INTRODUCTION

HB 2292, 78th Legislature, Regular Session (2003), consolidated the programs & activities of three health & human services agencies: (1) the mental retardation services & state school programs of the Dept of Mental Health & Mental Retardation; (2) the community care, nursing facility, & long-term care regulatory services of the Dept of Human Services; & (3) the aging services & programs of the Dept on Aging. That new agency, the Department of Aging and Disability Services (DADS), became operational On September 1, 2004.

DADS' mission is to provide a comprehensive array of aging, disability, & mental retardation services, supports, & opportunities that are easily accessed in local communities. To that end, DADS will administer human services programs for older people, people with physical disabilities (both young & old), & people with cognitive disabilities (mental retardation). DADS will also license & regulate providers of these services through a separate division that reports directly to the Commissioner.

While the integration into a functional organization is complex, it also provides numerous opportunities to improve the way we take care of ourselves as we get older; simplify & improve how services are provided & regulated; and to enhance the quality of life for individuals; and enhance the relationship we have with our stakeholders.

Listed below are some of the issues & opportunities that DADS will face in the upcoming years.

AGING POPULATION

The Aging population in Texas has important implications for DADS service delivery. In 2006, the leading edge of the baby boom generation (those born in 1946) will turn 60. We struggle to find resources to serve the current population but as we look to the future, that problem will only increase. The population age 65+ is the group that will experience the highest growth rate from 2005 to 2040. Their population is projected to grow from 2.2 to 6.3 million, a growth rate of about 184%.

Let's take a look at who is disabled. According to sample data taken from the 2000 census of population, about 20% of Texans had one or more disabling conditions. Among those ages 65+, however, about 47% were affected by one or more disabling conditions. Since the older population is projected to grow at a higher rate, it is very likely that the percent of persons affected by one or more disabling conditions will increase. These are people who have one or more physical or mental conditions that limit their ability to successfully engage, on their own, in basic activities of daily living such as bathing, eating, getting dressed, getting in/out of bed, & taking needed medications.

Now consider that these same individuals frequently enroll in Medicaid to cover the costs of long-term care services. In fact, while Aged & Disabled individuals represent 20% of the people on Medicaid in Texas, they account for 62% of the expenditures of the Medicaid program. Thus, the combination of an aging population and the large percentage of disabled in that high growth population, will put unprecedented demand on services and cause significant increases in the cost of Medicaid. We must plan now to develop a strategy that will controls cost & still result in an improved quality of life and improved health for those we serve.

AGING TEXAS WELL

One opportunity is to improve the health habits of individuals as they get older. At the age of 50, people who stop smoking, watch their diet, & are active, can increase their healthy life span by 12-15 years. If you are 65+, do not smoke, eat healthy, & exercise regularly, you have an 11% chance of having a stroke, heart attack, or chronic illness. However, if you are 65+, smoke, eat poorly, & are not active, you have a 58% chance of having a stroke, heart attack, or chronic illness. Therefore, we should encourage our elderly to stop smoking, eat healthy, & stay active. Doing so will allow us to live healthy lives & decreases our chances of a chronic illness at age 65 by 500%. Educational outreach, initiatives, & programs to help our older Texans "age well" in all aspects of their lives will be critical to our success.

CHOICE DRIVES HOME & COMMUNITY SERVICES

A historical look back over time tells us that individual choice and a corresponding change in public policy has increasingly emphasized long-term services in home & community rather than institutional settings. This is evidenced by the growth in community care services since 1985, which has grown by 110,000 consumers while nursing facility caseloads have remained relatively constant at 60,000 during this same time period. For the past five years, this trend has been accelerated by Congressional changes, Legislative changes, and court decisions that continue to emphasize an individual's right to choose an independent lifestyle that allows for their daily life to be fully integrated into the community in which they choose to live.

On February 1, 2001, President Bush announced the New Freedom Initiative, part of a nationwide effort to remove barriers to community living for people with disabilities. Today, there are more than 54 million Americans living with a disability, representing a full 20% of the U.S. population. Almost half these individuals have a severe disability affecting their ability to see, hear, walk, or perform other basic functions of life. The New Freedom Initiative is a comprehensive plan that represents an important step in working to ensure that all Americans have the opportunity to learn & develop skills, engage in productive work, make choices about their daily lives & participate fully in community life. The Initiative's goals are to: (1) Increase access to assistive & universally designed technologies; (2) Expand educational opportunities; (3) Promote homeownership; (4) Integrate Americans with disabilities into the workforce; (5) Expand transportation options; & (6) Promote full access to community life.

DADS will continue to promote & administer services, programs, & activities "in the most integrated setting appropriate to the needs of qualified individuals with disabilities." While we acknowledge the significant demand for home & community based services, we must also recognize that true "choice" must allow a person to choose a residential setting. That could be a small residential ICF-MR, a large ICF-MR, a nursing home, or even a hybrid situation like an assisted living facility. The system should be responsive both to individual choice and the money should flow to those services that individuals select.

OPPORTUNITIES FOR BEST PRACTICES & INNOVATION
The consolidation of three legacy agencies into DADS provides an opportunity to review policies, procedures, & practices that were previously in place & identify best practices that were in use at each agency. That review could also surface new, creative approaches to service delivery that simplify eligibility & improve the consumer's ability to "navigate the system."

Eligibility & Services – As new tools for assessment & service delivery are implemented, we must strive to provide services more effectively while reducing both the time and the number of individuals who wait for services. There may be opportunities to restructure community programs & develop alternate methods to deliver services with greater efficiency (e.g., In-Home & Family Support programs; the Meals on Wheels Programs; & new Medicaid waiver programs). Efforts to ensure that services make maximum use of Medicaid funding will continue, with added efforts to ensure that services are tailored to specific consumer needs & circumstances.

Regulatory – The community ICF-MR programs, multiple Medicaid waiver programs, & various state-funded programs each have their own sets of oversight & monitoring requirements. Ensuring that standards of care are met, conditions of participation are achieved, & program & consumer outcomes occur as desired will present a major challenge. Transferring the various Medicaid waiver programs operated by legacy agencies to DADS will provide the opportunity to design a single quality assurance/quality improvement system, incorporating independent, person-directed planning, consumer choice, & control where appropriate, with outcome-based evaluation mechanisms across all program services. Alignment of non-Medicaid services with waiver services allows this quality initiative to be expanded across funding streams as well. The receipt of federal quality assurance/quality improvement grant monies will significantly aid this quality system development.

STRAIN ON THE "INFORMAL CARE" SYSTEM
Current estimates indicate that 25% of American families are involved in elder/parent care in some way, & nearly two-thirds of the baby boom generation will be caring for aging parents in the next ten years. National surveys indicate that relatives care for four out of five older people who have a disability. This informal system of care giving has been valued at $257 billion annually - more than double the national expenditure for nursing facility & paid home care combined. With the Older American Act, there is an emphasis on local contributions – often through the use of volunteers – that is one of the hallmarks of the OAA & the Aging Network. The Aging Network draws upon the talents of thousands of volunteers. If not for these volunteers, the cost of services would increase & the amount of service provided would decrease. Volunteers provide substantial support for programs such as home-delivered meals, benefits counseling, & ombudsman services.

However, this informal system is experiencing stress as the pool of family caregivers shrinks. In 1990, there were 11 potential caregivers for each person needing care, but by 2050, this ratio is expected to fall to four to one. The large, extended families of past generations are less common, & greater mobility among adult children often means that care giving responsibilities for aging parents fall to one child. These caregivers likely are parents themselves who are active in the work force; they are sometimes referred to as the "sandwich generation." Almost 52% of caregivers have some kind of workplace problem as a result of their care giving, & estimates for business losses range between $11-29 billion annually due to the employees' needs to care for loved ones age 50 & over.

As such, more & more citizens will turn to the state of Texas to receive their long-term care services, further straining the state's ability to provide that care. This LAR provides some relief for these families & their relatives.

ADEQUATE RATES FOR PROVIDERS & DIRECT CARE STAFF
In order to provide quality long-term care, we must have a stable provider system with qualified, skilled workers. The financial stability of long-term care providers is important to the delivery of care to our residents. Rising costs, due to inflation & an upward trend in client care needs, puts pressure on providers to remain financially solvent. When provider rates are not sufficient to maintain financial stability, this not only jeopardizes the providers' ability to provide quality care but also necessitates thousands of additional DADS staff hours be spent on monitoring these providers to ensure that their financial difficulties do not adversely impact individual's health & safety.

Quality of care in nursing facilities, intermediate care facilities, & the community have also been significantly impacted by the inability of providers to attract & maintain a stable workforce of attendants & aides with appropriate skills. Low compensation rates in this job market have contributed to this problem. Many attendants & aides barely make above the minimum wage. This LAR allows providers to hire & retain qualified staff while maintaining the financial viability of the provider system.

DADS LAR
All of these efforts toward effectiveness & efficiency will serve more people & serve them better, but they may not keep pace with the demand in the coming years. The DADS Legislative Appropriations Request (LAR) attempts to address many of these present & future needs that will face Texans over the next couple of years. This LAR takes into consideration the input of the many DADS stakeholders – from comments submitted to a DADS e-mail address, public comment at three public hearings, & one statewide question/answer video-conference.

The DADS LAR has been prepared in accordance with the instructions from the LBB & the Governor's Office. These instructions limited an agency's baseline request for GR-related funds to 95% of the sum of amounts expended in FY04 & budgeted in FY05. Additional guidance was given that allowed DADS to exclude Medicaid-related services from the required baseline reduction as well as maintaining FY05 caseload levels & costs.

BASELINE REQUEST
The FY06-07 DADS "Baseline" appropriations request will serve an estimated 269,900 individuals in Texas with 198,400 (or 73.5%) of these individuals being served in community care settings. The Baseline request totals over $9.7 billion in all funds over the biennium, with $3.8 billion being GR related. This is an increase of over $219 million in all funds from our FY04-05 total of $9.5 billion. The GR difference between the two biennia is $231.9 million.

Even with the increase in the DADS budget for FY06-07, our "Baseline" budget request does not fully serve the anticipated increase in the number of individuals who will be "entitled" to receive DADS services. In order to accommodate this baseline request, the DADS Baseline request does not serve 29,800 individuals who are expected to become eligible for Medicaid services by FY07. The Baseline request also reduces provider rates 1.06% for Nursing Facility, ICF-MRs, & community care services from FY05 levels, which were already reduced from FY03 levels. Simply put, this is not acceptable and will not meet the increased need for a financially stable provider base, nor provide adequate services for the increased demand expected from our growth in consumers.

The FY06-07 DADS LAR also assumes that the Quality Assurance Fee (QAF) that is currently assessed on Intermediate Care Facilities for the Mentally Retarded

(ICF-MR) will be in place & generate an estimated $100 million in GR-Dedicated funds over the FY06-07 biennium. The current fee provisions of the ICF-MR QAF are to be repealed on August 31, 2005.

EXCEPTIONAL ITEMS
We understand that these are difficult times for the state of Texas & that there are many compelling needs around the state but as noted above, the situation in Texas & around the country point to increasing needs in long-term care services. The exceptional items in DADS' request attempt to address these needs, while recognizing the reality of the state's fiscal constraints. There are of two types of exceptional items in the DADS request: first, to restore the department to its FY04-05 service levels & second, to address noteworthy needs for the future.

FY06-07 entitlement growth – Based on instructions given to the Department, the FY06-07 base budget does not allow for Medicaid entitlement caseload growth beyond FY05 caseloads. We have identified the number of consumers we would not be able to serve in our defined base & are requesting funds to serve those individuals in this exceptional item.

Five percent General Revenue Reduction – The FY06-07 GR funds were reduced by 5% from the FY04-05 non-entitlement GR. This equated to a $19.7 million GR reduction. The Baseline reduction was achieved by reducing rates by 0.59% for all LTC providers. This exceptional item restores these rate reductions.

Biennial FMAP Change – The Baseline funding level did not include funding to cover the additional state funds costs associated with a reduced Medicaid Federal Medical Assistance Percentage (FMAP) for FY06-07. The estimated FMAP for FY06-07 is 60.35%, compared to an average FMAP for FY04-05 of 60.54% (which excludes the Federal Fiscal Relief adjustment). This 0.19% FMAP difference equated to a $16.7 million GR reduction. The Baseline reduction was achieved by reducing rates by 0.47% for all LTC providers. This exceptional item restores these rate reductions.

The remaining exceptional items address important issues that confront DADS now & in the future.

Guardianship Program – Effective December 2004, we expect the Guardianship program to be transferred from the Department of Family & Protective Services (DFPS) to DADS. This transfer can be accomplished on a short-term basis without transferring funds from DFPS to DADS. However, for FY06-07, this program needs to be fully funded as an Exceptional Item in order to avoid critical reductions to DADS operations.

Promoting Independence – This exceptional item request addresses the Promoting Independence Plan related to mental retardation services. This item requests $4.7 million in GR funds for the biennium to move 146 persons from large community ICF-MRs to the Home & Community-Based Services (HCS) waiver program by the end of FY07. If this item is not funded, the department would not be able to meet its commitments to provide mental retardation services within a twelve-month period under the Promoting Independence Plan, & consumers would remain in environments that are not their preference & are more restrictive than necessary.

Rate Restorations – as noted earlier, the ability to provide a quality long-term care system depends upon the financial viability of the provider network. The next three exceptional items address the restoration of previous rate reductions & the anticipation of future rate increases needed for inflation.
Restoration of FY03 rate levels – In the FY04-05 Appropriations Act, provider rates for Nursing Facilities & ICF-MRs were reduced by 3.5% below FY03 levels, while rates for community service providers were reduced by 2.2% below FY03 levels. The subsequent release of one-time Fiscal Relief funding enabled the department to partially restore the rate reductions to 1.75% & 1.1%, respectively.

Rebase Rates for FY04-05 & Inflate Rates for FY06-07 – This exceptional item would provide for increases in the rates paid to providers in order to appropriately rebase & inflate rates to FY06 & FY07. Without this funding, rising costs will continue to erode the quality of services. The Implicit Price Deflator for Personal Consumption Expenditures (PCE) is the primary basis for the inflation adjustments, which is used by all HHS agencies. The item also includes cost increases resulting from trends toward the more complex services needed in Nursing Facilities, as well as cost increases resulting from utilization increases in the number of service hours per user for

Primary Home Care, Community Attendant Services, Day Activity & Health Services, & Community Based Alternatives.

Rate Increase for Direct Care staff – In many parts of the state, providers are unable to attract & retain adequate numbers of attendants & aides with appropriate skills to provide the standard & continuity of care facilities required by state & federal guidelines. The turnover rate for community care attendants & direct care aides is 50%-100%. The community care attendant wage is just above the minimum salary wage rate, & the average wage rate for direct care aides is approximately $7.00 per hour. State Schools have experienced an annualized turnover rate of approximately 35% in the Licensed Vocational Nurses (LVN) job classification & 24% in the Registered Nurse (RN) job classification & are reporting increasing difficulty in filling existing positions. This item would provide a $1 per hour wage increase for direct care aides & attendants, licensed vocational nurses, & registered nurses as a means of addressing critical recruitment & retention issues experienced by providers. In addition, this request funds an approximate pay increase of 10% for 294 RNs & 640 LVNs in State Schools.

Infrastructure Refresh – This item aggregates the capital budget item request for the department. It includes requests for the following categories: Information Technology Refresh; Direct Client Transportation Replacement; Direct Client Furnishings & Equipment Replacement; Renovations/Repairs for State Buildings.

Staffing for Increased Caseloads/Workloads – In Long Term Care, additional clients have been added for several biennia with no corresponding increase in caseworkers. Workload levels are significantly higher than several years ago. The workload increase is a combination of an increase in clients as well as an increase in the complexity of cases. Workload has increased the number of cases per worker from an FY00 average of 232 to an estimated 440 in FY07. Funding this exceptional item would reduce the cases per worker to 366.

Richmond State School Cottages – in 1998, the MHMR Board approved the construction of eight 8-bed cottages at the Richmond State School. Five of these cottages were completed by FY01. This item is presented in order to clarify legislative intent – a fixed dollar appropriation or eight cottages.

DADS will also have two exceptional items that will be carried in HHSC's LAR pertaining to Interest List reductions. Two options will be presented (1) a plan to keep pace with population growth & (2) an eight-year approach to providing services to those individuals who are currently on interest lists. The first option would affect 2,600 people by the end of FY07 at a cost of $25.2 million in GR funds while the second option would enable 21,900 individuals to come off various DADS interest lists at a cost of $277.4 million in GR funds.

We appreciate your consideration of our Legislative Appropriations Request & we look forward to working with the 79th Legislature in 2005 to address the needs of Texas' elderly & disabled citizens.