

The logo for the Texas Sunset Advisory Commission is a semi-circular emblem with a dark, textured interior and a white border. The text "Texas Sunset Advisory Commission" is written in a bold, white, sans-serif font across the center of the emblem.

**Texas  
Sunset  
Advisory  
Commission**

---

**STAFF EVALUATION**

---

*Office of Interstate Compact  
on Mental Health Administrator  
for Texas*

---

**A Staff Report  
to the  
Sunset Advisory Commission**

**1984**

## TABLE OF CONTENTS

	<u>Page</u>
Summary .....	1
Agency Evaluation .....	3
Evaluation of Other Sunset Criteria .....	11
Across-the-Board Recommendations .....	15

## SUMMARY

In 1969, Texas ratified the Interstate Compact on Mental Health. This agreement between 44 states allows mentally retarded and mentally ill people access to services in whatever state can provide the most beneficial care and treatment irrespective of their current residence. The need for the compact arose because of problems encountered by clients (or their families) of the mental health and mental retardation system, who wanted to receive services in another state. Often this was either impossible due to certain residency requirements or difficult because of the lack of a central point for coordinating such a transfer. The compact provides this point and allows interstate transfers to occur regardless of residency requirements. The review indicated a continuing need for Texas to participate in the compact since similar problems would recur if the state withdrew its membership. The Texas Office of Interstate Compact on Mental Health Administrator should be maintained as it provides a means to expedite interstate transfers when it is in the best interest of the individual and the family.

The Office of Interstate Compact on Mental Health Administrator is located within the Texas Department of Mental Health and Mental Retardation (TDMHMR). The commissioner of TDMHMR serves as the compact administrator and the functions of the compact are carried out by TDMHMR staff. In regard to the current operations of the office of the compact in Texas, the review determined that while the office is generally operated in an efficient and effective manner, there are three changes which should be made if the legislature decides to continue to participate in the compact. These changes are set out below.

### Approaches for Sunset Commission Consideration

#### I. MAINTAIN THE COMMISSION WITH MODIFICATIONS

##### A. Policy-making Structure

1. **The statute should be amended to require the governor to appoint the commissioner of TDMHMR as administrator of the Interstate Compact on Mental Health in Texas and to allow the commissioner to designate an alternate to serve in his absence.**

The commissioner of the Texas Department of Mental Health and Mental Retardation is designated as the state mental health authority

and has always been appointed administrator of the Interstate Compact on Mental Health. However, this is not required by statute. The position of commissioner of TDMHMR appears to be an appropriate designation for all future appointments for administrator of the compact and the statute should require this.

**B. Evaluation of Programs**

- 1. The statute should be amended to change the sunset date for the Office of Interstate Compact on Mental Health Administrator to coincide with the sunset date of the Texas Department of Mental Health and Mental Retardation.**

Employees of the Texas Department of Mental Health and Mental Retardation administer and carry out the duties of the compact. These duties are closely related to other functions within TDMHMR. The statute should be amended to allow the sunset review of the compact to coincide with the review of TDMHMR which will allow similar functions to be evaluated at the same time and eliminate a duplication of effort.

**C. Open Records/Open Meetings**

- 1. The statute should be amended to require TDMHMR to file notice of national compact meetings with the secretary of state's office.**

As a state official, the Texas compact administrator is subject to the Texas Open Meetings Act. However, as a body, the total membership of the compact is not subject to state or federal open meetings requirements. Within Texas, no public notification of the times, dates, and location of the compact meetings has occurred. The statute should be amended to require TDMHMR to file, in the Office of the Secretary of State, timely notices of any national meetings of compact members.

**AGENCY EVALUATION**

---

---

The review of the current operations of an agency is based on several criteria contained in the Sunset Act. The analysis made under these criteria is intended to give answers to the following basic questions:

1. Does the policy-making structure of the agency fairly reflect the interests served by the agency?
  2. Does the agency operate efficiently?
  3. Has the agency been effective in meeting its statutory requirements?
  4. Do the agency's programs overlap or duplicate programs of other agencies to a degree that presents serious problems?
  5. Is the agency carrying out only those programs authorized by the legislature?
  6. If the agency is abolished, could the state reasonably expect federal intervention or a substantial loss of federal funds?
- 
-

## BACKGROUND

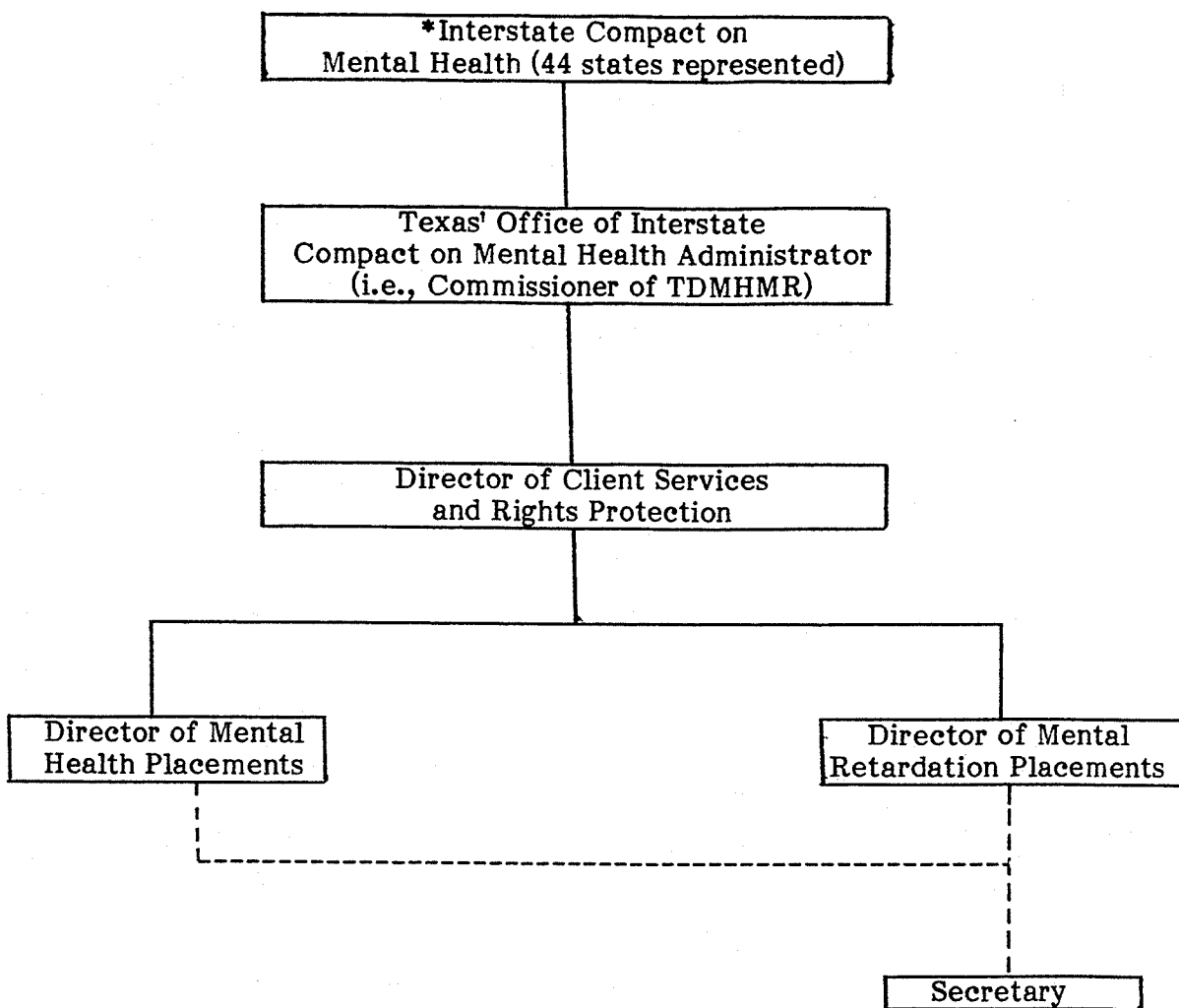
The Interstate Compact on Mental Health is a cooperative agreement between 44 states to allow the transfer of mentally ill and mentally retarded persons so they can receive services in the state where it would be most beneficial, irrespective of their legal residence. In the past, it was difficult to transfer individuals between states because of differing residency requirements and the lack of a central point that could make this happen. The Interstate Compact on Mental Health was formed to solve this problem. To be a member, a state must ratify an agreement that emphasizes treatment based on the welfare of the individual regardless of his or her current geographic location. In most cases, transfers are triggered by a need to move individuals closer to their family. This is seen as useful and necessary since contact with family members can be important in the care and treatment of mentally ill and mentally retarded individuals.

The compact was initially drafted in 1955, and Texas joined in 1969. On a nationwide basis, the compact is under the auspices of the National Association of State Mental Health Program Directors (NASMHPD). The NASMHPD coordinates the functions of the compact members, sponsors their nationwide meetings, and periodically updates the roster of member states.

On the state level, the compact agreement provides that the governor designates a compact administrator for that state. In Texas, the governor has always designated the commissioner of the Texas Department of Mental Health and Mental Retardation as the compact administrator. It is the "Office of Interstate Compact on Mental Health Administrator" that is subject to the Texas Sunset Act.

Administration of the Interstate Compact in Texas has remained the responsibility of the Texas Department of Mental Health and Mental Retardation since its enactment. In 1983, the duties were transferred within the agency from the Legal Services Division to the Client Services and Rights Protection Division. In fiscal year 1983, the Texas Department of Mental Health and Mental Retardation used \$16,578 appropriated from general revenue to carry out the administrative duties under the compact. These responsibilities require approximately 20 -25 percent of the time of three administrative staff and one secretary (see Exhibit I for organizational chart).

**Exhibit I**



---

\* A Division within the National Association of State Mental Health Program Directors -- Washington, D.C.



## REVIEW OF OPERATIONS

This section covers the evaluation of current agency operations undertaken to identify any major changes which should be made to improve the efficiency and effectiveness of those operations, if the agency is to be continued. The evaluation is divided into three general areas dealing with: 1) a review and analysis of the policy-making body, 2) a review and analysis of the overall administration of the agency, and 3) a review and analysis of the operations of specific agency programs.

### Policy-making Structure

The evaluation of the policy-making structure was designed to determine if the current statutory structure contains provisions that ensure adequate executive and legislative control over the organization of the body, competency of members to perform required duties, proper balance of interest within the composition, and effective means for the selection and removal of members.

The Interstate Compact on Mental Health is a cooperative agreement among 44 states. Therefore, the policy structure is based on the standard terms of that agreement. Any change would require ratification by all members states. The terms of the agreement states that the governor will designate a person to serve as administrator, but does not specify who that person will be. The review indicated that the commissioner of MHMR is the most appropriate person to serve and the statute should be changed so that the commissioner will be automatically designated by the governor. This is addressed below.

The governor should appoint the commissioner of TDMHMR as the administrator of the Interstate Compact on Mental Health in Texas.

Under the terms of the compact agreement, the governor is authorized to designate the compact administrator for the state. The compact administrator is responsible for establishing procedures for the interstate transfer of clients between state mental health and mental retardation facilities. Furthermore, the designated official has the power to promulgate rules and regulations to carry out the terms of the compact more effectively.

The governor has always appointed the commissioner of the Texas Department of Mental Health and Mental Retardation (TDMHMR). Since the commissioner of TDMHMR is designated as the state mental health authority and the

compact is implemented by TDMHMR staff under the commissioner's supervision, this position appears to be an appropriate designation for all future appointments. However, currently there are no statutory guidelines for selection of the compact administrator. To ensure that the current practice is continued in the future, the statute should be amended to provide that the governor will designate the commissioner of TDMHMR as the compact administrator. In addition, the commissioner should be authorized to select an alternate representative to the compact who can act in the commissioner's absence.

### **Overall Administration**

The evaluation of the overall agency administration was designed to determine whether the management policies and procedures, the monitoring of management practices and the reporting requirements of the agency were consistent with the general practices used for internal management of time, personnel, and funds.

The review of the Interstate Compact on Mental Health analyzed the process used by Texas to carry out the functions of the compact. The Texas Department of Mental Health and Mental Retardation processes the applications for interstate transfer, performs travel voucher reimbursements for national meetings, and pays Texas' annual share of the compact's expenses. Texas' pro rata share of compact membership expenses for 1984 was \$272. This is derived from the budget of the Deputy Commissioner of Mental Health at TDMHMR. Controls for these administrative functions appear to be adequate and no recommendations are made.

### **Evaluation of Programs**

For purposes of the evaluation, the activities of the Office of Interstate Compact on Mental Health Administrator were reviewed in terms of the appropriateness of the procedures used to transfer a patient into or out of the state and the expenses involved in such a procedure. A description of these activities follows.

The duties of the Office of Interstate Compact on Mental Health Administrator are carried out by staff in the Client Services and Rights Protection Division of TDMHMR. This division serves as the initial contact point for all incoming patient transfers. Once the case record is received from the out of state facility, community based program, or private facility, it is referred to either the Director of Admissions for State Hospitals or State Schools. Appropriateness of placement in Texas is then determined, followed by an assessment of the availability of a bed in the least restrictive environment. The case record is then sent to the facility

for review. A person from each state operated facility is designated as a "compact coordinator" (in addition to their regular duties) to process the paperwork and make arrangements for the transfer.

The process works in a similar manner for out of state transfers. The compact coordinator in the state operated facility contacts the Director of Admissions for Texas State Hospitals or State Schools and sends the case record to that individual. Then the Director of Admissions contacts the other state operated facility, community based program or private facility for transfer approval.

As a part of the compact agreement the sending state agrees to pay the transportation costs and, in Texas, each state facility bears this expense. The fiscal 1983 expenditures for transportation to out of state facilities totalled \$25,174 for thirteen mentally ill and three mentally retarded individuals. In contrast, during the same period, the state admitted sixteen mentally ill and one mentally retarded individual with transportation paid by the sending state.

It appears that the procedures used are consistent with the compact agreement and the expenses incurred in patient transfers are appropriate. However, one concern resulted from the evaluation. The following material describes this concern and a recommendation that would address it.

**The sunset review of the Office of Interstate Compact on Mental Health Administrator should coincide with the review of the Texas Department of Mental Health and Mental Retardation.**

The Office of Interstate Compact on Mental Health Administrator has always been administered by the Texas Department of Mental Health and Mental Retardation. All staff responsible for carrying out the functions of the compact are employed by the department. Their responsibility to coordinate interstate transfers is handled in much the same way as the coordination of intrastate transfers.

One of the goals of the Sunset Act is to prevent duplication and consolidate efforts where possible. Changing the compact's sunset review date to coincide with the review of the Texas Department of Mental Health and Mental Retardation would allow similar functions of the department and the compact to be evaluated at the same time. This would eliminate the need for TDMHMR staff to prepare and publish two self-evaluation reports. Therefore, it is recommended that the sunset review of the Office of Interstate Compact on Mental Health Administrator be combined with the review of TDMHMR.



## **EVALUATION OF OTHER SUNSET CRITERIA**

---

---

The review of the agency's efforts to comply with overall state policies concerning the manner in which the public is able to participate in the decisions of the agency and whether the agency is fair and impartial in dealing with its employees and the general public is based on criteria contained in the Sunset Act.

The analysis made under these criteria is intended to give answers to the following questions:

1. Does the agency have and use reasonable procedures to inform the public of its activities?
  2. Has the agency complied with applicable requirements of both state and federal law concerning equal employment and the rights and privacy of individuals?
  3. Has the agency and its officers complied with the regulations regarding conflict of interest?
  4. Has the agency complied with the provisions of the Open Meetings and Open Records Act?
- 
-

## EVALUATION OF OTHER SUNSET CRITERIA

The material in this section evaluates the agency's efforts to comply with the general state policies developed to ensure: 1) the awareness and understanding necessary to have effective participation by all persons affected by the activities of the agency; and 2) that agency personnel are fair and impartial in their dealings with persons affected by the agency and that the agency deals with its employees in a fair and impartial manner.

As discussed in the background material, all functions of the Office of Interstate Compact on Mental Health Administrator are carried out by employees of the Texas Department of Mental Health and Mental Retardation (TDMHMR). The compact office follows TDMHMR's policies regarding open meetings/open records, equal employment opportunity, public participation and conflict of interest. A detailed analysis of these policies was not performed for this review. Nevertheless, one concern regarding the compact and the state Open Meetings Act was identified and is discussed below.

**Notice of national compact meetings should be filed with the secretary of state's office.**

As a state official, the Texas compact administrator is subject to the Texas Open Meetings Act. However, when the 44 representatives of the member states sit as a body, they do not comprise a state or federal agency. Therefore, they are not subject to state or federal open meetings requirements.

As stated previously, the National Association of State Mental Health Program Directors (NASMHPD) coordinates the meetings of the compact members. NASMHPD has developed procedural rules to govern the compact meetings and records, and these generally apply the spirit of the laws of the participating states. The review of these procedures indicated that, except in one instance, interested parties are afforded adequate protection. The procedures provide that meetings are open to the public and that minutes of meetings will be prepared and kept open for inspection.

However, in Texas there is no public notification of the time, dates, and location of the compact meetings. The public protection afforded under the Open Meetings Act should be extended to the annual meetings of the compact. To ensure that this occurs, the statute should be amended to require the Texas Department of Mental Health and Mental Retardation to file timely notices of any national meetings of compact members.





**ACROSS-THE-BOARD RECOMMENDATIONS**

---

---

From its inception, the Sunset Commission identified common agency problems. These problems have been addressed through standard statutory provisions incorporated into the legislation developed for agencies undergoing sunset review. Since these provisions are routinely applied to all agencies under review, the specific language is not repeated throughout the reports. The application to particular agencies are denoted in abbreviated chart form.

---

---

**OFFICE OF INTERSTATE COMPACT ON MENTAL HEALTH ADMINISTRATOR**

Applied	Modified	Not Applied	Across-the-Board Recommendations
			<b>A. GENERAL</b>
		X	1. Require public membership on boards and commissions.
		X	2. Require specific provisions relating to conflicts of interest.
		X	3. Provide that a person registered as a lobbyist under Article 6252-9c, V.A.C.S., may not act as general counsel to the board or serve as a member of the board.
		X	4. Require that appointment to the board shall be made without regard to race, color, handicap, sex, religion, age, or national origin of the appointee.
	X	X	5. Specify grounds for removal of a board member.
			6. Require the board to make annual written reports to the governor, the auditor, and the legislature accounting for all receipts and disbursements made under its statute.
		X	7. Require the board to establish skill-oriented career ladders.
		X	8. Require a system of merit pay based on documented employee performance.
		X	9. Provide that the state auditor shall audit the financial transactions of the board at least once during each biennium.
		X	10. Provide for notification and information to the public concerning board activities.
		X	11. Place agency funds in the Treasury to ensure legislative review of agency expenditures through the appropriation process.
		X	12. Require files to be maintained on complaints.
		X	13. Require that all parties to formal complaints be periodically informed in writing as to the status of the complaint.
		X	14. (a) Authorize agencies to set fees.
		X	(b) Authorize agencies to set fees up to a certain limit.
		X	15. Require development of an E.E.O. policy.
		X	16. Require the agency to provide information on standards of conduct to board members and employees.
		X	17. Provide for public testimony at agency meetings.
		X	18. Require that the policy body of an agency develop and implement policies which clearly separate board and staff functions.

**Office of Interstate Compact on Mental Health Administrator**  
(Continued)

Applied	Modified	Not Applied	Across-the-Board Recommendations
			<b>B. LICENSING</b>
		X	1. Require standard time frames for licensees who are delinquent in renewal of licenses.
		X	2. Provide for notice to a person taking an examination of the results of the exam within a reasonable time of the testing date.
		X	3. Provide an analysis, on request, to individuals failing the examination.
		X	4. Require licensing disqualifications to be: 1) easily determined, and 2) currently existing conditions.
		X	5. (a) Provide for licensing by endorsement rather than reciprocity.
		X	(b) Provide for licensing by reciprocity rather than endorsement.
		X	6. Authorize the staggered renewal of licenses.
		X	7. Authorize agencies to use a full range of penalties.
		X	8. Specify board hearing requirements.
		X	9. Revise restrictive rules or statutes to allow advertising and competitive bidding practices which are not deceptive or misleading.
		X	10. Authorize the board to adopt a system of voluntary continuing education.