

**Written Testimony on Sunset Staff Recommendations  
Texas Health and Human Services Commission  
Prepared by Kathryn Lewis  
November 13, 2014**

Disability Rights Texas (DRTx) appreciates the opportunity to provide written comments on the Sunset staff report recommendations for the Texas Health and Human Services Commission (HHSC). DRTx is the federally mandated protection and advocacy for people with disabilities in Texas. We provide legal and advocacy services to individuals in many facilities and community-based settings under the HHSC umbrella.

One of DRTx's service priorities is ensuring that there are effective systems in place to investigate allegations of abuse, neglect and exploitation. The service delivery system for individuals with disabilities is rapidly evolving and the Sunset process offers a unique opportunity to evaluate whether the current approach to investigations is keeping up with the changing landscape and whether we are doing enough to hold providers accountable and keep individuals safe.

**What follows are our comments on consolidating functions related to abuse, neglect and exploitation investigations.**

Whether or not the agency consolidation recommendation is adopted, Texas must do more to ensure consistency and quality in investigating abuse, neglect and exploitation. The piecemeal approach whereby the Department of Family and Protective Services (DFPS) investigates in state hospitals, SSLCs and community centers, the Department of Aging and Disability Services investigates nursing homes and assisted living facilities, and the Department of State Health Services (DSHS) investigates private psychiatric facilities creates uneven standards and application of a function designed to ferret out bad actors and keep vulnerable people safe.

DRTx favors organizing services based on the function of the service being provided. We therefore support the recommendation to consolidate the abuse, neglect and exploitation functions across the agencies into one division. However, this could be accomplished without the consolidation envisioned by Recommendation 1 and could instead be carried out by the DFPS if their authority is clear and they are given sufficient resources to fulfill their duties.

In addition to consolidating the investigatory functions, the Sunset process also offers the opportunity fill the existing gaps in investigatory authority that have emerged as our service delivery system has evolved. For example, DFPS has the authority to investigate allegations in state hospitals, local mental health authorities and programs providing services by contract with either of those entities,<sup>1</sup> but does not have the authority to investigate allegations against a managed care entity providing mental health

---

<sup>1</sup> Tex. Human Resource Code §48.252

rehabilitation or targeted case management services under SB 58 (83<sup>rd</sup> session). As another example, Rusk State Hospital previously contracted with UT Tyler for inpatient psychiatric beds and, because UT Tyler was a contractor of a state hospital, DFPS had the authority to investigate allegations. Recently, UT Tyler began contracting directly with the DSHS so DFPS no longer has the authority to investigate allegations and DSHS does not have authority because the beds are not licensed as a private hospital. Other examples of gaps exist across the system. While some of these gaps are likely a byproduct of a rapidly changing service delivery system, filling them is imperative to creating a well-functioning system.

Consolidating the function of conducting abuse, neglect and exploitation investigations offers many benefits. This approach capitalizes on expertise and training and creates universal standards for investigations and reporting to licensing boards and the employee misconduct registry. In addition, it would help deconstruct the potential conflict built into a system where the agency that licenses and regulates a particular type of facility is also charged with conducting investigations. DRTx looks forward to working with the Sunset Commission and the agencies to ensure quality abuse, neglect and exploitation investigations remain a high priority in the health and human services delivery system.

Thank you for the opportunity to comment. Please do not hesitate to contact me at (512) 454-4816 ext. 2734 or [klewis@drtx.org](mailto:klewis@drtx.org) with any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Kathryn Lewis", with a horizontal line drawn through it.

Kathryn Lewis  
Attorney at Law