

Health & Human Services Quality Subcommittee

**Tuesday, September 20, 2011
8:30 - 10:30 AM
306 HOB**

**Dean Cannon
Speaker**

**John Wood
Chair**

Committee Meeting Notice

HOUSE OF REPRESENTATIVES

Health & Human Services Quality Subcommittee

Start Date and Time: Tuesday, September 20, 2011 08:30 am

End Date and Time: Tuesday, September 20, 2011 10:30 am

Location: 306 HOB

Duration: 2.00 hrs

Update on the activities of the Assisted Living Workgroup - Agency for Health Care Administration

Update on the activities of the Florida Commission on Review of Taxpayer Funded Hospital Districts - Agency for Health Care Administration

Update on Medicaid Encounter Data Implementation - Agency for Health Care Administration, Justin Senior, Medicaid Director

NOTICE FINALIZED on 09/13/2011 16:12 by Villar.Melissa



Better Health Care for All Floridians

ASSISTED LIVING WORKGROUP

Molly McKinstry
Deputy Secretary Health Quality Assurance
Agency for Health Care Administration



Better Health Care for All Floridians

Governor's Assisted Living Workgroup

- Governor Scott Veto Message for SB 1992
- Response to Concerns Raised in Recent Miami Herald Assisted Living Facilities Series



Better Health Care for All Floridians

ASSISTED LIVING WORKGROUP

- Examine Regulation and Oversight of Assisted Living Facilities in Florida
- Develop Recommendations for Improvement in the State's Ability to Monitor Quality and Safety in Assisted Living Facilities and the Well-Being of their Residents



Better Health Care for All Floridians

Workgroup Membership

Larry Polivka, **Chair**

Florida State University, The Pepper Center

Darlene R. Arbeit

Florida Association of Homes and Services for the Aging

Michael Bay

Eastside Care, Inc.

Luis E. Collazo

Palm Breeze Assisted Living Facility

Jim Crochet

Long Term Care Ombudsman

Representative Matt Hudson

Florida House of Representatives

Martha Lenderman

Lenderman and Associates



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Workgroup Membership

Ken Plante

Academy of Florida Elder Law Attorneys

Brian Robare

The Villa at Carpenters

Bob Sharpe

Florida Council for Community Mental Health

Larry Sherberg

Florida Assisted Living Association

Roxana Solano

Villa Serena I-V

Senator Ronda Storms

Florida Senate

Marilyn Wood

Florida Health Care Association



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State Agency Resources

- Agency for Health Care Administration
- Agency for Persons with Disabilities
- Attorney General's Office
- Department of Children and Families
- Department of Elder Affairs
- State Fire Marshall, Department of Financial Services



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Public Meetings & Outreach

Three State-wide Public Meetings

- Public Testimony and Stake Holder Input
- Tallahassee August 8, 2011
- Tampa September 23, 2011
- Miami To Be Scheduled

Assisted Living Workgroup Website



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Initial Presentations

- American Association of Retired Persons
- Disability Rights Florida
- Florida Assisted Living Association
- Florida Association of Homes & Services for the Aging
- Florida Council for Community Mental Health
- Florida Health Care Association
- Florida Long Term Care Ombudsman
- Florida Peer Network
- National Association of Mental Illness

Initial Objectives Discussed

- Enhanced Oversight of Troubled Facilities
- Streamlined Regulatory Process for Facilities with a Favorable Regulatory History
- Enforcement Action
 - Mandatory Sanctions, Revocation or Denial
 - Due Process Matters

Initial Objectives Discussed

- Qualifications and Training of Assisted Living
 - Administrators/Management
 - Staff
 - Assisted Living Core Trainers
- Special Attention on Assisted Living Facilities with Limited Mental Health Licenses and Clients



Better Health Care for All Floridians

Agenda for Tampa September 23

- Public Comment
- Roles of Various State Agencies
- Major Issues and Potential Recommendations



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Assisted Living Workgroup Website

- Meeting Agendas, Presentations, Minutes
- Resources: Regulations, Reports
- Interested Party List Serve

AHCA Home Page, Select Boards and Councils

ahca.myflorida.com

ahca.myflorida.com/SCHS/ALWG2011/alwg2011.shtml

STATE OF FLORIDA

OFFICE OF THE GOVERNOR

EXECUTIVE ORDER NUMBER 11-63

(Creation of Commission on Review of Taxpayer Funded Hospital Districts)

WHEREAS, according to the *Official List of Special Districts* maintained by the Florida Department of Community Affairs, there are 27 active independent health-care, health-facility, and hospital districts and 36 active dependent health care, health facility and hospital districts in the State of Florida; and

WHEREAS, of the active health-care, health-facility, and hospital districts in Florida, 24 are independent hospital districts and six are dependent hospital districts; and

WHEREAS, many health care, health facility and hospital districts, some originating as early as the 1930s, have been granted the authority to levy taxes for the purpose of making health care services available to low-income and under-served populations, as well as to provide direct health care services to populations served within the district service areas; and

WHEREAS, some health-care, health-facility, and hospital districts fulfill their mission by levying taxes and acquiring services from community-based providers, while other health care, health facility and hospital districts levy taxes and utilize these revenues for the purpose of subsidizing government-operated hospitals; and

WHEREAS, many tax-supported and non-tax supported government-operated hospitals operate competitively with non-government-operated hospitals while utilizing the benefit of taxes, enhanced Medicaid reimbursement and subsidies for losses, and in some counties, have acquired the assets of competing entities; and

WHEREAS, upon reviewing the distribution of public dollars provided for covering the cost of uncompensated care, I find that there is little correlation between the amount of uncompensated admissions and uncompensated Emergency Room visits in the aggregate by hospital systems grouped by affiliation, and the amount of dollars provided by the Medicaid Low Income Pool program for those services provided to the poor; and

WHEREAS, there is significant variation in Medicaid rates paid to hospitals for nearly identical services within markets, with such rate differences being driven primarily by variations in cost at the facility level irrespective of demonstrable justification for the difference in outcomes, with some hospitals demonstrating significantly higher cost notwithstanding a lower severity of illness of patients than comparison hospitals; and

WHEREAS, it is the intent of this administration to develop a more rational approach to compensating hospitals with a higher degree of predictability and fairness, and which does not incentivize inefficiency, higher cost, or irrational business practices; and

WHEREAS, the purpose of utilizing tax revenue to provide local health care services may be achieved without the taxing authority acting in the dual-capacity of operating hospitals while also using the tax revenue to subsidize such assets, and in fact, many special taxing authorities throughout Florida provide access to trauma, physician, and hospital services without the taxing authority operating any hospitals whatsoever; and

WHEREAS, many taxing authorities in Florida and in other states have divested hospital assets to independent entities through sale or lease, and such hospitals have thrived as private entities while continuing to serve the poor at consistent levels and returning millions of dollars to the taxpayers through tax contributions, principal on the value of the hospitals, and reduced taxes; and

WHEREAS, as a result of the foregoing, it is appropriate and necessary to review the contribution made to access for the poor by hospitals that receive no direct local tax subsidy, and the opportunity to ensure the taxpayer's resources are optimized in the community,

NOW, THEREFORE, I, RICK SCOTT, Governor of the State of Florida, by the powers vested in me by the Constitution and laws of the State of Florida, do hereby issue the following Executive Order, effective immediately:

Section 1.

The Commission on Review of Taxpayer Funded Hospital Districts ("Commission") is hereby created to assess and make recommendations on the role of hospital districts, whether it is in the public's best interest to have government entities operating hospitals, and what is the most effective model for enhancing health-care access for the poor. The Commission will:

- A. Determine, based on objective data, whether costs in government-operated hospitals are higher or lower in comparison to similar non-government-operated hospitals offering similar services, and whether, assuming there is such a cost difference, it results in higher or lower Medicaid, Low Income Pool or other reimbursement, compared to other hospitals that provide care to the poor, and whether spending would be reduced or increased if the hospitals were operated at the same levels of efficiency.
- B. Determine if there are better or worse outcomes on national measures of quality, such as the CMS Core Measures, in government-operated hospitals compared to non-government-operated hospitals.
- C. Determine if models exist in Florida and other states where local taxing authorities have created innovative programs and access for the poor without operating hospitals and instead have created programs where the funds follow the patient to the hospital or outpatient service closest to their community.
- D. Gather data and the various methods of providing access to the poor from each hospital district in Florida to determine the most cost-effective method for providing outpatient and inpatient hospital services to the broadest population possible and recommend the best models to the Governor and Legislature.
- E. Determine if the existing governing-body model of the various government-operated

hospitals optimizes the best governance practices, ensures proper oversight with accountability for the actions of board members, has had any violations of charter or governance rules by board members, has complied with the government-in-the-sunshine laws, and has consistently acted in the best interest of the primary shareholder – the taxpayer.

- F. Determine if taxpayer-funded hospital districts are using employment models for physicians wherein the physicians are being paid outside the norm for similar non-employed, non-tax-subsidized physicians in the geographic area, and whether other forms of compensation, such as medical directorships, are being used, and subsidized by taxpayers, for the purpose of competing with private physicians, and not-for-profit and other community hospitals which enjoy no such tax-subsidy.
- G. Determine the best mechanism for transition of government-operated hospitals to more appropriate governance models based on the experience of the many public and government-operated hospitals that have implemented such conversions. Determine, if appropriate to convert government-operated hospitals to different governance models, what the process should be for such conversion, provided that any such process should optimize the return for the taxpayers on the value of the assets and should be transparent to the public.

Section 2.

- A. I hereby appoint Dominic Calabro as the Chair of the Commission.
- B. The initial membership of the Commission shall be composed of the following:
 - i. Dominic Calabro;
 - ii. J. Scott McCleneghen;
 - iii. Jacob C. Jackson;
 - iv. Marshall Kelley;
 - v. Dwight Chennette;
 - vi. Brad Dinkins;
 - vii. Randall McElheney; and
 - viii. R. Paul Duncan.
- C. At the discretion of, and by appointment of, the Senate President, a member of the Florida Senate may serve as an additional member of the Commission. This member shall serve at the pleasure of the Senate President.

- D. At the discretion of, and by appointment of, the Speaker of the House of Representatives, a member of the Florida House of Representatives may serve as an additional member of the Commission. This member shall serve at the pleasure of the Speaker of the House.
- E. With the exception of the members appointed by the Florida Legislature, who shall serve at the pleasure of the applicable presiding officer, each member shall serve at the pleasure of the Governor and the Governor may fill any vacancy that occurs.

Section 3.

The Commission shall meet upon the call of the Chair. The Commission shall act by a vote of the majority of its voting members present, either in person or via communication technology whereby every member may hear every other member. No member may grant a proxy for his or her vote to any other member or member designee, except with the prior approval of the Chair.

Section 4.

The Commission shall submit a report setting forth its findings and recommendations, including any recommendations for legislative action, to the Governor, the Speaker of the House of Representatives, and the President of the Senate on or before January 1, 2012.

Section 5.

Commission members shall receive no compensation, but shall be entitled to per diem and travel expenses while attending meetings of the Commission to the extent allowed by Section 112.061, Florida Statutes. Per diem and travel expenses shall be paid in accordance with Chapter 112, Florida Statutes, to the extent that funding is available.

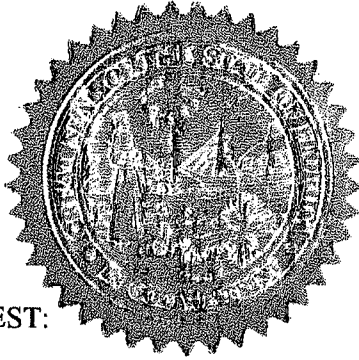
Section 6.

The Chair may designate an Executive Director of the Commission, who shall be administratively housed at the Agency for Health Care Administration. The Agency for Health Care Administration shall provide further staff and administrative support to the Commission. All agencies within the authority of the Executive Office of the Governor are directed, and all other agencies and educational institutions are requested, to render full assistance and cooperation to the Commission to further the purposes of this Executive Order. To the extent information requested by the Commission is determined by a health-care, health-facility or hospital district to be confidential, the Commission shall request assistance from the appropriate state agency with authority to conduct a review of the information requested, and such information shall, if determined to be protected by statutes, be reviewed by the agency with such investigatory powers as may be necessary to review such information. The agency may provide information in the aggregate, to the extent necessary withholding identifying information, in order to be responsive to this Executive Order.

Section 7.

The Commission shall continue in existence only until its objectives are achieved, but not later than March 1, 2012, unless extended by further Executive Order.

IN TESTIMONY WHEREOF, I have hereunto set my hand and have caused the Great Seal of the State of Florida to be affixed at Tallahassee, this 23rd day of March, 2011.



[Handwritten Signature]
GOVERNOR

ATTEST:

[Handwritten Signature]
SECRETARY OF STATE

FILED
2011 MAR 23 PM 1:50
TALLAHASSEE, FLORIDA

Commission on Review of Taxpayer Funded Hospital Districts

Status Update

September 20, 2011

Commission Basics

- * Established by Executive Order 11-63
- * The 9-member Commission has met 5 times and has 6-7 more meetings scheduled, including a meeting at AHCA later today.
- * The Commission's report is due to the Governor and the Legislature by January 1, 2012.
- * AHCA is providing staff support.

Commission Members

Name	Organization	Location
Dominic M. Calabro, Chair	Florida Tax Watch	Tallahassee
Brad Dinkins	Helping Hands Foundation	Ocala
R. Paul Duncan	UF College of Health Related Professions	Gainesville
The Honorable Matt Hudson	Florida House of Representatives	Naples
Jacob C. Jackson	DCF Regional Counsel for the Southeast	Ft. Lauderdale
Marshall Kelley	Health Management Associates	Tallahassee
J. Scott McCleneghen	City National Bank of Florida	West Palm Beach
Randall McElheney	CoastalMed	Panama City
The Honorable Joe Negron	Florida Senate	Palm City

Major Themes of Executive Order

The commission is generally tasked with examining how taxpayer dollars are used to pay for indigent care throughout Florida.

Specifically, the commission should:

- * Define the role of tax funded hospitals: is the original purpose of government owned hospitals applicable to Florida's current healthcare system?
- * Should there be any changes to policy regarding the sale or lease of publicly owned hospitals?
- * Define charity care: how should tax dollars be used for indigent care?
- * Is there a more efficient way of maintaining accountability in the system for taxpayers: both in rate setting and how tax dollars are utilized for indigent care?

Review of the Commission Charge

- * Determine, based on objective data, whether costs in government-operated hospitals are higher or lower in comparison to similar non-government-operated hospitals offering similar services, and whether, assuming there is such a cost difference, it results in higher or lower Medicaid, Low Income Pool or other reimbursement, compared to other hospitals that provide care to the poor, and whether spending would be reduced or increased if the hospitals were operated at the same levels of efficiency.
- * Determine if there are better or worse outcomes on national measures of quality, such as the CMS Core Measures, in government-operated hospitals compared to non-government operated hospitals.

Review of the Commission Charge

- * Determine if models exist in Florida and other states where local taxing authorities have created innovative programs and access for the poor without operating hospitals and instead have created programs where the funds follow the patient to the hospital or outpatient service closest to their community.
- * Gather data and the various methods of providing access to the poor from each hospital district in Florida to determine the most cost-effective method for providing outpatient and inpatient hospital services to the broadest population possible and recommend the best models to the Governor and Legislature.

Review of the Commission Charge

- * Determine if the existing governing body model of the various government-operated hospitals optimizes the best governance practices, ensures proper oversight with accountability for the actions of board members, has had any violations of charter or governance rules by board members, has complied with the government-in-the-sunshine laws, and has consistently acted in the best interest of the primary shareholder — the taxpayer.
- * Determine if taxpayer-funded hospital districts are using employment models for physicians wherein the physicians are being paid outside the norm for similar non-employed, non-tax subsidized physicians in the geographic area, and whether other forms of compensation, such as medical directorships, are being used, and subsidized by taxpayers, for the purpose of competing with private physicians, and not-for-profit and other community hospitals which enjoy no such tax-subsidy.

Review of the Commission Charge

- * Determine the best mechanism for transition of government operated hospitals to more appropriate governance models based on the experience of the many public and government-operated hospitals that have implemented such conversions.
- * Determine, if appropriate to convert government-operated hospitals to different governance models, what the process should be for such conversion, provided that any such process should optimize the return for the taxpayers on the value of the assets and should be transparent to the public.

Commission Website

- * Detailed information about Commission meetings, including audio recordings and all meeting materials, is available by clicking the “Boards and Councils” button on the main AHCA webpage, or at the following website:

<http://ahca.myflorida.com/mchq/FCTFH/fctfh.shtml>

Justin Senior Bio

On September 12, 2011, Justin Senior became the Acting Deputy Secretary for Medicaid. Mr. Senior began working at the Agency for Health Care Administration in 2007 as the Chief Appellate Attorney in the General Counsel's Office. In October 2008, Mr. Senior became General Counsel for AHCA and served in that position until becoming Acting Deputy Secretary.

Mr. Senior grew up in Gainesville, Florida, and has a B.A. in history from McGill University and a Juris Doctor with honors from the University of Florida College of Law.

Mr. Senior began his professional career in 1996 in Ft. Lauderdale in the litigation department of Panza, Maurer, Maynard & Neel, P.A. After his stint at Panza Maurer, Mr. Senior worked in the Boca Raton office of Proskauer Rose, LLP. After that, Mr. Senior worked for more than seven years in his own law office in Gainesville, Florida, where his practice emphasized federal civil rights litigation, employment law, and appellate practice.

Medicaid Encounter Data: Status and Statistics

What is available?

Medicaid managed care organizations (MCOs) submit encounter data to either the Agency's fiscal agent (HP) or pharmacy benefits manager (Magellan) depending on the type of encounter. The Agency's fiscal agent processes all institutional (837I), professional (837P), and dental (837D) encounters. The Agency's pharmacy benefits manager processes all pharmacy (NCPDP) encounters. Millions of encounters for all claim types are available in the Agency's Decision Support System (DSS). The encounters are submitted to the Agency from managed care organizations that received a capitation payment from the Agency for providing medical, pharmacy, and/or transportation services to Medicaid recipients enrolled in their health plan. This primarily includes Health Maintenance Organizations and Provider Service networks.

How can Encounter Data be used?

Examples:

- The Agency, through its contracted actuaries, uses encounter data in setting the rates paid to managed care organizations.
- The Agency can use encounter data to estimate the prevalence of specific diagnoses in the Medicaid population.
- The Agency can use encounter data to track utilization of services
- The Agency can use utilization measures to draw inferences about quality of care, and ways to do this are currently under consideration.
- The Agency can use encounter data to verify provider participation.
- Encounter data analysis helps to identify potential Medicaid fraud.

Important Considerations:

- Encounter data is a receipt from a health care transaction, not an actual medical record.
- Encounter data is more useful when looking at the past, and not the present. This is a by-product of laws that give providers one year to submit a claim and managed care companies as much as one year to pay the claim.

