



TEXAS HEALTH AND HUMAN SERVICES COMMISSION

KYLE L. JANEK, M.D.
EXECUTIVE COMMISSIONER

June 6, 2014

Mr. Ken Levine
Director
Sunset Advisory Commission
1501 North Congress, 6th Floor
Austin, TX 78701

Dear Mr. Levine:

We would like to take this opportunity to thank you and your staff for the detailed and constructive review of the functions and operations of the Department of State Health Services (DSHS). We appreciate the diligence and professionalism of staff as they conducted a thorough review of key areas of the agency.

Attached you will find our response to the Sunset Staff Report for DSHS. The report captures the challenges we face as a complex agency providing oversight and implementation for public health and behavioral health services in Texas. We understand and support the intent and direction of the recommendations laid out in the report, and are ready to work with the Sunset Commission and the Texas Legislature in making the changes indicated.

We look forward to discussing these recommendations with the Sunset Commission during the hearing later this month, and working with you during the continued review of the health and human services system.

Sincerely,

Handwritten signature of Kyle L. Janek in black ink.

Kyle L. Janek, M.D.
Executive Commissioner, HHSC

Handwritten signature of David L. Lakey in black ink.

David L. Lakey, M.D.
Commissioner, DSHS

Department of State Health Services

Response to Issue 1

Resolving the Current Crisis in the State Mental Health Hospital System Requires Action, Starting Now.

Change in Statute

1.1 Require DSHS to work with the Court of Criminal Appeals to develop training to inform the judiciary about alternatives to inpatient mental health treatment.

DSHS supports this recommendation. Increasing judges' awareness and confidence in using alternate treatment settings will increase their use for forensic patients and reduce the demand on the state hospital system.

Management Action

1.2 Direct DSHS to develop a guide for alternatives to inpatient mental health treatment in the state mental health hospital system.

DSHS supports this recommendation. Over the past six years, DSHS has focused on crisis mental health services and alternatives to inpatient treatment. The agency will continue to collaborate with local mental health authorities, consumers and their families, and other providers on the delivery of these important services to Texans, and specifically to develop and maintain this guide.

1.3 Direct DSHS and HHSC to immediately review and streamline hiring processes and improve other personnel actions needed to ensure state mental health hospitals are appropriately staffed.

DSHS supports this recommendation and recognizes that processes relating to hiring can be improved. Although the complex nature of the state hospital system necessitates, at times, additional review of job candidates, the Health and Human Services Commission (HHSC) and DSHS will work to review these issues immediately.

1.4 Direct DSHS to continue expanding state mental health hospital system capacity for both forensic and civil patients by contracting with mental health providers in local communities whenever possible.

DSHS supports this recommendation as it is consistent with the agency's ongoing practice of utilizing community and academic facilities to augment the state hospital system.

DSHS Has Struggled to Deliver Integrated, Outcomes-Focused Community Mental Health and Substance Abuse Services.

Change in Statute

2.1 Require DSHS to integrate mental health and substance abuse hotline, screening, assessment, and referral functions.

DSHS supports the recommendation to integrate mental health and substance abuse hotline, screening, and assessment functions. A single toll-free hotline for behavioral health should make it easier for the public to access services and ensure a comprehensive assessment of behavioral health needs.

2.2 Require DSHS to focus funding equity efforts for local mental health authorities on targeted capacity needs rather than narrow per capita funding.

DSHS agrees that the targeted capacity approach will help to better focus the system on mental health needs in communities across the state.

Management Action

2.3 Direct DSHS to evaluate and improve its behavioral health performance measurement and contracting processes.

DSHS supports this directive and already includes incentives for achieving targets in performance contracts. DSHS will continue to work in coordination with HHSC on improvements to the contracting process, and will implement an ongoing reporting process to keep the Commissioner apprised of the status of contract execution across the department.

Change in Statute

2.4 Require DSHS to overhaul regulations for community-based behavioral health treatment facilities, including creating new license types if necessary.

DSHS supports this recommendation and will work together with stakeholders to identify needed changes to existing standards and identify new license types needed to implement best practices in service delivery.

2.5 Remove two DSHS advisory committees from statute.

DSHS supports this recommendation.

Management Action

- 2.6 Direct DSHS and HHSC to establish the Council for Advising and Planning for the Prevention and Treatment of Mental and Substance Use Disorders in rule.**

DSHS supports establishing this council in rule.

The Unmanageable Scope of DSHS' Regulatory Functions Reduces Needed Focus on Protecting Public Health.

Change in Statute

3.1 Discontinue 19 regulatory programs currently housed at DSHS.

DSHS believes that narrowing the scope of programs will better focus the agency in its efforts to protect public health and safety.

3.2 Transfer 12 regulatory programs from DSHS to the Texas Department of Licensing and Regulation, and reconstitute associated independent boards as advisory committees.

DSHS is prepared to coordinate with the Texas Department of Licensing and Regulation to ensure a seamless transition of the programs.

DSHS Needs Additional Tools to Better Combat Fraud in the EMS Industry.

Change in Statute

4.1 Require an EMS provider to have a physical location for its business establishment to obtain a license.

DSHS supports the recommendation to require an EMS provider to have a physical location for its business establishment to obtain a license. This requirement will assist regulators and law enforcement in monitoring and investigating fraudulent and unlawful activity.

4.2 Require EMS providers to provide proof of ownership or a long-term lease agreement for all equipment necessary for safe operation of an EMS company.

DSHS supports the recommendation and believes it will ensure providers have the equipment needed to administer medically necessary services and help prevent fraudulent activity.

4.3 Authorize DSHS to require jurisprudence examinations for all EMS licensees.

DSHS supports the recommendation as it will ensure providers and personnel are aware of legal requirements relating to their license.

4.4 Clearly authorize DSHS to take disciplinary action against EMS providers or personnel based on findings by a governmental entity with delegated authority to conduct inspections.

DSHS supports the recommendation to authorize the agency to take disciplinary action against EMS providers or personnel based upon findings by a governmental entity with delegated authority. This requirement will increase the efficient use of limited resources.

4.5 Require DSHS to develop a formal process to refer nonjurisdictional complaints relating to EMS to the appropriate organizations.

DSHS supports the recommendation to develop a process to refer nonjurisdictional complaints relating to EMS to the appropriate organization. DSHS currently tracks nonjurisdictional complaints and refers them to other organizations when appropriate.

4.6 Require DSHS to collect, maintain, and make publicly available detailed statistical information on complaints regarding EMS licensees.

DSHS supports the recommendations to collect, maintain, and make publicly available detailed statistical information on complaints regarding EMS licensees. DSHS currently

collects and maintains the statistical information discussed in this recommendation, but does not report the data to the public.

DSHS Has Not Provided the Leadership Needed to Best Manage the State's Public Health System.

Change in Statute

- 5.1 Require DSHS to develop a comprehensive inventory of the current roles, responsibilities, and capacity of DSHS central office, DSHS Health Service Regions, and local health departments.**

DSHS supports this recommendation. During the past six months, DSHS initiated a strategic planning process for public health that will help to complete the inventory envisioned in the recommendation. As part of this initiative, DSHS will identify gaps and work with local governments to prioritize service delivery. DSHS will continue its work with the Public Health Funding and Policy Committee and local health departments in undertaking this task.

- 5.2 Require DSHS to establish clear goals for the state's public health system and to develop an action plan with regional strategies and milestones to meet these goals.**

DSHS supports this recommendation. The strategic planning process as described in 5.1 will help build goals for the system and identify the actions necessary to achieve them. DSHS will work collaboratively with stakeholders to establish statewide priorities for improving the public health delivery system, including milestones, outcome measures, and needed resources.

Management Action

- 5.3 Direct DSHS to develop a system to categorize different types of local health departments based on the services they provide.**

DSHS supports the recommendation to develop a system that categorizes health departments based on the services they provide. DSHS will seek input from the Public Health Funding and Policy Committee, local health departments, and other stakeholders to help develop a categorization system that provides meaningful information about local health departments and the overall public health system.

DSHS Has Not Taken Needed Steps to Strengthen the Security of Vital Records.

Change in Statute

6.1 Require all local registrars to submit a self-assessment report to DSHS annually.

DSHS supports the recommendation to require all local registrars to submit a self-assessment report to DSHS annually. Having the self-assessments will allow DSHS to conduct desk audits and better assess risk and determine the need for onsite monitoring visits.

Management Action

6.2 DSHS should develop a formal desk audit policy and increase the use of desk audits in monitoring local registrars' offices.

DSHS supports the use of desk audits as an additional tool in monitoring local registrars' offices. Performing these audits will increase the efficiency of the monitoring process, enabling DSHS to monitor local registrars' offices more frequently.

Change in Statute

6.3 Require identity verification through notarization for all mail-in vital records orders.

DSHS can use this requirement as a method of decreasing fraud.

6.4 Expand DSHS' authority to require fingerprint-based criminal history background checks for anyone with access to the state's electronic registration system.

DSHS supports the recommendation and is prepared to work with local registrars, the Department of Public Safety, and licensing agencies to develop policy and procedures to implement this recommendation.

Management Action

6.5 DSHS should prioritize and regularly report on its progress implementing the Texas Electronic Vital Events Registrar system.

DSHS supports the recommendation and will make quarterly progress reports to HHSC and the State Health Services Council.

The State Has a Continuing Need for the Texas Health Care Information Collection Program.

Change in Statute

- 7.1 Continue the health care information collection program, but evaluate how its functions fit within the broader health and human services system as part of the later Sunset review.**

DSHS agrees that there is a continued need for data collection to support research and provide information for policy development to promote quality health care.

Management Action

- 7.2 Direct DSHS to continue its efforts to improve the display and interpretation of healthcare data for consumers.**

DSHS supports the recommendation and is committed to improving the timeliness, usefulness, accuracy, and clarity of data for consumers and policymakers.

Response to Issue 8

DSHS' Numerous Advisory Committees Lack Strategic Purpose, Limiting Their Effectiveness and Wasting Resources.

Change in Statute

8.1 Remove eight of DSHS' advisory committees from statute and direct DSHS to reestablish active committee functions in rule as needed.

DSHS accepts the recommendation and agrees it will give the agency flexibility to meet the evolving needs of stakeholder input.

Management Action

8.2 Direct DSHS to review and revise its internal advisory committee policies and to regularly evaluate all of its advisory groups.

DSHS supports the recommendation and believes it will ensure key agency functions have effective avenues for stakeholder input, while improving the efficiency of such efforts.

Response to Issue 9

The State Should Continue Protecting Public Health and Providing Basic Health Services, but Decisions on DSHS' Structure Await Further Review.

Recommendation

- 9.1 Postpone the decision on continuation of DSHS' functions and structure until the completion of the Sunset review of the health and human services system.**

DSHS agrees that agency functions are vital to ensuring a healthy Texas.

New Issue

In addition to the recommendations offered by Sunset staff, DSHS would like to suggest consolidating statutory references related to accepting gifts, grants, and donations.

More than 60 chapters in the Health and Safety Code reference the agency's authority to accept gifts, grants, and donations. Beyond the numerous occurrences, these statutory references are inconsistent giving some program areas direct authority and the agency authority elsewhere. Other health and human service agencies' statutes give broad authority to the agency for this purpose. As such, DSHS would like to streamline these references, retaining program-specific language when necessary.