

**MINUTES OF THE
PRIVATELY OWNED HEALTH CARE ORGANIZATION TASK FORCE**
Thursday, May 11, 2006 – 9:00 a.m. – Room W135 House Building

Members Present:

Sen. Michael G. Waddoups, Senate Chair
Rep. David Clark, House Chair
Sen. Gene Davis
Sen. Peter C. Knudson
Sen. Mark B. Madsen
Sen. Ed Mayne
Rep. Jackie Biskupski
Rep. Stephen D. Clark
Speaker Greg J. Curtis
Rep. Brad L. Dee
Rep. James A. Dunnigan
Rep. Patricia W. Jones
Rep. Bradley G. Last
Rep. Rebecca D. Lockhart

Members Absent:

Sen. John W. "Bill" Hickman

Staff Present:

Constance C. Steffen, Policy Analyst
Catherine J. Dupont, Associate General Counsel
Joy L. Miller, Legislative Secretary

Note: A list of others present, a copy of related materials, and an audio recording of the meeting can be found at www.le.utah.gov.

1. Task Force Business

Chair Waddoups called the meeting to order at 9:15 a.m.

MOTION: Rep. Jones moved to approve the minutes of the April 13, 2006 meeting. The motion passed unanimously. Sen. Davis, Sen. Hickman, Sen. Madsen, Rep. Biskupski, and Rep. S. Clark were absent for the vote.

2. Utah Health Care Markets

Mr. David Argue, Economists Inc., gave an extensive review of his report, "Competition in Utah Health Care Markets," which was provided to the members. As requested by the Task Force, the report focuses on markets for health care financing, hospital and ambulatory surgery facility services, and physician services. It considers the structure of markets in terms of the number and size of competitors. It examines relationships between the markets, including the vertical integration of IHC (Intermountain Health Care). It also assesses the competitive impact of various practices, such as managed care contracting, provider network formation, investment in facilities and equipment, physician employment, and others.

Mr. Argue explained that in the urban areas along the Wasatch Front, consumers choose among a variety of health insurance products, some of which feature restrictive networks of providers while others, often offered by the same insurance plan, feature broad networks of providers. The payers and providers of the Wasatch Front engage in a variety of contracting and other practices as part of their competition with rivals. Consumers' behavior in Cache and Washington counties reflects the liveliness of competition among health plans to offer attractive rates and provider networks.

Mr. Argue pointed out that considerable evidence exists to support the conclusion that Utah's health care markets are performing competitively notwithstanding the size, geographic spread, vertical relationships, and contracting practices of some market participants. He recommended the Legislature refrain from intervention in Utah's health care markets. He noted that regulatory actions ostensibly intended to benefit consumers are likely to benefit particular providers or insurers to the detriment of competition and to the detriment of consumer welfare.

Rep. Dunnigan commented that ambulatory surgical centers are having a hard time entering some of the networks. Mr. Argue noted that patients like ambulatory surgical centers, and that in some cases, such as the Davis Surgical Center, a hospital and physicians have entered into a joint venture as a competitive response.

Rep. Jones asked if the current environment is such that any or all players, if they wish, can implement the same kind of efficiencies experienced by IHC. Mr. Argue indicated the environment is available for providers to be as efficient as they can be. They may not be able to match IHC and in some areas they may be able to do better than IHC.

Sen. Knudson stated that strong concerns were raised by health care providers regarding IHC methods. He asked Mr. Argue if he heard those kinds of comments while conducting his research. Mr. Argue stated that he did hear those types of comments. IHC was questioned about those incidents and in some cases IHC was limited in what it could say because of the confidentiality surrounding the circumstance. He added that IHC policies for credentialing physicians or adding them to its network do not reflect harm to competition.

Rep. S. Clark said it was represented to him that because of IHC dominance in Utah County, competition was almost nonexistent. Mr. Argue stated the market for the provision of health care services in Utah County is very competitive. There is a strong rivalry among the hospital systems and surgical centers.

Sen. Madsen questioned if the trend is to steer people into the narrower plans and whether the higher premiums for the broader plans are subsidizing the lower premiums for the narrower plans. Mr. Argue addressed what is driving competition. There are some narrow plans that are focused on a specific hospital network. The narrower, more exclusive networks have below average premiums in Utah and the broader networks have above average premiums. To the extent consumers are buying those products, that reflects those preferences. He said it is not clear whether the broader plans are subsidizing the narrower plans.

Rep. Biskupski asked if the health care delivery system in Utah is working for the consumer. Mr. Argue stated it is working; however, there are many aspects that are problematic.

Rep. Dee questioned whether, based on Mr. Argue's research, the any willing provider provision would increase health care costs in Utah. Mr. Argue indicated that it would increase costs. He stated the any willing provider regulations tend to undermine the effective forces in managed care to control costs. The control of costs comes at a cost of a choice of providers.

Rep. Dee expressed concern with access to rural health care and stated the Task Force should consider the issue by clarifying the existing statute.

Rep. Lockhart asked if discounts for essential or special services that are carved out are the same for all carriers. Mr. Argue indicated that he did not have the answer to that question but he would research it and provide the information.

Rep. Lockhart asked about market power. Mr. Argue said one of the difficulties in health care is trying to see whether market power is being exercised. The ideal would be to compare prices with some benchmark. It is difficult to figure out the prices in health care because of the nature of the product. The fall back position is to look at the structure of the market. There may be parts of Utah where there is only one power generator which is called a natural monopoly.

Rep. D. Clark asked Mr. Argue if he had any recommendations whether the state should develop some type of price listing or quality acuity basis program. Mr. Argue said there may be advantages from the consumer standpoint of knowing which providers are problems and which are not in terms of quality. Ultimately the price component is up to the payer. If a payer elects to, it can institute pay for performance.

Sen. Mayne pointed out that although Mr. Argue asserts Utah health care markets are serving the interests of the consumers, there is still a large percentage of uninsured and underinsured in the state.

Sen. Davis asked if the state should be improving data collected by the Department of Health on outcomes. Mr. Argue indicated the data in question may have enough information to be assembled in a way to provide consumers with quality measurements on hospitals or physicians. Sen. Davis suggested that the Task Force may want to discuss the issue in the future.

Chair Waddoups asked what the definition of monopoly would be in the insurance market. Mr. Argue stated a monopolist is a single provider that has all of the sales in a relevant product. Utah is not at that stage. Market power is used to characterize situations where there may be an ability to price above competitive levels without being the only provider in the area.

3. Sen. Davis' and Sen. Waddoups' Response to News Articles

Chair Waddoups said it was reported that he and Sen. Davis had said that the Task Force was failing to accomplish its duties. He clarified that neither he nor Sen. Davis made any such statement. He stated that the Task Force has done a great deal in gathering important information.

4. Other Items / Adjourn

MOTION: Rep. S. Clark moved to adjourn the meeting. The motion passed unanimously.

Chair Waddoups adjourned the meeting at 12:55 p.m.