

## DRAFT MEETING MINUTES

### COMMISSION ON HEALTHCARE AND HOSPITAL FUNDING

**Meeting Date:** June 4, 2015

**Time:** 8:00 a.m. – 12:00 p.m.

**Location:** The Florida State Capital, Cabinet Meeting Room

**Members Present:** Carlos Beruff, Chair (by phone); Tom Kuntz, Vice Chair; General Chip Diehl; Marili Cancio Johnson; Eugene Lamb; Dr. Jason Rosenberg; Sam SeEVERS (by phone); Dr. Ken Smith and Robert Spottswood.

**Executive Directors Present:** Dr. John Armstrong, State Surgeon General and Secretary of Health and Elizabeth Dudek, Secretary of the Agency for Healthcare Administration.

**DOH and AHCA Administrators and Staff Present:** Cruz Conrad, Nathan Dunn, Beth Eastman, Marisol Fitch, Ryan Fitch, Stacey Lampkin, Mandi Manzie, Molly McKinstry, Jennifer Miller, Karen Riviere, David Rodgers, Jamie Sowers and Josh Spagnola.

**Interested Parties Present:** Bill Bell, FHA; Steve Birtman, Florida Association of Nurse Anesthetists; Donna Clarke, Lee Memorial Health System; Marti Coley, Nemours Children Hospital; Vanesa Charles, Bob, Levy & Associates; Brian Delburn, Tenet Healthcare; Jan Gorrie, Ballard Partners; Wendy Hedrick, Sunshine Health; Lori Hundley; Sally Jackson, Lee Memorial Health System; Ashley Kalifeh, Capital City Consulting; Laura Lenhart, Moffitt Cancer Center; Danny Martell, Economic Council of Palm Beach County; James Miller, Capitol Access; Phillis Oeters, Baptist Health South Florida; Brittany O'neil, Department of Financial Services – Division of Workers' Compensation; Jose Romano, Baptist Health; Rob Shave, Access Capital, Corp.; Jess Scher, United Way of Miami-Dade; Ron Watson, Watson Strategies

**Media:** Matt Galka, Capitol News Service; Thomas Jones, Florida Channel; Christine Sexton

**Welcome and Introductions:** Carlos Beruff, Chair, called into the meeting from the phone and asked that Tom Kuntz, Vice Chair, facilitate the meeting. Vice Chair Kuntz called the meeting to order.

**Review and Approval of May 26<sup>th</sup> Meeting Minutes:** Vice Chair Kuntz called for a review and approval of the minutes from the May 26, 2015 commission meeting. Ms. Marili Cancio Johnson noted that on page four there was an error, and needs to state 30 percent not 30 billion. With the error noted and corrected, the minutes were approved.

**Commission Member Comments and Discussion:** Vice Chair Kuntz encouraged each Commission member to take inventory of the path that the Commission has taken and comment upon that path. All of the Commissioners thanked the staff for providing an enormous amount of information on very short notice as well as being available to Commission members when needed.

Dr. Jason Rosenberg noted that he would to explore how to incentivize hospital behaviors for the Commission's desired outcomes. Mr. Robert Spottswood articulated the difficulty of getting through the information provided and knowing what the Commission is tasked with accomplishing. He indicated that he would like more information on all governmental funding hospitals receive, a breakdown of funds including each governmental funding source and how the governmental sources are dispersed.

Dr. Smith stated that the current process is complicated and due to the amount of information, slow-going. He challenged the Commission to boil down the information it is receiving and the process to its so that it will be accessible information to the constituents of the state of Florida.

Surgeon General Armstrong thanked the Commissioners in addressing the tough questions in order to enrich the citizens of Florida. He indicated that the Commission needs to continue its task to find where taxpayer money is going and what are the expectations attached to that money. Secretary Dudek also thanked the Commissioners for providing the Agency with a new perspective on the data. She encouraged the Commission to continue to ask questions so as to provide recommendations that will further affordability and accessibility of healthcare to Floridians.

General Chip Diehl stated the importance of the Commission sticking to the facts and importance of staying ahead of the curve. He noted that there is a lot of money but the Commission needs to keep in mind the impact of that money on the state. General Diehl also indicated that the Commission needs to continue to keep the aperture open as wide as possible to consider all aspects, including provisions to Veterans, of health care funding and taxpayer support of that funding.

Ms. Cancio Johnson asserted that costs are out of control with Medicaid currently thirty percent of the budget and rising. She contended that putting more money into the system will not necessarily improve outcomes. Ms. Cancio Johnson maintained that more transparency is needed and noted her continued disappointment regarding the hospital industry and their lack of participation in the Commission. She also indicated her pride in the Commission members despite comments that have been made about the lack of health care experience attributed to the members. Ms. Cancio Johnson noted that Jackson Memorial was in financial trouble for several years until a banker, Mr. Carlos Migoya took control and has begun to turn the facility around financially.

Mr. Eugene Lamb indicated that the costs of health care in our hospital facilities funded through taxpayer contributions need to be spent in a wiser manner. Ms. Sam SeEVERS echoed Dr. Smith's sentiment that the Commission needed to simplify the information it was receiving into a consumable form. She asserted that Governor Scott was very smart to put together a group with no knowledge of health care, other than Dr. Rosenberg, to look at the issue with a fresh perspective.

Chair Beruff also noted the lack of cooperation from the hospitals and the lack of perceived transparency from them. He indicated that the Commission needs their cooperation in order to have an informed conversation.

Vice Chair Kuntz observed that the public commentators from previous meetings are looking for the same outcome as the Commission—all Floridians receiving proper coverage and healthcare. He

questioned what incentives exist to keep hospital leadership efficient and how do their contracts address their own efficiency. Vice Chair Kuntz reiterated his belief that the Commission should not lose sight of the issue of Certificate of Need and whether elimination of the program would increase competition. He questioned the logic behind the program—whether any logic exists. He concluded with a reminder of the public comment process for the Commission. General Diehl reminded the Commission about its responsibility to give a voice to the public comments by taking them up the chain.

Secretary Dudek noted that the Agency had sent out a secondary data request to hospitals regarding executive compensation and had received substantive information from Hendry Regional Medical Center, Lakeland Regional Medical Center, Calhoun-Liberty Hospital and Douglas Gardens Hospital. She thanked those hospitals for responding.

Vice Chair Kuntz questioned whether it was that difficult for hospitals to provide compensation information. Secretary Dudek indicated that the Governor's staff was assisting with pulling salary information off facilities' 990s. She also noted that Agency staff was working on compiling FTE information but that Agency data did not include contracted staff. Secretary Dudek stated that included in Commissioner's packets was some LIP information and a letter indicating Florida Hospital Association's stance on and lack of support for the Agency's LIP proposal. She also noted that the author of "Unaccountable", Dr. Marty Makary, will be speaking at the Commission's next meeting in Tampa.

**Review of Key Findings:** Ryan Fitch, Agency for Health Care Administration's Bureau Chief of Central Services, presented the Commission's seven key findings to date.

*#1: Nearly 70 percent (68.9 percent of all inpatient stays (by volume) in hospitals in Florida during calendar year 2013 were covered from government sources.*

Secretary Dudek noted that this figure does not include commercial insurance policies which are subsidized through the Federal Health Insurance Marketplace or paid by the state and federal government agencies.

Vice Chair Kuntz inquired whether other states have similar percentages in regards to payer mix. Ms. Cancio Johnson inquired whether the Commission could have more information on federal exchanges due to her concern regarding pending Supreme Court case, King vs. Burwell. Mr. Spottswood wants to know where the Medicaid dollars are coming from—federal, state or local government. He would like to see where the entire Medicaid budget comes from broken down between the various sources.

*#2: Hospital facilities that earned at least four percent profit tend to provide significantly less charity care services than hospitals that have negative profit margins.*

Mr. Fitch noted that while the tables looked at profitability, hospitals are not in control of who walks in the hospital's door and whether that patient has the ability to pay for services. He indicated that costs might be a better measure to examine.

Vice Chair Kuntz commented that the findings seem like common sense. He inquired, “what do these inform the Commission on?” He also asked if the Commission could see a hospital with negative profit compared to a similar hospital with a four percent or greater positive profit—for example why is Orlando Health making a considerable profit while UF Health Shands Jacksonville is losing lots of money. He stated if the Commission could start singling out facilities to examine why similar facilities are having different outcomes.

Dr. Rosenberg questioned what the impact was to staff, specifically a CEO, for non-profitable hospitals? He inquired whether there was a way to establish an efficiency ratio through existing data to compare hospitals. Mr. Spottswood stated he would like to pull out a facility with a high Medicaid/charity care percentage of patients that is doing well in comparison to a facility with a similar percentage of Medicaid/charity care patients that is not doing well. General Diehl indicated he would like to find some best practices from profitable hospitals and share with all hospitals. Mr. Lamb asserted the importance of transparency.

*#3: Facilities with the least acuity had some the highest expenses as well as being the least profitable.*

Mr. Fitch noted that if rural hospitals are taken out of the analysis, there are no significant differences in cost between profitable hospitals and those that are not profitable. Vice Chair Kuntz would like some additional language added to all key findings qualifying that just because these findings show that in most instances these circumstances are true, it does not preclude the converse from also being true some of the time. For example, some profitable hospitals served a significant number of Medicaid and charity care patients despite key finding number two.

*#4: Hospitals with lower occupancy percentages are more likely to be less profitable than hospitals with higher occupancy percentages.*

Mr. Fitch indicated that one way to look at the data is through cost per adjusted admission and cost per adjusted day. He noted that when looking at data specific to UF Health Shands Jacksonville, the cost per adjusted day was in-line or below the average for the area, but that cost per adjust admission was higher as the average length of stay was higher.

Vice Chair Kuntz inquired how this phenomena happens? Dr. Rosenberg indicated that the Commission would need to dive into the DRG specific information to notice any trends or that it might be market-specific.

Mr. Spottswood inquired how this finding correlated with Certificate of Need (CON)? Ms. Cancio Johnson indicated that she wanted to know how other states deal with this and do we have any outcome data for CON states vs. non-CON states. Secretary Dudek noted that most states don't collect the same kind or amount of data that Florida does. She indicated that we can look into the correlation in Florida since the state deregulated the addition of acute care beds through the CON process.

Dr. Rosenberg queried whether different payer classes got different treatment—and is there any data on that? Ms. Cancio Johnson asserted that the Commission should be looking into keeping people healthier and therefore staying out of the hospital.

Vice Chair Kuntz requested acute care occupancy by district since the deregulation of beds. Dr. Smith reminded the Commission that there is a seasonality aspect to occupancy that has caused troubles in some areas in regards to bed availability.

Vice Chair Kuntz stated that the best facilities are around sixty percent occupied but he is constantly seeing cranes adding on to hospitals. He would like to know which facilities are adding beds and whether these facilities are profitable or not. He questions whether facilities are choosing to invest profits in new beds that are not needed. Dr. Rosenberg notes that there might be tax incentives to build new beds or wings.

*#5: Facilities that are profitable without LIP funding remain profitable with LIP funds; and facilities that have not been profitable without LIP funding remain unprofitable with LIP funding (with five exceptions).*

Vice Chair Kuntz inquired whether the graph for Jackson Memorial would have look different five years ago, prior to the CEO and banker's oversight? Ms. Cancio Johnson noted that Jackson Memorial is a success story and that Mr. Migoya had to take on the unions during his oversight. She indicated that she would like to hear from Mr. Migoya at the Commission meeting that will take place in Miami.

Dr. Rosenberg indicated that the Commission should look at the impact of Jackson Memorial on the other providers in Miami-Dade. He notes that UF Health Shands Jacksonville takes care of 50 percent charity care and Medicaid patients, thereby allowing Baptist Medical to be profitable with only a 17 percent provision to the Medicaid and charity care population.

*#6: Hospital profits have trended upward over the past 10 years, with the exception of Government owned hospitals.*

Mr. Spottswood questioned whether a governmental hospital that is being leased to a for-profit company is still considered government owned with regards to the data presented. Vice Chair Kuntz that hospitals are doing better now, despite the great recession, than they were doing at the peak of economic prosperity in 2004.

Mr. Fitch states that he did not know why the trend existed, but it would be a good question to ask hospitals whether the recession helped facilities realize greater efficiencies that are being maintained as the economy bounces back. Mr. Spottswood would like to have clarification on funding sources since 2004 to present and whether the increased profits are revenue based or cost controls. Mr. Lamb questioned whether government hospitals are really that different than other hospitals.

*#7: Case Mix Index is an important factor for analysis purposes as a variable to "level the playing field".*

At the conclusion of the review of key findings, Ms. Cancio Johnson indicated that she would like to add a key finding regarding average amount of revenue collected as it pertains to the charge by payer type,

especially Medicaid. Vice Chair Kuntz asserts his concern about using averages for all these key findings as the Commission runs the risk of jumping to conclusions.

Dr. Rosenberg notes that hospital reimbursement is not like the business world and other business models since Medicare truly sets the rate in hospital reimbursement. He maintains that hospital reimbursement terminology is not intuitive—self-pay does not really mean someone is paying the whole bill themselves, it typically means the hospital will receive no reimbursement for the services. Dr. Rosenberg notes hospital accounting and reimbursement is not really understood except by a very small proportion of the population, those in the industry.

Ms. Cancio Johnson contends that hospitals should have to disclose costs and does not understand why there is such a lack of transparency in the industry. She questions why the industry isn't regulated and that the billing side is completely shrouded. Ms. Cancio Johnson notes that menus display their prices, why shouldn't a hospital? Dr. Rosenberg indicates that due to the lack of price sensitivity since the consumer is not truly paying, comparison shopping does not truly exist for hospitals in the business world context.

Vice Chair Kuntz states his satisfaction with the key findings. He would like to see something added regarding CON, about the number of states that currently have or do not have a certificate of need program. Mr. Lamb noted that he would like more information on Certificate of Need. General Diehl would like to add some key findings about accessibility and quality of care.

Mr. Spottswood noted that he would like to add some more detail to the first key finding, particularly a breakdown of how much funding is coming from federal, state and local sources. He would also like to expand on key finding six. Mr. Spottswood indicated that a key finding, or the first key finding should be that the Commission is committed to giving access and quality of care to the citizens of Florida.

Chair Beruff would like to know costs for particular procedures as hospitals should be responsible for providing transparency. He would also like staffing levels from 2009 to present. Secretary Dudek noted that the Agency was working on that data for future meetings.

**Spotlight on Transparency Data Discussion:** Mr. Ryan Fitch continued his presentation with a Florida Hospital Uniform Reporting System (FHURS) data discussion and guide sheet. Vice Chair Kuntz would like clarification on the differences between for profit and not-for-profit hospitals other than taxing benefits—is there a balancing factor? He likens this distinction of banks vs. credit unions where credit unions have all of the benefits. Vice Chair Kuntz would also like to know if not-for-profit facilities are receiving a greater amount of governmental assistance than for-profit facilities. Ms. Cancio Johnson would like to examine the payer mixes of not-for-profit facilities versus for profit facilities.

Dr. Rosenberg would like clarification on bad debt and would like to know the benefits of overstating bad debt. Vice Chair Kuntz notes that legitimate bad debt can be written off from profitability for tax purposes but he doesn't understand hospital accounting practices. Mr. Fitch indicates that there is no economic incentive to reduce charges but that costs are not overinflated.

Mr. Spottswood wanted further information on the Public Medical Assistance Trust Fund (PMATF) assessment—how much is it and where does it go. Mr. Fitch indicated that it is 1.5 percent of inpatient and one percent of outpatient revenues flow back to Medicaid through the assessment.

Vice Chair Kuntz notes that he would like to break out operating expenses by facility and analyze.

Mr. Fitch then presented financial data specific to the Tampa market to help the Commission decide on whom to invite to present at the next Commission meeting. Dr. Smith maintained that it was important for the Commission to set some expectations on the hospital presentations.

Ms. Cancio Johnson asked when 2014 financial data would be available to the Commission. Dr. Rosenberg queried whether there was statistical data that facility size might change Cost per Adjusted Admission.

Vice Chair Kuntz asked Mr. Fitch to postulate a hypothesis to submit to the Commission on the reasons why the best hospitals are doing so much better than the worst hospitals and draw conclusions for the Commission. Mr. Fitch noted that the 2011 Commission on Review of Taxpayer Funded Hospital Districts found that there was considerable diversity among the hospitals and was unable to find any correlation as to why one facility functioned better or worse than another facility through statistical analysis.

Dr. Rosenberg questioned whether redirecting Medicaid and charity care patients to only profitable facilities completely change the landscape of a medical market? Mr. Spottswood indicated that taxpayer funds should not be directed towards inefficient facilities but that the goal was for quality and successful outcomes at better costs. He asked Mr. Fitch whether quality was completely subjective? Mr. Fitch indicated that quality was not quantifiable with the data he collected. Secretary Dudek noted that quality measures and indicators would be explored in subsequent meetings.

Mr. Fitch presented EBITDA (earnings before interest, taxes, depreciation and amortization) data on Tampa area facilities. Dr. Smith indicated that there should be some sort of efficiency ratio that can be developed from the EBITDA data on a per bed basis. Mr. Fitch suggested it should be developed from cost per adjusted admission.

Vice Chair Kuntz noted that the Commission needed to decide on some facilities to invite to the next meeting. Mr. Spottswood indicated that he would like to make sure to invite some facilities that receive state funding and perhaps a representative from the group that sent in a letter opposing the Agency's LIP proposal.<sup>1</sup> General Diehl indicated that he would like to have an industry expert that is currently

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<sup>1</sup> A letter from the Florida Hospital Association (FHA) dated June 1, 2015 to Ms. Wachino at the Centers for Medicare and Medicaid Services, was included to Commission members and on the website. The letter expressed FHA's "strong concerns regarding the new AHCA proposal's impact on patient access and its ability to effectively raise funds for the state share of the Medicaid program."

independent and not tied to any facility. Vice Chair Kuntz suggested that Secretary Dudek come up with and invite facilities on behalf of the Commission.

**LIP Presentation:** Ms. Stacey Lampkin, Assistant Deputy Secretary for Medicaid Finance and Analytics, presented information on the Agency's proposal to the Centers of Medicare and Medicaid Services which includes one billion in funds for fiscal year 2015/2016 and approximately \$600 million for fiscal year 2016/2017, consistent with the CMS letter received May 21st. She clarified that the proposal would include voluntary IGT contributions which would produce a total computable pool of \$2.3 billion. Ms. Lampkin noted that the proposal includes \$200 million in transitional payments as the proposed change of distribution has an implication to individual facilities. She discussed spreadsheet with projections of these transitional payments, which is available on the Commission website. Ms. Lampkin stated that participation requirements would be in place for receipt of these funds.

Ms. Cancio Johnson wanted to know if the Commission could be provided with a breakdown of the amount of money that is going to total patient care. Mr. Spottswood would like to be supplied with a flow of funds chart—knowing from start to finish who touches these funds and how do they distribute them. He would also like to know the cost savings through the managed care plans to the tax payers.

General Diehl would like to see a historical progression of LIP funds from 2006 to present. Ms. Lampkin noted that FY 2014-2015 was the only year that the state received more than one billion. She stated that the reason for this was a reclassification of dollars elsewhere in the system in response to managed care's rollout. General Diehl noted that under the proposed plan, some facilities will have significant losses of LIP payments.

Dr. Rosenberg inquired whether there are any resources that can be utilized in order to distribute funds to facilities that are the most efficient. He asked what incentives are currently in place. Dr. Rosenberg also wanted to know how a managed care plan becomes profitable.

David Rogers, Assistant Deputy Secretary for Medicaid Operations, spoke about the Statewide Medicaid Managed Care program and that it includes increasing quality of care. He stated that 44 performance measures are in the Medicaid Managed Care contract based on HEDIS (Healthcare Effectiveness Data and Information Set) measures. He gave several examples of what the plans and Agency were doing on this front, including pediatric oral care, inappropriate emergency room visits and early elective delivery practices.

Ms. Lampkin concluded that presentation by stating that the program goals related to hospitals can be incorporated into managed care rate-setting, incentivizing managed care plans to work with hospitals to achieve those goals. She provided the example of reducing the rate of cesarean section deliveries stating that capitation rate assumptions around inpatient expenditures can incorporate a lower rate of cesarean section deliveries, provided that it is reasonably achievable.

**Commission Member Discussion:** Vice Chair Kuntz noted that the Commission received no public speaker cards. Surgeon General Armstrong stated that there are continuing themes on revenue sources

and incentives emerging from the Commission meetings as well as patient transparency for outcomes that matter.

Secretary Dudek indicated that the next meeting will be held in Tampa on June 17<sup>th</sup> at 8 a.m. with the venue to be announced soon and that the Agency would invite no more than four hospitals to present.

**Meeting Adjourn:** The meeting adjourned at 12:02 p.m.

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