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April 10, 2018

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

Re: Agency Response to Sunset Staff Report

Dear Chairman Birdwell:

The individual members of the Texas State Board of Examiners of Psychologists (Board) have reviewed the Sunset Advisory Commission Staff Report (staff report) issued on March 28, 2018, but have not had the opportunity to discuss the report in a meeting called pursuant to Chapter 551 of the Government Code prior to the submission deadline for this response. Thus, the responses set forth in this letter should not be construed as reflecting the final decision of the Board with regard to the recommendations set forth in the staff report. With that being said however, following a thorough review of the staff reports from both the current and previous review cycles, and after taking into consideration the agency's prior responses and input received from individual board members, agency staff, licensees, stakeholder associations, and members of the public throughout the review cycles, the undersigned believes the following will generally reflect the agency's response to those issues identified in the staff report.

Issue No. 1: The structure of the State's behavioral health licensing agencies is antiquated and inefficient.

Staff Report Recommendation: Consolidate the Board of Examiners of Marriage and Family Therapists, Board of Examiners of Professional Counselors, and Board of Social Worker Examiners with the Board of Examiners of Psychologists to create the Texas Behavioral Health Executive Council.

Summary of Agency Response: The agency agrees with the recommendation. I would note for comparative purposes that this agency also supported the executive council model proposed in the Commission's recommendation to the 85th Legislature, as well as HB2898 and SB114 filed during the 85th Regular and Special Sessions. While the Board certainly understands that it will be difficult, if not impossible to achieve unanimity among stakeholders when it comes to the issue of consolidation, the Board continues to believe that the executive council consolidation model, or some nuanced version thereof, is necessary in order to ensure the Board has the appropriate level of active state supervision.

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Additional Points to Consider: While the undersigned believes the agency will once again formally vote to support the executive council model, there were some concerns raised about the lack of assurances in the staff report that the Board would continue to be involved with the informal settlement conference process. More specifically, when it comes to informal settlement conferences, some of the board members felt it would be prudent to continue requiring the underlying boards to conduct their own informal settlement conferences. This would ensure that agency staff are guided by professionals knowledgeable in the standards of the profession when conducting informal settlement conferences, thereby helping to safeguard the public.

Recognizing the staff report recommendation is not intended to and cannot contain the level of specificity that a bill must have, I wanted to pass this concern along so that the Commission would be aware of it when rendering its decision.

Issue No. 2: Key Elements of the Behavioral Health Boards' Statutes, Rules, and Policies Do Not Conform to Common Licensing Standards

Staff Report Recommendation: Various recommendations concerning common licensing standards needed at the Board of Examiners of Marriage and Family Therapists, the Board of Examiners of Professional Counselors, and the Board of Social Worker Examiners.

Summary of Agency Response: The agency takes no position on these recommendations, as they are directed at the other behavioral health boards rather than this agency. The Board would note however, that it began the process of requiring all of its licensees who did not undergo a fingerprint criminal background check as part of their application process, to undergo such checks in January of 2015. That the project is now seventy-five percent complete and the agency expects to have every applicant and licensee enrolled in the DPS/FBI rap back program by January 1, 2019. Additionally, the Board would note that it currently checks each applicant against the Association of State and Provincial Psychology Board's (ASPPB) Disciplinary Databank System (DDS) for any disciplinary action entered against the individual in another jurisdiction. The DDS is a benefit of the Board's membership in ASPPB, and every jurisdiction in the U.S. and Canada are required, by virtue of their membership, to report disciplinary actions to the DDS. The Board also receives a bi-monthly report from the DDS listing every licensed provider of psychological services in the U.S. and Canada that has been sanctioned during the two-month period reflected in the report, and then compares those names against the agency's database to determine whether any licensees have failed to report disciplinary actions entered against them in other jurisdictions.

Issue No. 3: The Board's Oral Exam is an Unnecessary Requirement for Licensure.

Staff Report Recommendation: Eliminate the authority for the Board to administer an oral exam.

Summary of Agency Response: The agency has no objection to the recommendation, but would emphasize the need for the continuing authority to require written exams that focus on the assessment of professional competency. To further highlight the need for this authority, the Board would note that effective January 2020, the Examination for Professional Practice in Psychology (EPPP), the primary licensing exam for licensure as a psychologist or psychological associate in the U.S. and Canada, will be expanded to include a standardized computer-based competency examination, i.e. the EPPP Part 2. Thus, it is critical that the Board retain the authority to require proof of competency through a written exam.

Issue No. 4: Requiring a Year of Post-doctoral Supervision is an Unnecessary Hurdle to Licensure, Potentially Contributing to the Mental Health Care Provider Shortage in Texas.

Staff Report Recommendation: Remove the requirement for psychologists to earn half of their supervised work experience after receiving their Ph.D.

Summary of Agency Response: The Board reluctantly disagrees with this recommendation.

Discussion: While the Board understands and appreciates the forward looking nature of this recommendation, and believes that Texas is on track to play a more prominent role when it comes to the regulation of the profession, it is concerned about the negative impact and disparate treatment that such a change would have on licensure mobility. First and foremost, as pointed out in the staff report, 18 states no longer require any post-doctoral supervised experience before seeking licensure as a psychologist. That means however that the remaining majority of states, together with most of the Canadian provinces, still require post-doctoral experience before a person can become licensed as a psychologist. If the Commission were to adopt this recommendation, any increase in licensure mobility achieved through the elimination of the oral examination would be lost, and reciprocity would only be possible with those few jurisdictions no longer requiring post-doctoral experience for independent licensure. That is assuming of course, all other aspects of the two jurisdictions' laws are substantially similar. Thus, our citizens would not enjoy the same opportunity for mobility as those from jurisdictions still requiring a year of post-doctoral experience. While the Board believes this to be an unintended consequence of this recommendation, the Commission should consider whether the elimination of the mandatory post-doctoral year of supervised experience would in fact operate to restrict licensure mobility for Texans rather than enhance it, when deciding whether to adopt this recommendation.

Second, eliminating the requirement for the post-doctoral year of supervised experience may place an undue burden on the training programs. If this recommendation were implemented, individuals will undoubtedly seek to acquire all of their supervised experience through their training program. Such a shift in public expectation and demand would likely impose a significant burden on the state's universities and training programs. With several of its members serving or having served in faculty and training roles within a university or training program setting, the Board is keenly aware of the capacity and demands on training programs across the state and has significant doubts about their ability to meet this increased demand. The Board therefore respectfully requests that the Commission keep this concern in mind when considering this recommendation.

Third, the Board does not believe this recommendation will result in a significant reduction in the amount of supervised experience sought through post-doctoral settings. Separate and apart from the formal internship, doctoral training programs simply do not offer significant opportunities for students to acquire supervised experience acceptable for licensure purposes. Much like the doctoral programs themselves, the nature and quality of supervised experience provided within each program varies widely. And while many students receive more than one year (1,750 hours) of supervised experience as part of their doctoral program, not all of that experience is of the nature and quality necessary to ensure professional maturity and experience with issues related to third-party payors and government funded programs. Thus, while the recommendation offers the potential for prospective licensees to acquire most, if not all of their supervised experience during their doctoral program, limitations of and variances between doctoral programs and the supervised experience provided therein will most likely result in individuals still having to seek supervised experience in a post-doctoral setting.

Lastly, the Board is concerned that this recommendation is likely to have the opposite of its intended effect, and actually worsen the state's provider shortage. Post-doctoral fellows provide a significant amount of mental health services, very often to underserved populations. In fact, given that the post-doctoral year may be the last time that some psychologists see low income clients, eliminating that year may serve to further reduce the availability of mental health services for a vulnerable population. Despite being an unpleasant reality, the Board believes the Commission should be aware of this aspect when deciding whether to adopt this recommendation.

In conclusion, while the Board acknowledges and agrees with the objective behind the recommendation, the agency believes the likely negative effects from this recommendation will outweigh the perceived benefits at this time. Additionally, the Board believes that, despite the recommendation, prospective applicants will still need to obtain a significant portion of the supervised experience needed for licensure through a post-doctoral setting. Thus, the Board must respectfully disagree with this recommendation.

Issue No. 5: Key Elements of the Board's Licensing and Regulatory Functions Do Not Conform to Common Licensing Standards.

Staff Report Recommendation: Various recommendations concerning common licensing standards needed within the agency.

Summary of Agency Response: The Board agrees with all of these recommendations.

Issue No. 6: Texas Should Adopt the Psychology Interjurisdictional Compact.

Staff Report Recommendation: Adopt the Psychology Interjurisdictional Compact (PSYPACT).

Summary of Agency Response: The Board agrees with this recommendation. I would also take this opportunity to point out that the Board recently solicited public input in connection with its strategic planning process and most of the comments received voiced support for PSYPACT, while none opposed the compact. A copy of those comments have been provided to Sunset staff.

Additional Agency Requests Not Addressed in Staff Report

The Board certainly understands the need to prioritize when addressing change within a governmental organization, and the Commission and its staff are probably no exception to this rule. Thus, the Board did not begin this process with a view that all of its requested changes would be implemented. However, there were two requested changes in particular that were not included in the staff report that the Board, and more importantly its staff view as being both helpful and of no cost to the state. First, the Board had requested on pg. 44 of its self-evaluation report, that Section 501.207(a), Occupations Code be amended to include the Board's General Counsel as one of the individuals who may issue a subpoena on behalf of the agency. Second, the Board had requested on pg. 52 of that same report, that Section 501.154, Occupations Code be amended to remove the requirement that an annual roster be printed and mailed to each licensee. The rationale for both of these changes are set out in the agency's self-evaluation report, so they will not be restated here, but the Board respectfully requests that the Commission include these requested changes in the agency's sunset bill.

Conclusion

The Board would like to thank the Commission staff for the time and attention they have shown in conducting this review. Additionally, the Board's staff would like to express their appreciation for the

professionalism and courtesy they were shown by the Board's reviewer, Mr. Robert Romig. While it is doubtful any agency would say they enjoy the review process, Mr. Romig showed a great deal of adaptability and understanding when working with the Board's staff, and for that we are all grateful.

Should you have any questions or concerns regarding this response, or need additional information or responses prior to the April 25th and 26th hearings, please do not hesitate to call or write.

Sincerely,



Darrel D. Spinks
Executive Director