



## Submitted Testimony before the Sunset Review Commission

### *Regarding the Sunset staff report for the Health and Human Services Commission*

by The Honorable Arlene Wohlgemuth, Executive Director

**T**he reorganization of health and human services under House Bill 2292 was an important step in the modernization of Texas' health and human services agencies. In 2003, it was necessary to take bold action to reorganize and consolidate twelve agencies down to five, both to reduce costs and improve service delivery.

Senator Nelson, as the Senate sponsor of HB 2292, I hope you agree that it is both amazing and somewhat gratifying that so little has been changed legislatively during the intervening years. But now, more than a decade later, it is clear that the reforms enacted by 2292, although they accomplished much, did not go far enough.

As the Sunset Commission staff report details, many similar or identical functions are spread out among the five agencies of HHSC, creating inefficiencies and unnecessary complexity—all of which contribute to difficulties in care deliver and higher costs. We commend the agencies for the work they have done during the last transition and expect their work to be further enhanced by the transition they will likely undergo next session. It is now time to take the next step.

#### **Issue 1**

The Texas Public Policy Foundation supports further consolidation of HHSC, from five agencies down to a single regulatory agency and the elimination of DSHS, DARS, DFPS, and DADS as separate agencies. HHSC should be organized according to function, to further the original purpose of reorganization under 2292. Sunset staff has outlined what a function-oriented divisional structure of HHSC would look like, and it is a good starting point. TPPF agrees that the authority to organize sections within these divisions, and to change them as needed, should rest with the executive commissioner of HHSC.

We also agree that a transition legislative oversight committee, similar to that which was employed under 2292, is necessary, as well as the replacement of the five agency advisory councils with a single executive council, as described in the Sunset staff report.

#### **Issue 2**

TPPF supports the recommendations laid out in issue two for further consolidation of administrative support services. The Sunset staff reports correctly noted that a core principle of 2292 was to consolidate administrative support services in HHSC. Although some progress toward this goal has been made, after 11 years HHSC should have achieved a far greater degree of consolidation than it has to date.

The move away from agencies providing services to an agency contracting for and overseeing those direct care services has proven beneficial. Managed care has maximized what little flexibility the federal government will allow, allowing for better care at a lower cost. Likewise, waiver programs such as home health and group homes have proven that point.

#### **Issue 3**

The fragmentation of Medicaid between three agencies impedes program operations on many levels, and the expansion of managed care will only exacerbate these problems.

If the consolidation described in issue one is carried out successfully, the alignment of Medicaid services in a single division of HHSC would help solve the problems created by the current fragmentation of Medicaid across three agencies.

#### **Issue 4**

A part of the savings from 2292 was the establishment of a Preferred Drug List which allowed HHSC to negotiate additional rebates in the vendor drug program. At that time, the majority of Medicaid was still fee-for-service, and the PDL worked well.

As the creator of the PDL, I believe it is now time for it to go away. As Medicaid managed care has become the primary payment model, additional savings could be achieved if each MCO were allowed to determine its own drug formulary, PDL, and PA processes. An HHSC presentation to the Senate Finance Committee in 2011 estimated a cost savings of \$72 million in General Revenue.

Whatever structure it takes, HHSC will still need to exercise some oversight of drug utilization across the Medicaid program, but the PDL should be eliminated.

#### **Issue 9**

The Texas Public Policy Foundation agrees with Sunset's recommendation to discontinue the NorthSTAR model and shift to a more flexible system of care that encourages innovation and allows integration of physical and behavioral health care. Integrating behavioral health and physical health is a best practice, yet the NorthSTAR model separates treatment of mental and physical illness.

Texas should transition away from NorthSTAR to a different community-based model that facilitates integration and systematic coordination of mental health and primary care and provides more flexibility in adopting best practices.

#### **Issue 10**

When the Office of Inspector General was created in 2003 as part of reorganization under 2292, we did not expect it to become as large as it has, or to consume as many resources as it now does. The agency has 775 full-time employees and a budget in FY 2014 of nearly \$49 million.

And yet, its results are disappointing. As Sunset staff notes, despite identifying \$1.1 billion in Medicaid overpayments in 2012-13, OIG collected only \$5.5 million in that timeframe. That led to the even more disappointing comments about unfairness to providers and the observation that the process provides an incentive for the OIG to simply put some providers out of business.

The objective in creating a split responsibility between the OIG and the AG's office was to allow the OIG to identify billing errors and get them corrected, refer cases of suspected fraud to the AG and thus avoid treating providers as criminals who simply made billing errors. Clearly, that has not been the result.

Further, the objective in giving the OIG independence from oversight by HHSC was to allow the OIG to be a check on wrongdoing by HHS employees. Clearly, this independence has not worked well. Thus, we support the Sunset staff's recommendation to require the executive commissioner of HHSC to appoint and directly supervise the OIG, as well as staff's other recommendations related to issues 10 and 11.

#### **Issue 13**

HHSC oversees 41 advisory committees, 35 of which are in statute. Sunset argues that many of these statutorily established committees would function better in rule than in law. Establishing committees in rule, as opposed to statute, would afford HHSC greater flexibility, and we also the question the ongoing need for many of these advisory committees. As Sunset staff notes, several of HHSC's advisory committees are duplicative or unnecessary—an assessment with which we wholeheartedly agree.

We commend the Sunset staff for their thorough and excellent work in this review. ★

