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Board self-Assessment Resource

Raising the BAR for Board Performance

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Contents

- Background and Purpose 3**
 - Introduction.....3
 - Purpose3
- Board self-Assessment Resource (BAR) 3**
 - Recommended Practice for Content Areas6
- Instructions 6**
- Reference 7**
- Appendix 1: Rationale Statements 8**
- Appendix 2: Recommended Practices 10**

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Background and Purpose

Introduction

Board consolidation and deregulation was one of the top five concerns identified by attendees of the 2017 Federation of State Boards of Physical Therapy (FSBPT) Leadership Issues Forum (LIF). Attendees noted that regulatory boards are feeling pressure to demonstrate their value and effectiveness, with few ways to do so. Regulators are coming under increasing scrutiny from economists, public policy groups, politicians, and federal and state agencies to demonstrate that regulatory boards are necessary for public protection. As a result of the trends toward consolidation, deregulation, and elimination of licensing boards combined with the states' reactions to the Supreme Court ruling on the North Carolina Board of Dental Examiners case, regulatory boards must be able to defend their existence, effectively communicating consequences and impacts of board elimination or consolidation on the board's ability to protect the public. The 2017 LIF attendees identified that an assessment tool developed nationally with meaningful metrics to measure public protection should be a focus of FSBPT to support member jurisdictions.

Responding to the membership's concerns regarding criticism of occupational licensing boards, deregulation, and board consolidation, the FSBPT Board of Directors formed the Board Assessment Task Force (BATF) in 2018, and charged the members to explore the development of an assessment tool for a member board to use that would help demonstrate the value of boards and the role that boards have in protecting the public.

Purpose

The purpose of the assessment tool is to provide a mechanism for a physical therapy regulatory board to evaluate its performance in accomplishing its mission of ensuring access to safe and competent physical therapy services while preventing and reducing real or potential harms.

Board self-Assessment Resource (BAR)

The task force members began by reviewing an existing assessment tool, which was created by FSBPT in 2001. The previous tool was a compilation of metrics that did not measure effectiveness of public protection. The task force members performed a thorough literature search for information on measurement of regulatory board performance and reviewed examples of annual and special reports prepared and submitted by member boards to legislatures and supervising agencies. Typically, regulatory bodies are good at "reporting on activities and outputs but not impacts and outcomes." (Balthazard, 1) The task force also looked at innovations and initiatives in regulation, such as the licensure compact, as an effective response to the need for accessible care, consistent guidelines for boards to use during disciplinary decisions, and workforce data collection.

The taskforce members identified the ultimate desired result for a regulatory board as being efficient and effective at protecting the public. In order to be deemed effective, a regulatory board must produce the intended or desired results. However, measuring regulatory outcomes has proved very difficult as the mandate of professional regulatory bodies is vague with an unclear ultimate outcome. (Balthazard, 4) An efficient board

will use its resources (time, money, effort, etc.) judiciously and appropriately to accomplish that intended or desired result. The task force deliberated and decided that the intended or desired result for any regulatory board is public protection; allowing the consumer access to safe and competent physical therapy services while preventing and reducing real or potential harms. Harm-avoidance is often the focus for regulatory boards which makes performance measurement challenging as “the absence of something is inherently a difficult thing to measure.” (Balthazard, 5)

The task force members realized that the opinion of the board’s operations and activities, as they contribute to protection of the public, would vary by stakeholder group and interest. The first step was to identify any and all possible stakeholders. The task force identified a comprehensive list of stakeholders:

- Consumer/public
- Licensees
- Government
- Licensure boards
- Physical therapist and physical therapist assistant interest groups
- Payers
- Consumer watchdog groups
- Other policy-making groups

The next step was to look at what each group would consider important when considering the board’s effectiveness.

Once the comprehensive stakeholder list was complete, the task force began looking at what should be measured to show effectiveness. Depending on the stakeholder, these topics could determine whether the stakeholder considered a board effective or ineffective. The task force members continually focused on identifying characteristics of a high functioning board and identified the following broad topic areas for measuring board effectiveness:

- Board functioning
- Board finances
- Licensing
- Education/prevention/outreach
- Legislation/rulemaking
- Discipline/enforcement

The BATF evaluated the previously created FSBPT assessment tool and identified the number of questions as a major reason for its failure and placed a high value on brevity for the new tool. Although there are a number of additional categories or topics that could have been included in this resource, user-friendly conciseness of the tool was prioritized. The task force realized there was no list of perfect measures and focused on a practice-based measurement approach. “Practice-based measurement has emerged as the most workable approach in performance measurement for professional regulatory bodies...focused around ‘practices’ (what the professional regulatory body does).” (Balthazard, 8) Regulators have searched for objective and quantitative measures without a clear answer; the task force ultimately identified four high-level categories and three topics under each category for a total of twelve areas for self-assessment:

- Board Performance
 - Planning
 - Training
 - Reviewing relevant documents
- Outreach & Education
 - Soliciting feedback
 - Proactively providing information
 - Responding to stakeholders
- Licensure Practices
 - Qualifications of providers
 - Workforce data
 - Verification
- Complaint Resolution
 - Publication
 - Consistent process
 - Evaluation of data

The task force members identified the rationale for each of the twelve assessment areas, as it relates to effectiveness in public protection.

The BAR is another example of practice-based measurement tools recently developed by the international regulatory community. The success of the Professional Standards Authority’s *Standards of Good Regulation*, David Benton’s *High Performing Regulatory Bodies* model, the Ontario Office of the Fairness Commissioner’s

Registration Practices Assessment Reports, and Human Resources Professional Association Gold Standard Audit “attests to the viability of the practice-based approach.”(Balthazard, 8)

Recommended Practice for Content Areas

The evidence base for regulatory policy development is lacking although beginning to grow. It is difficult to find best practices for assessment of the performance of a regulatory board in the literature; however the twelve areas identified by the task force to demonstrate board effectiveness and efficiency have [recommendations](#) toward good practice.

Instructions

At minimum, the board administrator should complete the BAR and discuss it with board members, however, all board members may desire to complete the tool. The individual completing the BAR should answer to the best of their knowledge about the operations of the board. The questions are formatted as yes/no questions. Answering yes means the board is currently demonstrating that characteristic of a best practice. Another characteristic of practice-based measurement, a summative assessment report is generated and may be saved by the user or printed for future reference. However, it will not be stored by FSBPT. A jurisdiction is not able to compare performance nationally, regionally, or against any jurisdiction. At the completion of the assessment, the user is provided a list of resources to help improve deficient areas.

To enhance a report for an external audience, the board administrator may want to add some objective metrics to support the section. Examples might include the following metrics:

- Number of applications versus number approved
- Social media engagement metrics
- Number of disciplinary investigations
- Number of public record requests
- Number of licensee questions answered
- Number of complaints received
- Number of days to resolve a case

The BAR is intended as one method to identify where to focus efforts in a board’s comprehensive evaluation and improvement plan. In using this tool, along with objective metrics, jurisdiction licensing boards may develop a comprehensive plan that will lead to high performance and best practices. At any given time, the board may score high in one area and low in another; scores in each area are likely to change as it is very difficult for an organization to sustain high performance in all areas at all times. This tool is intended to identify areas for improvement as well as demonstrate improvement in performance with subsequent assessments.

Reference

Claude Balthazard, "Practice-based measurement for professional regulators," (Alexandria, VA: Human Resources Professionals Association, 2019), <https://www.hrupa.ca/PublishingImages/Regulation/Practice-based-measurement-for-professional-regulators-August-26-2019.pdf>.

Professional Standards Authority, "The Performance Review Standards: Standards of Good Regulation," January 2016, https://www.professionalstandards.org.uk/docs/default-source/publications/standards/standards-of-good-regulation.pdf?sfvrsn=e3577e20_6.

Appendix 1: Rationale Statements

The task force creating the Board self-Assessment Resource felt the twelve assessment areas to demonstrate the board's efficiency and effectiveness were important for the following reasons.

Board Performance

Planning

When the board is effectively engaging in a planning process, it facilitates consumers accessing safe and competent physical therapy services by ensuring that the board's plan is documented, clearly tied to the mission of the board, actively used, responsive to external trends, and kept up to date.

Training

When board members are provided with onboarding and ongoing training opportunities, it facilitates consumers accessing safe and competent physical therapy services by ensuring that all board members understand the role and functions of the board and effectively and efficiently perform board operations.

Reviewing Relevant Documents

When the board periodically reviews and recommends changes to statutes, regulations, and other relevant guidance, it facilitates consumers accessing safe and competent physical therapy services by ensuring a regulatory environment that is current, relevant to state law, and consistent with standards of clinical practice without being undue barriers to practice.

Outreach & Education

Soliciting Feedback

When the Board seeks or collects information on its performance, it facilitates consumers accessing safe and competent physical therapy services by using the collected information to analyze current performance and inform decision-making to alter board practices to prevent and reduce harm to the public.

Proactively Providing Information

When the board provides outreach and educational information to its stakeholders, it facilitates consumers accessing safe and competent physical therapy services by giving timely or regular, accurate, and relevant information through a variety of means.

Responding to Stakeholders

When the board responds to its stakeholders, it facilitates consumers accessing safe and competent physical therapy services by providing resources compliant with the statutes, regulations, and other relevant guidance.

Licensure

Ensuring Qualified Providers of Physical Therapy Services

When the board verifies that potential providers of physical therapy services are qualified, it facilitates consumers accessing safe and competent physical therapy services by ensuring that individuals authorized to provide physical therapy services meet established minimum standards and encounter minimal regulatory barriers.

Work Force Data

When the board is collecting workforce data, it facilitates consumers accessing safe and competent physical therapy services by ensuring demographic work information of physical therapy services available in all areas of the jurisdiction.

Verification

When the board provides a means for the public to independently verify a license, it facilitates consumers accessing safe and competent physical therapy services by giving consumers immediate access to a list of actively licensed providers including any record of violations to the standards of physical therapy practice.

Complaint Resolution

Publication

When the board publishes complaint resolutions, it facilitates consumers accessing safe and competent physical therapy services by allowing consumers of physical therapy services access to a provider's record that details violation(s) to the "standards of practice of physical therapy" and any subsequent remediation.

Employs Consistent Process

When the board uses a consistent process to determine complaint resolutions, it facilitates consumers accessing safe and competent physical therapy services by providing a transparent and objective process for addressing violations of the practice act and rules.

Evaluation of Data

When the board evaluates trends in board actions, it facilitates consumers accessing safe and competent physical therapy services by alerting the board of highest risk violations and potential harms.

Appendix 2: Recommended Practices

It is difficult to find best practices for regulation in the literature. However, the following twelve areas identified by the task force to demonstrate board effectiveness and efficiency have recommendations toward good practice.

Board Performance

Planning

The board has a regular cycle for developing a plan clearly tied to the mission of the board and a planning document tied to metrics, goals, and objectives; the planning process includes review of external trends/strengths, weaknesses, opportunities, and threats (SWOT). The plan and progress toward plan objectives are documented and publicly accessible.

Training

Structured, current onboarding training exists for new board members and ongoing, updated training is made available to all board members. There is a mechanism for updating training materials on an ongoing basis and tracking/documenting all training provided. Ongoing training needs are proactively identified from the strategic plan/annual goals, and a training plan is developed and executed.

Reviewing Relevant Documents

The board regularly reviews, solicits input, and provides recommendations to facilitate necessary changes of statutes, regulations, and other relevant guidance.

Outreach & Education

Soliciting Feedback

The board identifies stakeholders, solicits and analyzes information on board performance, and uses the information to advise the planning process.

Proactively Providing Information

The board identifies stakeholders and provides access to educational materials through a variety of means to increase their knowledge and understanding.

Responding to Stakeholders

The board responds to inquiries with consistent, accurate messages, tracks timeliness, solicits feedback, and implements an improvement plan tied into the board's larger plan.

Licensure

Qualifications of Providers

The board ensures applicants are qualified for licensure and regularly reviews statutes, regulation, policies, procedures, and other relevant guidance to facilitate continued competence and licensure portability.

Work Force Data

The board mandates collection of the entire recognized data set on license renewal, data are securely stored, data made available in aggregate to the public, and data are used in board decision-making.

Verification

The board educates stakeholders that it provides real-time, primary source, accurate, easily accessible licensure verification which includes relevant licensee information including disciplinary history.

Complaint Resolution

Publication

The board collects and provides real-time, accurate, easily accessible information including individual complaint resolution and aggregate data and educates stakeholders that the information is available.

Employs Consistent Process

The board uses a transparent, consistent, standardized, objective process to determine the appropriate application of discipline or remediation.

Evaluation of Data

The board collects data regarding board actions and uses the data to evaluate trends, determine educational initiatives, and develop outreach.