

DELAWARE HEALTH CARE COMMISSION
DECEMBER 3, 2009
DELDOT ADMINISTRATION BUILDING
FARMINGTON-FELTON CONFERENCE ROOM
DOVER
MINUTES

Commission Members Present: John Carney, Chairman; Theodore W. Becker, Jr., MD; and A. Richard Heffron.

Members Absent: Lisa C. Barkley, MD; Tom Cook, Acting Secretary of Finance; Rita Landgraf, Secretary, Delaware Health and Social Services; Janice E. Nevin, MD; Vivian Rapposelli, Secretary, Services for Children, Youth and Their Families, Dennis Rochford; Fred Townsend and Karen Weldin Stewart, Insurance Commissioner.

Staff Attending: Paula Roy, Executive Director; Leah Jones, Director of Planning and Policy; Marlyn Marvel, Community Relations Officer; and Linda G. Johnson, Administrative Specialist.

CALL TO ORDER

The meeting was called to order at 9:00 a.m. by John Carney, Chairman.

MEETING MINUTES OF NOVEMBER 5, 2009

A quorum of Commissioners was not in attendance at the meeting. Therefore, the November 5, 2009, meeting minutes and 2009 Retreat Report could not be voted upon for approval.

DELAWARE HEALTH CARE COMMISSION

Strategic Planning Retreat 2009 – Paula Roy

The Delaware Health Care Commission held its Strategic Planning Retreat 2009 on Wednesday, November 18 from 8:00 a.m. until 4:30 p.m. in the Buck Library at Buena Vista State Conference Center in New Castle. The November 2009 Retreat Report to the Commission is attached to these minutes.

The Mission of the Delaware Health Care Commission is *to promote accessible, affordable, quality health care for all Delawareans*. The mission encompasses *Access*: promote access to health care for all Delawareans; *Quality*: promote comprehensive system of quality for all Delawareans; and *Cost*: promote regulatory and financial framework to manage affordability.

Purpose:

The purpose of the Retreat was to develop a strategic plan, which will be incorporated into a report to the Governor and General Assembly. By statute, the Health Care Commission is required to submit an annual report to the Governor and General Assembly by January 15 of each year.

A quorum of Commissioners was not in attendance at the meeting. Therefore, the November 5, 2009, meeting minutes and 2009 Retreat Report could not be voted upon for approval.

The Commission's Strategic Planning Retreat was held on Wednesday, November 18 from 8:00 a.m. until 4:30 p.m. in the Buck Library at Buena Vista.

Overview:

An overview of the meeting included reflection on accomplishments of the Commission over the years, and the Commission's new administrative home within Delaware Health and Social Services. Discussions included the implications of federal Health Care Reform and the role of the Commission.

In addition, representatives from Delaware Health Care Commission affiliated organizations attended the retreat. Rob White, Chairman of the Delaware Health Information Network (DHIN); Sherman Townsend, Chairman of Delaware Institute for Medical Education and Research (DIMER); and Ray Rafetto, representing the Delaware Institute for Dental Education and Research (DIDER) reported how their organizations interact with the Commission, their roles, functions and purpose.

Looking Back:

The Commission was created in 1990, as a result of a recommendation of its predecessor, the Indigent Health Care Task Force.

There were three key phases of Commission activity over its past 20 years. During the first five years the Commission focused on coverage issues and insurance reform. It sponsored pilot projects testing new ways to expand coverage, oversaw Medicaid expansions and developed insurance reforms.

The second phase occurred between 1996 and 1999, post collapse of Clinton era federal health reform. The Commission focused on post reform issues: regulatory and quality issues of managed care; a review of DIMER, which began the foray into workforce issues and DIMER requesting to move under the Commission; a Data Committee, that ultimately resulted in recommended legislation to create the DHIN; an intensive review of the Certificate of Need process that phased out the process and replaced it with the current Certificate of Public Review; and a review of the Health Resources Management Council that replaced it with the Health Resources Board.

The third phase occurred starting in 2000. In the 21st century, several external opportunities allowed the Commission to return its focus to access and coverage. There was a review of DIDER and dental access, and the State Loan Repayment Program began. The Master Settlement Agreement between the tobacco companies and the nation's State Attorneys General fundamentally impacted the Commission.

The Master Settlement Agreement resulted in payments to the states from the nation's tobacco manufacturers. The Commission was instrumental in helping to set up the Delaware Health Fund created to receive Delaware's payments and the Health Fund

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Advisory Committee to make recommendations on how the funds should be spent. The Commission provided policy framework for the Committee. Two federal grants were received; a State Planning Grant and a Community Access Program grant, which permitted the formation of the Community Healthcare Access Program (CHAP), now funded with tobacco settlement money.

Observations:

One of the observations noted at the retreat is that, while the mission of the Commission remains the same, the wording of the statute which created it seems to be outdated. For example, the “findings clause” relates back to the Indigent Health Care Task Force of the 1990s. It may be worthwhile to go back and look at the statute and see if it needs to be modified. Commissioners also observed that the Commission has the right leadership to address health reform issues.

UNINSURED ACTION PLAN

State Planning

The State Planning component of the Uninsured Action Plan has the Commission taking the lead role in helping the state prepare and respond to federal health reform.

Community Health Care Access Program (CHAP)

Prior to the retreat, the CHAP Workgroup proposed the next CHAP evaluation be done in the context of the federal health reform.

Chairman Carney said CHAP could be essentially “up in the air,” and the Workgroup is looking at how to restructure, to make as effective as possible, the network of health care homes to fit into any changes that occur from the federal health reform. How can the dollars be utilized to best provide those services?

Ted Becker added that whatever the reform looks like will totally alter what is done. CHAP activity over the course of this year will focus on CHAP in the context of a reformed health care system and workforce needs

Health Resources Board

Addressing health reform issues creates opportunities to collaborate with the Health Resources Board. For example, its charity care policy offers opportunities for CHAP. An example is found in the Certificate of Public Review for free standing surgery centers.

The emergence of free standing surgery centers tends to take lower risk patients away from the hospitals. Lower risk patients tend to be insured. This leaves the hospitals with a higher rate of complex surgeries for uninsured people and fewer insured people to make up the difference. To “level the playing field,” the Health

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Resources Board (HRB) requires that free standing surgery centers provide a certain amount of charity care based on the amount of charity care provided by the community hospitals.

However, the HRB had no enforcement capabilities to ensure surgery centers meet those requirements. In the last legislative session, an enforcement mechanism was added to the statute enabling the Board to impose penalties and the Board is also working with the Office of Health Facilities Licensing and Certification to close that gap.

Mr. Carney asked Judy Chaconas if the Commission could be given a presentation when the data from the surgery center charity reports in June 2010 or Health Resources Board in January is made available.

Ted Becker asked if all of the surgery centers have adopted the same charity care policy. Ms. Chaconas answered no, they are just required to provide two percent charity care. They are required to post their charity care policy in a visible place in their waiting rooms in both English and Spanish.

Mr. Carney asked Wayne Smith if was possible to obtain information from the hospitals on what a comparable percentage would be for in-hospital procedures. It would be helpful to compare what the hospitals are doing versus what the surgery centers are required to do and are doing. Mr. Smith said the hospital reports will be completed in January.

Mr. Becker said it would helpful if the hospital and surgery center report dates were synchronized for the same time at some point in the future, rather than January and June.

Joann Hasse, a long time member of the Health Resources Board and member of the Charity Care Committee, was shocked when she was told by the assigned Deputy Attorney General that the Board and Committee could set requirements before their approval was given to a surgery center but after the certificate was issued, there was nothing in the statute to allow enforcement of those requirements.

With the new legislation, however, there now is a dollar amount a surgery center will have to give to a federally qualified health center if the percentage of charity care is not met.

INFORMATION AND TECHNOLOGY

DHIN began as a pilot and the Commission has been its "incubator." It is critical to keep the status quo until details are developed and a new structure becomes operational. DHIN has now developed to the point that it no longer makes sense for it to function under the control of the Commission as it has since its

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creation. The DHIN Board has organized into two workgroups to chart a course for the future; financial sustainability and governance. In the meantime, however, DHIN is a national model for electronic health information exchanges, and other states have been asking Delaware for help in establishing their own exchanges.

The DHIN is undergoing a simultaneous Joint Sunset Review and a State Audit, both of which have been very time consuming.

Chairman Carney said there has been discussion around the overlap between the Sunset Review and the DHIN Committee Process Review. He reported he had a lengthy discussion with State Senator Brian Bushweller on that question and the Senator said, unequivocally, that the presentations and decisions on the governance and financial sustainability should *not* wait for the results of the Sunset Review. The expectation is clearly and strongly that something will be presented in January.

DHIN Chairman Rob White said he has also spoken to Senator Bushweller and the sense is that there needs to be a very clear movement forward on the governance side to create a legislative initiative that will counterbalance any other suggestion of legislative initiative. Sustainability questions may take more time.

Mr. White stressed that the importance of the Delaware Health Care Commission staff to the DHIN right now is huge. With the Sunset Review and the audit and growth of all that is happening within the DHIN, staffing is at a premium. DHIN is in an explosive growth mode and needs to support the sustainability group, the governance group, the ongoing development of the product and rolling out to additional providers, the Sunset Review process and the audit process. If DHIN could not rely on the Health Care Commission staff at this point in time to assist DHIN staff, the DHIN would be underwater completely.

HEALTH PROFESSIONAL WORKFORCE DEVELOPMENT

DIMER

The Delaware Health Care Commission's relationship with Jefferson Medical College and Philadelphia College of Osteopathic Medicine is strong.

The Delaware Health Sciences Alliance is a new partnership of Christiana Care Health System, Nemours, Thomas Jefferson University and the University of Delaware, and presents potential opportunities. A representative of the Alliance should be invited to give a presentation to the Commission.

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There was discussion about the administrative relationship between the Health Care Commission and DIMER. The way the statute is structured, all of the DIMER activities, recommendations and actions need to come to the Commission for approval.

There was agreement that the State Loan Repayment three step review and approval process should be revisited to see if it can be streamlined.

DIDER

Student slots at the Temple University Kornberg School of Dentistry are critical and valued. The Loan Repayment Program is a valuable recruitment tool. There is an emerging agreement between the University of Delaware and Temple whereby a student at the University of Delaware who wishes to become a dentist can attend for three years and complete the fourth year at Temple.

There is potential to expand dental services in Sussex County through the Oral Health Planning activities.

A high percentage of the dental residents who train in Delaware stay in Delaware.

Rich Heffron said that the money spent on emergency dental services is shocking. Mr. White explained that adults are excluded from dental care in the Medicaid program; however, Medicaid does cover hospital emergency room services, which result from severe, untreated dental problems.

Dr. Janice Nevin and Dr. Lisa Barkley co-chaired the Health Workforce Development Committee which laid the groundwork for future activities. Consideration needs to be given to whether the Workforce Development Committee should be engaged again to help focus on the workforce as one component of health reform.

RESEARCH AND POLICY DEVELOPMENT

Consideration will be given on the preparation of the two research reports that the Commission has published annually for several years: Delawareans without Health Insurance and Total Cost of Health Care.

The Commission will embrace its role in policy development in view of anticipated federal health reform. The Commission must be on the cutting edge of policy issues and use its role as a convener to facilitate discussion among multiple stakeholders to find solutions that make sense for Delaware.

The Commission will continue its current arrangement with the Health Fund Advisory Committee.

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SPECIFIC HEALTH CARE ISSUES

The Commission recognizes that specific health care issues will present themselves from time to time and that the Commission may participate in initiatives to address them. Most recently the focus has been on mental health, chronic illness and health promotion and disease prevention.

Path Forward

The following steps were recommended for the path forward.

- Form a workgroup to examine the Commission's role; recommend updates for the statute and include DIMER and DIDER.
- Revisit key issues raised at the Retreat.
- Follow and analyze federal health reform – the Commission plays a vital role in going forward.
- Form a group with DIMER and DIDER to examine streamlined administration and relationship to the Commission (State Loan Repayment Program).
- Identify the future relationship of DHIN and the Commission.
- Coordination with CHAP evaluation.
- Determine the role of the Workforce Committee.

PUBLIC COMMENT

Dr. Robert Frelick reported that new federal legislation has given the Food and Drug Administration (FDA) control of the tobacco industry. The FDA has already ushered a lot of changes in the tobacco industry. Dr. Frelick thinks this is going to change a lot of what Delaware is doing in tobacco control.

Joann Hasse has attended about 75 percent of the Commission meetings since its inception in 1990. Ms. Hasse thinks one of the Commission's shining moments was the Primary Care Committee that was impaneled to review DIMER. The Committee was looking at the various aspects of the relationship with Jefferson Medical College. Everyone who participated on the Committee was very knowledgeable within their own silo and one could almost see the learning that was going on in that group. Ms. Hasse thinks that it exemplifies what the Commission does. It pulls together various groups, which results in networking that benefits Delaware.

Jon Kirch commented on the discussion about Medicaid treating adults with dental coverage. There are two issues that are critical to the Medicaid program. First, anytime there is a desire to expand the program, additional funding is required and that is very

problematic. Second, and perhaps even more problematic, is actually providing that service - having more dentists in the state that will see those Medicaid clients.

Mr. Kirch recalled that the Commission looked at this issue in the past and came up with some recommendations. Perhaps this may be something the Commission will re-address in the future.

There is a large number of dentists who do participate with Medicaid; however, a small number actually see a significant number of Medicaid patients. Many of them have a small population of clients they see and trying to get new dentists into Delaware is a problem.

The residency program at Christiana Care Health Services is a fabulous program but there need to be other ways to bring qualified dentists into the state.

Chairman Carney said one of the things that has occurred is a transition from a time where none of the dentists in Delaware were taking Medicaid patients, according to the Dental Society, to Delaware having one of the highest percentages in the country.

Chairman Carney summarized that the Commission would have to revisit some of these issues. First and foremost, a committee will be established to look at the statute and roles and responsibilities going forward. The DHIN Finance and Governance Workgroups are operating and in January, or early next year as their work progresses, subcommittees will be established to feed into that. The CHAP Workgroup is fully engaged and working on the issues surrounding CHAP.

NEXT MEETING

The next meeting of the Delaware Health Care Commission will be held on Thursday, January 7, at 9:00 a.m. in the Farmington/Felton Conference Room on the first floor of the Department of Transportation (DeIDOT) Administration Building, 800 S. Bay Road, Dover.

ADJOURN

The meeting adjourned at 10:45 a.m.

The next meeting of the Delaware Health Care Commission will be held on Thursday, January 7, 2009, at 9:00 a.m. in the Farmington/Felton Conference Room on the first floor of the Department of Transportation (DeIDOT) Administration Building, 800 S. Bay Road, Dover.

GUESTS

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| Judith Chaconas | DHSS/Division of Public Health/Bureau of Health Planning Management |
| Barbara DeBastiani | Wheeler and Associates/CHAP |
| Dr. Robert Frelick | Medical Society of Delaware |
| Joann Hasse | League of Women Voters |
| Jon Kirch | AHR/ASA |
| Anne McGhee | HRSA |
| George Meldrum | Nemours Foundation |
| Sheila Nutter | Hewlett Packard |
| Brian Olson | LaRed Health Center |
| Rosa Rivera | Henrietta Johnson Medical Center |
| Lillian M. Ronneberg | Hewlett Packard |
| Wayne Smith | Delaware Healthcare Association |
| Rob White | Delaware Physicians Care, Inc./DHIN |