

SUMMARY MEETING MINUTES

October 13 – 14, 2010

The Negotiated Rulemaking Committee (hereafter the “Committee”) was convened for its second meeting at 9:36 A.M. on October 13, 2010 at the Legacy Hotel, Rockville, Maryland. The meeting was facilitated by Lynn Sylvester and Dan LeClair of the Federal Mediation and Conciliation Service.

Committee members present:

Marc Babitz
Andrea Brassard
Roy Brooks
Jose Camacho
Kathleen Clannon
Beth Giesting
David Goodman
Daniel Hawkins
Sherry Hirota
Steve Holloway
Barbara Kornblau
Tess Kuenning
Alice Larson
Tim McBride*
Lolita McDavid
Alan Morgan
Ron Nelson
Charles Owens*
Robert Phillips
Alice Rarig
Patrick Rock
Edward Salsberg
William Scanlon
Sally Smith
John Supplitt**
Don Taylor
Elisabeth Wilson

* Participation via teleconference

** Represented by a designated alternate for all or parts of the meeting

GENERAL ADMINISTRATIVE MATTERS

Ms. Sylvester reminded every Committee member to sign in each day. In addition, there was a reminder for members of the public to sign in and identify any request to address the Committee.

APPROVAL OF SUMMARY MINUTES

Prior to this meeting, the Committee reviewed the draft minutes from September's meeting. Ms. Giesting noted the incorrect spelling of her last name. The Committee added the following sentence in the "Review and Adoption of Committee Ground Rules" section: "The Committee agreed to come to the October meeting with a list of organizations they formally represent." The Committee added the following phrase to the last sentence of the third paragraph in the same section: "and there is insufficient time to address those issues."

The September meeting minutes were approved as revised.

FINALIZE AND SIGN GROUND RULES

The Committee reviewed the ground rules as revised from the previous meeting. There was an outstanding issue to be discussed regarding member representation. The suggestion was made for Committee members to sign first as individuals, then, if applicable, list the organization(s) they represent. By listing an organization, the Committee member would bind the organization as well as themselves to support the consensus of the Committee by not submitting adverse public comments. Mr. Salsberg confirmed that only the organizations listed would be so bound, as opposed to both the organizations and their component members. However, he also stated that he would hope that each organization so bound would encourage their component members to accept the consensus developed.

The Committee reached a consensus that members will sign as individuals and list any applicable organizations they represent.

Members were reminded that they represent not only the interests of themselves, their organizations, and certain interest groups, but also the interests of the underserved generally.

The Committee added under the "Participation" section, that, when both a Committee member and an alternate are present, only the Committee member has the privilege of sitting at the table and participating in the consensus process. However, as already stated in the ground rules, a designated alternate may participate in the absence of a Committee member.

There was a discussion of whether “consensus” required unanimity among the Committee. Some Committee members understood consensus to mean unanimous consent, while other members understood consensus to mean 70% consent. Ms. Sylvester clarified that the Committee agreed to define unanimous consent as where each member is at least 70% comfortable with the proposed idea and 100% committed to the proposed idea. Some Members of the Committee expressed concern about the Committee’s ability to make progress if consensus required this level of unanimity, particularly if consensus is necessary on each step before the next step is discussed. Mr. Salsberg suggested the Committee be willing to move on to the next topic when final consensus on the current topic has not quite been reached, returning later to achieve such final consensus. Ms. Sylvester explained that unanimous consent is more difficult in the abstract than it is in practice.

OVERVIEW OF COMMENTS FROM PREVIOUS RULEMAKING EFFORT

Ms. Sylvester reminded the Committee that Eric Turer, of John Snow, Incorporated (JSI), is not a formal Committee member but is available to provide technical assistance. She suggested to the Committee that if Mr. Turer wants to comment during a particular discussion, he should request from the facilitator to do so; the facilitator would then request the approval of the Committee at such time. The Committee agreed to allow Mr. Turer to request to participate during Committee meetings, with the understanding that Mr. Turer speaks as a technical expert and not as representing a particular viewpoint.

Mr. Turer then gave a presentation entitled “NPRM-2: Lessons Learned” (Attachment 1) which briefly summarized the Stated Goals of and public comments received on NPRM-2. Mr. Turer discussed comments relating to development and implementation concerns, which included those related to process/input, cost/effort/implementation and impact on existing system. He also discussed comments relating to technical concerns, which included those related to logic/validity, arbitrary/non-scientific factors, specificity and policy/judgment calls. Finally, Mr. Turer gave a quick summary of potential “takeaway” lessons from NPRM-2.

In response, Dan Hawkins of NACHC referred to a review of the public comments on NPRM-2 put together by a Geiger-Gibson group and offered to make this available to the Committee.

Mr. Salsberg noted that HRSA heard the stakeholder and other public concerns raised about the NPRM-2 method and its potential impact, and particularly about the technical complexity of the method. He indicated that with the help of this group, HRSA hoped to develop a more satisfactory and less complicated approach, yet scientifically valid.

SUMMARY OF PRELIMINARY LIST OF DATA SOURCES

As requested at the previous meeting, Mr. Turer, JSI, gave the Committee a preliminary list of twenty-eight potential data sources (Attachment 2). The list includes hyperlinks to discussions of each data set so that Committee members can become familiar with any particular data set. Mr. Turer emphasized that the list provided is not exhaustive but is a good starting point. Some Committee members recommended (previously and/or during this meeting) that State and local data sets also be used; the provided list only included national data sets. Mr. Turer explained that State and local data sets were not included in the list because they are so numerous and divergent, and their applicability and utility for national analysis is less practical, though these could be considered as alternate sources for local use in developing future designations.

It was noted that there are special populations that are not included in any national data set, thus possibly requiring the use of state and local data sets for these types of designations

Other issues were raised about accuracy and timeliness of Census, ACS, CPS and other available data sources. A committee member raised a concern about data services that do not disclose their methodology and is not available without a fee.

OVERVIEW OF FEDERAL PROGRAMS USING DESIGNATIONS

Mr. Salsberg presented the Committee with a list of Federal programs that use HPSA or MUA/P designations (Attachment 3). He briefly highlighted some of the programs but encouraged Committee members to examine the list more thoroughly.

GENERAL DISCUSSION OF UNDERSERVICE

The Committee members contributed their ideas on attributes/barriers related to primary care underservice/shortage. (Attachment 4) The Committee discussed how these barriers or underservice/shortage types are related to the statutes governing HPSA and MUA/P designations and this Rulemaking Committee. Mr. Holloway offered his version of an organizational framework for the list the Committee created (Attachment 5).

NEED/DEMAND PRESENTATION

Mr. Turer gave a presentation entitled “Methods for Estimating Population-Level Need/Demand for Primary Care Services” (Attachment 6). He explained that the foundation for the need/demand issue is figuring out how much primary care a person or given population needs. Mr. Turer briefly discussed the current designation approach to measuring demand, which is represented by the use of

the population-to-provider ratio within both the HPSA and MUA/P designation criteria, which essentially assumes that everyone in the population needs the same number of primary care visits, regardless of age, gender or other factors. Mr. Turer described the basic “Barrier Free” approach to estimating need, which would estimate the need of the community if everyone had economic and physical access to care. This concept was first used within NPRM-2 as previously published; but a number of alternate methods for defining it are possible, and the Committee needs to understand the various options and consider whether a variation of the original approach may be helpful as part of the construction of a new revised method.

Developing this approach involved a five step process: (1) defining primary care visit parameters, (2) identifying “Barrier Free” individuals in the population, (3) standardizing health status, (4) stratifying age and gender primary care utilization, and (5) applying rates to local populations. Use of the “Barrier Free” approach has several identifiable benefits, including accounting for many inter-related barriers simultaneously, producing a single metric of primary care need and directly adjusting for local variation in population demographics by age and gender.

*****Day Two*****

COMPLETION OF GROUND RULES AND CONSENSUS CLARIFICATION

The Committee members signed the final version of the ground rules (Attachment 7).

Ms. Sylvester clarified that “consensus,” as originally agreed upon by the Committee, requires 100% of the Committee to be committed to an idea. The Committee agreed to keep this definition and solve any future problems with consensus as they arise.

NEED/DEMAND DISCUSSION

The Committee engaged in a discussion of need/demand, in response to Mr. Turer’s presentation. One Committee member raised a concern that the approach discussed by Mr. Turer appeared to be the same or very similar to the approach used in the first step of NPRM-2. It was brought to the Committee’s attention that the need/demand estimate is just one element of an overall approach to be developed. While the final consensus method produced by this Committee will presumably be quite different from NPRM-2, some elements of that new method may be similar because the problem being attacked is the same. Other members thought that the raising of this issue revealed a lack of complete background on the NPRM-2 method by some or most members of the Committee, and requested a presentation from HRSA, with JSI, on details of the NPRM-2 methodology, so that the Committee’s consensus method can be

developed with full understanding of what has previously been tried and what the positives and negatives/pitfalls of previous attempts were. The Committee agreed to have this presentation via webinar prior to the next meeting, because not every Committee member is interested in hearing the presentation. Interested Committee members can submit questions, concerns and topics of interests relating to the presentation to a folder in the e-Room, so that the presentation can be tailored to the Committee's interests. The webinar will also be recorded so that those who cannot attend may listen to it at their convenience.

Various Committee members suggested that consideration of other alternate approaches to the need/demand measurement and analyses would be helpful before making any decision. Comments were made about having a process that looks at outcomes rather than demands, as well as having a local adjustment for the nationally normative number. Some members commented on health status being a very important consideration that needs to be explicitly considered.

In addition, the Committee discussed the complexity of this particular issue. The Committee agreed on the importance of simplifying their message once an approach is approved because the message ultimately needs to be understood by the public.

HPSA MUA/P DISTINCTION DISCUSSION

Mr. Salsberg facilitated the Committee's discussion on the distinction between HPSA and MUA/P designations. Mr. Salsberg utilized the following four-cell diagram:

	Geography	Special Populations
HPSA		
MUA/P		

The basic question posed to the Committee was whether the Committee thinks there should be separate designations for HPSAs (representing primary care clinician shortages) and MUA/Ps (reflecting poor health status and shortages of primary care resources). If so, what goes in each cell in the diagram? Initial discussion by the Committee was inconclusive. Some Committee members felt strongly about having two separate designations, while a few Committee members thought it unnecessary to have two separate designations. After discussion, the Committee reached a *preliminary* consensus on having two separate designations, recognizing that it is too early in discussions to make a

final decision. The Committee will revisit this decision after having delved into other substantive issues that may affect it.

CREATION OF DATA/TECHNICAL SUBCOMMITTEE

The Committee agreed that forming a Data/Technical subcommittee would utilize the expertise of certain Committee members while easing the task of the full Committee. The Committee agreed for six members to serve on the Data/Technical subcommittee: Mr. Goodman, Mr. Holloway, Dr. McBride, Dr. Phillips, Dr. Rarig and Dr. Taylor. In addition, other members (or their subject matter experts) and JSI can serve as consultants, providing input to the subcommittee. The Committee first tasked the Data/Technical subcommittee with (1) investigating alternative approaches to measuring need/demand. The subcommittee should be prepared to discuss some such approaches during the November meeting. The subcommittee's future tasks may include (2) reviewing concerns/suggestions of the Committee regarding the various optional approaches to measuring need/demand for primary care services and identifying ways to test them; and (3) reviewing proposed underservice measures, and linking them to data (national, state, regional) and desirable data elements.

FUTURE MEETING DATES

The Committee agreed to the following 2011 meeting dates:

- January 18-19
- February 16-17
- March 8-9
- April 13-14

The locations have not been confirmed but HRSA and JSI are researching suitable options.

AGENDA FOR NOVEMBER MEETING

The Data/Technical Subcommittee will report to the full Committee at the beginning of the November meeting.

In addition, the Committee agreed to discuss the following topics during the November meeting:

- (1) Health Status – as it impacts need/demand
- (2) Approaches to measuring need/demand revisited based on Subcommittee and JSI work
- (3) How should the designation methodology address the needs of sub-population
- (4) Health Outcomes
- (5) Opening presentation on measuring supply

The Committee also asked HRSA/JSI to present a tentative Roadmap at the next meeting indicating which issues would be discussed at which future meetings in order for the Committee to achieve a final consensus on a complete method.

The next meeting will be held on November 17-18 in Rockville, Maryland.

INFORMATION NEEDS FOR NOVEMBER MEETING

The Committee requested a list of special populations from HRSA, including any reading materials/articles and data sets associated with special populations. The Committee also requested a summary of special populations data available from the HRSA Geospatial Data Warehouse.

For the discussion about supply, the Committee requested from HRSA, for each provider type, limitations and quality of information, preferably listed by provider and specialty.

In addition, the Committee requested from HRSA identification of health status measures for data, specifically the quality of such information.

PARKING LOT

The Committee placed three issues in the Parking Lot during the meeting:

- (1) Creating a Committee by-product (such as a “white paper”) on issues encountered in our discussions that appear to be outside of the Committee’s charge, including various aspects of reforming the health care system
- (2) Forming a “communications” subcommittee to work on simplifying the final consensus message of the negotiated rulemaking results
- (3) Considering the formation of a sub-population subcommittee (at the November meeting)

PUBLIC COMMENT

The Committee was provided with written comments from “Jean Public” (Attachment 8) and Michael Traub (Attachment 9).

Beverly Pierce, The Institute for Integrative Health (TIIH), read a letter from the Integrated Policy Health Consortium (IPHC) (Attachment 10). Ms. Pierce explained that TIIH collaborates often with IPHC. Ms. Pierce emphasized and directed the Committee to certain provisions of the Patient Protection and Affordable Care Act.

The meeting adjourned on October 14, 2010 at 3:45 p.m.

**OCTOBER 13-14, 2010 SUMMARY MEETING MINUTES
ATTACHMENTS**

1. NPRM-2: Lessons Learned (PowerPoint)
2. Preliminary List of Potential Data Sources
3. Federal Programs Using Health Professional Shortage Area and Other Designations of Underservice
4. Barriers to Primary Care that Lead to Underservice
5. Organizational Framework of Barriers to Access
6. Methods for Estimating Population-Level Need/Demand for Primary Care Services (PowerPoint)
7. Final Negotiated Rulemaking Committee Ground Rules
8. Written Comment from "Jean Public"
9. Written Comment from Michael Traub
10. Written Comment from the Integrated Health Policy Consortium