FINAL REPORT
OF THE
HEALTH FINANCE COMMISSION

Indiana Legislative Services Agency
200 W. Washington St., Suite 301
Indianapolis, Indiana 46204-2789

November 2012

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2012

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Health Finance Commission

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November 2012

A copy of this report is available on the Internet. Reports, minutes, and notices are organized by committee. This report and other documents for this Commission can be accessed from the General Assembly Homepage at http://www.in.gov/legislative/.

FINAL REPORT

Health Finance Commission

I. STATUTORY AND LEGISLATIVE COUNCIL DIRECTIVES

The Indiana General Assembly enacted legislation (IC 2-5-23) establishing the Health Finance Commission to study health finance in Indiana. The Commission may study any topic: (1) directed by the chairperson of the Commission; (2) assigned by the Legislative Council; or (3) concerning issues that include the delivery, payment, and organization of health services and rules that pertain to health care delivery, payment, and services that are under the authority of any board or agency of state government.

The Legislative Council assigned the following additional responsibilities to the Commission for the 2012 interim:

(1) Licensing of paramedics (HEA 1186-2011).
(2) The effectiveness of current laws and rules in Indiana to regulate and monitor pain management facilities and prescribers of controlled substances (SEA 24-2011).
(3) Programs and regulations in other states that effectively regulate and monitor pain management facilities and prescribers of controlled substances (SEA 24-2011).
(4) Whether any limitation should be placed on the dispensing of a prescription drug by pharmacies (SEA 407-2011, SB 334-2011, HR 66-2011).
(5) Specified health insurance plans and the number of covered people with copayments, coinsurance amounts, and out-of-pocket costs incurred for prescription drugs that exceed specified amounts for the coverage (SEA407, SB334, HR66-2011).
(6) Tobacco harm reduction strategies to reduce smoking-attributable death and disease (HR 59).
(7) The feasibility of establishing a teaching hospital and trauma center to operate in conjunction with the IU School of Medicine at IU Northwest (Rep. C. Brown).

II. SUMMARY OF WORK PROGRAM

The Commission met three times during the 2012 interim: August 23, 2012, September 19, 2012, and October 23, 2012. All Commission meetings were held at the State House in Indianapolis. For more detailed information concerning the testimony at a meeting, please see the minutes on the Commission's website at: http://www.in.gov/legislative/interim/committee/hfco.html.

The first meeting was held August 23, 2012. The Commission heard testimony concerning the effectiveness of current laws and rules in Indiana and best practices for the regulation and monitoring of pain management facilities, professionals prescribing controlled substances, and the patients owning controlled substances. Joan Duwve,

M.D., of the Indiana State Department of Health (ISDH) reviewed statistics related to prescription drug abuse, unintentional poisoning deaths, and causative factors of drug overdose. The Commission also heard testimony regarding specialty drug copayment tiering practices of health insurance companies and the resulting high copayments required of individuals with certain high-risk and chronic conditions. Finally, Senator Ron Grooms discussed a parity issue concerning the ability of community pharmacies to dispense a 90-day supply of maintenance drugs under certain circumstances similar to that allowed for mail-order pharmacies.

The second meeting was held jointly with the Interim Study Committee on Insurance on September 19, 2012. The Commission heard an extensive update on issues and implementation activities with regard to the federal Patient Protection and Affordable Care Act (ACA). Topics covered included Medicaid expansion considerations, a Medicaid cost impact update, an update on the implementation of a Health Insurance Exchange, Essential Health Benefits selection issues, and other ACA-related topics. The Commission also heard presentations and testimony on the relative risk of smokeless tobacco products or tobacco harm reduction and took testimony that opposed advising the public that smokeless tobacco is a safer product than cigarettes.

The third meeting was held October 23, 2012. The Commission heard a description of an Evansville program called Youth First, whose mission is to prevent substance abuse, promote healthy behaviors, and maximize student success. The Commission also heard updates and reports on EMS and trauma-related topics assigned by the Legislative Council. The topics included a report on the several facets of emergency services required by SEA 224-2012, testimony on the feasibility of co-locating a teaching hospital and trauma center at IU Northwest in Gary, an update on the ISDH progress towards implementing a statewide trauma system, paramedic licensure, and discussion of a recently promulgated Trauma Commission rule. The Commission was updated on the incidence of the use of EBT cards in locations that restricted by law and on activities being taken to improve care outcomes at lower cost for the Medicare/Medicaid dually eligible population. The Commission heard additional testimony on the pain management topic from Jeffersonville citizens who have been negatively impacted by the location of a pain clinic in their neighborhood. The Attorney General's Office reported on the progress of the Prescription Drug Abuse Task Force. Finally, the Department of Health reported on their collaboration with the Medicaid program to develop rules for the licensure of a traumatic brain injury (TBI) treatment facility, but did not report on other TBI subjects specifically required by SEA 15-2012.

III. SUMMARY OF TESTIMONY

Pain Management and Regulation of Controlled Drugs

Michael Whitworth, M.D., of the Indiana Pain Society discussed the need for increased education of consumers concerning the ownership and use of scheduled drug products and the need for improved and increased regulation concerning prescribing practices for scheduled drugs. Dr. Whitworth discussed the benefits of the use of opioid drugs in the treatment of chronic pain and the societal harm caused by the abuse of these

drugs. He then outlined a suggested legislative framework for the increased regulation of controlled substances to be based under the authority of a controlled substances commission. He also recommended that the Indiana Pain Society standards of care be adopted. Dr. Whitworth further recommended mandatory use of the Indiana Scheduled Prescription Electronic Collection and Tracking (INSPECT) system and the adoption of a permanent funding source for the system since federal funding for the program is being discontinued.

Joan Duwve, M.D., of the Indiana State Department of Health (ISDH) reviewed statistics concerning prescription drug abuse, unintentional poisoning deaths, and the causative factor of drug overdoses. Dr. Duwve mentioned that the Office of the Attorney General has formed a task force on drug diversion that would begin meeting soon. She further stated that the INSPECT program is vital to controlling prescription drug abuse.

Additional parties expressed support for the concept of a controlled substances commission and the increased use of the INSPECT system as well as identifying a permanent funding source for the INSPECT system. Senator Grooms commented that Jeffersonville is experiencing an increase in drug diversions due to a change in Kentucky law prompting pain clinic relocations to Indiana. He expressed a need for immediate implementation of increased regulatory oversight and support for the INSPECT program. He added that while the INSPECT program is one piece of the control equation, it deals with the end of the legal supply line, while attention also needs to be focused on issues such as patient ownership, registration, patient sharing practices, and the regulation of pain clinics.

Several members of the Franklin Commons Neighborhood Association described their experience with the Clark County Wellness Center that opened in their neighborhood within days of the effective date of Kentucky's new statute governing the regulation of pain management clinics. They described a cash-based business using armed guards with attack dogs to patrol outside the facility and cars with license plates from mainly eastern Kentucky but also from as far away as Florida parking on the streets while the occupants await an appointment. Jeffersonville Council members echoed their descriptions and warned other towns in the state to enact temporary moratoriums regarding these types of facilities.

The Attorney General's Office reported on the membership and organization of the Prescription Drug Abuse Task Force. It was emphasized that Indiana is one of only two states without regulations, laws, or medical board rules on the prescribing of opioids. Findings and recommendations of the Task Force will be compiled into a report that will be provided to the General Assembly following the Prescription Drug Abuse Symposium to be held on December 12, 2012.

Tobacco Harm Reduction

Brad Rodu, DDS, University of Louisville, reviewed U.S. smoking and lung cancer mortality statistics and the efficacy of smoking cessation products and behavioral tips. Citing a 93% failure rate for current smoking cessation techniques and products, he suggested that smokeless tobacco products would be more useful to reduce the real

problem involved in tobacco use, which is the delivery of nicotine via inhalation of smoke. Lars Rutqvist, M.D., Ph.D., of the Swedish Match company, reviewed the long-term use of smokeless tobacco products in Sweden and the smoking and lung cancer mortality statistics of that country compared to other European countries where cigarettes are the more commonly used nicotine delivery product. Dr. Rodu suggested that Indiana could reduce the harm caused by cigarette smoking by eliminating information on the state's Tobacco Prevention and Cessation website indicating that smokeless tobacco products are not a safe replacement product for cigarettes. He further suggested that the state should allow employees who use smokeless tobacco products to participate in the health insurance discount available for tobacco abstention and to incentivize smokers to use smokeless products by reducing the tax rate on the smokeless products making the smoking materials more expensive to use.

Miranda Spitznagle, Director of the Indiana Tobacco Prevention and Cessation Commission, ISDH, spoke in opposition to a policy that would advise smokers that smokeless tobacco products are safer than cigarettes. She commented that federal law prohibits tobacco companies from advertising a product using a claim of relative harm or risk reduction unless the claim has been substantiated by the Food and Drug Administration. She added that smokeless tobacco products are considered to be a gateway product, they are addictive products, and that they do cause disease. Additional parties offered written and oral testimony in support of and opposition to the suggested tobacco harm reduction strategy of smokeless tobacco products.

Health Insurance Out-of-Pocket Costs and Tier 4 Pharmaceuticals

Michelle Rice, National Hemophilia Foundation, explained the health insurance plan practice of limiting access to drugs through the use of drug formularies and the recent development of using specialty tiering for the purposes of determining the patient's copayment for certain high-cost products. Specialty tiering results in certain high-risk patients with chronic conditions paying higher copayments for the expensive drugs used to treat their condition. Ms. Rice requested that in determining the Essential Health Benefit (EHB) package required for the implementation of federal health care reform that the state include a cap on out-of-pocket expenditures or ban the practice of specialty tiering of drug products. Other interested parties provided testimony regarding the hardship experienced when specialty tiering is a component of a health insurance policy and how the practice can impact access to needed drug therapies. Mr. Keith Beesley, General Counsel, State Personnel Department, informed the Commission that federal law concerning high-deductible insurance plans requires the deductible to be satisfied before any monthly cap on expenditures may be allowed. This information would apply to the 94% of state employees covered by high-deductible health insurance plans.

Pharmacy Parity

Senator Ron Grooms introduced the concept included in SB 407-2012, which would allow a pharmacist to dispense a 90-day supply of certain drugs in specific circumstances. The example cited was the situation in which a prescription written for a 30-day supply of a maintenance drug used for a chronic condition may be filled for 90-

days if the provider is a mail-order pharmacy. Community-based pharmacies are limited to filling the same prescription for 30-days only. Leslie Ray, representing the Indiana Pharmacists Alliance commented that community pharmacies are seeking parity with pharmacy benefits managers and mail-order pharmacies.

Update on the Implementation of Federal Healthcare Reform (ACA)

Seema Verma, Indiana State Health Care Reform Lead, reviewed the implications of the Supreme Court decision ruling the Medicaid expansion required by the ACA to be optional for states' participation. She pointed out areas of uncertainty and where coverage gaps may result from new expansion options available to the state. She also informed the Commission that the Healthy Indiana Plan program would be extended by one year under a waiver extension offered by the federal Centers for Medicare and Medicaid Services (CMS).

Rob Damler, Principal and Consulting Actuary, Milliman, presented an update of the Medicaid ACA Cost Impact Projection. Ms. Verma identified potential funding sources that would be available to fund Medicaid expansion scenarios, emphasizing that additional sources may be found to help fund an expansion. Mr. Damler concluded by comparing four Medicaid expansion scenarios with the level of identified funding available.

Ms. Verma also presented an update on the ACA-required health insurance exchange (HIX). She told the Commission that no decision on the final model to be used for the HIX had been made, the Governor preferring to let the new administration make this important decision. She reviewed the lack of federal guidance on certain issues that prevent projections of the initial ongoing operating cost of the HIX. She concluded by saying that there will be statutory and regulatory changes needed to implement the HIX, but that these will be dependent upon the model chosen for implementation.

Ms. Verma further reviewed the Essential Health Benefit (EHB) benchmark and how the state is allowed to select its benchmark plan. She described areas where federal guidance and answers to questions have not been forthcoming and described other areas of conflicting federal guidance. The Chairman did not allow public testimony on the ACA update due to the limited time available for the meeting.

Emergency Medical Services and Trauma System Issues

Dr. Gregory Larkin, State Health Commissioner, reported on the development of the trauma system in the state in accordance with SEA 284-2006, which established the ISDH as the lead agency for the development and implementation of a statewide trauma system. Dr. Larkin pointed to progress made towards implementation of key recommendations made by the American College of Surgeons (ACS), mentioning specifically that the state did not provide a single state agency; the Division of Trauma Care is part of the ISDH, and the EMS operates under the auspices of the Department of Homeland Security. He commented that the ACS had recommended one common triage and transportation rule and that this rule was promulgated by the Trauma Commission in 2012. He added that since the adoption of the triage and transportation rule, more than eight hospitals, some in Northwest Indiana, have indicated plans to

seek certification as a trauma center, providing for better statewide patient access. Finally, Dr. Larkin mentioned that ISDH had recently obtained EMS data which contains information on a portion of the total number of ambulance runs made. He added that ISDH has particular expertise in data analysis and the agency would be evaluating the existing data, but more importantly will be investigating methods of support intended to make reporting easier for providers so that data reporting levels will increase to comply with national standards.

Lee Turpin, Chairman of the EMS Commission, and Rick Archer, State EMS Director, answered questions that were posed in SEA 224-2012, regarding patient transportation, ambulance equipment, and EMS staffing issues within the emergency medical services system. Tony Murray of Indiana Fire Services discussed the role of fire services as the first responder to scenes before an ambulance arrives. This information was also included in the required report to the Commission. The information presented led to Commission discussion concerning counties that do not have advanced life support (ALS) capabilities. Commission questions and discussion focused on what procedures were followed when a patient requiring ALS was transported, where the patient was taken, and the possibility of patient transfer to different ambulances or air ambulances. Commission members were interested in what it would cost to upgrade basic and intermediate EMS capability to the ALS level. Commission members were also interested in the number of and types of complaints the EMS Commission received.

Rick Archer and Tony Murray informed the Commission that paramedics are now licensed throughout the state and that the transition from certification status to licensure status went smoothly.

Northwest Indiana Trauma Center

Rep. Charlie Brown discussed the need for a trauma center to be located in Northwest Indiana in order to provide services for severely injured patients within the optimum time frame known as the Golden Hour. He described the concept of building a teaching hospital to be located at IU Northwest along with a trauma center as an economic development opportunity for Gary. IU Northwest now trains medical students for all four years required for the M.D. degree. A teaching hospital would serve as a recruiting tool for physician manpower needed in the area as well as a teaching/practice location for the physician specialists necessary to staff a trauma center.

Mayor Karen Freeman-Wilson discussed the transportation assets of the area as well as the associated traffic-related injuries and the traffic congestion that puts severely injured patients at risk due to the lack of trauma facilities in Northwestern Indiana. Patients must be transported across the state line into Illinois.

Dr. Michael McGee, Chief of Emergency Medicine, Methodist Hospitals, commented on the lack of funding for the trauma system in the state and suggested that Indiana needs to examine how other states are providing funding for trauma networks. He mentioned a motor vehicle fee.

All the speakers expressed support for the release of funds appropriated in a previous budget for engineering and architectural studies for the teaching hospital. Rep. Charlie

Brown explained that they are not far enough along in the process to need the funds for engineering studies, but rather need to conduct a feasibility study first. He asked for the Commission's support for the release of up to $3 M by the State Budget Agency to conduct a feasibility study.

Traumatic Brain Injury Services (SEA 15-2012)
SEA 15-2012 required the Indiana State Department of Health as the lead agency and the Family and Social Services Administration to report to the Commission before October 1, 2012, orally and in writing concerning the study required by the bill and any recommendations resulting from the study. The bill also provided for the appointment of the Brain Injury Treatment Advisory Committee to assist the two agencies with the study required by the bill. The Governor was to appoint the 16 advisory committee members. The agencies were to study the current brain injury services offered in the state and determine any deficiencies and how to implement additional brain injury and neurobehavioral rehabilitation programs in the state.

Brian Carnes of the ISDH reported that the ISDH was working closely with Medicaid to ensure that licensing requirements for a TBI facility would qualify for Medicaid funding. Ms. June Holt of the Generations Project commented that the Governor's Office never appointed the advisory committee authorized by the bill. She also pointed out that the bill required the two agencies to investigate an array of services needed for TBI treatment and that this did not occur. Kristin LaEace pointed out that the bill dealt with more than the facility licensure issue and asked if the required study was ever going to be done.

Youth First, Inc.
Ms. Parri Black described the Evansville-based Youth First program to the members of the Commission. She explained the program was founded by a local physician, Dr. William Wooten. The mission of the program is to strengthen youth and families through programs that focus on preventing drug abuse, promoting healthy behaviors, and maximizing students' success in school. The program places specially prepared Master's level social workers in schools to work with students and their families. Youth First currently serves fewer than 50% of the students in the four-county service area and wishes to grow to serve more children and teens. During the recession, the program was the recipient of federal grants that allowed them to increase the number of social workers placed in area schools. With the discontinuation of the federal grants, Youth First has sought more private funding to maintain the existing placements. The program would like to partner with the state to replicate the services and outcomes of Youth First throughout the state.

Electronic Benefits Transfer Card Use Update
Adrienne Shields reported on the prohibition of the use of Hoosier Works cards for the withdrawal of TANF benefits in restricted locations, restrictions for vendors and recipients, incidence of actual restricted transactions, and educational activities for TANF recipients regarding the prohibition on the use of the cards in restricted locations. She reviewed statistics demonstrating that of the over 50,000 TANF EBT transactions for the month of September 2012, 54 took place in a restricted location.

Managed Care for the Aged, Blind and Disabled Pilot update (SEA15-2012)
SEA 15-2012 required the Office of Medicaid Policy and Planning (OMPP) to report to the Commission concerning the feasibility and development of a risk-based managed care pilot program for aged, blind, and disabled Medicaid recipients. Pat Casanova, Medicaid Director, reported on activities the OMPP has undertaken to improve the care outcomes at lower cost fo the Medicare/Medicaid dually eligible population.

IV. COMMITTEE FINDINGS AND RECOMMENDATIONS

The Commission made the following recommendations:

PD 3365 Certification of Pain Control Centers
PD 3365 would require a pain control center to be certified by the Division of Mental Health and Addiction.

Senator Grooms announced that he would not ask for a Commission recommendation on the PD since it requires additional work.

There was no Commission action on this PD.

PD 3250 Income Tax Credit for Specialty Drugs
PD 3250 provides a refundable individual income tax credit to the extent that a taxpayer's copayment or coinsurance for certain defined specialty drugs exceeds 8% of the taxpayer's adjusted gross income for the year.

A motion was made and seconded to approve PD 3250. The motion was adopted by a 14-0 roll call vote.

Feasibility Study for a Teaching Hospital and Trauma Center in Gary
A motion was made and seconded to support the concept of a feasibility study for a teaching hospital and trauma center in Gary and to recommend the State Budget Agency release $3 M appropriated in a previous budget or the amount necessary to perform the feasibility study. The motion was adopted by a 14-0 roll call vote.

Approval of Final Report
A motion was made and seconded to approve the draft of the Final Report with the inclusion of the October 23, 2012, meeting testimony and the Commission's actions taken. The motion was approved by a 14-0 roll call vote.

W I T N E S S L I S T

Rick Archer, EMS, IN Department of Homeland Security
Patrick Bankston, Ph.D., IU School of Medicine -NW
Parri Black, Youth First, Inc.
Keith Beesley, IN State Personnel Department
Steve Buyer, Reynolds American
Brian Carnes, IN State Department of Health
Becky Carter, IN Hospice and Palliative Care Organization
Pat Casanova, Office of Medicaid Policy and Planning
Jean Castor, American Academy of Pediatrics
Dan Christensen, Franklin Commons Neighborhood Assn.
Rob Damler, Principal and Consulting Actuary, Milliman
Matt Dattilo, Franklin Commons Neighborhood Assn.
Joan Duwve, M.D., IN State Department of Health
Mayor Karen Freeman-Wilson, Gary
Tony Gillespie, Indiana Minority Health Coalition
Shara Haq, Franklin Commons Neighborhood Assn.
Logan Harrison, IN Department of Insurance
June Holt, Generations Project
Dick Huber, M.D.
Dennis Julius, Jeffersonville Council Member
Kristin LaEace, IN Association of Area Agencies on Aging
Gregory Larkin, M.D., State Health Commissioner
Art Logsdon, IN State Department of Health
Michael McGee, M.D., MPH, Methodist Hospitals
Bob Massie, Marketing Informatics and Indiana Minority Epidemiology Center
Tony Murray, State Fire Marshal and IN Fire Service
Lesa Paddock, Family Voices
Rachel Pollock, Student
Leslie Ray, Indiana Pharmacist Alliance
Michelle Rice, National Hemophilia Foundation
Natalie Robinson, Office of the Attorney General
Amanda G. Rychtanek, Student
Mike Rinebold, Indiana State Medical Association
Brad Rodu, D.D.S., University of Louisville
Jackie Rowles, Indiana Association of Nurse Anesthetists
Lars E. Rutqvist, M.D., Ph.D., Swedish Match
Nathan Samuel, Jeffersonville Council Member
Christopher Schrader, Indiana Chamber of Commerce
Adrienne Shields, Division Family Resources
Mike Smith, Jeffersonville Council Member
Derek Spence, Franklin Commons Neighborhood Assn.
Miranda Spitznagle, IN State Department of Health
Rep. Steve Stemler
Lee Turpin, EMS Commission
Seema Verma, Indiana State Health Care Reform Lead
Michael Whitworth, M.D., Indiana Pain Society
William Wooten, M.D., Youth First, Inc.