

INTERIM JOINT COMMITTEE ON HEALTH, WELFARE, AND FAMILY SERVICES

Minutes of the 7th Meeting of the 2021 Interim

November 23, 2021

Call to Order and Roll Call

The 7th meeting of the Interim Joint Committee on Health, Welfare, and Family Services was held on Tuesday, November 23, 2021, at 1:00 PM, in Room 154 of the Capitol Annex. Senator Ralph Alvarado, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Ralph Alvarado, Co-Chair; Representative Kimberly Poore Moser, Co-Chair; Senators Julie Raque Adams, Karen Berg, Danny Carroll, David P. Givens, Denise Harper Angel, Jason Howell, Stephen Meredith, Michael J. Nemes, and Max Wise; Representatives Danny Bentley, Adam Bowling, Josh Bray, Tom Burch, Ryan Dotson, Daniel Elliott, Ken Fleming, Deanna Frazier, Mary Lou Marzian, Melinda Gibbons Prunty, Felicia Rouborn, Josie Raymond, Steve Riley, Scott Sharp, Nancy Tate, Russell Webber, Susan Westrom, and Lisa Willner.

Guests: Cory W. Meadows, Deputy Executive Vice President, Director of Advocacy, Kentucky Medical Association; Susan R. Bailey, MD, Immediate Past President, American Medical Association; Kimberly Horvath, Senior Legislative Attorney, American Medical Association; Jim Musser, Vice President, Policy and Government Relations, Kentucky Hospital Association, Chairman, Partnership for Commonsense Justice; Kentucky Chamber of Commerce; Nathan Morris, Vice President, Legislative Affairs, United States Chamber Institute for Legal Reform; Cory W. Meadows, Deputy Executive Vice President Director of Advocacy, Kentucky Medical Association; Ben Chandler, President, Chief Executive Officer and Allison A. Adams, RN, VP, Policy, Foundation for a Healthy Kentucky; and John Inman, Chief Policy Officer, Chase Coffey, Senior Policy Advisor, and Teresa Cooper, Director of Regulatory Affairs, Kentucky Primary Care Association;

LRC Staff: DeeAnn Wenk, Ben Payne, Chris Joffrion, Samir Nasir, Becky Lancaster, and Amanda DuFour.

Approval of Minutes

A motion to approve the minutes of the October 20, 2021, meeting was made by Representative Moser, seconded by Senator Raque Adams, and approved by voice vote.

Consideration of Referred Administrative Regulations

The following referred administrative regulations were placed on the agenda for consideration: **201 KAR 020:057 Proposed** - Scope and standards of practice of advanced practice registered nurses; **201 KAR 021:035 Proposed** - Seal; **201 KAR 021:054 Proposed** - Emergency orders; **201 KAR 021:070 Proposed** - Licensing examination requirements; **201 KAR 021:090 Proposed** - Pre-chiropractic education requirements; **201 KAR 021:100 Proposed** - Minimum standards for recordkeeping or itemized statements; **201 KAR 022:045 Proposed** - Continued competency requirements and procedures; **201 KAR 047:010 Proposed** - Home medical equipment and supplier licenses, requirements, and fees; **201 KAR 047:030 Proposed** - Complaint and disciplinary process; **902 KAR 048:010 Proposed** - Definitions for 902 KAR Chapter 48; **902 KAR 048:020 Proposed** - Training and certification requirements for persons who perform lead-hazard detection or abatement; **902 KAR 048:030 Proposed** - Accreditation of training programs and providers of educational programs for individuals who perform lead-hazard detection and abatement; **902 KAR 048:040 Proposed** - Lead-hazard abatement permit fees, permit requirements and procedures, and standards for performing lead-hazard detection and abatement; **907 KAR 023:020 Emergency** - Reimbursement for outpatient drugs; **921 KAR 001:400 Proposed** - Establishment, review, and modification of child support and medical support orders; **921 KAR 002:015 Proposed** - Supplemental programs for persons who are aged, blind, or have a disability; **921 KAR 003:060 Proposed** - Administrative disqualification hearings and penalties; **921 KAR 004:116 Proposed** - Low Income Home Energy Assistance Program or "LIHEAP"; **922 KAR 001:300 Proposed** - Standards for child-caring facilities; **922 KAR 001:380 Proposed** - Standards for emergency shelter child-caring facilities; and **922 KAR 002:160 Emergency** - Child Care Assistance Program. The above administrative regulations were reviewed.

Scope of Practice in Healthcare

Cory W. Meadows, Deputy Executive Vice President, Director of Advocacy, Kentucky Medical Association, discussed the meaning of scope of practice for a health provider. He discussed who creates and controls the scope of practice for each provider group. He discussed the physician-led team based care model to promote efficiency and high quality care for patients.

Susan R. Bailey, MD, Immediate Past President, American Medical Association (AMA), discussed how Kentucky compares to surrounding states on state laws regarding nurse practitioner and physician assistant scopes of practice.

In response to questions and comments from Senator Alvarado, Dr. Bailey stated that the study in her presentation reviewed 2015 Medicare claims in the United States and is not state specific.

In response to questions and comments from Representative Moser, Dr. Bailey stated that there are interstate license compacts. Kimberly Horvath, Senior Legislative Attorney, American Medical Association, said that there are a couple of states that have shared oversight authority in some instances.

In response to questions and comments from Representative Bentley, Dr. Bailey stated that “stop scope creep” is a term that means limiting the expansions of scope of practice. She stated that AMA believes the increased education and training of physicians qualifies them to be the leader of a healthcare team and is best for safe patient care.

In response to questions and comments from Representative Willner, Dr. Bailey stated that it is important for care teams and providers to work together.

In response to questions and comments from Senator Meredith, Mr. Meadows stated that full access to care will be accomplished when all types of providers are in all areas of the state.

In response to questions and comments from Senator Raque Adams, Dr. Bailey stated that Kentucky has done a good job at having physician lead care teams. She stated the data in her presentation included states where nurse practitioners and physician assistants have full prescribing authority. She stated that physician prescribing of opioids has gone down consistently but not for nurse practitioners and physician assistants.

In response to questions and comments from Senator Alvarado, Mr. Meadows stated that there are varying degrees of supervision for nurse practitioners. Physician assistants are directly supervised by physicians and regulated by the Kentucky Board of Medical Licensure however, nurse practitioners are regulated by the Kentucky Board of Nursing and work collaboratively with a physician.

In response to questions and comments from Senator Berg, Dr. Bailey stated that she believes that the physician has the overall responsibility for the patients care. Dr. Alvarado stated that there is not a requirement for a doctor to be paid to supervise nurse practitioners.

Liability Reform

Jim Musser, Vice President, Policy and Government Relations, Kentucky Hospital Association, Chairman, Partnership for Commonsense Justice, testified that health provider insurance premiums are increasing. He discussed how providers are concerned about paying insurance premiums and protecting themselves from lawsuits. He testified that when providers are pushed into practicing defensive medicine the costs for the patients increase. He discussed how the judicial branch has struck down liability reforms passed by the legislature.

Kate Shanks, Senior Vice President, Public Affairs, Kentucky Chamber of Commerce, testified that liability reform is a broad business perspective. She said that webinars were hosted by the Kentucky Chamber of Commerce addressing COVID-19 protocols and regulations to mitigate risks for business owners. Nathan Morris, Vice President, Legislative Affairs, United States Chamber Institute for Legal Reform, discussed research products that include a ranking of states' legal climates based on senior in-house attorneys' perceptions of states' legal climates. He discussed how the legal climates rankings impact companies' decisions on where to invest or grow.

Cory W. Meadows, Deputy Executive Vice President, Director of Advocacy, Kentucky Medical Association, urged the Kentucky General Assembly to pass the provisions of 2021 Regular Session Senate Bill 5 again to protect healthcare providers. He testified that Kentucky's liability system is fundamentally broken and needs to be fixed to ensure greater fairness and predictability within the legal system. He recommended that the state constitution should be amended to provide the legislature greater latitude to decide what reforms are needed.

In response to questions and comments from Senator Alvarado, Mr. Morris stated that contingency fees are between the plaintiff and client and are not disclosed in the normal course of business. Mr. Meadows stated that typically, people do not see the prelitigation phase that usually lasts a long time and most often does not proceed to a trial by jury.

In response to questions and comments from Representative Burch, Mr. Meadows stated that there have been various proposals for new legislation regarding liability reform including constitutional amendments. He stated there was a study that reviewed Medicare claims and showed medical costs would be lowered with liability reform.

In response to questions and comments from Representative Gibbons Prunty, Mr. Meadows stated that he is not aware of data regarding how many physicians have left Kentucky due to tort reform but is aware of the issue.

In response to questions and comments from Representative Webber, Mr. Meadows stated that a combination of liability issues and over prescribing by physician assistants and nurse practitioners, are drivers that lead to higher healthcare costs.

In response to questions and comments from Senator Berg, Mr. Meadows stated that Indiana has medical review panels and a patient compensation fund that providers pay into to address patient injuries.

All Payers Claims Database

Ben Chandler, President, Chief Executive Officer, Foundation for a Healthy Kentucky, discussed the lack of healthcare data related to payers' claims. He testified that an all payers claims database could be used to gather data that could be relied upon for

decision makers to improve the health of Kentuckians. He stated that an all payers claims database is about transparency, cost containment, and studying the trends of payer claims for solutions.

Chase Coffey, Senior Policy Advisor, Kentucky Primary Care Association (KPCA), discussed KPCA's existing partnership with the Kentucky Health Information Exchange and primary care providers. He discussed each of the four pillars of an all payers claims database, and the mission of an all payers claims database to put health before healthcare.

In response to questions and comments from Senator Alvarado, Mr. Coffey stated that KPCA believes that concerns regarding business opportunities that could undercut providers can be addressed in the contract agreements once the legislation is implemented.

In response to questions and comments from Representative Bentley, Mr. Chandler stated that transparency is critical for consumers to know what they are paying for in the claims. He advised legislators to review what has worked and not worked for the 19 other states that have an all payers claims database.

In response to questions and comments from Representative Fleming, Mr. Chandler stated that when the legislation is being written, legislators will need to review the best way to apply best practices to the overall plan.

In response to questions and comments from Senator Meredith, Mr. Chandler stated that the General Assembly will need to create and implement a mechanism to ensure that the data collected will be used.

Adjournment

There being no further business, the meeting was adjourned at 3:22 PM.