

NORTH DAKOTA LEGISLATIVE MANAGEMENT

Minutes of the

HEALTH CARE COMMITTEE

Thursday, November 21, 2019

Room E101, University of North Dakota School of Medicine and Health Sciences
1301 North Columbia Road
Grand Forks, North Dakota

Representative George Keiser, Chairman, called the meeting to order at 9:00 a.m.

Members present: Representatives George Keiser, Clayton Fegley, Jim Kasper, Mike Lefor, Bob Paulson; Senators Dick Dever, Kathy Hogan, Judy Lee, Tim Mathern, Dave Oehlke, Kristin Roers, Shawn Vedaa

Members absent: Representatives Dick Anderson, Gretchen Dobervich, Lisa Meier, Marvin E. Nelson, Robin Weisz

Others present: See [Appendix A](#)

It was moved by Senator Dever, seconded by Representative Kasper, and carried on a voice vote that the minutes of the September 11, 2019, meeting be approved as distributed.

Chairman Keiser called on Dr. Joshua Wynne, Interim President, University of North Dakota, and Dean, University of North Dakota School of Medicine and Health Sciences, for welcoming remarks ([Appendix B](#)).

In response to a question from Senator Mathern, Dr. Wynne said one accomplishment of the federal Affordable Care Act (ACA) is it has improved access and coverage; however, it is still being debated whether the ACA has improved health outcomes. He said although the reduction in the rate of growth of health care expenditures may be related to a slowing in the economy, the health care enterprise has worked hard and should take some credit in this reduction.

In response to a question from Senator Dever, Dr. Wynne said drivers for longevity relate to more than health care delivery. He said social determinants of health impact life expectancy and the health of the population. He said 40 percent of premature deaths are preventable.

In response to a question from Senator Lee, Dr. Wynne said we have not had robust discussions regarding how we deploy our health care dollars. He said there is a dualism in health care between the obligation of a physician to a patient and an obligation to all of society. For example, he said, treating a patient for hepatitis C fulfills a physician's obligation to the patient but may not be the best use of limited resources. He said he does not have easy answers for this dualism, but a more robust discussion would be welcome. He said public health in its broadest sense is an approach that looks at a population basis for health and disease. He said clean water is an example of a public health need.

In response to a question from Representative Kasper, Dr. Wynne said in discussing the dualism, he does not mean to imply an individual physician should withhold care to an individual patient; however, we as North Dakotans need to be aware of the tradeoff with finite dollars and how those funds might best be deployed.

In response to a question from Mr. Jon Godfread, Commissioner, Insurance Department, Dr. Wynne said there are divergent views on the impact of litigation or the threat of litigation on the cost of health care. He said it appears litigation cost is a driver in the cost of health care but is not a major driver. He said 1 to 2 percent of the cost of health care is related to litigation.

**HEALTH CARE DELIVERY STUDY
Center for Rural Health**

Chairman Keiser called on Mr. Brad Gibbens, Deputy Director, Center for Rural Health, for a presentation ([Appendix C](#)) regarding understanding rural health issues and policy implications.

In response to a question from Representative Lefor, Mr. Gibbens said it varies by community how many critical access hospitals (CAHs) make enough money to meet both capital and operating expenses.

In response to a question from Chairman Keiser, Mr. Gibbens said two factors dramatically impacting the number of CAHs operating in the black are Medicaid Expansion at the commercial rate and access under the ACA to the federal 340B drug pricing program.

In response to a question from Senator Lee, Mr. Gibbens said we have not determined how best to use CAHs. He said to be successful, the CAHs need buildings and need a reimbursement methodology with flexibility. He said we need to determine how to reimburse facilities for doing what they do best.

Senator Lee said it is important to consider how oral health fits into rural health. She said dental therapists need to be part of the picture. She asked that reports and surveys conducted by the Center for Rural Health include oral health.

In response to a question from Senator Dever, Mr. Gibbens said collaboration between rural and urban providers needs to be addressed on an individual basis as there is not a single, universal solution. For example, he said, there has been success with a grant to help keep elderly in their homes and receive medical care locally.

In response to a question from Senator Hogan, Mr. Gibbens said the Legislative Assembly has focused on behavioral health. He said the Center for Rural Health is participating in approximately nine programs to address access to behavioral health in rural areas.

In response to a question from Representative Oehlke, Mr. Gibbens said personal responsibility continues to be a health care-related factor. He said rural providers are increasing efforts and emphasizing personal responsibility.

Hospital Finances

Chairman Keiser called on Mr. Darrold Bertsch, Chief Executive Officer, Sakakawea Medical Center and Coal Country Community Health Center, for a presentation ([Appendix D](#)) regarding a financial analysis of CAHs.

In response to a question from Senator Hogan, Mr. Bertsch said the number of licensed critical access beds has been reducing. He said the biggest reason for this reduction was the delicensing of beds that occurred when Dickinson and Williston transitioned to CAHs. He said CAHs have a limit on the number of licensed beds allowed.

In response to a question from Senator Hogan, Mr. Bertsch said his facilities have an innovative collaboration management structure. He said he wishes more facilities would embrace this collaborative model.

In response to a question from Senator Mathern, Mr. Bertsch said entities such as the Community HealthCare Association of the Dakotas, Department of Commerce, Center for Rural Health, and the North Dakota Hospital Association take into account the data on the maps in his presentation. He said he wishes the state had more community health centers.

Chairman Keiser called on Mr. Brad Wehe, Chief Executive Officer, Altru Health System, for comments regarding bad debt and charity care. Mr. Wehe provided an overview of Altru Health System, a community-owned, integrated health care delivery system.

Mr. Wehe said as a nonprofit health care organization, one of the biggest challenges is providing uninterrupted, high-quality, safe, patient-centered care in a volatile payment environment. He said reimbursement from private payors does not keep pace with the rising cost of medical technology and highly trained medical staff. In addition, he said, government payors, such as Medicare, pay even less than the private payors.

Mr. Wehe said Medicaid Expansion has been key in helping North Dakota hospitals curb the increased bad debt and charity care trend that hit the state about the same time as the oil boom. He said by extending health coverage to more than 20,000 lives, North Dakota hospitals' bad debt nearly was cut in half.

Mr. Wehe said over the past 2 years, however, bad debt and charity care are increasing at a noteworthy pace as individuals and companies increasingly choose high deductible plans with higher copays. He said patient balances after insurance, on average, have increased 52 percent over a 5-year period, and from 8 percent of the total bill to 12.2 percent. He said with one-third of Americans unable to afford medical bills of over \$100, patients are unable to pay their portion of charges and hospitals are struggling to find a solution to recuperate costs.

Mr. Wehe said in 2018, Altru provided more than \$22 million in charity care to patients who did not have the means to pay for the services. He said Altru's bad debts have trended down with Medicaid Expansion and are continuing to decline again this year. He said in 2019, Altru's bad debt is tracking at about 0.4 percent of annual gross patient revenue compared to 0.7 percent in 2018. He said this remains an area of continued risk as bad debt is related to copays and coinsurance due to the increase in high deductible plans with greater levels of patient responsibility.

In response to a question from Representative Kasper, Mr. Wehe said the variety between the difference between the rate charged and the discounted rate likely is due to several factors. He said providers are trying to set an appropriate rate, basing the rate on the actual cost of delivery, but recognizing some procedures do not make a profit and therefore pricing on other procedures must compensate for this loss.

Community Paramedics

Chairman Keiser called on Mr. Sherm Syverson, Sanford Health, for a presentation ([Appendix E](#)) regarding the community paramedic program in Fargo.

In response to a question from Senator Dever, Mr. Syverson said the Fargo community paramedic program began with some startup funding for training from the State Department of Health. He said in rural communities it is difficult to set up a community paramedic program without a hub in place. He said to be successful, an experienced paramedic needs to be part of a care coordination team.

Senator Roers said legislatively a change was made to the scope of practice statutes to allow for community paramedics.

Dean's Hour Panel Discussion

During the lunch break, the committee members participated in the Dean's Hour panel discussion, moderated by Dr. Wynne.

Air Ambulances

Chairman Keiser called on Mr. Godfread to make a presentation ([Appendix F](#)) regarding the status of air ambulance services and litigation.

Senator Lee said private equity firms are buying air ambulance companies.

In response to a question from Chairman Keiser, Mr. Godfread said federal legislation likely will address the issue of balance billing. He said North Dakota has not experienced balanced billing in the specialty arena.

Telehealth in Schools

Chairman Keiser called on Ms. Sheila Freed, School Health Director, Avera eCARE, to provide a presentation ([Appendix G](#)) regarding a telehealth school nurse program.

In response to a question from Senator Roers, Ms. Freed said although state law does not hinder nurses from performing telehealth, behavioral health provider licensure requirements could be improved. She said it would be helpful to have a law requiring nurse oversight in all schools in the state.

In response to a question from Senator Lee, Ms. Freed said she has made this presentation to the North Dakota School Boards Association. She said local control is important.

In response to a question from Senator Mathern, Ms. Freed said technology is not a barrier to the children who participate in telehealth. She said in the case of behavioral health services, technology can provide a sense of anonymity and this can be a benefit.

Senator Mathern said he is surprised at what appears to be a lack of coordination in our health care delivery. He said it is unclear to him who should have the role of coordinating. He said he seeks to challenge the actors to facilitate coordination.

Chairman Keiser said the State Department of Health acts as a facilitator and works with the Center for Rural Health.

Mr. Gibbens said as the committee considers identifying a facilitator, it reminds him of how the state addressed certificate of need. He said it is important to listen to providers.

HEALTH FACILITY CONSTRUCTION AND RENOVATION STUDY

Chairman Keiser called on Mr. Monte Engel, Director, Division of Life Safety and Construction, State Department of Health, for a presentation ([Appendix H](#)) regarding health facility construction and renovation data.

Senator Mathern said the department should have gone to the Emergency Commission already to receive hiring approval of a benefited full-time equivalent position. He said building costs increase due to delays.

Chairman Keiser said without the approval of the Legislative Management, the committee officially does not have authority to direct the department to pursue action through the Emergency Commission.

Senator Roers requested additional information regarding wait time versus work time. She said she does not want to accelerate smaller projects at the expense of the larger projects.

In response to a question from Senator Mathern, Mr. Engel said the delay in pursuing the request for proposal, in part, is due to necessary staff being out on extended leave as well as to seeking legal advice. He said he expects the request for proposal will be posted in the next few weeks.

In response to a question from Representative Paulson, Chairman Keiser reviewed the administrative rulemaking process. He said it is likely the department's rules would qualify as emergency rules. He said bypassing the rulemaking process sets a precedent the Legislative Assembly will not accept.

Chairman Keiser called on Mr. Todd Medd, JLG Architects, for a presentation ([Appendix I](#)) regarding health facility construction and renovation.

In response to a question from Senator Mathern, Mr. Medd said as it relates to the architect workforce being ready to bid on a State Department of Health request for proposal, there are architect workforce issues; however, in addition to architects, life safety consultants can provide necessary services in ensuring compliance.

In response to a question from Senator Hogan, Mr. Medd said the department's request for proposal could be done on a per project basis or as needed. He said vendors could go through a preapproval process to be considered.

In response to a question from Chairman Keiser, Mr. Medd said what the State Department of Health does is valuable.

INSURANCE PREMIUM TREND STUDY

Chairman Keiser called on Mr. Brendan Joyce, Administrator, Pharmacy Services, Medical Services Division, Department of Human Services, for a presentation ([Appendix J](#)) regarding Department of Human Services pharmacy management services for the Medicaid Expansion population.

In response to a question from Representative Kasper, Mr. Joyce said once the department has fully implemented pharmacy management services for the Medicaid Expansion population, it will be possible to compare the cost of the department management versus the cost of private sector management.

Chairman Keiser called on Mr. Godfread to present ([Appendix K](#)) the *Private Health Insurance Market Report 2014-2018* ([Appendix L](#)).

In response to a question from Representative Hanson, Mr. Godfread said North Dakota's uninsured rate of 7 percent is less than the national average of 12 to 15 percent.

In response to a question from Senator Hogan, Mr. Godfread said the ACA caps the administrative costs at 15 percent and North Dakota is well below the allowed administrative rate at 2.92 to 10.76 percent. He said he is surprised to see a decrease in the small group market reporting of services for mental health and chemical dependency and will need to look into this to understand the data better.

Mr. Godfread said for the health care study his office is performing, they are in the process of a call for data, conduct regular update calls with the carriers, and continue to remain on track. He said there are ongoing discussions regarding confidentiality of reported data and allowing insurers to claim information is proprietary.

Chairman Keiser invited health carriers to participate in a panel discussion regarding the market report.

Mr. Tony Piscione, Vice President of Actuarial, Blue Cross Blue Shield of North Dakota, provided written material ([Appendix M](#)).

In response to a question from Chairman Keiser, Mr. Piscione said Blue Cross Blue Shield of North Dakota does not yet have medical loss ratio and average gross margin per member per month data for 2019.

In response to a question from Representative Kasper, Mr. Piscione said the average premium and claims per member per month data does not include administrative expenses.

In response to a question from Chairman Keiser, Mr. Piscione said he agrees this system is not sustainable and we need to find a solution.

Chairman Keiser said one way to bring down the trends is to expand the reinsurance pool, but this is not a feasible option.

Representative Kasper said lifestyle is a driver of premium and claims. He said he supports wellness incentives and we need to educate citizens. He said this may not be a government solution.

Senator Lee said some health issues are not lifestyle. She said biologic drugs are a huge lifesaver. She asked how we are going to manage providing the type of care we have available. She questioned whether we might be faced with limiting access.

Representative Hanson said the private market is quite invested in wellness.

Chairman Keiser said in terms of premiums, there is not much saving in the high deductible health plans; however, in terms of affordability there has been an impact as insureds are making the decision to forgo health care due to cost.

Mr. Dylan Wheeler, Sanford Health Plan, provided written material ([Appendix N](#)).

In response to a question from Representative Kasper, Mr. Wheeler said he can provide the committee with information regarding the percentage of claims attributable to catastrophic conditions. He said almost all group plans have wellness programs.

Representative Kasper said wellness programs generally do not work because of the low participation. He said the group plans should connect lifestyle to premiums to be more effective.

In response to a question from Senator Oehlke, Mr. Wheeler said to get young people to participate in the insurance market, the industry needs to establish the value of insurance in relation to quality of care. He said ultimately whether a person participates is a matter of personal responsibility.

In response to a question from Senator Mathern, Mr. Manny Munson-Regala, United Healthcare of Minnesota, North Dakota, and South Dakota, said the combination of health plans and payor systems are a known entity that exist in various states. He said what savings they achieve tend to be achieved by the offering of a narrow network. He said if a person gets all care through a single network, there are savings that can be recognized in part due to care coordination.

Chairman Keiser said technology typically results in lower costs, such as the case in electronics. However, he said, this is not the case with drugs. He said drugs have changed the health care model. He questioned why the health care system has not recognized savings related to advances in technology.

Mr. Munson-Regala said North Dakota is not unique in its experience with increasing claims costs. He said there are multiple factors that can be utilized to help decrease cost, including payment models, price transparency, personal responsibility, and lifestyle and wellness. He said an advantage North Dakota can leverage is its cohesion in its health care delivery system and its payor system.

Chairman Keiser called on Mr. Brian Schill, Healthcare Now North Dakota, for comments regarding the committee's work. Mr. Schill testified in support of the three bill drafts the committee is working on and in support of the health insurance reinsurance legislation passed in 2019. He thanked the Insurance Commissioner for his efforts to crack down on air ambulance issues.

Mr. Schill said the state of the health care system is imperfect and unsustainable. He asked the committee, in partnership with the Legacy Fund Committee, State Department of Health, health care providers, and the Bank of North Dakota, to study what it would take to create an all inclusive cost-sharing health care plan, such as Medicaid for all.

Mr. Schill said a study in Vermont states young farmers are at risk of being uninsured and often were enrolled in Medicaid. He said the employer-based health insurance system is on the decline as it becomes unaffordable.

Mr. Schill said he supports exploring different payment models, including a statewide cost-sharing health care plan.

Chairman Keiser said the remaining items on the agenda will be carried over to a future meeting.

No further business appearing, Chairman Keiser adjourned the meeting at 4:25 p.m.

Jennifer S. N. Clark
Counsel

ATTACH:14