

From: [Sunset Advisory Commission](#)
To: [Janet Wood](#)
Subject: FW: Form submission from: Public Input Form for Agencies Under Review (Public/After Publication)
Date: Tuesday, June 24, 2014 3:46:11 PM

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From: sundrupal@capitol.local [<mailto:sundrupal@capitol.local>]
Sent: Tuesday, June 24, 2014 1:31 PM
To: Sunset Advisory Commission
Subject: Form submission from: Public Input Form for Agencies Under Review (Public/After Publication)

Submitted on Tuesday, June 24, 2014 - 13:31

Agency: DEPARTMENT STATE HEALTH SERVICES DSHS

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

The Sunset Advisory Commission Staff Report on the Department of State Health Services (May 2014) has several flawed, erroneous or misguided recommendations regarding the mold program as currently overseen by DSHS. The report indicates that the Mold Program, as overseen by the Department, is recommended for discontinuation.

One basis is that small property owners can perform the work themselves (without licensing). This licensing process is not intended to create an undue burden on "Joe Homeowner"; rather it is intended to ensure that when "Joe" retains a Mold Assessment Consultant or Mold Remediation Contractor, that the process undertaken is based on sound, tested methods.

The term "mold is gold" was used prior to the establishment of the DSHS mold program because many unscrupulous consultants and contractors preyed on homeowners' fears of the "toxic black mold" fomented by the news media.

The licensing program was employed to prevent fraud home owners and insurance carriers. In addition, the Certificate of Mold Damage Remediation provides the homeowner and his or her insurance carrier with some basis for relying on the work performed.

In my opinion, this is no different from the situation at which the Sunset Commission takes issue regarding the Department's lack of enforcement with EMS billing fraud. Neither the mold licensing program nor the EMS billing fraud issue could be truly considered a "public health issue" but in the case of mold, the program is recommended for discontinuation, while in the case of EMS fraud, more oversight is recommended. This is completely inconsistent.

The report also states that "the U.S. Environmental Protection Agency provides guidance for mold remediation in

structures; the American Industrial Hygiene Association, a national entity, provides certification of mold assessors; and multiple private sector trade groups train and certify mold assessors.” I would like to address these three statements individually.

“Guidance” is just that... There is nothing ****requiring**** a remediator to undertake the removal of mold damage in the manner presented by the EPA (or any of the other entities that provide recommendations for performing the work) . The average consumer knows little or nothing about the actual remediation process, and just because the guidelines exist, does not mean that will be followed by unscrupulous remediators. Having the Department provide unscheduled oversight (“site visits”) provides at least some level of assurance that the work will be performed properly.

The American Industrial Hygiene Association (AIHA) does NOT certify mold assessors. One can only assume that the “certification” referred to is that of Certified Industrial Hygienist (CIH). Note that indoor air quality sampling is only one of many disciplines in which basic competence must be shown to achieve this designation. However, many CIHs perform in non-mold-related fields and would not necessarily be expected to have developed a skill set for performing mold investigations.

And while many private sector trade groups do “train and certify” mold assessors ****and**** mold remediators, because of the multitude of these entities, it is extremely difficult for the consumer to evaluate all the certifications that can be presented. Many certificates can be obtained with minimal effort (with most of that effort being the writing of the check to the organization) but which appear quite impressive to the average consumer.

In concluding, I have to admit that I have not been fully supportive of DSHS’ efforts in the mold program, mostly because I believe they could have done a better job in the rule-making process. But I do not deny that it does fulfill a valuable role in protecting Texans. And as a stake-holder (licensee), it can be said that my livelihood would be impacted by the dissolution of the program, but my workload is based on my clientele’s belief that there is value in retaining qualified professionals to address mold issues. But I believe that Texas would be ill-served by dissolution of the DSHS mold program.

It is a possible alternative may be to transfer the licensing to the Department of Licensing and Regulation, but I am unfamiliar with their enforcement capabilities and (as stated earlier), the “threat” of job-site visits by the DSHS regional inspectors is a relatively effective deterrent to improper performance of mold remediation.

Any Alternative or New Recommendations on This Agency: I would actually like to see MORE of the unscheduled job-site visits by both the DSHS Mold Program AND Asbestos Program regional inspectors. (It’s likely that this would require additional personnel at the regional offices.)

My Comment Will Be Made Public: I agree