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House of Representatives

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Myra Crownover
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June 6, 2014

Senator Jane Nelson, Chair
Representative Four Price, Vice Chair
Members of the Sunset Advisory Commission

RE: Sunset Advisory Commission Staff Report on the Department of Aging and Disability Services

Dear Senator Nelson, Representative Price, and Members of the Sunset Advisory Committee:

I greatly appreciate the hard work of the Sunset Advisory Commission Staff. The quality of their work is evident. However, I write to you today to express my deep concern about certain portions of the Staff Report to the Sunset Advisory Commission regarding the Department of Aging and Disability Services. In particular, I am frustrated with the recommendation to close the Austin State Supported Living Center (SSLC) by 2017 and the recommendation to close five additional SSLCs as soon as possible.

One of the disappointments that I have with the Staff Report is that it appears that Sunset Staff simply accepted the premise that living in a community based setting was *de facto* superior to living in an SSLC. While this belief may be pervasive within DADS and among advocates for community based alternatives, it is simply not true for the profoundly disabled residents that call SSLCs home. I am disappointed that the Staff Report does not question this underlying belief.

I am pleased that the Staff Report does bring to light the lack of oversight by DADS over community based residence alternatives to SSLCs. However, I find it troubling that the Staff Report can, on one hand, highlight the extreme lack of oversight in the community, and then, on the other hand, recommend that our most fragile Texans be forced into such an environment.

The Staff Report cites statistics and incidents that they allege is evidence of a lack of quality care within SSLCs. The Staff Report also states that the level of oversight by DADS over community-based alternatives is lacking. The lack of oversight implies that we do not have any comparable statistics about the quality of care within the community. How then is it possible to determine that the residents of SSLCs would be better served outside an SSLC?

Another area of concern that I have is with the cost analysis between SSLCs and community based alternatives. I have served as a member of the House Appropriations Committee for the last six Legislative Sessions and was appointed to the Conference Committee on the Budget during the 82nd and 83rd Legislative Sessions. A constant frustration that I have had during that time has been the lack of an "apples to apples" comparison of cost between SSLCs and HCS/ICF group homes.

The Staff Report provides a better comparison between costs at SSLCs and Group homes than most previous efforts that I have seen and the Sunset Staff should be commended for providing a more comprehensive cost comparison. However, the Staff Report still fails to make a true "apples to apples" comparison because value is not given to the inherit difference between on-site care at SSLCs and *access to* off-site care at Group Homes. For example, at SSLCs there are medical doctors, dentists, and physical and occupational therapists on campus. In HCS/ICF group homes, *access to* medical treatment is mostly limited to off-site third party providers through Medicaid.

Furthermore, residents in SSLCs require a much higher level of care than residents of group homes. In fact, the Staff Report acknowledges that the level of care in most group homes is inadequate for many of the current residents of SSLCs. Yet the cost of providing the higher level of care needed for the current residents of group homes to succeed in the community is not entirely reflected in the "savings" purported to result from transitioning this high need population from SSLCs to a community based provider.

There is an inherit difference in quality of care that comes from 24/7 access to medical, therapeutic, and nursing care on-site vs. access to off-site care. For a majority of the residents at SSLCs, that difference in quality of care is vitally important. Once the quality of care needed for pervasive and profoundly disabled individuals is accounted for properly, the "savings" purported at Group Homes becomes largely mythical.

The fundamental difference between costs is not limited to medical care. Almost every service provided on-site at SSLCs is included as a "cost" of serving the residents of SSLCs. These crucially important details must be clearly determined before the Sunset Advisory Commission can accurately assess the "savings" attributable to closing even one SSLC, much less six.

As a parent, I know that there is no stronger advocate for anyone other than his or her parent. So we must ask ourselves, how then can it be that so many of the parents, guardians and loved ones of the residents at SSLCs believe so firmly that SSLCs provide a far superior environment for their loved one than is available in an HCS or ICF group home?

As a legislator, I know that before we make decisions that will affect the lives of our most fragile Texans, we must have access to the best and most complete picture of the facts. I hope that, as you consider the Sunset Staff Report, you will consider that many of the important facts in the debate over SSLCs cannot be accurately reflected on paper.

I have attached a report by the Texans for State Supported Living Centers in response to the Staff Report. Texans for State Supported Living Centers is a group of parents and guardians who have loved ones receiving care at our SSLCs. They, more than anyone, have a vested interest in seeing that their loved ones receive the highest and best care available. I encourage you to read their report and keep in mind the perspective from which they come. No one has more at stake than the TFSSLC.

Thank you for your time and consideration. I look forward to working with you as the Sunset Advisory Commission continues to work on this important issue.

Sincerely,

Myra Crownover

Myra Crownover

The Rush to Close State Supported Living Centers is Poorly Considered

Texans for State Supported Living Centers

June 5th, 2014

1 Purpose

In round-robin fashion, the Sunset Advisory Commission (SAC) reviews each agency of Texas government every 12 years, resulting in recommendations to the Legislature on the continued need for its existence. In 2014, the Health and Human Services Commission (HHSC) arrived at the top of the batting order, and in May, the SAC released its report on HHSC's Department of Aging and Disability Services (DADS). This paper is a response to that report by family members of residents at State Supported Living Centers (SSLCs).

Relevant to our interests, the report makes three recommendations for the Legislature to require of DADS:

- Close Austin SSLC by Aug 2017
- Create a commission to identify five additional SSLCs to close
- Close those SSLCs by Aug 2022

Our objections center on three areas:

- Community care providers are not prepared to serve the needs of the SSLC population, yet the emphasis is to close SSLCs first and sort out the problems later
- Oversight in community care is slight compared to SSLCs. At its current level, the vulnerable SSLC population would be deeply at risk
- The purported savings in cost is overstated, and many years from being realized.

In this paper, we reference the following sources:

1. *Sunset Advisory Commission Staff Report, Department of Aging and Disability Services, May 2014* ("SAC report")
2. *Study Of Feasibility Of Facility Closures And Consolidations – Fiscal Year 2005 (State Hospitals and State Schools)*[1], Texas Health and Human Services Commission ("HHSC 2005")
3. *Rider 55 Study of State Schools & Hospitals, Executive Summary, Study of Facility Closures and Consolidations, Fiscal Year 2005*, Texas Health and Human Services Commission ("Rider 55")
4. *Addressing Shifts in Care from State Schools to Community Settings, November 2008*, Legislative Budget Board ("LBB 2008")
5. *Transform State Residential Services for Persons with Intellectual and Developmental Disabilities, January 2011*, Legislative Budget Board ("LBB 2011")

[1] The original report is apparently no longer available on the web (we can find links, but they are dead). We were able to locate the report as an Attachment C to HHSC's RFP 529-14-0066

2 Community Care Providers are Not Prepared to Serve the Needs of the SSLC population

2.1 Transitions to the Community are Not Trivial …

Austin Travis County Integral Care (ATCIC, formerly Travis County MHMR) was contracted two years ago by then DADS Commissioner Chris Traylor to move people 'as fast as possible' out of Austin SSLC. They approached the task enthusiastically, but six months in, came to realize the difficulty due to lack of adequate community support. They have now turned their focus (we believe appropriately) to *quality* of placements rather than *quantity*, and created labor-intensive transition teams to manage every aspect of community preparation and emplacement of support systems before the fact, and extensive follow-up after the fact. ATCIC are presumably experts in both people with disabilities, and the settings in which they are served; how could the difficulty have come as a surprise?

Yet the SAC is undeterred, and the report states (p. 27) that 65 to 80 percent of the Austin SSLC residents (i.e., 130 to 220 individuals) should be moved to the community. Page 34 acknowledges that *"Despite increased efforts, the transition of SSLC residents statewide to the community remain slower than planned,"* and goes on to state that the *average* relocation is over nine months, and for some it takes several years.

Nine years ago, HHSC 2005 noted[2], *"Austin has the longest average wait days* [from community referral] *for community placements. This indicates a greater barrier to closure than those state schools with short wait times because it would take longer to find placements in the community."* It further states[3], *"Clients with the most significant developmental disabilities are also difficult to transfer,"* and Austin, at that time, was roughly tied with Denton and Richmond in having the most residents with Pervasive or Pervasive-Plus levels of need, having over twice the average of the remaining SSLCs[4].

Given legislative approval in 2015, how likely is it that Austin could be closed by 2017 and thus attain promised short-term savings? For how many years must we reprise the same approach and keep hoping for different results?

Of course residents might more easily be transitioned to other SSLCs, but that would realize only the more modest savings inherent in improved economies of scale at those SSLCs, and not achieve the report's objective at all. It would also put most guardians several hours more distant from their family members.

2.2 … Because the Populations are Different

The SAC report acknowledges that the SSLC and community populations are different, but doesn't recognize the striking extent of those differences. They are, in fact near mirror images of one another in

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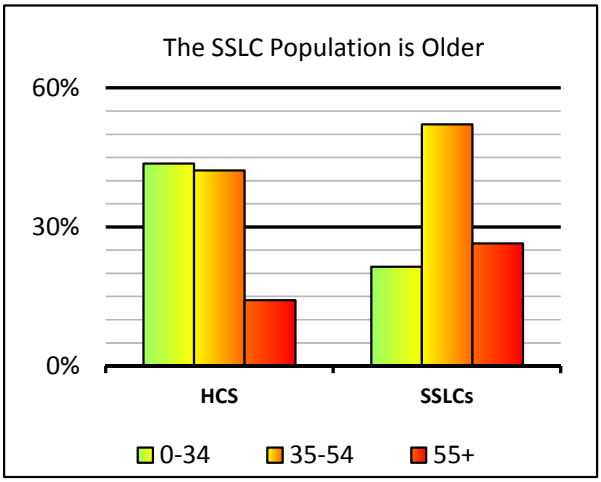
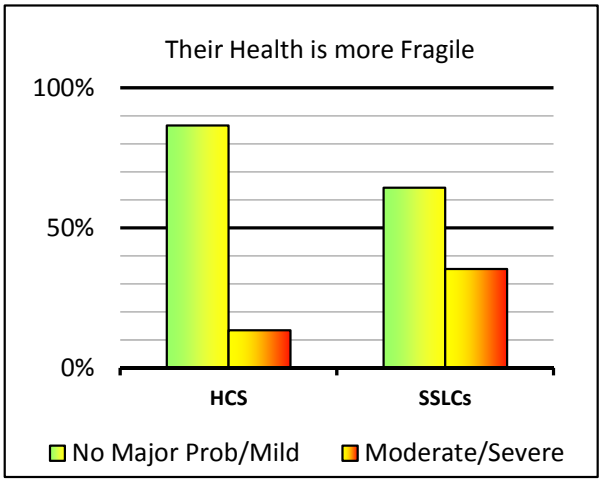
[2] HHSC 2005, p. 38

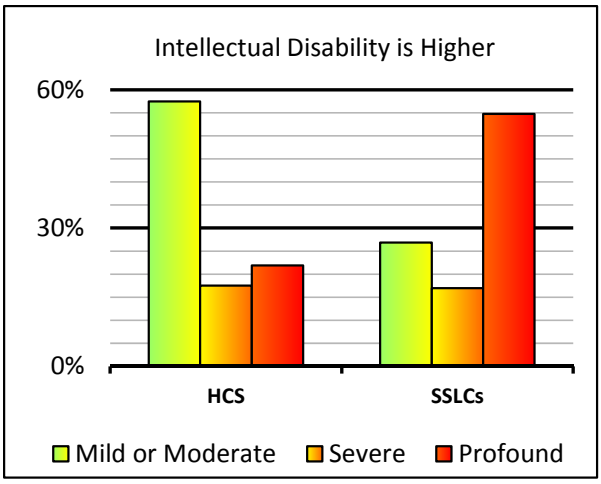
[3] HHSC 2005, p. 39

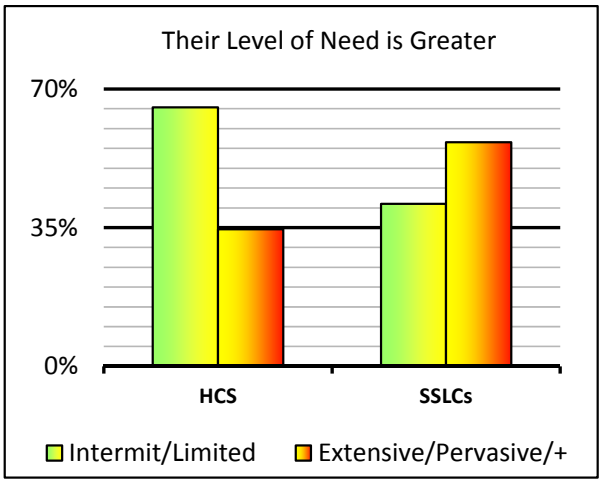
[4] In fairness, HHSC 2005's analysis identified Austin as having the lowest barriers to closure numerically among all SSLCs for several of various objective measures. In contrast to the SAC report, though, HHSC 2005 did not (a) understate the difficulty of closing any SSLC, (b) overstate the cost savings likely to be obtained, or (c) fail to provide backup data for its conclusions.

four categories: age, health, intellectual disability, and level of need. The data published in LBB 2008[5] is summarized in the four figures below. For example, the third figure shows that 57% of the community population has mild or moderate intellectual disability, while 55% of the SSLC population is profoundly retarded.









These differences in population are not an *aspect* of the difficulty; they drive the difficulty in all aspects. It is small wonder that the care of this population is more expensive than those served in the community.

[5] LBB 2008, p. 5: Figure 3 Demographic Comparison between State School Residents and Clients Receiving Home and Community-Based Services with Residential Services. LBB 2011 did not include this data.

3 Community Care Lacks Oversight

3.1 More Abuse, Neglect, and Exploitation in SSLCs??

Taken at face value, the two tables on p. 19 of the SAC report (combined into the single table at right) would, if true, justify shuttering all SSLCs for the protection of their residents. They show that an average 15% of the SSLC population is subjected to confirmed incidents of Abuse, Neglect, and Exploitation (ANE) each year, a rate that is 1½ and 2½ times the rates encountered by residents of group homes and private ICFs respectively[6]. Surprisingly, the report is incurious of an explanation that would allow this dramatic improvement to be exploited. One could speculate that the latter venues have better-trained or higher-paid employees more able to handle the stress, but that's patently false. Or perhaps the SSLC population is more difficult; if so, one might expect a footnote that the rates in other settings would be expected to rise as a result of deinstitutionalization, but there is none.

Abuse, Neglect, and Exploitation - FY 2013
(from SAC Report)

Setting	Confirmed Allegations	Population	Percent of Population
SSLCs	572	3,915	15%
HCS Group Homes	711	7,229	10%
Private ICFs	350	5,603	6%

We believe the likelier explanation is that private ICFs and group homes lack the zero-tolerance culture, video surveillance, and general high level of oversight of SSLCs, with the result that ANE is dramatically *underreported* in those settings, and probably significantly *higher* than the incidence in SSLCs. It beggars common sense to believe otherwise.

3.2 Quality should be Job 1 at Day Hab

It seems likely that Day Habilitation services would have some significant role in the lives of residents transferred from SSLCs to the community. Yet the SAC report describes Day Hab in polite terms as a disaster:

> *"DADS Lacks Effective Means for Ensuring Its Clients Receive Adequate Care in Day Habilitation Facilities."*[7]

SSLC residents would be cared for in an unregulated environment by providers not required to meet life and safety codes:

> *"Throughout the Sunset staff review of DADS, advocates, providers, legislators, and other stakeholders expressed concerns about the inconsistent quality of care provided in day habilitation facilities. Legislation filed last session would have required DADS to regulate day habilitation facilities, but providers testified day habilitation owners would increase prices to meet the new life and safety code standards proposed in the bill."*[8]

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[6] Incidents of ANE are not reported for Day Hab, because DADS does not track this data (SAC report, p. 41). Absence of evidence is not evidence of absence; in fact, the opposite is almost surely true.

[7] SAC report, p.34

[8] SAC report, p.38

This is truly scary:

> *"As part of Sunset's review of DADS, staff explored options that could help ensure basic safety of DADS clients, …"*[9]
>
> *"Day habilitation facilities are not licensed by any federal, state, or local government entity."*[10]
>
> *"DADS staff only visits day habilitation facilities to monitor an individual client's care as part of an annual inspection of a program provider. … However, DADS has no overall regulatory authority over these facilities and cannot take any action against the day habilitation provider itself."*[11]
>
> *"Day habilitation clients are at high risk of abuse if not appropriately protected."*[12]

Consigning the most vulnerable Texans to this environment for a significant portion of their waking hours before redressing what can only be regarded as horrifying deficiencies would be unconscionable.

[9] SAC report, p.38

[10] SAC report, p.38

[11] SAC report, p.38

[12] SAC report, p.39

4 Cost Savings are Overstated, and Many Years Distant

4.1 Cost Comparisons are not Apples to Apples

In a May 23 conference call conducted by DADS with SSLCs and interested individuals statewide, DADS said that that they provided the data used by the SAC staff to prepare the cost comparison chart that appears in the SAC report (p. 33). The paragraph following the chart states, *"The current reimbursement levels increase as a client's needs increase, but are still not high enough to care for some with complex medical issues who require high staffing levels."* This suggests that the comparison data is for the current population mix in the community, not the future mix with many SSLC residents who would need this more expensive level of care.

What is the point of a table highlighting the difference in cost between SSLC and community settings if the text acknowledges that the tabulated community costs are not reflective of caring for people with the profile of the SSLC population? In fact, the report clarifies, *"… even at the higher rates* [of need]*, community care is generally less expensive than care in SSLCs*." Not *always*, not *significantly*, just *generally*, meaning *sometimes*. That statement is a significant hedge from the table's clear implication that the cost of care can be halved by moving everyone to the community.

LBB 2008 (p. 1) states, *"Accurate estimates of the fiscal impact of the shift in care between the two care settings are difficult due to the inability to identify costs for state school residents by Level of Need, Level of Care, or behavioral health status."* How does the SAC report arrive with such certainty?

4.2 Cost Savings are not Backed by a Model

The fiscal implication summary in the SAC report (p. 6) describes the substantial savings that will result from closing six of the 13 SSLCs in Texas. There is no accompanying detailed analysis of these claims, here or elsewhere in the body of the report, nor a description of the methodology used in reaching these conclusions.

We realize that the report provides recommendations, not a plan of implementation, yet it seems well within the ability and responsibility of the SAC staff to create a three- or four-year, monthly model[13] for the closure of an SSLC that considers:

- The cost of transition teams to facilitate community transfers, including solving the problem that *"many providers are unwilling to take Medicaid patients because of low reimbursement rates and onerous documentation requirements."*[14] (ATCIC should have valuable input on the number of people and disciplines required, and the average cost of each transition, considering labor, travel, and other expenses.)
- The profile of outlays to providers and the cost of emplacing and maintaining additional community supports, including the statewide crisis management teams noted in the SAC report, based on the levels of need and care of those transitioning

[13] In the private sector, the term of art is a *synergies model*, which is commonly prepared in planning for an acquisition. It serves as rationale before the fact, and a metric for measuring performance to plan after the fact.

[14] LBB 2008, p. 19

- The cost of preparing Day Hab services to provide safe, humane, licensed care
- The profile of SSLC costs as some direct care staff are reduced, other staff are paid incentives to remain through closure, asbestos is abated to make the property salable, the facility or property is sold, and bond indebtedness is retired.
- The transient cost and loading on community social services as a thousand employees lose their jobs. Some will transition to community providers where they *"… could become the workforce that provides care to the new HCS clients, applying pressure for better pay and employee benefits. Conversely, there could be an unintended consequence of replacing a state school workforce that has robust health insurance with a workforce with inadequate health insurance."*[15]
- The changing load on the community health care system to provide the services previously provided to residents by on-site SSLC medical staff
- The changing cost recovery of Federal funds attendant to each element above.
- The cost to fund a third party to conduct a comprehensive outcomes study that would follow deinstitutionalized individuals through the transition and for several years thereafter, with appropriate metrics (health status, incidents of ANE, excess mortality, and so forth).

The model would show the cost savings realized over time, from the decision to close the SSLC, through liquidation of the facility, and the post-closure, steady-state cost of community care. Thoughtfully designed, the model could be parameterized to show the results of best-case, most likely, and worst-case assumptions, and could readily be transformed to model closure of any other SSLC. It would reasonably put SAC's credibility at stake for subsequent performance to plan.

4.3 Are the Savings Credible?

Rider 55 is a summary of the study conducted by Public Consulting Group on the feasibility of closure and consolidation of state schools that appears more fully in HHSC 2005. It concludes (p. 5):

> *"For State Schools, the overall projected short-term costs are estimated to be between $10–15M, while annual long-term savings are projected to range between $1–2M. Based on these rough estimates, savings associated with closure and consolidation would take at least 5 years and as along as 15 years to materialize."*

In other words, the frontend costs are high, and the savings are small and well into the future. Either the situation has markedly changed in the ensuing nine years, or there is a major disconnect between the conclusions of this study and the SAC report.

[15] LBB 2008, p 19

5 Closing Thoughts

Is care more expensive in SSLCs than in the community? Yes, of course; demographics of the population make it intrinsically more costly, and state and federal oversight that apply to SSLCs but not community venues make it more so. The glowing oasis of the SSLC population in community care at half the cost is a mirage.

If community care is the unstoppable wave of the future, then attention would more rightfully be directed toward paving the way with service providers and the supports needed for SSLCs residents. SSLCs were not created by dropping off the planned residents in a vacant field, and then building the facility around them; neither should a transition to the community.

We believe that SSLCs are something our state does well in caring for our least-abled Texans, and should be a source of justifiable pride. The recommendation to close six (not *three*, not *eight*, *six*) SSLCs seems to have no quantitative basis other than keeping up with California and Florida. Those states and others have closed most of their large ICFs, but there is no reference to studies of the health outcomes or excess mortality among the displaced individuals. Are they as safe and healthy, or simply less visible, as the SAC report acknowledges people in community care already are?

The continuing refrain of community-only advocates is to empty SSLCs and transfer the money to community-based services, to better serve a population that is younger, healthier, more mentally fit, and less needful. We, as family members of SSLC residents, have never advocated that money spent on paratransit or personal care attendants be abolished, and those funds used instead to purchase the wheelchair vans and major medical equipment that we now buy ourselves. It seems unseemly.

Much is made of finding the least-restrictive environment for people with disabilities. As parents of children with severe disabilities, so do we. We know that our children have a larger, less-restricted life than they could have (and did have) in group homes. Each day, we are grateful to God and the state of Texas that they live in safety, with dignity, purpose, and the greatest joy their conditions allow, in the communities that are our SSLCs.

Respectfully,

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