

From: [Sunset Advisory Commission](#)
To: [Janet Wood](#)
Subject: FW: Form submission from: Public Input Form for Agencies Under Review (Public/After Publication)
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From: sundrupal@capitol.local [<mailto:sundrupal@capitol.local>]
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To: Sunset Advisory Commission
Subject: Form submission from: Public Input Form for Agencies Under Review (Public/After Publication)

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Agency: DEPARTMENT STATE HEALTH SERVICES DSHS

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Your Comments About the Staff Report, Including Recommendations Supported or
Opposed:
DSHS

Issue 1 – Resolving the Current Crisis in the State Mental Health Hospital System Requires Action, Starting Now.

TPPF supports all the recommendations outlined in the Sunset staff report regarding reforms to the state mental health hospital system. As outlined in the report, the system is in crisis due to a number of factors, only some of which can be addressed by DSHS.

Recommendations

1.1 Require DSHS to work with the Court of Criminal Appeals to develop training to inform the judiciary about alternatives to inpatient mental health treatment.

More communication and coordination between DSHS and the Court of Criminal Appeals is clearly necessary, in part because of the multiple alternatives to inpatient mental health treatment for those under forensic commitment (outpatient competency restoration, conditional release, etc.). Diverting appropriate patients from the system and into alternative settings in the community would free up capacity for increasing numbers of forensic patients.

1.2 Direct DSHS to develop a guide for alternatives to inpatient mental health treatment in the state mental health hospital system.

While an online guide of available alternatives to inpatient mental health treatment would be valuable, such a project

should not be undertaken by DSHS directly but instead contracted out to a private firm with expertise in website design and development.

1.4 Direct DSHS to continue expanding state mental health hospital system capacity for both forensic and civil patients by contracting with mental health providers in local communities whenever possible.

System capacity has not kept pace with the state's population growth, but instead has decreased over the last decade. Because of the many problems associated with maintain aging state mental health hospitals facilities, many of which are located far from major population centers, DSHS should increase the number of available beds in contracted community, private, and university hospital facilities.

As part of this effort, the Legislature should direct DSHS to develop clear and consistent measures for monitoring the use and performance of private, contracted facilities compared to state-operated mental health hospitals.

In addition, DSHS should maintain a waiting list for potential civil and voluntary state mental health hospital patients to better manage capacity issues.

Issue 2 – DSHS Has Struggled to Deliver Integrated, Outcomes-Focused Community Mental Health and Substance Abuse Services.

The findings and recommendations of the Sunset staff accurately reflect the ongoing failure to integrate mental health and substance abuse services. TPPF supports all of Sunset staff's recommendations in 2.1.

Regarding metrics (outlined in recommendation 2.3), TPPF concurs with Sunset staff that DSHS has failed to develop streamlined, outcome-focused metrics and performance measures in its mental health and substance abuse programs.

Reform should consist of prioritizing outcomes over process and eliminating all metrics currently not required by state rule or federal regulation. HHSC should develop a priority subset of metrics—10 should be the initial target—and streamlines all remaining metrics. Wherever possible, performance measures and contract requirements for mental health and substance abuse services should be outcome-based and emphasize performance improvement. Process-based measures (or outputs) should be eliminated.

Consistent with the framework described above, DSHS contracts should reward outcomes and dispense with process targets. Modest contract performance standards should be part of this, but a 10% withhold is too high and therefore not credible. A sanction of 2% of the contract amount or less, tied to a core set of performance metrics, would both incentivize compliance and be credible. In addition, DSHS general funds for LMHAs should mirror contract requirements for other HHSC purchasing and include performance incentives for reaching specific goals (decline in ER use, hospital readmissions, use of jails, etc.)—more rewards instead of all punishments.

Any Alternative or New Recommendations on This Agency:

Issue 3 – The Unmanageable Scope of DSHS' Regulatory Functions Reduces Needed Focus on Protecting Public Health.

TPPF agrees with Sunset staff that the Legislature should eliminate the 19 regulatory programs listed in its review of DSHS, and that a detailed analysis of all 70 regulatory programs housed at DSHS is necessary. TPPF has long opposed burdensome and unnecessary occupational licensing laws, in part because such schemes often serve the special interests of regulated communities and industries rather than a legitimate public interest. Indeed, some regulated industries in Texas are able to raise barriers to entry and insulate themselves from competition by co-opting and controlling regulation once it has been established. Because of this, regulatory programs must serve a clear public interest that justifies their existence, and the burden of proof must be on the programs themselves and the independent boards connected to them.

Sunset staff identified 19 regulatory programs for discontinuation and recommended 12 other programs for transfer to the Texas Department of Licensing and Regulation (TDLR). Although we support the elimination of the 19 programs listed in the report, we recommend a full review of all remaining programs—including the 12 that staff recommended for transfer to TDLR.

Simply transferring potentially unnecessary programs to TDLR will only shift the burden to another state agency

and defer the important work of deciding which programs should be eliminated.

My Comment Will Be Made Public: I agree