

# EXHIBIT C

## MINUTES

### HOUSE & SENATE INTERIM COMMITTEES ON PUBLIC HEALTH, WELFARE AND LABOR

September 12, 2016  
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The House and Senate Interim Committees on Public Health, Welfare and Labor met Monday, September 12, 2016, at 9:00 a.m. in Committee Room A of The Big MAC Building, Little Rock, Arkansas.

**Public Health Senate Members Attending Were:** Senators Cecile Bledsoe, Chair; Stephanie Flowers, Vice Chair; John Cooper, Scott Flippo, Keith Ingram, and Missy Irvin.

**Public Health House Members Attending Were:** Representatives Deborah Ferguson, Acting Chair; Fredrick Love, Acting Vice Chair; Mary Bentley, Justin Boyd, Ken Bragg, David Branscum, Kim Hammer, Ken Henderson, Robin Lundstrum, Stephen Magie, David Meeks, Josh Miller, Betty Overbey, John Payton, Chris Richey, Dan Sullivan, Jeff Wardlaw, and Richard Womack.

**Other Legislators Attending Were:** Senators Linda Chesterfield, Jonathan Dismang, Jimmy Hickey, Jeremy Hutchinson, and Eddie Joe Williams. Representatives Jana Della Rosa, Dan Douglas, Lance Eads, Kenneth Ferguson, Michelle Gray, David Hillman, Julie Mayberry, Ron McNair, Reginald Murdock, Micah Neal, Milton Nicks, Jr., Mathew Pitsch, Laurie Rushing, Sue Scott, and Dwight Tosh.

#### Comments by the Chairs

Representative Deborah Ferguson called the meeting to order and briefly outlined the agenda for today, and announced the addition of the Northwest Arkansas mumps outbreak, to the agenda.

#### Consideration to Adopt the July 18-19, 2016 Meeting Minutes (EXHIBIT B-1 & B-2)

Without objection, the minutes from the July 18-19, 2016, meetings were approved.

#### Regional Mumps Outbreak in Northwest Arkansas (*Handouts 1 & 2*)

Nate Smith, M.D., MPH, State Health Officer and Director, Arkansas Department of Health (ADH), and Dirk Haselow, M.D., Ph.D., State Epidemiologist, Arkansas Department of Health; presented an update on the mumps outbreak in Northwest Arkansas. There are currently 89 confirmed cases of the mumps in Northwest Arkansas, 23 adult cases and 66 children's cases.

Dr. Smith stated that the mumps outbreak began in August, 2016, in the Springdale area, and the numbers of cases have dramatically increased in the last few weeks. Dr. Smith gave a brief historical overview of the vaccine, the character of mumps, and reasons for outbreaks. The more people who are immunized against mumps, the less they will spread and the less likely they will spread. The Arkansas Department of Health is taking aggressive action against this mumps outbreak. Current Mumps Data:

- ◆ 89 confirmed cases in Northwest Arkansas
  - 23 lab confirmation
  - 23 are adult cases, and 2/3 of the cases are children
- ◆ 2 Northwest Arkansas school districts affected
  - 20 In Springdale
  - 3 In Rogers
  - Suspected cases in 2 more Northwest Arkansas school districts

Dr. Smith discussed Representative Micah Neal's concern of the relationship between autism and the MMR (Measles, Mumps & Rubella) immunization shot. He stated that this suspected relationship came from a fraudulent report that was disproved many years ago through multiple studies that the MMR immunization shot does not cause or bring on autism.

Dr. Haselow explained the process the Arkansas Health Department puts into action whenever symptoms of the mumps or other communicable diseases surface--especially in the schools.

Representative Ferguson asked Dr. Smith to provide the committees with the ADH's written protocol on mumps outbreaks in the community and in schools; and then present an update at the October Public Health meeting. Dr. Smith agreed to provide this information to the committees.

### **Drug Pricing and Payment Transparency**

Representative Michelle Gray, and Scott Pace, Pharm.D., J.D., Executive Vice President & CEO, Arkansas Pharmacy Association; presented this discussion. Representative Gray and Mr. Pace presented an update on drug pricing and payment transparency, including the current status of this issue. The three main issues of drug pricing and payment transparency are:

- ◆ Direct and Indirect Remuneration (federal fees)
- ◆ GER(Generic Effective Rates) fees
- ◆ A new fee from Express Scripts
  - Audits

Scott Pace presented a background of the policy considerations that led to the passage of Act 900 of 2015.

Dr. Lisa Gardner, owner of Corner Store in Melbourne , Arkansas for eleven years, stated the most challenging issue for them as pharmacists, is dealing with the PBMs (Pharmacy Benefit Managers), and having to fill prescriptions at below the pharmacist's cost. These corporations dictate the price that participating pharmacists are allowed to be paid for a prescription. Dr. Gardner voiced her support for Act 900 of 2015, and said that the reimbursement policy of the PBMs is not regulated, and there is no oversight governing the PBMs.

### **Activities of the Suicide Prevention Program at the Department of Health, Working with the Suicide Prevention Council (Act 1067 of 2015) (EXHIBIT E) (Handout 3)**

Greg Brown, NRP (National Registered Paramedic), Branch Chief, Trauma, Public Health Preparedness and Emergency Medical Services, Arkansas Department of Health, Steven Blackwood, Co Chair, Arkansas Suicide Prevention Council, and Bruce Trimble, Co Chair, Arkansas Suicide Prevention Council; all gave an overview of the Suicide Prevention Program activities.

Mr. Brown outlined a strategic program that will help to stem this crisis that has risen to epidemic proportions in Arkansas. It is the second leading cause of death in the nation, and suicides exceed 2 times the number of homicides in Arkansas.

Mr. Blackwood said that as of March, 2015, Arkansas did not have a suicide prevention program, and at present there is no crisis call center specifically for suicide calls. Mr. Blackwood stated that suicide prevention programs should be in the same department as the other crisis issues, preferably the Arkansas Department of Health. Most of the successful and sustainable suicide programs in other states are operated within the Health Department. Arkansas has not currently applied for available federal grants for the prevention of suicide.

Mr. Brown stated that the ADH is working with the UAMS Poison Center and UAMS has a very efficient infrastructure in place that will work well with a suicide prevention program, and UAMS has outlined a workable budget for a suicide prevention program. Mr. Blackwood said that a recent survey conducted by the American Foundation of Suicide Prevention revealed that ninety per cent of people who die from suicide have a diagnosable mental health condition which is unidentified or untreated.

### **DISCUSSION OF ISP2015-165 – “Requesting that the House Committee on Public Health, Welfare, and Labor Study the Need for Changes to the Community Match Rural Physician Recruitment Program.” (Sponsor: Representative Mary Bentley) (EXHIBIT G) (Handouts 4-A & 4-B)**

Representative Mary Bentley, Maurice Rigsby, Assistant Vice Chancellor for Institutional Relations, UAMS, and Tammy Henson, Administrator, Rural Practice Programs, UAMS; presented the discussion of ISP2015-165.

Representative Bentley outlined the presentation of ISP2015-165. Ms. Henson summarized the history of the Community Match Program that was created in 1995 by the legislature. The intent of this program was to encourage graduates to return to the rural community to practice medicine. The program was not successful so it was revised by the legislature in 2007. Representative Bentley discussed the program as it exists today.

*Representative Ferguson recessed the meeting at 12:10 p.m. until 1:15 p.m.*

*The meeting re-convened September 12, 2016 @ 1:15 p.m.*

**DISCUSSION OF ISP2015-083 – “To Amend the Arkansas Athletic Trainers Act.” (Sponsor: Senator Jeremy Hutchinson) (EXHIBIT F) (Handout #5)**

Senator Jeremy Hutchinson and Terry DeWitt, Ph.D., Director, Athletic Training Program, Ouachita Baptist University (OBU), and Member of the Arkansas Athletic Trainers Association (AATA) Hall of Fame; presented the discussion of ISP2015-083.

Senator Hutchinson stated that the draft legislation of ISP2015-083 will be submitted in the upcoming 2017 session. Senator Hutchinson and Dr. DeWitt explained this proposed legislation (copy of draft passed out to the committee in the meeting).

**Added Agenda Item**

Jessica Sutton, Administrator, Administrative Rules & Regulations, Bureau of Legislative Research; explained Amendment 92 to the Arkansas Constitution, which gave the legislative branch authority to approve rules and regulations. She also explained why the Public Health, Welfare & Labor Committees only review the proposed rules and what committees have the authority to approve the rules.

**Department of Human Services, Division of County Operations, Review of Proposed Rule Change—Clarifies the DHS Medical Services Policy Manual to Bring into Compliance with Federal and State Law Regarding Institutional Placement Options, Additional Health Insurance Coverage and Premium Amounts for the TEFRA (Tax Equity and Fiscal Responsibility Act) Program (EXHIBIT H)**

Dave Mills, Program Administrator, Division of County Operations, DHS; presented the discussion of the proposed rule change to the DHS Medical Services Policy Manual for federal and state compliance. The proposed rule change will change the TEFRA eligibility rules.

Following committee discussion, the committee chair stated since there is no objection that the rule stands as reviewed.

**Department of Human Services, Division of Medical Services, Review of Episode of Care 1-16, Hysterectomy and State Plan Amendment No. 2016-001 (EXHIBIT I)**

**And**

**Department of Human Services, Division of Medical Services, Review of Episode of Care 2-16, Appendectomy (EXHIBIT J)**

**And**

**Department of Human Services, Division of Medical Services, Review of Episode of Care 3-16, Uncomplicated Pediatric Pneumonia (EXHIBIT K)**

**And**

**Department of Human Services, Division of Medical Services, Review of Episode of Care 4-16, Urinary Tract Infection (UTI) (EXHIBIT L)**

William Golden, M.D., Medical Director, Division of Medical Services, DHS, David Walker, Interim Health Care Innovation (HCI) Director, Division of Medical Services, DHS, David Sterling, Chief Counsel, DHS, and Michael Crump, Assistant Director, Medicaid Finance, DHS; explained and discussed the four episodes of care listed above.

After much discussion and many unanswered questions, Senator Bledsoe made a motion to hold the Episodes of Care until the October meeting for further discussion. The motion passed without objection.

**The following information was requested by committee members before action on this group of 4 Episodes of Care Rules is taken:**

- ◆ Ask the Arkansas Medical Society to be present when the Episodes of Care are brought back to the October meeting for further discussion
- ◆ Provide a group summary of the physicians (do not want names of the physicians) who offer services in each of these episodes, and how these physicians are rated
- ◆ Provide the demographic information on hysterectomies performed in rural areas vs metropolitan areas
  - Compare the number of private insurance claims for hysterectomies with the number of Medicaid insurance claims
- ◆ What is the cost per doctor's office to implement these Episodes of Care, and the cost statewide
- ◆ What are the figures that were computed into the financial impact of the Episodes of Care in detail
- ◆ What percentage of physicians are expected to excel? Are they expected to get paid extra? If so how much extra?
- ◆ What percentage of physicians are expected to fall below average? Are those physicians expected to get less money? If so, how much less will they get?

**Department of Human Services, Division of Medical Services, Review of Proposed Rule Regarding Connections and Clarifications Made to Arkansas Choices Provider Manual (EXHIBIT M)**

Craig Cloud, Director, Division of Aging and Adult Services, DHS, explained that this rule changes the language in the waiver to ensure that it matches the language that was approved by CMS (The Center for Medicare and Medicaid Services)

Following committee discussion, the chair stated that since there is no objection the rules will stand as reviewed by the committees.

**Department of Human Services, Division of Medical Services, Review of Proposed Rule Regarding the Renewal of the Living Choices Assisted Living Waiver (EXHIBIT N)**

Craig Cloud, Director, Division of Aging and Adult Services, DHS, explained that this rule is an emergency rule that ALC approved three weeks ago. This is an annual review and the numbers of slots have been increased from 1,000 to 1,200 so that waiting beneficiaries would have access as soon as possible.

Following committee discussion, the chair stated that since there is no objection the rules will stand as reviewed by the committees.

**Department of Human Services, Division of Behavioral Health Services, Review of Proposed Rules Regarding Alcohol and Drug Abuse Prevention Rules of Practice and Procedure Manual Update (EXHIBIT P)**

Pam Dodson, Assistant Director for Clinical Services, and Robbie Nix, Assistant Director, Policy Planning, both with the Division of Behavioral Services, DHS, presented this proposed change.

Mr. Nix stated that the purpose of this rule is to update the current rules of the practice and procedure manual to coincide with the requirements in the DBHS (Division of Behavioral Health Services) contracts for alcohol and drug abuse providers

Following committee discussion, the chair stated that since there is no objection the rule will stand as reviewed by the committees.

**Arkansas Department of Health, Office of Administration, Review of Rules Governing the Advisory Board for Interpreters between Hearing Individuals and Individuals Who are Deaf, Deaf/Blind, Hard of Hearing, and Oral Deaf (EXHIBIT Q)**

Robert Brech, Chief Financial Officer, Arkansas Department of Health, presented the proposed changes that this rule will provide for provisional licensure renewal and to create an inactive status for those to later apply to resume licensure. The change also updates the fees to clarify that there is a \$35 non-refundable processing fee for initial, renewal, and reactivation of applications.

Elizabeth Pittman, Deputy General Counsel, ADH, stated there are two credentials that offer CEUs (Continuing Education Units). One credential is Quality Assurance Screening Test (QAST) and the other one is National Registry of Interpreters for the Deaf (RID).

Following committee discussion, the chair stated that since there is no objection the rule will stand as reviewed by the committees.

**Arkansas Department of Health, Emergency Medical Services Division, Review of Rules and Regulations for Emergency Medical Services, Adding the Community Paramedic as a Healthcare Provider (EXHIBIT R)**

Robert Brech, Chief Financial Officer, Arkansas Department of Health, presented the proposed changes.

These rules add the community paramedic as a healthcare provider in the state of Arkansas. There are 29 proposed revisions to the rules for Emergency Medical Services, and they are listed in the officially submitted rule (Exhibit R).

Following committee discussion, the chair stated that since there is no objection the rules will stand as reviewed by the committees.

**Arkansas Department of Health, Outbreak Response Section, Review of Rules and Regulations Pertaining to Reportable Disease to Agree with Federal Guidance and Clarify Bacterial Isolate Submission Requirements (EXHIBIT S)**

Robert Brech, Chief Financial Officer, Arkansas Department of Health, presented the proposed changes.

The Mandatory Reportable Disease List is being revised to update the Mandatory Reportable Disease List to ensure that Arkansas public health officials have the information they need to monitor the occurrence and spread of diseases

Following committee discussion, the chair stated that since there is no objection the rule will stand as reviewed by the committees.

**Department of Human Services, Division of Medical Services, Review of Proposed Rules Regarding RSPMI 1-16 & State Plan Amendment No. 2016-006 Which are Revisions to Group Psychotherapy Code 90853 (EXHIBIT O)**

Elizabeth Smith, Inspector General, Office of the Medicaid Inspector General (OMIG), and Bart Dickinson, Chief Counsel, Office of the Medicaid Inspector General, presented the issue on the Group Psychotherapy Code 90853.

Ms. Smith presented a PowerPoint, explaining in detail the Revisions that have been made to the Group Psychotherapy Code 90853; and especially noted the letters from the Health Reform Task Force chairmen. She also discussed the "Program Vulnerability" Report that was prepared by a Zone Program Integrity Contractor (zone contractors are hired by The Centers for Medicare and Medicaid Services (CMS)), which was submitted by AdvanceMed Corporation to the Office of the Medicaid Inspector General.

Mr. Dickinson stated there has been an increase in fraud referrals and convictions. Last year the highest fraud referrals were in behavioral health. It is vital to initiate the proposed revisions so that OMIG is better able to monitor benefits and to deter fraud.

Robin Raveendran, Executive Vice President, Preferred Family Healthcare, Max Baker, MD, Psychiatry, Bonnie White, Executive Director, Mid-South Health Systems, and Jim Gregory, CEO, Counseling Clinic in Benton all voiced their concerns with this rule change and testified against implementation or deferring implementation until July of 2017.

Ms. Smith emphasized the urgency to make these revisions now, and to report these changes to CMS, because this will result in an \$11 million savings to Arkansas annually.

Representative Richard Womack made a motion to pass this rule out as not reviewed, and the motion passed without objection.

The meeting adjourned at 6:00 p.m.