

LEGISLATIVE AUDIT ADVISORY COUNCIL
Minutes of Meeting
July 20, 2017
Senate Committee Room A-B
State Capitol Building

The items listed on the Agenda are incorporated and considered to be part of the minutes herein.

Senator Mike Walsworth called the meeting to order at 1:15 p.m. Ms. Liz Martin called the roll confirming quorum was present.

Members Present: Senator Mike Walsworth, Chairman
Senator W. Jay Luneau
Senator Rick Ward, proxy for Senator Danny Martiny
Representative Julie Stokes, Vice Chairman
Representative Blake Miguez
Representative Kenny Havard, proxy for Representative Clay Schexnayder

Members Absent: Senator Wesley Bishop
Senator John Smith
Representative Jimmy Harris
Representative Marcus Hunter

Also Present: Daryl G. Purpera, Louisiana Legislative Auditor (LLA)

Approval of Minutes

Vice Chairman Stokes made a motion to approve the minutes for the March 21, 2017, meeting and with no objection, the motion was approved.

Extension Requests

Mr. Bradley Cryer, Director of Local Government Audit Services, presented four lists of entities requesting more time to complete and submit their financial audits to the LLA. He explained that all emergency extension requests were related to the August 2016 flood.

Senator Luneau made a motion to approve the 11 entities on the Emergency Extension Requests 90 Days or Less list, and with no objection, the motion was approved. Senator Luneau also made a motion to approve the two entities requesting an Emergency Extension Request Greater than 90 Days, and with no objection, the motion was approved.

Mr. Cryer briefly explained the reasons that caused 20 agencies to make Nonemergency Extension Requests for 90 Days or Less. Senator Walsworth asked for an explanation of how accounting firms can be removed from the approved list of CPAs and how they can be approved again. Mr. Cryer explained the two ways that CPAs can be removed from the approved list. One way is failure of their professional peer review requiring being reinstated through the State Board of CPAs and Louisiana Society of Certified Public Accountants. LLA will look at the conditions that caused the failure of the peer review and determine whether to allow the CPA to continue working with certain conditions such as another CPA firm

reviewing the work before submission to the LLA and/or limiting the number of engagements. Another way that a CPA firm can be unapproved is if issues with the quality of work are found during the report review process. At that time LLA will do a more detailed workpaper review of one or more audits and determine if suspension or other corrective actions are required. If the CPA decides to not follow LLA's corrective action, they will be removed from the approved CPA list. Mr. Cryer shared several recent situations where CPAs were removed and the resulting effects of audits being submitted late by the agencies after having to engage with another CPA.

Senator Ward made a motion to approve the seven entities on the Nonemergency Extension Requests 90 Days or Less list, and with no objection, the motion was approved. Senator Walsworth pointed out the Housing Authority of Shreveport had three reports not submitted timely in the previous five years, and asked Mr. Purpera to encourage that agency to do better.

Mr. Cryer explained further details of the issues surrounding the four entities on the Nonemergency Extension Requests Greater than 90 Days. Greater Ouachita Water Company's audit could not be completed because the CPA is waiting for a contractor audit report that had to be completed for the Public Service Commission. Representative Miguez made a motion to approve the five entities on the Nonemergency Extension Requests Greater than 90 Days list, and with no objection, the motion was approved.

Louisiana Department of Wildlife & Fisheries (LDWF) – Office of Fisheries – Investigative Audit Issued June 7, 2017

Mr. Purpera explained this second report on LDWF dealt with more of the fraud issues. Amy Dees, Senior Investigative Auditor, presented an overview of the findings including missing state equipment and improper relationships with vendors. The former LDWF marine operators Eric Newman and Monique Savoy Newman were invited to the meeting but did not respond or attend.

LDWF Secretary Jack Montoucet testified that he hired two more auditors and his staff is improving their policies. The issue was that any inventory valued under \$1,000 was not tagged, so LDWF is looking at how to track lower-valued items. Senator Walsworth recommended some kind of tagging of items worth under \$1,000 to designate owned by LDWF. Secretary Montoucet said his auditors are now continuously monitoring all P-card transactions to ensure policies are being followed. He explained that after the BP Oil Spill, LDWF was moving so fast and controls were loosened because it was not normal circumstances. Senator Luneau expressed appreciation that Secretary Montoucet was correcting policies and tightening controls. He suggested coordination with LLA because that would not be the last disaster in Louisiana.

Medicaid Audit Unit Reports:

Mr. Purpera explained that approximately one year ago his office developed a data analytics unit for reviewing Medicaid data. LLA works very closely with the Louisiana Department of Health (LDH) and has a very good working relationship. The goal is to fix the problems and processes to save Louisiana money. LLA's audit approach is still cutting edge and 10 other state auditors are following along and building similar processes in their states, and he hopes to expand even farther.

- a) Progress Report: Prevention, Detection, and Recovery of Improper Medicaid Payments in Home and Community-Based Services Programs – Louisiana Department of Health - Issued July 12, 2017*
- b) Duplicate Payments for Medicaid Recipients with Multiple Identification Numbers – Louisiana Department of Health – Issued March 29, 2017*
- c) Program Rule Violations in the Medicaid Dental Program – Louisiana Department of Health – Issued March 22, 2017*

Ms. Karen LeBlanc, Director of Performance Audit Services, used a PowerPoint presentation to highlight the findings of these audits and LLA's recommendations for improvement.

Mr. Jeff Reynolds, LDH Undersecretary, expressed appreciation for LLA's help to manage the very immense program that needs all the help they can get. He sees it as a collaborative effort to improve the Medicaid program. Mr. Reynolds answered Senator Walsworth's question about recoupment, explaining that LDH must determine if questioned costs are the fault of the provider or department before requesting any recoupment.

Representative Stokes asked if the findings were based on samplings. Ms. LeBlanc explained that the data analytics is performed on all Medicaid claims within a certain time period on the whole population.

Mr. Reynolds asserted that it is the responsibility of LDH management to follow up and resolve the findings. After being with LDH for 27 years, he has never seen zero findings on an audit but will continue to strive for that goal. He said that data analytics is a new process for LDH and piggybacking on LLA's work, so they are also hiring staff to do data analytics in-house.

Ms. Tara LeBlanc, Assistant Secretary for Office of Aging Adult Services, said that LLA recommended in 2011 that LDH's contractor Statistical Resources Incorporated (SRI) perform a validation of social security numbers (SSNs). LDH came to the conclusion with the help of LLA that SRI is not catching everything. The providers are manually entering the SSNs which causes some issues so they are looking at alternatives for verifications. Ms. Tara LeBlanc said that LLA pointed out some good recommendations. Mr. Reynolds explained that Home and Community Based Service Providers (HCBS) have a contract with LDH for Medicaid services. HCBS handles hiring the direct care workers. These services are outside of managed care right now.

Senator Walsworth asked for the repercussions if a local provider hires someone on the banned list. Mr. Steve Russo, LDH Executive Counsel, explained the federal law requirements and contract penalties or fines. LDH also reports these issues to the Attorney General, District Attorney in the local jurisdiction, and LLA.

Senator Luneau asked if there could be any way to know whether the SSNs were wrong by mistake or intentional. Ms. Karen LeBlanc said they could go back to the detailed data to determine if a pattern of certain providers employing persons without valid SSNs. Senator Luneau asked if LDH has a vendor to look for these issues. Ms. LeBlanc responded yes, LDH contracts with SRI who collects this information and does the match against the banned provider list for excluded providers. Senator Luneau commented

that the vendor should be catching the SSNs every time. Ms. LeBlanc explained that SRI only gets information reported by the provider. Some providers do not require a social security card when they hire a direct care worker and instead take their word. She further explained the exclusions list contains people who are excluded from Medicaid work for a certain amount of time because of some type of Medicaid fraud. That is why valid SSNs is important on the exclusion list because the contractor is checking on behalf of LDH to make sure they are not employing any excluded providers. The exclusions list is temporary, but the lifetime list is a registry of individuals who have committed abuse and very serious. Ms. LeBlanc explained that no one was checking the lifetime exclusions list. The providers are supposed to check the lifetime exclusions list when they hire a direct care worker, and every six months thereafter. Health standards are supposed to do inspections once every three years. But no one was doing the data matching with the lifetime list.

Senator Luneau expressed concerned that vendors are not catching this with computer systems available today. Mr. Reynolds explained that the systems were very segmented and not communicating between each other. LDH started in 2011 trying to integrate the systems but it has not been a smooth process. Senator Walsworth asked how the vendor who is contracted to check SSNs cannot do better and asked if they need to hire a better contractor because hard to believe missed that many unmatched SSNs.

Mr. Reynolds responded it is ultimately LDH's responsibility to hold the vendor's feet to the fire. This report showed that only one list was being checked. LDH's processes for hospitals and nursing homes do not apply to HCBS because they are a different type of provider and so disbursed, so LDH will have to follow up on them. Senator Walsworth recommended more accountability in the contracts.

Representative Stokes asked what percentage of the total number of workers comprise the 1,450 workers whose SSNs matched a driver's license with a different name. Ms. LeBlanc responded there are about 40,000 direct care workers, so it is a small percentage. Representative Stokes asked why proper documentation is not required to employ the workers.

Ms. Michelle Alletto, LDH Deputy Secretary, explained that they have different requirements for other providers. HCBS providers have very low reimbursement rates and work to not add unfunded mandates, so part of the issue is to not add administrative burden, but LDH does need to confirm paying for services rendered and people are legally able to work. She believes that the providers need to verify that their employees have valid SSNs, and that is part of the conversation.

Ms. LeBlanc said LDH was only capturing the last four digits of the SSN prior to 2011. However, LLA recommended in 2011 that LDH capture the entire SSN. LDH followed that recommendation and now must validate those SSNs. Ms. Alletto explained that the discussion is whether LDH should have to pay additional dollars for another validation system or should the providers be responsible for that like other provider groups. HCBS providers have low rates and very little administrative overhead, so LDH is trying to partner with them to not shut down a provider.

Representative Stokes said if these are W2 employees then they should also be turning in other federal forms to check SSNs. Ms. LeBlanc said that the Social Security Administration (SSA) offers a free

verification service for providers, so they need to sign up for it. Representative Stokes recommended LDH ensure the providers have policies and procedures to validate SSNs like any other ordinary business.

Senator Walsworth asked why the contractor is not catching this problem. Ms. Alletto said SRI checks SSNs against one of the exclusion lists. Mr. Reynolds said SRI was not validating the SSNs with the SSA, so the weakness in the process was accepting the providers' information as being correct and in compliance with employment laws.

Ms. LeBlanc explained the Louisiana Services Tracking System is maintained by SRI and is basically a timekeeping system and used as the basis for billing to Medicaid. Senator Walsworth could not believe providers have not been verifying SSNs like any other business, and that this has been an issue since 2011. Ms. LeBlanc agreed the providers should be checking SSNs but also there should be some oversight mechanism either through LDH or the contractor.

Senator Ward asked how long the current contractor has been working for LDH. Mr. Reynolds said that he worked for LDH 27 years and the contractor has been around pretty much that long. Senator Ward asked if there are other options for those same services. Mr. Reynolds responded that it is very limited in scope and not as available. When LDH tried to put in the Electronic Verification System (EVS) they brought in a national company who failed miserably and had to ask SRI to do that job. That was after doing a national Request for Proposals (RFP), so it was not as easy as it sounds.

Ms. Alletto explained that LDR asked SRI to validate the SSNs that the providers give them and compare it against the list of providers who are on record for fraud, waste, or abuse – their biggest concern. SRI has done an excellent job of checking that. But what SRI has not been asked to do and what LDH would have to pay them more money to do is to make sure that the SSNs written down are the correct ones, which is really the providers' responsibility. Senator Ward asked who benefits more from improper SSNs. Ms. Alletto responded that LDH pays the providers. Senator Ward commented that if a provider wanted to make more money they could make up some SSNs to show payments to people who do not really exist. Ms. Alletto said LDH started looking into registering as a state with the SSA and to double check the 40,000 SSNs but she stopped that conversation because the providers should be checking the SSNs against that database before giving the numbers to SRI or LDH. She said that providers can more easily register with SSA than the state. LDH is looking at how to audit and do a sampling to check SSNs.

Senator Ward said the legislators just had a special session because the revenue forecasting committee was off by 1% of \$28B. But the same company has been in place at LDH for over 20 years and consistently off by 12-15%. Ms. Alletto said that is because the providers are probably giving SRI the wrong SSNs. Senator Ward asked why not fire SRI and keep the money. Ms. Alletto said LDH is asking how to keep the providers accountable for giving LDH the correct information. The first path could be LDH's Program Integrity team determining if not a valid service was performed by a valid provider. They can also determine if some fine or penalty can be charged. However, these are small businesses providing health care and do not want to just add to their plate. Senator Ward commented that providing the proper SSN is not too large of a burden. Ms. Alletto agreed.

Senator Walsworth asked who caught the one worker that provided services from December 2014-2016 and found out it was the wrong person. Ms. LeBlanc responded that SRI caught it but the provider was supposed to also be checking during the time. SRI is only an additional check behind the providers to match the workers against the exclusion list. Senator Walsworth asked how hard to verify SSNs, and said he does not believe SRI is doing a good job.

Representative Stokes stated that the ultimate responsibility belongs to the care company who is employing these people to collect the federal documents and verify the SSN, which is a matter of public safety. Every business has to verify correct SSNs so employees and employers pay taxes correctly. Senator Walsworth questioned who paid the \$484K recoupment mentioned in the report, and Ms. LeBlanc answered it was paid by a provider.

Senator Luneau asked if SRI validate SSNs. Ms. Alletto explained that LDH has not yet asked SRI to do that because the provider is supposed to. Senator Luneau asked if SRI is only comparing the SSNs of people employed against the list of people who are banned. Ms. Alletto said that is correct. Senator Luneau asked why that is not being done internally, and what good is that doing if wrong SSNs are being given. Logically, the first thing an outside vendor should be doing is verifying the SSN is accurate.

Ms. Reynolds explained that the original intent of SRI is to track the authorization for clients to receive so many hours of service each week, and confirm that the providers are not providing more services than the plan of care is for. That builds into the Molina system that issues the check through the weekly check writer. As additional requirements have come on, LDH has asked SRI to do more. In 2011, LLA recommended LDH have the workers be compared to the exclusion list, so that was tasked to SRI to compare the SSNs against the banned list. This recommendation now is to task SRI to validate SSNs against the SSA.

Senator Luneau asked how many employees need to have their SSNs verified. Mr. Reynolds responded about 40,000. Mr. Russo explained those are the direct care workers and the reason that LDH cannot verify in-house is because LDH has a contract with the actual provider. The providers must compare all their employees to the exclusion list because they are required to do it and will pay heavy penalties if they do not. For example, Steve Buco at SRI knows through his system who the direct service workers are so he can compare those SSNs to the exclusion list and LDH does not do it internally. Mr. Russo offered for the committee to draft up a matrix as to who checks what list so everyone can be on the same list because it can be confusing. There is a Louisiana exclusion list as well as a direct service registry list.

Senator Luneau could not believe it was so complicated with the state's resources to compare the SSNs to the exclusions lists. Mr. Russo said he agreed 100%. Senator Luneau said he also could not understand how 14-15% of the workers are getting through with invalid SSNs. He asked LDH to simplify the process. He mentioned a previous discussion about paying providers who are not licensed.

Senator Walsworth recommended LDH demand correct SSNs and not pay any provider that gives incorrect SSNs. In today's world and with modern technology this should all be handled quicker and correctly.

Angola Prison Rodeo Update

Mr. Purpera stated that the LAAC members requested a closer review of Angola Prison Rodeo revenues and expenses for 10 years, and went as far back as they could. No formal written report would be issued but sharing the results of their review with LAAC. Mr. Kevin Kelley, Investigative Audit Manager, used a PowerPoint presentation to summarize their analysis of the Angola Rodeo Account. He explained that the funds generated by the Angola Rodeo were not deposited into the state treasury as required by law, nor included in the Department of Corrections (DOC) budget. Those funds should have been subject to legislative appropriation and oversight, as well as audited like other state funds. Several council members raised concerns about the rodeo funds and asked LLA to review the available records from the past 10 years.

Mr. Kelley pointed out the available records from 2007 to December 2016, and the resulting accounting of rodeo account revenue and expenses. The auditors reviewed ticket sales, including hobby sales, to determine if all funds were deposited into The Highlands Bank rodeo banking account. They physically observed operations and accessed controls regarding the collection and custody of cash for one day during the April 2017 rodeo. The rodeo account was maintained by Angola business office employees who prepared checks, made deposits, recorded transactions in QuickBooks, and performed monthly bank account reconciliations. All checks require the signature of two of the four individuals holding these positions: assistant warden over the business office, administrative director, accounting manager or accountant. All the rodeo account expenses examined were made using Angola purchase orders and were subject to the same review and approval process as other state funds. Angola provided numerous boxes of invoices and receipts from July 2012 to December 2016 for the auditors to review. In 2003 the Angola Prison Rodeo Committee created a charter to fund the Angola Rodeo's goals and objectives. The charter was updated in June 2016 to detail what the proceeds of the rodeo events would be used for including: the ordinary and necessary expenses for the rodeo events; programs and events for the inmate population approved by the committee; re-entry court program; development, repairs, and maintenance to rodeo arena facilities, parking, roads, chapels, Bible College, Chapel Libraries, re-entry buildings, and equipment; programs and events for the morale of employees and inmates approved by the committee; and other programs, events, and worthy causes approved by the committee.

Mr. Kelley detailed the breakdown of rodeo revenues and expenses, explaining that hobby craft sales are deposited into the inmates' individual accounts after deducting the state and local sales taxes, credit card processing fees, and 11% payable to Angola for running the hobby craft sale. For 2007-2016, the total rodeo revenues were \$26,351,091, and total rodeo expenses were \$24,316,723. The account balance at The Highlands Bank as of December 30, 2016, was \$1,224,833. The difference of approximately \$800K is due to funds used to purchase long-term assets such as buildings and equipment that do not count as expenses on the profit and loss statement. The auditors noted that bank reconciliations were accurate and complete, and all checks and deposits were recorded in the accounting records. However, some revenues and expenses were misclassified such as taxes being shown as revenue and expenses, which showed the overstatement of both. They found some credit card machines not closed properly at the end of the April rodeo and some errors by rodeo tellers.

Senator Walsworth commented that this report is much better than expected. He asked if they compared one day revenues to what the history showed to determine if the amounts looked legitimate. Mr. Kelley responded that based on what they saw for revenues in April, that the historical records looked in line.

Representative Stokes asked if detected any indication of theft or misappropriation. Mr. Kelley said he personally went through all the cancelled checks for 10 years to make sure the vendors matched QuickBooks and did not catch anything of concern. Representative Stokes commended the audit by LLA and was pleased that the rodeo funds are being used for good causes. Senator Luneau added his appreciation to LLA, DOC, and hopes the rodeo continues to work properly and benefit the inmates.

Fiscal Administration Update

Mr. Purpera provided an update on the two entities still under fiscal administration. The Madison Parish Hospital Service District had settled their debt with the federal government for \$1.8M. The fiscal administrator and new Chief Executive Officer have turned the hospital around and were modernizing the hospital. He believes the Fiscal Review Committee needs to meet at some time to discuss whether the fiscal administrator could be relieved.

The Town of St. Joseph (Town) had many financial and water issues. The fiscal administrator David Greer has been working very hard to get the Town to financial stability and to have all the water system completed and working by November which is far ahead of schedule. The Town still owes the Office of Community Development, Louisiana Workforce Commission, IRS, as well as still owes for the previous year's audit. Mr. Greer has not been able to pay himself for his services because of limited funds. The Town owns some property outside of Town limits that is not being used and declared as surplus. Mr. Greer is trying to sell it and use those funds to pay off debts.

Other Business

Ms. Jenifer Schaye, LLA General Counsel, said that the Office of Risk Management (ORM) is representing the LLA in the lawsuit regarding the Health Education Authority of Louisiana (HEAL) audit where the executive director sued Mr. Purpera for defamation. ORM filed an exception for no cause of action based on legislative immunity and based on the speech and debate clause. Judge Caldwell found that the auditor was in fact immune from that lawsuit and threw the matter out. But the plaintiff has 21 days after the judgment is signed to amend the petition and/or appeal to the First Circuit Court.

Ms. Schaye said the second lawsuit was by the prior secretary of the Department of Veterans Affairs who sued Mr. Purpera also for defamation. The same legislative immunity applies to that case. Mr. Purpera commented that the reports issued by his office being questioned in the lawsuits were completely accurate.

Ms. Schaye said the third lawsuit is where LLA believed that Ascension Parish did not give the proper notices for a roll forward of millages. LLA was not against the parish getting the extra money, but could not legally waive those notices, so LLA's tax review officer could not certify it, and the parish thought it was wrong. Ascension Parish sought declaratory judgement in the First Circuit who agreed with LLA. The parish has since rolled forward in the current year in accordance with the statute.

Senator Walsworth asked for an update on the possible prosecution of the two LDWF employees. Mr. Purpera said that the transactions and jurisdiction could be in three different places, so the report was forwarded to all three appropriate district attorneys. Ms. Schaye said that LLA has an excellent relationship with the Board of Ethics which is involved in all such matters.

Senator Walsworth commented that he was very glad to hear a good report on the Angola Rodeo funds and that the DOC and Highland Bank had records so far back that could be audited.

Adjournment

Vice Chairman Stokes offered the motion to adjourn and with no objection, the meeting adjourned at 3:20 p.m.

Approved by LAAC on: November 16, 2017

The video recording of this meeting is available in Senate Broadcast Archives:
http://senate.la.gov/video/videoarchive.asp?v=senate/2017/07/07202017LEGAUDITADVISORY_0