

DRAFT Summary of Observations from the Governor's Commission on Healthcare and Hospital Funding

May 5, 2015 – January 19, 2016

Florida Center for Health Information and Policy Analysis
Agency for Healthcare Administration
January 2016

INTRODUCTION

On May 5, 2015, Governor Rick Scott issued [Executive Order 15-99](#), appointing a commission to *investigate and advise on the role of taxpayer funding for hospitals, insurers, and health care professionals, and the affordability, access, and quality of health care services they provide to Florida families as a return on taxpayer investment*. The Governor appointed nine Floridians to serve on the Commission, and two Executive Directors. The Commission was chaired by **Mr. Carlos Beruff** of Parrish, Florida. Mr. Beruff is a member of the South Florida Water Management District, the Sarasota Manatee Airport Authority and is President of Medallion Homes. Other Commission [members](#) included:

- **Tom Kuntz**, of Winter Park, is a former executive at SunTrust Bank and a current member of the Florida Board of Governors. Mr. Kuntz served as Vice Chair of the Commission.
- **General Chip Diehl**, of Tampa, is a retired Brigadier General United States Air Force and is a member of the Florida Defense Support Task Force.
- **Marili Cancio Johnson**, of Key Biscayne, is a member of the Miami-Dade College Board of Trustees and is the principle of Marili Cancio Johnson PA.
- **Eugene Lamb, Jr.**, of Midway, served on the Gadsden County Board of County Commissioners from 2004-2012 and is a past Chair of the Tallahassee Community College Board of Trustees.
- **Dr. Jason Rosenberg, M.D.**, of Gainesville, is a reconstructive microsurgeon and a former Chair of the Florida Board of Medicine.
- **Sam SeEVERS**, of Destin, is a small business owner and a former Mayor and City Council Member of Destin.
- **Ken Smith, Ph.D.**, of Estero, is the owner of Integrated Beef Consultants and a member of the Florida Gulf Coast University Board of Trustees
- **Robert Spottswood**, of Key West, is a certified public accountant and an attorney. He is the President and Director of Spottswood Companies.

Dr. John Armstrong, Florida's State Surgeon General and Secretary of Health, and **Elizabeth Dudek**, Secretary of the Agency for Health Care Administration were appointed as co-Executive Directors.

The Commission held fifteen public [meetings](#) (including two teleconferences) between May 20, 2015 and January 19, 2016. The Commission conducted meetings in a variety of healthcare markets around the state including at the Agency for Health Care Administration's offices and the Capitol in Tallahassee; the Florida Department of Health in Orange County and the University of Central Florida in Orlando; the University of South Florida (Tampa); Miami-Dade College (Miami); Jacksonville University (Jacksonville); and Florida Gulf Coast University (Ft. Myers).

The Commission initiated a ***Spotlight on Transparency Tour***, making stops in Tampa, Jacksonville and Miami during June and July. Two hospitals from each market area were invited to present on key performance measures, overall financial health, and how they utilize taxpayer funding. The six hospitals that presented on the tour were: Tampa General Hospital, Morton Plant Hospital (Tampa), UF Health Jacksonville, St. Vincent's HealthCare (Jacksonville), Jackson Memorial Hospital (Miami), and Mount Sinai Medical Center (Miami).

The Commission's website, www.HealthandHospitalCommission.com, was developed to serve as a repository of interactive information for members, the media, and the public. The website includes a section for [meeting information](#) where all meeting notices, agendas, materials, and audio recordings are posted, along with a link to the Florida Channel's website. Meetings were broadcast live in their entirety via internet stream by The Florida Channel; and video recordings are retained in their online video library for later viewing. The website also includes a separate [Information](#) section where multiple sets of interactive data charts and visualizations were posted, as well as information received from hospitals in response to Commission inquiries. There is a [contact form](#) for individuals or organizations to submit public comment to the Commission, and the home page features a sign-up form that invites interested parties to subscribe to email updates about Commission activities. In July, Florida hospitals and Medicaid health plans were asked to certify their Medicaid reimbursement rates; and a [Medicaid](#) section was added to publish copies of the certifications along with general information about Medicaid and the Low Income Pool (LIP). An additional set of tabs was added in September when Governor Scott asked Florida residents to share their own personal experiences of "[price gouging](#)" by hospitals and other healthcare facilities – making the website the primary platform for individuals and families to share their stories.

This report contains active (underlined) links to the Commission [website](#) to reference specific information and data when appropriate. While this document may be printed, online viewing will allow direct linkage to extensive supporting documentation and supplemental information.

COMMISSION OBSERVATIONS

Through the testimony of more than twenty-five guest presenters that included industry leaders, experts, and stakeholders, along with public comment from consumers, the Commission has noted a number of observations about the healthcare industry and how it performs today. The Commission observed and a number of experts agreed that healthcare as an industry does not follow the typical behaviors of a free market system. With government sponsored resources covering more than two-thirds of all care provided, there is a persistent influence of government regulation and oversight that largely drives industry behavior, as opposed to consumer preferences. An additional observation was that the vast majority of patients in the system are shielded from the real costs of their care due to third party payer relationships, and thus comprise an uninformed consumer base. A lack of transparency around health care costs and quality largely contributes to the problem. Thirdly, in a market that has traditionally compensated facilities based on the volume or the number of services they provide over the effectiveness of those services, coupled with blind utilization from a population that does not bear the cost, there are no real market cost controls. The major purchasers of healthcare services (insurers, governments, and employers), however, are working to better align healthcare payments and reimbursement to reward value over volume, to improve quality, and to reduce waste in the system. The following pages address each of these observations in more detail.

HEALTHCARE IS NOT A FREE MARKET SYSTEM

A *free market* is an economic system with only a small amount of government control, and in which prices and earnings are decided by the level of, demand for, and production of, goods and services (i.e. *supply and demand*)¹. A free market system is best achieved in highly competitive markets and through private ownership of productive enterprises. A free market is also defined by individuals' freedom to choose to enter into or not enter into transactions and contracts.

Healthcare as an industry does not currently fit the definition of a free market system. Hospital utilization data indicate that [more than 70%](#) of all hospital admissions in Florida during 2013 were covered by a government-sponsored resource (i.e. Medicare, Medicaid, VA/Tricare or other). This figure still does not include an unknown number of government workers and their families who carry private insurance that is paid for, at least in part, by their tax-funded employer; or the approximately 1.3 million Floridians² who have gained federally subsidized health insurance coverage under the Affordable Care Act (ACA). With more than two thirds of utilization generated from government resources, and the state's share of those costs comprising more than one third of all state spending during 2014, there is a persistent influence of government regulation and oversight across the industry. Another example of how the industry does not fit the current definition of a free market system is the state's [Certificate of Need](#) (CON) program, which was initially established with the intention of controlling rising healthcare costs, but has been noted by the Commission to instead stifle free market competition which may in turn counter its intended impact. The CON program restricts new entry into the market for state-licensed hospitals, nursing homes, and hospices based on documented need in the community. The Commission supports a thorough re-examination of the CON program to measure its current impact on competition, quality, and cost in Florida; and supports repealing the program if deemed appropriate. Other [examples of government regulation and influence](#) on the industry include federal payment incentive or reduction programs based on specific quality indicators, and the required reporting of standardized data for monitoring, research and analysis.

Furthermore, the true consumer of health care services is often difficult to define. The consumer may be the patient, the physician or caregiver who directs a patient to care, the insurance plan that is providing payment for the services a patient receives, or it may be the patient's employer that is paying for the insurance. When the end user of (i.e. *demand for*) a service is shielded from the real cost of the service in this way, there cannot exist a truly consensual relationship between the vendor and the recipient regarding the pricing of such services; nor can the forces of supply and demand ever reach a natural equilibrium as they would in a true free market system. The Commission supports efforts to better empower and inform patients about the variations in costs and quality of health care services between different facilities so that they can use this information for their own medical decision making, and ultimately to influence the demand for services and specific facilities. Finally, the Commission supports protecting patients' rights to not have fixed prices forced on them against their will in moments of vulnerability. Many transactions in hospital care are not freely entered into, and a better process for determining fair and reasonable amounts owed is sorely needed as the current legal frameworks are stacked almost entirely against the patient's best interests.

¹ Cambridge Dictionary (<http://dictionary.cambridge.org/us/dictionary/english/free-market>), 12/2015.

² "State-by-State Effects of a Ruling for the Challengers in King v. Burwell," Kaiser Family Foundation (<http://kff.org/interactive/king-v-burwell-effects/>), 12/2015

MORE TRANSPARENCY IS NEEDED

The Commission noted very early in the process that very little if any information or data are publically available to indicate the actual costs of services provided or the amounts of payments received for those services by health care facilities and professionals. Members have expressed frustration over the inability of consumers and others to effectively compare their estimated out of pocket expenses along with quality ratings between different facilities (i.e. to comparison shop); and of government and third party payers to accurately compare performance and efficiency for rate setting and monitoring purposes. The Commission contends that with taxpayers supporting such a large proportion of healthcare utilization and spending, the healthcare industry must be more transparent with the public about how their tax dollars are spent and accountable to the outcomes associated with those taxpayer-funded investments.

Currently, hospitals and licensed Ambulatory Surgery Centers (ASCs) in Florida are required to routinely report total charges for services provided each calendar quarter, and this information is made available publically on the Agency's [FloridaHealthFinder.gov](https://www.floridahealthfinder.gov) website. Total charges are virtually never freely agreed to and not an accurate reflection of what facilities and professionals are actually paid for services nor of their associated real costs. The Agency also does not currently receive information from physicians, pharmacies, or other outpatient health services about costs or charges, and so it has an incomplete picture of the comprehensive costs associated with any specific condition or procedure.

Governor Rick Scott has [proposed legislation](#) for the 2016 Florida legislative session that aims to address the issues of cost and quality transparency through a new set of reporting standards that would impact all licensed hospitals and ambulatory surgery centers in the state. If passed, the new law would require all state-licensed facilities to publish a complete list of service charges along with the average amount of payment they receive, across all payer types, for each service. The bill would also require the facilities to post consumer accessible information about their finances including executive compensation, marketing expenses, and lobbying contributions, and would require the publication of estimated out of pocket expenses for consumers for common conditions and procedures, based on their specific health insurance coverage, on [FloridaHealthFinder.gov](https://www.floridahealthfinder.gov).

Full implementation of the Governor's proposal would require the development of an All Payer Claims Database (APCD) for Florida. APCDs are large databases that aggregate data from medical claims, pharmacy claims and dental claims, from both private and public payers, and provide the ability to understand how and where health care is being delivered and how much is being spent through analytics. The Commission has formally expressed its support of this proposed legislation as a first step toward improving transparency of health care pricing and quality for Floridians.

Most importantly, the Governor's legislation would extend existing state consumer protection laws against "price gouging" for situations of public emergencies to also include situations of medical emergencies and medically necessary care in healthcare facilities. While improved transparency will help to empower consumers to make more informed decisions about their health, it will also empower patients to know whether or not they have been treated fairly or unfairly in these types of situations where circumstances did not allow them the luxury to shop around or negotiate prices. Patients will need some place to go, however, when they learn that they have been treated unfairly and deceptively, which is why clear legal definitions and tough penalties are needed to deter such "unconscionable" behavior.

PAYMENTS AND DESIRED OUTCOMES HAVE NOT BEEN PROPERLY ALIGNED... BUT THAT IS CHANGING

Healthcare as an industry, both nationally and in Florida, has historically operated under a *fee-for-service* system in which health care facilities and professionals are paid based on the number and type of services they perform and regardless of the end result or *outcome*. In 2015, industry experts estimate that between 30% and 50% of all health care services provided to patients are unnecessary, wasteful, and even potentially harmful – largely as a result of this volume-based reimbursement methodology. Presentations from industry leaders, insurance representatives and regulators, however, indicate an industry-wide paradigm shift from this volume-based payment environment into a system that is increasingly calculating payments based on the quality of the services provided and the outcomes achieved for patients.

The Commission has noted that Florida is emerging as a national leader in this effort, crediting largely a recent transition of the state’s Medicaid program into managed care, as well as a fundamental change in how the state reimburses hospitals. Many private and commercial health plans operating in the state are also simultaneously shifting toward value based purchasing methodologies as large employer groups continually increase their demand for this type of coverage. Federal and state health programs such as Medicare and Medicaid are driving much of this industry-wide transition through numerous [payment incentive and penalty programs](#) based on the frequency of such occurrences as hospital readmissions, hospital-borne infections, and medical complications.

The industry in Florida is actively responding to these changes, and many are improving quality outcomes as a result. A majority of Florida’s hospitals and other licensed healthcare professionals are voluntarily participating in at least one of several national and/or industry segment quality initiatives such as those offered through the U.S. [Centers for Medicare and Medicaid Services](#) (CMS), the federal [Agency for Healthcare Research and Quality](#) (AHRQ), or the [Hospital Safety Score](#) program as administered by the [LeapFrog](#) group. The Chair of the LeapFrog Group’s Board of Directors presented to the Commission in August, sharing that Florida has the second highest number of hospitals in the nation participating in the Hospital Safety Score program.

There are also increasing [options](#) for Florida families to choose among different types of care settings and relationships with health care professionals based on their individual preferences and needs. The Commission heard from national and local leaders about how [Ambulatory Surgery Centers](#) (ASCs) can provide a lower cost, high quality alternative to hospitals; and about new ways patients can access affordable primary care, such as the [Direct Primary Care](#) model. The Commission has expressed its support of these types of emerging alternatives for Florida families.

Ultimately, Florida is making great strides to ensure better coordinated, improved quality, and more affordable health care for all Florida families – but there is still work needed before this vision can be fully realized and Governor Scott’s legislation is essential to reaching that goal. The Commission sincerely thanks all of the industry experts, leaders, and especially the consumers who gracefully shared their experiences and expertise throughout the process and could not have completed their work without their invaluable insight. The Commission members and staff also thank Governor Scott for allowing them to examine these issues and provide feedback that they believe will help improve the lives of all Floridians.