

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

**November 24-25, 2014  
Room 307, State Capitol  
Santa Fe**

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The sixth meeting of the Legislative Health and Human Services Committee (LHHS) was called to order by Senator Gerald Ortiz y Pino, vice chair, on Monday, November 24, 2014, at 9:27 a.m. in Room 307 at the State Capitol in Santa Fe.

**Present**

Rep. James Roger Madalena, Chair  
Sen. Gerald Ortiz y Pino, Vice Chair  
Rep. Nora Espinoza  
Sen. Mark Moores  
Sen. Benny Shendo, Jr.

**Absent**

Rep. Doreen Y. Gallegos  
Sen. Gay G. Kernan  
Rep. Terry H. McMillan

**Advisory Members**

Sen. Craig W. Brandt (11/25)  
Sen. Jacob R. Candelaria (11/24)  
Rep. Miguel P. Garcia  
Sen. Linda M. Lopez  
Sen. Cisco McSorley  
Sen. Bill B. O'Neill  
Sen. Mary Kay Papen  
Rep. Vickie Perea  
Sen. Nancy Rodriguez (11/24)  
Rep. Edward C. Sandoval  
Rep. Elizabeth "Liz" Thomson

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Rep. Phillip M. Archuleta  
Sen. Sue Wilson Beffort  
Rep. Nathan "Nate" Cote  
Sen. Daniel A. Ivey-Soto  
Rep. Sandra D. Jeff  
Rep. Paul A. Pacheco  
Sen. Sander Rue  
Sen. William P. Soules

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**Guest Legislators**

Rep. Thomas A. Anderson  
Rep. Patricia A. Lundstrom (11/25)  
Rep. Bill McCamley (11/25)  
Sen. Michael Padilla (11/24)

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

## **Staff**

Michael Hely, Staff Attorney, Legislative Council Service (LCS)

Shawn Mathis, Staff Attorney, LCS

Rebecca Griego, Records Officer, LCS

Nancy Ellis, LCS

## **Guests**

The guest list is in the meeting file.

## **Handouts**

Handouts and other written material are in the meeting file.

## **Monday, November 24**

### **Welcome and Introductions**

Senator Ortiz y Pino welcomed those assembled and asked committee members and staff to introduce themselves.

### **Senate Joint Memorial (SJM) 3 (2014): Children, Youth and Families Department (CYFD) Reporting**

Jared Rounsville, director of the Protective Services Division (PSD) of the CYFD, told committee members his division had not yet been able to assemble a written report answering all of the many queries contained in SJM 3, which was sponsored by Senator Padilla (see handout). He offered to answer the questions posed in the memorial.

Senator Padilla informed the committee that he had grown up in the state's foster care system. He described a series of town hall meetings that he organized last year regarding CYFD investigations and foster care services that resulted in nine hours of public testimony. He said that CYFD staff had not attended any of those meetings. Noting that the department had been experiencing difficulties related to staff retention, high vacancy rates and high caseloads, Senator Padilla sponsored SJM 3, which requests that a report be delivered to the LHHS by today's date. The memorial sought information about the average number of foster children per home, placement stability data, how homes are identified and selected, standards for home certification, data for children making the transition from foster care, data on CYFD social worker caseloads and salaries, data on cases opened and the sources of the reports, education and training of caseworkers in the PSD and the identification of obstacles for the PSD to meet its mission and goals.

Mr. Rounsville said that there is a limit of six children per foster household, including the foster child; occasionally this limit is exceeded temporarily in an emergency when CYFD caseworkers are trying to keep siblings together. In a survey of 1,000 foster homes, the average number of children per household was 2.2, he said. His division does not track placement stability data, but it does report performance measures quarterly to the Legislative Finance Committee (LFC). This is an area in which New Mexico has consistently struggled, Mr.

Rounsville said, with current numbers showing that approximately 76 percent of foster children have experienced no greater than two placements in a 12-month period. The CYFD would like this percentage to be higher, he said. Certifying a foster home involves statewide recruitment and extensive background checks, he said, and the last update of the regulations occurred in October 2009. There are approximately 4,000 children in foster care during a calendar year, but, currently, there are no data available that track behavioral health concerns, Mr. Rounsville said. Many children have been exposed to extensive trauma and may not be properly diagnosed. Data on children who "age out" of foster care, estimated to be about 80 individuals annually, soon will be tracked through New Mexico's participation in a federal youth-in-transition database, he said. New Mexico has limited transitional living programs available in Albuquerque, Hobbs and Taos, and some federal funds are available for education and job training. However, he said, there are not enough resources to meet needs. Services need to be further developed, he said.

Asked about the total number of cases opened by the PSD each year, Mr. Rounsville said that it varies by season, with a dropoff during summer. The overall trend is upward, Mr. Rounsville said. There were spikes in activity after several recent high-profile cases in the news media. Most of those new case reports were not an overreaction to the media, he asserted, but were actually reports on families that needed help. The CYFD will be requesting funding to hire additional full-time staff to handle the PSD caseload, which increased from an average of 16.9 in October 2012 to 23 by June 30, 2014. The average hourly wage for an entry-level caseworker, as of September 2014, was \$16.85, with a three percent increase in that rate starting in January 2015 and another three percent increase scheduled in July. Four weeks of specialized training is required for each new hire. Regarding the source of most reports to the PSD, anonymous tips from relatives and neighbors form the largest category, followed by reports from law enforcement, educators and social workers. Mr. Rounsville said that the CYFD will be proposing legislation to amend the mandatory reporting clause in state law to clarify that all adults have a responsibility to report suspected child abuse and neglect. With an increasing caseload for investigators, the PSD needs more resources to follow up, and it will be asking for statutory changes that allow the PSD to petition the court in order to give incentives to force families to undergo treatment, he said.

On questioning of Mr. Rounsville by Senator Padilla and committee members, the following topics were discussed.

*The importance of placement with relatives.* Foster care placement with relatives is the first choice of the CYFD, Mr. Rounsville said, and relatives need to be identified as soon as possible. After an extensive background check, relatives can immediately be licensed, followed by an expedited process of approval, which otherwise would take 90 to 120 days.

*Different types of foster care.* In addition to regular foster care, there is specialized foster care for children with greater needs; respite foster care, which gives foster parents a rest over a weekend; and treatment foster care by families recruited and licensed by private behavioral health agencies. Managed care organizations (MCOs) pay treatment foster care providers through Medicaid. There are never enough foster care families, Mr. Rounsville said, and when a

family decides to adopt a foster child, which is obviously a very good outcome, the ranks of available homes are correspondingly reduced.

*Steps being taken to retain staff.* Child protective caseworkers are underpaid across the entire country, Mr. Rounsville asserted. New Mexico salaries are in line with surrounding states, but the biggest challenge now is that MCOs are hiring caseworkers at nearly double the salary they are currently earning. The department has a plan for expedited hiring, and there is a "strike team", with members from the CYFD, the State Personnel Office and the Department of Finance and Administration. Mr. Rounsville urged strong legislative support for CYFD budget requests.

**D** *Time line for a final report.* A committee member asked when the committee could expect the final report requested in SJM 3. Mr. Rounsville said it would be ready within a couple of weeks. When asked if the CYFD will make the report available to the public, Mr. Rounsville said that this information will be presented at public meetings this coming year. Senator Padilla indicated his willingness to help the CYFD in any way needed.

### **J. Paul Taylor Task Force Report**

**C** Claudia Medina, director of community health initiatives in the Office of Community Health at the University of New Mexico Health Sciences Center (UNMHSC) and chair of the task force, appeared along with Stewart L. Duban, M.D., a pediatrician who teaches at UNMHSC and a task force member, to present the executive summary and task force recommendations (see handout) for a statewide system of supporting at-risk families and preventing child abuse and neglect. Acknowledging the work of more than 55 members of the task force, which was established in 2012 and continued its work in 2013, the presenters described the task force's focus, which involves an emphasis on early screening of children in a primary care setting and on connecting that child's family to needed services. Dr. Duban said that recommendations are about screening and identification and building on existing structures, not about starting yet another organization. New Mexico has 175,000 children under five years old; 29 percent live in poverty, and 30 percent to 40 percent are at risk, he said. The task force recommends maximizing dollars that already exist in state and federal funding streams. Data are needed, as is the coordination of care using community health workers (CHWs) and creating a path for CHWs to be reimbursed for their services. Wraparound services in local communities should include treatment services, home visiting and education on parenting skills and positive discipline techniques to provide a safe and nurturing home, he said.

What is needed by the task force now is a mandate or a blessing, Ms. Medina noted, not just a nod to continue "chatting". Bold leadership is required from the Children's Cabinet, the LFC and the LHHS to accomplish enactment of these recommendations, she said. A path to reimbursement for CHWs is crucial, she said, and there must be an effort to get Medicaid and other stakeholders to the table. Since 2008, early intervention services have been drastically reduced in New Mexico, and now those services are virtually nonexistent. Dr. Duban described a task force recommendation that a diagnosis of severe emotional disturbance no longer be required for at-risk infants, toddlers and young children to be eligible for needed services. As an alternative, New Mexico should use the federal Substance Abuse and Mental Health Services

Administration eligibility criteria, he said. There also needs to be collaboration in data collection among state agencies in order to reduce silos and allow a child to be followed into adulthood across state agencies.

Ms. Medina said a bound version of the task force report and recommendations will be available in December.

### **Health Care Work Force Working Group Committee Report**

Richard S. Larson, M.D., Ph.D., executive vice chancellor and vice chancellor for research at UNMHSC and chair of the New Mexico Health Care Work Force Working Group, provided committee members with the working group's 2014 annual report and gave a presentation on work force shortages and possible solutions (see handout). Since House Bill (HB) 19 (2012) became law, licensure boards in New Mexico are required to develop surveys of their members, and resulting data are directed to UNMHSC for stewardship and storage, Dr. Larson said. In addition, the working group was established with statewide membership, and it is tasked with evaluating needs and making recommendations. In 2013, a statewide advisory committee reported on health care work force shortages, especially in rural areas, and urged more funding for expanded training in nursing, dentistry, primary health care and psychiatry. It also urged greater use of telehealth services (Project ECHO) and training of CHWs. Dr. Larson described details of new combined training programs for nurses and physicians, the need to expand state-funded residency positions and the need to identify promising students with rural backgrounds who are interested in primary care. Dr. Larson also encouraged strong support for certification of CHWs, which will begin in 2015 at multiple campuses around the state and will lead to more cost-effective coordination of health care.

Discussing the efficacy of financial incentives for health care professionals, tuition assistance and debt repayment figure prominently in a health care professional's choice of practice location, Dr. Larson said, but the state has lost federal funding for this incentive program and must make up the difference. The working group was not able to determine the effectiveness of the state's personal income tax credit for practitioners providing services in underserved rural areas, but it did develop several suggestions to improve retention of professionals in rural areas: include community leaders in the selection process; explore strategies to help manage workloads; and enhance linkages between rural practitioners and UNMHSC. The New Mexico Health Care Work Force Working Group is one of only a few such bodies in the nation, Dr. Larson said, and it is developing an increasingly detailed picture of the state's health care professionals, their practice priorities and their capacity to serve the unique needs of the state. Permanent funding for this working group is being sought in UNM's proposed budget, Dr. Larson said, and funding will provide an avenue to achieve even greater levels of detail and accuracy. The funding also will enable a detailed analysis of New Mexico's mental and behavioral health needs.

### **Approval of Minutes**

A committee member moved that the minutes from the September 10-12, 2014 LHHS meeting in Elephant Butte and Las Cruces and from the October 20-22, 2014 meeting at the

Pueblo of Santa Clara and the State Capitol be approved. The motion was seconded and passed unanimously.

### **Engaging Market Forces, Competition and Quality to Attract, Retain and Compensate Health Care Providers**

Martin Hickey, M.D., chief executive officer (CEO) of New Mexico Health Connections, a nonprofit, physician-led health insurance provider headquartered in Albuquerque, presented a concept that he said could provide more income to primary care and mental health providers and help stem the current maldistributions in those fields (see handouts). Lack of access increases the cost of care and burns out providers, Dr. Hickey asserted. Primary care and behavioral health are at the bottom of the provider pay scale, yet these services can offer the most value and greatest health status improvement. Health care is a piecework industry, Dr. Hickey pointed out, and there is no regulation or true competition; the solution to nearly every challenge is to build more beds and order more tests, he said. The United States pays twice as much as any other country for health care, yet it is thirty-eighth in morbidity and mortality. Nearly one-half of this is unnecessary and wasteful, Dr. Hickey said, paid for by ever-increasing health insurance premiums and tax dollars.

Transparency is the key to controlling costs, Dr. Hickey said, and collecting quality and efficiency data on providers through an all-payer claims database will encourage referrals to the most efficient and effective specialists and hospitals. If providers are given the data, they will self-correct, he asserted, and the marketplace will reward quality, not quantity. With such a database, consumers could go to a health information exchange web site and compare their choices, similar to the way consumers now log on to Orbitz to search airline fares and hotels. Referrals to the most cost- and outcome-effective specialists and hospitals will generate huge savings, Dr. Hickey maintains, which then can be shared with primary care and mental health providers and with consumers in the form of lowered premiums. Dr. Hickey said that other groups around the county actually have put these concepts into practice; they do work and they help to retain physicians and providers. For New Mexico, it could mean that more primary care providers would come to and stay in the state, and it would allow the marketplace, not the taxpayers, to pay for attracting and retaining providers.

On questioning by committee members, Dr. Hickey explained that the legislature can build an all-payer claims database by requiring all insurance companies to enter their claims in the database, which should be housed and maintained by a separate, neutral organization. A committee member made a motion that staff be requested to prepare a letter to the New Mexico Health Insurance Exchange and the Office of Superintendent of Insurance asking if such a database could be established without legislation and seeking additional input on the concept. The motion was seconded and passed on a vote of 3-1. A committee member objected that there was not a quorum present for this vote, and the chair suggested that the vote be postponed until the next day.

### **Sexuality and Gender Equality (SAGE) Health Project**

Senator Candelaria presented copies of a proposed senate joint memorial requesting the secretary of health to convene a lesbian, gay, bisexual, transgender and queer (LGBT) health disparities task force to analyze health disparities and make recommendations for addressing those disparities. The memorial requests that the task force employ a "health in all policies" model to examine the environmental, socioeconomic, cultural and other social determinants of health. Senator Candelaria lauded the bipartisan and collaborative effort involved in preparing this memorial, especially that of the Department of Health (DOH) and its staff members. Shelley Mann-Lev, director of the SAGE Health Project, said her organization is very enthusiastic about opportunities presented by this memorial.

**D** James Padilla, epidemiologist in the Chronic Disease Prevention and Control Bureau of the DOH, presented an overview of New Mexico LGBT health data (see handout) indicating increased risk and a growing recognition of stigma and discrimination in mental health, violence and substance abuse. Sexual orientation data collection from New Mexico adults began in 2005 as part of a national survey, Mr. Padilla said, and was updated in 2013. That same year, sexual identity measures were included on the Youth Risk and Resiliency Survey conducted in middle and high schools in New Mexico and in 30 other states. Mr. Padilla said that possible contributors to LGBT health inequities could include stress related to discrimination, barriers to accessing health care, including a lack of health insurance and delaying treatment, a lack of cultural competency for LGBT consumers in the health care system and the use of alcohol and tobacco products to help cope with stress.

Robert Sturm, training coordinator for the SAGE Health Project and executive director of the New Mexico Community AIDS Partnership, lauded the collection of data but said that much more is needed. He has heard stories from LGBT community members about going to doctors and being told very hurtful things, and these narratives make it easy to understand the community members' lack of trust in the health care system. Health workers do not have enough training about LGBT issues, Mr. Sturm said, but providers seem eager for training and appear to be supportive of systemic change.

Senator Candelaria asked for endorsement of the memorial by the LHHS. A motion was made for endorsement, seconded and unanimously approved.

### **Chiropractic Physicians' Scopes of Practice**

**F** Adrian Velasquez, D.C., introduced himself to the committee as a representative of a group of chiropractic physicians who wish to register their opposition to the direction of a small group of New Mexico chiropractors who have been actively pursuing prescriptive drug authority. Dr. Velasquez, in practice in Albuquerque for five years, provided extensive background on chiropractic health care, its origins and practice as a noninvasive approach that does not use drugs or surgery (see handout). He stated that chiropractic doctors use adjustments of the spine to alleviate pain and irritation long enough to allow the body to self-regulate and self-heal. An important component of treatment is the education of patients in the pursuit of healthier lifestyle choices, including better nutrition and exercise, he said, and many patients choose their chiropractor as their primary care doctor. Pharmaceuticals stop pathways in the

body and override systems, Dr. Velasquez explained, and they block the body's ability to regulate itself. He cited statistics from the World Health Organization that highlight the American penchant for a "quick fix" of health problems with drugs: the United States represents five percent of the world's population and consumes 75 percent of the pharmaceuticals available worldwide, yet it is ranked thirty-seventh in health outcomes among all nations. New Mexicans do not need more drugs being prescribed by chiropractors, Dr. Velasquez concluded.

Brad Fackrell, D.C., has been in practice in Rio Rancho for 17 years and testified about prescriptive authority for chiropractors as a matter of public safety. Bills to expand this authority have been introduced in the legislature for the past four years, and another bill currently is being prepared for this session, he stated. The group of practitioners pushing for this legislation claims to represent more than 30 percent of the state's chiropractors, but it actually represents only about 20 percent, Dr. Fackrell asserted (see handout). He noted that the issue of adding prescriptive authority to the chiropractic scope of practice in New Mexico has never been brought before the members of the New Mexico Chiropractic Association for a vote, much less even for discussion. He cited a statement from the 2013 Chiropractic Summit, an umbrella group of prominent chiropractic organizations, that passed unanimously and states that "no chiropractic organization in the Summit supports the inclusion of prescriptive drug rights and all chiropractic organizations in the Summit support the drug-free approach to health care". Dr. Fackrell also provided statements from leadership of several chiropractic colleges urging chiropractic to remain drug-free. The clinical training required for chiropractic prescriptive authority in proposed bills is problematic, he said, because programs for this training do not exist. A safer path for an advanced practice chiropractor who wishes to gain prescriptive authority would be for that individual to pursue a degree in the nurse practitioner program at UNM or New Mexico State University (NMSU).

### **Public Comment**

Glenn Walters, deputy secretary of the Higher Education Department, asked for endorsement of upcoming legislation that would expand the purpose of the Nurse Educators Fund to allow registered nurses to use the fund to obtain higher degrees in order to qualify to become nursing educators. Last year, the bill passed the house and went through senate committees, but it did not make it to the senate floor.

Stephen Perlstein, D.C., said he is chair of the New Mexico Chiropractors Association, and he asserted that the presenters speaking against prescriptive authority are with the International Chiropractic Association, which has 11 members.

Cathy Riekeman, D.C., stated that it is not just the International Chiropractors Association members who are against prescriptive authority. Nationally, the trend is against using drugs, and four chiropractic colleges have come out against it. Dr. Riekeman said that if prescriptive authority is granted, it will have to be incorporated into initial education and not just come from a class completed after graduation.

### **Recess**

The meeting recessed at 4:40 p.m.

## **Tuesday, November 25**

### **Welcome and Introductions**

Representative Madalena reconvened the meeting at 9:20 a.m. He welcomed those assembled and asked committee members and staff to introduce themselves.

### **Falls Task Force Report**

D Toby Rosenblatt, chief of the Injury and Health Epidemiology Bureau, DOH, and Janet Popp, a physical therapist and member of the New Mexico Adult Falls Prevention Coalition, reported on progress of fall-prevention activities statewide, as required by HB 99 (2014) (see handouts). The DOH has engaged key collaborators, Mr. Rosenblatt reported, and has expanded provider training in fall risk assessment and prevention, as well as in community-based fall-prevention activities. A public awareness campaign about fall risks includes a new web site ([www.stopfallsnm.org](http://www.stopfallsnm.org)) and collaboration with the Aging and Disability Resource Center of the Aging and Long-Term Services Department (ALTSD). The DOH is contracting with NMSU's Department of Kinesiology and Dance to implement a falls screening initiative and with the ALTSD to distribute falls-awareness literature to the public. Falls are not an inevitable consequence of aging, Mr. Rosenblatt said, and while New Mexico has reduced its fall-related death rates among older adults during the last decade, New Mexico is still significantly above the national average in fall-related deaths.

Greater efforts in falls education and prevention in rural areas need to be made, Ms. Popp emphasized. If residents cannot age in place, their departure is a great loss to those communities. There has been increased emphasis on teaching tai chi to seniors, a program that has been proven highly effective, she said, but not everyone wants that form of exercise; other evidence-based programs that enhance balance need to be considered. A committee member inquired if any Medicaid MCOs were putting fall prevention into their health plans. Not yet, Ms. Popp said, but she expects that this may become more of a priority as the state's population continues to age. The presenters said that more funding for falls prevention is needed from the legislature. The legislation originally sought an appropriation of \$1 million, but just \$100,000 was finally approved.

### **Liver Transplant Facility**

F Julio C. Sokolich, M.D., a multi-organ transplant and hepatobiliary surgeon, presented a proposal for the establishment of a multi-organ transplant program for New Mexico (see handout). New Mexico, one of 12 states that does not have such a program, has the opportunity to position itself as a leader in liver transplant services, providing excellent results combined with reduced waiting periods, Dr. Sokolich said. There is significant demand, based on the number of potential liver transplant patients and available organs. Over the past three years, 32 organs were diverted from the New Mexico donation service area to other states, he said. UNM and Presbyterian Hospitals provide post-surgery services to liver transplant patients who return from out-of-state surgeries and report that between 70 and 80 percent of these are funded by

Medicaid, which pays an average of nearly \$400,000 per surgery. Chronic liver disease is the fourth largest cause of mortality in New Mexico, and the rates of the primary causes of liver disease — alcoholism and hepatitis C — are twice the national average. There are currently 165 New Mexico residents on waiting lists in other states for a liver transplant. Dr. Sokolich asserted that professional expertise is already in place in New Mexico that would support the program, and organ donation has increased due to enhanced education programs promoting it.

In 2002, a national model for end-stage liver disease was developed to prioritize the allocation of liver transplants, and this change provides an opportunity to help more New Mexicans, Dr. Sokolich said, pointing to a five-year chart of financial metrics supporting his contention that the state could become a viable regional transplant center.

As an example, Dr. Sokolich cited New Mexico's current situation with kidney failure patients. There are 1,300 patients on kidney dialysis in New Mexico, he pointed out, and, at nearly \$100,000 a year for each patient, the state spends more on dialysis care than on transplants.

Dr. Sokolich's presentation included testimony from a resident of Gallup, whose wife underwent a liver resection in another state, who described the financial stress for family members and who asked the committee to support this proposal. William Keifer, chief operating officer of Rehoboth McKinley Christian Health Care Services in Gallup, where more than 400 individuals are currently on dialysis, said his hospital would be willing to partner with an Albuquerque facility to help establish a collaborative effort.

Via telephone, Hani P. Grewal, M.D., a multi-organ transplant surgeon at the Mayo Clinic in Boise, Idaho, spoke to committee members at Dr. Sokolich's behest. Dr. Grewal said that what is needed is an examination of historical efforts to establish a transplant center in New Mexico and why those efforts did not succeed; identification of institutions with transplant infrastructure; adequate funding for resources and infrastructure; and identification of leaders with a passion to take on this task. Transplant patients generate a lot of revenue for a hospital, Dr. Grewal said, but the capital investment is quite intense, and putting resources into place for Medicaid/Medicare certification is a slow process. If any of these elements is missing, Dr. Grewal said, he would not advise taking on the project.

Representative Lundstrom, who sponsored House Memorial 48 (2013), calling for a feasibility study of a liver transplantation institute in New Mexico, said that the study results seemed to create more questions than answers, and she felt a financial matrix was needed. The feasibility study was conducted by the Transplant Management Group, LLC (TMG), and it indicated a very poor prognosis for a free-standing liver transplant institute in New Mexico. The feasibility study recommended the establishment of a national partnership/collaborative relationship with an out-of-state liver transplant program.

Dr. Sokolich said \$5 million would be needed to create a program with a broader base. By the second year, the program could be self-sustaining, he said. The funding request would

not be for a single facility, but to establish a network of facilities that would be able to offer transplants. The goals of this project would be to serve the community and to distribute care throughout the state, Dr. Sokolich said, and to attract specialists to New Mexico. There are 62 other institutes around the country, he stated, and if a group can be brought together, a liver transplantation institute could happen here.

### **Supportive Services for Liver Transplant Patients**

Brad McGrath, deputy secretary, DOH, was unable to make a presentation to the committee, and, in his place, Winona Stoltzfus, M.D., regional health officer at the DOH, provided copies of the feasibility study conducted by TMG to committee members, as well as copies of a letter to Representative Lundstrom from Secretary of Health Retta Ward expressing her confidence in the results of the study (see handouts). Dr. Stoltzfus described the process that led to the study: UNM put out a request for proposals in response to Representative Lundstrom's memorial. TMG was selected, and all major hospital systems in the Albuquerque area were invited to participate. Of the five different scenarios, a national partnership/collaboration with an out-of-state liver transplant program was recommended, Dr. Stoltzfus said, and the DOH would be glad to lead the way in formalizing the process of establishing such a collaboration to help improve health care for New Mexicans. Dr. Stoltzfus agreed that a financial study would be the best next step. A variety of factors worked against the recommendation for a transplant center in New Mexico, she said, from lack of capability of hospitals to availability of specialists and subspecialists required to perform the complex surgeries. The TMG feasibility study was a collaborative, inclusive process, Dr. Stoltzfus said, and regulatory requirements of the Centers for Medicaid and Medicare Services (CMS) were used in the process.

Mr. Hely clarified for committee members that the CMS requires a "center of excellence" designation in order for the cost of these surgeries to be reimbursed. A new center would have to perform the first 10 transplants without reimbursement to achieve this designation. Dr. Sokolich insisted that a special operating room is not necessary; a transplant surgeon, a transplant nephrology group and an entity that works exclusively with transplants are requirements. He asserted that there are enough annual liver donations available in the state to meet CMS requirements, stating that New Mexico has both the demand and the donors.

A committee member made a motion for staff to draft a letter to all hospital CEOs in the state asking them to come together for further discussion about a possible liver transplant institute. The motion was seconded and approved unanimously.

### **Legalization of Marijuana**

Representative McCamley told members that he will be sponsoring a bill to legalize marijuana in New Mexico during the upcoming legislative session. He provided a brief history of marijuana in the United States, which was legal until the Marijuana Tax Act of 1937 made it illegal throughout the country (see handout). Today, there are 23 states that allow medical marijuana and four states, plus the District of Columbia, that now allow recreational use of the drug, he said. Representative McCamley provided statistics showing that the prohibition of alcohol from 1920 to 1933 actually fueled the rise of organized crime and an increase in

homicide rates. Comparing the risks to health from alcohol versus marijuana, statistics indicate that alcohol is far more dangerous than marijuana, he said. In addition, the United States is the only industrialized country to prohibit the cultivation of industrial hemp; nonetheless, the country is an importer of this valuable crop.

New Mexico could save more than \$33 million annually in costs associated with law enforcement and corrections if marijuana is legalized, taxed and regulated, Representative McCamley said, and this funding could be used for other purposes. He suggested that legalized marijuana production in New Mexico follow the model used by the State of Oregon; that it be monitored from seed to sale by the Alcohol and Gaming Division of the Regulation and Licensing Department; and that production of industrial hemp be encouraged in New Mexico. His legislation will propose that taxes be distributed to K-12 education (40 percent), addiction services (20 percent), state police (15 percent), local law enforcement (20 percent) and abuse prevention (five percent).

Representative McCamley said that legalization of marijuana has been steadily gaining in popularity among citizens, both nationally and in New Mexico. The governor is opposed to it, but Representative McCamley said that moving forward is a process that he is willing to begin. The more New Mexico can regulate marijuana availability, the better off New Mexico will be, he said, noting that Colorado already has collected more than \$30 million in taxes in just six months. Most preconceptions about the dangers of marijuana use are not based on fact, Representative McCamley asserted. A committee member agreed that the proposed legislation will begin an important dialogue. He added that the public "is way ahead of the politics" when it comes to marijuana.

### **Health in All Policies**

Marsha McMurray-Avila, coordinator of the Bernalillo County Health Council, introduced committee members to the Health in All Policies (HiAP) collaborative approach to improving the health of all people by incorporating health considerations into decision-making across sectors and policy areas (see handout). Health policies include transportation, land use, education, taxes, agriculture, economic development and criminal justice. There are several ways to promote health, equity and sustainability, she said. The first of these is by incorporating them into specific policies, programs and processes, and the second is by embedding these attributes into government decision-making processes so that healthy public policy becomes the normal way of doing business. Promoting equity is essential, given the strong ties between inequity and poor health outcomes, she said. The HiAP approach brings together partners from many sectors; breaks down silos; and recognizes the links between health and other policy issues, Ms. McMurray-Avila said, and it could create permanent changes in how agencies relate to each other and how government decisions are made.

Examples of current policy discussions and projects where the HiAP approach could benefit New Mexico include the J. Paul Taylor Task Force, the legalization of marijuana, the statewide long-range transportation plan, Race to the Top and obesity-prevention projects, Ms. McMurray-Avila stated. She offered examples from other cities and states where HiAP has been

formalized, including the cities of Chicago and Seattle and the states of California and Rhode Island (see handout). She said that the HiAP work group requests the formation of a HiAP task force, either through a legislative memorial or administratively through the DOH long-range planning process.

Jacque Garcia, a Bernalillo County representative of Place Matters, an initiative of the National Collaborative for Health Equity, designed to build capacity of local leaders, discussed root causes of racial and ethnic health inequities, including racial segregation, water and soil pollution and a glut of fast food restaurants and liquor stores in certain communities. Kristina St. Cyr, a Place Matters representative from Dona Ana County, pointed out how marginal conditions and high rates of poverty and obesity affect residents and how the county's comprehensive plan could help address housing costs, transportation issues and access to education, jobs and healthy food. Jordan Johnson, Place Matters representative for McKinley County, described active measures that are needed to protect communities from uranium mining's legacy of cancer and other diseases due to radioactive waste in the Rio Puerco.

Ms. McMurray-Avila said she is concerned about sustainability of the HiAP effort. County health councils are able to see what pieces are missing and advocate for what is needed.

### **Behavioral Health Boarding Homes Task Force Report**

Jim Jackson, executive director of Disability Rights New Mexico (DRNM), and Miguel Chavez, DRNM senior advocate, presented a comprehensive investigation by their organization into the deaths of Alex Montoya and Cochise Bayhan from carbon monoxide poisoning in Las Vegas, New Mexico, on October 24, 2013 (see handout). Mr. Jackson also provided committee members with copies of a letter from K. Lynn Gallagher, deputy secretary of health, regarding the status of an interagency review of boarding homes, copies of the boarding home tenant resource list and a December 2010 report on licensure in behavioral health care prepared by the House Joint Memorial 34 Committee. The DOH is not authorized to regulate every boarding house in the state, Ms. Gallagher asserted, just those providing covered health services. If no health care services are provided, these homes are governed by landlord-tenant laws and municipal occupancy rules. The 2010 report recommended that, due to budget and DOH resource constraints, no new regulations or processes for boarding and care homes be initiated at that time, but the DOH's Division of Health Improvement would work with operators of these homes to develop some minimum standards. The DOH does regulate boarding homes that provide assistance with at least one or more activities of daily living for two or more unrelated adults, Ms. Gallagher's letter stated, and the DOH's Health Facility Licensing and Certification Bureau now plans to add clarifying language in those rules.

Mr. Jackson outlined details of the report on the "tragic and preventable" deaths of Mr. Montoya and Mr. Bayhan, both discharged from the New Mexico Behavioral Health Institute at Las Vegas to a boarding "home" that was a Weather King portable storage shed not intended for human habitation on the property of a Las Vegas couple. The shed had no plumbing, water or electricity. Electricity was provided by an extension cord connected to the owner's mobile home, where the two men showered and ate their meals. DRNM is a nonprofit New Mexico agency

authorized by state and federal law to investigate incidents of abuse and neglect of individuals with mental illness. The boarding home was not licensed and had never been inspected by any state agency or a fire department. Three days before the deaths of the two men, the husband of the boarding home operator installed a propane gas heater, later determined to be the cause of the lethal carbon monoxide.

The DRNM report concluded that the men lived in circumstances for which there was no oversight, ultimately causing their deaths, Mr. Chavez said. There is no systematic oversight of boarding homes such as the one in which these men resided and died, and while three state agencies do have jurisdiction over boarding homes or places providing personal or custodial care to adults with serious mental issues, none of them provides systemic oversight to these kinds of residences. The report cited a lack of housing options for individuals with serious mental illness and provided a long list of recommendations, including mandatory local fire inspections and business licenses, oversight of such facilities by the DOH as assisted living facilities for adults, access of such residents to the state's long-term care ombudsman and amendment of the Long-Term Care Services Act to include living situations such as boarding homes, among others.

Mr. Jackson concluded that these two deceased individuals were the subjects of neglect and said that the DRNM is appearing before the committee to talk about the system. Several state agencies clearly do have authority to oversee these situations, Mr. Jackson asserted, and DRNM wants to encourage them to exercise their statutory authority. The law is clear, he continued, but until these agencies step up, residents need to know that they can complain. A committee member noted there did not appear to be any representatives from those state agencies in the audience. Another member commented that the DOH report provided to the committee was not current but was written four years ago. Most of these individuals in boarding homes are on social security income and should be Medicaid-eligible, the member said, but Medicaid will not pay for services in a free-standing mental health facility, and a legislative fix is needed. Mr. Jackson agreed, adding that DRNM does not want to see any interruption in Medicaid services and that MCOs should be coordinating care for these individuals.

#### **Adjournment**

There being no further business before the committee, the sixth meeting of the LHHS for the 2014 interim was adjourned at 5:10 p.m

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