Healthcare Stabilization Fund Feasibility Board
Friday, March 16, 2007

Meeting Minutes : Approved at the June 15, 2007 meeting by the Board

Call to Order: The meeting was called to order at 12:40pm.

Board Members in Attendance: Senator William Stouffer, Representative Curt Dougherty, Representative Robert Schaaf, Dr. Lancer Gates, Dr. Steven Reintjes, Dr. John Stanley

Others in Attendance: Dianna Pell, Brent Kabler, Unni Mundaya, Susan Schulte, James Morris, Jackie Kuschel, Linda Bohrer, Rachel Crowe, Mary Matalone

Materials: Handouts included a binder titled "Health Care Stabilization Fund Feasibility Board", Powerpoint slides titled "Market Surveillance", a DIFP notice to all Med Mal insurers dated March 5, 2007, and a document outlining the statutory responsibilities of the board.

Introduction of Board members and staff: Each board member and DIFP staff introduced themselves.

Statutory Obligations: Linda Bohrer distributed a handout titled "Statutory Responsibilities of the Health Care Stabilization Fund Feasibility Board" and reviewed it. She also explained DIFP's role to assist the board. DIFP's role includes providing information and data to the group as requested and available, securing the assistance of outside people, and setting up and staffing the meetings. Linda also reviewed the contents of the binder.

Recap of HCSF Interim Committee Work: Sen. Stouffer reviewed the activities and results of research done by the interim committee that operated in 2005. The committee investigated the status of doctors in Missouri. Senator Stouffer reported the interim committee felt that in the western part of MO, doctors are usually independent and pay for their own malpractice insurance, while in the southwest part of the state many doctors work for hospitals and are covered under the hospital's policy. The committee found that in the eastern part of the state about 40% of doctors work for hospitals, and interestingly that because of Illinois tort laws many doctors have chosen to move their practice from Illinois into eastern MO.

The interim committee investigated the Health Care Stabilization Fund in Kansas. Kansas requires participation in the fund to avoid adverse selection; basically, participation in the fund is mandatory in order to spread risk. One idea that came out of the meeting is possibly drawing an artificial line in the state to create a regional program for the doctors feeling pressure to move to Kansas.

Rep. Schaaf pointed out that when the committee visited Kansas, they could not obtain information proving that the fund actually lowered medical malpractice insurance rates. Therefore, data collection is very important as this program develops.

Sen. Stouffer said the purpose of this board is to see if there's sufficient interest on the part of providers to do something to lower medical malpractice insurance rates. A first step is to have meetings with providers to explain the concepts and see if there is interest.

Dr. Reintjes agreed that the Kansas HCSF is a powerful force in drawing providers over the Kansas state line, but he wanted to know if the real reason providers are attracted to Kansas is the fund or the state's tort laws. He commented that if the program started with a specific region and was shown to be successful, it might be attractive to the rest of the state. Dr. Reintjes also wanted to know if rates vary by specialists within Missouri, and if so how do they vary and why? He said the point of this program is to provide a positive environment to attract physicians to Missouri.

Rep. Dougherty said that rates may vary across the state due to a local residents' propensity to sue doctors for medical malpractice. He said the state's tort laws should be written to mirror those of Kansas, which have tight limits on pain and suffering awards.

Rep. Schaaf suggested that a stabilization fund would have to require a certain dollar amount of coverage. This would essentially be a government-run monopoly that would sell about 40% of the med. mal. premium. An important question is whether government will do a better job operating this than the private sector?

Sen. Stouffer said the board really needs a study of the market. The goal should not at this point be to create a fund – the board needs to understand the market first.

There was discussion regarding the implementation of HB 1837 and the new data calls that will be required. Rep. Schaaf is concerned that at this time, we do not have the data to determine whether creating a fund will lower insurance rates. He said that his company would be willing to provide data early (ahead of the 2009 due date); and that maybe the board can ask other companies to provide information early as well. Also, Rep. Schaaf stated that the board needs expert opinions, and in addition, perhaps the board could set up a pilot program with obstetricians and/or neurosurgeons in a specific region to do a project on a small scale. Rep. Schaaf reviewed some of the differences in tort law in Kansas and Missouri. He pointed out that it is important to keep in mind that premium charged must equal the cost expended; if this isn't accomplished, any savings will come from profit and expenses. In order to lower premium, costs must be lowered. Overhead and profit can only be cut into so much – the real opportunity to lower costs is to limit lawsuits.

Dr. Reintjes described the environment in Kansas in the 1970's when the fund was created. The medical malpractice environment was very negative, and led to a shortage of doctors in western Kansas because they could not get insurance. The Kansas legislature responded with a three-prong approach: 1) create the stabilization fund (my

notes don't say that the fund was created to lower rates, rather, the fund was created to allow high risk doctors to buy insurance, all doctors had to participate and tuition reimbursement program) to lower rates; 2) guarantee insurance for all high risk medical occupations through the fund; 3) create a program that pays for medical school if a student commits to practicing in an underserved area for a certain amount of time. Tort reform came later.

The Kansas stabilization fund has a surcharge if a doctor lives in Kansas but practices in Missouri. Susie Schulte said she believes the surcharge is not risk-based; it was a number that seemed fare at the time and hasn't changed; basically it's an incentive for Kansas doctors to practice in Kansas rather than Missouri.

HB 1837 Implementation & the Missouri Market: Brent Kabler went through the Powerpoint presentation titled "Market Surveillance" (slides distributed at beginning of meeting). Dr. Gates commented that the data to be collected will also help companies notice the need for a rate increase before the situation gets out of control.

Linda Bohrer said that Missouri has had one new company enter the market since the passage of HB 1837. Susie Schulte said there are not indications that she's aware that companies are leaving the state due to HB 1837. Linda Bohrer said the medical malpractice insurance market has a natural cycle that has been demonstrated over a number of decades, but hopefully data collection and better availability of information will temper the ups and downs.

Senator Stouffer stated that the market may have stabilized somewhat with HB 1837, but that time will tell.

Dr. Gates pointed out that during the last hard cycle, the Chapter 383 association plans came in. (383s have been around for a while and usually form when the market hardens. During the last really hard market, most of the 383s that formed changed over to 379s, unless they went broke.)

Linda Bohrer distributed a letter dated 3/5/07 that is being sent by DIFP to medical malpractice insurance carriers. The letter explains HB 1837 and the rate reviews that will be carried out as a result of it. As a part of these reviews, deviations that are more than 15% from the base rate will need to be actuarially supported. DIFP's actuary suggested the 15% cushion to allow for smaller discounts (such as a discount for training) that logic would say would result in less risk, but which may not have actuarial support behind them. DIFP's actuary has already started reviewing current filed rates for adequacy. The 15% requirement will likely be in place this summer, although it is in a proposed rule that will have a hearing.

Dr. Gates said that this will have a dramatic impact on the industry because the 383s vary so much from other companies. Dr. Schaaf added that 383s do not need as much regulation because they are owned by the doctors covered by them. He explained assessments and how they relate to solvency of a 383. He also mentioned that he felt the

15% number was somewhat arbitrary and he didn't feel that was what was intended by the legislature when they passed this law. Linda Bohrer explained that assessment provisions are taken into account in solvency review. Brent Kabler added that the review is based on sound actuarial principles, which take into account the unique situation of every organization reviewed.

Election of Board Chairman: Dr. Schaaf made a motion to nominate Sen. Stouffer as the Board Chairman. Dr. Reintjes seconded the motion. Dr. Schaaf then moved that nominations cease, and Dr. Reintjes seconded the motion. A voice vote was taken with all in favor of electing Sen. Stouffer as the Board Chairman.

Establish Goals/Objectives for Board: Chairman Stouffer suggested that the department see if some voluntary data could be collected so that the board can make some decisions sooner rather than wait until 2009 for the data to become available. Linda Bohrer said she would ask the DIFP actuary, David Cox, for suggestions on how that could be done. Dr. Schaaf suggested that it would be helpful if the information included a breakdown of insureds by specialty and territory, with the total premium for each. Susie Schulte pointed out that comparing the information could prove difficult because the companies do not all use the same specialty codes and territory boundaries.

Linda Bohrer suggested that at the next meeting, David Cox could come and help the board develop a plan for voluntary information gathering.

Chairman Stouffer said he was interested in a snapshot of the healthcare market – how many providers are independent? how many are employed by hospitals? is there a regional pattern? Linda Bohrer said she would ask the Board of Healing Arts within the division of Professional Registration and the Department of Health and Senior Services for any information they can provide. Dr. Reintjes and Rep. Schaaf both mentioned a license renewal request that is required to be completed by them every three years that asks for basic demographic data from the provider such as how many hours are provided in a hospital setting versus an office setting, how many hours are spent teaching, how many are pro bono, etc. This information might be helpful in analyzing the healthcare market.

Linda Bohrer read a list of discussion topics suggested by David Cox. Chairman Stouffer said he would like to have everyone think about their expectations for the board. He also asked the doctors if two hour meetings were workable for them, which they said yes. Meetings will be held from 12:30-2:30pm.

Dr. Schaaf suggested that companies may be more likely to provide information if they instantly recognize that it is the Health Care Stabilization Fund Feasibility Board that is requesting it. Therefore, it may be helpful to design letterhead for the board.

Linda Bohrer will email the board a list of potential meeting dates in June for the next meeting of the board.

Adjournment: The meeting was adjourned.