

INTERIM JOINT COMMITTEE ON HEALTH, WELFARE, AND FAMILY SERVICES

Minutes of the 5th Meeting of the 2022 Interim

November 15, 2022

Call to Order and Roll Call

The 5th meeting of the Interim Joint Committee on Health, Welfare, and Family Services was held on Tuesday, November 15, 2022, at 11:00 AM, in Room 149 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 Karen Berg, Alice Forgy Kerr, Stephen Meredith, and Michael J. Nemes; Representatives Adam Bowling, Josh Bray, Tom Burch, Ryan Dotson, Ken Fleming, Mary Lou Marzian, Melinda Gibbons Prunty, Josie Raymond, Steve Riley, Scott Sharp, Steve Sheldon, Russell Webber, Susan Westrom, and Lisa Willner.

Guests: George Huntley and Julie Babbage, Patient Pocket Protectors Coalition; Jim Musser, Senior Vice President, Policy and Government Relations, Kentucky Hospital Association; Dave Almeida, Government Affairs Director, Leukemia and Lymphoma Society; Brian Holzer, MD, President, Chief Executive Officer, Aware Recovery Care; Dr. Faezah Bux, Board Certified Anesthesiologist, Bluegrass Specialty Surgery Center; and Jennifer Wiseman, Immediate Past-President, Kentucky Association of Nurse Anesthetists.

LRC Staff: DeeAnn Wenk, CSA, Ben Payne, Logan Bush, Chris Joffrion, Samir Nasir, Becky Lancaster, D. J. Burns, and Eric Rodenberg.

Approval of Minutes

A motion to approve the minutes of the September 28, 2022, meeting was made by Representative Burch, seconded by Senator Meredith, and approved by voice vote.

Consideration of Referred Administrative Regulations

The following referred administrative regulations were placed on the agenda for consideration: **201 KAR 002:015 Proposed** - Continuing education; **201 KAR 002:413 Emergency** - Ordering and administering vaccinations; **201 KAR 009:305 Proposed** - Continued licensure of athletic trainers; **201 KAR 020:260 Proposed** - Organization and administration standards for prelicensure registered nurse or practical nurse programs of nursing; **201 KAR 020:310 Proposed** - Faculty for prelicensure registered nurse and

practical nurse programs; **201 KAR 020:490 Proposed** - Licensed practical nurse infusion therapy scope of practice; **201 KAR 020:620 Proposed** - Licensing requirements for licensed certified professional midwives; **201 KAR 020:650 Proposed** - Licensed certified professional midwives permitted medical tests and formulary; **202 KAR 007:701 Proposed** - Scope of practice matters; **900 KAR 012:005 Emergency** - Telehealth terminology and requirements; **901 KAR 005:120 Emergency** - Abortion reporting; **902 KAR 002:020 Proposed** - Reportable disease surveillance; **902 KAR 021:040 Proposed** - Community health worker certification; **907 KAR 001:104 Proposed** - Reimbursement for advanced practice registered nurse services; **907 KAR 004:020 Emergency** - Kentucky Children's Health Insurance Program Medicaid Expansion Title XXI of the Social Security Act; **907 KAR 004:030 Emergency** - Kentucky Children's Health Insurance Program Phase III Title XXI of the Social Security Act; **907 KAR 020:020 Emergency** - Income standards for Medicaid other than Modified Adjusted Gross Income (MAGI) standards or for former foster care individuals; **907 KAR 020:100 Emergency** - Modified Adjusted Gross Income (MAGI) Medicaid eligibility standards; **921 KAR 001:400 Proposed** - Establishment, review, and modification of child support and medical support orders; **922 KAR 002:160 Proposed** - Child Care Assistance Program; and **922 KAR 002:160 Emergency** - Child Care Assistance Program.

Jennifer Wiseman, Immediate Past-President, Kentucky Association of Nurse Anesthetists, testified in favor of **907 KAR 001:104 Proposed** administrative regulation. She discussed the history, issues, and resolutions regarding reimbursement codes for advanced practice registered nurse services.

In response to questions and comments from Representative Webber, Ms. Wiseman stated that all parties affected by the regulation were a part of the initial decisions. She stated that the regulation requires federal funds not be turned away and that the additional increase in the reimbursement rate is to be paid to facilities not providers.

In response to questions and comments from Senator Berg, Ms. Wiseman stated that using the procedural terminology (CPT) codes for certified registered nurse anesthetists (CRNAs) with observation from a physician reimbursing would not impact the salaries of anesthesiologists.

Dr. Faezah Bux, Board Certified Anesthesiologist, Bluegrass Specialty Surgery Center, testified in opposition of 907 KAR 001:104 Proposed administrative regulation. She discussed how the regulation will allow a facility to charge the same amount of money whether the patient sees a CRNA or an anesthesiologist and this devalues the anesthesiologist and his or her training.

In response to questions and comments from Representative Sheldon, Ms. Wiseman stated that health facilities suggested the change in the regulation so that Medicare would mirror Medicaid for CRNA reimbursement codes.

In response to questions and comments from Representative Moser, Ms. Wiseman stated that it is a facility's choice to hire either a CRNA or an anesthesiologist and that the regulation will not disincentivize hospitals from hiring anesthesiologists. She stated there is a requirement in the Centers for Medicare and Medicaid Services (CMS) manual that one anesthesiologist can medically direct one to four CRNAs, the fifth CRNA cannot bill for the higher reimbursement of medical direction. Dr. Bux stated that there is a difference in billing between medical direction and medical supervision required for patient safety and outcomes.

The listed administrative regulations were reviewed by the committee.

Reducing Patient Cost Through Rebate Reform

Julie Babbage, Patient Pocket Protectors Coalition, discussed their affiliation with Diabetes Patient Advocacy Coalition (DPAC) and the Diabetes Leadership Council (DLC). George Huntley, Patient Pocket Protectors Coalition, discussed the organizations that are members of the Patient Pocket Protectors Coalition, the flaws in the insulin payment process for consumers, blurred relationships of insurers between pharmacy benefit managers (PBMs), specialty pharmacies, and provider service companies. He discussed the issue of PBMs placing only 25 percent of generic drugs on the formulary, gave an example of consumer savings if rebate reform is passed, discussed an actuarial study information regarding the change in payer costs for rebate pass through, and gave the breakdown on drug spending by consumers. Ms. Babbage discussed the coalition's priority legislative principles for bills that may address PBM rebate reform. Mr. Huntley discussed the need and reasoning for PBM rebate reform.

In response to questions and comments from Senator Alvarado, Mr. Huntley stated that another market place would have to be created to use a voucher type medication system.

In response to questions and comments from Representative Moser, Mr. Huntley stated that PBM rebate reform will not affect the 340B program because the rebates would pass through the state employees' benefit plans and the plans through the health benefit exchange.

Pharmaceuticals and "White Bagging"

Jim Musser, Senior Vice President, Policy and Government Relations, Kentucky Hospital Association, discussed how the process of white bagging ensures a patient uses a pharmacy owned by the insurer and how white bagging hinders the ability of pharmacist to ensure medication and supply chain integrity.

Discussion of 2023 Regular Session Bill Request 203, Relating to Cost-Sharing for Prescription Drugs

Dave Almeida, Government Affairs Director, Leukemia and Lymphoma Society, discussed the mission of The Leukemia & Lymphoma Society, the problem of high out-of-pocket prescription cost sharing that create barriers for many patients to access the medication needed, solutions involving pre-deductibles, copay caps, keep application to all carriers in the individual and small market, and an impact analysis for patients with and without protections to keep spending on prescription drugs steady and predictable.

In response to questions and comments from Representative Moser, Mr. Almeida stated that the co-pay caps apply to an individual's deductible, but the patient would be able to take advantage of the co-pay prior to meeting the full deductible for all chronic conditions.

In response to questions and comments from Representative Sheldon, Mr. Almeida stated that the co-pay caps are for a single drug per month.

Presentation on the Aware Recovery Care

Brian Holzer, MD, President, Chief Executive Officer, Aware Recovery Care, discussed the mission statement and locations of Aware Recovery Care, how its model is different from other traditional recovery models, the four phases of their recovery model, the reductions in substance use during and one year post treatment, and the outcomes that reduce the total cost of care for medical and behavior care.

In response to questions and comments from Senator Alvarado, Dr. Holzer stated that Aware Recovery Care is working with a non-profit organization to deliver the care model in the patient's home to receive the opioid abatement funds.

In response to questions and comments from Representative Moser, Dr. Holzer stated that Aware Recovery Care has 16 value-based contracts with insurers in various states. He stated that a fee-for-service model would cost approximately \$42,000 a year.

In response to questions and comments from Representative Moser, Dr. Holzer stated that in the program the patient is assigned two certified recovery advisors, who are typically previous clients of the program, to better identify the issues without perceived judgement.

In response to questions and comments from Representative Westrom, Dr. Holzer stated that the Aware Recovery Care model is staff intensive and includes peer support advocates. He stated that Aware Recovery Care is working closely with nonprofit organizations in Kentucky to build up the workforce needed for this model.

Adjournment

There being no further business, the meeting was adjourned at 12:51 PM.