



# **RIDER 59 REPORT**

## **Operational Evaluation of the Division of Regulatory Services at the Department of State Health Services**

**As Required By  
Rider 59, H.B. 1,  
82nd Legislature, Regular Session, 2011**



**Department of State Health Services  
April 2013**

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## **Executive Summary**

The Department of State Health Services (DSHS) Division for Regulatory Services (DRS) protects the general public's health and safety by achieving maximum levels of compliance by regulated entities and individuals in meeting licensing standards designed to ensure safety and efficacy of services, goods, and facilities. The primary regulatory program operations can be described in terms of three functions: licensing, compliance, and enforcement. These functions include:

- Issuing licenses and certifications,
- Conducting compliance activities (includes licensing surveys, inspections, sampling, and complaint investigations),
- Taking enforcement actions (such as fines, revocations, suspensions, etc.),
- Setting standards through rule and policy development,
- Engaging the public on issues related to consumer safety and public health, and
- Providing technical assistance to regulated entities.

Additionally, DSHS regulatory programs are responsible for components of public health emergency response efforts as part of the Texas Emergency Management Plan.

### **Rider 59**

The 2012-13 General Appropriations Act, H.B. 1, 82nd Legislature, Regular Session, 2011 (Article II, Department of State Health Services, Rider 59) directed DSHS, under the supervision of the Executive Commissioner of the Health and Human Services Commission (HHSC), to evaluate regulatory programs in its Consumer Protection Services goal (Goal D) within the General Appropriations Act, to:

- Determine where new fees can be assessed or existing fees increased in order to equal or exceed program appropriations;
- Analyze DSHS' regulatory business operations and administrative processes to recommend improvements for increasing efficiencies and decreasing costs; and
- Identify regulatory programs for which a decrease in the number of inspections and/or investigations would have the least impact on public and consumer safety.

Rider 59 also directed DSHS to implement improvements throughout the process of addressing these charges. Rider 59 was implemented in two phases: 1) a DRS management evaluation of the charges of the Rider; and 2) an independent assessment conducted by an external consulting firm.

### **Charge 1: Determine where new fees can be assessed or existing fees increased in order to equal or exceed program appropriations**

Overall, DSHS regulatory programs are mandated to cover both direct and indirect operating costs. DSHS produces an annual Fee Resource Manual to track revenue, costs, and related information by program area. See Appendix C for a summary of the fiscal year 2012 manual; the full manual is available upon request from the DSHS Chief Financial Officer. Most programs that have a licensing component generate fee revenue in excess of direct and indirect

costs. Between fiscal years 2003 and 2012, DSHS regulatory fee revenue exceeded costs by more than \$153 million. Additional funds are used to help cover the costs for non-fee generating programs in the Regulatory budget strategies, which are not included in the Fee Resource Manual, up to appropriation. Excess funds above appropriation are deposited in general revenue-dedicated (GR-D) accounts or in the State's general fund.

DSHS has identified three statutory constraints on the agency's ability to change fees:

- GR-D funding (ten programs) cannot be used for general revenue (GR) programs in most situations;
- 14 DSHS regulatory programs currently have statutory caps on their fees; and
- 11 programs have independent boards that must act to increase fees.

#### *DSHS Action Plan*

- In the 2012-13 biennium, DRS has moved to increase fees in two programs: Radiation and Emergency Medical Services (EMS).
- DRS managers have identified other potential revenue enhancements, such as raising fees or creating new fees, which will require rulemaking or a change in statute. These concepts will be evaluated and initiated after the 83<sup>rd</sup> Legislature, 2013.
- The external assessment resulted in two primary recommendations related to fees: (1) that DSHS implement a framework for a cross-strategy, standardized fee-setting methodology; and (2) that DSHS consider a variety of methods to reduce costs associated with programs that do not generate fee revenue, such as by reducing or discontinuing the regulatory activity or transferring responsibility to federal or local entities. DSHS will evaluate these recommendations during the Sunset review process to be initiated after the 83<sup>rd</sup> Legislature, 2013.

#### **Charge 2: Analyze DSHS' regulatory business operations and administrative processes to recommend improvements for increasing efficiencies and decreasing costs.**

DRS is organized by regulatory function rather than by program; within the division, there are:

- Two **licensing units** (*Professional Licensing and Certification* and *Regulatory Licensing*),
- Four **compliance units** (*Patient Quality Care; Policy, Standards, and Quality Assurance; Inspections, and Meat Safety Assurance*), and
- One **enforcement unit**.

In addition, within the Food and Drug Safety and Environmental Health budget strategies, there are inspection staff that are supervised by and operate out of the Health Service Regions across the state.

In the first phase of the assessment, DRS identified numerous business operational improvements that streamline program operations and reduce operating costs. The external consultant's primary recommendation to address DRS operational inefficiencies emphasized increased use of information technology (IT) systems.

## *DSHS Action Plan*

- Between 2004 and 2010, DRS developed the DSHS Regulatory Automation System (RAS), which includes all three regulatory functions (licensing, compliance and enforcement) in a single system and provides capacity for some programs to accept online renewal applications. As of fiscal year 2011, all of the 75 individual computer programs associated with the former organizational structure have been retired.
  - During fiscal years 2011 and 2012, the online portal for RAS was updated, which allowed not only renewal applications, but also many initial applications to be submitted online. Individual program enhancements, such as a data entry screen for the asbestos notifications program, were implemented as time and resources allowed.
  - In fiscal year 2012, DSHS initiated a pilot program for the use of mobile technology for the milk inspection program that allowed inspection results to be entered on tablets while at the site of the inspection. The results of this pilot will inform the expansion of this mobile technology into other inspection scenarios.
  - Early in fiscal year 2013, DSHS invested \$1.5 million in two projects which will result in a number of enhancements to RAS, including upgrading the entire system to the newest version of the core operating system, implementing a workflow module, transferring RAS to a hosted environment, implementing additional mobile inspection pilots (EMS, x-ray), and assessing the regulatory needs for a document management system. Additionally, DRS received a federal grant that will allow a mobile inspection pilot for food manufacturers and distributors.
- In addition to this significant investment in streamlining operations through the use of technology, DRS managers have identified and implemented more than 25 business process improvements that are achieving greater efficiencies.
  - For example, DRS managers reduced travel costs by implementing webinar technology for staff training whenever possible rather than using in-person training. Also, DRS managers reduced redundant systems by moving collection of back licensing fees from the Regulatory Licensing Unit to the Enforcement Unit, because the Enforcement Unit has processes in place for collecting debts.
- Additional business process improvements have been identified and implementation will be based on achieving the greatest cost savings.

### **Charge 3: Identify regulatory programs for which a decrease in the number of inspections and/or investigations would have the least impact on public and consumer safety**

DSHS regulatory programs have always prioritized inspections, complaint investigations, and other compliance activities to address issues that are of the highest potential public health risk. With the rapidly growing number of licenses and resource constraints, the risk-based approach has also been critical to assure that DSHS resources are utilized to achieve maximum efficiency and effectiveness. Regulatory efforts must remain protective of public health while still assuring that licenses are issued in a timely manner to allow individuals and businesses to operate.

DRS' primary use of risk matrices to manage operations is focused within budget strategies; these management decisions are based on comparing entity types against each other based on

risk factors such as primary consumers, number of consumers, risk to consumer if contamination/error occurs, and other risk-related criteria. Using a strategy-specific, risk-based approach, DRS managers ensure that resources are concentrated on activities that pose the most risk to the public.

The independent assessment of the DRS risk-based methodology led to a recommendation of a single, cross-strategy methodology for assessing risk to be used to optimize DSHS resources. The recommended model was based on the assumption that comprehensive assessment and definition of risk across all five budget strategies would identify the greatest external risks (e.g., health and safety of the public) and internal risks and ultimately lead to resource management decisions.

#### *DSHS Action Plan*

- DRS managers have implemented or initiated changes to meet the goal of reducing routine inspections and complaint investigations that would have the least impact on public health and safety. These changes fell into four categories:
  - Eliminated lower-risk business processes;
  - Redirected investigation or enforcement actions to another government entity when possible;
  - Prioritized inspections or investigations within the program, based on risk to the public; and
  - Redesigned business operations for greater effectiveness or efficiency.

#### **Achieving Further Improvements and Efficiencies in Regulatory Operations**

Through both phases of Rider 59 implementation, DSHS regulatory programs have compiled numerous process improvement methods to gain further efficiency in regulatory operations across all of the regulatory budget strategies. As the impact of changes already implemented is evaluated, the remaining process improvement strategies will be assessed and implemented for maximum impact. Some of the potential changes will require additional evaluation and may be advantageous to address during the Sunset process to be initiated in 2013; still others may require rule changes or legislative action.

## **Introduction**

The 2012-13 General Appropriations Act, H.B. 1, 82nd Legislature, Regular Session, 2011 (Article II, Department of State Health Services, Rider 59) directed the Department of State Health Services (DSHS), under the supervision of the Executive Commissioner of the Health and Human Services Commission (HHSC), to evaluate regulatory programs in its Consumer Protection Services goal (Goal D) within the General Appropriations Act.

*Rider 59. Regulatory Programs. Under the supervision of the Executive Commissioner of the Health and Human Services Commission, the Department of State Health Services (DSHS) is directed to evaluate regulatory programs in Goal D, Consumer Protection Services, (I.) to determine where new fees can be assessed or existing fees increased in order to equal or exceed the appropriations to these programs and the associated "other direct and indirect costs" appropriated in this Act. This evaluation shall include (II.) a thorough analysis of the business operations and administrative processes used by DSHS to operate these programs and recommendations for increasing efficiencies and decreasing costs within the programs. DSHS is also directed (III.) to identify those regulatory programs in Goal D, Consumer Protection Services, for which a reduction in the number of inspections and investigations would have the least impact on public and consumer safety. DSHS shall submit the results of the evaluation to the Legislative Budget Board and the Governor for review and shall work to implement any of the cost reductions throughout the interim.*

## **Implementing Rider 59**

During the first phase of the review, all DSHS Division for Regulatory Services (DRS) managers participated in strategy-specific workgroups that conducted an internal assessment of all regulatory programs and functions in order to identify potential efficiencies, cost savings, and revenue increases. The internal assessment examined:

- Whether current DSHS regulatory programs and activities are statutorily required or necessary to ensure consumer safety and public health;
- The appropriate level of resources, including staffing, required to perform statutorily required regulatory activities;
- Current use of risk matrices for inspections and complaint investigation timeframes;
- Potential administrative efficiencies and opportunities for programmatic restructuring;
- Potential modifications to regulatory functions aimed at prioritizing activities to those of highest risk for the protection of consumers and public health; and
- Potential improvements to the ability of the state to recover the costs of performing regulatory services by reducing programmatic costs, reviewing its fee structure, and identifying other potential revenue opportunities.

The second phase of the evaluation consisted of an independent assessment of DSHS' regulatory functions by an external consulting firm under the direction of HHSC. HHSC entered into a contract with MFR Accountants and Consultants<sup>1</sup> of Houston (MFR) in May 2012.

MFR's independent assessment of DRS programs focused on three areas of study and investigation:

- **Analysis of Fees:** Determine where new fees can be assessed or existing fees increased in order to equal or exceed program appropriations, including evaluation of direct and indirect costs, the regulatory fee structure, and potential revenue opportunities;
- **Analysis of Business Operations and Administrative Procedures:** Perform an analysis of business operations and administrative processes supporting regulatory activities and develop recommendations for increased efficiency and decreased costs; and
- **Programmatic Review of Inspections and Investigations:** Identify regulatory programs for which a reduction in the number of inspections and investigations would have the least impact on public and consumer safety.

MFR was provided the following documents: information and materials used during DSHS' Phase One self-assessment, information about program revenue and costs, standard state accounting documents, and the DSHS Fee Resources Manual. In addition, MFR conducted staff interviews and gathered information from external stakeholders via conference calls, Internet based surveys, and a dedicated email address for the submission of additional comments.

The information gathered and analyses conducted in both phases have been integrated into the responses to the Rider 59 charges below.

### **DSHS Regulatory Services Overview**

DSHS is the state authority for a broad range of regulatory services safeguarding consumer safety and public health. These regulatory functions generally consist of (a) issuing licenses and certifications, (b) conducting compliance activities (e.g., licensing surveys, inspections, sampling, and complaint investigations), (c) taking enforcement actions (such as fines, revocations, suspensions, etc.), (d) setting standards through rule and policy development, (e) engaging the public on issues related to consumer safety, and (f) public health and providing technical assistance to regulated entities.

DSHS has five regulatory budget strategies under Goal D of the General Appropriations Act.

- **Food and Drug Safety Services** – Protects consumers by ensuring foods, drugs, and medical devices are safe, properly labeled, and not fraudulently presented.
- **Environmental Health Services** – Protects consumers from unsafe products, dangerous chemicals, hazardous building conditions, and unsanitary conditions.
- **Radiation Control Services** – Protects consumers from radiation exposure through licensing and inspection of radioactive material and x-ray sources.
- **Health Care Professionals Services** – Protects consumers by establishing and enforcing minimum standards for the provision of care by regulated individual health care providers.

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<sup>1</sup> MFR, P.C. merged with a Michigan-based accounting firm Doeren Mayhew P.C. on December 3, 2012.

- Health Care Facilities Services – Protects consumers by establishing and enforcing minimum standards for provision of care by regulated health care entities.

DSHS DRS activities impact Texas consumers every day. For example, Texans and visitors to the state expect food in a restaurant or school cafeteria to be safe to eat; a youth camp to have adequately trained staff and appropriate controls in place to assure a safe environment for children; an x-ray machine to be calibrated correctly to avoid overdose exposure; a paramedic to be trained properly to provide appropriate care in an emergency medical situation; and a hospital admission not to result in a healthcare associated infection.

The work of DSHS regulatory programs protects the public’s health and safety by achieving maximum levels of compliance by the regulated entities and individuals in meeting minimum licensing standards designed to ensure safety and efficacy of services, goods, and facilities.

- DSHS specifically protects consumers by ensuring primary public health services are performed in a manner that meets a core set of standards for public health and safety and that consumer products are labeled correctly and in a manner that is not misleading.
- DSHS ensures that individuals and business entities meet minimum standards to acquire licenses required to engage in regulated activities.

DSHS regulatory activities also impact Texas commerce because compliance with licensing is a pre-requisite to engaging in business in Texas. Individuals cannot work and firms cannot operate if they do not have a statutorily mandated license; commercial entities that seek to sell their products in interstate commerce (e.g., milk, meat, seafood, etc.) often must meet federal standards that are verified by DRS inspection staff prior to conducting business in Texas.

In order to balance regulatory compliance with the needs of Texas businesses, DSHS works under the REACH Philosophy (see Appendix A). The central tenet of this philosophy is that DRS seeks voluntary compliance to regulatory standards and is willing to assist licensees who make a good faith effort to meet those standards. DSHS engages the stakeholder community in developing the regulations for implementing licensing programs and seeks consensus to the greatest extent possible. In addition, DRS only takes enforcement action against a licensee when there has been a general disregard for the regulations which places consumers at risk, there has been actual harm to a consumer or patient, and/or when there has been a history of non-compliance over time.

<p>DSHS Regulatory Programs <b>REACH</b> to attain a maximum level of compliance by the regulated community to ensure protection of public health and safety. We do so with</p> <ul style="list-style-type: none"> <li>• <b>Reliable</b> rules and standards,</li> <li>• <b>Efficient</b> administration of activities,</li> <li>• <b>Accountability</b> to citizens and stakeholders,</li> <li>• <b>Compliance</b> actions when necessary, and</li> <li>• <b>Help</b> through technical advice and communication.</li> </ul>
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In order to effectively discharge its regulatory responsibilities, DSHS strives to meet the growing demand for services in a manner that ensures consumer safety and public health without unduly burdening regulated communities. As fiscal stewards of public monies, DSHS must also ensure the efficiency of its business operations and administrative functions.

## **DSHS Regulatory Activities**

The primary Regulatory program operations can be described in terms of three functions: licensing, compliance, and enforcement. In support of these three primary functions, DRS programs engage in extensive rule-setting, standards, and technical assistance activities. Additionally, DSHS regulatory programs are responsible for specific components of public health emergency response efforts as part of the Texas Emergency Management Plan.

### *Licensing*

DRS licenses approximately 100 different entities and occupations through a variety of processes including issuing licenses, certificates, registrations, and permits. In fiscal year 2012, the total number of licenses overseen by DSHS was approximately 350,000, which represents an increase of over 44 percent in the total number of licensed entities/occupations for which DSHS is responsible over a 10-year period. Licensees include, but are not limited to:

- Those that manufacture, distribute, and sell foods, drugs, and medical devices;
- Health care entities such as hospitals and ambulatory surgical centers;
- Entities using radiological materials for industrial, therapeutic, or research-related purposes;
- Environmental entities such as youth camps, bedding manufacturers, abusable volatile chemical retailers, and mold assessment companies; and
- Numerous types of health care providers in various occupations, including social workers, emergency medical technicians, professional counselors, massage therapists, and midwives.

In addition, there are a number of other entities that are not state-licensed, but for which DSHS has inspection/complaint investigation authority (e.g., school cafeterias) or reporting requirements (e.g., asbestos abatement projects).

### *Compliance and Enforcement*

To protect consumer safety and public health and to promote conformity with required standards, DRS staff conduct compliance and enforcement activities as part of its oversight of regulated entities. In fiscal year 2012, DRS employees conducted approximately 260,000 surveillance activities (inspections, sampling, complaint investigations, surveys, etc.) and initiated approximately 15,000 enforcement actions. On average, a single DRS compliance field staff member conducts approximately 313 inspections, investigations, or surveys each year. Overall compliance with statutes and rules for entities inspected by DRS is 95 percent.

### *Rule-setting, Standards, and Technical Assistance*

DRS programs operate under numerous state statutes and administrative rules. Funding is appropriated through five budget strategies from approximately 50 funding sources, across general revenue (GR), GR-dedicated (GR-D), and federal funds. DRS engages in significant stakeholder interactions, which include the public and the regulated community. These include (a) establishing licensing standards and administrative rules; (b) issuing public health and consumer safety alerts; (c) addressing consumer complaints; and (d) responding to requests for technical assistance. DRS supports 11 independent professional licensing boards and 12

statutorily authorized advisory councils. In 2012, DRS coordinated approximately 75 board and advisory council meetings. In addition, DRS coordinates multiple meetings of the committees, sub-committees, workgroups, and taskforces associated with the boards and advisory committees. As an example, the Governor's EMS and Trauma Advisory Committee (GETAC) has ten standing committees all of which meet quarterly when GETAC convenes.

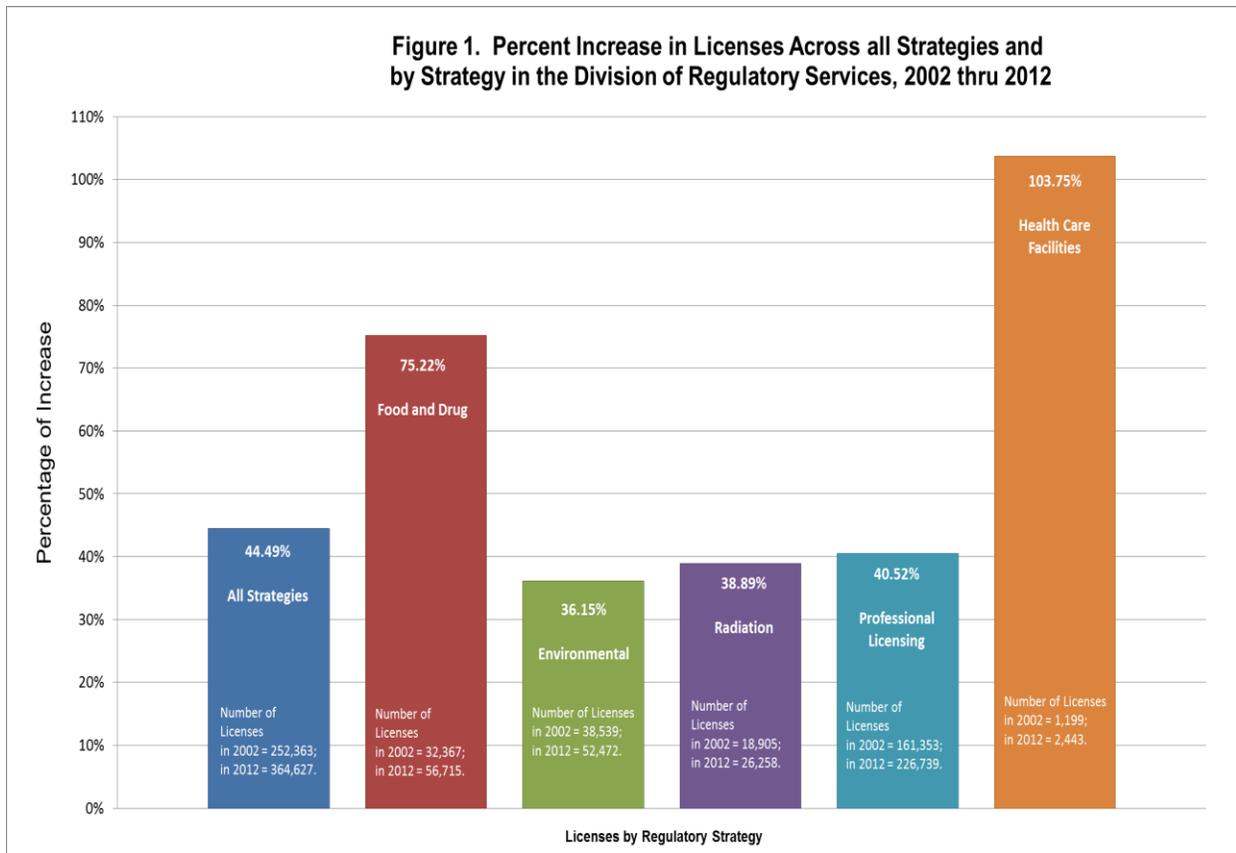
### *Public Health Emergency Response*

In support of DSHS' responsibilities for Emergency Support Function (ESF) #8: Health and Medical in the State Emergency Management Plan, DRS resources are also required to respond to public health emergencies. In the last five years, DRS engaged in response, investigation, and trace-back activities in a number of high-impact food-related illness outbreaks (e.g., salmonella from tomatoes and peanuts), other disease outbreaks (e.g., novel H1N1 influenza outbreak in 2009 and the West Nile Virus and tuberculosis outbreaks in 2012) and natural disasters (e.g., Hurricane Ike in 2008). The Texas Rapid Response Team for food-borne response performs large scale investigations involving food/feed and large scale recalls of food/feed.

As the lead agency for ESF #4 (Radiological Emergency Management), DSHS coordinates and manages the overall state effort to detect, identify, contain, cleanup, dispose of, or minimize releases of radiological materials. The Radiological Emergency Response Team is also responsible for coordinating and supporting state, federal, and local law enforcement assets in search and recovery efforts involving lost and stolen radioactive sources.

### **Growth in Regulatory Activities**

Over the last decade, DSHS regulatory programs have operated in a dynamic environment that included a significant increased demand for services, rising operating costs, and changes in the state's budget. Figure 1 depicts the significant growth in the number of licensees in all regulatory budget strategies between 2002 and 2012. The greatest increase was seen in Health Care Facility Licensing, with 103.79 percent more licenses in 2012 than in 2002. The overall increase across all license types was 44.49 percent, exceeding the state's population growth rate of approximately 20 percent in the same period. Increases in licensing activity impact all division operations by creating associated increases in compliance, enforcement, and technical assistance and customer service activities (Appendix B summarizes the service levels of licensing and compliance activities by regulated entity across the five regulatory budget strategies in Goal D).



In the same time frame, numerous new programs were added by the Texas Legislature and new federal mandates were promulgated. Table 1 lists some of the programs added to DRS responsibilities over the last decade.

**Table 1. New Regulatory Programs Required by State or Federal Mandate, By the Year of Implementation**

Year	New Programs	State or Federal Mandate/Rule	Funding Contingent on Fee Revenue? (Y/N)
2003	Occupations Code, Chapter 1958 Mold Assessors and Remediators	78th Texas Legislature	Y
2003	Health and Safety Code, Chapter 781, Personal Emergency Response Systems	78th Texas Legislature	Y
2005	Health and Safety Code, Chapter 773, Emergency Medical Services; Subchapter H. Emergency Stroke Services	79th Texas Legislature	N/A (no funding provided)
2005	Health and Safety Code, Chapter 486, Over-The-Counter Sales of	79th Texas Legislature	Y

<b>Year</b>	<b>New Programs</b>	<b>State or Federal Mandate/Rule</b>	<b>Funding Contingent on Fee Revenue? (Y/N)</b>
	Ephedrine, Pseudoephedrine, And Norpseudoephedrine		
2005	Code of Criminal Procedure Chapter 62, Sex Offender Registration Program; Subchapter I. Early Termination Of Certain Persons' Obligation To Register	79th Texas Legislature	N/A (no funding provided)
2005	Automated External Defibrillators for State Buildings	79th Texas Legislature - Appropriation Rider	N/A (utilized current funding)
2007	School Cafeteria Food Safety Inspections (2 inspections per school year)	U.S. Department of Agriculture mandate for School Breakfast and Lunch Programs	Y
2007	Health and Safety Code 431, Prescription Drug Manufacturing and Distributing	80 <sup>th</sup> Texas Legislature	Y
2009	Increased control inspections for radioactive materials (RAM) licensees	Nuclear Regulatory Commission mandate to assure security of RAM	N/A (no funding provided)
2009	Health and Safety Code, Chapter 254, Freestanding Emergency Medical Care Facilities	81st Texas Legislature	Yes (but contingency funding was deleted for FY12/13)
2009	Health and Safety Code, Chapter 401, Radioactive Materials and Other Sources of Radiation, Subchapter M, Laser Hair Removal	81st Texas Legislature	Yes (but contingency funding was deleted for FY12/13)
2009	Health and Safety Code, Chapter 403, Dyslexia Therapists and Practitioners	81st Texas Legislature	Yes (but contingency funding was deleted for FY12/13)
2009	Health and Safety Code, Chapter 341, Interactive Water Features and Fountains	81 <sup>st</sup> Texas Legislature	N/A (no funding provided)
2011	Budget Reduction and Evaluation of DSHS Regulatory Programs	82 <sup>nd</sup> Texas Legislature - Appropriation Rider 59	N/A

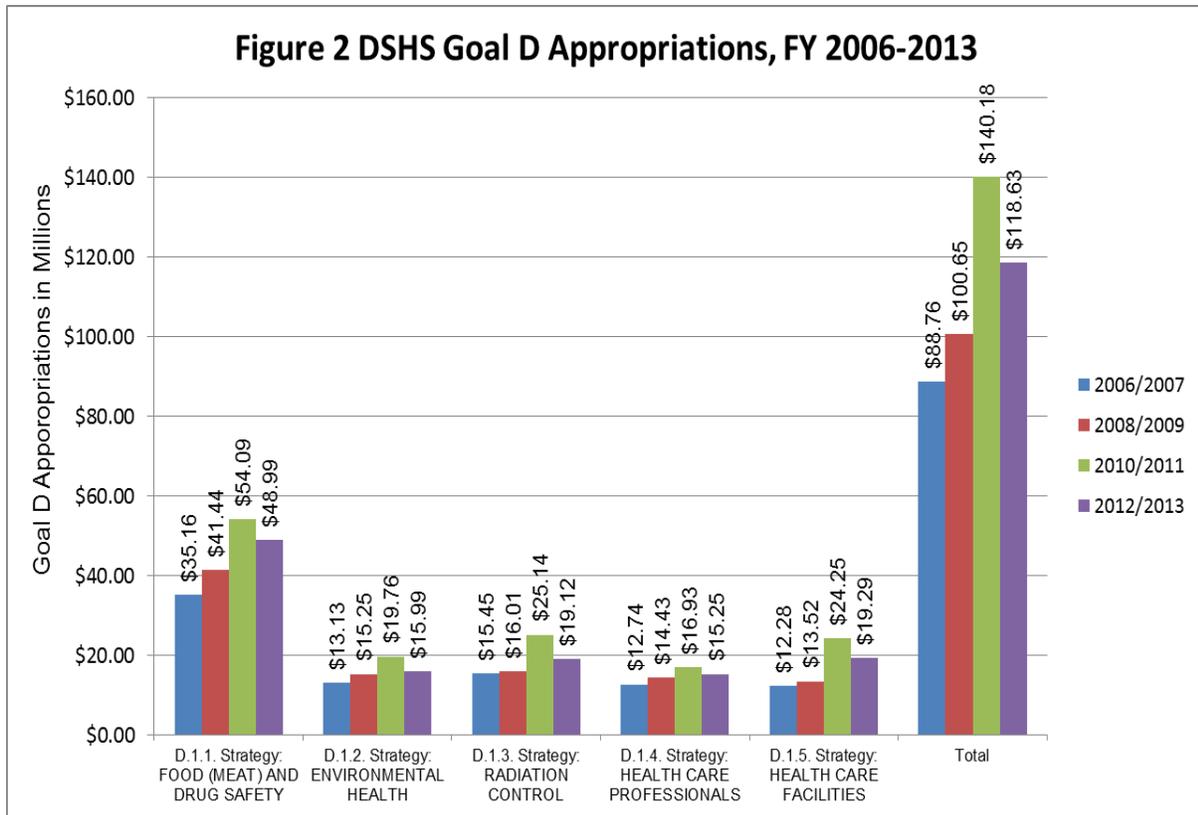
A few programs were transferred out of DSHS in the same time frame, including migrant labor housing, pesticide applicators, and uranium licensing. DRS had no dedicated resources for the first two programs when they were moved, however 11 positions and requisite salary, travel, and other operating funds were moved to the Texas Commission on Environmental Quality when the uranium program was transferred.

Following each legislative session, DRS averages 25-30 enacted bills to implement. Generally, these bills make changes to current programs such as establishing new license types, adding or deleting requirements for current licensees, and establishing work groups to make recommendations on a specific topic. In most cases, rules must be adopted or revised; and, subsequently, changes made to the Regulatory Automation System (RAS). Each of these additions places an additional workload demand on the existing DRS resources.

### **DSHS Regulatory Program Budget**

During the 81<sup>st</sup> Legislature, Regular Session, 2009, DSHS sought increased funding for resources to conduct statutorily mandated regulatory activities. The 81<sup>st</sup> Legislature appropriated ~\$14.1 million in GR funds and 111 new full-time equivalent positions for its Regulatory Capacity Exceptional Item (EI) for the 2010-11 biennium. Less than six months into fiscal year 2010, the state's budget situation required the enactment of significant state cost containment measures and DSHS was unable to realize the benefits of the additional regulatory positions. During the 82<sup>nd</sup> Legislature, Regular Session, 2011, the final appropriations for the regulatory budget strategies were reduced by ~\$16 million in GR from 2010-11 biennium levels. Additionally, an Article IX Appropriations Rider directed one percent reduction in all salary budgets for the 2012-13 biennium. Figure 2 shows the total Goal D appropriation by strategy for the current and previous three biennia.

The increases in appropriations from the 2006-07 biennium to the 2012-13 biennium are as follows: Food and Drug strategy approximately 39 percent; Environmental Health strategy approximately 22 percent; Radiation strategy approximately 24 percent; Health Professionals strategy approximately 19 percent; and Health Care Facilities strategy approximately 57 percent. Overall, the appropriation for Goal D has increased approximately 34 percent.



Note: Prior to the 2006-07 biennium, the programs in each Goal D strategy were funded differently; in order to present consistent information, this chart begins with 2006-07 biennium budgets. Also, the 2010-11 biennium appropriation includes ~\$14 M in EI funds and ~\$2 M in contingency appropriations for 3 new programs; the full benefit of these EI and contingency funds could not be realized due to state budget reductions.

### *DRS Program Costs*

Costs associated with regulatory activities are primarily for staff and travel with smaller amounts required for equipment and supplies. Costs, particularly for travel expenses, have been steadily rising. In a state as large as Texas, in which DSHS licenses entities and individuals in virtually every city and town, even a small increase in gas prices has a large impact. Over the last six years, DSHS invested in the conversion of approximately 75 individual licensing information technology systems into one RAS. This project, which was completed in fiscal year 2011, had to reach fruition before additional enhancements could be considered, such as mobile and document management technologies.

### **DSHS Response to Rider 59**

#### **Charge 1: Determine where new fees can be assessed or existing fees increased in order to equal or exceed program appropriations**

To address this charge, the analyses conducted by DSHS and MFR focused on the evaluation of DRS' fee-generated revenue and associated program costs in order to identify methods for possible revenue sources and/or cost reductions.

*Assessment of Regulatory Fees*

DSHS Regulatory programs charge a wide variety of fees for licensing, certification, and registration services (such as testing, initial and renewal application, inspection, late renewal and replacement certificates, etc.). DSHS produces an annual Fee Resource Manual to track revenue, costs, and related information by program area. See Appendix C for a summary of the fiscal year 2012 manual; the full manual is available upon request from DSHS Chief Financial Officer.

Overall, DSHS regulatory programs are mandated to cover the costs of operating the programs, including direct and indirect costs. Most programs that have a licensing component generate fee revenue in excess of direct and indirect costs. From 2003 to 2012, DSHS regulatory fee revenue exceeded costs by more than \$153 million (see Table 2). While some of these additional funds were used to help cover the costs for non-fee generating programs (which are not included in the Fee Resource Manual) up to appropriation, a significant amount of the excess funds above appropriation were deposited in GR-D accounts or in the general fund.

**Table 2. Revenue and Cost Summary for Fee Generating Regulatory Programs Only  
(FY 2003 – 2012)**

<b>Fiscal Year</b>	<b>Table</b>	<b>Cost*</b>	<b>Difference</b>
2003	\$36,228,666	\$31,563,626	\$4,665,040
2004	\$37,434,293	\$27,940,698	\$9,493,595
2005	\$51,700,032	\$29,524,312	\$22,175,720
2006	\$48,127,590	\$31,483,402	\$16,644,188
2007	\$48,873,570	\$35,434,209	\$13,439,361
2008	\$50,445,970	\$34,589,171	\$15,856,799
2009	\$52,395,228	\$34,342,747	\$18,052,481
2010	\$53,412,313	\$36,449,498	\$16,962,815
2011	\$53,367,258	\$37,937,416	\$15,429,841
2012	\$56,104,584	\$34,843,002	\$21,261,583
<b>Total</b>	<b>\$488,089,504</b>	<b>\$334,108,081</b>	<b>\$153,981,423</b>

Source: DSHS FY 2003-2012 Fee Resources Manual

\* The costs listed in Table 2 are only the costs associated with the fee generating programs. Costs associated with non-fee generating programs are not included here; these costs also do not represent all Goal D appropriations.

## Constraints to Raising Fees

As part of the assessment conducted by DRS managers, DSHS identified three statutory constraints on DSHS' ability to change fees in particular programs. First, GR-D funding cannot be used for GR programs in most situations. The GR-funded programs include:

- Milk and dairy,
- Meat,
- Seafood,
- Medical devices,
- General sanitation,
- Youth camps,
- Mold,
- Radioactive materials,
- Health care professionals (except EMS), and
- Health care facilities (except hospitals).

Also, 14 DSHS regulatory programs currently have statutory caps on their fees; all but hospital licensing and some asbestos programs have fees set by rule at the cap (see information in the summary of the fiscal year 2012 Fee Resource Manual in Appendix B).

Finally, some Regulatory fees are set by independent boards that are administratively attached to DSHS. DSHS cannot implement an increase in fees for these programs unless the board acts.

The following boards have independent rulemaking authority:

- Texas State Board of Examiners of Professional Counselors
- Texas State Board of Examiners of Marriage and Family Therapists
- Texas State Board of Examiners of Dietitians
- Texas State Board of Social Worker Examiners
- Advisory Board of Athletic Trainers
- State Board of Examiners for Speech-Language Pathology and Audiology
- Texas Board of Orthotics and Prosthetics
- Council on Sex Offender Treatment

The following boards have semi-independent rulemaking authority (final approval by HHSC Executive Commissioner)

- Texas Midwifery Board
- State Committee of Examiners in the Fitting and Dispensing of Hearing Instruments
- Texas Board of Licensure for Professional Medical Physicists

## DRS Programs Where Costs Exceed Revenue

For fiscal year 2012, DRS identified the six programs that did not cover their costs with fee revenue in excess of \$100,000. DRS has implemented steps necessary to meet the requirement for fees to cover costs in these programs. These programs and the steps implemented are listed in Table 3.

**Table 3. DRS Programs with Operating Costs Greater than \$100,000  
in Excess of Revenue in FY 2012**

<b>Program with Fee</b>	<b>Percent of Costs Covered by Fee Revenue (FY 12)</b>	<b>Comment on Difference and/or Correction Strategy Implemented</b>
Chemical Dependency Treatment Facilities	49%	Program is supplemented by federal funds which if included would represent 100% cost coverage. Attempts to raise fees have been resisted by stakeholders.
Drug Offender Education Program	16.8%	Program is not required to cover costs and is supplemented by federal funds which if included would represent 100% cost coverage.
Laser Hair Removal Facility	37%	The number of licensees expected in this relatively new program has not been realized because of statutory exemptions to licensure. DRS has been downsizing the resources in the program as a result and is moving toward full cost coverage.
School Cafeteria Inspections	50%	DRS is investigating the costs in this program which appear to be overstated due to coding errors. If this is not the case, a fee increase will be proposed.
Special Care Facilities	6.8%	Program has a small number of licensees (14). DRS is trying to decrease costs before raising fees; however, revenue from the other health care facilities in this strategy bring in sufficient revenue to cover this facility's program costs also.
Youth Camps	58.7%	Program has a small number of licensees (535). DRS is working to decrease costs before raising fees.

In MFR's assessment of programs that did not cover cost with fee-generated revenue in fiscal year 2011, they identified a similar list of programs. Based on their evaluation of those programs, MFR concluded that DRS management has already begun implementation of strategies to reduce costs, including reducing personnel assigned to these programs. DRS will continue to monitor each program carefully and determine if additional cost reductions can be achieved before pursuing fee increases.

## *Independent Assessment Recommendations*

MFR analyzed and made recommendations related to the first charge of Rider 59. MFR recommended a standardized fee setting methodology. MFR also identified possible cost reduction methods associated with changes in program operations.

### Standardized Fee Structure

The MFR evaluation of whether the current fee structure supported the cost of regulatory activities confirmed that DSHS is covering DRS Regulatory program costs overall by a wide margin. Many DSHS stakeholders/licensees are aware that DSHS is not being appropriated the fee revenue it generates and have stated a preference that fees be rolled back, not increased.

MFR analyzed the process used to establish or revise fees and identified a complex, resource intensive, and non-standardized but collaborative effort involving staff across the agency as well as extensive stakeholder interaction. The fee review process is typically initiated only when costs begin to exceed related program fees. MFR described that one of the steps in the process is an examination by DRS managers to identify cost savings opportunities within the program operations prior to increasing fees. DRS considers a number of factors, including: statutory caps; cost trends in a program and whether costs can or should be reduced; whether the amount of the fee has reached a level to be a disincentive to licensure (this can be particularly problematic for licenses with a small number of licensees); and the potential response from stakeholders/licensees.

MFR recommended that DRS develop a standardized decision-making process to evaluate new and existing fees across regulatory programs. The recommended standardized model would project and anticipate when costs will exceed revenue, include internal and external stakeholders in fee increase deliberations, and initiate a fee increase process based on indicators that address specific factors that affect the program structure and process.

### Other Cost Reduction and Revenue Opportunities

According to MFR's assessment of fiscal year 2011 costs and revenues, DRS performed activities in programs with direct costs of approximately \$5.6 million that have no associated fee revenue. In several programs, the costs cannot be associated with a specific group of licenses. Investigations are primarily initiated based on a complaint being filed. The following programs in two budget strategies fit into this category:

- Food and Drug Safety – Seafood Administration and Fish Sampling; and
- Environmental Health – Public Lodging, Recreational Sanitation/Swimming Pools, Public Health Nuisances, Institutional Sanitation, Indoor Air Quality, and Industrial Hygiene Programs.

In other cases, DRS has authority to perform regulatory activities, but is not required by statute to perform a specific level of service. The following programs fell into this category:

- Foods Group – Salvage, Bottled and Vended Water Certification;

- Milk Group - Frozen Desserts and Manufactured Milk;
- Certificates of Free Sale;
- Drug Manufacturer and Distributor – Over The Counter (OTC) and Device Manufacturers and Distributors;
- Community Sanitation – Public Playgrounds, Public Schools, Public Lodging and Recreational Sanitation;
- Other Environmental – Hazardous Products, Private Facilities Storing Quantities of Hazardous Chemicals (Tier Two) and Bedding;
- Asbestos – National Emissions Standards for Hazardous Air Pollutants; and
- Child Care Centers.

MFR recommended that consideration be given to transferring responsibilities to local or federal agencies, or changing the model of regulatory activity based on risks.

The group of programs that incur the most significant costs not supported by fees are those in the meat safety program. The ten separate programs in the Meat Safety Assurance program account for \$3.7 million in direct costs. Two of these programs account for 97 percent of the cost of the Meat Safety Assurance programs: Regulatory Meat program (which oversees intrastate commerce) and the Talmadge-Aiken plants (which conduct interstate commerce). These two programs received \$3.3 million in federal funds in fiscal year 2011. DRS has never charged fees for the activities of the Meat Safety Assurance program, due in part to the small number of licenses (<350).

#### *DSHS Action Plan*

In response to the findings of both phases of analysis, DSHS has initiated fee changes and will continue to assess the opportunities to address fees, the fee-management processes, and the issue of costs associated with programs that do not charge a fee.

#### Fee Changes Implemented in Fiscal Year 2012 and Fiscal Year 2013

As directed by the rider, DSHS initiated fee changes during the life-cycle of this review.

- Radiation Control fees were increased based on the costs of each license type within the strategy. The Radiation Control program also began evaluating its cost accounting process for billing the nuclear power plants for preparedness activities to assure all costs are being identified.
- The EMS program within the Health Care Professionals strategy began charging fees for recertification and remedial courses.

#### Achieving Future Fee Changes

DRS managers have identified across all budget strategies potential revenue enhancements, such as raising fees overall by a specific percentage and creating new fees (i.e., inspection/re-inspection, change to flat fees, inactive status for a license, expedited processing, transcript review, etc.). These mostly require rulemaking that will either be initiated after the 83<sup>rd</sup>

Legislature, 2013, or when the specific rules are next opened for review or revision; others will require a change in statute.

MFR provided a conceptual framework of a standardized fee-setting process. The proposed redesign of the regulatory fee setting methodology will require extensive assessment and development effort, most likely including the engagement of an external consultant to assess and develop the policies and procedures of a comprehensive methodology. DSHS will evaluate the potential benefits and costs of developing a standardized methodology of fee setting across five budget strategies. This analysis will require an accounting for the statutory limits within which DSHS must operate.

MFR recommended that DSHS consider a variety of methods to reduce costs associated with programs that do not generate fee revenue. These include (a) reducing or discontinuing the regulatory activity or transferring responsibility to federal or local entities; (b) analyzing federal grant funding utilization; (c) considering the imposition of fees where fees are not currently assessed; and (d) determining a methodology for including the costs of programs with no associated fee revenue in the applicable budget strategy through cost allocation within the Fee Resources Manual. DSHS will evaluate the recommended changes suggested in this section during the Sunset review process to be initiated after the 83<sup>rd</sup> Legislature, 2013.

### **Charge 2: Analyze DSHS' regulatory business operations and administrative processes to recommend improvements for increasing efficiencies and decreasing costs**

To address this charge, the analyses conducted by DSHS and MFR focused on the assessment of DRS' organizational structure and business operations in order to increase efficiency of those operations.

#### *Functional Organizational Model Driving Operations and Administrative Processes*

Since 2004, DRS has been organized by regulatory function rather than by program. Prior to the functional re-organization in 2004, DRS programs were organized into five programmatic bureaus that corresponded to the budget strategies: Food and Drug Safety; Environmental Health; Radiation Control; Health Care Professionals/Facilities; and EMS.

Today, the organizational structure is aligned to the three regulatory functions:

- Two **licensing units** (*Professional Licensing and Certification* and *Regulatory Licensing*);
- Four **compliance units** (*Patient Quality Care; Policy, Standards, and Quality Assurance; Inspections; and Meat Safety Assurance*); and
- One **enforcement unit**.

Operations such as standard setting, public/stakeholder information, technical assistance, and customer service functions occur throughout the functional organizational units (see attached organization charts in Appendix D). Table 4 depicts the budget strategies as they are distributed across the functional organizational units. The Policy, Standards, and Quality Assurance (PSQA) Unit coordinates with the regionally directed inspection staff in the Division for Regional and Local Health Services (RLHS) for General Sanitation and Retail Food

Establishments. (It is noteworthy that RLHS employees are required by statute to provide select, core public health services in counties that do not have a local health department or when a county’s local health department does not provide certain services. These responsibilities directly increase the workload of regional employees.)

**Table 4. Distribution of Program Operations Within Each Budget Strategy As They Occur in DRS Organizational Units**

<b>Budget Strategies</b>	<b>Professional Licensing &amp; Certification</b>	<b>Regulatory Licensing</b>	<b>Patient Quality Care</b>	<b>Inspections</b>	<b>Meat Safety Assurance</b>	<b>Policy, Standards &amp; Quality Assurance</b>	<b>Enforcement</b>
Food & Drug Safety		X		X	X	X (+RLHS)	X
Environmental Health		X		X		X (+RLHS)	X
Radiation Control		X		X		X	X
Health Care Professionals	X	X	X				X
Health Care Facilities		X	X				X

The functional organizational model was designed with the intention of increasing efficiency by grouping like functions together. While the core regulatory functions are the same, there are differences across the specific programs that operate in each of the functional units. These core differences are as follows.

- Statutory differences do not allow a function to be done in the same manner across programs (e.g., some entities require a pre-licensing inspection, others do not; some programs have penalty options for enforcement, others have only the ability to suspend or revoke a license).
- Different levels of expertise are required to perform a function (e.g., a radioactive materials license application requires review by a health physicist; an application for a massage therapist may only need a review by an administrative assistant).
- Handoffs, many of which are still by paper, are required between organizational units under different managers (e.g., the Licensing Unit must notify a Compliance Unit when a firm has applied for a license and needs an inspection; if the entity passes the inspection, the Compliance Unit must notify the Licensing Unit to issue the license).
- Customers often do not know which organizational unit to contact if they have questions (e.g., an EMS license application that includes a criminal history could be in one of three units at any point in time).
- The functional organizational model sets up a situation where no individual manager is responsible for a program or for the actions being taken by a program. No individual manager can make a final decision in any program. Cross-communication is necessary to successfully carry out day-to-day business activities. No individual is ultimately responsible for meeting performance measures, or implementing policy. Every action requires “buy-in” from a cross-functional team before it can be implemented or it is elevated to the Section

Managers level for decision-making. If it cannot be resolved at that point, the Assistant Commissioner of DRS must be consulted.

DRS has implemented management methodologies to address the differences in programs within each of the common functions. Primarily, DRS created programmatic cross-functional work teams (e.g., all of the managers and key subject matter experts in EMS meet on a monthly basis to address programmatic issues; enforcement review committees made up of staff from across a strategy meet each month to review complaint investigation results to determine if enforcement action is warranted). Also, program-specific phone lines, web pages, and email addresses have been established to better address customer inquiries.

### Attract and Retain Critical Staff

Regulatory programs that protect the health and safety of the public depend on the expertise and qualifications of the managers, inspectors, and other specialized professional staff. Many of the professional positions in DRS, such as sanitarians, nurses, health physicists, and architects, require specific training, qualifications, and certifications. These positions are often difficult to fill, as most of these professional classifications require licenses and continuing education. MFR found that training and access to continuing education is not available consistently and may be provided on an *ad hoc* basis. In addition, a number of these professional classifications receive higher compensation in the private sector.

Based on the interviews conducted and analysis of human resources data during the MFR assessment of DSHS regulatory programs, MFR made recommendations to implement changes to attract and retain critical staff. MFR reported that in fiscal year 2012, DRS had an average of 771 employees and 10 percent left DRS employment during that year. MFR examined the 2012 personnel data (provided by HHSC) further and found that 225-250 of the DRS employees either met or will meet the state's retirement qualifications within the next five years. MFR identified the lack of a definitive succession plan for the key professional and management positions in the division. Other MFR recommendations include aligning human resources strategy with the agency and division mission, developing recruiting methods and internship programs, and creating a "human performance" strategy.

In the last several years, DRS initiated methods to address staff retention issues. For example, in the previous biennium, sanitarian salaries were raised and the salary ranges were widened for registered nurses. Even with higher salaries for sanitarians, DSHS has been unable to attract qualified applicants for Sanitarian I positions in some locations, including Austin. DSHS also has difficulty attracting qualified nurses in Houston, Arlington, and Austin.

### *Independent Assessment Recommendations*

MFR analyzed and made recommendations related to the first charge of Rider 59. MFR recommended addressing DRS operational inefficiencies through the increased use of information technology (IT) systems.

## Gaining Efficiency Through Use of Information Technology

MFR's review of the DRS business operations and administrative processes identified inefficiencies (such as manual or fax reporting) that they concluded would be best addressed by more extensive use of IT systems for electronic processing and timely sharing of transactions, data storage, and reporting. In order to move away from the manual or paper-based submission of inspection reports, MFR recommended a centralized data/information repository with capacity for remote connectivity for field inspectors. MFR articulated the following benefits of such a system:

*“Improving the collection of high quality data...and automated functionality for storage, indexing and search capabilities, thus facilitating evaluation of program compliance, increased accuracy in reporting, greater efficiencies in fulfilling open records requests and increased timeliness of service requests.”*

In addition to a centralized IT repository, MFR recommended enhancing automated interfaces with federal and other state agency partners' data reporting systems; enhanced use of file sharing through the agency's deployment of SharePoint; and redesigning business operations to be oriented to automated, electronic data collection, and reporting.

### *DSHS Action Plan*

As directed by the rider, DSHS has implemented the following operational improvements during the life-cycle of this assessment, both in terms of the use of IT as well as business operation improvements.

### Achieving Expanded Use of IT

Between 2004 and 2010, DRS developed the DSHS RAS, which includes all three regulatory functions (licensing, compliance and enforcement) in a single system and provides capacity for some programs to accept online renewal applications. As of fiscal year 2011, all of the ~75 individual computer programs associated with the former organizational structure have been retired.

- During fiscal years 2011 and 2012, the online portal for RAS was updated which allowed not only renewal applications, but also many initial applications to be submitted online. Individual program enhancements, such as a data entry screen for the asbestos notifications program, were also implemented.
- In fiscal year 2012, DSHS initiated a pilot program for the use of mobile technology for the milk inspection program that allowed inspection results to be entered on tablets while at the site of the inspection (the intent is to use this pilot to serve as the prototype for other mobile inspections).
- Early in fiscal year 2013, DSHS invested \$1.5 million in two projects which will result in a number of enhancements to RAS, including upgrading the entire system to the newest version, implementing a workflow module, transferring RAS to a hosted environment, implementing additional mobile inspection pilots (EMS, x-ray), and assessing the regulatory

needs for a document management system. Additionally, DRS received a federal grant that will allow a mobile inspection pilot for food manufacturers and distributors.

Across the division, multiple smaller-scale tactics have achieved operational improvements through the use of IT.

- Implemented the use of the GovDelivery email subscription process for stakeholder rule notifications and other program updates rather than distributing information through the mail.
- In fiscal year 2012, DRS implemented a Division SharePoint site.
- Discontinued use of green certificate mail return receipt cards and replaced these with US Postal Service online verification.
- Implemented the use of webinar technology for staff training as much as practical rather than using in-person training that requires travel costs.
- Eliminated paper files after electronic scanning which saves on filing time and storage costs.
- Discontinued quarterly complaint status update letters to complainants and replaced with online status updates.
- Streamlined licensing processes, such as consideration of receipt of "official" transcripts via email instead of regular mail, and recommendations to boards for improved processing (some Boards are reluctant to implement this change).
- Utilized flash drives for confidential board ethics and full board meeting packets (rather than printing and overnight mailing packets).

#### Business Process Changes

- Began implementation of a customer service evaluation process for all programs; this has been completed by three units to date.
- Moved collection of overdue licensing fees from the Regulatory Licensing Unit to the Enforcement Unit, because enforcement has processes in place for collecting debts.
- Implemented a change in procedure in which Retail Foods cases that have only a violation for not having a certified food manager are sent directly to an enforcement specialist for processing according to a penalty matrix and in consultation with a specialist from PSQA, taking these cases out of the Enforcement Review Committee; this change resulted in a much more efficient and streamlined process.
- The Notifications Group in the Inspections Unit is now forwarding delinquent notifications to the Enforcement or PSQA Units for data entry where staffing at the appropriate levels is available.
- Decreased data entry to critical data elements only.
- Decreased paper files through the implementation of scanning all notifications and storing them electronically.
- The Radiation Licensing Branch's Laser Group was eliminated and staff moved under the Machine Source Group in the Regulatory Licensing Unit.
- Emphasized consequences in letters to licensees for failure to respond to self-inspection requests to reduce non-compliance and the resulting requirement for an on-site inspection.
- Minimized reporting requirements for non-field investigations and investigations that yield no violations (i.e., shortened the report format).

- For complaints that do not require a field investigation, downsized the case file from a two-divider classification folder to a one-divider classification folder.
- Researched and identified professional exam entity contracts and payments to discontinue; resulted in cost savings associated with eliminating state-level exams when national exams were available and eliminated specialized or unneeded exams.
- Began treating a second failed ambulance inspection for initial licensure as a denial, requiring the applicant to resubmit a complete application and fee.

### Travel Cost Reductions

- Changed Division policy to allow long-term rental cars when more cost effective.
- Increased the number of home-based staff to be located closer to their inspection areas.
- Required electronic submission of out-of-state travel requests to the Assistant Commissioner.
- Adopted the agency's electronic travel reimbursement system.
- Reduced approval review processes of travel vouchers for DRS management.
- Provided the option to investigators on travel status to work 4, 10-hour days instead of 5, 8-hour days to reduce meal and lodging expenses.
- To reduce board travel costs, where reasonable and appropriate, requested independent boards to conduct board meetings in Austin, to reduce the number of overall meetings conducted each year, and to reduce the meeting duration to one day.

### Achieving Future Operational Efficiencies

In addition to those listed above, DRS managers have identified additional business process changes and will prioritize implementation based on achieving the greatest cost savings. Based on one of MFR's recommendations, DRS will engage with federal partners to identify the most effective means of information exchange to streamline operations.

### **Charge 3: Identify regulatory programs for which a decrease in the number of inspections and/or investigations would have the least impact on public and consumer safety**

To address this charge, the analyses conducted by DSHS and MFR focused on the risk assessment processes utilized by DRS managers to maximally protect the public while managing division resources.

#### *Risk-based Approach to Regulatory Oversight*

DSHS regulatory programs prioritize inspections, complaint investigations, and other compliance activities to address issues that are of the highest potential public health risk. With the rapidly growing number of licenses and resource constraints, the risk-based approach has been critical to assure that DSHS resources are utilized to achieve maximum efficiency and effectiveness. Regulatory efforts must continue to protect the public's health while still assuring that licenses are issued in a timely manner to allow individuals and businesses to operate.

DRS' primary use of risk matrices to manage operations is focused within budget strategies. Using this approach, managers compare like-entity types against each other based on risk factors

such as primary consumers, numbers of consumers, risk to consumer if contamination/error occurs, among other risk-related criteria.

- Within the Food and Drug Safety strategy, for example, salvaged medical devices are riskier than new ones; a juice manufacturer's processes have more opportunity for contamination than whole, uncut produce; and milk is consumed by children more than adults. These risk factors must be taken into account when determining the frequency of each inspection type.
- In the Health Care Professionals strategy, EMS is a much riskier profession than Massage Therapy because generally the public does not get to choose what ambulance firm will be utilized, nor which paramedics will respond in a health crisis. Emergency scenes are often not well controlled, and patients are vulnerable.

In practical terms, the use of the risk-based approach to prioritize inspections and compliance activities has meant that DSHS did not investigate some low-risk complaints, referred some complaints to entities for self-investigation, and performed fewer routine inspections.

Far more complex analyses and judgment calls are required when decisions must be made to prioritize across budget strategies. Defining criteria to compare risks between food manufacturers, health professions, and radiation is extremely complex. On occasions, driven by the need for budget reductions, DRS management, in close collaboration with DSHS and HHSC executive leadership, have made decisions that prioritized some regulatory programs over others, based on the risk to the public.

#### *Independent Assessment Recommendations*

MFR's analysis of the DRS risk-based methodology resulted in a recommendation for a single, cross-strategy methodology to assess risks to be used to optimize DSHS resources. MFR recommended a comprehensive assessment and definition of risk across all five budget strategies that would identify the greatest external risks (e.g., health and safety of the public) and internal risks and ultimately lead to resource management decisions.

The framework of the risk-based methodology that MFR recommended includes:

- Defining the scale, scope, and impact of risks across all regulatory budget strategies (e.g., comparing radioactive materials licensing to meat slaughter inspections to Youth Camps);
- Developing risk-assessment processes that would allow comparison of relative risks across budget strategies;
- Creating algorithms that integrate and align the risks assessed to agency resources and activities; and
- Defining decision-making criteria to distribute resources across the five budget strategies based on risk for use by DRS and DSHS executives.

#### *DSHS Action Plan*

As directed by Rider 59, DRS managers have implemented or initiated changes to meet the goal of reducing routine inspections and complaint investigations that would have the least impact on public health and safety.

### Eliminated Operations

- Radiation
  - Eliminated the Environmental Monitoring Program for certain licensees and research reactors.
  - Discontinued participation in NEXT (Nationwide Evaluation of X-Ray Trends) inspections.
- Health Care Professionals
  - Discontinued routine on-site program audits in the Offender Education program.

### Redirected Action to Other Entity

- Food and Drug
  - Discontinued grease theft complaint investigations; issues are referred to local law enforcement.
- Environmental Health
  - Discontinued some nuisance complaint investigations and most routine inspections; issues are being referred to local health authorities.
  - Discontinued complaint investigations and routine inspections of indoor air quality in state buildings; issues are referred to the Texas Facilities Commission.
- Health Care Professionals
  - Discontinued routine inspections of massage establishments and continue referring complaints of suspected prostitution and human trafficking to local law enforcement.

### Prioritized Inspections and Investigations within the Program Based on Risk to the Public

- Food and Drug
  - Eliminated pre-licensing inspections for drug distributors except for Prescription Drug Distributors.
  - Eliminated random compliance reviews in the Meat Group; surveillance and investigations that are initiated for a specific cause, such as a complaint; other “for cause” compliance activities must have written justification.
  - Inspect Bottled Water Stores, Vended Water, and Ice based on complaints only.
  - Reduced routine inspection frequency of salvage licensees to every two years except for high risk entities.
- Environmental Health
  - Implemented “interim” guidance for General Sanitation compliance programs in the Health Service Regions, significantly reducing the number of routine inspections to “complaint-only,” and only when there is not a local health department (i.e., public pools and recreational sanitation). Additionally, it was identified that DSHS did not have clear statutory authority for some of the inspections it had been doing and therefore eliminated them (i.e. public playgrounds, public nuisances, lodging).
  - Eliminated routine inspections of new bedding licensees; focus is on used bedding.
  - Focused hazardous products routine inspections on unregistered and high risk products only.
  - Significantly reduced mold complaint investigations to occupied public facilities only.

- Radiation
  - Implemented policy of on-site laser complaint investigations only for reported or alleged injuries; non-injury related complaints are handled through telephone contacts.
  - Implemented policy of on-site complaint investigations only for those involving uncertified radiation technologists performing higher risk procedures, not for operators performing lower risk procedures.
  - Implemented policy to limit radioactive material inspections to the minimum required to maintain a compatible Agreement State Program (i.e., no longer inspecting Diagnostic Nuclear Medicine in cardiologist offices, portable gauges, etc.).

### Redesigned Business Operations

- Health Care Professionals
  - Discontinued investigations for complaints of unlicensed practice - first complaint is being handled with a “cease and desist” letter; second complaint will be referred to local law enforcement; third complaint will be referred to the Office of the Attorney General.
  - Reduced field complaint investigations in virtually all of the Health Care Professions by expanding desk reviews to routinely incorporate phone, fax, and email investigative techniques to reduce travel costs.
  - Discontinued investigations conducted on complaints based solely on criminal history without conviction; respondent responses continue to be requested, but investigation is only initiated at the time of conviction.
  - Streamlined the EMS provider initial survey process for small providers with only one or two vehicles by completing the survey at the EMS office.
  - Requested respondent response letter to a complaint prior to initiating a full investigation to allow eligible investigations to be conducted as desk reviews only.
  - Managed routine EMS ambulance inspections on a statewide basis versus zone by zone with a frequency of once every three years.
  - Managed routine Substance Abuse facility and Narcotic Treatment program inspections on a statewide basis versus region by region.

### Achieving Further Reductions in Inspections

Numerous other options across all of the regulatory budget strategies have been identified to gain further efficiency in regulatory operations. Some will require additional evaluation of the potential impact and savings; others may require rule changes or legislative action.

## **Appendix A: Texas Department of State Health Services Regulatory Philosophy**

The purpose of this philosophical statement of the Texas Department of State Health Services is to give guidance to the regulatory programs within the department on the ideal manner of conducting state business. No provision of this philosophy is intended as a condition precedent to any regulatory action.

### **REACH**

We REACH to attain a maximum level of compliance by the regulated community to ensure protection of public health and safety. We do so with **R**eliable rules and standards, **E**fficient administration of activities, **A**ccountability to citizens and stakeholders, **C**ompliance actions when necessary, and **H**elp through technical advice and communication.

**Reliable.** Rules should be logical, enforceable, practical, and written in clear language that is easily understood. DSHS' goal of protecting the health and safety of the general public should be clearly understood by the regulated community. To be applied consistently, rules should be based on the best available knowledge, past regulatory experience, stakeholder input, and conform to established standards.

**Efficient.** The general public and the regulated community are entitled to the best possible management and administration of regulatory activities in a cost-effective manner. Regulatory decisions should be made without undue delay. Fiscal, technical, and managerial competence and responsibility should be a constant goal. Where several equally effective alternatives are available, the option which minimizes the use of resources should be adopted.

**Accountable.** All regulation is the public's business and should be transacted publicly and candidly. Nothing but the highest ethical standards and professionalism should influence the development of rules. Decisions should be based on objective, unbiased assessments of all information. DSHS regulatory programs should welcome information from their stakeholders and use this information to improve the rules and programs.

**Compliance.** The goal of DSHS is for all DSHS regulated entities to achieve voluntary compliance. Regulatory actions, including proposed sanctions, should be promptly, fairly and uniformly administered by the appropriate authority in the DSHS central office or independent board. Although voluntary compliance is the goal, public health and safety is paramount. When necessary, enforcement action for violations of statutes and rules will be taken to achieve compliance.

**Help.** DSHS staff should proactively assist the regulated community and the general public in their understanding of and compliance with regulatory requirements in order to protect the health and safety of all Texans. Regulations and policies should be explained by DSHS staff through activities such as workshops, inspections, newsletters, program websites and association meetings to assist and educate customers.

## **Appendix B: DSHS Regulatory Programs**

### **DSHS Appropriation Goal 4: Consumer Protection Services**

Goal 4 programs protect the health of Texans by ensuring high standards in the following areas: healthcare facilities, allied and mental healthcare, EMS providers and personnel, food and food preparation, pharmaceuticals, medical and radiological devices, and consumer products.

#### *Target Population*

Regulatory services at DSHS oversee licensing, enforcement, and compliance activities for healthcare facilities, credentialed professionals, and consumer safety products and services that affect the entire permanent and visiting population of Texas.

#### *Service Description*

The basic functions of regulatory services include:

- Developing and maintaining licensing standards, within statutory authority, through a stakeholder-inclusive rule development process;
- Reviewing application materials, collecting fees, and issuing licenses;
- Conducting quality assurance surveys, inspections, and complaint investigations; and
- Initiating appropriate enforcement actions to promote compliance.

Currently, DSHS regulates approximately 250,000 individuals and 80,000 facilities/entities. In addition, there is a large number of entities that are not state-licensed, over which DSHS provides some inspection and enforcement authority. Additionally, the Regulatory Services Division includes the Office of EMS/Trauma Systems which provides trauma designation levels I-IV and primary and support stroke designation for hospitals. Finally, DSHS also has a disaster planning/homeland security role with regulated entities.

#### **Strategy D.1.1. Food (Meat) and Drug Safety**

Food and drug products are regulated to prevent the sale and distribution of contaminated, adulterated, and mislabeled foods and drugs. This includes retail food establishments, food and drug manufacturers, wholesale food and drug distributors, food and drug salvagers, meat and poultry processors and slaughterers, milk and dairy food processors, and molluscan shellfish processors and shippers. Newly emerging pathogens and food-borne illness outbreaks associated with food items previously believed to be comparatively safe require DSHS to look at new and different methods of regulation, inspection, and risk management. Additionally, DSHS tests tissue samples from fish, monitors seafood harvesting areas, and certifies Texas bay waters for safety. State regulations and standards are closely tied to those of the United States Food and Drug Administration and the United States Department of Agriculture, to ensure food products are safe and can be sold inside and outside the borders of Texas. Drugs, cosmetics, and medical device manufacturers, distributors, and salvagers are also regulated for consumer health and safety.

<b>Food and Drug 4.1.1 Entity/Activity (FY 2012)</b>	<b># licensed /certified</b>	<b># samples or individuals tested</b>	<b># annual inspections</b>	<b># complaints received</b>
<b>Foods Group</b>				
Food Manufacturers	14,535	1,310	4,970	187
Vended Water	5,770			
Food Wholesalers	1,627			
Salvage	174			
Food Wholesalers Registration	810			
Foods Warehouse Operators	563			
Certified Operators	574	98		
<b>Certificates of Resale</b>	6,981			N/A
<b>Milk Group</b>				
Dairy Farms	499	7,305	2,688	
Frozen Desserts (Instate)	64	1,290	378	1
Frozen Desserts (Out-of-State)	40	45		3
Retail Raw	48	788	329	1
Bulk Milk Tankers	711		711	
Pasteurization Plants (Instate)	37	4,191	634	8
Pasteurization Plants (Out-of-State)	74	190		5
Transfer/Receiving Stations	24	32	226	
Manufactured Milk	48	120	300	
Single Service	29	2,610	348	
Hauler/ Samplers	1,319	640		
Pasteurization Equipment Sealers	400	400		
Interstate Milk Shippers List Facilities/Bulk Tanker Units	163		76	
<b>Seafood and Aquatic Life Group</b>				
Crab Meat License	2	N/A	3	0
Crab Meat Importers	65	N/A	N/A	0
Shellfish Certificates	66	N/A	342	0
Survey Harvest Areas	N/A	4147	N/A	0
Marine Orders Issued				
<b>State Meat &amp; Poultry Inspection Program</b>				
Grant of Custom Exemption	108	0	105	0
Grant of Inspection	199	1,022	166,251	
Grant of Poultry/Rabbit Exemption	15	0	9	0
Grant of Voluntary Inspection	11	0	Included in Grant of Inspections	0
Rendering License	193	N/A	211	18
Talmadge Aiken	40	550	41,731	0
<b>Drugs and Medical Devices</b>				
Multiple Products	2,055	96	773	11
Drug Manufacturers & Distributors	2,252	65	363	50
Device Manufacturers & Distributors	1,643	31	538	93
Drug, Device, Cosmetic Salvage Est.	139	10	167	6
Tanning Facilities	1,720	1	517	127

<b>Food and Drug 4.1.1 Entity/Activity (FY 2012)</b>	<b># licensed /certified</b>	<b># samples or individuals tested</b>	<b># annual inspections</b>	<b># complaints received</b>
Tattoo / Body Piercing Studios	2,425	0	506	237
Certificates of Authority - PSE	23	0	0	0
<b>Food Establishments Group</b>				
Mobile Food Units	1,014	0	8,763	Included in Retail Food Establishment
Retail Food Establishments	10,254	0		508
Temporary Food Establishments	755	0	132	3
<b>Totals</b>	<b>57,469</b>	<b>24,941</b>	<b>231,071</b>	<b>1,258</b>

### Strategy D.1.2. Environmental Health

Regulation includes the licensing, inspection, and monitoring of asbestos, lead, and mold abatement activities and hazardous chemicals registration. Hazardous consumer products such as bedding, toys, and abusable volatile chemicals are regulated to keep Texans safe. Also critical to consumer health and safety are general sanitation services, such as inspections and regulation of school cafeterias, public swimming pools, youth camps, tattoo and body piercing studios, and tanning studios.

<b>Environmental Health 4.1.2 Entity/Activity (FY 2012)</b>	<b># licensed /certified</b>	<b># samples or individuals tested</b>	<b># annual inspections</b>	<b># complaints received</b>
<b>Asbestos</b>				
Asbestos Licenses & Project Notifications, Building Demo/Reno Activities (TAHPA & NESHAP) and AHERA inspections	7,078	428	4,240	230
<b>Lead</b>				
Lead Licenses & Project Notifications, Lead Remediation Activities	1,009	65	473	2
<b>Community Sanitation</b>				
Youth Camps	546	NA	1,432	2
Child Care Centers	NA	NA	1,837	0
Colonia Surveys	NA	NA		0
Playgrounds	NA	NA	13	0
Public Swimming Pools	NA	NA	51	4
Public School Cafeterias	NA	NA	2,059	4
Public Schools	NA	NA	1,182	1
Public Health Nuisances	NA	NA		4
Public Lodging	NA	NA	376	10
Recreational Sanitation	NA	NA		
Field Sanitation	NA	NA	0	
Vector Control	NA	NA		3
<b>Other</b>				
Bedding Manufacturers, Renovators, Importers, Wholesalers, Distributors, and Sanitizers	2,534	NA	1,227	52
Hazardous Substance Manufactures, Importers, Repackagers, and Private-Label Distributors	676	NA	526	1

<b>Environmental Health 4.1.2 Entity/Activity (FY 2012)</b>	<b># licensed /certified</b>	<b># samples or individuals tested</b>	<b># annual inspections</b>	<b># complaints received</b>
Retailers - Abusable Volatile Chemicals	11,285	NA	5,060	1
Private Facilities Storing Quantities of Hazardous Chemicals	NA*	NA	450	0
Indoor Air Quality in State Buildings	N/A	NA	10	13
Industrial Hygiene	N/A	NA	0	0
Public Employers	NA	NA	0	0
<b>Mold</b>				
Mold Licenses & Project Notifications, Mold Assessment/Remediation Activities	3,777	178	138	23
<b>Totals</b>	<b>26,905</b>	<b>671</b>	<b>19,074</b>	<b>350</b>

### Strategy D.1.3. Radiation Control

DSHS protects Texans from the harmful effects of radiation by regulating the possession and use of radioactive materials (including nuclear medicine, industrial radiography, nuclear power plants, and oil and gas well logging) in a manner that maintains compatibility with the requirements of the 1963 Agreement between Texas and the United States Nuclear Regulatory Commission. DSHS also regulates radiation-producing machines such as x-ray, mammography, and laser. Additionally, DSHS develops radiological emergency response plans and conducts full-scale exercises on those plans at nuclear power plants. The Texas Radiation Advisory Board is an 18-member, Governor-appointed board that provides advice on radiation rules and state radiation control policy.

<b>Radiation Control 4.1.3 Entity/Activity FY 2012</b>	<b># licensed /certified</b>	<b># samples or individuals tested</b>	<b># annual inspections</b>	<b># complaints received</b>
Emergency Response Exercises	NA	NA	NA	25
Environmental Monitoring	NA	0	NA	NA
Mammography	686	NA	641	5
Radioactive Material Licenses	1,606	NA	1,364	95
General License Acknowledgements	273	NA	49	3
X-Ray Registrations	16,717	NA	6,220	45
Laser Registrations	1,979	NA	9	24
Industrial Radiographer Certifications	3,831	0	NA	0
Laser Hair Facilities	81	NA	3	0
Laser Hair Professions	1,072	NA	1	0
Laser Hair Training Providers	13	NA	0	0
<b>Totals</b>	<b>25,092</b>	<b>0</b>	<b>8,287</b>	<b>197</b>

### Strategy D.1.4. Healthcare Professionals

Eleven independent licensing boards are administratively attached to DSHS. These boards regulate the practices of allied and mental health professions, and they adopt and enforce rules.

DSHS provides the administrative support for their operations. These independent boards govern the following professions:

- Speech language pathologists and audiologists,
- Athletic trainers,
- Marriage and family therapists,
- Professional counselors,
- Social workers,
- Fitters and dispensers of hearing instruments,
- Sex offender treatment providers,
- Orthotists and prosthetists and associated firms
- Dietitians,
- Midwives, and
- Medical physicists.

DSHS governs other licensing programs that include:

- Medical radiologic technologists and associated training programs,
- Respiratory care practitioners,
- Massage therapists and associated establishments and training programs,
- Perfusionists,
- Chemical dependency counselors and associated training entities,
- Code enforcement officers,
- Contact lens dispensers,
- EMS personnel, and associated firms, and education programs
- Offender education programs/instructors,
- Opticians,
- Personal emergency response system providers and associated personnel,
- Sanitarians, and
- Dyslexia therapists.

The licensing process for healthcare professionals includes review of transcripts of educational courses/programs to determine applicant fitness for each field of practice. A critical part of the eligibility requirement for most of the professions is the passing of a competency examination, developed either in-house or through a nationally recognized examination provided by a national examination vendor. DSHS also performs criminal history background checks on applicants and licensees to ensure initial and continued eligibility and audits continuing education records to review the types of courses offered and to ensure licensee compliance. DSHS receives and investigates consumer complaints against regulated professions and imposes disciplinary action against licensees when violations are substantiated.

Within this licensing function, DSHS also approves/certifies and monitors offender education programs and program instructors. The four mandated courses are Driving While Intoxicated (DWI) Education, DWI Intervention, Alcohol Education Program for Minors, and Drug Offender Education. Each program must utilize DSHS-approved curricula and offer administrator/instructor training in the delivery of the services. DSHS administers the training, approval, and monitoring of instructors for the Texas Youth Tobacco Awareness Program to ensure that Texas youth are able to complete a tobacco awareness course. The program implements the Texas Adolescent Tobacco Use and Cessation curriculum.

<b>Health Care Professionals 4.1.4 Entity/Activity (FY 2012)</b>	<b># licensed /certified</b>	<b># samples or individuals tested</b>	<b># annual inspections</b>	<b># complaints received</b>
Advisory Board of Athletic Trainers	2,868	NA	0	16
Registration and Regulation of Code Enforcement Officers and Code Enforcement Officers-in-Training	2,206	NA	0	10
Permitting and Regulation of Individuals and Businesses That Dispense Contact Lens	176	NA	0	22
Licensing and Regulation of Sex Offender Treatment Providers	498	NA	0	22
Licensing and Regulation of Dietitians	4,828	NA	1	10
Licensing and Regulation of Dyslexia Therapists and Dyslexia Practitioners	973	NA	0	0
Licensing and Regulation of Fitters and Dispensers of Hearing Instruments	754	NA	2	42
Membership in Texas Health Professions Council		NA		
Licensing and Regulation of Chemical Dependency Counselors and Interns	8,961	NA	63	113
Licensing and Regulation of Professional Counselors and Professional Counselor Interns	19,435	NA	98	186
Licensing and Regulation of Marriage and Family Therapists and Marriage and Family Therapist Associates	3,291	NA	12	50
Licensing and Regulation of Medical Physicists	614	NA	0	1
Certification and Regulation of Medical Radiologic Technologists, Limited Medical Radiologic Technologists, and Non-Certified Technicians, and Issuance of Hardship Exemptions	27,844	NA	4	35
Registration and Regulation of Opticians	129	NA	0	1
Licensing and Regulation of Massage Therapists, Massage Instructors, Massage Schools, and Massage Establishments	29,596	NA	489	341
Licensing and Regulation of Direct-Entry Midwives	219	NA	6	21
Offender Education	2,555	NA	0	8
Licensing and Regulation of Orthotists, Prosthetists, Orthotic/Prosthetic Facilities, and Orthotist/Prosthetist Technicians, Students, and Assistants	837	NA	8	49

<b>Health Care Professionals 4.1.4 Entity/Activity (FY 2012)</b>	<b># licensed /certified</b>	<b># samples or individuals tested</b>	<b># annual inspections</b>	<b># complaints received</b>
Licensing, Registration, and Regulation of Personal Emergency Response System Businesses, Managers, Branch Offices, Owners, Salespersons, and Installers	249	NA	0	0
Licensing and Regulation of Perfusionists	366	NA	0	0
Certification and Regulation of Respiratory Care Practitioners	14,230	NA	9	22
Registration and Regulation of Professional Sanitarians and Sanitarians-in-Training	1,241	NA	0	5
Licensing and Regulation of Baccalaureate Social Workers, Master Social Workers, Advanced Practitioner Social Workers, and Clinical Social Workers	22,066	NA	49	156
Licensing and Regulation of Speech-Language Pathologists, Assistants in Speech-Language Pathology, Audiologists, Assistants in Audiology, and Interns	16,670	NA	1	84
Medical Advisory Board	n/a	NA	n/a	n/a
Emergency Medical Services Personnel		NA	1,162	1,162
Emergency Care Attendant	2,919	NA		
Emergency Medical Technician	32,500	NA		
EMT Intermediate	3,923	NA		
EMT Paramedic	15,965	NA		
Licensed Paramedic	6,205	NA		
Educators		NA	3	3
Advanced Coordinator	231	NA		
Basic Coordinator	111	NA		
Instructor	2,357	NA		
Education Programs		NA	199	5
Advanced Initial Programs	105	NA		
Basic Initial Programs	69	NA		
Initial Course Approvals	1,133	NA		
Continuing Education Program	341	NA		
Emergency Medical Dispatcher (EMD) Education Program	1	NA		
EMD Courses Approvals	8	NA		
Provider (Agency)	1,183	NA	1,221	272
First Responder -	611	NA	1	1
<b>Totals</b>	<b>228,268</b>	<b>0</b>	<b>3,328</b>	<b>2,637</b>

### Strategy D.1.5. Healthcare Facilities

DSHS regulates approximately 2,600 healthcare facilities, including:

- Hospitals,
- Birthing centers,
- Ambulatory surgery centers,

- End stage renal disease facilities,
- Free standing emergency medical care facilities,
- Special care facilities,
- Abortion facilities,
- Substance abuse facilities,
- Narcotic treatment facilities,
- Crisis stabilization units, and
- Private psychiatric hospitals.

DSHS contracts with the Centers for Medicare and Medicaid Services (CMS) and conducts surveys for entities seeking certification as Medicare providers. In addition to licensing the facilities listed above, DSHS conducts only Medicare certification-related activities for rural health clinics, portable x-ray services, out-patient physical therapy, and comprehensive out-patient rehabilitation facilities. DSHS is also a CMS contractor for the Clinical Laboratory Improvements Amendments Program, which regulates all laboratory testing (except research), performed on humans.

<b>Health Care Facilities 4.1.5 Entity/Activity (FY 2012)</b>	<b># licensed /certified</b>	<b># samples or individuals tested</b>	<b># annual inspections</b>	<b># complaints received</b>
<b>Health Facilities</b>				
Hospitals - Certified & Licensed	679 / 595	NA	1,001	1,395
End State Renal Disease Facilities - Certified & Licensed	523 / 493	NA	461	123
Ambulatory Surgery Centers - Certified & Licensed	406 / 365	NA	160	28
Comp Outpatient Rehab Facility - Certified Only	60	NA	6	1
Outpatient Physical Therapy -Certified Only	219	NA	10	4
Rural Health Clinics - Certified Only	313	NA	27	2
Portable X-Ray - Certified Only	45	NA	5	0
Transplant Hospitals - Certified Only	24	NA	6	4
CLIA Labs - Certified Only	22,405	NA	556	21
Abortion Facilities - Licensed Only	39	NA	55	16
Birthing Centers - Licensed Only	55	NA	34	1
Freestanding Emergency Centers - Licensed Only	28	NA	17	7
Special Care Facility - Licensed Only	14	NA	52	1
<b>Architectural Review</b>				
Inspections and plan reviews for Hospitals, Ambulatory surgery Centers, End Stage Renal Dialysis Facilities, Freestanding Emergency Facilities, and Special Care Facilities	962	131	72	
<b>Substance Abuse</b>				
Substance Abuse	578	NA	692	315
NTP	80	NA	83	41
<b>Totals</b>	<b>24,822</b>	<b>131</b>	<b>3,237</b>	<b>1,959</b>

## **EMS/Trauma System**

DSHS is responsible for developing, implementing, and evaluating a statewide EMS and trauma care system, including the designation of trauma and primary stroke facilities. Rules for stroke facility designation became effective in August 2009, and beginning October 2009, DSHS began accepting applications from hospitals seeking designation as a stroke facility. The purpose of the stroke facility designation program was to establish a framework for the development of a voluntary statewide emergency treatment system for stroke victims that would reduce morbidity and mortality. There is currently 1 support stroke facility and 86 primary stroke facilities in Texas. There are currently 257 designated trauma facilities in Texas. The Governor's EMS and Trauma Advisory Council advises DSHS on rules and standards for the system. It is anticipated that additional disease modalities, such as acute cardiac events, may be considered for inclusion in the EMS/trauma system and designation programs in the future.

## **Medical Advisory Board**

The Medical Advisory Board makes professional medical recommendations to the Department of Public Safety as to the ability of individuals to operate a motor vehicle and/or a handgun safely for approval or denial of relevant licenses.

**Appendix C. DSHS FY 2012 Fee Resource Manual Summary:**  
**Final Fee Review, Only Regulatory Fees**

Fees in each category are listed by the date last increased.

**Fees Set by Department of State Health Services**

<b>Fee</b>	<b>Revenue</b>	<b>Costs</b>	<b>Percent Covered</b>	<b>Date Last Increased</b>
Code Enforcement Officers Registration	\$161,582	\$69,660	100.0%	1992
Bloodborne Pathogen Control Registration <sup>5</sup>	\$0	\$0	100.0%	2000
Body Piercing	\$182,629	\$116,326	100.0%	2000
Dispensing Opticians/Contact Lens Registration	\$35,081	\$21,428	100.0%	2002
Birthing Centers	\$58,480	\$40,119	100.0%	2003
Abortion Facilities*	\$134,563	\$77,949	100.0%	2004
Food, Drug, Device, and Cosmetic Salvage	\$130,098	\$138,388	94.0%	2005
Lead-Based Paint Certification	\$241,930	\$292,468	82.7%	2005
Meat Inspection <sup>1</sup>	\$37,330	\$24,152	100.0%	2005
Renderers Licensing	\$143,917	\$46,184	100.0%	2005
Tanning Facilities <sup>2</sup>	\$400,436	\$391,265	100.0%	2005
Tattoo Studios	\$719,259	\$351,220	100.0%	2005
Ambulatory Surgical Centers	\$1,168,560	\$567,339	100.0%	2006
Chemical Dependency Treatment Facilities Licensure <sup>2</sup>	\$205,845	\$1,007,947	20.4%	2006
End Stage Renal Disease Facilities	\$1,393,580	\$334,602	100.0%	2006
Food Service Establishments Permits	\$2,562,635	\$1,487,062	100.0%	2006
Hazardous Products Manufacturing Registration	\$452,476	\$223,209	100.0%	2006
Massage Therapists	\$2,150,243	\$687,954	100.0%	2006
Medical Device Distributors and Manufacturers	\$770,856	\$530,039	100.0%	2006
Medical Radiologic Technologists Certification	\$1,057,565	\$351,206	100.0%	2006
Midwifery Training <sup>5</sup>	\$54,734	\$42,699	100.0%	2006

<b>Fee</b>	<b>Revenue</b>	<b>Costs</b>	<b>Percent Covered</b>	<b>Date Last Increased</b>
Narcotic Treatment Programs Permits	\$372,220	\$317,115	100.0%	2006
Pseudoephedrine Certification <sup>2,5</sup>	\$10,200	\$0	100.0%	2006
Respiratory Care Practitioners	\$811,238	\$254,572	100.0%	2006
Drug Offender Education Program <sup>1,2,5</sup>	\$113,438	\$675,890	16.8%	2007
Food and Drug Wholesale Distribution/Manufacturing	\$7,640,697	\$4,390,763	100.0%	2007
Licensed Chemical Dependency Counselors <sup>1,2</sup>	\$375,220	\$159,135	100.0%	2007
Mold Assessors and Remediators	\$593,919	\$566,271	100.0%	2007
Personal Emergency Response Systems <sup>5</sup>	\$48,200	\$9,992	100.0%	2007
Sanitarian Registration	\$80,029	\$73,549	100.0%	2007
School Cafeteria Inspections <sup>2,5</sup>	\$381,246	\$762,799	50.0%	2007
Food Managers Certification	\$8,539	\$0	100.0%	2008
Food Service Worker	\$38,066	\$22,865	100.0%	2008
Radioactive Materials and Devices	\$10,897,872	\$7,201,333	100.0%	2008
Dyslexia	\$72,454	\$111,586	64.9%	2010
Freestanding Emergency Room	\$620,593	\$109,827	100.0%	2010
Laser Hair Removal Facility <sup>5</sup>	\$123,564	\$334,694	36.9%	2010
Laser Hair Removal Certified Technicians <sup>5</sup>	\$146,562	\$212,671	68.9%	2010

*\*Includes Women's Right to Know assessment.*

<sup>1</sup>*These programs are not required to cover costs under House Bill 2292, 78th Legislature, Regular Session; includes Stroke Designation PC 596*

<sup>2</sup>*DSHS will work with stakeholders and/or the independent board to assess costs and determine if a fee increase is needed.*

<sup>3</sup>*There are several fees associated with Asbestos Removal licensure; some are set at the maximum; some are not.*

<sup>4</sup>*General Revenue fee not included in Rider 15 - set or capped by statute.*

<sup>5</sup>*General Revenue fee not included in Rider 15 - set by Department of State Health Services.*

### Fees Set by an Independent Board

Fee	Revenue	Costs	Percent Covered	Date Last Increased
Dietitians	\$259,405	\$72,464	100.0%	1993
Medical Physicists	\$89,894	\$29,588	100.0%	2002
Hearing Instrument Dispensers	\$193,202	\$94,527	100.0%	2003
Perfusionists Licensing	\$64,419	\$16,795	100.0%	2005
Professional Counselors	\$1,291,528	\$460,779	100.0%	2005
Speech Language Pathologists and Audiologists	\$1,072,718	\$357,161	100.0%	2006
Youth Camp Inspections	\$165,598	\$282,086	58.7%	2006
Orthotics and Prosthetics <sup>1</sup>	\$160,719	\$91,411	100.0%	2007
Marriage and Family Therapists	\$262,467	\$241,754	100.0%	2008
Social Workers	\$1,163,007	\$506,090	100.0%	2008
Athletic Trainers	\$426,076	\$149,236	100.0%	2010
Council on Sex Offender Treatment Registration	\$85,972	\$64,379	100.0%	2011

<sup>1</sup> General Revenue fee not included in Rider 15 - set by Department of State Health Services.

### Regulatory Fees Capped by Statute

Fee	Revenue	Costs	Percent Covered	Date Last Increased	Maximum Charged
Workplace (Tier II) Chemical Lists	\$1,023,566	\$484,182	100.0%	1994	Yes
Oyster Sales Certification	\$198,999	\$153,251	100.0%	2003	Yes
Emergency Medical Services <sup>1,3</sup>	\$2,504,886	\$1,915,519	100.0%	2004	Yes
Frozen Desserts	\$371,506	\$210,920	100.0%	2004	Yes
Milk Industry Products Permits <sup>1</sup>	\$2,306,071	\$2,361,384	97.7%	2004	Yes
Private Psychiatric Hospital and Crisis Stabilization Units <sup>2,3</sup>	\$256,963	\$141,271	100.0%	2004	Yes
Special Care Facilities	\$1,340	\$19,640	6.8%	2004	Yes
Asbestos Removal Licensure	\$4,272,445	\$2,473,923	100.0%	2006	Yes <sup>3</sup>

<b>Fee</b>	<b>Revenue</b>	<b>Costs</b>	<b>Percent Covered</b>	<b>Date Last Increased</b>	<b>Maximum Charged</b>
Abusable Volatile Chemical Permit	\$634,738	\$304,099	100.0%	2006	Yes
Bedding Permits	\$907,948	\$381,727	100.0%	2006	Yes
Bottled and Vended Water <sup>2,3</sup>	\$37,773	\$11,365	100.0%	2006	Yes
Hospital Licensing	\$2,717,268	\$1,212,710	100.0%	2006	No
Mammography Systems Certification	\$1,240,218	\$802,464	100.0%	2008	Yes

<sup>1</sup>These programs are not required to cover costs under House Bill 2292, 78th Legislature, Regular Session; includes Stroke Designation PC 596

<sup>2</sup>General Revenue fee not included in Rider 15 - set or capped by statute.

<sup>3</sup>General Revenue fee not included in Rider 15 - set by Department of State Health Services.

## Appendix D: DSHS Division of Regulatory Services Organizational Chart

