

# EXHIBIT D

## DRAFT MINUTES

CHARITABLE, PENAL AND CORRECTIONAL INSTITUTIONS  
SUBCOMMITTEE OF THE ARKANSAS LEGISLATIVE COUNCIL  
SENATE COMMITTEE ON STATE AGENCIES AND GOVERNMENTAL AFFAIRS  
HOUSE COMMITTEE ON STATE AGENCIES AND GOVERNMENTAL AFFAIRS  
MEETING JOINTLY

Thursday, July 19, 2018

1:30 PM

Ouachita River Unit, 100 Walco Lane  
Malvern, Arkansas

**Committee Members Present:** **Senators** Joyce Elliott, Co-Chair; Gary Stubblefield, Vice-Chair; Alan Clark, Trent Garner, and Ricky Hill. **Representatives** Bob Ballinger, Chair; David Fielding, Co-Chair; Charlotte Douglas, Kenneth Ferguson, Kim Hammer, Kim Hendren, Jack Ladyman, David Meeks, and Dwight Tosh.

**Other Legislators Present:** Representatives Fred Allen, Vivian Flowers, and Mark McElroy.

Representative Fielding called the meeting to order. He recognized The Ouachita River Unit Staff to guide the committee on a tour of the facility.

Dr. Nathaniel Smith, Director and State Health Officer, Department of Health and Sherri Woodus, Retail Food Program Section Chief, Department of Health, discussed the Department of Correction - Food Establishment Inspection Report. Issues included in the discussion:

- Inspection Report and Findings
- Routine inspections from outside agencies
- Comparison to National Average
- Foodborne illnesses

Wendy Kelley, Director, Department of Correction and Tiffanye Compton, Research & Planning Administrator, Department of Correction, presented the 2013 Recidivism Report. Issues included in the discussion:

- ADC's 3-year recidivism rate increased from 51.82% of those released during CY2012 to 56.50% of those released during CY2013;
- Of the 6,472 inmates released in 2013, 43.61% violated their parole and received a new sentence while 11.65% violated their parole due to a technical violation
- Inmates released in CY2013 whose age was 17-24 demonstrated the highest rate of return
- The average 2013 recidivist spent 13 months in the community before returning to prison
- The 2013 Recidivism report is available at [www.adc.arkansas.gov](http://www.adc.arkansas.gov)

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Roy Griffin, Deputy Director, Department of Correction and Donna Gordon, Regional Vice President, Correct Care Solutions, provided an overview of the medical care within the Arkansas Department of Correction. Issues included in the discussion:

- Volume of care provided over the last six months included 33,000 nursing visits per month; 8,652 medical provider visits per month; and 989 psychiatric visits per month
- Discussion of the American Correctional Association Accreditation
- Current rate of grievances is reportedly 3,000 per month
- Number of inmates under psychiatric care when they committed suicide was reported to be 15%

Mark Cashion, Assistant Director, Department of Correction, Kathleen Lowery, Instructor, Willis H. Sargent Training Academy and Carl Lewis, Lieutenant, Department of Correction, presented and discussed Blue Courage Law Enforcement Training Program. Issues included in the discussion:

- Training increased enthusiasm and teaches mental toughness
- Effect of turnover rate
- Potential implementation into cadet training

There being no further business, the meeting adjourned at 3:15 p.m.

## MINUTES

### SENATE AND HOUSE INTERIM COMMITTEES ON CITY, COUNTY, AND LOCAL AFFAIRS SENATE AND HOUSE INTERIM COMMITTEES ON STATE AGENCIES AND GOVERNMENTAL AFFAIRS

August 9, 2018

The Senate and House Interim Committees on City, County, and Local Affairs met jointly with Senate and House Interim Committees on State Agencies and Governmental Affairs on Thursday, August 9, 2018 at 2:15 p.m. in the Embassy Suites Hotel, Rogers, Arkansas. The meeting was held during the Annual Conference of the Association of Arkansas Counties (AAC).

Committee members present: Senators Alan Clark, Senate Chair, Linda Collins-Smith, Bart Hester, Jim Hendren, and Ricky Hill. Representatives Tim Lemons, House Chair, Carol Dalby, Andy Davis, Gary Deffenbaugh, Jana Della Rosa, Charlotte Douglas, Trevor Drown, Jon Eubanks, David Fielding, Jimmy Gazaway, Justin Gonzales, Kim Hammer, Kim Hendren, Mike Holcomb, Jack Ladyman, Fredrick Love, Roger Lynch, Andy Mayberry, and James Sturch.

Other members present: Representatives Ron McNair, Rebecca Petty, and Dan Sullivan.

#### **Call to Order**

Senator Clark called the meeting to order. He asked legislators to introduce themselves.

#### **Opening Remarks by Committee Chairs**

Representative Lemons, Chair, and Representative Ladyman, Vice Chair of the House Committee on State Agencies and Governmental Affairs, both thanked the county elected officials for attending the meeting and for their service to their communities.

#### **Welcome and Introductions - Chris Villines, Executive Director, Association of Arkansas Counties (AAC)**

Senator Clark recognized Chris Villines, Executive Director, Association of Arkansas Counties (AAC). Mr. Villines said that over 700 elected officials are participating in the conference, which is a record attendance. He invited legislators to attend a panel discussion scheduled for Friday, August 9, 2018 at 9:00 a.m. for an in-depth discussion on the opioid epidemic in the state.

#### **Discussion of Local 911 Issues and Solutions (Exhibit D, D-1, and D-3)**

The following presenters were introduced: Josh Curtis, Governmental Affairs Director, and Blake Gary, Law Clerk, AAC, Renee Hoover, Administrator, Emergency Telephone Services Board (ETSB), Stacy Hunt, 911 Coordinator, Arkansas Department of Emergency Management (ADEM), and Brianna Fields, Deputy Director, Office of Emergency Management (OEM), Benton County.

Mr. Curtis told legislators that he and the other presenters will explain the various sections of their PowerPoint presentation, which is in member's packets. He said his role is to represent the state's county judges who selected 911 reform legislation as their number one priority, and have it introduced during the 92<sup>nd</sup> legislative Session. He referenced a proposed resolution prepared by the County Judges Association that outlines reforms needed by the 911 Communication Centers across the state.

Ms. Hunt told legislators the Arkansas Department of Emergency Management (ADEM) has also recognized the need for 911 reform. ADEM created the state's Next Generation (NG) 911 Working Group to address issues and seek solutions for 911 systems. The group consists of officials from ADEM and the Office of Emergency Communications (OEC) and the Department of Homeland Security (DHS). Other stakeholders include technical specialists with the Arkansas Office of Geographic Information Services (GIS), the Emergency Telephone Services Board (ETSB), 911 Call Center managers, city and county officials, and county emergency managers. Ms. Hunt said the working group has been meeting during the past six to eight months. May, 2018, the group finalized the resolution Mr. Curtis referenced earlier.

Ms. Hoover gave a historical review highlighting the evolution of the state's 911 centers throughout the years. The original systems were designed for landline technology from the 1970s. The Federal Communications Commission (FCC) levied mandates in 1998 requiring that all 911 systems in the country be updated to Phase I service, which provides the general location of a call, but not the specific location. In Arkansas, deployment of the Phase I service was not completed until 2001. By the time deployment of the Phase I service was completed in Arkansas, the FCC had issued additional mandates requiring additional location information based on where a caller was located within a cell sector. Both Phase I and Phase II have been completed, but there are still four counties who do not have enhanced 911 landline service. Ms. Hoover told legislators she is a member of the National Association of State 911 Administrators (NASNA), the National Emergency Number Association (NENA), and the Association of Public Safety Communications Officials (APCO). Through her membership in these national organizations, she has learned that states who have a state-level agency with authority and oversight are better equipped to update and implement newer technologies within their 911 communication centers. Ms. Hoover outlined the current funding stream

- A 911 surcharge on landlines ranges from 5% up to 12% per month
- The surcharge on wireless and voice-over IP service is 65 cents per line on monthly wireless phone bills, one of the lowest in the U.S.
- 85% of funds collected are distributed quarterly to the PSAPs by the ETSB
- 15% of the funds are retained by the ETSB to cover the local exchange carrier costs
- An additional portion of the 15% is distributed to the PSAPs on an annual basis as reimbursements for maintenance
- Counties and cities are currently supplementing the costs of their 911 systems by paying out over \$20 million

Mr. Curtis told legislators there are 127 PSAPs in the state. To fully fund all the centers it will require an increase of over 75 cents per customer. He described elements necessary to implement 911 reforms:

- Implementing IP based technology
- IP based technology will make it possible for counties to upgrade to NG911 systems

He emphasized the necessity of updating 911 systems from the current Legacy-based system to the NG911. The IP based technology allows interoperability between local Public Safety Answering Points (PSAPs). The AAC is currently working on draft legislation to be introduced during the 92<sup>nd</sup> legislative Session to address the needs of the 911 communication centers.

Mr. Curtis and legislators discussed elements in the proposed draft legislation:

- Consolidation of PSAPs
- Creation of a statewide board with oversight authority
- Provide the ETSB with rule making authority

- Increase wireless surcharge fees

### **Update on Recent Elections-Related Legislation**

Heather McKim, Director, and Daniel Shults, Legal Counsel, Arkansas State Board of Election Commissioners, were recognized. Ms. McKim said there are seven Board members. The role of the Election Commission Board is to enforce election laws and develop rules for county election officials. The Board conducts training for county election officials, county clerks, and county election commissioners. Regional election committees have been created. Board personnel travel and meet with the regional committees. The Board's only role concerning election equipment is to approve the equipment. She said personnel with Arkansas's Department of Homeland Security recently partnered with the Arkansas Department of Emergency Management (ADEM). This partnership provides assistance to counties and helps them assess their physical and cyber security.

Mr. Shults outlined issues in state and federal legislation that impact counties. During the 2017 legislative Session, legislation was passed requiring voters to certify their voter registration with photo identification. The legislation is currently pending before the Arkansas Supreme Court. Mr. Shults said the Court has indicated their intent to decide the matter before the November, 2018 election. He then addressed changes to school board elections and said training is being provided to counties.

### **Discussion on Protecting Ballot Secrecy in Precincts With Limited Numbers of Voters**

Senator Clark recognized Crystal Graddy, President, Arkansas County Clerks Association and Boone County Clerk, and Rhonda Cole, County Clerk, Clark County. Ms. Graddy presented concerns clerks have because of the numerous election law changes passed in the 91<sup>st</sup> legislative Session.

- Precinct splits direct clerks on which ballot is given to a voter
- Legislation that passed caused precincts to become smaller and smaller
- Legislation passed that added school elections
- When a precinct split is added, the districts can have as few as one or two voters causing reporting issues
- The major problem in the primary and absentee voting is splits that have only ten to twenty voters, which means they can be tracked by party affiliation thereby removing a voter's anonymity

Ms. Cole discussed upcoming redistricting, which will occur following the 2020 census. Redistricting will have to be finalized before the 2022 election primary. In 2011, the General Assembly passed Act 1242, establishing the four congressional districts. This was the first time in the state's history that congressional districts split counties. Prior to this, the congressional districts were composed of whole counties. She said Act 1242 used the county election precincts to split the following counties, Crawford, Newton, Jefferson, and Sebastian. This causes legislators to have to split counties when the congressional districts are redrawn. The County Clerks have asked the legislature that when the districts are redrawn, to use the election precinct boundaries in the four counties impacted by the county splits. Because districts are drawn independently there is no check in the system to avoid unique areas. She gave the example in Clark County where there are fourteen splits with less than five voters in each voting district. The County Clerks Association is asking the legislature to encourage all entities to make as many of the district lines correlate with county lines when possible.

There being no further business, the meeting adjourned at 4:30 p.m.

Senator Clark announced that a forum by the candidates for Arkansas Secretary of State will take place following the committee meeting.

## MINUTES

### WATER PROVIDER LEGISLATIVE TASK FORCE SENATE AND HOUSE COMMITTEES ON AGRICULTURE, FORESTRY, AND ECONOMIC DEVELOPMENT SENATE AND HOUSE COMMITTEES ON CITY, COUNTY, AND LOCAL AFFAIRS SENATE AND HOUSE COMMITTEE ON STATE AGENCIES AND GOVERNMENTAL AFFAIRS

MEETING JOINTLY

AUGUST 22, 2018

The Water Provider Legislative Task Force, Senate and House Committees on Agriculture, Forestry, and Economic Development, Senate and House Committees on City, County, and Local Affairs, and Senate and House Committees on State Agencies and Governmental Affairs met jointly on Wednesday, August 22, 2018 at 1:00 p.m. in Room A, MAC Building, Little Rock, Arkansas.

Legislative members present: Senators Alan Clark, Co-Chair, Ronald Caldwell, Senate Chair, Agriculture, Forestry, and Economic Development, Lance Eads, Stephanie Flowers, Trent Garner, Bart Hester, Ricky Hill, Missy Irvin, Blake Johnson, Terry Rice, Gary Stubblefield, Vice-Chair, Senate Committee on State Agencies and Governmental Affairs, and David Wallace. Representatives Tim Lemons, Co-Chair, Bob Ballinger, House Chair, House Committee on State Agencies and Governmental Affairs, Scott Baltz, Rick Beck, Mary Bentley, Carol Dalby, Jana Della Rosa, Jim Dotson, Dan Douglas, House Chair, Agriculture, Forestry, and Economic Development, Trevor Drown, Lanny Fite, Jack Fortner, Justin Gonzales, Michelle Gray, Kim Hammer, Kim Hendren, David Hillman, Mike Holcomb, Lane Jean, Fredrick Love, Roger Lynch, Andy Mayberry, Mark McElroy, Ron McNair, Stephen Meeks, Josh Miller, Mathew Pitsch, Donald Ragland, Johnny Rye, Brandt Smith, Nelda Speaks, Dwight Tosh, and Jeff Williams.

Other members present: Representatives Bruce Coleman, Les Eaves, Steve Hollowell, James Sorvillo, and Danny Watson.

Non-Legislative Task Force members present: Judge Rick Davis, Daniel Dawson, Tom Fox, Michael Grappe, Barry Haas, Dale Kimbrow, and Jean Noble.

#### **Call to Order**

Senator Clark called the meeting to order.

#### **Opening Comments by Water Provider Task Force Co-Chairs**

Senator Clark thanked legislators for meeting jointly with the Water Provider Task Force. He told legislators he recently learned about a United States Department of Agriculture

(USDA) grant and low interest loan program. The program provides funding to address the infrastructure needs cities and towns face to make improvements to their aging wastewater and water systems throughout the U.S.

### **Comments and Introductions of U.S. Department of Agriculture (USDA) Personnel**

Senator Clark recognized David Branscum, Arkansas State Director, Rural Development, USDA. Mr. Branscum told legislators one of his goals as Director to bridge the gap between the USDA's federal programs and Arkansas's legislative body. A directive from U.S. Secretary of Agriculture Sonny Perdue is to assist states through USDA funding opportunities. Water Provider Task Force Co-Chairs Senator Clark and Representative Lemons agreed to hold the committee meeting so legislators could learn about the USDA program opportunities available to Arkansas.

### **Overview of the USDA Water and Waste Disposal Loan and Grant Program**

Senator Clark recognized Dr. Carrie Castille, Louisiana State Director, Rural Development, USDA, and Stephen Lagasse, Community Programs Director, Arkansas Rural Development, USDA. Dr. Castille listed her extensive background in water and water quality programs, including serving as Associate Commissioner of Agriculture and as a professor for the Louisiana State University Agriculture Center with a focus on water and water quality. She is currently assigned to the USDA offices in Washington, D.C. to assist in distributing federal funding to states through a \$4.1 billion appropriation for water and wastewater infrastructure needs. Dr. Castille said there is \$100 million in federal grant and loan program funding available for projects in Arkansas. The funding is limited to projects for communities with populations of 10,000 or less. Criteria to qualify for funding requires that projects be obligated no later than September 30, 2018. Dr. Castille also said the funds are not 100% grant monies. The funds are in loans and grant combinations. The intention of the grants is to keep water rates affordable to citizens and provide needed assistance, particularly to low-income communities.

Mr. Stephen Lagasse referenced a 2017 summary sheet in the USDA packet provided to legislators. A variety of programs are listed and administered by the Arkansas USDA Rural Development Office, including single and multi-family housing, water, wastewater and community facility programs. Over 400 water and wastewater systems have been financed through the state USDA office. These projects vary from \$150,000 for a small town to rehab a lift station, up to \$70 million to build the Ozark Mountain Regional Water System, which provides water service to eighteen different systems in Northern Arkansas. Mr. Lagasse said there are three tiers of loan interest rates; a poverty interest rate of 2.375%, an intermediate interest rate of 3.125%, and a market rate of 3.875%. The rates are determined by the median household income within a service area. Eligibility criteria for the poverty interest rate is a health/sanitation problem. He gave the example of a possible health/sanitation problem when a small town has been placed under a Consent Order issued by the Arkansas Department of Environmental Quality (ADEQ).

Legislators discussed specific projects in their districts with Mr. Lagasse and Dr. Castille. Mr. Lagasse addressed the federal assistance application process:

- Applications are reviewed for approval by the Water and Wastewater Advisory Committee (WWAC) administered by the ANRC in conjunction with the Arkansas Department of Health (ADH), and the Arkansas Department of Environmental Quality (ADEQ)
- The WWAC Committee meets once a month to review applications
- Municipalities, communities, and public water authorities must provide a preliminary engineering report that is submitted with its application

Dr. Castille said USDA personnel will meet with communities and provide assistance with strategies and project development. She also said there is grant funding for engineering services for areas that need help at the beginning of a project. Dr. Castille defined obligated in terms of a project that will meet the USDA funding criteria. In order to move forward in the funding process, projects need to have an existing engineering report, a strategy, and a system plan in place.

Legislators held an in-depth discussion concerning the review requirement by the WWAC Committee and whether or not the requirement is by policy or statute. Suggestions were made to research this issue in light of the September 30, 2018, deadline in order to take advantage of the funding opportunities through the USDA grant and loan program described by Dr. Castille and Director Branscum.

Senator Clark recognized Crystal Phelps, General Counsel, ANRC, who responded to legislator's questions regarding the requirement that water and wastewater projects be first reviewed and approved by the WWAC Committee. Ms. Phelps indicated she would research legislative code regarding the requirement. However, she believes the requirement is based on either a memorandum and/or a policy agreement between the state agencies. She also said because entities would be applying directly to the federal government for the federal grants and/or loans, state rules would not apply as a requirement for approval by the WWAC Committee.

Mr. Lagasse, Dr. Castille, and Director Branscum responded to specific questions by legislators regarding loan repayment and the USDA Community Facility Program. They discussed the possibility of accessing additional federal monies for the state's water and wastewater infrastructure issues and needs.

There being no further business, the meeting adjourned at 3:00 p.m.



**DRAFT MINUTES**

**SENATE COMMITTEE ON STATE AGENCIES AND GOVERNMENTAL AFFAIRS  
HOUSE COMMITTEE ON STATE AGENCIES AND GOVERNMENTAL AFFAIRS  
MEETING JOINTLY**

**Tuesday, September 25, 2018**

**1:00 PM**

**Room 151, State Capitol**

**Little Rock, Arkansas**

**Committee Members Present: Senators** Ricky Hill, Missy Irvin, and Terry Rice.

**Representatives:** Bob Ballinger, Chair; Trevor Drown, Jon S. Eubanks, Kenneth B. Ferguson, Kim Hammer, Kim Hendren, Douglas House, Brandt Smith, Dwight Tosh, and Jeff Wardlaw.

**Other Legislators Present: Senators** Joyce Elliott, Jane English, Linda Collins-Smith, and Jimmy Hickey. **Representatives** Rick Beck, Jana Della Rosa, Dan Douglas, Jimmy Gazaway, Ken Henderson, Roger Lynch, Mathew Pitsch, Laurie Rushing, Johnny Rye, Nelda Speaks, Jim Sorvillo, Dan Sullivan, and DeAnn Vaught.

Representative Ballinger called the meeting to order.

**Representative Wardlaw made a motion to approve the meeting minutes. Senator Irvin seconded the motion, and the motion passed.**

**Representative Ferguson made a motion to adopt Interim Study Proposal 2017-130. Representative Wardlaw seconded the motion, and the motion passed.**

**Discussion of ISP 2017-130 - An act to revise the method of funding secondary vocational area centers.**

Representative Hammer introduced ISP 2017-130 and provided an overview of the intent of the study. He referred to handout 1 and discussed how the Arkansas Department of Career Education distributes funding.

Dr. Charisse Childers, Director, Arkansas Department of Career Education, was recognized and discussed the following:

- The 1963 Vocational Act and history of secondary centers in Arkansas
- Funding disbursement currently 4 payments a year to 188 districts
- Proposed Tier Programs- high demand, high skill, high wage careers
- Expansion of centers in all areas of Arkansas. There are currently 17 out of 238 school districts without access to a vocational center.
- Four high level bullet points
- Geographic region of underserved
- Funding tiers for equipment, instructors, overall program costs

Representative Hammer was recognized and discussed the following:

- Return on investment
- Maximizes the money we have while we work on increasing the funding
- Streamlines the process to make the system more efficient
- Allows the Department of Career Education to be able to adjust with the tiered system

Representative Ballinger opened the floor for questions from the committee. The following issues were discussed:

- Official definition of a career technical center
- Geographic region of underserved

There being no further business, the meeting adjourned at 2:19 p.m.

## MINUTES

**Senate Committee on Public Health, Welfare, and Labor**  
**Senate Committee on State Agencies and Governmental Affairs**  
**House Committee on Public Health, Welfare, and Labor**  
**House Committee on State Agencies and Governmental Affairs**

December 10, 2018  
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The House and Senate Interim Committees on Public Health, Welfare and Labor, along with the House and Senate Interim Committees on State Agencies and Governmental Affairs; met Monday, December 10, 2018, at 9:00 a.m. in Committee Room A, MAC Building, Little Rock, Arkansas.

**Public Health Senate Members Attending:** Senators Cecile Bledsoe, Chair; Eddie Cheatham, Vice Chair; John Cooper, Missy Irvin, and David Wallace.

**State Agencies Senate Members Attending:** Senators Gary Stubblefield, Vice Chair; Trent Garner, Ricky Hill, and Terry Rice.

**Public Health House Members Attending:** Representatives Deborah Ferguson, Vice Chair; Mary Bentley, Justin Boyd, Bruce Coleman, Justin Gonzales, Kim Hammer, Ken Henderson, Fredrick Love, Robin Lundstrum, Stephen Magie, Austin McCollum, David Meeks, John Payton, Aaron Pilkington, Donald Ragland, and Chris Richey.

**State Agencies House Members Attending:** Representatives Bob Ballinger, Chair; Jack Ladyman, Vice Chair; Jim Dotson, Trevor Drown, Jon Eubanks, Kenneth Ferguson, Michelle Gray, Kim Hendren, Douglas House, James Sturch, and Dwight Tosh.

**Other Legislators Attending:** Senators Ronald Caldwell, Alan Clark, Jonathan Dismang, and Jimmy Hickey, Jr. Representatives Fred Allen, Frances Cavanaugh, Dan Douglas, Steve Hollowell, John Maddox, and Danny Watson.

**Members-Elect Attending:** Senator-Elects, NONE. Representatives-Elect Stan Berry, Joe Allen Cloud, and Don Glover.

### **Comments by the Chairs**

Representative Deborah Ferguson called the meeting to order. Since this meeting will be lengthy, Representative Ferguson requested certain limitations and guidelines on members presenting questions and comments, and on the audience giving testimony. She also announced this is Senator Cecile Bledsoe's last time to chair the Senate and House Public Health, Welfare & Labor Committees.

Vice Chair Ferguson asked the committees, that if there is no objection, we will skip down to Item 'M' on the agenda.

**The Following Interim Study Proposals (ISPs) Need to be Adopted for Study by the Committee. This will Allow These Scope of Practice Studies to be Initiated at Least 30 Days Before the Convening of the Next Legislative Session. It is Anticipated that this Action Will Meet the House Rule 72(A) Regarding this Type of Legislation.**

1. **ISP2017-146** – “An Act to Amend the Rabies Control Act Regarding Vaccinations Against Rabies for Animals; and for Other Purposes.” (EXHIBIT M-1)
  - a. Senator John Cooper, Sponsor
2. **ISP2017-148** – “An Act to Authorize a Podiatrist to Have a Collaborative Practice Agreement with an Advanced Practice Registered Nurse; and for Other Purposes.” (EXHIBIT M-2)
  - a. Representative Justin Boyd, Sponsor
3. **ISP2017-149** – “An Act to Authorize Full Independent Practice Authority to Advance Practice Registered Nurses Who Meet Certain Requirements; to Require the Arkansas State Medical Board to Certify Advanced Practice Registered Nurses with Full Independent Practice Authority; and for Other Purposes.” (EXHIBIT M-3)
  - a. Representatives Stephen Magie and Michelle Gray, Sponsors
4. **ISP2017-150** – “Requesting the House Committee on Public Health, Welfare, and Labor Study the Transfer of Regulatory Oversight of Optometrists to the Arkansas State Medical Board.” (EXHIBIT M-4)
  - a. Representative Stephen Magie, Sponsor
5. **ISP2017-151** – “An Act to Amend the Prescriptive Authority of an Advanced Practice Registered Nurse; and for Other Purposes.” (EXHIBIT M-5)
  - a. Representative Mary Bentley, Sponsor

Vice Chair Representative Ferguson stated that, without objection, Public Health committee members will adopt the five (5) Interim Study Proposals (ISP) first (Item ‘M’). The motion was made to adopt all five ISPs, seconded, and the motion carried.

**Consideration to Adopt November 19, 2018, Meeting Minutes (EXHIBIT C)**

Representative Ferguson stated without objection, the November 19, 2018, meeting minutes are adopted.

**Annual Status Report for Sexual Assault Prevention on Campus (Act 563 of 2017) AND Unplanned Pregnancy Prevention, Annual Report as Required by Act 943 of 2015. (EXHIBITS D-1, D-2)**

Ann Clemmer, Senior Associate Director, Arkansas Department of Higher Education, presented these two (2) annual status reports.

Ms. Clemmer stated that Arkansas colleges are actively implementing Sexual Assault Prevention Plans and hosting activities to help prevent sexual assault on all campuses. Listed below are a few of the current prevention plans:

- ❖ Several campuses are utilizing the “Clothesline Project”.
- ❖ SAU Tech (Southern Arkansas University) is part of a regional community partnership that has received a planning grant to work with the U.S. Department of Justice. Their team includes the Camden Police Department and the Women’s Crisis Center.
- ❖ Ozarka College has included sexual assault and pregnancy prevention into their college ‘Spring Fling’ activities.
- ❖ UA Fort Smith now schedules ‘in-person sexual assault presentations’ into their ‘new student orientation’ program.
- ❖ Each March at UA Cossatot, the center for student success hosts the week-long ‘No More’ campaign for prevention and awareness.
- ❖ Northwest Community College hosts a community art display during sexual assault month, called “what were you wearing?” This is to emphasize that sexual assault has never been about what you wear.

The Higher Education Department will be displaying these programs on-line, to share these and other prevention ideas on sexual assault and unplanned pregnancy with all college campuses. Representative John Payton suggested better/more lighting in college parking lots, curfews, and reducing the number of co-ed dorms. Ms. Clemmer said she would present these suggestions to the college campuses. Representative Ferguson thanked Ms. Clemmer for the report.

**Arkansas Tobacco Settlement Commission (ATSC), Quarterly Report for January - March, 2018 (EXHIBIT E)**

Matt Gilmore, Executive Director, ATSC, briefly presented the quarterly report, updating and highlighting the advancements of each ATSC funded program. In each section Mr. Gilmore included personal testimonies from individuals who receive benefits from each program; and the comments of the ATSC evaluator on each program. Representative Ferguson thanked Mr. Gilmore for the report.

**Department of Human Services (DHS), Division of Medical Services (DMS), Review of Rule which Changes Incentive Payments for Arkansas Patient-Centered Medical Homes (PCMH) from Shared Savings Incentive Payments to Performance-Based Incentive Payments, Effective January 1, 2019, PCMH 1-18, SPA 2018-013 (EXHIBIT F)**

Tami Harlan, Director, Division of Medical Services, DHS, presented the proposed rule changes. Effective January 1, 2019, Arkansas Patient-Centered Medical Homes (PCMH) will use performance-based incentive payments instead of shared savings incentive payments. The Division of Medical Services (DMS) listed 14 proposed changes to the 2019 PCMH Program Manual (See Exhibit F) that will effectively implement this change.

This will change the way providers are paid, and will improve incentives for providers to continue to provide quality care at an affordable rate for the patient.

After much discussion and many questions/concerns from the members, Representative Ferguson stated that without objection this rule will stand as reviewed.

**Department of Human Services, Division of Medical Services, Review of Rule which Requires Home Health Providers to Comply with Criminal Background Checks, Effective January 1, 2019, Home Health 1-18 (EXHIBIT G)**

Mark White, Deputy Director, Division of Aging, Adults, & Behavioral Health Services, DHS, presented this proposed rule change.

Effective January 1, 2019, the Home Health provider manual will be updated to require all owners, principals, operators, employees, and applicants for home health providers to comply with criminal background checks, as required by Ark. Code Ann. §§ 20-33-213 and 20-38-191 et seq.

Also, an old reference to Elder Choices and Alternative for Adults with Physical Disabilities is being moved to ARChoices in Homecare.

Representative Ferguson stated that without objection this rule will stand as reviewed.

**Department of Human Services, Division of Medical Services, Review of Rule which Requires Hospice Providers to Comply with Criminal Background Checks, Effective January 1, 2019; and Correct Name Change, Hospice 2-18 (EXHIBIT H)**

Tami Harlan, Director, Division of Medical Services, DHS; presented this proposed rule change.

Effective January 1, 2019, the Hospice provider manual has been updated to require all owners, principals, operators, employees, and applicants for hospice providers to comply with criminal background checks as required by Ark. Code Ann. §§ 20-33-213 and 20-38-101 et seq.

Representative Ferguson stated that without objection this rule will stand as reviewed.

**Department of Human Services, Division of County Operations, Review of Rule which Revises the Medical Services Policy to Incorporate the Center for Medicaid and Medicare Services' (CMS) New Interpretation of the Law that the Penalty Period Start Date for a Home and Community-Based Waiver Services (HCBS) Applicant Will be no Later than the Point at which the Applicant Would Otherwise be Receiving HCBS Waiver Coverage Except for the Penalty. It Also Revises Policy to Allow that an Individual May Establish their Own Special Needs Trust—Medical Services Policy Manual, Sections H-300 through H-325 (EXHIBIT I)**

Mary Franklin, Director, Division of County Operations, DHS, presented this proposed rule change.

Various sections under MS H-300 are being amended to revise the process of determining a start date of an asset transfer penalty period for Home and Community-Based Services (HCBS) Waivers. This will incorporate a new interpretation of the law by CMS; and will revise that an individual may establish their own special needs trust, complying with 5007 of the Cures Act (42 U.S.C. § 1396p (d) (4) (A)).

Representative Ferguson stated that without objection this rule will stand as reviewed.

**Department of Human Services, Division of Medical Services, Review of Rule which Primary Purpose is to Create a More Person-Centered Approach to Long-Term Services and Supports (LTSS) for Medicaid Beneficiaries Who Are Elderly or Are Adults with Physical Disabilities or Impairments. This Will Allow Greater Flexibility and Discretion for Nurses to Create Service Plans that Are Targeted to Each Person's Individual Needs: (EXHIBIT J, Handout)**

- ❖ **Arkansas Medicaid Task and Hour Standards;**
- ❖ **AR Choices in Homecare Home and Community-Based Services Waiver;**
- ❖ **AR Choices in Homecare Home and Community-Based Services Waiver Manual 2-18;**
  - This proposed change will eliminate the RUGS (*Resource Utilization Groups*) algorithm, and replace it with the Arkansas Medicaid Task and Hour Standards. This system focuses on each beneficiary and their needs. Texas uses this method and it is working well.
  - Eligibility criteria for AR Choices will stay the same—no change
  - Reinstates rule to allow family members to provide this type of care
- ❖ **Living Choices Assisted Living Home and Community-Based Services Waiver;**
- ❖ **Living Choices Assisted Living Manual 1-18;**
  - Assisted living providers are currently paid on 4 tier levels
  - Providers receive 2 funding streams:
    - A daily rate from Medicaid – pays for the patient's daily care
      - Actuary stated the daily rate should be \$62.89
    - A specified amount from the beneficiary (\$681 per month) – pays for their room/board
- ❖ **Independent Choices State Plan Amendment;**
- ❖ **Independent Choices Manual 1-18;**
  - Will change the rule to set a cap of 64 hours of care for Independent Choices
- ❖ **Personal Care Manual 1-18;**
- ❖ **Personal Care State Plan Amendment and Program for All-Inclusive Care for the Elderly (PACE) Manual 1-18**
  - Will change the assessment tool to be the same as for the other programs

Mark White, Deputy Director, Division of Aging, Adults, & Behavioral Health Services, and Craig Cloud, Director, Provider Services, Quality Assurance, both with DHS; presented these rule changes. Kelley Linck, Chief Governmental Liaison of Legislative Affairs, DHS, noted these proposed rule changes are divided into sections, but DHS is presenting it as one package.

#### ASSISTED LIVING FACILITIES

Mr. Linck explained these changes are the result of CMS requesting DHS to explain why Arkansas is paying the rates that they are paying. DHS then asked several facilities to let Milliman Group, Inc., the consultant/actuary for DHS, look at their financials for the past few years, so that DHS can submit these rates to CMS, along with the justification for them. The Milliman report was based on three (3) facilities who submitted their records for the actuarial review, and the report recommended that Arkansas reduce the currently paid rates by 21.7% (Arkansas rates are significantly higher than surrounding states).

Mr. White explained the actual rates as they are now, and how these rates will change with the new payment system. If this proposed change is approved, providers will go from a 4-tier payment plan to a single payment plan. After approval, DHS plans to phase in the new payment rates, as listed below, within one year for the single payment plan (Representative Bob Ballinger suggested a two-year phase-in period):

- ❖ January 1, 2019, \$80.33
- ❖ July 1, 2019, \$71.61
- ❖ January 1, 2020, \$62.89 (the full rate recommended by Milliman)

Mr. White stated that the balance remaining at Arkansas Department of Veterans Affairs (ADVA) is approximately \$3 million, and has been since 2002. Mr. Cloud stated that ADVA advanced loans to struggling facilities throughout Arkansas, and some of these loans are still outstanding.

Senator Caldwell noted that the Memorandum of Understanding (MOU) between DHS and ADVA expired over one year ago; and was not disclosed. Mr. White stated that because of the expiration of the MOU, no new facilities may be built with ADVA money. The intended use of this \$3 million is to leave this with ADVA because of outstanding loans that ADVA made to facilities who were struggling.

Discussion between legislators, Mr. White, and Mr. Linck revealed that if these changes were not approved by January 1, 2019, some assisted living centers would have to close because waiver funding would cease and Arkansas would not be able to perform assessments on beneficiaries. This would also cause some beneficiaries to have to find other accommodations such as nursing homes, living with a relative, or in another assisted living facility, etc. Mr. White stated that it is possible, with additional data, to take a second look at this situation, and at the Milliman Report.

Information requests from legislators. DHS agreed to furnish this information to the committee:

- ❖ **Representative Hammer** asked Mr. Linck for a full cost comparison of a beneficiary living in a nursing home versus living in an assisted living facility. Mr. Linck said he would provide this information.
- ❖ **Representative Robin Lundstrum** asked for a list of:
  - facilities who borrowed money from ADVA
  - facilities who have paid their loans in full
  - facilities who still owe ADVA
    - how long have they been outstanding
- ❖ **Senator David Wallace** asked for a list of assisted living facilities, by county, and the number of beds, occupied/unoccupied, in each facility in Arkansas.

PUBLIC TESTIMONIES

<u>Name</u>	<u>Representing</u>	<u>Position</u>
Ed Holman	AR Residential Assisted Living Association (ARALA)	Against
Carey Lingenfelter	Home Instead (Northwest Arkansas)	Against
<b>Representative Hammer</b> wants to see the notifications sent to assisted living providers regarding the above-listed changes. Mr. Cloud stated that he has this information and will furnish it to the committee members.		
Kay Gilbrech	Full-time caregiver in the home health program	Against
Bradley Ledgerwood	Beneficiary <i>(His mother, Ann Ledgerwood, read his statement as he is not able to read it)</i>	Against
Kevin Hoover	Beneficiary	Against
Kevin DeLiban	Legal Aid of Arkansas	Against
<b>Mr. DeLiban</b> stated that most states appropriate more money for home and community-based care, so more people will not have to go to nursing homes.		

Mr. White responded to the concerns of the testifiers and summarized the discussion.

Representation Ferguson stated that without objection this rule will stand as reviewed.

**Department of Human Services, Division of Medical Services, Review of Rule that Allows Beneficiaries Who Are Eligible for Arkansas Medicaid Healthcare Benefits on a Medical Spend-Down Basis and Who Are Medically Frail, to Have Access to Tier 2 and Tier 3 Behavioral Health Services, State Plan Amendment (SPA) 2018-16 (EXHIBIT K)**

Paula Stone, Deputy Director, Division of Medical Services, and Kelly Linck, Chief Governmental Liaison of Legislative Affairs, both with DHS, presented this proposed rule change.

This manual and State Plan Amendment creates the Adult Behavioral Health Services for the Community Independence program, which are Tiers II and III home and community-based treatments, with services provided by a Certified Behavioral Health Agency to individuals eligible for Medicaid, based upon the following criteria:

- ❖ Beneficiaries receiving Arkansas Medicaid healthcare benefits on a medical spend down basis; and
- ❖ Beneficiaries who are eligible for Arkansas Medicaid healthcare benefits under the 06, Medically Frail Aid Category.

If an individual falls into one of the above two categories, that individual will not be enrolled into a Provider-Led Arkansas Shared Savings Entity (PASSE) and, if determined by the Independent Assessment to be eligible for Tier II or Tier III services, they will be provided access to those services through traditional Fee-for-Service Medicaid.

Representation Ferguson stated that without objection this rule will stand as reviewed.

**Department of Human Services, Division of Medical Services, Review of Rule which Moves the PASSE (Provider-Led Arkansas Shared Savings Entity) Program into Phase II which Makes the PASSE Responsible for Providing All CES (Children's Extensive Support) Waiver Services & State Plan Services, Including The Home & Community-Based Supportive Services Contained in 1915(i) State plan Amendment for Supportive Services for PASSE Clients, SPA 2018-17 (EXHIBIT L)**

Melissa Stone, Director, and Elizabeth Pittman, Assistant Director, both with the Division of Developmental Disabilities Services (DDDS), DHS, and Paula Stone, Deputy Director, Division of Medical Services, DHS; presented this proposed rule change.



Ms. Melissa Stone addressed Representative Justin Boyd's concern of how to ensure that the system training roll-out is set up in the right time frame; and how are DDDS providers going to be paid. Ms. Melissa Stone said that DDDS met with five DDDS providers and the past four CEOs on this exact concern. Ms. Melissa Stone said they will have a resolution to this concern by March 2019.

The 1915(b) and (c) waivers and 1915(i) State Plan Amendment are being sought pursuant to Arkansas Code § 20-77-2708, derived from Act 775 of 2017. These waivers will provide authorization from CMS for DHS to implement the PASSE Program, required by Acts 775 of 2017. These waivers and the State Plan Amendment authorize the following:

- ❖ PASSE entities continue to provide care coordination as that is defined by Act 775 of 2017. The four essential "case management" functions (independent assessment, plan development, referral for services, and service monitoring) must be performed in compliance with the CMS conflict-free case management rules.
- ❖ PASSE entities become responsible for the provision of all services under Phase II, including all CES Waiver services and Medicaid State Plan services, including all home and community based services (HCBS) provided through the 1915(i) state plan amendment. The only services excluded from payment by the PASSE are:
  - Nonemergency medical transportation in a capitated program;
  - Dental benefits in a capitated program;
  - School-based services provided by school-employees;
  - Skilled nursing facility services;
  - Assisted living facility services;
  - Human development center (HDC) services provided to clients fully admitted to an HDC; or
  - Waiver services provided to adults with physical disabilities through the ARChoices in Homecare program or the Arkansas Independent Choices program, or any successor waiver for the frail, elderly, or physically disabled.
- ❖ Individuals will no longer be "attributed" to a PASSE based on their claims history and/or provider relationships.
- ❖ The PASSE entity will receive a Per Member/Per Month (PMPM) global payment to cover all needed services for each assigned member.
- ❖ The Network requirements were enhanced to reflect that PASSEs are now responsible for providing all services.
- ❖ Each PASSE is now required to develop an internal appeal process, in addition to the grievance process, and the beneficiary must exhaust that appeal process before appealing to the state Medicaid agency.
- ❖ The PASSE entities will now be required to submit monthly encounter data so that service utilization may be tracked. This will be in addition to the quarterly reports that were submitted in Phase I, which will continue in Phase II.
- ❖ The PASSE will now be responsible for credentialing all network providers, including Home and Community-Based Services Providers that provide services to their enrolled members.
- ❖ The 1915(i) State Plan Amendment details the home and community-based-like services that the PASSE will be required to provide to eligible beneficiaries.

Representation Ferguson stated that without objection this rule will stand as reviewed.

The meeting adjourned at 12:20 p.m.