



**NORTH CAROLINA  
REAL ESTATE COMMISSION**

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January 2, 2015

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Re: Response to PED Report Number 2014-15: Occupational Licensing Agencies should Not be Centralized, but Stronger Oversight is Needed

Sen. Hartsell, Rep. Howard and Mr. Turcotte:

Thank you for the opportunity to comment on the PED Report on occupational licensing agencies. The North Carolina Real Estate Commission appreciates that significant time and effort went into this report and we would like to assist everyone in better understanding some of the many complicated issues raised in this report.

We agree with the primary conclusion of the report that consolidation of licensing agencies is not advisable. As noted in the report, North Carolina licensing agencies are more effective as independent agencies than consolidated agencies in other states examined by the PED. Indeed, NC licensing agencies provide more targeted education, greater consumer protection, and better oversight of licensees than their counterparts in other states. Moreover, they do so at no cost to the State, while a consolidated agency must be funded by the taxpayers.

With respect to the six Recommendations in the report, we submit the following:

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**Recommendation 1. It is not necessary for the General Assembly to establish an Occupational Licensing Commission to improve effectiveness of occupational licensing agencies and assist with resolving disputes between agencies.**

Lack of efficiency/effectiveness. The report found that licensing agencies do not maintain sufficient information to monitor and evaluate the efficiency or effectiveness of administrative activities. In fact, the PED looked at the information licensing agencies are required to maintain and report under G.S. 93B to the Secretary of State, the Attorney General, and the Joint Regulatory Reform Committee. This includes significant financial, regulatory and operation data. There was no evidence cited in the report that licensing agencies are not efficiently or effectively operating right now, only that insufficient information was provided. If additional information is desired, the legislature can resolve that issue simply by changing the reporting requirements in the law and providing serious penalties to agencies that fail to comply.

Oversight. We appreciate the concerns raised about oversight of licensing agencies. It is important to note that licensing agencies already have substantial oversight from the General Assembly and Governor's office: agency (or board) members are appointed solely by the legislature or governor, and these members review their agencies' financials, regulatory data, and licensing decisions on a regular basis. Better oversight and consistency could be achieved by clarifying which licensing agencies are covered by G.S. 93B, and keeping all reporting requirements in that statute. Licensing agencies are already subject to being audited by the State Auditor's office, and every licensing agency is audited by an independent auditing firm annually. G.S. 93B-6 also requires the licensing agencies to provide annual reports with specific information to the Secretary of State, the Attorney General, and the Joint Regulatory Reform Committee and financial reports to those same entities plus the Office of State Budget and Management. Oversight could be limited to one existing State agency with additional requirements for review by that agency of the information submitted and authority to handle matters of concern and to notify the General Assembly. There is no need to create an additional level bureaucracy when the State already has a structure in place.

The PED report states that the Texas Health Professions Council provides a model for an oversight agency. However, a review of the Council indicates that it is not at all like what is suggested in the PED report. The Council members are in fact the health care boards it oversees. The boards themselves provide the oversight and pay for this "superboard" themselves. The PED recommends a commission made up of appointed members, most of whom know little or nothing about occupational licensing, staffed by state employees but paid for by the licensing

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agencies, and ultimately by the licensees. It is, in essence, a tax on the licensees to support an additional government bureaucracy, and it is simply not necessary, nor is it likely to be effective.

**Recommendation 2. We agree the General Assembly should amend G.S. 93B to list all occupational licensing agencies it intends to be included and criteria that agencies must meet in order to be included.**

**Recommendation 3. We agree that the General Assembly consider establishing minimum complaint processing requirements.**

Because the professions overseen by licensing agencies are varied, general standards would be most appropriate. We have concerns about some of the suggested requirements, and welcome any opportunity to assist in developing legislation that could be useful for all occupational licensing agencies and the public.

**Recommendation 4. We have concerns about the PED recommendation that the General Assembly require periodic audits of key regulatory activities and associated performance measurement data.**

The General Assembly and other state agencies already have authority to request and review occupational licensing agencies' regulatory data, as they should. The PED report provided no evidence that licensing agencies are not performing their duties or that they are inefficient. Licensing agencies are charged with licensing, education, and oversight. The diversity of professions, however, requires diversity in approaches. No two agencies perform the same functions in the same way, and they should not be compared as if they are the same. A strong regulatory presence is necessary for public protection in many professions, but there is also a public benefit to alternative dispute resolution, targeted education of licensees in lieu of, or in addition to, punishment, and similar approaches to complaint resolution. The PED report penalized agencies with successful education programs that happened to result in fewer revocations or suspensions, and it did not consider sanctions such as public reprimands or conditional dismissals as disciplinary actions. It is important that any measures of performance look at all relevant data. However, performance audits are expensive – a cost that would have to be passed on to the licensees and/or the public. If there is real statistical evidence that a particular board is not performing, a performance audit of that board should be undertaken. For other boards, the requirement should not be imposed until G.S. 93B reporting requirements have been rewritten and it has been determined there is a need for such audits.

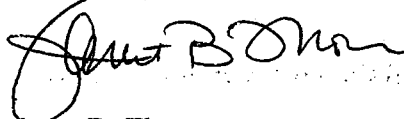
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**Recommendation 5. We have no opinion on this recommendation.**

**Recommendation 6. As stated above, we disagree that the General Assembly should create an Occupational Licensing Commission. The General Assembly has the power to create licensing agencies and to consolidate licensing agencies should it deem consolidation appropriate.**

Again, thank you for the opportunity to comment on this report. Unfortunately the report was released on December 17, 2014, and we only had until January 2, 2015, to respond. Given the two intervening holidays, our response is general. There are other issues with the PED report that should be considered before decisions are made based on the report as it is written. While we did not have adequate time to address all of those here, we hope to continue to work with the Committee as it studies this report and considers possible legislation, and we look forward to being part of any solution to the issues raised in the report.

Very truly yours,



Janet B. Thoren  
Legal Counsel

JBT/sh