

MINUTES
of the
THIRD MEETING
of the
LEGISLATIVE HEALTH AND HUMAN SERVICES COMMITTEE
August 5-7, 2009
Eastern New Mexico University
Ruidoso, New Mexico

The third meeting of the Legislative Health and Human Services Committee was called to order by Representative Danice Picraux at 9:06 a.m. A quorum was present.

Present

Rep. Danice Picraux, Chair
Sen. Dede Feldman, Vice Chair
Sen. Rod Adair (8/5)
Rep. Nora Espinoza
Rep. Joni Marie Gutierrez (8/5, 8/6)
Rep. Antonio Lujan
Sen. Gerald Ortiz y Pino

Absent

Advisory Members

Rep. Ray Begaye
Rep. Keith J. Gardner (8/5)
Sen. Clinton D. Harden, Jr. (8/5)
Rep. John A. Heaton (8/5)
Sen. Gay G. Kernan
Rep. Dennis J. Kintigh (8/5, 8/6)
Rep. Rodolfo "Rudy" S. Martinez (8/5)
Sen. Cisco McSorley
Rep. Bill B. O'Neill
Sen. Mary Kay Papen
Sen. Nancy Rodriguez (8/5, 8/6)
Sen. Sander Rue
Rep. Gloria C. Vaughn

Sen. Sue Wilson Beffort
Rep. Jose A. Campos
Rep. Eleanor Chavez
Rep. Nathan P. Cote
Rep. Miguel P. Garcia
Rep. James Roger Madalena
Rep. Jeff Steinborn
Rep. Mimi Stewart
Sen. David Ulibarri

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

Staff

Michael Hely, Staff Attorney, Legislative Council Service (LCS)
Karen Wells, Researcher, LCS
Josh Sanchez, Intern, LCS

Guests

The guest list is in the meeting file.

Handouts

Handouts are in the meeting file.

Welcome and Introductions

The chair welcomed everyone. Committee members and staff introduced themselves. Brad Treptow greeted the committee and announced that the Lincoln County Medical Center and Presbyterian Healthcare Services would be hosting a reception for the committee at the Lodge at Sierra Blanca that evening. Representative Kintigh noted that many behavioral health providers are not being paid on a timely basis and requested the committee to address this issue.

Welcome by Dr. Michael Elrod

Dr. Michael Elrod, president, Eastern New Mexico University (ENMU), welcomed the committee to Ruidoso and made brief comments regarding the university. Committee members expressed appreciation for the work being done in Ruidoso by the university.

Aging in Place: A National Agenda; Projecting Work Force Needs

Deborah Armstrong and Michelle Lujan Grisham, Delta Consulting Group, offered testimony regarding trends in long-term care on a national level. Ms. Armstrong provided a historical perspective and highlighted current initiatives in long-term care. She identified the vision and principles under which the federal Centers for Medicare and Medicaid Services (CMS) are operating, focusing on consumer choice and independence and an array of high-quality services and supports that are intended to reverse the institutional bias and increase flexibility for states. Initiatives include money follows the person, the program for all-inclusive care for the elderly (PACE) and managed long-term care. The goals and funding priorities of the strategic plan of the federal Administration on Aging were presented. Project 2020, an initiative of the National Association of Area Agencies on Aging, builds on the promise of enhanced home and community-based services and is supported by federal legislation.

Ms. Grisham described innovations and proposed models of services to promote aging in place. In New Mexico, Jewish Family Services is operating naturally occurring retirement communities (NORC) and is expanding service to Native Americans. Hidalgo Medical Services is partnering with the Area Agency on Aging to promote health and wellness through a medical home model and is exploring implementing a rural PACE model of care. New Mexico compares favorably to the nation as one of the top states in funding long-term care services. Opportunities for additional programs include "Green House" projects as alternatives to nursing home care and increased development of medical homes and university-affiliated retirement communities. The potential for a University of New Mexico (UNM) center on aging was described. The need for direct caregivers, family support services, all levels of licensed health care providers and older workers and volunteers was identified as critical to meeting the growing need for services. Demographics were provided emphasizing the dramatic anticipated growth of the aging and disability populations in New Mexico and the nation.

Committee members had questions and comments regarding the following:

- the work force needs of the future: telehealth was highlighted and suggestions were made for effective expansion of telehealth;
- the need for revisions to licensure for all levels of caregivers;
- the potential for providing college credit for training of direct care providers to high school students;
- ways in which retired health care professionals could be incentivized to volunteer;
- the experience of some states in paying for long-term care insurance for elders;
- the current problem of long waiting lists for services;
- clarification regarding the New Mexico data that was provided, especially rural disparities, and a request for additional data to be provided;
- clarification regarding the model of care provided by Hidalgo Medical Services;
- the need for viable, active senior centers;
- the value of ombudsmen in helping consumers to navigate the long-term care system; and
- the need of many elders for assistance with taking medications.

New Mexico's Efforts to Support Aging in Place; Work Force Development Needs

Cindy Padilla, secretary, Aging and Long-Term Services Department (ALTSD), and Emily Kaltenbach, director of policy and planning, ALTSD, presented information regarding the ALTSD's role in providing long-term care services that support aging in place. Secretary Padilla began by introducing members of the ALTSD staff that were present. The ALTSD has organized its strategic plan around the following eight priorities: access to home and community-based services; support of caregivers; support for an individual's ability to self-direct care; zero tolerance for abuse, neglect and exploitation; empowerment of healthy and active lifestyles; support for behavioral health needs; advocacy for economic security; and promotion of civic engagement. The priorities are viewed by the department as essential elements of a continuum, all of which are necessary for a comprehensive and integrated approach to care. Ms. Kaltenbach highlighted the importance of the Aging and Disability Resource Center in connecting individuals to the services and supports they need and identified future steps to improve the center. Efforts to streamline and enhance eligibility determinations for Medicaid and other low-income subsidy programs are underway. Coordination of services and support for persons who are victims of abuse, neglect and exploitation are being expanded. A grant application has been submitted to allow face-to-face long-term care planning and short-term case management for community-based service options in the resource center. Work is underway to better manage the waiting lists for services; however, it was noted that additional dollars will ultimately be needed to fully eliminate the waiting list.

Secretary Padilla highlighted the challenges in meeting both formal and informal work force needs. The critical nature of adult protective services was stressed. Ms. Kaltenbach described the elder economic security initiative, an initiative in which the ALTSD has been chosen to participate that is designed to promote elder economic security. The ALTSD will be developing an elder economic security standard index to identify the actual cost of basic expenses for elders, such as transportation, housing and food in addition to long-term care and

health care services and supports. The ALTSD will be partnering with Wider Opportunities for Women and the Gerontology Institute at the University of Massachusetts to complete the work.

Committee members had questions and made comments about the following topics:

- the number of and type of people that the ALTSD has been able to hire under the current hiring freeze; most have been hired for adult protective services;
- the amount of funding that is available for senior volunteers;
- the role of the ALTSD in determining the budget needs for Medicaid in light of the anticipated growth of the aging population;
- clarification regarding the economic security initiative and how the department will manage this project in light of diminishing resources;
- whether eligibility for programs should be limited to people older than 50 or 55; eligibility standards are in large part set by the federal government;
- how to expand valuable programs such as the senior companion program;
- the ways in which ombudsmen volunteers are recruited and trained;
- how the area agencies on aging are designated and how they are able to service the different regions of the state;
- the strategic plan to address extreme poverty in rural New Mexico;
- a suggestion that frailty should be more important than age in determining allocation of scarce long-term care resources; and
- whether the economic security initiative will address declining retirement funds in today's economy.

Maintaining Elder Independence

Wendy Basgall and Reina Owen DeMartino, staff attorneys, Senior Citizens' Law Office (SCLO), described the legal services that the SCLO provides to maintain elders' independence in the community. One important element of their work is to assist their clients to execute all necessary documents, such as powers of attorney and end-of-life decision-making documents, to preserve their rights to delegate decision-making according to their own wishes and desires and to protect their property. Ms. DeMartino provided details about counseling and legal help given to clients regarding housing, renting and ways to avoid foreclosure. Ms. Basgall described elements of financial counseling and health care counseling available to clients covering many benefit programs such as subsidized housing, home and community-based care and other public benefits that allow seniors to remain in their own homes. The SCLO also represents clients in special issues such as exploitation, denials of services and other barriers to needed services. Clients that are in need of legal guardians are assisted in the process of obtaining one.

Committee members asked questions and made comments regarding the following topics:

- clarification regarding the role of the SCLO in the execution of legal documents;
- clarification between guardianship and conservatorship; guardianship is over the person, and conservatorship is over the person's finances;
- clarification regarding the Uniform Health-Care Decisions Act that establishes parameters for health care decisions when other decision-making documents are lacking;

- the array of funding sources for the SCLO;
- the geographic area covered by the SCLO and the caseload of the attorneys;
- the extent of direct representation that the SCLO attorneys provide;
- expressions of appreciation for the work done by the SCLO;
- ways in which the ALTSD works with the SCLO and legal services for low-income elderly services and funding streams for each;
- the impact of reductions in state general funding on these programs; and
- how the ALTSD prioritizes funding for legal and other services.

Public Comment

Jim Jackson, Disability Rights New Mexico, spoke to the effect of the reductions in funding for legal services. He reminded the committee that New Mexico has a progressive law on mental health decision-making.

Anna Otero Hatanaka, Association for Developmental Disabilities Providers, commended the SCLO for its work and expressed the importance of such services in addressing exploitation of elders.

Ellen Pinnes, Disability Coalition, reminded the committee that \$750,000 was appropriated for FY09 to serve more people on the disabled and elderly (D&E) waiver; she does not believe it is being spent for that purpose.

Medicare and Long-Term Care Medicaid: A Primer

Karen Wells, researcher, LCS, described Medicare as health insurance for people who are elderly or disabled that helps pay for hospitalization, physician office visits, prescription drugs and other acute and post-acute services. Medicare does not cover long-term care; only short-term (up to 100 days) rehabilitation in a long-term care facility and skilled intermittent home health care and hospice are included.

Medicaid is a federal/state partnership offering a broad array of coverage for low-income individuals. Long-term care services are covered in two way, one of which is personal care option (PCO) services, such as a personal care attendant, are a basic benefit for low-income individuals who need help with two or more activities of daily living. The number of hours of service are limited based on an approved services plan. Waiver services special programs for which New Mexico has applied to the CMS to provide an array of home and community-based services were described. New Mexico has several waivers, including the D&E waiver, the developmental disabilities (DD) waiver and Mi Via, the self-directed waiver. Once a person is on a waiver, a broader array of services is available, including a personal care attendant, but also includes such services as assisted living, adult daycare and private duty nursing. The waivers have long waiting lists and are limited based on the number of slots funded by the legislature. Income eligibility for waivers is higher, but individuals must also need assistance with two or more activities of daily living, which is the nursing home level of care criteria. The coordination of long-term services (CoLTS) program has both PCO and the D&E waiver in it. Access to D&E is no greater since CoLTS was implemented.

Rebalancing for Home and Community-Based Services: Cost, Quality and Collaboration: What This Means for Work Force

Secretary Padilla and Carolyn Ingram, director, Medical Assistance Division, Human Services Department (HSD), presented information on what it means to rebalance long-term care in favor of home and community-based services and how the CoLTS program helps with the rebalancing effort. Secretary Padilla discussed the rationale for engaging in rebalancing efforts and described New Mexico's experience in this area. She identified the number of people on waiting lists for services in all the waivers, including CoLTS. Currently, only people being reintegrated into the community from a nursing home are being put on the D&E waiver in CoLTS. Secretary Padilla provided an overview on the CoLTS program, which is a coordinated and integrated managed long-term care program. The goals of the program are to promote home and community-based services, reduce unnecessary institutional placements, coordinate Medicare and Medicaid funding streams and improve the health status of the population served. The eligibility criteria to enter the program were reviewed. Ms. Ingram provided specifics regarding the number of participants, which managed care company they are enrolled in and elements of service coordination and quality of care. She identified a broad array of quality and performance measures that are in place for CoLTS. Disease management programs are a requirement of the contract with the managed care organizations. She described the ways in which the managed care companies are able to help people remain in their homes and how legislative appropriations affect their ability to meet all the needs of this population.

The program is financed through risk-bearing contracts with managed care organizations. Value-added services that each managed care organization offers were identified. Oversight of the program is extremely intensive and includes numerous internal and external audits. When problems are identified, the managed care companies are put under corrective action plans and may be sanctioned.

Secretary Padilla highlighted successes and lessons learned from the first year of implementation. Specific challenges that were faced were described, along with the solutions to those challenges. In the future, the departments hope to achieve improvements in coordination of Medicare and Medicaid, with an ongoing focus on quality improvement activities. The benefits of the collaboration between the HSD and the ALTSD in implementing this program were described.

Committee members had questions and comments in the following areas:

- how people are approved for participation in the CoLTS program and how determinations are made regarding nursing home care versus home and community-based services;
- how much time elapses before a service coordinator visits an enrolled member;
- the confusion about what is actually available since the implementation of CoLTS;
- a comparison between nursing facility costs and the cost of home and community-based services;
- serious problems with CoLTS providers not getting paid;
- the necessity for some individuals to still be served in nursing homes;

- a request for a report on how the legislative appropriation for the D&E waiver was utilized;
- a request for a written description of how eligibility for CoLTS is determined and for verification that nursing home placement is not a prerequisite for being enrolled into the program;
- the number of people on Medicaid for whom the department has an inaccurate address;
- the way in which oversight of the personal care option occurs to identify potential billing abuse by family members;
- the national average cost of a nursing home per year, which is estimated at \$75,000 per year, or between \$3,600 and \$4,200 per month;
- how New Mexico compares to other states in the cost of long-term care; and
- clarification regarding the formula by which per member, per month payments to the vendors is calculated.

Stakeholder Perspective on Meeting CoLTS Program and Work Force Goals

A panel was invited to give stakeholder perspective on the effectiveness of the program. The panel included Linda Sechovec, executive director, New Mexico Health Care Association; Gil Yildiz, executive director, Independent Living Resource Centers; and Doris Husted, policy director, the ARC of New Mexico.

Ms. Yildiz identified transitions to community living, even with the CoLTS program, as problematic due to inadequate housing and housing assistance programs. It is the position of the Independent Living Resource Centers that the statutory requirements of the Money Follows the Person in New Mexico Act have not been implemented through CoLTS.

Ms. Husted stated that although CoLTS may have introduced elements of coordination and flexibility, it did not alter any Medicaid eligibility requirements, so no new categories of people are served by the program. She noted that CoLTS does not only serve seniors; young people with disabilities are also served. She reminded the committee that concerns were raised in a memorial that passed the legislature in 2008 and highlighted those concerns. She asserted that individuals should have the choice to live in the community, even if that does not appear to be a safe choice, and that they should have the ability to hire and train their own caregivers. She noted that many people will choose to enter the CoLTS program through a nursing home because nursing home coverage is mandatory under Medicaid, and home and community-based services are not. Once a person is enrolled in CoLTS by virtue of admission to the nursing home, the likelihood that they can be transitioned back into the community is higher. She emphasized that New Mexico has made a fundamental change in how long-term care services are provided in the state and urged the committee to hold the departments accountable for running the program well.

Ms. Sechovec spoke representing nursing facilities, residential care facilities and independent living facilities. She made a comment provided by Joie Glenn on behalf of the home health care agencies, thanking the departments, acknowledging that progress is being made but that problems remain. She provided general demographic and payment information from the

CMS and highlighted nursing facility reimbursement issues. A national audit report compares New Mexico's costs and reimbursement rates, reflecting that nursing facilities are underfunded in the state by an estimated \$11.20 per person per day. Nursing facilities in New Mexico are losing money every day. Some have ceased admitting Medicaid patients. Ms. Sechovec explained that CoLTS exacerbates these issues due to late payments. Medicare pays enough, so far, to offset losses under Medicaid, but Congress is considering reducing those payments. Jodi Knox, director of a not-for-profit home health hospice, nursing facility and assisted living facility in Carlsbad, noted that many of her clients are too ill to be cared for at home, that they are losing \$1,300 per day in Medicaid and that payments are not timely. She has a shortage of nurses and cannot pay competitively with the hospital. Medications are not being approved or provided by the managed care organization, putting patients and the nursing facility at risk. She predicts that if Congress approves the Medicare cuts it is considering, nursing facilities around the state will close.

Committee members had questions and made comments as follows:

- clarification regarding what constitutes a "clean claim";
- the timeliness or lack of timeliness of payments and support for the time period being shortened to at least 14 days or less;
- reasons for providers having difficulty satisfying claims requirements under CoLTS that they did not experience prior to CoLTS;
- the number of nursing facilities at financial risk due to this program and the disproportionate effect on rural facilities;
- recognition that rural facilities have a higher number of Medicaid patients than urban facilities;
- the insupportable cost of bureaucracy in the delivery of health care and long-term care;
- situations in which physician-ordered medication could be denied payment by a managed care organization;
- recognition that the state budget is currently overspent by \$400 million and that there is no more money available to increase payments to providers; and
- clarification about which businesses being discussed pay taxes in New Mexico.

CoLTS: Program Potential and Barriers

Laura Esslinger, executive director, Evercare of New Mexico; Quinn Glenzinski, director, Regulatory Affairs, Evercare of New Mexico; Janine Davis, chief operating officer, Amerigroup New Mexico; and Mark Padilla, vice president, Government Affairs, Amerigroup New Mexico, composed a panel representing the CoLTS managed care vendors. Mr. Padilla began by stating that he believes that CoLTS is part of the solution to long-term care in New Mexico, but recognizes that many people in the room disagree. He does not expect to change any minds, but assured the committee that the testimony the panel will provide is a true representation of how they are doing. Ms. Davis presented combined data reflecting early program successes, including the number of calls answered, average length of time to pay claims, days to transition someone from a nursing home into the community, outreach events and more. She provided a case study of one 96-year-old client to demonstrate the benefits of the

program.

Ms. Davis drew the attention of the committee to materials in the packet that contain other anecdotal stories such as this. Ms. Esslinger acknowledged that the day has been long and emotional. She identified a few program challenges and barriers that could be worked on to improve the program. Many of these barriers existed prior to CoLTS implementation, but CoLTS may hold the solution to them. Despite the program goals of CoLTS, services remained siloed within the program. Policies and regulations, including waiver allocations, often hamper the managed care organization's ability to be creative in care planning and delivery of services that could save money for the state. The third-party assessor process in New Mexico is cumbersome and results in delays to care. The costs of community services could be better managed under CMS criteria. The stability of the nursing facility industry, the inability of the state to locate members and Medicare cross-over claims are other areas in which the managed care venders would like to work with the state to identify and implement creative alternatives or solutions. Mr. Glenzinski presented information regarding the adequacy of the provider network. Overall, nearly 1,300 primary care physicians, 2,600 specialists, 64 hospitals and 746 ancillary and long-term service providers are now contracted with one or both of the managed care venders. Access to services is being provided in rural and frontier areas of the state. In conclusion, Mr. Padilla remarked that the CoLTS venders are proud of the program and feel they are poised to make the system much better and more responsive. The initial period of implementation is behind them, and the program is becoming a mature and effective one.

Committee members had questions and comments as follows:

- clarification regarding who can be a caregiver within the PCO program and how the caregiver is paid;
- how someone qualifies for Medicaid and CoLTS and receives home and community-based services;
- whether out-of-network reimbursement is available; in-network reimbursement is a negotiated rate and out-of-network reimbursement is 100% of the Medicaid rate;
- whether there is an active program to direct clients to receive their care from network providers;
- whether the administrative cost and the cost to the state of providing long-term care have increased since the implementation of CoLTS;
- a request for evidence that the program is streamlining service provisions and saving money for the state;
- an expression of appreciation to the venders and the state for their efforts to solve program problems;
- a request for a status report on Money Follows the Person in New Mexico Act; community integration has been occurring and some funding exists for transitional costs;
- a comment by Ms. Pinnes that money follows the person is not being implemented;
- a request that the money follows the person be placed on a future agenda;
- whether all nursing homes have contracts with CoLTS venders; not all have signed up with both venders;

- the method by which noncontracted providers are paid;
- the method by which clients are assigned to or choose a managed care organization;
- clarification regarding outreach efforts to educate potential clients about their choices;
- whether the goals of service coordination have been successful;
- whether a provider survey queried the timeliness of reimbursement;
- whether there is a dollar figure that could be generated that would make providers whole that could be used during a special session;
- a request for a memorandum from the managed care organizations regarding the barriers to implement the program more efficiently; and
- the potential for development of a common claim form and common credentialing process.

The meeting was recessed for the day at 7:00 p.m.

Thursday, August 6

Representative Picraux called the meeting to order at 9:25 a.m. Sandi Aguilar, executive director, Ruidoso Valley Chamber of Commerce, welcomed committee members and thanked them for coming.

Clinical Work Force and Emergency Medical Services (EMS) Training Programs at ENMU

Dr. Elrod introduced a panel of presenters, including Juanita Garcia, coordinator, student advising, ENMU-Ruidoso; Jane Batson, Division of Health, ENMU-Roswell; Beth Hardy, instructor, BSN Completion Program, ENMU-Portales; and Steven Atkinson, EMS coordinator, ENMU-Alamogordo, to discuss health care work force and EMS issues in eastern New Mexico.

Ms. Batson presented data that reflect critical health care professional shortages in the state, with rural areas most severely affected. New Mexico ranks forty-ninth in the nation in the number of dental hygienists and pharmacists, forty-eighth in the number of radiologic technologists, forty-first in the number of respiratory therapists and thirty-ninth in the number of emergency medical technicians and paramedics. Thirty-two of the 33 counties in the state qualify as health professional shortage areas or medically underserved areas for a lack of primary care physicians. Ms. Batson is actively interested in changing those statistics. Ms. Hardy spoke about efforts to recruit and assist associate degree nurses to complete their BSN degree and described a nursing assistant program in place at ENMU-Portales that serves as a career ladder for nurses. The federal Workforce Investment Act of 1998 (WIA) provides financial support for individuals in both of these programs. Ms. Batson reminded the committee that two years ago, all the nursing programs in New Mexico aligned their entrance requirements. Mr. Atkinson described training programs for paramedics; Alamogordo teaches the higher level of paramedic training; however, the city has a shortage of EMS workers and paramedics. Mr. Atkinson is working to train and retain these workers. Education is the biggest challenge for small communities and rural areas. Once trained as a paramedic, there are educational requirements to

retain licensure. Ms. Batson identified various measures that ENMU is taking to address the challenges identified. The school is working to develop and implement online courses and live streaming video for all certificate and degree programs. The university has applied for grants, including a United States Department of Labor grant, and has worked hard to develop strong partnerships with employers to help fund the cost of acquiring state-of-the-art equipment for use in training. Last year, the school piloted live video streaming for the nursing program, which resulted in a 100% pass rate with national boards. ENMU has also partnered with UNM for distance learning opportunities for local students. One local hospital provided the salary for an instructor. Collaborations are essential to the success of these programs.

Challenges in addressing rural health care work force issues include EMS workers who do not live in an area where refresher training is offered, recruitment and retention of qualified faculty, sources of funding to cover the cost of tuition, books and transportation and a lack of educational preparation at the high school level. A survey conducted by ENMU showed that 90% of the students entering that college needed at least one remedial course in order to be accepted.

Ms. Hardy discussed the problem of hiring qualified faculty; ENMU-Portales has had one vacancy for more than one year. Last year, ENMU went 100% online in its BSN completion program. Its goal is to "grow our own", taking associate degree nurses working in the area and assisting them to complete their bachelor's of science degree in nursing. Currently, the program has only three full-time staff. She supported the importance of partnerships with businesses and other educational institutions to be successful.

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

- whether students using online educational methods are isolated from other students;
- how clinical experience is incorporated into online training programs;
- steps ENMU is taking to prepare high school students to be ready for health professional courses of study;
- whether data are available on the areas of the state suffering the most severe health professional shortages; New Mexico Health Resources and the New Mexico Health Policy Commission have both conducted surveys on this issue; ENMU and possibly other universities have conducted surveys;
- clarification regarding the availability and use of federal American Recovery and Reinvestment Act of 2009 (ARRA) funding for health professional work force development; ARRA funds do not support allied health work force training;
- whether the local work force development boards are providing any support for health care work force development; money is available for allied health care work force training; however, not all the local boards are responsive;
- a request that the committee write a letter to the Eastern Area Work Force Development Board urging it to use funds in support of allied professional training; the request was unanimously supported by the members;
- sources of state general funding to support individuals entering allied health

- professional training;
- whether there are limitations to the number of scholarships for individuals desiring to enter nursing school; entrance to nursing school is more limited by a lack of faculty;
- clarification regarding a proposed telepharmacy program; a model program exists in North Dakota; Hidalgo County Medical Center is implementing this program and ENMU is collaborating with it;
- the potential for rural pharmacies to participate in the federal 340B pharmacy program;
- whether ENMU offers training for audiologists and by what means they are able to determine levels of deafness;
- clarification regarding the difference between emergency medical technicians and paramedics and what board licenses them; the EMS Bureau in the Department of Health licenses them;
- details regarding a proposed EMS management degree being developed at ENMU;
- what can be done that is currently not being done to recruit allied health professionals;
- the requirements to become nurse faculty;
- the importance of inspiring young people to think about careers in health care in elementary school;
- how the education funding formula does or does not support higher education;
- the long-term viability of the partnerships ENMU has with UNM and others; and
- problems with access to anesthesiologists and certified nurse anesthesiologists.

Viability of Trauma and EMS Work Force and Infrastructure

Don McNutt, Statewide EMS Advisory Committee, introduced the panel and others in the audience involved in EMS and trauma in New Mexico. He identified the goal of today's presentation to be a request for legislation called the New Mexico EMS Legacy Act, which would generate an estimated \$17 million through a 1% service charge on all homes, rentals and auto insurance policies in New Mexico, with proceeds to be earmarked for EMS services. He provided background information regarding the system of EMS in New Mexico, including a history of legislative funding.

Dale Kester, M.D., chair, New Mexico Trauma Fund Authority, identified the tiers of trauma designation. Level one is the highest level, with 24/7 access to trauma and with educational development at the site. New Mexico has no level two centers; however, San Juan County Regional Hospital and Christus St. Vincent are applying to move from level three to level two. Four additional hospitals are now level four trauma centers, with several more in the pipeline to become certified trauma centers. The Trauma System Fund, which received \$5.9 million in FY 2009, suffered a cut in funding in FY 2010. In order to maintain the integrity of the trauma system, additional funding is needed.

Mike Miller, advocate and past chair, EMS Advisory Committee, provided a historical perspective on the development of the state's EMS system, including the "dollar for life" funding

stream established in 1987, which generated \$1.8 million for EMS services in New Mexico. In 1992, EMS funding was returned to the general fund and funding increased up to approximately \$4 million, which is used to purchase equipment and conduct necessary training. In recent years, general funding has declined.

Kyle Thornton, EMS bureau chief, Department of Health (DOH), spoke about the current need for additional funding for EMS. The Trauma System Fund Authority Act exists to assist municipalities and counties to establish and enhance EMS systems. He identified that currently the fund has \$3,875,900, which allows the state to fund just over one-third of the requests for funding in the state. House Memorial 20, passed in 2007, identified a need for an additional \$8 million to fully fund EMS services. He clarified that fire departments and EMS services are funded separately, even though they are often co-located. Fire funding is much more generous than EMS funding.

Jennifer Witten, executive director, American Heart Association, provided data regarding the extent of strokes and heart attacks in New Mexico and the system components that are needed to address these diseases. The costs of heart disease and stroke in New Mexico combined totaled nearly \$85 million last year.

Jim Stover, director, Lincoln County EMS, and a board member of the Region III EMS Board, presented information about EMS activity in Ruidoso last year and the effect of inadequate funding in the area. Training, transportation and the ability to respond to emergencies are all affected. He described the circumstances and challenges of a bus accident in Corona and the mobilization of EMS personnel to the event.

Tim Gorsky, Region II EMS Board chair, noted that neither hospital in Las Cruces is a certified trauma center. Tom Reilly, chief of a fire department, provided information about cross-training of firefighters as paramedics. James Markham, mayor of Silver City, expressed frustration at the current lack of funding for EMS services. Jan Bell, EMS paramedic for 28 years, has trained many personnel and volunteers. As a homeowner, she spoke in support of the proposal. Jan Elliott, representing 135 EMS facilities, spoke in favor of the proposal and asked for support of the committee.

Committee members asked questions and made comments as follows:

- the percent of EMS personnel who are volunteers;
- clarification about when funds were last increased for EMS services; it was in 2006;
- whether fire funding should be extended to include EMS funding; the panel does not support this idea, believing it would harm fire response statewide;
- could fire funds currently be use to fund EMS? No, fire funds are specifically earmarked;
- recognition that EMS volunteers have been personally funding these services, but the need far exceeds their continued ability to do so;
- clarification regarding thrombolytic therapy to treat blood clots and strokes;
- whether any other revenue sources were considered in putting together the proposal;

- whether the Public Regulation Commission would need to amend any insurance regulations to enact this proposal;
- whether EMS services can be billed;
- clarification regarding EMS certification and recertification requirements;
- whether the governor has been approached for his support of this proposal; not yet, but that is planned;
- the value and potential for promoting the proposal via an email campaign;
- a suggestion that the proposal be funded by local option incremental tax increases;
- whether some regions are struggling more than others with this issue; generally speaking, rural areas are more affected; and
- an observation that the New Mexico Finance Authority is also discussing a similar idea to fund the State Road Fund.

A motion was made by Senator Ortiz y Pino, seconded by Senator Feldman, that a straw poll be taken to endorse the concept of the proposal on a 1% premium tax to fund EMS and trauma services; clarification was given that the vote would be nonbinding. No vote was taken on the motion itself, only a vote was made pursuant to the motion's content: a vote to endorse the concept of the proposal presented by the panelists speaking about EMS services. After discussion, Senators Feldman, Ortiz y Pino, McSorley and Rodriguez and Representatives Picraux, Lujan and O'Neill voted in favor; Senators Papen, Lopez and Kernan and Representative Espinoza opposed the concept of the proposal. Objections were raised and clarified about the vehicle of a straw poll.

Public and Community Health Work Force in New Mexico

Dr. Alfredo Vigil, secretary of health, presented an update to the committee on the surveillance of hospital-acquired infections (HAI). He asserted that this initiative is an outgrowth of the desire of all of us to have transparent information that enables people to make good health care decisions. He began with historical information regarding the initiative, who was involved and what the goals of the initial pilot project were. Six hospitals participated in the pilot. Secretary Vigil noted that the experience and ability of hospitals to survey and collect data regarding HAI vary greatly based on the type of hospital. Two indicators were chosen to study: central line bloodstream infections and health care worker vaccination rates. The rationale for choosing those indicators was given. The database of the National Healthcare Safety Network is being utilized for the project. Results from the pilot were presented. So far, 0.8 infections per line days were detected, compared to much higher national results. Secretary Vigil cautioned that the sample size in New Mexico was too small to be very significant. Vaccination rates exceeded the requirements of the joint commission in all cases. Senate Bill 408, the Hospital-Acquired Infection Act, was passed in the 2009 legislative session. Secretary Vigil reviewed the act and noted that although the requirements of the act seem simple, it will demand a great effort on the part of the department and the hospitals of New Mexico. The HAI Committee has established specific goals to satisfy the statutory requirements. More hospitals are currently being recruited to collect data on the two indicators. Training will be provided to any interested hospital, and a state HAI plan will be developed and submitted to the federal Department of Health and Human Services (DHHS) by January 1, 2010.

Committee members asked questions and made comments on the following topics:

- the value and potential problems of sharing the findings of such data with the public;
- whether the DOH has all that it needs to accomplish the task;
- a comment that a stricter measure in Pennsylvania reportedly saved the state \$638 million in one year;
- an observation that federal reform measures being discussed in Congress propose not reimbursing hospitals for some HAIs;
- whether hospitals in New Mexico screen patients on admission for methicillin-resistant staphylococcus aureus (MRSA); no, best practice data do not support this as a meaningful action; and
- recommendations regarding the flu vaccine and the pneumonia vaccines.

Secretary Vigil invited Jerry Harrison, executive director, New Mexico Health Resources, and Harvey Licht, division director, Primary Care Division, DOH, to join him to present information on the need for health care professionals in New Mexico. Secretary Vigil noted that 30 years ago, there were projections that the health professional work force would be adequate into the foreseeable future, but this has not proven to be true. He commented that the pipeline for training health care professionals begins with elementary and high schools and that much work must be done to improve education at that level. He noted that universities are having a very difficult time recruiting professionals as faculty, and that providers in private practice are far out-earning their colleagues in public health or in education.

Mr. Licht commented that his youngest daughter just graduated from nursing school and her starting salary is higher than his. There is a fine balance to be reached in predicting the number of health care professionals that will be needed. Since the early 1990, the need has been underprojected. He reviewed the programs in place in New Mexico to recruit and retain practitioners that are managed by the DOH, including the centralized clearinghouse for this activity run by New Mexico Health Resources, the New Mexico Health Service Corps stipend program, the J-1 visa program, the tax incentive program for rural health professionals and coordination of the National Health Service Corps program. Mr. Harrison reviewed the successes that have come from all the activities just identified by Mr. Licht. New Mexico ranks third in the nation for the number of health professionals recruited to work here; however, all counties and communities still do not have the full complement of health professionals that are needed. He highlighted the particular need for dental health care professionals in the state. Mr. Licht noted there are tremendous opportunities in the federal ARRA funding as well as in the Senate health care reform proposal sponsored by U.S. Senators Kennedy and Bingaman, including money for states to develop plans for meeting their health professional work force needs. He delineated four additional opportunities for consideration for state support: expansion of the oral health care work force; expansion of professional education financing; expansion of the tax credit program; and cooperative licensing and credentialing.

Committee members had questions and comments in the following areas:

- an observation that primary care physicians are not seeing increases in their salaries, mainly due to low reimbursement under Medicare;

- an observation that fewer and fewer physicians are in private practice; many are employed in hospital-owned practices; a recent survey indicated 70% of physicians in New Mexico are employed versus in private practice;
- clarification regarding the average age of a physician in New Mexico, which is in the upper forties; the average age of dentists in Roswell is in the mid-sixties;
- clarification regarding shortages among specialties;
- the preference for addressing shortages with New Mexico residents;
- the potential and benefit for using more physician's assistants and other professionals with advanced scopes of practice;
- the additional value of community health workers (*promotoras*) in meeting health care needs;
- the extent to which New Mexico's recruitment and retention programs are used for physician extenders;
- acknowledgment that the programs, however successful, are not funded sufficiently to meet all of the demand for those programs;
- the extent to which the development of a dental school would address the need for dentists in the state; a preliminary study is underway to evaluate this;
- recognition that the requirement that physician assistants be directly supervised by a physician limits their ability to engage in independent practice; efforts are underway to change this requirement;
- clarification regarding the ARRA funding and whether it is being funneled through the DOH; the funds are being managed by the National Health Service Corps; the DOH is working to maximize participation;
- whether any of the ARRA funds will be used to fund the UNM Medical School scholarship program (probably not);
- a request for information about whether UNM is applying for funds to support the medical school, thereby freeing up general fund dollars to fund the scholarship program;
- recognition that the number of physicians practicing in New Mexico has increased, not decreased as is often alleged;
- whether WIA funding can be used to fund health professional work force development;
- whether funds to build a dental school would be better spent in the Western Interstate Commission for Higher Education program; Pug Burge suggested that Dr. Roth from the UNM HSC would be glad to testify on this topic; they are looking at partnering with a dental school in Arizona for this purpose;
- ways in which New Mexico will be able to address special needs such as autism or deafness in the future;
- whether the funds for the dental school feasibility study are available to be used for bricks and mortar, or just for the study; the dollars are strictly for the study;
- recognition that an earlier study found that a better use of New Mexico's resources would be to fund dental education elsewhere than to have a dental school here;
- what efforts are underway to encourage people to enter the profession of dentistry; pre-dental clubs at UNM have resulted in an increasing number of students pursuing

- dentistry;
- recognition that there are too few residency slots to accommodate all the physicians who graduate from the medical school;
- the potential for expansion of medical training at New Mexico State University in Las Cruces;
- acknowledgment that the anticipated shortage of health care professionals is a national crisis that is not being addressed at any level;
- a request from the chair to assemble the necessary people to come to New Mexico and before this committee to address this critical policy issue;
- the possibility of limiting medical school admission to students who attended high school in New Mexico as some other states have done;
- a request for data about the number of students at the UNM School of Medicine who never attended high school or college in New Mexico; and
- the difficulties and the costs contingent with the development of internship programs at hospitals in New Mexico; Dr. Romero-Leggett of UNM is working to identify ways to introduce these programs in charter schools in New Mexico.

Biologic Disaster Preparedness in New Mexico

C. Mack Sewell, Dr.PH, director, Epidemiology and Response Division, DOH, provided a brief overview and update on H1N1 influenza (swine flu) in New Mexico. He provided background information on the genesis of the pandemic, beginning in April 2009, and statistics on the numbers of cases worldwide and in New Mexico. New Mexico has had 156 cases with 20 hospitalizations, although currently and from this point forward only cases resulting in hospitalizations and deaths are being counted. The characteristics of this flu were described. It predominantly affects young people and has been relatively mild except for those with high risk conditions. New Mexico has an effective process for tracking and identifying H1N1 and other flu infections. Surveillance is much greater in some other countries such as China. Early in the course of this epidemic, the federal government released 25% of the antiviral stockpile, recognizing the potential seriousness of the virus. Plans are being developed at the federal and state levels for an anticipated increase in H1N1 this fall. Two vaccines will be available: one for seasonal flu and one for H1N1. The DOH is collaborating with tribes and tribal health providers to identify the best way to distribute vaccines on tribal lands. The DOH has 18 different committees around the state addressing various aspects of this pandemic.

Committee members had questions and comments in the following areas:

- the potential for the virus to mutate and the vaccines to not be effective;
- the significance, if any, of recent outbreaks in other parts of the world;
- clarification regarding the recommendation for flu vaccines this fall; this fall, seasonal vaccines will be available followed at a later time by the H1N1 vaccine, which will likely be in two doses;
- how populations will be prioritized for the H1N1 vaccine;
- the incidence of deaths from influenza on an annual basis; 36,000 die per year in the nation and around 200 to 300 in New Mexico;
- whether there is an overreaction to H1N1 compared to seasonal flu; no, there is

much unknown about H1N1, and it is therefore much more unpredictable than seasonal flu;

- recognition that one reason to vaccinate children is that they are carriers of the flu and can quickly spread the disease;
- what plans the DOH or the nation has to educate the public regarding the severity of the disease should it become deadly; and
- the significance, if any, of protests against anticipated mandatory vaccinations.

There being no public comment, the committee recessed for the day at 5:15 p.m.

Friday, August 7

Representative Picraux called the meeting to order at 9:05 a.m.

Health Information Technology: HIPAA, ARRA/HITECH Updates

Michael Hely, staff attorney, LCS, testified that ARRA has funding for infrastructure and implementation of health information technology (HIT). It is anticipated that regional extension programs and centers will be established in every state, and a national research center, to be called the National Institute of Standards and Technology, will partner with nonprofits to provide technical support. The total amount of funding is not yet determined as no regulations have yet been developed; however, there is \$19.2 billion in incentive payments for health care providers to establish and implement electronic medical records (EMRs), provided that they are able to demonstrate "meaningful use" of these records. Additionally, \$2 billion is available for support of such projects as HIT logistics support for telemedicine. The term "meaningful use" has not yet been defined; however, a HIT committee has been established and has identified specific objectives. A national coordinator of HIT will promote the objectives of ARRA. Mr. Hely discussed a number of steps New Mexico could or should be taking to take advantage of all the ARRA funds such as whether the state has a strategic plan for the implementation of HIT statewide. Nine additional considerations were presented.

Mr. Hely described privacy provisions of the Health Insurance Portability and Accountability Act (HIPAA) that were changed in ARRA. The section of ARRA that describes HIT enhancements is called HITECH, which exists as a law within the law. Individual rights to information contained in EMRs have been expanded, making it clearer that individuals can have access to, or choose to withhold personal information. Comprehensive protocols regarding response by holders of personal health information to breaches to health records are now in law, and increased penalties for violation of the law are in place. New marketing and sales restrictions will have the effect of limiting such practices as data mining. Business associates are now covered by the same rules as other health care providers. The DHHS is now required to issue annual guidance on the most effective and appropriate technical safeguards for compliance.

Committee members had questions and made comments as follows:

- the extent to which providers will have input into the development of technological standards;

- guidance regarding the specific type of technology that is most effective;
- the possibility that some physicians will choose to retire rather than implement EMRs;
- the rapidly changing nature of technology that may make EMRs systems installed now obsolete in the future; and
- to whom the \$65,000 payments will go and on what schedule.

Electronic Health Records and Broadband Access: Next Steps

Bob Mayer, chair, New Mexico Telehealth Commission, provided additional information regarding ARRA funding for HIT and broadband. Improving the quality of health care, improving the health of populations and improving the efficiency of health care systems are the broad goals and intent of HITECH. The funding will be divided between incentives for providers to establish EMRs and funding for research, a health information exchange, a possible loan program, research and work force development. Incentive programs are established in both Medicare and Medicaid; funding is limited to one stream or another and is limited to a five-year period. The definition of "meaningful use" is under development, but will likely include requirements for reporting of certain clinical outcome measures. Two billion dollars is available in competitive grants to develop a health information exchange, to adopt EMR technology, to conduct research on HIT and for work force development.

Mr. Mayer estimated that \$7 billion is available to establish broadband access throughout New Mexico through a competitive grant process. The funding requires a nonfederal match. New Mexico is collaborating to provide a single grant, with partners in the private sector providing the match. Two federal telehealth bills are now working through Congress that will expand the capacity of New Mexico to utilize telehealth. Both bills focus on home health and expanding access to rural areas.

Electronic Health Records: A Provider's Perspective

Arlene Brown, M.D., has been utilizing computer technology to manage her practice since she first arrived in Ruidoso in 1983. Since 2004, she has been fully engaged in use of EMRs. Learning to use an EMR system can be frustrating, but it is worth it. She is able to access her patient's records from anywhere in the world and believes the quality of care provided is improved. In her experience, the cost of transitioning to an EMR system was not cost-prohibitive, and the costs are coming down. In her view, the money was well spent. The only major problem in a rural area such as Ruidoso is the cost and unreliability of electricity. Dr. Brown currently prints copies of all the EMRs and entries. One of the largest costs of practicing medicine today is in the redundancies of the system. Confidentiality concerns are overstated and hamper a physician's ability to exchange necessary information about patients with other physicians. A well-designed national EMR system should reduce redundancy and could greatly reduce costs. Dr. Brown recommends standardized encryption for all users in the state.

Questions from the committee for both of the previous presenters covered the following topics and areas:

- the critical need for EMR systems to be able to exchange information; right now

- they do not;
- progress that is being made to achieve interoperability and effective exchange of health information;
- ways to address problems related to an unreliable power grid;
- how patients react to and benefit from EMRs;
- the use of email to communicate with patients and for patients to communicate with their physicians;
- how redundancy and duplication of effort occur due to lack of access to EMRs, especially in emergency departments;
- the existence of a state "supercomputer" and how that will enhance HIT; it exists and is primarily designed as a research tool;
- New Mexico management and accountability of a health information exchange;
- how the development of EMR systems will interface with Native American tribes, pueblos and the Indian Health Service;
- the potential for copying medical records onto a personal jump drive to enhance portability and personal access to records; physicians are concerned about the possibility of the records being altered;
- the amount of time that is needed to train staff in the use of an EMR system;
- the amount of lost productivity during the transition versus the amount of time saved in physician paperwork time;
- the importance of clearly identifying what medical information can and cannot be shared electronically;
- privacy concerns with the use of email;
- recognition that different EMR systems have vastly different costs;
- whether confidential patient records can be electronically transferred in the event a physician retires or sells the practice; current revisions to HIPAA allow this, unless the patient chooses to block it;
- concerns regarding an insurer's ability to rescind a health insurance policy due to information that was not previously revealed that could be considered a pre-existing condition;
- clarification regarding marketing prohibitions in HITECH and whether this applies to pharmacists; there was a request to see the language that relates to this; and
- acknowledgment that New Mexico has a restrictive law that limits data mining.

Public Comment

Ms. Otero Hatanaka addressed some issues regarding the CoLTS program. Developmental disability providers are experiencing problems with lack of timely reimbursements, similar to the nursing home industry. Additionally, assessment information that is performed by the managed care organizations is not being shared with providers, requiring them to conduct another assessment for which they cannot be reimbursed. Developmental disabilities providers reassert their longstanding position that they do not want the DD waiver incorporated into CoLTS. Ms. Otero Hatanaka reminded the committee that DD providers have not had reimbursement increases sufficient to keep up with costs. Appropriations to increase funding for the DD waiver do not translate into provider increases. Many agencies have lost the

ability to provide health care benefits to their employees and are finding it increasingly difficult to recruit staff due to an inability to pay competitive wages. Finally, Ms. Otero Hatanaka commented that the ongoing costs of the *Jackson* lawsuit are detrimental to providing care to recipients.

ISD2 Update, YES New Mexico Progress Report and Reporting Accountability Objectives

Katie Falls, deputy director, HSD, introduced Steven Randazzo and Jan Christine of the HSD. Ms. Falls began with an overview of the ISD2 system, which is 25 years old and is not a relational database. It is an onerous and inadequate system and does not produce information that is useful in managing the HSD programs. Upgrades to ISD2, now being called ISD2R, will provide far better information. The HSD is buying existing technology and modifying it to meet New Mexico needs. Fourteen million four hundred thousand dollars has already been appropriated, and the department will ask for more money, recognizing that the economic situation of the state is poor. The HSD is developing a business intelligence tool to integrate and coordinate the many programs it manages and administers in coordination with other departments. Tentative completion is slated for January 2010. Reporting and accountability will be greatly enhanced when these changes are in place. Document imaging will allow scanning of all client applications and will store the data for future use such as recertification applications. Client encounter tracking will allow greater efficiency for workers.

Ms. Falls addressed the requests in House Memorial 125, which called for greater reporting and accountability from the HSD. She described the way in which client and budget information is currently being tracked and projected. To alter that would be very costly. Information is more readily available regarding enrollment and has only a three-month lag time. The department is exploring posting these reports on the web site. Information regarding denials and terminations are not readily available on the current ISD2 system and are often inaccurate. The business intelligence tool will allow them to obtain this data.

YES New Mexico is a web-based program that includes a screening tool and a tool to apply for benefits. Seven state agencies are involved in the development of YES New Mexico and will be able to utilize it. It will eventually replace ISD2. It is currently being phased in three counties, with statewide implementation tentatively set for October or November. Ms. Falls provided a demonstration of the tool. The program was imported from three states and modified for New Mexico. When fully implemented, it will allow online screening and application for numerous programs such as Medicaid, child care, the WIC program, the low income home energy assistance program, food stamps and others.

Questions and comments from committee members covered the following areas:

- whether, the YES New Mexico system will be able to interface with other systems; currently, permits interface between the DOH, HSD and Children, Youth and Families Department; in the future, the ALTSD, the Developmental Disabilities Planning Council and others will be included;
- whether YES New Mexico will assist in managing waiting lists and identifying who on the list needs immediate help;

- whether current offices for applications will be co-located to facilitate paper compliance with the online application process; when combined with the new document scanning capability, collaboration will be greatly enhanced;
- an observation that in New Mexico, birth certificates contain the statement "do not copy"; this statute could be changed with legislative action;
- the charge to get a certified copy of a birth certificate;
- the way in which a client utilizing this system is notified that the client's application has been received and approved;
- privacy protections that are in place to preserve privacy of information; protections are similar to online banking;
- a description of the plan for identifying and addressing false information;
- whether some information is more restricted than others, and who has access to it;
- the extent to which the HSD is eliciting email addresses and gaining permission to communicate by email;
- other mechanisms that are intended to simplify and streamline the application, including access to a caseworker; and
- when all these upgrades are implemented, where New Mexico will stand relative to other states; within three-and-a-half years, it will be in the top 10.

Public Comment

Patricia Anders, staff attorney, New Mexico Center on Law and Poverty, complemented the department on its efforts and the legislature for its support.

Representative Picraux suggested that at the next meeting, a policy discussion will occur sooner in the meeting to try to focus the committee's policy debate and consideration.

There being no further business, the meeting was adjourned at 12:40 p.m.