

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

**November 8-9, 2018  
State Capitol, Room 322  
Santa Fe**

The eighth meeting of the Legislative Health and Human Services Committee (LHHS) was called to order by Representative Deborah A. Armstrong, chair, at 9:20 a.m. on November 8, 2018 in Room 322 of the State Capitol.

**Present**

Rep. Deborah A. Armstrong, Chair  
Sen. Gerald Ortiz y Pino, Vice Chair  
Rep. Gail Armstrong  
Sen. Mark Moores  
Sen. Bill B. O'Neill  
Sen. Cliff R. Pirtle (11/9)  
Rep. Elizabeth "Liz" Thomson

**Absent**

Rep. Rebecca Dow

**Advisory Members**

Rep. Joanne J. Ferrary  
Rep. Miguel P. Garcia  
Sen. Cisco McSorley  
Sen. Howie C. Morales (11/8)  
Rep. William "Bill" Pratt  
Sen. Nancy Rodriguez (11/9)  
Rep. Gregg Schmedes  
Sen. William P. Soules  
Sen. Elizabeth "Liz" Stefanics  
Sen. Bill Tallman (11/9)  
Rep. Christine Trujillo

Sen. Gay G. Kernan  
Rep. Tim D. Lewis  
Sen. Linda M. Lopez  
Rep. Rodolpho "Rudy" S. Martinez  
Sen. Mary Kay Papen  
Rep. Patricia Roybal Caballero  
Rep. Angelica Rubio  
Rep. Nick L. Salazar

**Guest Legislator**

Sen. Carlos R. Cisneros

(Attendance dates are noted for members not present for the entire meeting.)

**Staff**

Michael Hely, Staff Attorney, Legislative Council Service (LCS)  
Christopher Pommier, Staff Attorney, LCS  
Karen Wells, Contract Staff, LCS

**Guests**

The guest list is in the meeting file.

**Handouts**

Handouts and other written testimony are in the meeting file.

**Thursday, November 8****Introductions**

Members and staff introduced themselves.

**Heroin-Assisted Treatment: House Memorial 56 (2018)**

Emily Kaltenbach, senior director, National Criminal Justice Reform Strategy, Drug Policy Alliance (DPA), introduced Martin T. Schecter, O.B.C., Ph.D., F.R.S.C., F.A.C.H.S., professor, Faculty of Medicine, University of British Columbia, who joined the committee by webcast. Ms. Kaltenbach provided background information regarding an injectable opioid treatment for opioid addiction.

Dr. Schecter described research regarding options for treatment of opioid addiction. Oral antagonist treatment has been in use for 50 years, but it is not successful in all cases. He addressed the need for additional research on treatment modalities. Clinical trials are under way to test injectable diacetylmorphine, injectable hydromorphone (HDM) and oral HDM. Injectable administration was found to have virtually identical outcomes to oral methadone administration, while proving to be both safe and cost-effective.

Ms. Kaltenbach noted that this type of treatment has been used for many years by other countries. The DPA is very interested in conducting a pilot program on injectable opioid treatment in collaboration with a major university. Dr. Kimberly Page, a researcher at the University of New Mexico (UNM), is interested in leading the pilot.

Questions and comments by committee members were made as follows:

- whether there are data regarding other modes of treatment for continuing care: data from Europe are available;
- whether there are data regarding the percentage of users on the street who experience adverse effects of injections of heroin: yes; adverse effects are 43% higher than in the trial;
- whether the potency of street drugs is variable: the incidence of death from heroin use has increased exponentially due to the increased potency of street drugs over time;
- an observation that some of the drugs used in the trial are available by prescription; these drugs are prescribed "off-label" and not to treat addiction;

- an observation that there is no federal prohibition of the use of drugs such as HDM, known by the brand name, Dilaudid, in the U.S.;
- a request for a referenced video to be provided to the committee;
- an offer from Dr. Schecter to be of assistance should a pilot project be pursued;
- an observation that no legislation is anticipated at this time for a pilot project; however, it is encouraging that there are researchers who are very interested in the idea; many planning steps are needed;
- whether there are any barriers to prevent UNM from conducting this research: an additional memorial from the legislature would be helpful to encourage UNM to continue to move in this direction;
- whether other sites besides major universities could be used for the pilot project: yes;
- clarification regarding the frequency of injectable treatment: the maximum frequency is three times per day, but many need fewer treatments; and
- clarification regarding the support by law enforcement and others for a trial such as this: community education has been important; however, there is now widespread support.

### **Update on Food Security; Update on the 2020 Census**

Senator Stefanics and Representative Ferrary were invited to address the committee. Representative Ferrary introduced Julia Valdez, constituent services liaison, Santa Fe County, who testified regarding the process of conducting the federal census, which will begin on April 1, 2020. The opportunity to report data will be available online, by mail, by telephone and by in-person interviews. She noted that census data are used for many purposes, including identification of needs for public assistance funding. She stated that according to a study conducted by the George Washington University, New Mexico invests nearly \$6 billion per year to fund 16 federal assistance programs.

Committee members asked questions and made comments in the following areas:

- an observation regarding the difficulty of accurately identifying ethnicity;
- an observation that the state has an incentive to collect its own parallel data to ensure eligibility for the maximum amount of funding for federal assistance programs;
- an observation that according to the College of Population Health at UNM, New Mexico consistently underreports census data;
- a suggestion that New Mexico could model California, which has a reliable method for collecting accurate data;
- a suggestion that a joint memorial be drafted asking the appropriate agency for a report on what the state is doing to ensure the collection of accurate data;
- an observation that the census needs to be demystified to ensure that respondents, especially immigrants, are not reluctant to provide data;
- an observation of the importance of not relying on the accuracy of federal efforts to collect data;

- an observation of the importance of advance marketing to get the maximum number of people to participate; and
- an observation that the counties are working with Health Care for the Homeless to ensure collection of data from that population.

Representative Ferrary then introduced Brenda Sinfield, volunteer, and Ellen Buelow, chair, Advocacy Committee, Interfaith Hunger Coalition. Ms. Buelow educated the committee about the statistics in House Memorial 90 (2018), which calls for the creation of a hunger council. The goals of the hunger council are to eliminate childhood hunger and support access for families to affordable and healthy food. Recommendations for action include opposing a food tax, creating a legislative hunger caucus and sharing staff with a food program for seniors.

Senator Stefanics stated that she has been working with Representative Gail Armstrong to address the topic of food security for seniors. They have requested a bill that will add funds both to food programs for seniors and farmers' markets that is designed to support farmers' market nutrition programs and that will provide low-income seniors with checks to purchase eligible fruits and vegetables. The Economic and Rural Development Committee has endorsed this bill. Senator Stefanics is hopeful that the LHHS will also endorse this bill, which the committee will consider on November 9. A second bill, (.211560.1), would permit senior centers to have fruit and vegetable gardens.

Committee members made comments and asked questions in the following areas:

- whether the bill to permit senior centers to have fruit and vegetable gardens could be accomplished by regulation: yes; however neither the Aging and Long-Term Services Department (ALTSD) nor the state area agencies on aging (AAAs) have pursued this; the bill would establish a mandate to develop such regulations;
- a suggestion that development of greenhouses should be addressed in the bill;
- clarification regarding the current authority of state agencies to destroy existing gardens: food supplies in senior centers are obligated to be safe for consumption; and
- an observation that inclusion of greenhouses in the bill would establish an avenue to pursue capital outlay financing.

Alissa Barnes, director of community initiatives, Roadrunner Food Bank, and Pam Roy, executive director, Farm to Table, were invited to provide additional information regarding the impact of federal food tariffs on farmers. Ms. Barnes noted that for the first time, fresh milk has been made available for children; however, it is straining the food bank programs as distribution and refrigeration are challenging. Federal food dollars are also going to fund legumes; however, recipients may not know how to prepare them or may lack the facilities to cook them. She noted that lack of reauthorization of the federal Farm Bill is hampering food distribution. Ms. Roy noted additional difficulties in obtaining food products due to federal tariffs and an anticipation that the federal Farm Bill will not be approved for up to another year. Much collaboration between and work by state programs and the federal government will be needed to sustain access

to food for vulnerable communities. They asked for legislative support to identify and advocate for the foods that would be most beneficial to New Mexicans and to communicate about the negative impacts the tariffs have on food recipients.

#### **Senior Services Update: Planning and Service Area Matters**

Angie Coburn, director, Central Region Administration, Presbyterian Medical Services (PMS); Nancy Gonzales, director, Older Americans Program, Valencia County; Monica Duran, executive director, Chaves County JOY Centers, Inc.; and Cherisse Perez, director, Curry Residents Senior Meals Association, addressed the committee on issues of funding for meal programs. Ms. Coburn noted that funding issues in rural areas are resulting in reductions in staffing and transportation services and seniors' meals. She noted the counties served by PMS are very poor, and the residents rely on these services. Ms. Gonzales testified that Valencia County is similarly affected. Ms. Duran provided a detailed breakdown of budget reductions during the last fiscal year and where cuts occurred. All services have been cut due to these budget reductions. Ms. Perez concurred with the previous testimony, adding that she believes that communication between the AAAs and the ALTSD should be more collegial.

#### **Senior Services Update: ALTSD State Plan and Budget Matters**

Kyky Knowles, secretary-designate, ALTSD, and Wayne Johnson, state auditor, were invited to address the committee. Ms. Knowles noted that the population of people over the age of 65 is rapidly growing, increasing the need and demand for senior services. She stated that the ALTSD operates under a state plan that is reviewed annually. The most recent review demonstrated compliance with the plan. She identified the six planning and service areas (PSAs) in the state and discussed how they are aligned with the AAAs, as well as the populations they serve. She identified the services covered by the federal Older Americans Act of 1965 Title III grants for state and community programs in aging, noting that federal funding for AAAs has increased in the last three years. She said that state funding supplements federal funding for AAAs in New Mexico.

Mr. Johnson described an audit of the North-Central AAA, which his office found had misappropriated funds.

Committee members had questions and made comments for both panels in the following areas:

- whether the federal share of funding for senior services was cut or increased: it increased;
- recognition that PSAs have been absorbed into the non-metropolitan AAAs through the years without a specific process of designation;
- clarification that AAAs are nonprofit entities;
- an observation that all PSAs desire local administration;

- clarification regarding senior services that have been cut by the ALTSD; cuts were made to units served in the state versus central services in the department; transportation, meals served and home-delivered meals felt the most impact;
- an observation that funding beyond federal and state money is necessary to keep these programs whole;
- clarification regarding the distribution of funds to providers in the network: there is no funding gap between the ALTSD and the AAAs, so they are trying to assess the origin of the problem;
- an observation that the audit addresses the timeliness of reimbursements to providers from AAAs; training in financial practices is necessary;
- Carlos Moya, director, Aging and Disability Resource Center, ALTSD, noted that as of this year, a new process is in place that addresses funding and payment disparities; he believes the process is fair to all;
- recognition that at the end of the day, seniors who are not being fed bear the brunt of these processes;
- whether the PSAs are aligned with the councils of government (COGs) and economic development districts: when the PSA boundaries were set, there was an effort to align them with COGs;
- an observation that it was once regular practice to allow the ALTSD to draw down one-twelfth of its annual budget on a regular basis; reinstituting this practice would allow more reliable cash flow to the AAAs; David Abbey, director, Legislative Finance Committee (LFC), stated that the LFC would revisit this to see whether it could be reinstituted;
- an observation that with such a change, reassurance would be needed that the money would reliably go to providers;
- whether the federal government issues a report on its oversight activities: federal and state compliance reports are generated and will be shared;
- clarification regarding a review conducted in Colorado: this was an internal assessment of the aging network that was accomplished under a private contract; that will also be shared;
- a request for an update on ALTSD efforts to resolve differences among the ALTSD, PSAs, AAAs and providers; this communication is continuing, and the ALTSD is working on a corrective action plan; this is detailed in its transition plan;
- a request for justification of a reversion of funds in light of these fiscal problems: most of the reversion was reallocated later in the year; and
- whether vacancies in the ALTSD will be filled: it is very challenging to fill vacancies in very rural parts of the state; the ALTSD has worked hard with the State Personnel Office to fill vacancies quickly.

### **Public Comment**

Mark Freeland, Office of the President, Navajo Nation, spoke in support of the ALTSD and its diligence in working with Native American tribes and nations.

Ms. Perez asserted that reporting requirements are burdensome and cannot always be satisfied on a timely basis.

Andrei Girsh, a student from Russia, shared an experience and provided a picture that demonstrates a problem with discarded needles in public areas.

Connie Vigil, president, Greater Albuquerque Business Association, testified regarding work in which she has been engaged to address the problem of needles being discarded in public areas. She said that elements of the Harm Reduction Act should address the problem, but they do not. She asked the committee to consider amending the act to make it more enforceable. She then addressed Senate Bill 191 (2016), Opioid Abuse Prevention and Assisted Treatment, which did not pass. The bill calls for the Department of Health (DOH) to post overdose prevention information on its website. She urged the committee to consider introducing legislation that would address all addictions. Finally, she drew the attention of the committee to a document providing program guidance from the federal Centers for Disease Control and Prevention for implementing certain provisions of syringe services programs.

Representative Deborah A. Armstrong announced that the New Mexico Legislative Council has approved an additional meeting for the LHHS on December 7 to hear testimony on the progress to study and establish a Medicaid buy-in program for New Mexico and to consider some additional proposed bill endorsements.

The meeting recessed at 4:29 p.m.

### **Friday, November 9**

#### **Reconvene**

The chair reconvened the meeting at 9:20 a.m. Members and staff introduced themselves.

#### **State-Based Strategies for Prison Health Care: Medicaid, UNM Health Sciences Center and Public Health**

Kari Armijo, deputy director, Medical Assistance Division, Human Services Department (HSD); Theresa Edwards, fiscal analyst, LFC; Heather Black, chief nurse, Public Health Division, DOH; and Rodney McNease, executive director, Behavioral Health Services, UNM, were invited to address the committee.

Ms. Armijo presented an overview of the Justice-Involved Utilization of State Transitioned Healthcare (JUST Health) Program. The program is an automated process to provide short-term Medicaid coverage for hospitalization of incarcerated individuals. Information technology (IT) changes, as well as regulatory changes and training, were described. She identified the currently participating counties and institutions. Since its beginning, the program has provided presumptive eligibility determinations for 1,541 individuals and has filed 9,949 applications for continued coverage. A total of \$5.6 million in claims has been paid with

this program. The next phase of implementation involves enhanced access to care coordination and other measures to ensure smooth transitions. House Bill 19 (2018) requires access to care coordination prior to release from incarceration, development of a screening tool for county facilities and the exchange of information to facilitate continued coverage, when appropriate. A multi-agency JUST Health working group is meeting regularly to ensure implementation of all aspects of the bill.

Ms. Edwards discussed trends around the country regarding prison health care services. Seventeen states provide health care directly. Twenty states provide these services privately, four through university systems and eight through a hybrid model. She described in additional detail the approach followed in neighboring states. Average costs to the state, costs per inmate per year and total health care expenditures for the four approaches were provided. Costs for neighboring states as compared to New Mexico were provided. The potential for an 1115 waiver was identified. So far, no such waivers have been approved; however, the federal Centers for Medicare and Medicaid Services (CMS) has indicated a willingness to consider approval of 1115 waivers.

Ms. Black provided an overview of public health services provided for the prison populations in federal, state and county facilities. There is a public health office in the Metropolitan Detention Center in Albuquerque that has provided a robust approach to providing naloxone. It is working to aggressively provide infection prevention, including flu vaccines. It also provides services to juveniles, including sexually transmitted disease treatment.

Mr. McNease described how UNM Hospital (UNMH) deals with prison inmates' health. Inmates come to UNMH from all over the state when they need a higher level of medical care than can be provided at their facilities. Some patients come for outpatient services, including specialized services. UNMH has worked with detention facilities to identify ongoing transitions to services for inmates in need of behavioral health services upon release.

Committee members had questions and made comments as follows:

- whether medication-assisted treatment is being provided in New Mexico jails or prisons: it is not provided in the state prison system; Medicaid will pay for detoxification in county jails prior to an inmate's suspension of coverage; after that, services are paid for from the General Fund;
- whether the state and federal cost per inmate per day for addiction treatment is known: Medicaid, UNMH and the LFC will try to obtain that information, although it varies by the drug used;
- whether there is any information available that links care coordination services to inmate recidivism: it is part of the information Medicaid will be tracking;
- clarification regarding who gets an inmate's medical records when the inmate is released: this varies among treating institutions;



- an observation that the private company providing prison health care is not willing to release medical records;
- whether Centennial Care 2.0 will maintain data regarding care coordination: that will be provided and maintained by the contracted managed care organizations;
- clarification regarding how the contract for prison health services is determined: there is a request for proposals that is issued;
- clarification of the disparity between the costs of providing prison care in New Mexico compared to neighboring states: the LFC will look into that;
- clarification regarding sources of funding for prison and jail health care: funding is predominantly through the General Fund and county funds;
- whether the recidivism rate is being studied to compare those inmates who receive behavioral health services versus those who do not: UNMH is looking at utilization of services; it appears that provision of services reduces recidivism;
- an observation that inmate health care services could be provided more safely, with better outcomes and for less cost: Ms. Edwards noted that in her research, all states report lawsuits, bad care and other concerns, regardless of the model for service delivery;
- whether the cost is known of IT changes for the prison health care system: Medicaid does not know, but it can get that information;
- why data regarding claims and enrollment are not consolidated within one IT system: integration is a long-term project at which the HSD is looking;
- whether the process for choosing health care providers favors or considers local providers: the LFC will look into this;
- an observation that some counties are bearing significant costs to provide health care services to prisoners in county jails;
- recognition of how toxic community environments relate to recidivism rates;
- whether nonprofits around the state are involved in providing transitional housing for released inmates: yes; however, most are in the Albuquerque area;
- acknowledgment of the importance of recognizing and managing social determinants of health; and
- clarification regarding agreements between Medicaid and counties to enable and support the sharing of information in the JUST Health Program.

## **Minutes**

Upon a motion made and seconded, the committee approved the minutes of the October 23-26, 2018 meeting.

## **Endorsement Review of Legislation for the 2019 Regular Session**

Mr. Hely, Mr. Pommier and Lenaya Montoya, LCS, presented the following bills in a supplemental book of proposed legislation to be considered for endorsement.

.210902.1 is a bill to provide due process to Medicaid providers and subcontractors and establishes processes for dispute resolution, overpayment disputes and credible allegations of

fraud. Following a motion by Senator Ortiz y Pino, and a second by Representative Thomson, the bill was endorsed by a unanimous vote.

.211063.4 would enact the Caregiver Leave Act to allow employees with accrued sick leave to use that leave for family caregiving responsibilities. Following discussion, the committee agreed not to endorse this bill at this time but to bring back an amended version at the December 7 meeting of the LHHS.

.211093.1 is a bill to require the Children, Youth and Families Department (CYFD) to establish a shared service integration model to improve effectiveness and minimize duplication in early childhood education programs. The bill was endorsed by a roll-call vote following a motion by Senator Ortiz y Pino and a second by Representative Thomson.

.211194.1 amends the Dee Johnson Clean Air Act to include e-cigarettes. Following a motion by Senator Ortiz y Pino and a second by Representative Thomson, the bill was unanimously endorsed.

.211196.1 amends existing law to ban the sale of e-cigarettes or nicotine liquid containers to persons under the age of 21. Following discussion, a motion was made by Representative Thomson and a second by Senator Ortiz y Pino to endorse the bill. The motion passed by a vote of 5-1, with one member objecting.

.211198.1 bans the sale, purchase or provision of free samples of flavored tobacco products. Representative Thomson made a motion, and Senator Ortiz y Pino seconded, to endorse this bill. The motion passed unanimously.

.211216.1 amends a section of the Vital Statistics Act to provide for changes in sex designation in vital records. The bill was not endorsed. The committee requested that it be brought back to the December 7 meeting for further consideration.

.211240.1 increases the tax rate on cigarettes and tobacco products, including e-cigarettes, and provides for the new revenues to be dedicated to the Public School Fund for state equalization guarantee distribution. Following discussion, Representative Thomson moved, and Senator Ortiz y Pino seconded, a motion to endorse the bill. The motion passed unanimously.

.211257.1 renames the Maternal and Child Health Plan Act as the County and Tribal Health Council Act. The committee requested that the bill be returned to the committee for consideration on December 7.

.211258.1 and .211258.2 would require insurance coverage for expenses related to prosthetic and orthotic devices. Following a motion by Senator Ortiz y Pino, seconded by Senator O'Neill, the committee unanimously endorsed the .211258.2 version of the bill.

.211525.1ms, the Interstate Medical Licensure Compact, was presented to the committee in the format developed by a uniform compact committee. The bill provides an expedited and simplified process of licensure for medical providers. Senator Ortiz y Pino made a motion, seconded by Representative Thomson, to endorse the bill. The motion was unanimously adopted.

.211274.1 and .210936.1 amend the Patient Protection Act to provide for regulation of pharmacy benefits managers and to prohibit the imposition of gag rules that prevent health care providers from discussing treatment options. Following a motion by Senator Ortiz y Pino, seconded by Representative Deborah A. Armstrong, the committee unanimously endorsed the bill.

.211318.4 makes an appropriation of \$200,000 to provide training and technical assistance to health care workers for the early detection of risk for cerebral palsy in young children. Senator Ortiz y Pino made a motion, and Representative Deborah A. Armstrong seconded, a recommendation to endorse the bill. The motion passed unanimously.

.211321.1 amends sections of the Senior Citizens Reduced Tuition Act to provide greater access to reduced tuition. Senator Ortiz y Pino moved, and Senator O'Neill seconded, a recommendation to endorse the bill. The motion was approved unanimously.

.211394.1 appropriates \$3.5 million to the DOT to fund school-based health care centers. A motion to endorse the bill was made by Senator Ortiz y Pino and seconded by Senator O'Neill. The motion passed unanimously.

.211395.1 makes an appropriation of \$500,000 to the Commission on the Status of Women to fund the execution of its statutory duties. A motion to endorse the bill made by Representative Thomson was unanimously endorsed.

.211442.1 would enact the Maternal Mortality and Morbidity Prevention Act and establish a review committee to collect data and make recommendations for reducing maternal mortality and severe maternal morbidity in the state. Representative Thomson and Representative Deborah A. Armstrong moved to endorse the bill. The motion was unanimously approved.

.211526.2 creates and funds a pilot program to provide New Mexico-grown fresh fruits and vegetables to senior center meal programs. The bill was endorsed.

.211531.2 subjects employers of domestic workers to higher rates of pay, consistent with federal law. The bill was unanimously endorsed following a motion by Representative Thomson and a second by Senator Ortiz y Pino.

.211554.1 amends the Occupational Therapy Act to make scope of practice changes and update the language. The bill was previously passed twice by the legislature and vetoed by Governor Susana Martinez. Following a motion by Senator Ortiz y Pino and a second by Senator O'Neill, the bill was unanimously endorsed.

.211556.1 appropriates \$300,000 to the DOH to establish a statewide perinatal collaborative that will standardize the use of evidence-based practices in the field of obstetrics and improve multiple obstetrical health conditions. Following discussion, Representative Thomson moved, and Senator O'Neill seconded, the motion to endorse the bill. The motion was unanimously approved.

.211557.1 is an appropriation of \$3 million to the CYFD to fund domestic violence services statewide. Representative Thomson moved, and Senator Ortiz y Pino seconded, a recommendation to endorse the bill. The motion was unanimously approved.

.211597.2 and .211597.3 provide \$300,000 to fund assistive technology and devices for individuals living with disabilities. The committee asked that the request for endorsement be brought back on December 7 for consideration. Following discussion, Senator Ortiz y Pino moved, and Representative Thomson seconded, a recommendation to endorse .211597.3. The motion was unanimously approved.

Additional bills in the supplemental book are as follows.

.211391.1 provides amendments to the Lynn and Erin Compassionate Use Act to expand eligibility, add new qualifying conditions and remove participation in the act as grounds for child protective services intervention. The bill was not endorsed. Committee members requested that the bill be brought back to the committee on December 7 for consideration.

.211597.3 provides funding to the Governors Commission on Disability for assistive devices and home modifications for indigent individuals with disabilities. Representative Thomson made a motion, and Senator Ortiz y Pino seconded the motion, for endorsement. The motion passed unanimously.

One additional bill, .211091.1, was presented for the committee's consideration. The bill increases access to the rural health care practitioner tax credit to additional providers. Following a motion by Senator Ortiz y Pino, the committee voted to endorse the recommendation for introduction by Representative Garcia.

### **Adjournment**

The LHHS meeting adjourned at 2:30 p.m.