SUBJECT: Local mental health and mental retardation authorities serving as providers

COMMITTEE: Human Services — committee substitute recommended

VOTE: 7 ayes — Hupp, Eissler, A. Allen, J. Davis, Gonzalez Toureilles, Naishtat, Paxton

1 nay — Goodman

1 absent — Reyna

WITNESSES: For — Penny Borsella, Achievements Through the Arts; William Bryant, Metro Care; Jim Caldwell, Texas Silver Haired Legislature; Walter Diggles, Texas Association of Regional Councils; Beth Epps, Adapt of Texas; Mike Halligan and Victoria Laursen, Texas Mental Health Consumers; Keithen and Sharon Johnson, Dallas Metrocare; Marcia Rachofsky, Texas Mental Health Consumers, Children's Mental Health Services; Rebecca Roemer, The Beaumont Hope Center; Nancy Speck, Texas Strategic Health, Mental Health Workshop, and President's Mental Health Commission; Patricia Caballero; Frank Delgado; Jeanine Hayes; Sandra Veronica Natal; (*Registered, but did not testify:* Ernesto Alonzo, Mental Illness Awareness; William Brown and Joe Sanchez, AARP-Texas; Jan Friese, Texas Counseling Association; William Gilbert, Mental Illness Awareness; Dan Guenther, River City Advocacy; Eldon Tietje, Central Counties Center for MHMR Services; Paula Johnson; Lisa McEuen)

Against —Anita Bradberry, Texas Association for Home Care; John Breeding, Texans for Safe Education; Bill Coombs, Helen Farabee Regional MHMR; Lauren DeWitt, The Citizens Commission on Human Rights; Sherri Fleming, Travis County Health and Human Services; Merry Lynn Gerstenschlager, Texas Eagle Forum; Aaryce Hayes, Advocacy Inc., Peter Henning, Bethesda Lutheran Homes and Services, Inc.; Richard Hernandez, EduCare Community Living; Mike James and Lee Spiller, Citizens' Commission on Human Rights; Bob Kafka, ADAPT; Amy Mizcles, Arc of Texas; Carole Smith, Private Providers Association of Texas; Charles Blankenship; Moira Dolan; Jacqueline Shannon; David Southern; Pat Tinley; Eddie Vogt; (*Registered, but did not testify:* Chris Alderete, The Medical Team, Inc.; Tom Collins, Greenoak Hospital;

Charles Gouge, D&S Residential Services; Karen Greebon, Jennifer McPhail, Albert Metz, James Templeton, Adapt; Bob Mitchell, Uvalde County Judge; Gabriela Moreno, Christus Health; Randy Routon, LifePath Systems; Jerry Lee Shelurn, Mental Illness Awareness; Stephanie Thomas, Institute for Disability Access; Heather Vasek, Texas Association for Home Care; Cristen Wohlgemuth, Texas Pharmacy Association; William Young, EduCare Community Living Program- Houston; Becky Baker; Robert Crosley; Gareth Ellzey; Carlie Gatlin; Brett Gow; Jackie House; Ben Lockhart; Scott May; Glenn McIntosh; Jerry Martenson; Delbert Roberts; Joseph Strickland)

On — Martha Blaine, Community Council of Greater Dallas; Denise Brady, Mental Health Association of Texas; Bob Brown, Tarrant County MHMR; Lynda Ender, Texas Senior Advocacy Coalition; Carlos Higgins, Texas Silver Haired Legislature; Addie Horn, Department of Disability and Aging Services; Merily Keller, Texas Suicide Prevention Community Network; Donald Lee, Texas Conference of Urban Counties; Joe Lovelace, National Alliance for the Mentally Ill Texas; Martin McLean, Williamson County; W.A. Meyers, Houston-Galveston Area Council of Governments; David Pan, Telecare Corporation; Hartley Sappington, Texas Council of Community MHMR Centers; Dave Wanser, Department of State Health Services; Linda Parker Werlein; Ruth Snyder; (*Registered, but did not testify:* Patrick Michael Clancey and Lisa Osborne, Association of Substance Abuse Programs; Oscar Garcia, Chris Kyker, and Naomi Elaine Norton; Texas Silver Haired Legislature; Elizabeth Kromrei, Department of Family and Protective Services; Carol Miller, National Association of Social Workers Texas; Jim Ray, Texas Association of Regional Councils, Councils of Governments; Pat Porter; Glenda Rogers)

BACKGROUND: Texas provides services to people who are mentally ill or mentally retarded through a system of local mental health and mental retardation authorities. The Department of Disability and Aging Services (DADS) and Department of State Health Services (DSHS), under the authority of the Health and Human Services Commission (HHSC), contract with local authorities.

Local authorities are responsible for assembling a network of providers in their service areas and establishing treatment options and services. In some areas of the state, the local authority is both the state contractor and the service provider, but only as the provider of last resort.

Medicaid, the state-federal health insurance program for low-income families, the elderly, and people with disabilities, pays for a prescribed set of services, including institutional long-term care. Individuals who receive Medicaid benefits may live in the community and receive some of the services that otherwise would be provided in an institution if they are in a waiver program.

One of the state's waiver programs is the Mental Retardation Local Authority Program (MRLA). A provider of MRLA services must perform case management functions, including planning, coordinating, and reviewing services to clients. Covered services include counseling and therapy, minor home modifications, nursing and dental care, residential assistance, and other services in the community.

In 2003, the 78th Legislature enacted HB 2292 by Wohlgemuth, the omnibus health and human services law. One of the provisions in that law requires that local mental health and mental retardation authorities be providers of last resort. Another directs DADS and local mental health and mental retardation authorities to develop and implement a plan to privatize all ICF-MR (intermediate care facility for people with mental retardation) services and related waiver services programs operated by an authority. It barred the transfer of services to private providers until August 31, 2006.

DIGEST:

CSHB 470 would establish local service authorities as the coordinator of aging, disability, and behavioral health services under rules established by HHSC. DADS and DSHS would contract with the local authorities to coordinate services. The local authorities would contract for services, while ensuring access to services, the creation of service delivery plans, a system of care for children with serious emotional disturbances, and a network of service providers. Authorities could not provide services directly, however.

The chief elected officials — county judges — of a service region would be responsible for local planning. They would create a local advisory council and could request the creation of a local service authority with a nine-member board of directors appointed by the chief elected officials. The chief elected officials also could implement innovative projects in limited areas of the service region. The local area agencies on aging would be preserved. The chief elected officials also would create a transition plan.

Local service authorities would meet other requirements, including coordination of the use of state facilities, ongoing quality assurance and improvement programs, and ombudsman services.

A community center could provide waiver and ICF-MR services for a limited number of individuals if it also provided assessment and service coordination functions for the local service authority.

For a transitional time, five years, the local service authorities would contract with community centers and others that were providing services in good standing as of September 1, 2005. A community center providing jail diversion services would have right of first refusal to continue to provide them.

The bill would repeal the existing statute establishing local mental health, behavioral health, and mental retardation authorities. If a waiver or other federal authorization were required, HHSC would be directed to obtain it.

The bill would take effect September 1, 2005, and it would take precedence over other inconsistent laws.

SUPPORTERS SAY:

CSHB 470 would mandate a split in responsibilities between authority and provider. It would move the state toward a more efficient and consumer-driven system by proposing a needs-based, rather than diagnosis-based, system and allowing for innovation at the local level.

Local mental health and mental retardation authorities should not serve both as state contractors and providers. Already the contractor has significant influence over a client's access to services, but if the contractor also were the provider, there would be no other entity to which that client could turn. This inherent conflict of interest should be avoided wherever possible.

The bill would not reduce access to services. Instead, it would permit local judges to decide whether there were sufficient resources in their communities and whether or not a contractor also should provide some services. It is erroneous to argue that all contracts would be held at the state level. This bill would build on local networks and local expertise.

Unlike HB 2572 by Truitt, CSHB 470 would take a more integrated approach to the provision of services at the local level. HB 2572 primarily

would address mental retardation services, leaving aging, disability, and mental health services without the benefit of an integrated and improved system.

OPPONENTS SAY:

CSHB 470 would reduce access to services. Not enough private provider resources are available to fill the need that would be created if local authorities could not also serve as providers in some areas of the state.

The approach taken in HB 2572 by Truitt, which would build on local networks, would be more appropriate than the one in CSHB 470. Managing local contracts from afar is difficult and can mean working less closely with providers or with fewer providers. It also distances local donors and supporters from the local networks, which can lead to less funding, fewer volunteers, and a reduced sense of community for the people these programs serve.

NOTES:

The committee substitute made technical and clarifying changes to the filed version.

HB 2572 by Truitt passed the House on May 10.