

State Agency Review Process

Sunset Process for every Texas state agency

- Sunset Advisory Commission questions the need for the agency
 - Looks for duplication of other public services or programs
 - Considers new and innovative changes to improve the agency's operations and activities
 - Seeks public input on the agency
 - Recommends actions on the agency to the full Legislature
- Agencies under Sunset review are automatically abolished unless legislation is enacted to continue them

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The Sunset Review

Who conducts the Sunset review?

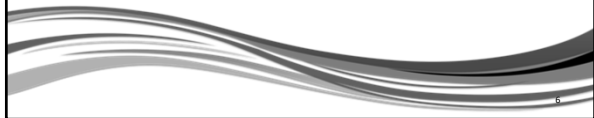
- The Texas Sunset Advisory Commission consists of a 12-member legislative commission. The members of the Commission may be found at www.sunset.texas.gov/about-us/sunset-commission-members
- The Commission also employs a number of staff who are primarily responsible for gathering data and information to be considered by the Commission. The Sunset staff may be found at www.sunset.texas.gov/about-us/sunset-staff



Sunset Process

What is the Sunset Process?

- To find a description of the Sunset process, go to the Commission's website at www.sunset.texas.gov/how-sunset-works
- Instructions on how to participate in the process are also located on the website



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Agency Role in the Process

What is TSBE's role in the Sunset process?



- The Board is required to submit a Self-Evaluation Report on its operations which is designed to
 - Provide the Sunset Commission with a general background description of the agency
 - Give the agency an opportunity to provide the Commission with a preview of issues and suggested improvements regarding the agency and its functions

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Self-Evaluation Report

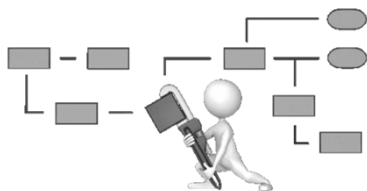
- A copy of the Board's Sunset Self-Evaluation Report is available for download at www.sunset.texas.gov/reviews-and-reports/agencies/texas-state-board-examiners-psychologists



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Issues Identified by TSBE

- What types of issues or suggested improvements did the Board identify in its report?



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Issues Identified by TSBEP

Trainee Status

- The Board requested that §501.251 of the Psychologists' Licensing Act be amended to read "A person may not engage in or represent that the person is engaged in the practice of psychology unless the person is licensed or granted trainee status under this chapter or exempt under Section 501.004.



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Issues Identified by TSBEP

Confidentiality of Contact Info

- The Board requested that Chapter 552, Subchapter C, Government Code, be amended to include a provision similar to Tex. Gov't Code Ann. §552.1176 for the Board, so that licensee's professional files are not at risk for identity theft or criminal acts



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Issues Identified by TSBEP

Confidential Complaint Info. Concerning Applicants

- The Board requested that §501.205 of the Psychologists' Licensing Act be amended to include applicants, not just licensees



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Issues Identified by TSBEP

Filing of Answer in Contested Case

- The Board requested that Chapter 501, Subchapter E, Occupations Code be amended to include a provision similar to Tex. Occ. Code 1103.505, which requires a licensee to file an answer in a contested proceeding before the State Office of Administrative Hearings



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Issues Identified by TSBEP

Confidentiality of ISCs

- The Board requested that Chapter 551, Subchapter D, Government Code, be amended to include a provision similar to Tex. Gov't Code Ann. §551.090 that would provide additional assurance that matters discussed or reviewed in informal settlement conferences would not be made subject to the Open Meetings Act



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Issues Identified by TSBEP

Confidential Deliberations

- The Board requested that Chapter 501, Subchapter E or I, Occupations Code, be amended to include a provision similar to Tex. Occ. Code Ann. §801.407(d) that would allow the Board to conduct disciplinary deliberations in a closed meeting




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Issues Identified by TSBEP

Issuance of Subpoena

- The Board requested that Tex. Occ. Code Ann. §501.207(a) be amended to include the Board's General Counsel as one of the individuals who may issue a subpoena on behalf of the agency



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Issues Identified by TSBEP

Private Reprimand and Admin. Penalty

- The Board requested that Tex. Occ. Code Ann. §501.401 and §501.403 be amended to include a private reprimand and administrative penalty which would help the Board dispose of low level violations more efficiently


NOTE: This is similar to what is allowed under State Bar Rules of Disciplinary Procedure, Tex. R. Disciplinary P. 1.06, 2.18, and 6.07; and Tex. Gov't Code Ann. 81.072(b)(11)

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Issues Identified by TSBEP

Competency Evaluations

- The Board requested that Tex. Occ. Code Ann. §501.158 be amended to more closely reflect Tex. Occ. Code Ann. §164.056, or any other statute which clearly and simply sets forth the categories of individuals subject to a mental or physical evaluation, as well as the process and standards for requesting or requiring a mental or physical evaluation




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Issues Identified by TSBEP

Annual Roster

- The Board requested that Section 501.154 of the Psychologists' Licensing Act be amended to remove the requirement that an annual roster be printed and mailed to each licensee




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Issues Identified by TSBEP


Exemption

- The Board requested that Section 501.004(a)(1) of the Psychologists' Licensing Act be amended so that it does not restrict the category of licensees eligible for exemption only to psychologists and psychological associates



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Issues Identified by TSBEP

Use of Titles in Exempt Setting 

- The Board requested that Section 501.004(a)(6)(B) of the Psychologists' Licensing Act be amended to exempt the activity or service of psychologists employed by a governmental agency who uses his or her title of "psychologist"

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Issues Identified by TSBEP

Staggered Terms

- The Board requested that Section 501.054(a) of the Psychologists' Licensing Act be amended whereby the terms of the board members within each category of board member licensee are staggered, so as to prevent the loss of all members of a category at the end of a given term



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Issues Identified by TSBEP

Standard for Withholding Records

- The Board requested that Section 611.0045(b) of the Health and Safety Code be amended to reflect the standard for withholding records under HIPAA, 45 C.F.R. §164.524(a)(3)(i)



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Issues Identified by TSBEP

Insurance Fraud

- The Board is concerned about the interplay between Tex. Occ. Code Ann. §501.351(b) and Chapter 35 of the Texas Penal Code. The Board questions whether a licensee may submit a bill or invoice to a third-party payer pursuant to Tex. Occ. Code Ann. §501.351(b) under the licensee's own name, without indicating that the psychological services rendered were provided by a supervisee of the licensee



Sunset Recommendations Following 2017 Sunset Review

- Issue # 1: Eliminate the statutory authority to administer the oral exam
- Issue # 2: Remove requirement for post-doc year
- Issue # 3.1: Remove statutory limit restricting Board’s authority to reduce fees
- Issue # 3.2: Remove “good moral character” requirement from licensing standards

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Sunset Recommendations Following 2017 Sunset Review

- Issue # 3.3: Remove requirement for PLP license
- Issue # 3.4: Authorize Board to utilize biennial license renewal
- Issue # 3.5: Authorize Board to issue remedial plans to resolve minor complaints
- Issue # 3.6: Clarify the agency’s authority to require physical and mental evaluations

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Sunset Recommendations Following 2017 Sunset Review

- Issue # 3.7: Extend confidentiality of complaint and investigative information to applicants and non-licensees
- Issue # 3.8: Remove requirement for reference letters in licensing process (Management Action)
- Issue # 3.9: Eliminate Enforcement Committee and develop rule regarding conflicts and recusals (Management Action)

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Sunset Recommendations Following 2017 Sunset Review

- Issue # 4: Continue the TSBEP for another 12 years, but within the newly formed Texas Behavioral Health Executive Council
- Issue # 5.1: Direct TSBEP to appoint a stakeholder workgroup to develop a proposed practice definition

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Sunset Recommendations Following 2017 Sunset Review

New issues adopted by the Commission which were not contained w/in the Staff Report:

- Practice in private schools by LSSPs (Management Action)
- PSYPACT
- Review of Potential Anti-competitive Rules (Management Action)

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What Happened in the 85th Regular Session?

- Sunset recommendations were set out in HB2898 and SB311
- HB2898 died on May 11, 2017 - Mother's Day Massacre - when it was not reached by the House for third reading prior to adjournment
- SB311 never received a committee hearing, and thus, died in the Health & Human Services Committee

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What Happened in the 85th Regular Session?



What Happened in the 85th 1st Called Special Session?



What Happened in the 85th 1st Called Special Session?

- Governor Abbott called for Special Session on June 6, 2017
- HB1 and SB20, companion bills that simply extended TSBEP until Sept. 1, 2019
 - SB20 passed and was signed by the Governor on August 11
- HB2 and SB60 made changes necessary to ensure TSBEP and Medical Board received appropriations under the GAA
 - SB60 passed and was signed by the Governor on August 11

What Happened in the 85th 1st Called Special Session?

- SB114 filed by Sens. Hinajosa and Taylor was identical to HB2898 and SB311
 - Hearing held before Health & Human Services on August 4th, but left pending.
 - SB114 died in committee
- Sen. Buckingham proposed sending TSBEP to Medical Board

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What to Expect During Upcoming Sunset Review and 86th Legislature

- Possible consolidation recommendations with Texas Medical Board, TDLR, or Executive Council
 - What would this mean for LSSPs?
- Alternatively, Sunset could recommend that TSBEP remain independent
- All of the same recommendations from the previous report, save and except management actions, which have already been implemented

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Questions?



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