

## NORTH DAKOTA LEGISLATIVE MANAGEMENT

## Minutes of the

**HEALTH CARE REFORM REVIEW COMMITTEE**

Tuesday, November 10, 2015  
Roughrider Room, State Capitol  
Bismarck, North Dakota

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

**Members present:** Representatives George Keiser, Alan Fehr, Robert Frantsvog, Mary C. Johnson, Jim Kasper, Mike Lefor, Alex Looyson, Alisa Mitskog, Karen M. Rohr; Senators Tom Campbell, Gary A. Lee, Tim Mathern, David O'Connell, Ronald Sorvaag

**Members absent:** Representatives Rick C. Becker and Eliot Glasheim

**Others present:** See [Appendix A](#)

**It was moved by Senator O'Connell, seconded by Senator Campbell, and carried on a voice vote that the minutes of the September 29, 2015, meeting be approved as distributed.**

**HEALTH-RELATED SURVEYS****School of Medicine and Health Sciences**

Chairman Keiser called on Dr. Joshua Wynne, Dean, University of North Dakota School of Medicine and Health Sciences, regarding the status of the School of Medicine and Health Sciences Advisory Council biennial report ([Appendix B](#)) conducted under North Dakota Century Code Section 15-52-04.

In response to a question from Senator Campbell, Dr. Wynne said the number of residency slots in the state is in part related to funding. He explained that historically, residency slots were paid for by the federal government under the Medicare program; however, in 1997 the number of slots funded, 17 in North Dakota, was frozen by Congress as part of a balanced budget effort. He said North Dakota has risen to this challenge and has added 51 state-funded first-year residency slots. Dr. Wynne explained that in addition to the funding element, the number of residency slots is in part related to clinical resources. He said it does not make good business sense to duplicate 100 percent of the range of residency fields in state, as there are some specialties that do not have the necessary volume and resources to support and therefore it makes sense to have those residency specialties provided out of state.

Dr. Wynne stated that even though many institutions provide physicians signing bonuses, these bonuses typically do not cover 100 percent of the student debt, more commonly covering approximately 25 percent of student debt. He said student debt can be an inhibiting factor in post-graduate decisions. Regardless of the actual financial impact of student debt, medical students have an emotional aversion to incurring student debt.

In response to a question from Senator Lee, Dr. Wynne agreed that benchmarking workforce based on national data is only part of the consideration. He said quality and performance are also valuable considerations and this additional information will be included in the upcoming biennial report. He said the good news is that based on national standards, North Dakota is in the proper quadrants related to high quality of care and low cost. Additionally, he said, in looking at the effectiveness of health system efforts, emergency room data is a key indicator of the effectiveness of these efforts.

In response to a question from Representative Lefor, Dr. Wynne said as part of the state's health care workforce initiative, workforce issues for some mid-level providers, such as physician assistants, are being addressed at the medical school and the school of nursing is addressing advanced practice registered nurses. However, he said, in looking at the role of mid-level providers, recent data indicates increasing the number of mid-level providers will likely increase access to care and address unmet health needs, but this increase in providers may not necessarily result in a decrease in the need for physicians. Ultimately, he said, it is important for the educational system to work in partnership with health care providers.

In response to a question from Representative Mitskog, Dr. Wynne said the residency slots in North Dakota are public-private partnerships. He said because the educational system depends on providers to help, the school actively reaches out to recognize these providers. He said the larger challenge is retaining the existing health provider workforce and this is exacerbated by the increasing electronic health record requirements.

In response to a question from Senator O'Connell, Dr. Wynne said the national classification coding system is based on an international system. He said that although there are concerns with this newly required system, it is a federal requirement and he is not aware of anything that can be done at the state level.

In response to a question from Senator Mathern, Dr. Wynne said approximately 40 percent of disease/morbidity could be addressed by preventative approaches; however, there are no clear, easy answers. As it relates to which entity might most appropriately take the lead in decreasing the disease burden, Dr. Wynne said although perhaps the State Health Officer might be considered to take this lead role, it is important to recognize there are multiple actors and approaches. He said he recognizes these actors should strive to improve their approaches and improve coordination among the actors.

In response to a question from Representative Fehr, Dr. Wynne said although there are concerns regarding isolation of providers in rural communities, the majority of rural entities are related to larger health care networks, so these providers typically have resources available. Additionally, he said the Health Sciences Advisory Council is giving preliminary consideration to whether it is feasible and desirable to support a consortium to provide an in-state virtual referral system. However, he said, this consortium concept is in the infancy stage and time will tell whether it is worth pursuing.

Dr. Wynne said during the 2015 legislative session there were discussions regarding what role the educational system might have in placement of graduates of health care programs. He said he sees the medical school having a role to help students connect with in-state placement opportunities; however, funding of these efforts would need to be addressed.

In response to a question from Chairman Keiser regarding the University of Mary's announcement it is planning to create a medical school program, Dr. Wynne said that generally, choices are good and North Dakota is in the minority of states that have fewer than two medical schools. However, he said, when the medical school evaluated increasing the number of admissions, keeping in mind that the school focuses on North Dakota students, great care was taken in setting the appropriate increase. He said if a new program in the state also focuses on North Dakota students, there may be valid concerns regarding quality.

### **Behavioral Risk Factor Surveillance System**

Chairman Keiser called on Ms. Alice Musumba, Director, Behavioral Risk Factor Surveillance System (BRFSS) Program, State Department of Health, to make a presentation ([Appendix C](#)) regarding the state's BRFSS survey.

In response to a question from Representative Fehr, Ms. Musumba said that although questions can be added to the BRFSS survey, serious thought needs to be given to what and how in order to keep the survey time short enough to be effective. She said there are ongoing discussions of what survey items may be removed.

Ms. Musumba said in evaluating the survey results it is important to consider the long-term nature of health behaviors.

In response to a question from Chairman Keiser, Ms. Musumba said although it is possible to look at data from the last 4 years to help evaluate whether Medicaid Expansion has had any positive impact on health, it may not be possible to make a clear correlation between the data and the federal Affordable Care Act (ACA). She said she can work with the committee to make this presentation at a future committee meeting.

In response to a question from Representative Fehr, Ms. Musumba said special issues arise in the use of cell phones as the states use the area codes specific to the state conducting the survey. However, she said, efforts are being taken to track whether survey participants are residents of the state corresponding to the area code and efforts are being taken to share this data with the state of residency.

In response to a question from Senator Campbell, Ms. Musumba said the appropriation for the survey for the 2015-17 biennium was \$420,000.

In response to a question from Representative Rohr, Ms. Musumba said although the BRFSS survey data may be broken down at the county level, in some instances the sample size plays a role in the validity of the survey

results. She said she is aware of the similar survey conducted by the University of Wisconsin; however, that survey is based on modeling data and estimates, whereas the BRFSS survey does not use estimates.

### **Youth Behavior Risk Survey**

Chairman Keiser called on Ms. Gail Schauer, Assistant Director, State and Healthy Schools, Department of Public Instruction, for a presentation regarding the Youth Behavior Risk Survey ([Appendix D](#)).

In response to a question from Representative Johnson, Ms. Schauer said the 2015 survey question regarding students carrying weapons read:

"During the past 30 days, on how many days did you carry a weapon such as a gun, knife, or club on school property?"

Representative Kasper questioned why the state does not require daily physical education classes for every student in the state. Ms. Schauer said the Department of Public Instruction does recommend daily physical education classes, and it is also important to consider before and after school programs and activities that encourage physical activity.

In response to a question from Representative Fehr regarding the comprehensive mental health youth program, Ms. Schauer said she recently attended a meeting that explained this program provides for a comprehensive approach that trains a broad spectrum of people who come into contact with youth, such as teachers, parents, school staff, students, and law enforcement. She said the goal is to look at the comprehensive picture. She said an additional element that should be considered is addressing prevention and resources and training regarding referrals.

In response to a question from Senator Mathern, Ms. Schauer said she is not very familiar with the Search Institute survey, which is a similar survey. She said in North Dakota there are multiple committees and actors addressing risk behaviors.

In response to a question from Representative Rohr, Ms. Schauer said the survey is administered for the Centers for Disease Control and Prevention by the Department of Public Instruction through the schools. She said typically, the surveys are administered by school counselors and multiple efforts are taken to keep the participants anonymous. Additionally, she said, the department uses a passive permission slip that goes to families to notify them the children may choose to not participate in the survey.

Representative Mitskog stated some trends appear to be positive; however, some are negative, and she is concerned about these trends. Ms. Schauer said the Department of Public Instruction does follow these existing and emerging trends.

### **PUBLIC EMPLOYEE RETIREMENT SYSTEM - HEALTH INSURANCE**

Chairman Keiser called on Ms. Kathy Allen, Benefits Programs Manager, Public Employees Retirement System (PERS), and Ms. Katie Nermoe, Sanford Health Plan, to make a presentation ([Appendix E](#)) regarding the PERS health plan, including utilization, wellness incentives, and plan design.

In response to a question from Chairman Keiser, Ms. Allen said political subdivisions can discontinue participation in the PERS health plan at any time. She said political subdivisions just completed their open enrollment period and the new plan year will begin January 1, 2016.

As it relates to the health club credit as a wellness incentive, Chairman Keiser said he is concerned this credit does not change individual behavior, but instead benefits individuals who are exercising regardless of the incentive. Ms. Allen said PERS has not conducted an analysis regarding whether this specific incentive is effective in changing behavior and would need to conduct an additional survey of individuals to collect this data.

In response to a question from Senator Mathern, Ms. Nermoe said at least nine regulatory bodies regulate the area of wellness incentives.

In response to a question from Senator Campbell, Ms. Nermoe said the PERS health plan provides access to participatory programs but does not provide access to contingent programs. She said there are statutory limitations on how fully insured plans can incentivize or penalize healthy behaviors. She said within limits there can be some financial incentives or penalties, data indicates money may not be the best motivator, but perhaps better results will be experienced through intrinsic motivation. Overall, she said, although financial incentives or penalties may be one piece to the wellness package, it is not the only piece.

Ms. Nermoe said as employees spend a majority of their waking hours at work, anything that can address wellness at the workplace will be beneficial.

In response to a question from Chairman Keiser, Ms. Allen said when the PERS health plan went out to bid for the fully insured and self-insured plans the deductible, copay, and coinsurance amounts were the same; however, there were allowed differentials in networks and reimbursement schedules. She said it is unlikely that between potential insurers there would be many instances of differences of covered services between plans. Chairman Keiser said he has experienced this rare occurrence with the recent change of insurers under the PERS health plan.

Chairman Keiser called on Ms. Megan Houn, Director, Government Relations, Blue Cross Blue Shield of North Dakota, who introduced Dr. Elizabeth Faust, Senior Director, Behavioral Health, Health Network Innovation Division, Blue Cross Blue Shield of North Dakota, to testify regarding value-based programs ([Appendix F](#)).

Representative Mitskog said she agrees there is a need for a paradigm shift in reimbursement of providers from a fee-for-service model to a value-based program model. Dr. Faust said through reimbursement for Medicaid and Medicare, the federal government is a strong supporter of changing the reimbursement system. She said although it can be challenging to have one foot in each reimbursement model, the change needs to be incremental. Additionally, she said, the new generation of providers typically embrace value-based programs.

In response to a question from Senator Campbell, Dr. Faust said under her three-bucket analogy she sets out in her written material, she agrees there may be a need for additional buckets; however, she said, she thinks the three-bucket approach she sets out adequately addresses the competitive system. She said human behavior is based on contingencies for today, not long-term gains, and therefore we benefit from frequent feedback and positive reinforcement.

In response to a question from Representative Kasper, Dr. Faust said she agrees that in our health care system there is a role for both the employer and the provider; however, no one thing will make all the difference.

In response to a question from Representative Mitskog, Dr. Faust said in looking at what actions the state might take to assist health plans, there are several moving parts. She said although health care costs come from several directions, it seems to make sense to take steps to move from a fee-for-service model to a value-based model. Looking at the big picture, she said, managed care is not a bad thing.

In response to a question from Representative Fehr, Dr. Faust said in order for an accountable care organization to be feasible, it would need to have the ability to manage at least 5,000 patients. In contrast, she said, a medical home model allows for management of fewer patients.

Chairman Keiser requested that Dr. Faust and Ms. Nermoe continue to participate in the committee's ongoing studies during the interim.

Chairman Keiser called on Mr. Ross Manson, Principal, Eide Bailly LLP, to present information ([Appendix G](#)) regarding pros and cons of health plans grandfathered under the federal ACA and regarding private health care exchanges.

In response to a question from Representative Johnson, Mr. Manson said Eide Bailly LLP uses a private exchange portal to access private products. He said this portal offers more services than just health insurance.

Chairman Keiser called on Mr. Ken Purdy, Director, Human Resource Management Services, for a presentation ([Appendix H](#)) regarding state employee eligibility for health insurance and the Hay Group Employee Compensation Study.

In response to a question from Chairman Keiser, Mr. Purdy said the data reflects a trend of retirements increasing year after year as baby boomers continue to retire.

In response to a question from Senator O'Connell, Mr. Purdy said in determining whether the state is required to offer health insurance to a new hire, the analysis considers the employer's intent regarding the status of the employment at the time of hiring.

In response to a question from Chairman Keiser, Mr. Purdy said in addition to the Hay Group Employee Compensation Study completed in 2010, there was a more general followup performed in 2014. Representative Kasper requested that the committee receive a copy of this data from 2014.

## **HEALTH CARE DELIVERY SYSTEM**

### **Medicaid and Medicaid Expansion**

Chairman Keiser called on Ms. Brenda Peterson, Eligibility Policy Director, Medicaid and Healthy Steps, Department of Human Services, to testify regarding presumptive eligibility under Medicaid ([Appendix I](#)).

In response to a question from Senator O'Connell, Ms. Peterson said the income eligibility under Medicaid Expansion for a single adult is \$1,342 per month.

In response to a question from Chairman Keiser, Ms. Peterson said the use of presumptive eligibility is limited to use by hospitals.

In response to a question from Representative Lefor, Ms. Peterson said in determining financial eligibility for Medicaid, the Department of Human Services has access to several interfaces to gather financial data, but does not have access to every single interface.

Chairman Keiser called on Ms. Lisa Carlson, Director of Planning and Regulation, Sanford Health Plan, to testify regarding Medicaid Expansion ([Appendix J](#)).

In response to a question from Representative Kasper, Ms. Carlson said the Pharmacy Engagement Program currently has 14 participating pharmacists. She said under the Pharmacy Engagement Program, the North Dakota Pharmacists Association is charged with conducting pharmacist training and this step does provide that specific steps be completed before being eligible to participate in the program. She said all the independent pharmacists are now in the Sanford Health network.

### **Presumptive Eligibility**

Chairman Keiser called on Ms. Marnie Walth, Public Policy and Strategic Planning, Sanford Health, to testify regarding onsite efforts being taken to address uninsured patients ([Appendix K](#)).

In response to a question from Representative Fehr, Ms. Walth said she expects that once presumptive eligibility is implemented, it will be a good thing for Sanford Health. She said if a patient is found to be Medicaid eligible under presumptive eligibility, her team will continue to work with that individual to help establish full eligibility.

### **Insurance Department**

Chairman Keiser called on Ms. Rebecca Ternes, Deputy Commissioner, Insurance Department, to testify regarding health exchange insurance rates and health insurer insurance policy data ([Appendix L](#)).

No further business appearing, Chairman Keiser adjourned the meeting at 4:10 p.m.

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Jennifer S. N. Clark  
Counsel

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