



State Health Services Council Meeting

Department of State Health Services (DSHS)

909 West 45th Street, Austin, Texas

Building 2, Public Hearing Room 164

Minutes

April 3, 2013

9:30 a.m.

Council Members Present

Ms. Glenda Kane, Chair, Corpus Christi

Dr. Kirk Calhoun, Tyler

Dr. Louis Foxhall, Houston

Dr. Jacinto Juarez, Laredo

Rev. William Lovell, Dallas

Dr. Jeffrey Ross, Houston

Ms. Maria Teran, El Paso

Council Members Not Present

Mr. Nasruddin Rupani, Houston

Dr. David Woolweaver, Harlingen

Visitors

Stacy Wilson – Texas Hospital Association

Lynn Nolan – GOVantage

Kyle Mauro – HillCo Partners

Del Negrom – Novartis

Jessica Volkman – State Auditor's Office

Cristina J. Casillas – Emergence Health Network

Kristen Daugherty – Emergence Health Network, El Paso

Shane Scott – Methodist Healthcare Ministries

Courtney Hoffman – C.A.M.P.

Call to Order – Council Chair, Glenda Kane called the meeting to order at 9:42 a.m. Ms. Kane recognized Council members Dr. Juarez, former member who has been appointed to a new term, and Ms. Teran and Dr. Ross, current members who have been reappointed.

1. Approval of November 28 and November 29, 2012 Minutes – Council Chair, Glenda Kane, asked for a motion to approve the minutes of the November 28, 2012 work session and the November 29, 2012 Council meeting. Motion made by Rev. Lovell, seconded by Ms. Teran. Motion passed.
2. Commissioner’s Report – Commissioner David Lakey provided an update on the following items:
 - 83rd Legislative Session – Dr. Lakey has testified at the Senate Finance Committee, House Appropriations Committee, and House Public Health.
 - Rider 59 update on evaluation of regulatory programs.
 - 2012-2013 influenza update and response.
 - Health Status Indicator Web Data and Health Status Report – data webpage link available at: <http://www.dshs.state.tx.us/chs/datalist.shtm> and <http://healthindicators.dshs.texas.gov>.
 - Get Fit Texas awards ceremony (new version of Texas Round Up) – In December, Dr. Lakey challenged Texas state agencies to compete for fittest state agency:
 - 74 agencies participated; 20,637 employees participated; 12,149 employees completed the challenge.
 - DSHS placed 6th for large agencies.
 - DSHS had the most participants and the most completions of all agencies.
 - DSHS Chief Financial Officer (CFO) office was 3rd in the state for percentage of staff completing the challenge.
 - Total 10.9 million minutes of physical activity logged overall across all agencies.
 - Healthcare associated infections reporting.
 - Moreton building recladding project update – The Council meeting room will be moved to the first floor of the Moreton building to facilitate meeting attendance. Project scheduled to be completed mid-2014.

Dr. Lakey provided the following staff and program updates and recognitions:

- David Gruber, new Assistant Commissioner for Regional and Local Health Services (RLHS). Mr. Gruber previously served as Senior Assistant Commissioner in the New Jersey Department of Health and is a retired naval officer. Ms. Kane welcomed Mr. Gruber.
- Dr. Paul McGaha, who served as interim assistant commissioner for RLHS since June 2012. Dr. Lakey thanked him for his service.
- Janna Zumbrun, serving as acting assistant commissioner for Disease Control and Prevention Services (DCPS).
- State Epidemiologist – finalizing selection for position formerly held by Dr. Thomas “Tate” Erlinger.
- Brenda Slaton, new superintendent for Rusk State Hospital, and Leigh Ann Fitzpatrick, new superintendent for Kerrville State Hospital.
- Carl Schock, superintendent of Austin State Hospital; retiring April 30, having served in this capacity for the past 13 years.
- WIC Every Ounce Counts – W.K. Kellogg foundation has invited the program to present at the W.K. Kellogg Foundation First Food Grantee and Partner Forum in Atlanta.
- Ken Jost, national expert in tuberculosis, honored at National Tuberculosis Controller’s Association Annual Meeting; received the Ed Desmond Award for Outstanding Laboratorian.
- Sam Cooper, Director of the Office of Title V and Family Health, Family and Community Health Services Division, chosen as the American Association of Maternal and Child Health Program president elect to serve a two-year term from 2013 to 2015.

- Mike Maples, Assistant Commissioner for Mental Health and Substance Abuse Division, recognized for 20 years of state service.
- Dr. Aileen Kishi, Director of Office of Academic Linkages, recognized for 30 years of state service.

Council members had the following comments and questions:

- Dr. Foxhall commended the agency on participation in the Get Fit Challenge.
- Dr. Juarez commented that the demographics of the state have changed dramatically; DSHS website should have translation engine to translate pages to Spanish.
- Ms. Kane thanked Dr. Lakey for leadership and direction.
- Ms. Kane acknowledged Ms. Barron for her contributions to the Council.

3. DSHS Appropriations and 83rd Legislative Session Update – Dr. Lakey, Bill Wheeler, and Ricky Garcia provided updates on the 83rd Legislative Session. Many of the successes that DSHS is seeing this session are due to initial work done for transparency of the budget. The session ends May 27. Dr. Lakey, Mr. Wheeler, and Mr. Garcia will provide an update on all bills that pass during the June meeting.

Council members had the following comments and questions:

- At the June meeting, the Council will have a discussion about diabetes and obesity. Each Council member was asked to write down the questions that they want to be addressed.
- Dr. Foxhall asked that tobacco be added to the agenda.
- Council members were asked to address technical questions that they would like discussed to Ricky Garcia.
- Dr. Calhoun asked if the money in Strategy B.3.4, county indigent program (allocated at \$4.3 million), is available once a county meets its cap and if these funds being totally utilized. Lisa Hernandez explained that how the monies and services are used is stipulated by statute.
- Ms. Kane acknowledged collaboration with Judge Specia, Department of Family and Protective Services Commissioner. She is concerned that some residential treatment facilities for older adolescents are closing. Although DSHS has received additional funding, children’s mental health has fallen through the cracks. Prevention at an early age is critical. Ms. Kane suggested that consideration be given to prevention activities beginning by the age of two.
- Dr. Juarez expressed concern that people who are just slightly above the federal poverty level guidelines are caught in the middle of not receiving services.
- Dr. Ross commented that mental illness should be looked at the same as other illnesses of the body and pointed out the connection between mental and physical health.
- Dr. Ross asked if Council members will be getting alerts on bills that DSHS is tracking. Ricky Garcia said that the Council members will receive a weekly list providing the status of significant bills.
- Dr. Ross and Lisa Hernandez clarified that Council members can testify before legislative committees if they make it clear that they are speaking as a private citizen.

4. Briefing on Contracts Improvement Initiative – Bill Wheeler, CFO, provided an update on the quality improvement initiative on contracts. The full presentation is available at: <http://www.dshs.state.tx.us/council/agenda.shtm>

Council members had the following comments and questions:

- Ms. Teran – What efficiencies will this initiative provide? Did DSHS lose jobs, or are will DSHS be adding jobs? Answer: Eventually this will eliminate the need for 10 positions in CFO office, which will mostly be done through attrition.
- Ms. Kane – What effort was made to get in touch with the vendors and customers who use this system to determine needs and efficiencies? Answer: Stakeholders were involved in the process.

Ms. Kane thanked Mr. Wheeler for leadership on this program.

5. Recommend that HHSC proceed with the rulemaking process for the following rule actions:
Lisa Hernandez introduced these two rules concerning Preadmission Screening and Resident Review (PASRR). She explained the difference in the process of these rules from other rules coming before the Council. These rules have already been published in the *Texas Register* for public comment in order to meet the timeline for adoption as required by federal guidelines.
 - a. Repeal of rules and an amendment to a rule concerning Preadmission Screening and Resident Review (PASRR) for state mental health facilities and local mental health authorities – Perry Young provided the rule overview.

The Council members had the following comments and questions:

- Dr. Foxhall – Which agency has the federal rules? Will the rules allow us to identify in the future if nursing facilities go out of compliance? Is there an internal process or do we have a way to monitor federal guidelines? Response: The rules from the Centers for Medicare and Medicaid Services and rules affect anyone going into a Medicaid-funded facility.

Motion to recommend that HHSC proceed with the rulemaking process for item 5a made by Dr. Juarez, seconded by Dr. Calhoun. Motion passed.

- b. Amendments to rules concerning PASRR for general hospitals, special hospitals, private psychiatric hospitals, and crisis stabilization units and colored alert wrist bands to identify patient risks in hospitals. Ellen Cooper provided the rule overview.

The Council members had the following comments and questions:

- Ms. Teran – Are there issues with labeling or identifying patients with the colored wrist bands?
- Dr. Ross – Why do diabetic patients not have a certain color band? Typically diabetes is designated with a red band.
- Dr. Ross – Are there concerns with HIPPA violations of patients given certain color bands to identify particular health problems? These may be visible when transporting patients in the hospital.
- Dr. Calhoun – Participated in Texas Hospital Association (THA) executive committee discussion regarding patient privacy. Feeling was that patient safety risks outweigh the potential invasion of privacy. Standardizing the colors allows health professionals working at multiple hospitals to immediately recognize patient risks.
- Dr. Foxhall – What evidence do we have that the use of colored wrist bands is effective? Do we have evidence that they reduce the risk of unintended consequences to patients?
- Dr. Foxhall – Is the issue of color blindness being looked at as a factor?
- Dr. Juarez – How are non-English speakers being taken into consideration? How are cultural competencies being addressed?

Public Comment provided by Stacy Wilson with THA, regarding the timeline for the assessment by the local mental health authority. Dr. Calhoun asked for clarification on the 48-hour rule suggestion made by THA.

Motion to recommend that HHSC proceed with the rulemaking process identified in rule 5b made by Rev. Lovell, seconded by Dr. Juarez. Motion passed.

The Council took a lunch break from 12:15 p.m. to 1:17 p.m.

Dr. Lakey asked to add comments to his earlier report regarding the death of Kaufman County District Attorney McClelland and his wife Cynthia. Cynthia was a DSHS employee at Terrell State Hospital. A moment of silence was observed.

6. Recommend to HHSC proposal of the following rule actions for public comment:
 - a. Amendment to a rule concerning the reimbursement methodology for Children and Pregnant Women Case Management. Yvonne Moorad introduced the rule and provided the rule overview.

The Council members had no comments or questions. No public comment.

Motion to recommend HHSC proposal of rule 6.a. for public comment made by Rev. Lovell, seconded by Dr. Juarez. Motion passed.

- b. Amendments to rules concerning the Texas HIV State Pharmacy Assistance Program and the Texas HIV Medication Program. Janna Zumbrun introduced the rule and Dwayne Haught provided the rule overview.

The Council members had no comments or questions. No public comment.

Motion to recommend HHSC proposal of rule 6.b. for public comment made by Dr. Juarez, seconded by Rev. Lovell. Motion passed.

- c. Amendments to rules concerning fee schedules for clinical testing, newborn screening, and chemical analysis. Janna Zumbrun introduced the rule and Grace Kubin provided the rule overview.

The Council members had the following comments and questions:

- Dr. Calhoun – Explain the 566% increase in fees for pertussis. Do we have any sense as to whether there will be a negative impact as a result of this test fee increase?
- Ms. Teran – Since the incidence of pertussis has increased, does this impact the volume of testing?
- Dr. Ross – Would it be possible to split the difference between the pertussis fee increase versus other fee decreases?

No public comment.

Motion to recommend HHSC proposal of rule 6.c. for public comment made by Dr. Foxhall, seconded by Ms. Teran. Motion passed.

- d. Amendments to rules, new rules, and repeal of rules concerning the Newborn Screening Program Evelyn Delgado introduced the rule, and Jann Melton-Kissel provided the rule overview.

The Council members had the following comments and questions:

- Ms. Teran – What is the percentage of screenings done on babies? Program will provide this information to Ms. Teran and the other council members.
- Rev. Lovell – Will the recommendations now make reference to a website? Who puts the list together and who determines what goes on the website? Will the website be adjusted as the national standards are changed? Is the statutory authority state or federal?
- Dr. Foxhall – Explain the prohibition on physician delegation. Will rules concerning how physicians practice medicine and delegation authority be adjusted accordingly as statute changes?
- Ms. Kane – Requested that DSHS look at rules concerning Medicaid fraud.

Motion to recommend HHSC proposal of rule 6.d. for public comment made by Dr. Juarez, seconded by Dr. Ross. Motion passed.

- e. Amendments to rules concerning physician visa waivers. Evelyn Delgado introduced the rule, and David Auzenne provided the rule overview.

The Council members had no comments or questions. No public comment.

Motion to recommend HHSC proposal of rule 6.e. for public comment made by Rev. Lovell, seconded by Ms. Teran. Motion passed.

- f. Repeal of a rule and a new rule concerning registration of radiation machine use and services. Kathy Perkins introduced the rule, and Barbara Taylor provided the rule overview.

The Council members had no comments or questions. No public comment.

Motion to recommend HHSC proposal of rule 6.f. for public comment made by Dr. Ross, seconded by Dr. Calhoun. Motion passed.

- g. Amendments to rules concerning the regulation of Texas youth camps. Kathy Perkins introduced the rule, and Mike Minoia provided the rule overview.

The Council members had the following comments and questions:

- Dr. Juarez – Do the rules also consider bullying in youth camps to make sure it is not happening?
- Dr. Ross – Explained that he serves on a board for a youth camp that just passed a resolution banning cell phone use on campuses. He will share information with the program and Youth Camp Advisory Committee.
- Dr. Foxhall – Under current rules, is it up to the individual camp management to make a determination if a convicted offender can be allowed on the property as part of the program?
- Dr. Foxhall – Expressed concern with Section 2, which allows registered sex offender to be allowed on the premises if approved by two members of management. This may be putting a child at risk.

- Rev. Lovell – Is aware of programs that allow persons with criminal history on the premises. They are extremely careful.
- Dr. Ross – Are the qualifications for the waterfront director addressed in the rules?

No public comment.

Council members recommended that the rule language be amended to require the presence of two adults to supervise a registered sex offender that has been approved for supervised contact with campers on the camp grounds.

Dr. Ross recused himself on vote. Motion to recommend HHSC proposal of rule 6.g. for public comment made by Dr. Juarez as amended, seconded by Rev. Lovell. Dr. Foxhall opposed. Motion passed.

7. Rules planned for action at a future Council meeting:

- a. Repeal of rules and new rules concerning mental health rehabilitative services. Mike Maples introduced the rule. Perry Young provided the rule overview

The Council members had the following comments and questions:

- Ms. Kane – Requested a stakeholder meeting prior to next Council meeting to discuss these and other mental health rules.
- Ms. Kane – Concern of high recidivism rate due to constraints on time.
- Dr. Ross – Has there been any input from psychiatric society or medical society regarding nurse practitioners? Will nurse practitioners and physician assistants have certification in mental and behavioral health?
- Dr. Foxhall – Suggested caution about any language that addresses the scope of practice and referrals. Avoid language that would muddy the waters on scope of practice.
- Dr. Juarez – Will bachelor's degrees from other countries (Mexico), accreditation, or experience be accepted?
- Dr. Foxhall – Consider minimum credentialing for the family partners similar to what DSHS has in place for community health workers.

No public comment.

- b. Repeal of rules and new rules concerning provider network development. Mike Maples introduced Lauren Lacefield Lewis who explained the rule and provided the rule overview.

The Council members had the following comments and questions:

- Ms. Kane – Requests that a stakeholder meeting be held in conjunction with the next Council meeting around these issues and what the potential new world of mental health looks like from everyone's perspective. Changes in the legislative session may impact changes related to mental health, dollars, carve-in, pay for performance. Impact may not be known if stakeholder meeting is held too early, or if these rules are brought to Council in June. Ms. Kane asked that rules not be presented on June 12, instead have a stakeholder meeting on June 11 or June 13 to fully discuss and have all information available.

8. General Public Comment – Council Chair, Glenda Kane asked for general public comment. There was no general public comment.

Ms. Kane summarized that a presentation on diabetes has been requested at next meeting. Dr. Lakey suggested that stakeholders be advised of the agenda item for the work session, rather than a separate stakeholder meeting on diabetes.

Council Chair, Glenda Kane asked for a motion to adjourn. Motion made by Dr. Juarez, seconded by Rev. Lovell. Motion passed. Meeting adjourned at 2:55 p.m. The next State Health Services Council meeting is scheduled for June 10 and 11, 2013.



Glenda Kane, Council Chair

June 13, 2013

Date