



Texas Association for
Home Care & Hospice
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Texas Association for Home Care and Hospice

Sunset Commission Hearing Texas Health and Human Services Commission Report

November 13, 2014

Thank you for the opportunity to present testimony on the Texas Health and Human Services Commission (HHSC) Sunset Report. TAHC&H represents over 1,400 licensed home and community services supports agencies (HCSSAs) that provide post-acute care and long term services and supports (LTSS) to Texans of all ages.

Overall we were extremely impressed with the HHSC Sunset report. The findings address some longstanding concerns of the Association and we support the many of the recommendations that complete the vision of HB2292 passed in 2003. Our more detailed comments and positions on each of the recommendations are listed in the attached.

We agree that major structural and operational changes are needed to ensure successful delivery of Medicaid services in Texas. This is especially true as we complete the transition of home and community based services (HCBS) from fee-for-service into a managed care model. As that transition happens it will be critical for HHSC to have the right organizational model, management tools and infrastructure to protect our most vulnerable citizens and ensure they get the care they need.

Points of Agreement (Support)

Because of this we **support** the vast majority of the transformations contemplated in the report. In particular, **Issue #3** speaks to the infrastructure and management changes necessary to ensure a streamlined system. We agree certain infrastructure and management changes are necessary.

An example of needed changes, not explicitly mentioned in the report, is the need to streamline and consolidate the delivery of home and community based services. As the state moves more individuals into Medicaid managed care, we view this as an opportunity to dissolve the inefficient and costly diagnosis and program / waiver based “silos” and provide services based on a person-centered care model. Likewise, the state would no longer regulate providers based on the programs or waivers they are in but instead regulate all HCBS providers equally based on the services they deliver.

In Issue #3 the report points out that there may be individuals receiving services they don’t need, due to the gaps and overlaps in agency functions. We have an additional solution for your consideration that will address this more fully. The state should implement a standardized, validated comprehensive assessment tool for children to ensure that the services and number of hours assigned are medically necessary. A similar comprehensive, cross-disability assessment tool should be developed for adults receiving home and community based services. Tools like the ones proposed would ensure consistent, evidence-based assignment of service hours.

We strongly support everything written and recommended in **Issues 10 and 11** related to the Office of Inspector General. In particular, not all violations warrant recovery of an overpayment or indicate fraud. Program violations of a technical nature without evidence of intent to commit fraud should not be used as the basis for a credible allegation of fraud.

Points of concern with New Recommendations

Recommendation 1.1 advises replacing the five agency advisory councils with an executive council comprised of the Executive Commissioner and division heads. While we do agree that the current system is duplicative and needs to be re-worked, we are opposed to completely disbanding all councils and advisory committees and removing all advisory councils from statute.

Our Association believes that the greatest problem with the current system is not the councils themselves; it is that they have no actual authority. HHSC staff benefit from the expertise and knowledge that the council and advisory committee members bring to the process. However HHSC staff does not actually have to follow any of the advice of these councils. Therefore the councils' role is weak and unclear.

Under Recommendation 1.1, if HHSC were to seek passage of a rule despite major stakeholder disagreement, how would an executive council appointed by the Commissioner ensure that stakeholder's concerns are addressed? There must be changes to the current and future system to ensure that HHSC maintains a meaningful dialogue with experts in the health care and social services fields. We propose that HHSC Council not only remain in place but also have governing authority bestowed on them by the Governor (not unlike a private corporation has a governing board). It is imperative that we retain a panel of independent experts in the fields of health and social services with oversight at HHSC.

Recommendation: Retain the HHSC Council, as a consolidated version of the five advisory councils, and remake as a governing body with evaluative authority over the Executive Commissioner and the new consolidated Health and Human Services Commission. The HHSC Council should be tasked to advise the Executive Commissioner and provide direct feedback to the Governor about the HHS enterprise. Many of the current functions of the HHSC Council would be maintained, including hearing public testimony. In addition, there should be a small number (a maximum of 5) "mid-level" advisory committees (Such as the Medical Care Advisory Committee) organized along the functional lines of the new HHSC and appointed by the Executive Commissioner. These mid-level advisory committees would be comprised of subject-matter experts and serve as a forum to receive direct public input and feedback about rules, policies, and the direction of the agency. They would have the ability to elevate contentious rules and policies up to the HHSC Council. In addition to the 5 "mid level" advisory councils the Commission should look across the current advisory councils and consolidate those into working "development and implementation" (D&I) advisory committees that would work with HHSC staff across functional lines to actually participate in the development phase of rule and policy making (such as the current promoting independence advisory council (PIAC) which is the development and implementation council for Community First Choice.

Similarly, **Recommendation 13.1** proposes to remove advisory committees from statute and allow the Executive Commissioner to re-establish needed advisory committees in rule. We are opposed to this recommendation. The reason these advisory committees exist in statute is because stakeholders felt their needs were not being considered in HHSC policy and rules development. Some changes must happen to ensure a transparent and inclusive rulemaking process.

We propose the following: Create an online portal, or public interchange, for the rulemaking process. Any rule would be assigned a project identifier number at the very beginning of the process and could be viewed and tracked through the interchange. Any public comments would be aggregated and made available to the public on the interchange in a timely manner. HHSC staff contact information and any comments made to the proposed rules could be found on the interchange.

Respectfully Submitted,

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