

Summary of Comments

Notice of Intent to Proceed with Negotiated Rulemaking

Twelve commenters responded, and nominated a total of four individuals to the Committee for Negotiated Rulemaking. In some cases, nominees proposed to represent constituencies that are currently represented on the committee. These constituencies are:

- ✓ Consumers;
- ✓ Advocates;
- ✓ Advocates for children;
- ✓ Private Providers;
- ✓ Providers of children's services.

As these perspectives had already been included on the committee, no additions were needed to ensure adequate representation.

Nominees also represented additional constituencies not specifically included on the committee. These are:

- ✓ A particular race or ethnic group;
- ✓ A particular geographic community or area of the state;
- ✓ The interests of hospitals.

None of the representatives were selected for the committee to represent a particular race or ethnic community, although selected members are racially and ethnically diverse. The substance of these discussions is unlikely to disproportionately impact any race or ethnic community.

None of the representatives were selected for the committee to represent a particular community or area of the state. The committee will develop an implementation plan that considers differences between rural and urban communities. Beyond that distinction, the substance of these discussions is unlikely to impact any geographic community in a substantially different way than any other.

Hospital services were not identified as being significantly affected by this rule in that hospital services are not provided by Local Mental Health Authorities (LMHAs). LMHAs do, however, have responsibility for continuity of care and providing access to hospital services. These requirements are not expected to change due to this rule, and therefore hospital services are unlikely to be impacted as a result of committee deliberations.

As none of these constituencies were believed to be significantly, or substantially differently affected, no additional appointments to the committee were made.

Additionally, The proposed rule will be reviewed by the Department of State Health Services (DSHS) Council, prior to posting in the Texas Register for comment. After the formal comment period is closed, the rule language may be revised to incorporate public

comment. The proposed rule is again brought to the DSHS Council prior to submitting to Health and Human Services Commission for final adoption. Each of these steps includes opportunities for public comment. Because there already exists substantial opportunity for public comment, we believe it is not prudent to expand the committee membership. If a proposed rule is developed that does not adequately address a particular community's concerns, it is expected that comments will be submitted and considered before a rule is adopted.

Commenters also had suggestions and/or recommendations to be addressed in the implementation. A summary of these suggestions is included below:

The implementation plan should:

- ✓ Be enforceable to ensure there is a level playing field for public and private providers;
- ✓ Include adequate rates to promote private providers;
- ✓ Define "every reasonable attempt" (to enroll new providers) in such a way that it ensures adequate, sustained outreach to new providers;
- ✓ Maximize consumer choice;
- ✓ Establish comparable outcomes for public and private providers that are designed to ensure efficiency and effectiveness of treatment;
- ✓ Require DSHS to evaluate some of its current administrative requirements and their potential impact on the ability to recruit new providers.

DSHS will ensure that the committee has reviewed these comments and considers them as part of their deliberations.