



October 17, 2014

Ken Levine
Director
Sunset Advisory Commission
PO Box 13066
Austin, TX 78711

Dear Mr. Levine,

The Texas e-Health Alliance would like to thank the Sunset Advisory Commission for the opportunity to comment on the staff report for the Health and Human Services Commission. As Texas' leading advocate, from local communities to the national level, for the use of information technology to improve the health care system for patients, we appreciate the opportunity to provide feedback. Below are our responses to each issue and set of recommendations in the report that relates directly to our organization's work, along with comments for your consideration.

Please contact Nora Belcher, TeHA Executive Director, at 512/536-1340 or by email at nora@txeha.org if you have any questions or need additional information. We look forward to supporting the work of the Sunset Advisory Commission and Sunset staff throughout the Sunset process.

Regards,

A handwritten signature in black ink, appearing to be "Ken Pool". The signature is fluid and stylized, with a long horizontal stroke at the end.

Ken Pool, MD
President
Texas e-Health Alliance



Issue 1: The Vision for Achieving Better, More Efficiently Run Services Through Consolidation of Health and Human Services Agencies Is Not Yet Complete.

Key Recommendation 1: Consolidate the five HHS system agencies into one agency called the Health and Human Services Commission with divisions established along functional lines and with a 12-year Sunset date.

TeHA response: We agree with this recommendation, and with the Sunset Commission staff's observation that the cultural merging of the agencies is incomplete. However, it will take more than a functional merger to address some of the issues that keep the agency from truly achieving better, more efficiently run services.

We would also recommend a functional review to determine which decisions should be made at which level, and clear direction from the Legislature that the HHSC executive staff cannot, and should not, be involved in every single decision. Without this change, progress cannot be made. Due to a lack of clarity around authority and responsibility, right now it takes HHSC much too long to make decisions and implement changes. When there is disagreement between agencies, or among agency staff, issues and decisions are elevated to, and eventually must be decided by the highest level within HHSC. This slows agency work down to a crawl and the negative impact of continued decision making gridlock will outweigh any gains from further consolidation if not addressed. There is currently no pathway or timeline for innovative ideas to be implemented, and by the time the agency's process is complete, many ideas are no longer innovative or relevant. Consolidation of the agencies along functional lines combined with clearly defined process for innovative ideas will serve to improve both speed and decision making efficiency.

Key Recommendation 2: Require formation of a transition legislative oversight committee and the development of a transition plan and detailed work plan to guide HHSC and the committee in setting up the new structure.

TeHA response: We agree with this recommendation.

Issue 2: Incomplete Centralization of Support Services Deprives the State of Benefits Envisioned in Consolidating the Health and Human Services System

Key Recommendation 1: Direct HHSC to further consolidate administrative support services, as defined in a consolidation plan developed by HHSC in consultation with other HHS system agencies.



TeHA response: We agree with this recommendation. We have a continuing concern about the ability of HHSC to attract and retain qualified, competent staff in the area of support services, and this should be addressed in the planning process.

Key Recommendation 2: Direct HHSC to improve the accountability, planning, and integration of information technology in the HHS system by consolidating all IT personnel under HHSC control; clearly establishing HHSC IT's authority for overseeing IT in the system; and preparing and maintaining a comprehensive IT plan.

TeHA response: We agree with this recommendation. Shared services approaches would enable more consistency and eliminate potential duplication among mission critical applications. This would also enable mobility of IT support resources across agencies and programs.

We also recommend the following:

- HHSC should be directed by the Legislature to consider approaches that leverage the benefits of electronic health care information into the overall mission of serving clients. To truly be successful, HHSC must embrace technologies that are being widely adopted by its provider base and stakeholders. Particularly in the world of Health IT, providers are adopting innovative solutions for electronic health records and for billing/payment management. HHSC systems are, in many cases, not equipped to integrate with these new IT solutions. By adopting modern IT solutions and platforms that enable better integrations with service providers, HHSC can improve efficiencies, identify population health trends, and reduce the opportunity errors that occur with dual entries or data conversions needed to enable older technology to receive information from state-of-the-art solutions. It will also be valuable for HHSC to understand the potentials for data re-use within the organization.
- HHSC should consider establishing a unit within enterprise IT to operate as IT management consultants to the program areas as needed. Using this approach might create a broad knowledge base that allows technical synergies to be identified and utilized – for example the reuse of code or components to build and implement similar functions across software solutions.
- Every agency has some number of “below the radar” applications. Many of these are Excel spreadsheets or Access databases which have been used for years to augment functionality included in the main applications. At times, these small applications are used to create critical reports used for decision-making within the agency. These systems need to be identified, cataloged and replaced/combined with fully vetted

technology approaches that can be supported, maintained and quality controlled at the agency or enterprise level.

- This review process should also address the use of change orders and add-ons by contractors, and the role that DIR contracts play in HHSC procurements. These aspects of IT should be reviewed in light of the overall strategy in order to make procurements and their ensuing implementations transparent, consistent and accountable. Consideration should also be given to ensuring that HUBs and Texas-based companies are given opportunities in the contracting process.
- Applications that are mission critical exclusively to an individual department/agency should be considered for federation, or decentralized application level maintenance, support and care (not to be confused for the underlying enabling infrastructure). These applications, such as WIC, CARE, and IMPACT (SACWIS) are individual department or agency mission specific, and are not necessarily applications that represent shared needs across the enterprise. To attempt to consolidate these applications into central IT as a shared service represents a significant challenge financially, culturally, and operationally. In addition, this type of application could programmatically be extremely difficult to consolidate due to federal funding and matching issues, and well as difficulty in navigating federal approvals.
- As part of the overall IT plan, HHSC should dedicate resources to assess, recommend and develop a future state consolidated IT share service operating model and also develop a detailed implementation roadmap for achieving the future state model. This process should contemplate people, process and technology, and consider the complexities of governance, architecture and transformational change management. An incremental step-wise approach for accomplishing the vision for the consolidation of IT services is not only best practices, but a critical success factor.

Key Recommendation 3: Require HHSC to better define and strengthen its role in both procurement and contract monitoring by completing and maintaining certain statutorily required elements; strengthening monitoring of contracts at HHSC; improving assistance to system agencies; and focusing high-level attention to system contracting.

TeHA response: We agree with the recommendation, and we believe that HHSC needs to conduct a comprehensive business analysis of its procurement processes. We also recommend the following:

- HHSC needs to consider new approaches to development of RFP documents, which at the current pace takes an enormous amount of time and process and often make a proposed technology approach outdated before it can be implemented. Other states



and even the federal government have adopted approaches that yield succinct, clear RFP documents that encourage innovation and enable flexibility.

- The procurement award process as it currently stands is needlessly long – at the rate that technology is changing, solutions are obsolete before the contract award is made. In addition, procurements should allow for a standardized process for HHSC to evaluate or consider emerging technologies in specific markets as part of its hardware and software procurement strategy. More importantly, the current processes often do not achieve the best results – vendors are limited in their responses to addressing the requirements as stated in the RFP. While it is important that the agencies requirements be met, there are often innovative ways to meet a need that may not follow “lock step” with the agency requirements. The existing procurement process basically takes these innovations out of consideration.
- HHSC should also consider approaches that would add transparency to the new task order/change order process. Currently, these changes are not readily available to the public and the vendor community. Once a vendor is under contract, any changes in its status and breadth should be made public. HHSC should establish a process whereby these actions are posted on its website, easily accessible and identifiable.

Key Recommendation 4: Require HHSC to consolidate rate setting for the HHS system at HHSC

TeHA response: We agree with this recommendation.

Issue 3: Fragmented Administration of Medicaid Leads to Uncoordinated Policies and Duplicative Services and Could Place Future Transitions to Managed Care at Risk.

Key Recommendation 1: Consolidate administration of Medicaid functions at HHSC.

TeHA response: We agree with this recommendation.

Issue 4: HHSC Has Not Fully Adapted Its Processes to Managed Care, Limiting the Agency’s Ability to Evaluate the Medicaid Program and Provide Sufficient Oversight.

Key Recommendation 1: Require HHSC to regularly evaluate the appropriateness of data, automate its data reporting processes, and comprehensively evaluate the Medicaid program on an ongoing basis.



TeHA response: We agree with this recommendation. HHSC needs to focus on the care data and be prepared to use care data to change the way care is delivered and reimbursed. This requires more data to be gathered electronically at the point of care so that it can be shared with other treating providers (with consent) and with the MCOs and the state. HHSC should be looking to its current data collections and seeking to improve the quality and expand the data it can collect and report about the client's health and provider's care regimen and quality to effectively measure outcomes and drive incentives based on performance. The data review should happen at least once a year if not more often.

Key Recommendation 2: Adapt processes for the state's prescription drug program, audits, and advisory committees to reflect the state's transition to managed care.

TeHA response: We agree with this recommendation.

Key Recommendation 3: Eliminate the Pharmaceutical and Therapeutics Committee and transfer its functions to the Drug Utilization Review Board to create a single entity to oversee these related responsibilities.

TeHA response: We agree with this recommendation.

Issue 5: Fragmented Provider Enrollment and Credentialing Processes Are Administratively Burdensome and Could Discourage Participation in Medicaid.

Key Recommendation 1: Require HHSC to streamline the Medicaid provider enrollment and credentialing processes.

TeHA response: We agree with this recommendation.

Key Recommendation 2: Require OIG to no longer conduct criminal history checks for providers already reviewed by licensing boards, develop criminal history guidelines for checks it will continue to perform, and complete background checks within 10 days.

TeHA response: We agree with this recommendation.



Issue 6: The State Is Missing Opportunities to More Aggressively Promote Methods to Improve the Quality of Health Care.

Key Recommendation 1: Require HHSC to develop a comprehensive, coordinated operational plan designed to ensure consistent approaches in its major initiatives for improving the quality of health care.

TeHA response: We agree with this recommendation. HHSC should work with health care provider organizations and MCOs to establish health information reporting requirements to evaluate the cost and effectiveness of the health care delivery by these organizations on patient outcomes. HHSC should be looking at their health information exchange as a means to gather the data they need to improve their understanding of client needs, health care treatment and protocols and making health care delivery effective and affordable.

We would also recommend that a pathway to innovation, for service delivery innovations like telemedicine and telehealth, be developed so that the MCOs are not hampered by the lack of fee for service codes or authorizations for new methods of delivering care.

Key Recommendation 2: Require HHSC to promote increased use of incentive-based payments by managed care organizations, including development of a pilot project.

TeHA response: We agree with this recommendation.

Issue 7: HHSC Lacks a Comprehensive Approach to Managing Data, Limiting Effective Delivery of Complex and Interconnected Services.

Key Recommendation 1: Direct the Health and Human Services Commission to elevate oversight and management of data initiatives, including creation of a centralized office with clear authority to oversee strategic use of data.

TeHA response: We agree with this recommendation, and make the following additional recommendations:

- The Legislature should memorialize HHSC policy circular 44 in statute. This policy circular directs the HHS agencies to develop a plan for interoperability of data and the use of industry data standards developed by standards development organizations, to address data sharing within the enterprise and with external partners, and to solicit stakeholder input on their interoperability plans. While we applaud the current management at HHSC for under the critical role that interoperability and standards play



in supporting their agencies and stakeholders, giving this language statutory confirmation would send a clear and unmistakable signal that the Legislature has embraced that approach as well. A statutory change would also make it more difficult for future HHSC management to “undo” this direction.

- HHSC should develop an enterprise wide strategy and plan for secure and appropriate exchange of health information on behalf of consenting clients who are receiving services through any HHS agency program. There are tremendous potential administrative efficiencies that can be gained by collaboratively exchanging clinical information in standardized digital formats. An enterprise wide HHSC IT strategy and implementation of this plan will create a richer, more robust data set to serve policymaking. Other states are using this data to identify population health trends and aligned improvement programs. Making health information available electronically to patients and their providers has been shown to improve and incentivize provider and client engagement in the health care process, improve the quality of care, reduce costs, and potentially improve outcomes.

Issue 12: HHSC’s Uncoordinated Approach to Websites, Hotlines, and Complaints Reduces Effectiveness of the System’s Interactions With the Public.

Key Recommendation 1: Require HHSC to create an approval process and standard criteria for all system websites.

Key Recommendation 2: Require HHSC to create policies governing hotlines and call centers throughout the health and human services system.

Key Recommendation 3: Clarify the role and authority of the HHSC ombudsman’s office as a point of escalation for complaints throughout the system and to collect standard complaint information.

TeHA response: We agree with all three proposed recommendations for issue 12.

Issue 13: HHSC’s Advisory Committees, Including the Interagency Task Force for Children With Special Needs, Could be Combined and Better Managed Free of Statutory Restrictions.

Key Recommendation 1: Remove advisory committees from statute, including those with Sunset dates, and allow the executive commissioner to re-establish needed advisory committees in rule.



TeHA response: We disagree with the proposed recommendation. The agency is not obligated to include stakeholders on an advisory committee based on comments received in the rulemaking process. The legislative process, which allows all interested stakeholders multiple opportunities to request inclusion on an advisory committee, is a better venue for determining advisory committee membership.

Key Recommendation 2: Remove the Task Force for Children With Special Needs, the Children’s Policy Council, the Council on Children and Families, and the Texas System of Care Consortium from statute and direct the executive commissioner to recreate one advisory committee in rule to better coordinate advisory efforts on children’s issues.

TeHA response: We agree with this recommendation.

Issue 14: HHSC Statutes Do Not Reflect Standard Elements of Sunset Reviews.

Key Recommendation 1: Update two standard Sunset across-the-board recommendations for HHSC.

Key Recommendation 2: Eliminate four unnecessary reporting requirements, but continue others that serve a purpose.

TeHA response: We agree with both proposed recommendations for issue 14.

Issue 15: Allow the Texas Health Services Authority to Promote Electronic Sharing of Health Information Through a Private Sector Entity.

Key Recommendation 1: Remove the Texas Health Services Authority from statute, allowing its functions to continue only in the private sector

TeHA response: We disagree with the proposed recommendation, for the following reasons:

- The State of Texas has made a substantial investment in THSA and the benefits of having state-level coordination are well documented. The health information exchange market is still evolving and, while many barriers still exist to the robust exchange of patient information, THSA serves as a benchmarking organization for standards, interoperability and certification upon which all of the state’s services should be based. Working in coordination with a consolidated HHSC, the state’s infrastructure (HHSC, DSHS, DPS) should evolve into a unified approach to a state wide, interoperable HIE. Should THSA lose its statutory position as the state’s designated health information exchange, it



would weaken THSA's ability to collaborate with industry, state and local affiliates as a peer state organization with authority. The result may be a lack of uniformity in standards and interoperability that would actually be a barrier to data sharing, much like the HHSC infrastructure is today.

- We also believe losing the state oversight by removing THSA from statute would also risk taking the broader HIE activity out of the Legislature's purview. The HHS agencies, the Department of Public Safety, and other state agencies will be participants in a robust health information exchange ecosystem. Keeping THSA in statute will allow the Legislature to keep a watchful eye, not only on THSA, but the HIE activities of those agencies as well. We believe there is a legitimate public policy interest in continuing to link HIE to a government entity that has a statewide role.
- Although the Sunset staff report states that the removal of THSA from the statute would not affect the ability of entities certified by THSA to have their certification considered as a mitigating factor by a state regulatory body or a court, we are not convinced that the program will carry the same weight if not sponsored by an entity with strong ties to state government. While the Legislature may still be able to recognize a certification program at a fully privatized THSA, removal of THSA from statute means the Legislature would no longer be able to direct THSA to maintain the program, and that alone may weaken the program's effectiveness. The ability to incentivize providers to become certified for privacy and security is a critical component of upholding Texas' nationally-recognized higher privacy and security standards as established by HB 300 in 2011, and should be maintained.
- Coordination between HHSC and THSA around privacy and security, specifically by requiring HHSC to adopt the standards that are approved by THSA, is an essential component of our state's approach to privacy and security. Eliminating THSA as a statutory agency would sever this relationship, "allowing" but apparently not requiring the HHSC executive commissioner to establish another advisory body "as needed". Furthermore, as the Sunset report notes "Statutory authority for HHSC to adopt these standards in rule can be maintained elsewhere in statute apart from THSA's enabling law." THSA and HHSC have done great work together creating the initial privacy and security framework. But, these things are not static; what is more, if there are changes to any privacy laws—nationally or at the state level—there is no guarantee that HHSC and THSA will operate in lock step. This could be particularly problematic for organizations charged with managing sensitive data, like mental health and substance abuse service providers.
- Many of the providers participating in THSA are not currently regulated, or in contact in any way, with HHSC. Removing THSA from statute not only appears to create a



potential disconnect between HHSC and THSA, but it also potentially gives HHSC the statutory and rulemaking authority to impact a large segment of providers, as it relates to privacy and security, while not regulating others who have no relationship with HHSC. This could lead to two sets of privacy and security rules- one for providers within HHSC's authority and another for those who are only interacting with a privatized THSA.

- If a strong state hand is removed prematurely from this market, it risks leaving the rural areas to the mercy of the market. Rural providers are more reliant on THSA to ensure they have HIE options, and rural interests will be outnumbered in a purely private market. Even within largely privatized markets, having a state endorsed market of last resort is not unusual and should be taken into consideration for Texas while HIE is still evolving.
- The makeup of THSA's Board could be improved by adding a limited number of industry, government, and technical subject matter experts. The THSA Board members have the responsibility of ensuring the standards mandated and passed down to HHSC and Texas HIE's have been vetted and approved as industry standards ready for state-wide adoption, and technical expertise is a critical component of that process.