

MINUTES
SENATE AND HOUSE COMMITTEES ON INSURANCE AND COMMERCE
SENATE AND HOUSE PUBLIC HEALTH, WELFARE, AND LABOR COMMITTEES
MEETING JOINTLY
MAC, Room A
Little Rock, Arkansas

Wednesday, February 19, 2020

The Senate and House Interim Committees on Insurance and Commerce and Senate and House Interim Committees on Public Health, Welfare, and Labor met jointly Wednesday, February 19, 2020, at 1:00 p.m., in the Multi-Agency Complex (MAC), Room A, in Little Rock, Arkansas.

Committee members present: Senators Jason Rapert, Chairman; Missy Irvin, Chairman; Cecile Bledsoe, Vice Chairman; David Wallace, Vice Chairman; Linda Chesterfield, Jane English, Jimmy Hickey, Jr., Scott Flippo, Mark Johnson, and Kim Hammer. Representatives Mark Lowery, Chairman; Jack Ladyman, Chairman; Deborah Ferguson, Vice-Chairman; Robin Lundstrum, Vice-Chairman; Fredrick Love, Jeff Wardlaw, Josh Miller, John Payton, Mary Bentley, Michelle Gray, Justin Gonzales, Kenneth Ferguson, Jim Sorvillo, Karilyn Brown, DeAnn Vaught, Austin McCollum, John Maddox, Bruce Coleman, Roger Lynch, Aaron Pilkington, Clint Penzo, Mark Perry, Joe Cloud, and Denise Ennett.

Also attending: Senators Trent Garner, Lance Eads, Ricky Hill, Terry Rice, Gary Stubblefield, Eddie Cheatham, and Mathew Pitsch. Representatives Stephen Meeks, Marsh Davis, Tippi McCullough, Johnny Rye, Dwight Tosh, Steve Hollowell, Danny Watson, Dan Douglas, Cindy Crawford, Rick Beck, Matthew Shepherd, and Vivian Flowers.

Senator Rapert called the meeting to order.

CONSIDERATION TO APPROVE MEETING MINUTES FOR JANUARY 16, 2020 [EXHIBIT C]
Representative D. Ferguson made a motion to approve the January 16, 2020, Insurance and Commerce meeting minutes, and Representative Cloud seconded the motion. The motion carried.

RURAL ARKANSAS AMBULANCE FUNDING CRISIS

Judge Toby Davis, Perry County, noted the ambulance funding crisis has been an ongoing problem, and Perry County needs help as it is large and rural with low population. The ambulance service cannot cover the county with one ambulance, and cannot afford two, so the service approached him regarding subsidies. There is now an EMS Board to research its options. The Quorum Court will meet February 25th on this issue. He believes if an implementation fee is in place, such as a \$50 assessment when paying personal property taxes, there will be a turnaround within a year or less. A subsidy of \$20,000 per month or \$240,000 for one year is needed to keep the service going.

Representative Gray explained with her experience on an EMS board, the stated \$240,000 amount might be short. She also asked if the legislature was being asked to subsidize this need. Judge Davis said he was there to speak about the shortfalls many counties are having. He said his county would gladly accept any help.

Mayor John Roland, Perryville, noted he also has been working with the ambulance funding crisis for years. Perryville ambulance service is privately owned and is not making a profit. He noted the last rate increase was 25 years ago. Perryville needs help.

Twenty-five percent of the 50-70 runs per month are non-emergency, and 60% are emergency. The ambulance service may bill Medicare and Medicaid, but there is a cap. Rate adjustment and rate increase depends on run volume. It takes \$15,000 per unit per month to maintain a paramedic-level ambulance. He added if there were two ambulances available, he believes the run volume would increase. He is looking at trying to have a volunteer ambulance service in place so something is there for citizens.

Ms. Amanda Warren Newton, CEO, Columbia County Ambulance Co., President, Arkansas Ambulance Association (ArAA), noted ambulance providers across the state are facing critical issues, and for some counties the “life” of ambulance service is in jeopardy. Seventy three counties are covered by Advanced Life-Support Ambulance Service which is the highest level licensed in Arkansas. More than half of Arkansas ambulance providers come from the private sector. Ambulance services are part of the public safety net, and additional funding is needed. **[HANDOUT 1] [POWERPOINT]**

Mr. Ken Kelly, President and CEO, ProMed Ambulance, Government Affairs Chairman, ArAA, explained most Arkansas ambulance services are fee-for-service, regardless of how they are established. Volunteer services rely on fee-for-service, as do fire departments and hospitals. Quality ambulance services are valued and funded in a variety of ways including, but not limited to:

- Communities provide subsidy funding through assessment by tax or fee
- Formation of ambulance districts
- Hospital systems may provide foundation funding
- Peripheral funding - statewide sub-grants through Arkansas Trauma System and Arkansas Citizens First Responder Safety Enhancement Act
- Medicare accounts for the largest portion of revenue base, 56%
- Medicaid, 13%
- Commercial and private insurance, 16%
- Private pay, 15%

He emphasized it has been 25 years since there has been any substantial increase in Arkansas Medicaid base rate funding. The Department of Human Services (DHS) does this budget. There has been over a 100% cost increase for equipment, ambulance costs, and medication. Rising wage costs will include entry level EMTs but not paramedics. Disparity between the two incomes will disappear when the third level of minimum wage increase is implemented in January 2021, and many providers are not prepared for the coming increases, and paramedics are leaving for better jobs.

The ArAA believes the Ambulance Upper Payment Limit (UPL) programs are necessary to get critical funding flowing. UPL programs are voluntary self-assessments by the ambulance companies for federal matching funds. Information has been submitted to Centers for Medicare and Medicaid Services (CMS) for UPL approval. The UPL process included a questionnaire that was submitted in December, unfortunately the September deadline was missed, and CMS still has it under review. Arkansas ambulance providers and ArAA are waiting for the CMS decision; acceptance by the UPL program is life blood to the system.

ArAA met with DHS in July 2019 to review numbers and codes. Arkansas procedure reimbursement codes are 172% below surrounding states. If a rural modifier recognized by CMS is added, it would then be 215% below surrounding states with modifiers.

In addition to base rate codes, there are also technical aspects in the reimbursement rules for Medicaid that need to be corrected. For over 15 years, it has been pointed out specifically two base codes are flipped whereby a non-emergency service is reimbursed higher than an emergency service. ArAA presented the switched codes to DHS in 2012, 2013, and 2016, showing the codes were inaccurately reimbursed by a difference of \$55.00 per call. Alternative destination codes should be added for non-emergency behavioral patients. The rules need to be modernized. ArAA needs the legislature’s help on getting rule changes fixed.

Ms. Jamie Pafford-Gresham, CEO, AR/OK/MS Operations, Pafford EMS; Board Member of ArAA, American Ambulance Association, and 911 Board, stated ArAA has had the forethought to go forward and work with DHS to make changes. It prefers to solve its own problems but has not been able to solve this one. Funding has flat-lined.

Senator Rapert asked which agency has been contacted about these issues? Ms. Pafford-Gresham said there have been many, such as Department of Health, DHS, and Medicaid. She noted due to low reimbursements, the inability of communities to properly subsidize and fund the ambulance systems, the providers find themselves living from Medicare check to Medicare check. ArAA board members have received calls from providers asking for help and direction.

There are 20 Arkansas counties without hospitals, and the medical provider in those communities is the ambulance service. Whether it is an emergency or a transfer patient, the cost of readiness allows patients access to care that may prevent them from being hospitalized. EMS is only reimbursed for transporting the patient. ArAA believes there are other options such as alternative destinations, treatment without transport, and community para medicine. EMS treats the patient regardless of their ability to pay, and does not refuse service.

ArAA asks the legislature to:

- Ensure the UPL program legislation passed three years ago is properly enacted soon.
- Amend legislation to include non-emergency transports.
- Instruct DHS to work with ArAA leaders to correct billing errors.
- Look at rate rebasing of the ArAA across the board to be compatible with neighboring states.
- Consider designation at the state level for a rural ambulance service.
- Consider EMS as an essential service along with community police and fire.

Senator Hammer requested real dollar figures for the switched codes, and Senator Rapert asked if anyone from DHS was prepared to speak today.

Mr. Mark White, Chief of Staff, Legislative and Intergovernmental Affairs, DHS, noted Medicaid has addressed rates on an ad hoc basis, but the governor has instructed Medicaid to begin a prolonged effort to review every providers' rate every four years. Ambulances were in the first group. It is agreed and recognized that their rates need to be rebased, and that is where the process is now. Work has been done to determine where that should be, and how to fit it into the budget for next year. This work will be finalized in time for budget hearings next month.

The UPL issue is with CMS now. There is a phone call scheduled with CMS, and DHS hopes to get a decision from them.

DHS does not know why a code switch was done. Senator Irvin noted the rate review will come before the Public Health Committee and Insurance and Commerce is welcome to join that.

FINDINGS AND RECOMMENDATIONS OF THE TASK FORCE ON TRANSPORTATION OF NONEMERGENCY BEHAVIORAL HEALTH PATIENTS CREATED BY ACT 1041 OF 2019 [EXHIBIT E] [HANDOUT 2]

Representative Mark Perry noted this is a complex issue nationwide and more difficult in rural areas. Although an initial report is presented, more information is needed to make recommendations, and many factors need to be addressed including:

- Mental health resource identification
- Patient placement opportunities
- Facility acceptance
- Timeliness of transfers
- Regulatory oversight
- Centralized communications
- Appropriate vehicle needs
- Resource allocation
- Custody issues
- Appropriate reimbursement
- Liability
- Data needs
- Funding

Senator Jimmy Hickey noted more than a dozen agencies, departments, and associations are involved, and the resolution will likely become a funding issue and more legislation, so the work of the task force needs to continue. Senator Rapert noted committee structure has subcommittees or allows them to be created to allow work to continue and receive assistance from agencies and the Bureau of Legislative Research.

Mr. Greg Brown, Branch Chief, Trauma Program, Arkansas Department of Health, noted the magnitude of the problem is that there are 40,000 transports per year that are categorized as behavioral health. This is not a small issue and significantly impacts EMS providers.

Senator Irvin said she would entertain a motion to continue this work in one of the Senate's Public Health, Welfare, and Labor subcommittees.

Senator Wallace made a motion for the task force's work to continue in one of the Senate's Public Health, Welfare, and Labor subcommittees. Senator Hammer seconded the motion, and the motion carried.

OTHER BUSINESS

With no further business, the meeting adjourned at 3:42 p.m.