due to the recent appeal from the board to the 3rd court of Appeals regarding the ongoing litigation with TMA vs TBCE. The outcome of this lawsuit is extremely important to the board, our licensees and the patients we treat. At stake is the DC'S ability to render a diagnosis for patients to receive reimbursement from their insurance companies, and the board's ability to make rules consistent with commonly accepted standards of practice. We are concerned that consolidation might interrupt representation from our Assistant attorney general appointee and staff attorney at this critical time. Since we are at the mercy of the 3rd court of appeals, we cannot expect conclusion of our case prior to Sunset's consolidation timetable. I would like to thank the committee for the opportunity to speak on these items today and I will be happy to answer any questions at this time.