



## State Health Services Council Meeting

Department of State Health Services (DSHS)  
Robert E. Moreton Building, Public Hearing Room  
1100 W. 49<sup>th</sup> Street, Austin, Texas

November 19, 2015

9:00 a.m.

### Minutes

#### Council members attending:

Jacinto Juarez, Ph.D., Laredo – Chair  
Rev. William Lovell, Dallas – Vice Chair  
Dr. Kirk Calhoun, Tyler  
Carmen Pagan, McAllen  
Nancy Townes, Granbury  
Dr. Jeffrey Ross, Houston (arrived at 9:10 a.m.)  
Dr. David Woolweaver, Harlingen (arrived at 9:10 a.m.)

#### Council members not attending:

Dr. Lewis Foxhall, Houston  
Jay Zeidman, Houston

#### Visitors:

Tom Valentine – TxINSIGHT.com  
John Seago – Texas Right to Life  
Wendy R. Wilson  
Cindy Zolnierek – Texas Nurses Association  
Brittani Bilse – Brittani Bilse Consulting  
Ben Utley – HillCo Partners  
Kaitlyn Matley – Texas Council of Community Centers  
Taylor Calvin – MGA  
Mike Diehl – Legislative Budget Board  
Meghan Weller – Hospital Corporation of America, Texas

Call to Order, Council Chair, Dr. Jacinto Juarez called the meeting to order at 9:01 a.m.

1. Approval of September 9 and 10, 2015 Minutes – Dr. Juarez asked for a motion to approve the minutes from September 9 and 10, 2015. Motion made by Rev. Lovell, seconded by Ms. Townes. Motion approved.
2. Commissioner's Report – Interim Commissioner Cole provided an update regarding:
  - Implementation of Sunset Advisory Commission recommendations and related legislation

- Work has begun on transitioning regulatory programs to the Texas Department of Licensing and Regulation (TDLR) and Texas Medical Board (TMB).
- TMB began accepting complaints on September 1, 2015 and new licenses on October 7, 2015.
- Final transition of licenses will be to TMB by December 31, 2015.
- Discussions are ongoing to transfer seven initial programs to TDLR by August 2016.
- Functional analysis and health and human services (HHS) system restructuring
  - Areas have completed a functional analysis of programs and interdependencies.
  - Thirteen workgroups are looking at the core functions of the HHS system.
  - Initial recommendations due by mid-December.
  - Public input will begin in December.
  - All of the members have been appointed to the Legislative Oversight Committee and the first meeting is January 26, 2016.
  - In March 2016, there will be a final plan produced and submitted to the Legislative Oversight Committee.
- Interim Charges
  - Senate Health and Human Services will study Inpatient State Mental Health System Reform, Mental Health Diversion and Capacity, Healthy Aging, and Fetal Tissue issues.
  - Senate Committee on Finance will study Coordinating Behavioral Health Services and Expenditures.
  - Senate Committee on Intergovernmental Relations will study Disaster Preparedness Planning and Coordination.
  - Senate Criminal Justice will study Pretrial Diversion and Treatment Programs.
  - House Committee on Public Health will study Chronic Diseases in Texas, Major Regional Chronic Health Challenges, Improving Birth Outcomes, and Assessing the State's Preparedness for Public Health Threats.
  - House Committee on Public Health and House Committee on Appropriations will study the Trauma System.
  - House Homeland Security and Public Safety and House Land Management will study Natural Disaster Preparedness.
  - House Appropriations will study Deferred Maintenance of State Buildings.
  - The Speaker established a House Select Committee on Mental Health to review the behavioral health system and study veterans' care and homelessness in Texas.
- NorthStar transition
  - Beginning January 1, 2017, mental health and substance abuse services will transition from NorthStar to the North Texas Behavioral Health Authority and the local mental health authority serving Collin County.
- Austin State Hospital (ASH)
  - Centers for Medicare and Medicaid Services (CMS) visited ASH in August and the hospital was found to be in non-compliance with one Medicare Condition of Participation related to nursing services.
  - Nursing staffing levels were found to be insufficient and hospital nursing management failed to follow and adequately assess the nurse staffing plan.
  - In September 2015, DSHS received an additional deficiency regarding patients' rights, with additional nursing issues.
  - Following ASH's submittal of plan of correction, CMS conducted an onsite survey October 5, 2015. DSHS subsequently received official notice from CMS that ASH's deemed status had been restored.

- House Bill 2 – The Supreme Court will hear an appeal in 2016 regarding some provisions related to abortion regulations.
- Blue Bell – The company is initiating actions to reopen the Brenham plant.
- Contracts for community and private psychiatric beds
  - 2016–17 General Appropriations Act (GAA) included an additional \$50 million to contract for community and private psychiatric hospital beds.
  - For fiscal year 2016, there is approximately \$18 million available for inpatient beds.
  - Based on the selection process, DSHS anticipates that 13 local mental health authorities and local behavioral health authorities will be awarded funds to support the purchase 95 beds around the state.
- Crisis Funding – GAA included \$31.7 million in funding to expand and enhance crisis services.
- Executive Commissioner visits – The Commissioner accompanied the HHSC Executive Commissioner on visits to the El Paso Psychiatric Center and regional office and Rusk and Terrell State Hospitals.
- Rider 86
  - This Rider requires DSHS to evaluate the benefits of university health-related institutions operating state hospitals and to consider the benefits of other university partnerships.
  - It permits DSHS to use up to \$12 million in surplus funds to prepare to replace Rusk.
  - At this time, DSHS does not anticipate that there will be surplus funds to put toward planning work at Rusk.
  - DSHS is working with the University of Texas School of Architecture on planning that can begin with existing resources.
  - These plans can be replicated in other state hospitals.
- SB 200 – This bill requires DSHS to study to the feasibility and cost of transferring ASH to another location. The report is due September 2016.
- Influenza
  - Flu season started October 4, 2015, and continues through May.
  - Currently flu activity in Texas is low.
  - There is no vaccine shortage.
- Staff and program recognitions:
  - The Birth Defects Epidemiology and Surveillance Branch received a state leadership award from the National Birth Defects Prevention Network (NBDPN).
  - Dr. Mark Canfield received the Godfrey P. Oakley Jr. Award for lifetime contribution to the field of birth defects.
  - Dr. Peter Langlois received the NBDPN President’s Award.
  - Susan Perez and Velma Garza were elected to the Texas Tumor Registrars Association.
  - Two media campaigns of the Heath Promotion and Chronic Disease Section received the 2015 Awards for Excellence in Public Health by the National Public Health Information Council.
  - Barry Sharp was elected Chair of the Tobacco Control Network.
  - The Lab received an Award of Excellence in Public Health Response from the Centers for Disease Control and Prevention (CDC) for its response to last year’s Ebola outbreak.
  - Frannie Nutol and Karen McDonald, in Health Service Region (HSR) 1, were selected as Employees of the Year by the Texans Caring for Texans organization.
  - Elvia Ledesma, in HSR 8, received the Texas Equity Award Equity in Health at the 2015 Texas HHS Cross Systems Summit.

- Emergency Preparedness and Response staff received federal recognition from the Office of the Assistant Secretary of Preparedness and Response on the Texas Preparedness Strategy for High Consequence Infectious Disease: Ebola and Other Pathogens.
- Lisette Osborne was elected Chair of the Nursing Section of the Texas Public Health Association and is also a member of the American Red Cross National Nursing Committee.
- Evelyn Delgado was appointed by the March of Dimes to the National Network of Perinatal Quality Collaboratives.
- Dr. Hellerstedt will start as the new Commissioner of the Department of State Health Services. January 1, 2016.

Council members had the following questions and comments:

- Dr. Ross thanked Kirk Cole for his leadership as Interim Commissioner. Other Council members also expressed their appreciation.
- Dr. Ross thanked DSHS and the Legislature for initiatives in mental health and smoking cessation.
- Dr. Ross said he was beginning a partnership with Baylor College of Medicine on obesity issues. He expressed concern with the increased diabetic and obese population and said he would like to work with the agency on how to address this challenge. Kirk Cole indicated that there would likely be opportunities with the legislative interim charges.

3. Ebola: One Year Update – Assistant Commissioner David Gruber provided an update on Ebola. The report can be found at: <http://www.dshs.state.tx.us/council/agenda.shtm>.

Council members had the following questions and comments:

- Dr. Woolweaver asked if DSHS had done anything to encourage waste disposal entities to prepare for these type of issues.  
Response: Staff have not spoken directly to waste disposal organizations. The end user component was the issue. The lesson learned is to incinerate waste on site if possible.
- Dr. Calhoun said that his experience at the University of Texas Health Science Center at Tyler was that the rhetoric did not match images that they were seeing. It is important that the training communicates the correct procedures and information.
- Dr. Calhoun commented that there is a very different style of medicine in America than in West Africa. The designated centers will be of great benefit.
- Dr. Calhoun pointed out the complexity with the role of hospitals in an outbreak. Additional clarity is needed to what is required for screening, not only in emergency rooms, but in clinics, x-ray, physical therapy, etc. Need to figure out what is reasonable and what is not.
- Ms. Pagan asked if the CDC has rectified some of the shortfalls with communication. Commissioner Cole explained that the circumstances drove some of the challenges; there were issues on timing, much of which was circumstantial. DSHS has a good working relationship with CDC; they provide support and funding for what we do.
- Rev. Lovell said this was a traumatic time for Dallas community. The experience showed him that we cannot outrun social media and that it is important to be transparent. The State was very transparent. It is important to say what we know and only what we know and not to speculate. The faith-based community is a great resource; it is important to include the faith-based community in response teams and pull them in earlier and on an ongoing basis in planning.
- Ms. Townes asked about ensuring the messaging comes from medical personnel and unnecessary risks are not taken such as with the Dallas County judge going into the home of the Ebola patient. Mr. Gruber explained that in these type of situations, the county judge oversees the emergency response and that much has been learned by all involved from this experience.

- Dr. Juarez asked how to protect the people who are doing their job from lawsuits. Mr. Gruber and Lisa Hernandez, DSHS General Counsel, explained that there are certain immunities available. This does not prevent lawsuits being filed, but the law does provide certain protections.
  - Mike Maples explained that the planning that is underway started because of the Ebola cases, but the efforts are applicable to a much broader strategy dealing with infectious disease. The core public health strategies proved to be effective and now we are focused on how we expand on that.
4. Consent Agenda – Recommend to the Health and Human Services Commission the proposal of the following rule actions for public comment:
- 4.a. Amendments to rules concerning the communicable disease exposure and testing of emergency response employees or volunteers
  - 4.c. Amendments to rules concerning the Hemophilia Assistance Program

Motion to approve the proposal of these rules to move forward to the Health and Human Services Commission (HHSC) for public comment made by Dr. Woolweaver, seconded by Ms. Pagan. Motion approved.

Item 4.b., Amendments to rules concerning immunization requirements in Texas elementary and secondary schools and institutions of higher education immunization requirements, was removed from the Consent Agenda so that a question from Dr. Calhoun could be addressed.

Dr. Calhoun had a question about exclusions from compliance with vaccine requirements and school attendance. He pointed out that there are two exemptions listed in the rule: one for students with a physician’s note, and one for conscientious objections. If there is an epidemic or outbreak, those with a conscientious objection may be excluded from school; however, if they have a physician’s note, they are not excluded from attendance. From a medical point of view, they should not be coming to school as they present the same risk.

Imelda Garcia explained that the language has been in current rules taken from Texas Education Code, Chapter 38.001. DSHS will work with legal staff to determine if language can be added to address medical reasons. Authority has not been invoked by the Commissioner, but is within his authority.

There was no public comment.

Motion to approve the proposal of these rules to move forward to HHSC for public comment made by Dr. Calhoun, seconded by Dr. Ross. Motion approved.

Item 4.d., Amendment to a rule concerning the Breast and Cervical Cancer Services Program, was also moved from the Consent Agenda to address public comments made during the work session.

Lisa Hernandez explained that Texas Right to Life requested an amendment to the rule concerning the type of provider that can apply for funding. Rider 72 sets out two different providers that can apply for funding: providers eligible to participate in the Texas Women’s Health Program (TWHP) and providers otherwise eligible to participate in TWHP, but do not have the required TWHP service package. The program clarified that they did intend to include both types of providers; however, DSHS agrees that the rule language did not include the second type of provider. DSHS has amended the proposed rule to include the second type of provider and that amended language was provided to the Council members. The amendment inserts the following sentence in Section 61.33 (a) “Providers

that are eligible to apply also include providers that do not provide the required TWHP service package but are otherwise eligible to participate in the TWHP.”

Dr. Lovell asked if the TWHP is fully supportive of this language. Lesley French, Associate Commissioner, HHSC Women’s Health Services, responded that the the language does clarify the intent of the rider. It is the program’s intent to have these providers included.

There was no public comment.

Motion to approve the proposal of these rules to move forward to HHSC for public comment with the amendment made by Rev. Lovell, seconded by Dr. Woolweaver. Motion approved.

- 5. General Public Comment – Dr. Juarez asked for general public comment. There was no public comment provided.

Council members had the following closing comments:

- Rev. Lovell suggested that at the February meeting there be something to recognize that the end of Council is drawing near. He suggested a picture of the Council.
- Dr. Ross pointed out that the Council members have asked pertinent and tough questions over the years and that they have served as the eyes and ears of Texans. Not having such an entity in future will be a loss. He expressed a willingness to be available to provide comments and suggestions as needed.

Adjourn – Dr. Juarez asked for a motion to adjourn. Motion made by Ms. Pagan, seconded by Rev. Lovell. Motion approved. Meeting adjourned at 10:46 a.m. Next council work session and meeting scheduled for February 24 and 25, 2016.

Approved by:



February 25, 2016

---

Jacinto Juarez, Ph.D.  
Council Chair

---

Date