



State Health Services Council Work Session Minutes

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

Council Members Present

Ms. Glenda Kane, Chair – Corpus Christi
Ms. Beverly Barron – Odessa
Dr. Kirk Calhoun – Tyler
Ms. Graciela Cigarroa – San Antonio – until 3:10
Dr. Lewis Foxhall – Houston
Dr. Jacinto Juarez – Laredo
Dr. Jeffrey Ross – Houston
Dr. David Woolweaver – Harlingen

Council Members Not Present

Mr. Nasruddin Rupani – Sugar Land

Visitors

Andria Franco – Governor's Office
Hollis B. Hill – Community Healthcare
Sherri Layton – La Hacienda Treatment Center
Raymond Waller – Cenikor Foundation
Lisa Poynor – Association of Substance Abuse Providers
Daniel Thompson
Ricardo Garza – HHSC
Gretchen Ellison – Hillco Partners
Dan Ballard – Cenikor Foundation

Glenda Kane, Chair called the meeting to order at 2:00 p.m.

1. State Single Audit Reports - Michelle Esquivel and Tom Martinec presented on statewide audits for DSHS. DSHS received a letter from the Governor's Office dated 12/1/2010 reminding DSHS to address findings reported in the KPMG and State Auditors Office "statewide audits" for the fiscal year ended 8/31/2009, so they are not repeated. DSHS is currently being audited by KPMG in these same areas for the fiscal year ended 8/31/2010. It appears that four of the six findings have been resolved and will not be repeated, one finding with no questioned costs will be repeated but for a different

reason, and the finding related to access for information technology programmers, also with no questioned costs, will be a repeat finding and is anticipated to continue to be a finding through 2013.

Questions/Comments: Ms. Esquivel and Mr. Martinec responded to questions about the number of findings associated with the Women, Infants and Children (WIC) nutrition program.

2. Rules Scheduled for Action by Council at a Future Council Meeting.

- a. Regulation of chemical dependency treatment facilities – Kathy Perkins introduced the rule and Beth Pickens provided the rule overview.

Discussion: Council members had the following questions/comments:

- Can we consider Licensed Vocational Nurses (LVN) with a certain number years of experience to be the charge nurse?
- Request that we look at certain levels of certifying LVN staff.
- Are comments around employment issues progressing?
- Various providers exist with varying levels of service; may need to consider having two levels for licensing requirements.

Ms. Kane suggested that it is our responsibility at this point to do nothing to make rules that would cause undo expense, or to put any financial constraints on organizations that would hinder the work that they do.

Public comment was provided by:

- Sherry Layton – La Hacienda Treatment Center - smoking ban in treatment facilities
- Dan Ballard – Cenikor – policy on hiring discharged clients
- Raymond Waller – Cenikor – proposal for maximum number of work hours
- Hollis B. Hill – Community Healthcare – general comments on rules and current budget constraints
- Lisa Poynter – Association of Substance Abuse Programs – general comments on draft rules

Council members had the following additional comments/questions for staff response:

- The guidelines for residential treatment facilities should be the same as in hospitals.
- Considering the variations in approach to service, is there a potential for making length of stay a factor in requesting variance?
- Can we look at outcome reports to determine the ability to use LVNs rather than Registered Nurses and find different ways to address this issue?
- Is the two-year ban on employment at the treatment facility a current requirement?
- Peer support is primary to success, example Alcoholics Anonymous.
- If DSHS is considering a change in approach, we should have experts in tobacco and chemical dependency available to visit with Council and staff to share expertise.
- Keep the health and safety of nonsmokers in mind as rules are developed.

Ms. Kane asked that we find ways to be accepting of whatever the system needs to address the clients' needs. Ms. Kane suggested that the Council may need to break into groups to work with staff to address certain issues.

Break 2:59- Resume 3:18

- b. Radiation safety requirements for accelerators, therapeutic radiation machines, simulators, and electronic brachytherapy devices services. Kathy Perkins introduced the rule and Barbara Taylor presented the rule overview.

Discussion: No discussion

Public Comment: No public comment

- c. Reporting and reviewing deaths of persons receiving behavioral health services. Mike Maples introduced the rule and Ross Robinson provided the rule overview.

Discussion: Council members had the following comments/questions for staff response:

- Who performs the clinical review and how is that communicated to DSHS staff?
- Is the Council able to have access to reports to discuss and determine how to prevent future deaths?
- How do the number of death reports (953 in 2009 and 996 in 2010) compare to the population served?
- Are the numbers significantly higher than for age-adjusted rates for the overall state population?
- What is the relation of cardiovascular care and mental illness?
- Is there an assessment on risk factors and health levels on entering treatment?
- What is death rate of the AIDS population in East Texas?

Dr. Ross asked that Council members be allowed to take a proactive role with these reviews. Staff will be disseminating death review information to the Council at least annually, or more frequently if there are significant trends.

Dr. Calhoun asked that staff provide data and cause factors for deaths of young people, along with the overall data.

Public Comment: No public comment

- d. Repeal of rules and new rules concerning provider network development by local mental health authorities. Mike Maples introduced the rule. Ross Robinson provided the rule overview.

Discussion: Council members had the following comment/question for staff response:

- Is the Legislature looking at provider of last resort this session?

Public Comment: No public comment

3. The following rules are scheduled for Action by Council on February 24. Public comments were taken with each rule discussion for the following rules.

- a. Amendments to rules and repeal of a rule concerning the determination of manifest dangerousness. Dr. Emilie Becker provided the rule overview.

Discussion: Staff responded to the following questions from Council members:

- What role do the courts play in this determination and are there appeal procedures?
- Is there any follow up on those released to see if determinations were correct?

- What is the follow up protocol when someone is released?

Public Comment: No public comment

- b. Amendments to rules and repeal of rules concerning community mental health centers. Ross Robinson provided the rule overview.

Discussion: Council members had the following comment/question for staff response:

- The Council Agenda Memo states that a county, municipality, hospital district, school district or organizational combination of two or more of those local agencies may establish and operate a community center. Can a hospital establish a community center? Is this controlled by statute or federal requirement or by rule?

Ross Robinson will research this question and report back to Council.

Public Comment: No public comment

- c. Amendments to rules and repeal of rules standards for services to persons with concerning co-occurring psychiatric and substance use disorders. Ross Robinson provided the rule overview.

Discussion: No discussion

Public Comment: No public comment

- d. Amendments to rules concerning general requirements and license regulations for radiation control. Kathy Perkins introduced the rule; Barbara Taylor provided the rule overview.

Discussion: Council members had the following comment/question for staff response:

- How safe are containers carrying radioactive waste?
- What kind of inspection is done on vehicles carrying radioactive waste and facilities?
- How is DSHS addressing the increased activity in Eagle Ford Shale in San Antonio area?
- Have there been any exceptions or violations since inspections have been started?
- How many violations have there been and is this a common problem?
- Do key health measures include any information on adverse health effects based on infractions?
- Is the amount of radiation that is used for cancer treatment regulated by DSHS?

Dr. Foxhall requested that information on health outcomes, including to number of people affected by radioactive events, be provided to the Council.

Ms. Kane suggests that a fee be collected to fund these inspections.

Kathy Perkins will provide numbers on enforcement issues to the Council.

Public Comment: No public comment

- e. Amendments to rules concerning automated external defibrillators (AEDs) for public access defibrillation and emergency medical services operator and operator instructor training and certification. Kathy Perkins introduced the rule; Maxie Bishop provided the rule overview. Discussion: Council members had the following comment/question for staff response:
- How many AEDs are in place in the Texas? Can DSHS question the manufacturers of AEDs to determine how many were sold in Texas?
 - Do we have the health outcome data for AED activity? Is there a way to get information from local jurisdictions to determine how many AEDs there are and how many lives have been saved?
 - How often are AEDs inspected or evaluated?
 - Has the American Heart Association provided any stakeholder input?
 - Have stakeholders requested data on reporting requirements?

Public Comment: No public comment

- f. Amendment to a rule concerning the register of mother-friendly businesses. Evelyn Delgado introduced the rule; Julie Stagg provided the rule overview.

Discussion: No discussion or questions

Public Comment: No public comment

- g. Amendment to rules concerning the operation of the Texas Cancer Registry. Lucina Suarez introduced the rule; Melanie Williams provided the rule overview.

Discussion: No discussion or questions

Public Comment: No public comment

- h. Amendments to rules concerning the collection and release of outpatient surgical and radiological procedures at hospitals and ambulatory surgical centers. Ramdas Menon introduced the rule; Bruce Burns provided the rule overview.

Discussion: No discussion or questions

Public Comment: No public comment

Dr. Foxhall requested a presentation be made to Council about information that is available on data elements that have been collected, so that Council can better understand the nature of healthcare delivery.

4. Glenda Kane asked for General Public Comment. There was no general public comment.

Ms. Kane adjourned the meeting at 5:15 p.m. Council will reconvene at 9:00 a.m. on Thursday, February 24, 2011.



Glenda Kane, Chair
State Health Services Council

June 23, 2010

Date Approved by Council