

**MINUTES
of the
SECOND MEETING
of the
LEGISLATIVE HEALTH AND HUMAN SERVICES COMMITTEE**

**August 21, 2020
Video Conference Meeting**

The second meeting of the Legislative Health and Human Services Committee was called to order by Senator Gerald Ortiz y Pino, chair, on August 21, 2020 at 9:10 a.m. by video and audio conference via an online platform.

Present

Sen. Gerald Ortiz y Pino, Chair
Rep. Deborah A. Armstrong, Vice Chair
Rep. Joanne J. Ferrary
Sen. Bill B. O'Neill

Absent

Rep. Gail Armstrong
Sen. Gregg Fulfer
Rep. D. Wonda Johnson
Sen. Cliff R. Pirtle

Advisory Members

Rep. Phelps Anderson
Rep. Karen C. Bash
Rep. Rachel A. Black
Rep. Micaela Lara Cadena
Rep. Rebecca Dow
Rep. Miguel P. Garcia
Sen. Linda M. Lopez
Rep. Tara L. Lujan
Sen. Michael Padilla
Sen. Mary Kay Papen
Sen. Nancy Rodriguez
Rep. Patricia Roybal Caballero
Sen. Elizabeth "Liz" Stefanics
Rep. Elizabeth "Liz" Thomson
Rep. Christine Trujillo

Rep. Zachary J. Cook
Rep. Doreen Y. Gallegos
Rep. Dayan Hochman-Vigil
Sen. Gay G. Kernan
Rep. Rodolpho "Rudy" S. Martinez
Sen. Mark Moores
Rep. Andrea Romero
Rep. Gregg Schmedes
Sen. Antoinette Sedillo Lopez
Sen. William P. Soules
Sen. Bill Tallman

Staff

Andrea Lazarow, Bill Drafter, Legislative Council Service (LCS)
Nancy Martinez, Research Assistant, LCS
Lenaya Montoya, Staff Attorney, LCS

Handouts

Handouts and other written testimony are in the meeting file and posted on the legislature's website.

Friday, August 21

Welcome and Introductions (9:10 a.m.)

Senator Ortiz y Pino welcomed the committee and introduced the presentations of the day.

COVID-19 and the Regulation of Long-Term Care Services (9:14 a.m.)

Christopher Burmeister, director, Division of Health Improvement, Department of Health (DOH); Emily Floyd, director, Adult Protective Services Division, Aging and Long-Term Services Department (ALTSD); Katrina Hotrum-Lopez, secretary, ALTSD; Kathlyeen Kunkel, secretary, DOH; and Zackary Quintero, acting state long-term care ombudsman, ALTSD, made presentations to the committee on the status of the regulation of long-term care services during the COVID-19 pandemic. The presentation materials can be found here:

<https://www.nmlegis.gov/handouts/LHHS%20082120%20Item%201%2008.21%20Presentation%20ALTSD.pdf>; and

<https://www.nmlegis.gov/handouts/LHHS%20082120%20Item%201%20DHI-presentation.8.21.FINAL.pdf>.

Questions and comments from committee members addressed the following topics:

- whether the ALTSD has the authority to require facilities to take action and the source of this authority;
- whether a facility can transfer a resident to the facility's pharmacy plan;
- whether a facility is allowed to chemically restrain residents without permission from a resident's family or guardian;
- the difficulty for family members to make decisions for their loved ones in long-term care facilities because of the COVID-19 pandemic;
- community involvement in the Long-Term Care Ombudsman Program and whether there is adequate training available;
- the percentage of cases of abuse and exploitation and cases that have not been fully investigated being categorized as "unknown";
- what qualifies as a "long-term care facility", which includes nursing homes, assisted living facilities and boarding homes;
- non-certified services providing guardianships and conservatorships;
- citations issued to facilities and whether those citations contain penalties or fees;
- federal Centers for Medicare and Medicaid Services penalties against facilities and not wanting facilities to close because of these penalties;
- the supervision of ombudsmen and objectivity of an ombudsman's review of facilities;
- the supervision of home health care facilities;
- low reimbursement rates for people providing personal care;
- the hierarchy of needs for patients and the services provided;
- a plan for outreach to get facilities under the jurisdiction of the DOH and the ALTSD;
- the time frame for compliance with licensure applications;

- virtual family meetings and how often they are taking place;
- the use of "granny cameras" and whether it is a responsibility of the family or the facility to provide and maintain such equipment;
- disclosure of information discovered through the use of "granny cameras";
- reporting between different agencies and consent;
- a resource guide on elder care, aging and long-term services; and
- the percentage of complaints that are investigated by the Adult Protective Services Division of the ALTSD.

Perspectives on COVID-19 from the Long-Term Care Industry (11:40 a.m.)

E. DeAnn Eaton, chief executive officer, Haverland Carter Lifestyle Group; Kevin Flury, regional director of operations, Cantex Continuing Care Network; Gerald Hamilton, BeeHive Homes; and Vicente Vargas, executive director, New Mexico Health Care Association and New Mexico Center for Assisted Living, presented to the committee on perspectives on COVID-19 from the long-term care industry. The presentation can be found here:

<https://www.nmlegis.gov/handouts/LHHS%20082120%20Item%202%20NMHCA%20HHS%20Committee%20Presentation.pdf>.

Questions and comments from committee members addressed the following topics:

- a discussion about extra employee pay and bonuses during the COVID-19 pandemic and whether extra employee pay comes from federal Coronavirus Aid, Relief, and Economic Security Act funding;
- a request for data about personal and facility liability costs;
- how providers have been trying to increase reimbursement rates, but these rates generally go to paying increased insurance liability rates;
- the loss of connection between individuals and their family members in facilities due to COVID-19 restrictions on visitation;
- asymptomatic spread is real, and there has been a national fight over obtaining personal protective equipment and testing;
- in other states, the majority of deaths have been in long-term care facilities, but that is not the case in New Mexico; and
- improving access to quality facilities is needed to ensure that individuals do not lose their dignity and quality of life.

Public Comment (12:56 p.m.)

Comments from members of the public included concerns about the following:

- the increased vulnerability of residents in long-term care facilities because of COVID-19 restrictions on visitation;
- review and oversight of boarding homes;
- the requirement of the state long-term care ombudsman to make recommendations to the legislature about changes or improvements to the long-term care services system;

- guardianship reform, how to get families involved and a mechanism for making complaints; and
- the addition of the Nurse-Family Partnership program to Youth Development Incorporated (YDI) services, including an overview of the services that YDI provides to 15 counties and the services that the Nurse-Family Partnership program provides.

Agency Reporting: Early Childhood Education and Care Department (ECECD) (2:04 p.m.)

Elizabeth Groginsky, secretary, ECECD, updated the committee about the agency's launch and its response to COVID-19. The presentation can be found here:

<https://www.nmlegis.gov/handouts/LHHS%20082120%20Item%203%2008%2021%2020%20LHHS%20FINAL%20.pdf>.

Questions and comments from committee members addressed the following topics:

- a request for clarification of funds in the ECECD budget;
- turnaround time for background checks for childcare providers;
- a request for the number of full-time employees at the agency;
- requiring children to receive COVID-19 vaccines when available;
- the importance of a mixed-delivery model;
- sending surveys to parents to assess whether they need year-round childcare;
- what childcare systems the ECECD is using;
- how New Mexico has been a leader in providing childcare;
- holding harmless providers who had children whose parents were laid off due to the COVID-19 pandemic;
- the availability of funds to keep childcare providers open;
- guidance on in-person home visiting;
- whether the ECECD has an employee who is in charge of obtaining federal funding;
- a request for an update on the ECECD's financial plan;
- recommendations for legislation;
- potential partnerships between the ECECD and the Public Education Department;
- clarification on how many children are being served by the ECECD;
- clarification on the budget and federal funds;
- plans for Family, Infant, Toddler Program providers to provide in-person home visits;
- the continuation of telehealth visits for families; and
- the efficacy of early childhood education in preparing children for school.

Agency Reporting: Children, Youth and Families Department (CYFD) (3:34 p.m.)

Brian Blalock, secretary, CYFD, and Amy Whitfield, special projects coordinator, CYFD, updated the committee about the agency's initiatives and its COVID-19 responses. The presentation can be found here:

<https://www.nmlegis.gov/handouts/LHHS%20082120%20Item%204%20CYFD.pdf>.

Questions and comments from committee members addressed the following topics:

- a request for clarification on which providers are helping with food distribution;
- wraparound services and the number of children receiving these services in Dona Ana County;
- a request for clarification on out-of-state regional treatment center placements;
- the average cost of an out-of-state treatment placement for a child;
- increasing the CYFD's capacity to keep children in-state and bring those who were placed out-of-state back to New Mexico;
- providing support services for foster families;
- the extension of foster care programs to the age of 21 and strengthening supports for children in foster care;
- the backlog of cases;
- the CYFD's plan to offer COVID-19 vaccines when available;
- food bank provisions and distributions during the COVID-19 pandemic;
- expansion of training for all state employees;
- utilization of drop-in training; and
- the use of Sequoyah Treatment Center and how this may decrease the need to send children out-of-state.

Adjournment

There being no further business before the committee, the meeting adjourned at 5:02 p.m.