

MINUTES**JOINT PERFORMANCE REVIEW COMMITTEE****JANUARY 25, 2018**

The Joint Performance Review Committee met Thursday, January 25, 2018 at 1:00 p.m. in Room A, MAC Building, State Capitol, Little Rock, Arkansas.

Committee members present: Senators Missy Irvin, Senate Chair, Jonathan Dismang, Lance Eads, Trent Garner, Jim Hendren, Jimmy Hickey, Jr., Terry Rice. Representatives Mark Lowery, House Chair, Sonia Eubanks Barker, Kenneth Ferguson, David Fielding, Mickey Gates, Michelle Gray, David Hillman, John Maddox, Josh Miller, Reginald Murdock, Aaron Pilkington, Brandt Smith, Nelda Speaks, Dan Sullivan, and Clarke Tucker.

Other members present: Senator Jake Files, Stephanie Flowers, and Larry Teague. Representatives Fred Allen, Charles Blake, Sarah Capp, Carol Dalby, Jim Dotson, Dan Douglas, Vivian Flowers, Justin Gonzales, Kim Hammer, Ken Henderson, Douglas House, Fredrick Love, David Meeks, Austin McCollum, Marcus Richmond, James Sorvillo, and DeAnn Vaught.

Call to Order

Senator Irvin called the meeting to order.

Comments by Committee Co-Chairs

Senator Irvin thanked legislators for attending the meeting.

Motion for Consideration of Approval of Minutes [Exhibit C, C1, C2, C3]

A motion to approve the minutes of the September 29, 2017, October 16, 2017 November 9, 2017, and December 13, 2017 Joint Performance Review Committee meetings was approved without objection.

Discussion of the Regional and Local Hospital Systems Both Public and Private

Senator Irvin recognized Stephanie Gardner, Interim Chancellor, University of Arkansas for Medical Sciences (UAMS). Ms. Gardner told legislators that UAMS has a three-pronged mission that emphasizes education, clinical care, and research. She gave an overview of the partnerships and programs the University maintains throughout the state. These partnerships consist of forty-eight hospitals, ninety-four hospital relationships, and one thousand affiliation agreements with hospital and clinics. Their regional centers provide health education programs and training facilities. Their E-LINK program links UAMS to eighty-one hospitals, twenty-two two-year colleges, eleven four-year universities, mental health facilities, plus a number of other facilities, for a total of 524 different relationships across the state. Eighty-percent of UAMS funding is provided from clinical revenue.

Legislators discussed with Ms. Gardner along with Bill Bose, Senior Vice Chancellor for Finance and Administration, UAMS details of agreements and affiliations UAMS has with other institutions:

- What factors does UAMS use when deciding not to contract with a local provider

- Was there a Request for Proposal (RFP) bid process used during the arrangements between UAMS and the Baptist Health Medical Center in Conway
- Baptist Health Medical Center in Conway does reimburse UAMS for services provided by UAMS physicians and surgeons at the Conway location but are employed through UAMS

Senator Irvin recognized Matthew Troup, President and CEO, Conway Regional Health System. Mr. Troup provided a brief history of the Conway Regional Health System, a non-profit community-based organization, which has served the community since 1921 and provides a wide range of services across every major specialty. He described Conway as a growing community with a strong economic base. He believes this is the reason Baptist Health Medical Center decided to build a facility in Conway that is comparable in the size and scope of the Conway Regional Health System. Based on his years of experience and the current data, Mr. Troup believes there is not a sufficient population base to support the additional facility. He told legislators the Conway Regional Health System does not object to competition as long as it is fair and the risks and rewards are shared equally in the market. He believes the issues below will stymie the effects of competition. He cited his reasons:

- The two hospitals compete for doctors and patients
- In the three years leading up to the Baptist Medical Center opening, Baptist heavily recruited local physicians, but none were hired
- In comparison, during the same time period Conway Regional added thirty-four physicians to their staff in a variety of specialty areas
- Baptist Medical Center became a state-funded institution with state employed physicians from UAMS hired to provide core services such as Emergency Room, orthopedics, and thirteen other specialties

Mr. Troup discussed statements he believes UAMS and Baptist Health Medical Center have made about the natural progression of their collaboration. UAMS has stated that they have other relationships they have pursued around the state. Mr. Troup gave highlights of the process Conway Regional Health System initiated in 2013 using a Request for Proposal (RFP) to approach several hospitals about becoming a strategic partner. Within approximately three months, UAMS backed out of the RFP process. Eventually Conway Regional partnered with CHI St. Vincent in Little Rock.

Ms. Gardner responded to questions concerning the affiliation with the Conway Regional Health System referenced by Mr. Troup. She stated that her understanding of the discussions that took place in 2013 and 2014 ultimately resulted in the partnership between the Conway Regional Health System and CHI St. Vincent. She further stated that she was not affiliated with UAMS during that timeframe. However, UAMS board members and staff have advised her that UAMS did not reject collaboration attempts by the Conway Regional Health System.

Senator Irvin recognized Mr. Troy Wells, Chief Executive Officer, Baptist Medical Center. Mr. Wells described the overall mission of the Baptist Medical Center, which is to provide crisis-centered compassionate healthcare and healthcare education. He stated that the importance of the collaborative partnership with UAMS is to change healthcare in Arkansas and to grow a future workforce for healthcare providers in Arkansas.

Senator Irvin recognized Carrie Helm, Chief Executive Officer, Arkansas Surgical Hospital. Ms. Helm believes that all the healthcare providers in Arkansas attempt to deliver the highest quality of care to the citizens of the state whether they are non-profit or for-profit entities. However, healthcare isn't always on an equal playing field and not always representative of a free market.

She asked legislators to consider whether or not contracts were negotiated fairly, and if physicians are in charge of providing healthcare based on their patient's needs, not on what services a facility needs to obtain.

Review of the Ratification Process for State Procurement Contracts [Exhibit E]

Senator Irvin recognized Jill Thayer, Chief Counsel to the Director, Bureau of Legislative Research. Ms. Thayer provided an overview of the legal issue of ratification. Ms. Thayer gave the example of a contract presented to the Arkansas Legislative Council at the December 2016 meeting:

- During the meeting it was discovered that the Office of Health Information Technology (OHIT) contract had been in effect since July 2016
- Approximately \$180,000 was expended under the contract before it was discovered that a legislative review of the contract had not occurred
- At that point the contract could not be ratified because the contract was in violation of law due to its failure to receive a legislative review
- Subsequently, the contract was then presented to the ALC-Review Subcommittee
- The Subcommittee reviewed the contract

Following these events, Act 696 of 2017 was passed, which added specific language to the statutes to require contracts be brought before the ALC-Review Subcommittee and Legislative Council before it can be ratified by the Office of State Procurement.

Ed Armstrong, Administrator, Office of State Procurement (OSP), Arkansas Department of Finance and Administration (DF&A), was recognized. Mr. Armstrong highlighted what he has learned since becoming OSP Administrator in 2016:

- Contract ratifications occurred under his predecessors
- Some of the ratified contracts were not reviewed by the Arkansas Legislative Council (ALC) Review Subcommittee
- A review of statutes found no specific language and no promulgated rules to address the ratification of contracts that did not receive review by the ALC-Review Subcommittee

Mr. Armstrong told legislators he received a request from the Office of Health Information Technology (OHIT) to ratify a contract. An informal agreement between the OSP and the OHIT required OHIT to submit their contract for review by the ALC-Review Subcommittee. Subsequent to the review and approval by the Review Subcommittee, the OSP ratified the contract. Mr. Armstrong explained that these events triggered the passage of Act 696 of 2017. The new statute clearly outlines that before a ratification judgment can be exercised by the OSP, the matter must be presented for review by the ALC-Review Subcommittee and Legislative Council.

Mr. Armstrong discussed a deficiency referenced by Jill Thayer in her testimony, which he believes should be addressed in the upcoming legislative Session. Two statutes list requirements for a review by the ALC-Review Subcommittee for general contracts and professional consulting contracts. Mr. Armstrong believes that additional language should be added to the statutes to ensure transparency and to clarify that agencies cannot request the OSP to ratify agreements without having gone through the review process. Legislators discussed details with Mr. Armstrong regarding the ratification process and oversight by the OSP regarding procurement issues faced by state agencies and higher education institutions.

There being no further business, the meeting adjourned at 3:50 p.m.