SUBJECT: Continuing the Department of State Health Services

COMMITTEE: Human Services — committee substitute recommended

VOTE: 7 ayes — Raymond, Keough, S. King, Naishtat, Peña, Price, Spitzer

0 nays

2 absent — Rose, Klick

WITNESSES: For — Chase Bearden, Coalition of Texans with Disabilities; Debra King, Texas Academy of Nutrition and Dietetics; Susan Ross, Texas Dental Association; John Holcomb, Texas Medical Association; Kate Murphy, Texas Public Policy Foundation; Russell Graham, Texas Society for Respiratory Care; Brian Rich, Texas Society of Radiologic Technologists; (*Registered, but did not testify*: Grace Davis, Hays Caldwell Council on Alcohol and Drug Abuse; Andrew Brummett, Institute For Justice; Will Francis, National Association of Social Workers - Texas Chapter; Richard Briley, Texas Association of Municipal Health Officials; Nora Belcher, Texas e-Health Alliance; Scott Pospisil, Texas Hearing Aid Association, Inc.; Kenneth Besserman, Texas Restaurant Association; Daniel Schorre and Gaylene Lee, Texas Society for Respiratory Care; Tiffani Walker, Texas Society of Radiological Technologists; David Anderson, Texas State Athletic Trainers Association; and 11 individuals)

Against — Courtney Hoffman, Academic Language Therapy Association; Lee Spiller, Citizens Commission on Human Rights; Cindy Corley, Texas Environmental Health Association; ; Manuel Campos; Robin Cowsar; Rebecca Gould; (*Registered, but did not testify*: Larry Higdon, Texas Speech-Language-Hearing Association)

On — Cynthia Humphrey, Association of Substance Abuse Programs; Kathryn Lewis, Disability Rights Texas; Catherine Mize, Hanger Clinic; Gyl Switzer, Mental Health America of Texas; Katharine Teleki, Sunset Advisory Commission; Scott Jameson and Robb Walker, Texas Chapter of the American Academy of Orthotists and Prosthetists; Donald Lee,

Texas Conference of Urban Counties; Lee Johnson, Texas Council of Community Centers; George Ferrie, Texas Department of Licensing and Regulation; Mari Robinson, Texas Medical Board; Katie Brinkley; Mark Kirchner; Ray Smith; (*Registered, but did not testify*: Kirk Cole, Department of State Health Services; Kyle Janek, Health and Human Services Commission; Ken Levine and Erick Fajardo, Sunset Commission; Michael Kelley, Texas Department of Licensing and Regulation; Eric Woomer, Texas Dermatological Society)

BACKGROUND: The Department of State Health Services was formed in 2003 when the 78th Legislature consolidated the Texas Department of Health, Texas Commission on Alcohol and Drug Abuse, Texas Health Care Information Council, and the mental health functions of the Texas Department of Health and Mental Retardation. The agency's mission is to improve health and well-being in Texas.

Functions. The agency's major functions include:

- preventing and preparing for public health threats;
- building capacity for improving community health by contracting with providers and funding local health departments;
- promoting recovery for persons with infectious disease and mental illness;
- protecting consumers;
- operating the state's public health laboratory;
- regulating and supporting development of the state's emergency medical services and trauma system;
- collecting, analyzing and disseminating public health data; and
- maintaining the state's vital records, such as birth and death certificates.

Governing structure. The executive commissioner of the Health and Human Services Commission (HHSC) appoints the commissioner of DSHS. A nine-member State Health Services Council appointed by the governor helps to develop rules and policies for the agency. More than 40 advisory committees and councils also provide the agency with advice and

expertise on agency rules, policies, and programs. There are 11 additional governor-appointed boards that are administratively attached to DSHS and which license and regulate certain health professions.

Funding. The 83rd Legislature appropriated $6.5 billion to DSHS in the fiscal 2014-15 budget, including $2.6 billion in general revenue funds, $956.2 million in dedicated general revenue funds, $2.5 billion in federal funds, and $539.2 million in other funds over the biennium. The 83rd Legislature appropriated about $456 million in additional general revenue funds to DSHS for the 2014-15 biennium, largely to support programs for mental health and substance abuse and women's health.

Staffing. In fiscal 2013, DSHS employed about 12,000 staff, most of whom work at the agency's state facilities, including nine state mental health hospitals. More than 2,600 employees work at the DSHS state headquarters in Austin.

DIGEST:

CSHB 2510 would continue the Department of State Health Services (DSHS) until September 1, 2027, unless other legislation that would transfer DSHS' functions to the Health and Human Services Commission (HHSC) is enacted or becomes law. If legislation transferring DSHS' functions to HHSC is enacted, the bill would abolish DSHS on September 1, 2015.

The bill also would:

- require the development of a mental health training curriculum for judges and attorneys;
- consolidate mental health and substance abuse hotlines;
- require an evaluation and refinement of the state's behavioral health contracting and performance measurement processes;
- require overhaul of regulations for community-based behavioral health treatment facilities;
- establish a new process for regionally allocating state mental health hospital beds;
- add requirements for the emergency medical services (EMS)

industry;

- require DSHS to establish goals for the state's public health system and an action plan to meet the goals;
- require DSHS to develop a comprehensive inventory of the public health responsibilities of the state and each local health department, district, and authority;
- require identity verification to access vital statistics (birth and death records);
- continue the Texas Health Care Information Collection Program and repeal the separate Sunset date for the program;
- transfer certain occupational licensing programs to the Texas Department of Licensing and Regulation and reconstitute related boards as advisory committees;
- transfer certain occupational licensing programs to the Texas Medical Board and establish related boards and advisory committees; and
- discontinue various regulatory programs.

Mental health training curriculum for judges and attorneys. The bill would require the Department of State Health Services to work with the Court of Criminal Appeals to develop by March 1, 2016, a training curriculum for judges and attorneys about inpatient and outpatient treatment alternatives to court-ordering a person to be committed to inpatient mental health treatment in a state hospital. The mental health treatment alternatives would apply to a person who had been court-ordered to receive mental health services to attain competency to stand trial or following an acquittal by reason of insanity.

Community mental health programs. CSHB 2510 would require reviews of and changes to certain community mental health programs.

Behavioral health services provider contracts. The bill would require HHSC to conduct a strategic review to evaluate and improve the performance measures and payment mechanisms included in DSHS' contracts with providers of behavioral health services, including mental health services, substance abuse services, or both. The commission's

review would be conducted in three phases with the assistance of a third party who had expertise in health purchasing. Statute applying to HHSC's strategic review would expire September 1, 2017.

In its strategic review, HHSC would:

- identify measures that were not required by state or federal law that could be eliminated from DSHS contracts;
- review and identify changes to the metrics and methodology for withholding funds from local mental health authorities for use as performance-based incentive payments;
- consider strategies associated with the performance measures and accountability processes for managed care organizations;
- along with the third party, develop outcome measures for behavioral health contracts based on best practices in performance measurement and contracting;
- use a subset of the developed outcome measures to develop and implement incentive payments and financial sanctions for behavioral health contracts that are aligned with HHSC models for purchasing health care services;
- along with DSHS, identify and determine ways to eliminate obstacles to the timely processing of contracts for behavioral health services;
- along with DSHS, determine ways to streamline behavioral health contracts, including reporting requirements, to minimize the administrative burden on behavioral health providers, HHSC, and DSHS; and
- develop and make public an online dashboard that would allow the public to compare behavioral health services providers.

New or renewed behavioral health services contracts after September 1, 2015 would not be allowed to include performance measures that the HHSC's review had identified for elimination. HHSC and DSHS also would implement changes to the metrics and methodology for withholding local mental health authority funds for performance-based incentive payments by September 1, 2015. After September 1, 2016, new

or renewed behavioral health services contracts would have to include the outcome measures, incentive payments, financial sanctions, and streamlined reporting requirements developed under HHSC's review.

Regional allocation of state mental health hospital beds. As soon as practicable after September 1, 2015, the bill would require HHSC, with input from local mental and behavioral health authorities and after considering any plan developed under Health and Safety Code, sec. 533.051, governing allocation of outpatient mental health services and beds in state hospitals, to divide the state into regions to allocate state hospital beds for patients who are:

- voluntarily admitted to a state hospital for chemical dependency or mental health services;
- admitted to a state hospital for emergency detention for chemical dependency or mental health services;
- court-ordered to receive inpatient chemical dependency or mental health treatment at a state hospital;
- committed to a state hospital to attain competency to stand trial; or
- committed to a state hospital to receive inpatient mental health services following an acquittal by reason of insanity.

As soon as practicable after September 1, 2015, local mental health and behavioral health authorities would develop and submit for HHSC approval a methodology for regionally allocating state hospital beds. HHSC could approve the allocation methodology and begin allocating beds only if the authorities demonstrate that the methodology fairly allocates state hospital beds across the state.

The bill would require HHSC to assess and collect a fee from each local mental or behavioral health authority for each day patients from a certain region use more beds than the number allocated to that region by HHSC. HHSC would distribute any fees collected for overutilization of beds to local mental or behavioral health authorities that used fewer beds than their regional allocation. HHSC would distribute the fees in proportion to the underuse of state hospital beds in the regions where the authorities are

located.

Before HHSC approves the methodology for regionally allocating state hospital beds, DSHS would continue to allocate beds according to its current policy.

Requirements for community-based behavioral health facilities. The bill would allow the executive commissioner of HHSC to adopt rules establishing new types of residential, community-based crisis and treatment facilities for people with mental health disorders, substance abuse disorders, or co-occurring mental health and substance abuse disorders. The facilities would be based on best practices and would receive priority for state funding along with facilities that deliver mental health or substance abuse services in an innovative manner.

DSHS would have to conduct a comprehensive review of department rules and department contract requirements governing community-based crisis and treatment facilities for those with mental health and substance abuse disorders. The review would include DSHS regulatory staff, behavioral health program staff, and stakeholders working together to identify best practices for and unnecessary barriers to effectively delivering mental health and substance abuse services in these facilities. By September 1, 2016, the HHSC executive commissioner would have to adopt rules relating to community-based crisis and treatment facilities after considering recommendations made by a behavioral health services advisory body based on proposals from DSHS regulatory staff, behavioral health program staff, and stakeholders. Provisions relating to the new requirements for community-based behavioral health facilities, DSHS review and related rulemaking by the HHSC executive commissioner would expire September 1, 2017.

Contracting for functions relating to substance abuse. Starting September 1, 2015, DSHS could create or renew contracts only with local mental or behavioral health authorities to administer outreach, screening, assessment, and referral functions related to providing substance abuse services.

Hotlines. DSHS would have to ensure that each local mental and behavioral health authority operated a single toll-free phone hotline that would allow a person to call a single number and find information about mental health services, substance abuse services, or both from any of the authorities.

Emergency medical services. The bill also would add certain requirements for the emergency medical services (EMS) industry.

Jurisprudence exam. The bill would allow DSHS to develop and administer twice per year a jurisprudence exam for those applying for an emergency medical services provider license or certification. DSHS rules would have to specify who would take the exam on the behalf of an entity applying for an emergency medical services provider license.

Physical business location. The bill would require an applicant for an emergency medical services provider license to operate out of a permanent physical location as their primary place of business, to provide proof of that location, and to prove that they own or have a long-term lease for all equipment necessary for safe operation of emergency medical services. The physical location could be owned or leased by the EMS provider, but the provider would have to remain in the same physical location for the period of licensure, unless DSHS approved a change in location. The EMS provider would have to maintain all patient care records in the physical location that is their primary place of business unless the department approved a different location. Only one EMS provider could operate out of a single physical location.

EMS complaint information. DSHS would have to track and keep records of received complaints, investigations, and disciplinary actions regarding EMS providers and personnel.

DSHS would develop a formal process to refer complaints outside its jurisdiction to the appropriate agency for disposition. DSHS also would track the types of complaints received outside its jurisdiction, separately

track outside complaints related to potential billing fraud, and refer information about all outside complaints available to the appropriate state agency.

The bill would require DSHS to report annually statistical information about each complaint it receives and each investigation or initiated disciplinary action. The report would include the reason and basis for each complaint; the origin of each investigation; the average time to resolve each complaint; the number of investigations that involved disciplinary action or no disciplinary action; the reason why no disciplinary action was taken, if applicable; the number of complaints referred to another agency for disposition; and the number, type, and age of each open investigation at the end of each fiscal year. DSHS would make the report available to the public through its website and on request.

Inspections. The bill would authorize DSHS to use an inspection performed by an entity to which it had delegated inspection authority as a basis for a disciplinary action, regardless of whether the inspection was performed before, on, or after September 1, 2015.

The bill would apply the provisions regarding EMS licensing only to a person who applied for a license or renewed a license on or after September 1, 2015.

Public health system. CSHB 2510 would require the department to establish goals for the state's public health system and develop an action plan to meet the goals.

Inventory of public health entities. The bill would require DSHS to develop and periodically update a comprehensive inventory of the roles, responsibilities, and capacity relating to public health services of the department's central office, public health regions, and each local health department, district, and authority in the state. The inventory would have to include the specific services and programs each entity currently provides and the level of services they provide.

The bill also would require DSHS, with input from the Public Health Funding and Policy Committee and local health departments, to create and update a clear matrix of duties specific to each region, indicating which entity performs which duty. DSHS would clearly delineate the division of duties between its central office and the public health regions. Each entity included in the matrix would provide DSHS with information regarding any significant change in the public health services it provides.
DSHS would update the inventory and matrix by September 1 of each even-numbered year and would biennially present the inventory and matrix at meetings of the Public Health Funding and Policy Committee as well as the State Health Services Council.

Goals and statewide priorities for public health services delivery. The bill would require DSHS, in consultation with the Public Health Funding and Policy Committee, to:

- establish clear goals and statewide priorities for developing and improving the public health services delivery system;
- develop an overarching vision for the department's central office, each public health region, and local health departments, districts, and authorities;
- develop goals and strategies for each region in the state with milestones, dates, performance measures, and identified necessary resources; and
- create a public health action plan with regional strategies and milestones to achieve these goals.

The bill would require DSHS to complete an updated public health action plan by November 30 of each even-numbered year and to present the plan, including progress on previous goals, to the Public Health Funding and Policy Committee, the State Health Services Council, and the appropriate standing committees of the Legislature.

Vital statistics. The bill would implement certain measures requiring identity verification before granting a person access to vital statistics and records.

Identity verification and self-assessment report. The bill would require a person who had applied by mail for a vital statistics record to provide notarized proof of their identity in accordance with rules adopted by the HHSC executive commissioner before the state registrar or a local registrar could issue them a certified copy of the record. The bill would allow the executive commissioner's rules to require the issuer of the certified copy to verify the notarization using records from the secretary of state. The bill also would require each local registrar to submit annually a self-assessment report to the state registrar and would require DSHS to prescribe the information that must be included in the report to allow a thorough desk audit of a local registrar.

Fingerprinting. The bill would prohibit a person from accessing vital records maintained by DSHS and from accessing the department's vital records electronic registration system without a satisfactory fingerprint-based criminal background check using state and federal databases. DSHS could adopt a policy waiving the requirement of a fingerprint-based background check if a person had previously submitted a fingerprint-based background check as a condition of licensure by a state agency.

Texas Health Care Information Collection Program. CSHB 2510 would repeal the separate Sunset date for the Texas Health Care Information Collection Program and would require the HHSC executive commissioner to adopt rules to establish a process by which DSHS could grant a waiver of up to one year to exempt a facility from requirements to submit data. The bill would specify that a facility could be exempt if it conducted fewer than 600 procedures a year and did not have information systems capable of automated reporting of certain claims. A provider that submitted data under the Texas Health Care Information Collection Program would not be civilly or criminally liable for the use of the data under the program or for subsequent release of the data by DSHS or another person.

Advisory committees, panels, and boards. The bill would abolish the Worksite Wellness Advisory Board, Sickle Cell Advisory Committee,

Arthritis Advisory Committee, Advisory Panel on Health Care-Associated Infections and Preventable Adverse Events, Youth Camp Training Advisory Committee, and Texas Medical Child Abuse Resources and Education System (MEDCARES) Advisory Committee. The bill would make conforming changes to remove associated references to these entities and would specify that HHSC would take custody of the entities' property, records, or other assets.

Regulatory programs transferred to TDLR. Under the bill, certain occupational licensing programs would be transferred to the Texas Department of Licensing and Regulation (TDLR).

Transfers during the biennium ending August 31, 2017. The bill would transfer regulation of midwives; speech-language pathologists and audiologists; hearing instrument fitters and dispensers; athletic trainers; orthotists and prosthetists; and dieticians from DSHS to TDLR during the biennium ending August 31, 2017. The bill would remove the separate Sunset dates for the regulatory programs and would maintain certain DSHS requirements in the Texas Midwifery Act. The bill would reconstitute the existing boards and committees associated with these professions as advisory boards at TDLR and would make them responsible for providing advice and recommendations to TDLR on technical matters relevant to the administration of the laws associated with the regulatory programs. The bill would specify the advisory boards' appointments, meeting requirements, and duties.

The bill also would make conforming changes to existing TDLR requirements and procedures and would transfer administration and enforcement of the regulatory programs to TDLR's executive director and rulemaking authority to the Texas Commission of Licensing and Regulation. The bill would repeal provisions of law associated with the regulatory programs that would duplicate or conflict with other provisions of law that apply to TDLR.

Transfers during the biennium ending August 31, 2019. Effective September 1, 2017, the bill would transfer regulation of offender

education providers, laser hair removal, massage therapists, code enforcement officers, sanitarians, and mold assessors and remediators from DSHS to TDLR during the biennium ending August 31, 2019. The TDLR executive director would administer and enforce the regulatory programs, and TDLR would take over rulemaking authority associated with the programs. The bill would authorize TDLR to establish an advisory committee to provide advice and recommendations to TDLR on technical matters relevant to administration of code enforcement officer and sanitation programs.

The bill would make conforming changes related to administration and enforcement for each of the regulatory programs to conform with existing TDLR requirements and procedures. The bill also would repeal provisions of law associated with the regulatory programs that would duplicate or conflict with other provisions of law that apply to TDLR.

Transition provisions. The bill would require DSHS and TDLR to adopt a transition plan as soon as practicable after the effective date of the transfer to provide for the orderly transfer of power, duties, functions, programs, and activities. The transition plan would have to be completed by the respective effective dates of each program's transition. The bill would require TDLR to create a health professions division by August 31, 2017, to oversee programs transferred from DSHS and to ensure that TDLR develops necessary health-related expertise.

Regulatory programs transferred to the Texas Medical Board. Certain occupational licensing programs also would be transferred to the Texas Medical Board.

Medical radiologic technologists and respiratory care practitioners. CSHB 2510 would transfer the regulation of medical radiologic technologists, respiratory care practitioners, medical physicists, and perfusionists from DSHS to the Texas Medical Board and would establish associated advisory boards and advisory committees. The bill would require these programs to undergo Sunset review at the same time as TMB. The bill would require fingerprint-based background checks for

new applications and renewals for all four professions transferring to TMB and would require the advisory boards and TMB to adopt rules and guidelines for consequences of criminal convictions. The background checks would apply to applications or renewals starting January 1, 2016. The bill would repeal provisions of law associated with the regulatory programs that duplicate or conflict with other provisions of law that currently apply to TMB and would make conforming changes.

Medical physicists and perfusionists. The bill would transfer the regulation of medical physicists and perfusionists from DSHS to TMB, abolish their associated boards, and would create informal advisory committees for the professions. The bill would set requirements for appointments, terms, and meeting requirements of the advisory committees and their members. The advisory committees would have no independent rulemaking authority, and the bill would require TMB to adopt rules and implement policies necessary to regulate the medical physicist and perfusionist regulatory programs.

Transition provisions. CSHB 2510 would require DSHS and TMB to adopt a transition plan to provide for the orderly transfer of powers, duties, functions, programs, and activities for programs transferred by DSHS to TMB as soon as practicable after September 1, 2015. The bill would specify that rules and fees; licenses, permits, or certificates; and complaints, investigations, contested cases, or other proceedings continue or transfer from DSHS to TMB until the authorized entities change them. The bill would abolish the existing Texas Board of Licensure for Professional Medical Physicists and the Texas State Perfusionist Advisory Committee on September 1, 2015, and would require the governor and the president of TMB, as appropriate, to appoint members to the Texas Board of Medical Radiologic Technology, the Medical Physicist Licensure Advisory Committee, the Perfusionist, Licensure Advisory Committee, and the Texas Board of Respiratory care as soon as practicable after September 1, 2015.

Deregulation of activities and occupations. The bill would discontinue various regulatory programs.

Repealed sections related to state licensing, regulation, and permitting. The bill would repeal provisions and make conforming changes to discontinue state involvement in the licensing, registration, and permitting of:

- indoor air quality in state buildings;
- rendering;
- tanning bed facilities;
- food handler education and training programs;
- bottled and vended water certifications;
- personal emergency response systems;
- opticians;
- contact lens dispensers;
- dyslexia therapists and practitioners; and
- bedding.

Food handler education and training programs. CSHB 2510 would remove DSHS accreditation of food handler education and training programs and replace it with accreditation by the American National Standards Institute. The bill would define a food manager and would require a local health jurisdiction that requires training for a food service worker to accept a food manager training course accredited either by DSHS or the American National Standards Institute.

Expiration of licenses, permits, certification of registration, or authorization. The bill would specify that a license, permit, certification of registration, or other authorization repealed by the bill would not affect the validity of a disciplinary action taken, offense committed, or a fee paid before September 1, 2015 and that was pending before a court or other governmental entity on that date. The bill would specify that an offense or violation of law repealed by the bill is governed by the law in effect when the violation was committed and would continue the former law for that purpose. The repeal of law in the bill would not entitle a person to a refund of an application, licensing, or other fee paid before September 1,

2015.

Other repealed sections. The bill would remove from statute:

- the Drug Demand Reduction Advisory Committee;
- the Local Authority Network Advisory Committee;
- a provision added by SB 219 that requires the Medical Physicist Board to set fees for the issuance or renewal of a license in amounts designed to allow DSHS and the board to recover administrative costs; and
- a provision added by SB 219 that requires the executive commissioner to set fees for the issuance or renewal of a license in amounts designed to allow DSHS to recover administrative costs regarding the Texas State Perfusionist Advisory Committee.

Effective date. The bill would take effect September 1, 2015, except for the transfer of regulatory programs from DSHS to TDLR in the biennium ending August 31, 2019, which would take effect September 1, 2017.

SUPPORTERS SAY:

CSHB 2510 would eliminate unnecessary regulation and would transfer certain regulatory functions away from DSHS so the agency can focus on its core function: improving the health and well-being of Texans.

Mental health training curriculum. By requiring the development of a mental health training curriculum for attorneys and judges, the bill would improve communication and collaboration with the judiciary and would reduce stress on the state's mental health hospital system by increasing awareness of community treatment alternatives to committing patients to inpatient treatment in state mental health hospitals.

Behavioral health services. The bill also would provide a more integrated, streamlined, and performance-based approach to delivering mental health and substance abuse services that supports innovation, collaboration, and measurable results by consolidating mental health and substance abuse hotlines and requiring HHSC to conduct a strategic review to evaluate and improve the performance measures and payment

mechanisms included in DSHS' contracts with providers of behavioral health services.

EMS provider requirements. Provisions requiring an EMS provider to have a physical location for its business, and to show proof of ownership or a long-term lease for all necessary equipment, would ensure EMS providers and personnel comply with legitimate health care business practices and would ensure EMS complaints are promptly, consistently, and reliably addressed.

Provisions requiring DSHS to develop a comprehensive inventory of the public health responsibilities of the state and each local health department, district, and authority would help identify areas where significant gaps or overlap in duties exists. They also would increase coordination of public health entities across the state while reducing inefficiency. Improved coordination of public health efforts resulting from the bill would be particularly important if the state experienced another outbreak of infectious disease, such as Ebola.

Vital statistics. The bill would strengthen the security of vital statistics by requiring identity verification through notarization for all mail-in vital records and requiring fingerprint-based criminal history background checks.

Texas Health Care Information Collection Program. The state has a continuing need for the Texas Health Care Information Collection Program, and the bill would continue this entity. The Sunset review determined that DSHS appropriately collects and handles the data and that the information serves a useful purpose to help understand and improve the status of the state's healthcare system.

Regional allocation of funding for state hospital beds. The proposed methodology for allocating regional funding for state hospital beds would take into consideration those local mental health authorities (LMHAs) that are over-utilizing hospital beds to the detriment of other LMHAs. It also would discourage overuse of state hospital beds. These beds are expensive

and often are not the best way to treat people in the behavioral health system. The bill's process for developing a methodology for allocating funds would encourage robust, community-based treatment instead of state hospital treatment. The state could help more people while saving money.

Food handler education and training. Many states use ANSI accreditation for their food handler education and training programs. Furthermore, the cost of the accreditation would not be overly onerous for these training programs. The bill would not make it mandatory for a food handler training provider to be certified and would not change the ability of local jurisdictions to choose to waive the requirement for a training provider to be certified, if necessary.

Discontinuing and transferring regulatory programs and licensing. Discontinuing regulatory programs housed at DSHS and moving certain programs to the Texas Department of Licensing and Regulation or to the Texas Medical Board would improve the agency's focus on protecting public health while maintaining necessary licensing and regulation for certain professions. Registration for dyslexia practitioners was added to statute relatively recently and is not necessary for these individuals.

The Texas Board of Orthotics and Prosthetics has had very few complaints about fraud, which indicates that fraud complaints regarding orthotics and prosthetics will be few and far between in the future. The newly created advisory boards at TDLR still could regulate orthotists and prosthetists as well as speech-language pathologists and audiologists.

OPPONENTS SAY:

Regional allocation of funding for state hospital beds. The bill's process for developing the methodology for regionally allocating beds at state mental health hospitals and the policy of withholding payments to local mental health authorities for overutilization of hospital beds according to this methodology would overly penalize these entities. The state has too few mental health hospital beds for the state's population, and the methodology in the bill for allocating beds between regions would not necessarily address this.

Food handler education and training. Accreditation of food handler education and training programs should remain at DSHS rather than requiring accreditation by the American National Standards Institute (ANSI). ANSI certification is cost prohibitive and would overly burden food handler training programs. The increased cost for accreditation could reduce the number of food handler training providers in Texas and make it harder for service industry staff to have a choice of training providers.

Discontinuing and transferring regulatory programs and licensing. The bill should retain licensure for dyslexia practitioners. Licensed dyslexia professionals often work in a private session one-one-one with a child, and the state has an interest in ensuring that dyslexia practitioners can be held to certain professional standards. Removing licensure would remove accountability for those practitioners.

The bill also should not convert independent boards to advisory boards, especially for the State Board of Examiners for Speech-Language Pathology and Audiology and the Texas Board of Orthotics and Prosthetics. Speech-language pathologists work with individuals one-on-one, and an independent board is needed to oversee licensing for these professionals. Orthotics and prosthetics need to be precise, so their regulatory authority should stay with a health agency such as DSHS rather than be transferred TDLR. The profession requires consumer feedback, and an advisory board could not respond to that feedback as well as the current board can. Fraud also is a concern because prosthetics are expensive. The current board is better able to control fraud than an advisory board.

NOTES:

The bill would have a negative net fiscal impact of $8.3 million through the biennium ending August 31, 2017, according to the Legislative Budget Board's fiscal note.

CSHB 2510 differs from the bill as introduced in that the substitute would:

- repeal Health and Safety Code, subch. F, ch. 461A, amended by SB 219 as enacted by the 84th Legislature;
- make certain changes to conform to SB 219 enacted by the 84th Legislature; and
- add a provision continuing the Department of State Health Services until September 1, 2027, unless HB 2304, SB 200, or similar legislation of the 84th Legislature transferring the functions of DSHS to the Health and Human Services Commission is enacted or becomes law.

The companion bill, SB 202 by Nelson, was left pending in the Senate Health and Human Services Committee on March 23.