



Texas Public Policy Foundation

Center for Health Care Policy

84th Texas Legislature in Review

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Resisting the expansion of Medicaid under the Affordable Care Act (ACA) remained a priority this session, as it was the last session of the Texas Legislature, but the issue was not as hotly contested this time around, and none of the Medicaid-expansion bills filed received a hearing. Likewise, bills that would have created a state health-insurance exchange under the ACA did not get a hearing. Texas lawmakers held the line and resisted implementing the ACA despite pressure from a coalition of hospitals, providers, chambers of commerce, county judges, school districts, and various advocacy groups.

Medicaid and the Budget

However, efforts to control the growth of Medicaid spending through a block-grant bill were unsuccessful. Lawmakers otherwise sympathetic to the idea of a block grant for Medicaid balked at the prospect of debating comprehensive Medicaid reform or pressuring Congress to issue a block grant, even though health care spending has now outpaced education spending in the budget.

Accounting for supplemental spending passed this session for the current biennium; for the first time in Texas history, the State is spending more on health and human services

(Article II) than it is on education (Article III). Medicaid, which accounts for more than two-thirds of all spending on health and human services, is driving this cost growth. Therefore, the Texas Public Policy Foundation (TPPF) will continue to push for a block grant of federal funds and flexibility to implement structural reforms

in the Medicaid program that will slow its cost growth and improve the quality of care. The Legislature chose not to act on Medicaid reform this session, but the problem is not going away. Medicaid will continue to drive overall state spending until the state is able to implement comprehensive reform of the program.

Sunset Review

Another major priority for the Legislature was the Sunset Advisory Commission's review of the state's five health and human services (HHS) agencies, which had not been

through sunset review in 16 years. The sunset bills filed during session represented a long process begun in 2014.

Just prior to the beginning of session, TPPF was invited to review a 2,200-page bill, HB 550 / SB 219, that corrected nonsubstantive errors and redundancies in statute that needed to be corrected for the sunset bills themselves to be intelligible. Because the health and human services agencies had not undergone sunset since 1999, and because the HHS enterprise was reorganized and consolidated in 2003 by HB 2292, the state statute was antiquated, riddled with errors, and at times, used contradictory language. The bill passed, clearing the way for the five substantive sunset bills.



The sunset bills themselves were not perfect, but taken together they reflected the view that the five HHS agencies should be consolidated into a single state agency organized entirely according to function, as HB 2292 originally envisioned. Unfortunately, when the sunset bills hit the House floor, they fell victim to political vagaries that watered them down, and in the case of the Department of Aging and Disability Services (DADS) sunset bill, added amendments were entirely at cross-purposes with the original intent of the legislation. A conference committee was unable to resolve the differences between the two chambers, and the DADS sunset bill failed to pass. However, sunset bills for the Health and Human Services Commission, Department of State Health Services, Department of Assistive and Rehabilitative Services, and Department of State Health Services did pass.

The DADS sunset bill contained a provision that would mandate the closure of the Austin State Supported Living Center (SSLC) by 2017 and create a commission to evaluate and recommend closure or consolidation for the other twelve SSLCs across the state. As the TPPF has long advocated, Texas' costly and outdated institutions for individuals with intellectual and developmental disabilities (IDD) should be closed. Texas maintains more large, state-run institutions for people with IDD than any other state and has the largest institutionalized population in the country.

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But because SSLC staff are all state employees, lawmakers with SSLCs in their districts have long resisted calls to close or consolidate them, despite persistent problems with abuse, neglect, and exploitation, which in turn have threatened federal funding and placed the SSLC under a settlement agreement with the U.S. Department of Justice, mandating improvement of quality of care. The Senate version of the DADS sunset bill would have begun the long-overdue process of closure and consolidation, but the House added a slew of amendments, and in the end the bill died in conference committee in the final days of the session.

Market-Based Reforms

Calls for market-based reforms across the health care system had mixed results. An effort to increase access to dental care and lower costs by creating a tier of midlevel dental providers failed in the face of stiff opposition from entrenched interests. Likewise, a number of scope-of-practice bills failed to pass, ranging from granting full-practice authority for advanced-practice registered nurses to allowing dental hygienists to administer local anesthesia, as they can in 44 other states.

However, several bills that advance free-market health care solutions did pass. After several failed attempts in the previous session, a bill passed that will allow state employees to select a consumer-driven health plan with a health savings account, a reform that will save state taxpayers in the long run and encourage state employees to take a more active role in their health care consumption. Another bill will

prevent the Texas Department of Insurance from regulating direct primary-care arrangements between providers and patients as health insurance, a trend that's growing nationwide. In addition, several bills passed that will expand the use of telemedicine and telemonitoring in Texas.

Conclusion

In many ways, the most important health care battle this session was the same as last session: to stop Medicaid expansion. That effort was successful. However, the health care system at large remains fraught with overregulation, not only at the federal level but also at the state level. Loosening onerous state regulations that suppress market forces in health care remains a serious challenge for reformers. Arrayed against them are powerful, entrenched interests that benefit from government regulation and often behave as cartels, erecting barriers to competition and using government to maintain the status quo.

We have not had a free-market health care system in this country in more than a half-century, and it may take at least that long to create the conditions under which one might emerge. It will require patience and persistence, but, by maintaining pressure at the state level and chipping away at special interests, reformers will help show that free enterprise can work in the health care system, just as it does in the economy at large, and that the principles that make Texas' economy strong can also drive the creation of an innovative, market-driven health care system that lowers costs, improves access, and improves health outcomes for all. ★

