

From: [Sunset Advisory Commission](#)
To: [Janet Wood](#)
Subject: FW: Form submission from: Public Input Form for Agencies Under Review (Public/After Publication)
Date: Monday, June 30, 2014 4:44:44 PM

-----Original Message-----

From: sundrupal@capitol.local [<mailto:sundrupal@capitol.local>]
Sent: Monday, June 30, 2014 1:08 PM
To: Sunset Advisory Commission
Subject: Form submission from: Public Input Form for Agencies Under Review (Public/After Publication)

Submitted on Monday, June 30, 2014 - 13:07

Agency: DEPARTMENT STATE HEALTH SERVICES DSHS

First Name: Gyl

Last Name: Switzer

Title: Public Policy Director

Organization you are affiliated with: Mental Health America of Texas

Email: gyl@mhatexas.org

City: Austin

State: Texas

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

Mental Health America of Texas (MHAT) is the oldest statewide mental health advocacy organization in Texas—79 years. The MHAT mission includes the prevention and treatment of mental illness and substance use disorder.

These comments are about the Sunset Advisory Commission Staff Report on the Department of State Health Services, May 2014. MHAT agrees with many staff recommendations and congratulates the Sunset staff on their work.

- DSHS receives more than \$1 billion in General Revenue. Please note that Medicaid expansion would greatly reduce this GR expenditure because many persons with serious mental illness and substance use disorder would be covered by Medicaid and the federal government would pay more than half of their medical care. In addition, having Medicaid benefits would encourage prevention and early intervention that would save money down the line in criminal justice, emergency room care, and lives shortened or lost.
 - o The Sunset Commission should consider all options to cover persons with mental illness and substance use disorder.
- MHAT that there must be a plan to reform the state hospital system that includes a focus on prevention and early intervention, community services, jail diversion, education of judges and other actors in the criminal justice system, high quality care that leads to recovery and timely release from state hospitals with adequate support services for as long as needed. There must be significant stakeholder input in state hospital redesign.
 - o The Sunset Commission must require the above considerations in reforming the state hospital system.
- MHAT is concerned with the very short turnaround for the contracted state

hospital 10-year plan.

o The Sunset Commission should assure that the 10-year plan is adequately researched with thoughtful recommendations and significant stakeholder involvement.

• MHAT is very concerned by DSHS' ongoing lack of seeking stakeholder input and using stakeholder input. In 2011, the budget had a rider to privatize a state hospital at a 10% savings and there was much public opposition expressed. With no rider in 2013 session, DSHS (through HHSC) chose to issue an RFP for the privatization of Terrell State Hospital. There was NO stakeholder input sought and NO notification to the HB 3793 workgroup, the CAP, or other relevant stakeholder groups.

o As I have been recommending for years to DSHS, there should be a standard protocol for involving stakeholders in important plans, changes, investments, etc. While different items may require adjustment, it would be highly beneficial to work with stakeholders to develop a standard protocol that can be adjusted. The Sunset Commission should require this.

• NorthSTAR is referred to as a pilot program although there has been no meaningful attempt to expand the pilot or even features of the pilot that could benefit other areas of the state. The Sunset staff did not review the N* model.

o The Sunset Commission should assure that the Sunset staff or other relevant independent entity examine the N* model and require action based on findings.

Stakeholders should play a significant part.

o There are ways to compare community center and N* performance currently and they should be explored.

• DSHS has been directed repeatedly to gather and publish meaningful outcomes data from which comparisons can be made between the community center model and the NorthSTAR model and DSHS has repeatedly refused to do so.

o The Sunset Commission should ensure that relevant outcome data for comparison be published in a user-friendly format.

• Page 19, please consider details about the 21 days in jail lawsuit being overturned on appeal on a technicality only.

o The Sunset Commission should require the State to abide by the 21-day rule.

• Page 21, the implication of the first few sentences is that the increase in workers' comp claims results from "a patient population with a higher risk of violence or other dangerous behavior."

o The Sunset Commission should request and review the data for the assertion of more dangerous patients. Second, the Sunset Commission should consider training of staff and the appropriate staff to patient ratios as a significant reason for the increase in workers comp claims and address those.

• The recommendations for training the judiciary on alternatives to state hospital care are not strong enough.

o The Sunset Commission should require the training of all players in the system—judges, prosecutors, district attorneys, defense attorneys, sheriffs. And, policy makers should consider whether to make it mandatory that some forensic patients be placed in less restrictive settings under certain conditions.

• MHAT opposes jail-based competency restoration under any circumstances.

Jails are not therapeutic environments. If a person is determined to need a state hospital level of care, he/she needs a state hospital level of care.

Persons with mental illness should not be punished because the system is broken. Jail-based competency restoration is NOT a best practice and has only been taking place in San Bernardino County, CA for less than 2 years.

o The Sunset Commission should restrict any expansion of JBCR.

• The report does not make reference to the federal Olmstead decision that applies to persons with mental illness and requires states to place people in the least restrictive setting.

o The Sunset Commission should make it clear that the State understand and apply the Olmstead decision and seek to place all persons in the least restrictive setting.

• Page 28 references an LMHA (community center) also provides substance abuse referral services. The report states that this administrative model works well and should be used as the goal to promote more integrated services. This is a problematic assertion.

o The Sunset Commission should consider numerous other models from around the country that could be even more effective. The Sunset staff did not look at NorthSTAR and therefore missed any comparisons that could be made between the

N* model and any community center model. N* should be considered.

- Regarding equity among community centers and the N* model:
 - o The Sunset Commission should pursue equity through legislation due to the repeated failure of DSHS to address the issue in a significant way. State hospital bed usage could be one consideration but other considerations should be taken into account such as: poverty, unemployment, growth, access to providers, rural v. urban, etc.
 - DSHS has repeatedly failed to publish data in a user-friendly format.
 - o The Sunset Commission should require Legislative Budget Board (LBB) or some other outside entity to work with and oversee DSHS data collection and dissemination.
 - DSHS rules are incredibly overdue and in violation of State law.
 - o The Sunset Commission should require a task force of legal counsel and others to address overdue rules within a timeframe assigned by the Legislature. DSHS should be directed to make final determinations when stakeholders disagree based on the health of the people of Texas.
 - Three key behavioral health advisory committees
 - o The Drug Demand Reduction Advisory Committee should NOT be eliminated. It has an important task and important functions that are not duplicated. It is my understanding that interference from DSHS and refusal to schedule meetings or publish reports by DSHS has crippled the Committee in the recent few years.
 - o Major efforts must be put into making the CAP the most effective it can be.
 - o To date, consumers and family members who do not work in the system have had minimal impact and participate minimally. This must be addressed. Some ways to address are through significant staff support and mentoring; meetings on evenings and weekends; careful vetting of applicants with realistic presentation of requirements; significant involvement of involved stakeholders/advocates, etc. Any rules put in place should serve to empower and not restrict the CAP.
 - Page 43 mentioned the Medical Advisory Board, a panel of physicians with whom the DPS consults to determine if certain individuals can safely be issued a driver or concealed hand gun license.
 - o The Sunset Commission should require DSHS to revise the charge to the Advisory Board and work with DPS to educate them on the changes. There are several requirements to get a driver license and to teach one's own children to drive that are discriminatory, stigmatizing and unnecessary.
 - Community centers, N*, and local health departments:
 - o The Sunset Commission should recommend ways for local public health departments and community centers to work together. One obvious example is the conjunction of suicide prevention and local health departments. There are great opportunities to take a public health approach to mental health.
 - Regarding the Healthcare Information Council
 - o The Sunset Commission must assure that emergency room data be collected per a rider in the 2013 budget (page 81).
 - Regarding the Texas Institute of Health Care Quality
 - o TIHCQ has not been a transparent organization. It is part of HHSC but does not have a presence on the HHSC website (other than posting meetings). On the TIHCQ there is no way to sign up for updates/information. Agendas are often not descriptive enough to understand what re MHSUD is being considered.
 - o I have expressed this concern to Litaker and HHSC support staff and the issues have not been resolved.
 - DSHS to review and revise internal advisory committees
 - o The Sunset Commission should assure that the review includes stakeholder input. DSHS should not be able to unilaterally change, revise, restrict advisory committees.

The Sunset Commission should consider the 1115 waiver and state direction of MH and SUD IGT.

- o It is my understanding that community centers use State General Revenue for IGT, unlike other IGT. And community center funding is inequitable so the use of IGT enhances the inequity. The State should be required to guide MH and SUD investment in DSRIP projects and consider statewide projects.

Any Alternative or New Recommendations on This Agency:

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My Comment Will Be Made Public: I agree