



## **State Health Services Council Meeting Minutes**

Department of State Health Services (DSHS)  
Robert E. Moreton Building, M-739  
1100 W. 49<sup>th</sup> Street, Austin, Texas  
June 23, 2011

### **Council Members Present**

Ms. Glenda Kane, Chair – Corpus Christi  
Ms. Graciela Cigarroa – San Antonio  
Dr. Lewis Foxhall – Houston  
Dr. Jacinto Juarez – Laredo  
Dr. Jeffrey Ross – Houston  
Mr. Nasruddin Rupani – Sugar Land  
Dr. David Woolweaver – Harlingen

### **Council Members Not Present**

Dr. Kirk Calhoun – Tyler  
Beverly Barron – Odessa

### **Visitors**

Joe Lovelace – Texas Council of Community Centers  
Lisa Poynor – Association of Substance Abuse Programs (ASAP)  
Clayton Travis  
Anna Howe – State Auditor's Office, Risk Management  
Lillian Ringsdorf  
Andrea Ingram – HillCo Partners  
Lynn Nolan – Govantage  
Neal Nolan  
Stacy Warren – Texas Medical Association (TMA)  
Jennifer Fox – Legislative Budget Board (LBB)  
Gyl Switzer – Mental Health America of Texas  
Nancy Fisher – Texas Strategy Group

Council Chair, Glenda Kane called the meeting to order at 9:09.

1. Approval of February 23 and 24, 2011 and April 8, 2011 Minutes – Ms. Kane asked for a motion to approve the minutes of February 23 and 24 and April 8, 2011. Motion made by Dr. Juarez, seconded by Dr. Ross. Motion passed.

2. Commissioner's Report - Commissioner Lakey provided some factoids from the 82<sup>nd</sup> Legislative Session: there was 6236 bills filed, 1532 bills passed, DSHS tracked 818 bills of which 170 passed.

Dr. Lakey also discussed his visit to Washington, D.C. on June 1, when he met with officials from the Office of Management and Budget to discuss the impact of budget cuts to federal funds for FY 2012 and 2013 from a state health officer perspective. On June 7, Dr. Lakey attended the Binational Infectious Disease Conference in El Paso; the goal of this conference is to document shared infectious disease challenges with Mexico. Dr. Lakey also toured the El Paso Health Department and met with the director, Michael Hill, and Dr. Ali Khan, Assistant Surgeon General and Director of the Office of Public Health Preparedness Response. On June 8, Dr. Lakey provided the welcoming remarks to the South Texas Family Support Conference in Corpus Christi. The purpose of this conference is to improve mental health across the state of Texas.

Dr. Lakey provided the following program updates.

Medicaid Substance Abuse Use Disorder Benefit Expansion – This is an expansion of the current outpatient benefit for clients less than 21 years of age and includes the following services for all age groups in Medicaid:

- Assessment
- Individual and Group Counseling
- Medication Assisted Treatment
- Ambulatory and Residential Detoxification
- Residential

Outpatient benefits were implemented on 9/1/10, and residential benefits were implemented 1/1/11. This benefit will be measured by the LBB for overall cost effectiveness to Medicaid for approximately a two year period.

The Performance Management Initiative is a Tier 1 Project for DSHS. It is the practice of actively using performance data to improve the public's health image; an initiative to improve what we do and how we run our services. Through this initiative we will strengthen our public health infrastructure. The Performance Management Team is under the direction of Dr. Thomas Erlinger, state epidemiologist, and two staff members, Dr. Cody Brady and James Farris. There are three immediate tasks for grant:

- Establish and Internal Performance Management Taskforce
- Complete and Internal Performance Management Self-Assessment
- Implement a Performance Plan of Action

DSHS Asthma Program was selected by the American Public Health Association in collaboration with the Centers for Disease Control and Prevention (CDC) National Center for Environmental Health as one of four state asthma success stories. The program's success is highlighted in a brochure entitled "America Breathing Easier: Successes of CDC's National Asthma Control Program." Council members were provided with a copy of the brochure.

Mother Friendly Worksite Initiative - Julie Stagg, State Breastfeeding Coordinator, has been asked to present DSHS social marketing component of the Mother Friendly Worksite Initiative to the CDC Nutrition Branch staff. CDC has stated that DSHS effort is the "best example of the social marketing process that they have seen" and would like to feature DSHS work in their Best Practice Guide to Breastfeeding Interventions, which is currently under revision.

The Public Relations Society of America (PRSA) has presented the DSHS Tobacco Control and Prevention Program with the Bronze Anvil Winner award. Out of 717 entries only 55 organizations were selected as award winners.

Philander Moore, Substance Abuse Program Services Unit Manager, was awarded the “Mac” McLester Champion for Recovery Award by the Communities for Recovery Program.

Dr. Noha Farag, EIS officer in the Birth Defects, Epidemiology and Surveillance Branch of Prevention and Preparedness, was awarded the Donald C. Mackel Memorial Award as a result of her presentation in April at an annual epidemic conference for excellence and innovation in collaborative work between epidemiology and laboratory scientists. This recognition is for her work in the epidemiologic investigation outbreak of Nosocomial Listeriosis last year.

Ed House – Chief Operating Officer (COO), started new position as COO on June 1, 2011. Mr. House previously served as the DSHS Director of Executive and Staff Operations since 2004, and prior to that he had 15 years service at the Texas Commission on Environmental Quality and the Texas Water Commission.

Kirk Cole - Dr. Lakey recognized Kirk Cole with his 20 year service award. Glenda Kane and Dr. Lakey thanked Mr. Cole for his service.

Mrs. Kane also thanked Dr. Lakey for his work representing DSHS during the legislative session.

### 3. Review of 82<sup>nd</sup> Legislative Session

#### a. 2012-13 Biennium Legislative Appropriations

Dr. Lakey provided the following information about the budget:

- Public Health – some funds restored, others were not
- Preparedness – funds reduced by \$4.5 million
- State lab funds reduced – DSHS will look at fee structure to restore some of these cuts
- Dental program funds were not restored – DSHS may have some federal funds to consider
- Community mental health services – including Adult Services, Child Services and funding for NorthStar were fully restored
- Substance Abuse not restored – DSHS will need to look at federal funds for restoration
- Tobacco Program initially all funding was zeroed out – some has been restored
- State Hospitals funding was reduced initially by \$30 million – Mike Maples and his staff identified savings of \$15 million by redefining use of medicines in hospitals and implementing step down units
- Regulatory Services reduced by \$15.8 million and not restored – DSHS will need to look at fee structures, also look at managing program as best as possible with available funding
- HIV program funding was not restored – DSHS was directed to work with HHSC for funding
- Funds were allotted to the budget for the new mental health hospital in Montgomery County
- Funding for salaries for psychiatrists were increased
- Increase capacity funds \$9.9 million received, however there was no funding for hospital depreciation – DSHS will need to prioritize those needs
- Additional funds received for patient safety in hospitals and preventable adverse events

- Healthy Texas Babies initiative - funded at \$4.1million over next biennium to model program in Kentucky
- Preventable Hospitalizations – received \$2 million. Hospitalizations are called “potentially preventable,” because if the individual had access to and cooperated with appropriate outpatient healthcare, the hospitalization would likely not have occurred.
- Texas Center for Infectious Disease (TCID) was not funded to increase capacity. TCID is a 75 bed capacity, currently operating 35 beds. The Legislature provided guidance on how to collect funds and work with counties to recoup costs.
- Environmental safety – did not receive \$2 million funding requested for lead poisoning
- Moreton Building renovation – \$20 million was allocated for critical repairs

Out of conference committee \$300 million was budgeted for exception items. Overall most items, especially mental health issues, were funded.

The following strategies were reduced:

- Chronic disease programs including obesity grants and Governor’s Fitness Council,
- Family Planning,
- Regulatory Services, and
- Federally Qualified Health Centers (FQHC’s).

Reductions in federal funds are also occurring. The budget is coming out late and DSHS is working on a very short window of time to determine how to adjust to reductions:

- WIC, can manage now, however, in several years will have to adjust
- Preparedness activities that are federally funded received a 16% reduction
- Substance Abuse Prevention Treatment Block grant reduced
- Prevention Health Service Block Grant funding stream is zeroed out. DSHS is looking at how to cover this year. \$4 million in funds go to Local Health Departments and Regional Health Departments.

Bill Wheeler, Chief Financial Officer (CFO), reviewed the new Riders.

- #59 - Regulatory – Goal D is to increase fees or decrease costs, and find efficiencies
- #60 - Lab Fees
- #61 - Maintenance of Effort (MOE) changes for Mental Health Block Grant and Substance Abuse Block Grant must be approved by the LBB and Governor
- #62 - State Hospital efficiencies outlined: Step-down units, manage length of stay, and reducing reimbursements for acute care
- #63 - Evaluates privatizing a state mental health hospital
- #65 - Improvement of measurements, collection and reporting of outcome data for community mental health services.
- #66 - Food Manufacturer’s report changed from monthly to every 6 months
- #69 - Federally-funded projects – considered approved unless the LBB or Governor disapprove within 30 business days
- #70 - Interim report about lab fee collections due July 1, 2012
- #71 - Study of the mental health system due Sept. 1, 2012
- #72 - Establish a work group to evaluate the security of birth records
- #73 - DSHS is encouraged to purchase the latest generation of cell culture–derived pandemic flu vaccine

- #74 - Directs DSHS to send \$302,100 (biennium) to the Parkland Senior Care Project
- #75 - If the CPA determines that earnings from the Tobacco Fund exceed the Bureau of Revenue estimates (BRE), then the additional revenue can be sent to the Tobacco Program; up to the maximum \$20 million for the biennium
- #77 - Family Planning methodology for distribution of funds to providers
- #78 - \$4 million per year from Mental Health Crisis strategy must be directed to outpatient competency restoration pilot programs
- #80 - Allows Texas Center for Infectious Disease to bill counties for tuberculosis services
- #82 - Performance agreements with local mental health authorities based on local needs assessment process that is expressed in a local service plan
- #84 - SB 166 contingency rider – Creation of a new agency for the Sex Offender Treatment & Supervision Program

Council members had the following questions and comments for staff:

- Glenda Kane – What was the theory behind creating separate agency for the Sex Offender Program?
  - Dr. Ross – What are the thoughts for further tobacco funding? Can we consider developing public/private partnerships to make up some of the funds that have been cut?
  - \*\*Ms. Kane asked that this be an agenda item on the next work session, at which time they will set up committee to discuss the feasibility of exploring public/private partnerships for tobacco funding.
  - Dr. Foxhall asked about funding for the tobacco program. Can DSHS work in collaboration with other partners and to look at opportunities to address health issue through other mechanisms? Dr. Foxhall asked that the Council spend time at future meeting to address shortfall.
  - Dr. Juarez asked who can receive services from DSHS, and what criteria are used to determine eligibility for services. Dr. Lakey explained that it varied by service and by state and federal program requirements.
  - Graciela Cigarroa asked what kind of programmatic reductions are we looking at in Substance Abuse?
  - Graciela Cigarroa asked if funding streams improve and look better, can some of the funds be administratively put back into the system?
- b. Policy issues - Legislation Impacting DSHS - Kirk Cole provided a high level look at statutory changes. The entire packet of bills that affect DSHS will be posted on the website.
- SB 15 – Sonogram bill – informed consent to abortion
  - HB 35 – Local behavioral health intervention pilot project
  - HB 300 – Protected Health Information (PHI) privacy bill – all agencies that handle PHI will train all of their employees, also covers time requirements for electronic PHI
  - HB 411 – Newborn Screening – consent process and tiered approval, broadens membership for DSHS Institutional Review Board
  - HB 748 and HB 2725 – Recommendations from Continuity of Care Task Force – improve mental health care as it ties into criminal justice system. Credit for time served. Allows for charges to be dismissed if competency not achieved. Streamlines timelines.
  - HB 1137 – Logging of over the counter sales of certain medicines containing pseudoephedrine
    - Ms. Kane asked if we already have the technology to do real time logging.

- Will this system log amounts of medicines purchased so that an individual cannot go from one location to another to purchase over the allowable amount?
- HB 1386 – Relating to the public health threat presented by youth suicide and to the prevention of associated discrimination, harassment, bullying and cyberbullying.
- HB 1983 – Healthy babies – neonatal intensive care – reducing number of elective or non medical inductions
- HB 2229 – Established HIV Medication Advisory Committee in statute
- HB 2610 – Relating to Community Health Workers and Promotoras
- HB 2636 – Established a council to study neonatal intensive care units
- HB 3145 – Relating to the regulation of chemical dependency counselors, creating a surcharge for peer counseling
- HB 3146 – Relating to consent for treatment for chemical dependency in a treatment facility and required training for the facility’s intake personnel
- SB 78 – HHS agencies share adverse licensing actions
- SB 80 – Relating to public health laboratories administered by DSHS, based on audit recommendations of the State Auditors Office
- SB 81 – Food Safety – identified gaps, best practices for industry
- SB 156 – Relating to health care data collected by DSHS and access to certain confidential patient information within the department, data sharing – Texas Health Information Collection
- SB 166 – Creates a state agency to perform the functions relating to the sex offender civil commitment program
- SB 229 – Hospital and birthing centers removed exemption for reporting newborn screening hearing tests
- SB 652 – Sunset process for HHS agencies delayed until 2015
- SB 969 – Establishment of Public Health Funding and Public Health Advisory Committee within DSHS
  - Ms. Kane asked if this will provide consistency statewide in restaurant standards to eliminate salmonella outbreaks?
- SB 1796 – Establishes Texas Coordinating Council for Veterans with several agencies; the purpose is to bring in other agencies as needed to address services for veterans

Dr Ross asked about the campaign to keep physical education in schools. There was a targeted mailout, with emails regarding the cutting back of physical education in schools. The bill was brought up, but did not pass. Dr. Ross asked what transpired and what finally happened on the physical education requirement. \*\*Kirk will double check what happened with this bill and let Dr. Ross know.

Smokefree workplaces did not pass in regular session, but is back in special session

2. Commissioners Comments continued:

- Mark Canfield - Birth Defects Registry has reach 200,000, the largest active birth defects registry in the world.
- Mary Wright – Leaving to be CFO at the Department of Assistive and Rehabilitative Services. Dr. Lakey thanked her for her service.

Ms. Kane asked if there was any General Public Comment. Public comment provided by:

- Joe Lovelace and
- Gyl Switzer

4. Consent Agenda – Recommend to the Health and Human Services Commission proposal of the following rule actions for public comment\*
  - a. Amendments to rules concerning radiation safety requirements for accelerators, therapeutic radiation machines, simulators, and electronic brachytherapy devices and the regulation of general provisions and standards for protection against machine-produced radiation and radiation safety requirements
  - b. New rule concerning a memorandum of understanding between DSHS and the Railroad Commission of Texas regarding radiation control functions
  - c. Repeal of rules concerning noncommercial pesticide applicators involved in health-related pest control programs
  - d. Repeal of rules and new rules concerning the privacy of health information
  - e. Repeal of rules concerning protected health information for persons receiving mental health services

Discussion: There was no discussion or questions from the council members. There was no public comment. Motion to accept the rules and send to HHSC for public comment was made by Dr. Woolweaver; seconded by Dr. Juarez. Motion passed.

5. General Public Comment – Ms. Kane asked for any general public comment. There was no general public comment.

Ms. Kane asked for a motion to adjourn the meeting. Motion made by Dr. Juarez . Ms. Kane adjourned the meeting at 10:48 a.m.



Glenda Kane, Chair  
State Health Services Council

September 15, 2011  
Date Approved by Council

Next scheduled Council work session is September 14, 2011 and next scheduled Council meeting September 15, 2011.