MINUTES
of the
THIRD MEETING
of the
LEGISLATIVE HEALTH AND HUMAN SERVICES COMMITTEE

August 24-27, 2015
Region IX Education Cooperative, 237 Service Road, Horton Complex, Ruidoso
New Mexico Military Institute, Daniels Leadership Center Auditorium, Roswell

The third meeting of the Legislative Health and Human Services Committee (LHHS) was called to order on August 24, 2015 by Senator Gerald Ortiz y Pino, chair, at 8:35 a.m. in the Horton Complex of the Region IX Education Cooperative at 237 Service Road in Ruidoso.

Present
Sen. Gerald Ortiz y Pino, Chair
Rep. Nora Espinoza, Vice Chair
Rep. Deborah A. Armstrong
Sen. Gay G. Kernan (8/25, 8/26)
Sen. Mark Moores (8/24, 8/25, 8/26)

Absent
Rep. Miguel P. Garcia
Rep. Tim D. Lewis
Sen. Benny Shendo, Jr.

Advisory Members
Sen. Jacob R. Candelaria (8/24, 8/25)
Sen. Cisco McSorley (8/24, 8/25, 8/26)
Sen. Howie C. Morales (8/26)
Sen. Mary Kay Papen (8/25)
Rep. Patricio Ruiloba
Sen. William P. Soules (8/24, 8/25, 8/26)

Sen. Sue Wilson Beffort
Sen. Craig W. Brandt
Rep. Gail Chasey
Rep. Doreen Y. Gallegos
Sen. Daniel A. Ivey-Soto
Sen. Linda M. Lopez
Rep. James Roger Madalena
Rep. Terry H. McMillan
Sen. Bill B. O'Neill
Sen. Nancy Rodriguez
Sen. Sander Rue
Sen. Mimi Stewart
Rep. Don L. Tripp
Rep. Christine Trujillo

(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
Nancy Ellis, LCS
Diego Jimenez, LCS
Nancy Martinez, LCS

Guests

The guest list is in the meeting file.

Handouts

Handouts and other written testimony are in the meeting file.

<u>Monday, August 24</u> — Horton Complex, Region IX Education Cooperative, Ruidoso

Welcome and Introductions

Senator Ortiz y Pino welcomed those assembled and asked committee members and staff to introduce themselves. Several members of the audience introduced themselves, including Kenneth C. Kenney, Ph.D., M.S.W., a Ruidoso psychologist; John Trent, Children, Youth and Families Department (CYFD); Atasi Uppal, an attorney with the National Center for Youth Law; Ted Allen, coordinator, Lincoln County Juvenile Justice Board, Continuum Board Leadership Team; and Gina Corliss, Eastern New Mexico youth program director for the federal Workforce Innovation and Opportunity Act (WIOA). Dede Feldman, a former state senator, was in the audience and brought greetings to the committee from former LHHS Chair J. Paul Taylor, with whom she just celebrated his ninety-fifth birthday.

Legal Services for Families and Youth at Risk

Matthew Bernstein, staff attorney with Pegasus Legal Services for Children, informed committee members that ensuring equal access to quality education is a primary goal of his nonprofit organization, especially as equal access affects minority children and children with disabilities (see handout). Mr. Bernstein described the Education Justice Project, a collaboration under way in Sandoval County among Pegasus Legal Services for Children, Disability Rights New Mexico (DRNM) and the Native American Disability Law Center (NADLC), the latter organization serving some of the most impoverished citizens in the nation. He noted that the school-to-prison pipeline too often involves students with disabilities who end up in jail, even though they are eligible for special education. Interventions such as seclusion or involuntary confinement have become routine in schools that fail to recognize that behavior is a manifestation of a disability, Mr. Bernstein said, and families often do not know their rights or what services are available.

The goal of the Education Justice Project is to connect students, teachers and administrators to resources, to encourage utilization of positive behavioral supports in schools and to reduce racial disparities in school suspensions and in referrals to law enforcement. Mr. Bernstein asked committee members for a $90,000 appropriation to support the project and to provide additional funding for expansion of the NADLC to meet what he described as enormous need.

Jesse Hahnel, Esq., executive director of the National Center for Youth Law, told committee members that he was formerly the director of FosterEd, a nonprofit organization in

Oakland, California, dedicated to improving educational outcomes of children and youth in foster care (see handout) by ensuring that each child is supported by an educational champion and strengthened by an education team. Children in foster care have markedly worse education outcomes than other at-risk children, Mr. Hahnel said, with less than 50 percent graduating from high school and roughly 40 percent receiving special education services. It is vital to identify the needs and strengths of children in foster care, he said, and each child needs to have an adult in his or her life who has high expectations and who cares and advocates for each child's success. No single agency or school can close this achievement gap, Mr. Hahnel asserted, but an interdisciplinary collaboration of CYFD staff, teachers, parents, coaches, mentors and others who care can achieve this goal. In New Mexico, there is a collaborative team composed of state and local agencies and representatives from the New Mexico Supreme Court, Office of the Governor, the CYFD, the Public Education Department (PED) and local governments that is looking to establish a pilot project to be used as the basis for a new statewide program. Lea County, with approximately 150 students in foster care, has been chosen as the site for an initial pilot project to be launched in January 2016, utilizing funding through Title IV, Part E of the federal Social Security Act.

On questioning, committee members and panelists discussed the following issues:

- the overuse of psychotropic drugs in children in lieu of behavior modification, physical exercise and activities at school;
- the use and inadequacy of federal funds for special education services;
- how school districts might access Title IV, Part E funding through a memorandum of understanding (MOU) with the CYFD;
- information-sharing and cross-training as antidotes to "siloed" agency plans that fail to holistically address the needs of children;
- a greater emphasis on the first response to juvenile offenders, with better utilization of school resource officers to prevent the criminalizing of children;
- the zero-tolerance policy's disproportionate effect on minority children and children in foster care;
- the continuing expansion of training in trauma-informed care; and
- the importance of appropriate services for children in all venues, including venues at school and at home.

CYFD: Strategic Plan, Juvenile Justice

Monique Jacobson, secretary, CYFD, told committee members that she was appointed by the governor in December 2014. Secretary Jacobson described her efforts to revamp the agency's core mission: "Improve the quality of life for our children". The 2,000-plus staff members of the CYFD cannot change the root causes of most problems, Secretary Jacobson said, but they can prevent injury and ensure safety, and they can help improve the quality of life and prepare children to become contributing members of society. Important operating principles have been collaboratively developed, she said, beginning with the principle of staff being kind, respectful and responsive in creating a culture of accountability and support (see handout).

Strategic "planks" of the CYFD's core mission include shoring up the Protective Services Division staff with more supervisors and more manageable caseloads and with new plans for recruitment and retention. Foster families will be better supported through additional training and a streamlined process for licensure. New programming will be developed for juvenile justice, and early childhood services will be expanded, with an increase in eligibility and with higher rates for rural providers. A behavioral health needs assessment will be developed for each county, Secretary Jacobson said, and prevention initiatives include increased home visits, improved communications with law enforcement, more training in mental health first aid and fast-track hiring for new employees. With a $479 million budget, Secretary Jacobson said that the CYFD intends to minimize reversions to the general fund, include specific deliverables and outcomes in its contracts and break down the "them versus us" mentality between the agency and the community. A committee member complimented Secretary Jacobson on her "listening" approach and noted that representatives of the CYFD have been present at numerous committee meetings this interim.

On questioning, committee members and Secretary Jacobson discussed the following topics:

- supports for agency personnel, including more manageable caseloads and an emphasis on self-care, with more time to decompress from stressful situations;
- efforts to give foster children who are aging out of the system a voice at the table;
- a strategic plan to double down on CYFD programs that have been proven effective; and
- the possibility of using federal funds to increase home visitations, given that 82 percent of New Mexico births are now funded through Medicaid.

Request to Agency From Legislator

Representative Espinoza asked Secretary Jacobson to provide a memorandum to the committee regarding Title IV, Part E funding parameters and the process involved in obtaining an MOU to access these funds.

Juvenile Justice Advisory Committee: Continuum Sites

Mr. Allen described his vision of youth as problem-solvers and said that he feels that community service should be seen as an asset-based system rather than a deficit-based one. Mr. Allen said that he began his work as a youth counselor with the Santa Fe Mountain Center and remains a proponent of the effectiveness of therapeutic adventure programs and community building (see handout). His nonprofit agency is one of 19 sites in New Mexico that receive grant funds from the Annie E. Casey Foundation to support alternatives to juvenile detention. Currently, there are six programs in Lincoln County funded by the CYFD, and with agencies coordinating and working together, Mr. Allen said that the county might be able to establish a model national service training center.

Ben Thomas, executive director of the Rocky Mountain Youth Corps (RMYC) headquartered in Taos, described a network of national, state and local governmental partners, as

well as private foundations, that provides opportunities for young adults to make a difference in themselves and their communities. Using a team approach, the RMYC oversees crews that service high-priority community projects throughout the state and that provide real-world skill certifications and stepping stones to new opportunities, Mr. Thomas said.

Stephen Carter, executive director of Ecoservants, based in Ruidoso, described his organization as a grassroots nonprofit organization that partners with AmeriCorps and others to provide crucial training and certifications for young adults and to provide local solutions to environmental challenges. EcoRanger teams, using only hand tools, built seven miles of multiuse trails in 2013 and six miles in 2014. The trails are located on federal, state and Mescalero Apache tribal lands and at Fort Stanton. About half of each crew is female, Mr. Carter said, and crews have been expanded to Cloudcroft recently. Plans for the next year include a partnership with the New Mexico Youth Conservation Corps (NMYCC) and an expansion of current efforts in forest wildfire response, mitigation and recovery. Ecoservants targets young people who do not have work skills and who have few opportunities, Mr. Carter said.

Ms. Corliss told committee members that WIOA grant funds used in her region do not duplicate services already provided by others, but rather provide assistance to low-income youths between the ages of 16 and 24 who need education and training to achieve their life and career goals. WIOA funds help with tutoring, money management, career exploration, preparation of resumes and preparation for job interviews. Through partnerships with regional colleges, the Workforce Solutions Department, the CYFD and other agencies, WIOA funds help young adults, often one-on-one, with transition out of the foster care or juvenile justice system and into employment.

On questioning of panel participants, several committee members noted that the ongoing communication among these various organizations is clearly beneficial to the community as well as to the participants. For example, the NMYCC was able to run a work crew in the small town of Mora, providing seven to 10 youths with summer jobs that paid a living wage. Asked by the committee chair what more could be done in New Mexico, panelists responded that more funding for after-school programs would help and that existing resources at the CYFD could be better aligned. Local collaboration is key for these programs to work, another panelist cautioned, and one-size-fits-all is not appropriate. Follow-up data collection is difficult for some organizations, but they are working to remedy this.

Diana Martwick, Twelfth Judicial District attorney in Alamogordo, was recognized by the chair to speak about her juvenile caseload. Her caseload has dropped dramatically in Lincoln County over the past several years after many of these programs became established, and she sees a very clear connection with program success.

Request to Agency from Legislator

Representative Espinoza asked a Legislative Finance Committee (LFC) representative who was in the audience if the LFC could prepare a chart illustrating federal and state funding that goes to various entities. Representative Espinoza was informed that it may take some time, but it can be done.

Recess

There being no public comment, the committee recessed at 3:50 p.m.

<u>Tuesday, August 25</u> — Horton Complex, Region IX Education Cooperative, Ruidoso

Welcome and Introductions

Senator Ortiz y Pino reconvened the meeting at 8:35 a.m., welcomed those assembled and asked committee members and staff to introduce themselves.

Update on Behavioral Health Issues

Wayne Lindstrom, Ph.D., director of the Behavioral Health Services Division, Human Services Department (HSD), and chief executive officer (CEO) of the Interagency Behavioral Health Purchasing Collaborative, described three areas of focus for the collaborative's strategic initiative to strengthen the state's behavioral health service system: finance, regulation and work force challenges. The initiative was launched on July 30, 2015 with 59 participants from a wide range of stakeholders (see handout) who will complete an action plan by December 14. The plan then will be presented to collaborative agencies in January 2016 and will be followed by a two-year implementation effort. Dr. Lindstrom emphasized that the initiative is not a system transformation, but rather an attempt to resolve issues that present the greatest challenges to the effective delivery and the sustainability of behavioral health services in New Mexico.

Dr. Lindstrom provided committee members with an executive summary of issues identified in the initial meeting (see handout), where 85 percent of participants agreed to continue working to develop the implementation goals. Addressing areas of greatest concern, the original work group broke into three subgroups for discussion of specific barriers and needs, Dr. Lindstrom said. Work force is clearly the greatest challenge, but fragmented regulations, low rates of reimbursement and barriers in certification and credentialing also make for a difficult work environment.

On questioning, committee members and Dr. Lindstrom discussed the following issues:

- licensed alcohol and drug abuse counselors not being able to be reimbursed under Medicaid and the HSD's efforts to change this;
- the need for a new category requiring regulation of boarding homes;
- changes to licensing standards so services rendered in a crisis triage center can be reimbursed;
- changes to Medicaid waivers to allow certified peer workers to be reimbursed;

- some providers being required to collect gross receipts taxes while other providers, such as managed care organizations (MCOs), are not;
- the extreme shortage of behavioral health providers across the state — many have been "cannibalized" by Centennial Care, the MCOs and private insurers — and the need to recruit in every category;
- case management being replaced by "comprehensive community support services", but the certification process is slow and cumbersome; separate certification is soon to be eliminated by the HSD; and
- the upcoming HSD/PED memorandum that will clarify behavioral health management services as a Medicaid benefit meant for short-term transition in high-risk students, not meant for school-based Individualized Education Program services.

Panel Update on Local Behavioral Health Services

Rex Wilson, southern region director of Presbyterian Medical Services (PMS), told committee members that the recent transition of four behavioral health programs to PMS has gone very well, with 95 percent of the staff transferring with the programs and the location. Because PMS already has a strong relationship with federally qualified health centers (FQHCs) located in each community in Otero County, except Ruidoso, it is important not to duplicate services, Mr. Wilson said. Provider recruitment efforts are ongoing, with two offers of interest this week from clinicians in Florida. Most PMS psychiatric services are being delivered through telemed, Mr. Wilson said, and clinics are beginning to see new patients who have been without services for 18 to 24 months; they are starting to recover some consumers lost in the previous transition to Arizona providers.

Susan Flores, who serves as an Otero County commissioner, told committee members that the bad news is that detention centers in every county are being misused as mental health facilities, and local governments cannot afford the legal liability of incarcerating the mentally ill for long periods of time. Ms. Flores cited a national study about this issue, and said she would email a copy of the study to committee members. Individuals are being jailed for behaviors that stem from mental illness, homelessness and addiction, and since these individuals cannot post bail, they are held until trial. The solution, Ms. Flores believes, is pretrial diversion and assessment programs. Regional facilities are needed for this, and help from the state for a financing mechanism is critical. The New Mexico Association of Counties (NMAC) is working to help restore funding that was cut from county detention budgets last year, Ms. Flores said. A regional solution needs to become a priority.

Dan Bryant, longtime Otero County attorney, who was recently appointed judge on the Twelfth Judicial District Court, described work by an NMAC task force assembled in response to Senate Joint Memorial (SJM) 4 from the last regular session. The task force has had multiple meetings and will be bringing its findings to the attention of the legislature, Mr. Bryant said. There have been at least seven lawsuits filed against counties for putting persons with mental health problems in jail. Some counties are transporting mentally ill and drug- and alcohol-addicted inmates to Texas for services. Lawsuits have cost New Mexico counties more than $25

million, which could have been directed to better address this population, Mr. Bryant said. Hopefully, he said, the report generated from SJM 4 will provide some good suggestions.

Jim Heckert, CEO of Gerald Champion Regional Medical Center (GCRMC) in Alamogordo, described a broadening of the medical center's mission: prior to 2010, there were no behavioral health services at the GCRMC, but a 12-bed geriatric psychiatric unit was opened during that year. It soon became clear that the greatest need was for outpatient behavioral health services, Mr. Heckert said, and the program has expanded to include adults of all ages. In July, the GCRMC broke ground for a Behavioral Medicine Department with 36 inpatient beds and a renovated outpatient clinic. Frank Pieri, M.D., a board-certified psychiatrist hired in 2013, will head the department, Mr. Heckert said. Statistics provided by Mr. Heckert (see handout) indicate a yearly increase of 12 percent (previously, three percent was considered "normal") since 2013 in emergency room (ER) visits by individuals with behavioral health and/or substance abuse issues.

Dr. Pieri testified that there is more need in the region than available providers can meet, and currently there are 144 persons on the GCRMC's outpatient waiting list. The department's interface with law enforcement and judicial officials is extremely important, he said, so that individuals who need care are not criminalized and services are coordinated with PMS and other local providers. The GCRMC has two psychiatric nurse practitioners and a three-month waiting list for inpatient treatment; referrals come from Silver City to Las Cruces to Albuquerque. Under Dr. Pieri, the GCRMC now offers electroconvulsive therapy, an updated procedure for individuals who have not been helped by medication.

On questioning, committee members and panel participants discussed the following topics:

- the possibility of a psychiatric residency training program at the GCRMC;
- limited formularies for psychiatric drugs at detention centers and a lack of communication between jails and treating physicians;
- no beds available for children with psychiatric needs, often requiring out-of-state placement;
- effective community-based services as a way to reduce the need for inpatient beds;
- lack of current data and continued use of decade-old gap analysis to identify needs;
- the increasing and unreimbursed cost of probation violators to county governments; and
- the possibility of using local option liquor excise taxes to help fund county jail deficits.

Public Comment

Tasia Young, lobbyist with the NMAC, said that New Mexico is one of only two states with more people in jail than in prison. The NMAC is looking at regional options to help solve the problems identified in SJM 4. Jails take between 30 and 40 percent of every county's budget, Ms. Young said. The committee chair asked Ms. Young to report results of the NMAC study authorized by SJM 4 to the LHHS.

Ellen Pinnes, attorney for the Disability Coalition, DRNM, spoke of last year's legislative effort to limit the use of solitary confinement, which died in committee. A recent report on National Public Radio included New Mexico as a state with a high number of persons in solitary confinement, and the report outlined solitary confinement's devastating effect on inmates, she said. She urged committee members to revisit that bill.

Approval of Minutes

A motion was made and seconded to adopt the minutes from the July 15-17, 2015 LHHS meeting in Las Cruces; the motion was approved unanimously.

Psychological Evaluations and the Courts

Dr. Kenney said that he conducts psychological tests for the CYFD, children in juvenile justice systems, social security disability evaluations, disputed custody cases and conservatorship and guardianship. Dr. Kenney described problems with evaluations in New Mexico, a very poorly resourced state with 30 percent of children living in poverty. It has been estimated that 750 psychologists are needed in New Mexico; there are currently 250, but 30 percent of these do not practice, and not all psychologists are interested in juvenile justice or CYFD cases. Consequently, it takes a long time to schedule these evaluations, write reports and provide testimony. Very few psychologists are available for this kind of work, and a lack of an evaluation can keep people incarcerated longer. Forensic psychology requires extensive training, but the state does not reimburse for testimony or travel time and payment is often slow. Dr. Kenney questioned the effectiveness of evaluations for juveniles and the criteria used to determine the need for them. He endorsed the idea of a task force of stakeholders appointed by the CYFD to examine the use, performance, cost and training involved to determine if there is a better way to conduct evaluations.

On questioning, committee members discussed with Dr. Kenney the following issues:

- determinations of "amenability to treatment" that are decided by formula;
- why there are so few psychologists who specialize in forensic psychology;
- the possible use of paraprofessionals for evaluations in some court proceedings; and
- MCOs' denial of payment for custody evaluations because there is no medical necessity for them.

Public Comment

Denise Lang, a member of the local health collaborative, has no background in mental health treatment, but her husband, a veteran who lost both legs in combat, committed suicide. A short time later, her son, who had always been a good student, ended up in jail and went to prison for six years. Ms. Lang said there is no longer a substance abuse treatment facility in Otero County, but there is a great need for long-term treatment.

Judicial System Behavioral Health Panel

Angie K. Schneider, Twelfth Judicial District Court judge, worked with troubled youth as an attorney before becoming a judge two years ago, she said. In the adult criminal cases, abuse

and neglect cases and delinquency cases that come before her, Judge Schneider said that at least 90 percent of the individuals have mental health issues. With adults, she can try to craft a sentence that includes treatment services. Because time limits are strict with juveniles, many are fast-tracked for assessment and services, and they often are suffering from undiagnosed mental health issues, she said.

Ms. Martwick said she came to New Mexico from California and was appalled at the lack of resources in New Mexico. In prosecuting juveniles, the system looks at the family as a unit and, in a "rocket docket" plan initiated with Judge Schneider, works for swift consequences and immediate supervision under a juvenile probation officer. Juveniles who have behavioral health needs are identified and provided with those services. Ms. Martwick said that she particularly wants to bring to committee members' attention the fact that the New Mexico Behavioral Health Institute at Las Vegas (NMBHI) is no longer doing competency evaluations, something it had been providing her office for many years. She asked committee members to investigate the reasons for this policy change at the state's only mental health facility. Ms. Martwick asked that money be set aside for district attorneys to pay for these evaluations, if this policy is permanent.

On questioning, committee members, Judge Schneider and Ms. Martwick discussed the following issues:

- the need for mental health screening and Medicaid eligibility to be determined at the same time the defendant's eligibility for a public defender is assessed;
- a request from regional district attorneys to reinstate the "guilty but mentally ill" verdict;
- Judge Schneider's efforts to establish a mental health court and a juvenile assessment resource center; and
- the need for more intervention up front and more behavioral health services available closer to home.

Motion to Send Letter to the NMBHI

A motion was made, seconded and approved to send a letter to the NMBHI asking representatives to appear before the LHHS to explain evaluation procedures and to clarify why an individual with dual diagnoses would be turned away from services. It was also suggested that copies of this letter be transmitted to the Courts, Corrections and Justice Committee and the Administrative Office of the Courts.

Response Received from Attorney General

Mr. Hely informed committee members that he had just received an email copy of a response from Attorney General Balderas to the LHHS's letter requesting an update of the status of behavioral health agency investigations. Mr. Hely read this response and said copies would be provided to committee members.

Update from the Aging and Long-Term Services Department (ALTSD)

Myles Copeland, secretary-designate, ALTSD, presented committee members with an overview of department services, efforts to address issues identified in a recent LFC program evaluation and details of increasing challenges for the agency (see handout). Nearly one-third of New Mexico's population will be 60 years or older by 2030, making New Mexico the third highest in the nation for the percentage of population in that age group. In fiscal year (FY) 2014, the Adult Protective Services Division (APS) of the ALTSD received nearly 12,000 reports of adult abuse, neglect and exploitation — 61 percent for self-neglect, with about 25 percent of those substantiated. Over the past three years, reports have increased by 14 percent, Secretary-Designate Copeland said. Investigations are conducted 24/7 through a network of five regions, with 22 field offices that serve all counties in the state and that work with health care providers, law enforcement, the judicial system, behavioral health agencies and a wide range of community agencies to protect adults who do not have the capacity to protect themselves. Services ranging from emergency placement to adult day care and, most often, provision of in-home services keep adults safe from continued abuse or neglect. Congregate and home-delivered meals, transportation, the Aging and Disability Resource Center (ADRC) and employment programs are other important ALTSD services. The department's New Mexico State Plan for Family Caregivers will be presented later this interim, Secretary-Designate Copeland said.

Upon questioning, committee members, Secretary-Designate Copeland and Peggy Lucero Gutierrez, deputy division director, APS, ALTSD, discussed the following issues:

- the definition of "incapacitation" and a recommendation by a committee member that agency staff review an online magazine out of Hobbs, "Seniors Standing Strong";
- a detailed description of the ADRC and the services that it provides;
- clarification of the long-term care ombudsman role as it relates to the APS;
- administrative changes in southern New Mexico with consolidation of two area agencies on aging;
- details of the Savvy Caregiver Program that can help reduce stress and conflict; and
- relief in current staffing levels with additional funding from the legislature, but the need for three more positions in the ADRC still exists.

Public Comment

James Kerlin, CEO of The Counseling Center in Alamogordo, one of the 15 agencies accused of fraud in 2013 by the HSD, apologized that he was unable to participate in the local services panel earlier in the day due to a scheduling conflict. Mr. Kerlin said The Counseling Center still is fighting in court to clear its name and now, through several contracts with the county, has regained about two percent of its former business volume. The current behavioral health transition from La Frontera to PMS is going smoothly, he said, and there is good collaboration between PMS and his agency. It is beneficial that the hospital is increasing the number of beds, but the problem of getting services back to where they were before the original shakeup remains.

The Counseling Center still has not been reinstated to provide Medicaid services, Mr. Kerlin said, and is awaiting a date in district court. The center had been in business for 42 years prior to the 2013 upheaval; it had a staff of 60, with 45 clinicians and 1,200 active clients. The HSD maintains that The Counseling Center owes $386,000, but Mr. Kerlin says it is actually about $23,000, well within the normal error rate when billing for thousands of services. The state has withheld all payments, not just Medicaid, and The Counseling Center was virtually put out of business, despite having scored 100 percent on previous audits by OptumHealth.

Doris Husted, public policy director of The ARC of New Mexico, encouraged committee members to support and encourage diversion programs that work with the developmentally disabled so that these individuals do not end up in jail and then back out on the street with people who put them in a position to get arrested again. She also noted that sometimes a caregiver is an elderly person caring for an adult child, and that these people need support, too.

Jim Jackson, executive director of DRNM, gave an update on new HSD rules regarding school-based behavioral health services that, for the first time, allow a range of providers to bill through the school-based Medicaid program. These rules were adopted as of July 1. The change in procedures is not part of managed care Medicaid. It is a fee-for-service arrangement, Mr. Jackson said, and he advised members to ask the HSD to detail what support services might be available to schools for learning how to bill Medicaid.

Recess

The committee recessed at 4:40 p.m. Mr. Hely reminded committee members and staff that the next day's meeting will be held at the New Mexico Military Institute (NMMI) in Roswell.

<u>Wednesday, August 26</u> — NMMI, Daniels Leadership Center Auditorium, Roswell

Welcome and Introductions

Representative Espinoza reconvened the meeting at 8:35 a.m., welcomed those assembled and asked committee members and staff to introduce themselves. She then introduced Major General Jerry W. Grizzle, United States Army (Retired), president and superintendent of NMMI, who welcomed the LHHS to the Daniels Leadership Center. Opened in 2006, the center was the gift of alumnus R.W. "Bill" Daniels, cable pioneer and philanthropist, funded through his charity, the Daniels Fund, he said. General Grizzle gave an overview of the growth of the school, which is operating near capacity with an average of 942 cadets. The high school program now is larger than the junior college, with an increasing number of female cadets, now up to 21 percent of the student body. The school receives lottery tuition scholarships, General Grizzle said, and all scholarships are being used. September 19-20 is Legislative Weekend at NMMI, when legislators can meet constituent cadets and their parents.

Overview of New Mexico Hospital Industry

Jeff Dye, president and CEO of the New Mexico Hospital Association (NMHA), provided updated facts and figures about New Mexico's 54 hospitals (see handout), of which four are state-owned, seven are government-owned, 22 are investor-owned and 21 are nonprofit or community-owned. His organization represents 44 hospitals and tracks trends and information about the $6.8 billion industry that has a huge economic impact in the state. Ensuring quality and patient safety is the top priority for hospitals, Mr. Dye said, and New Mexico ranks well on many quality measures, including readmission rates and inpatient Medicare spending. Since 2013, there has been an increase in behavioral disorder encounters treated in emergency rooms and an overall slowdown in aggregate hospital activity (one percent growth instead of the more usual three to four percent). NMHA members also lost $11 million in cuts to Medicare patients and $17 million in services to Medicaid patients with the implementation of the federal Patient Protection and Affordable Care Act (ACA).

While the number of New Mexicans with health insurance increased dramatically with the expansion of Medicaid, NMHA members still provided more than $389 million in uncompensated care in 2014. New Mexico has a high rate of poverty and an aging population with chronic health conditions. Medicare and Medicaid payment rates fall well short of hospitals' costs, Mr. Dye asserted, and high deductibles and unaffordable insurance policies add further to hospitals' uncompensated care expenses. On a positive note, innovations such as a nurse practice team approach to delivery of care and shifting to the use of "progressive" hospital beds are beginning to show positive results, Mr. Dye said, and the NMHA is collaborating with groups statewide to address work force vacancy issues.

On questioning, committee members and Mr. Dye discussed the following topics:

- the need for greater understanding of the new International Statistical Classification of Diseases and Related Health Problems, Tenth Revision, commonly known as the "ICD-10 coding system", the need for more coders and how the new code is shaping health policy;
- cost versus charges in hospital billing and who is eligible for financial assistance;
- the anticipated reports from the HSD on hospital tax receipts;
- problems with MCOs and delayed payments to hospitals;
- the cost-shifting required when Medicaid pays only 76 percent of costs; and
- implications of consolidation of hospitals and insurers.

Challenges Facing Rural Hospitals

Brock Slabach, senior vice president for member services at the National Rural Health Association, told committee members that Medicare and expanded Medicaid have given more coverage to a lot more people but not more access to services. Mr. Slabach's nonprofit nonpartisan association represents 21,000 members nationwide (see handout), he said. He provided some history about the closure of many rural hospitals in the early 1990s resulting from the unintended consequence of a 1983 payment systems change. In 1997, the critical access hospital (CAH) program was created to help low-volume rural facilities where patients are

generally poorer, older and less healthy. Today, there are 1,330 CAHs, nine of which are in New Mexico. A CAH must have fewer than 25 beds, provide 24/7 care and have an average length of stay of four days. These hospitals were originally paid by Medicare at 101 percent of reasonable costs, but congressional sequestration later reduced rates by two percent, so providing rural health care continues to be extremely challenging, Mr. Slabach said. Hospital closures are returning, with 41 closures since January 2013 and 283 facilities currently identified as vulnerable. State Medicaid programs that have been turned over to commercial insurance companies have also negatively affected care in rural areas.

Lack of access to care is creating "medical deserts", Mr. Slabach pointed out, and when rural hospitals close, towns will struggle to survive; a new business will not locate in a town where residents do not have access to medical care. Rural hospitals are economic engines of their communities, with each $1.00 spent equal to $5.00 generated in the community; a single physician in a rural area can create 23 jobs. In urban areas, hospital costs are increased by specialty care, while in rural settings, the emphasis is on primary care, resulting in lower costs for delivering services. Management of chronic diseases, which is the biggest driver of Medicare costs, holds promise for the survival of rural hospitals because, as of January 2016, rural hospitals will be able to participate in care coordination codes.

Mr. Slabach recommended that a rural impact analysis be conducted before any legislation or new regulation affecting hospitals is implemented. Federal policy is key to the operation of rural hospitals, and he urged legislators to work closely with their congressional delegation to protect rural hospitals. Mr. Slabach compared rural health to the Arctic tundra — once stepped upon, it is gone forever.

Safety Net Care Pool (SNCP)Update

Brent Earnest, secretary of Human Services, said that the SNCP was included in the Centennial Care Medicaid waiver to replace the Sole Community Provider Program (see handout). The waiver also included increases to inpatient reimbursement rates for SNCP hospitals. The SNCP is composed of the Uncompensated Care Pool and the Hospital Quality Improvement Incentive Pool (HQIIP), Secretary Earnest explained, and is designed to increase transparency and standardize applications against actual costs. The HQIIP makes payments to hospitals for improved quality of care. Both pools are designed to recognize the differences between smaller and larger hospitals, Secretary Earnest said. Enhanced rates paid to SNCP hospitals have added up to $114.6 million, and the HSD is currently reviewing the enhanced rates for its FY 2017 budget. The SNCP replaced a program that was solely funded by counties, and Senate Bill (SB) 268 in the 2014 legislative session required counties to dedicate the equivalent of a one-twelfth percent gross receipts tax increment for that program. The tax-increment payments left the program with an annual shortfall of $9 million in 2014 and $10 million in 2015 and generated a request to the legislature to supplement the program, Secretary Earnest said. The HSD is evaluating the projected shortfall for FY 2016 and is anticipating a smaller adjustment, Secretary Earnest said.

Charles Sallee, deputy director for program evaluation, LFC, presented background on key issues in Medicaid funding for rural hospitals and the modification of local indigent fund requirements. Medicaid expansion is diminishing the need for robust county-operated indigent programs, Mr. Sallee said. Historically, these funds were the source of supplemental rural hospital payments. Several policy changes since 2011 have increased competition for the funds. A 2011 LFC evaluation found problems with Medicaid administration and financing for rural sole provider community hospitals, with some actually being overcompensated. The new SNCP program is designed to prevent overcompensation and add transparency, but the HSD has insufficient funding to fully implement the program, due in part to high cost and lack of revenue, Mr. Sallee explained. The legislature has chosen not to provide the additional $9 million per year to cover previous county contributions, Mr. Sallee noted. In September 2015, an LFC staff analysis will be issued on the impact of expanded health care coverage on uncompensated care at New Mexico hospitals and FQHCs. In October, another LFC report will evaluate opportunities to leverage unmatched state and local funds for Medicaid. Monitoring of total Medicaid deficiency projections, funding needs for FY 2016 and FY 2017 and the impact on supplemental funding for rural hospitals will continue, Mr. Sallee said. On September 1, 2015, the LFC will receive the proposed HSD FY 2017 budget.

On questioning, committee members, Secretary Earnest and Mr. Sallee discussed the following topics:

- the one-eighth tax increment requested by the HSD versus the one-twelfth increment approved in SB 268, which has set up the program for a continuing deficit, with payments to hospitals now needing to be reduced;
- the notification to hospitals about upcoming reduced payments;
- setting up 2015 baselines for improved hospital care; and
- the impact of cutting health care spending when this sector of the economy has become the leader in New Mexico's slowly recovering economy.

Consumer Panel

John Heaton, co-chair of the Mayor's Hospital Reform Committee in Carlsbad, testified about what his committee has identified as monopolistic overcharging abuse (see handout) by the Carlsbad Medical Center, the area's sole community provider hospital, which is owned by Community Health Systems (CHS). In a recent presentation to the Carlsbad City Council, repeated for LHHS members, Mr. Heaton described hospital overcharging and service deficiencies that have affected businesses and recruitment. Using data provided by Intrepid Potash, the county's largest business with more than 600 employees, he listed prices for common medical procedures that are as much as 10 times higher in Carlsbad than in other communities in New Mexico. Mr. Heaton said that CHS, which owns six hospitals in New Mexico, has targeted small community hospitals for purchase, particularly where there is no competition. CHS charges the highest sticker prices for medical services in the state, according to a 2012 analysis by *The Santa Fe New Mexican*, and the company has been fined $100 million by the federal government in an overbilling scheme and another $75 million by the United States Department of Justice to settle allegations of false claims.

Intrepid Potash claims that it has had no success trying to negotiate lower prices with the hospital, Mr. Heaton said, and has begun offering incentives to employees to travel to other locations for elective procedures, which are done at much lower prices, even after adding compensation for airfare and hotel. The company has also established its own health clinic, hired a benefits value advisor and introduced cash incentives. Mr. Heaton noted that the figures he provided in his handout have nothing to do with Medicare or Medicaid; they are what is charged for self-insured programs like the one at Intrepid Potash. He concluded with a quote from Gerald Anderson, professor at Johns Hopkins Bloomberg School of Public Health and co-author of a study, "America's Top 50 Health Care Thugs", about CHS: "They are price-gouging because they can. They are marking up prices because no one is telling them they can't.". Mr. Heaton urged legislators to tell CHS, "You can't.".

In exploring possible solutions to the problem, Mr. Heaton suggested that Carlsbad could demand that CHS sell the hospital to another group, develop significant competition by agreement with an outside hospital or seek a legislative fix by declaring sole community provider hospitals as monopolies, i.e., utilities that can be controlled through a rate review board. This latter solution has worked well in the state of Maryland for the last 20 years, he pointed out, where a price-control board establishes a gross revenue cap for each sole community provider hospital and controls growth by the rate of inflation. Several committee members expressed interest in exploring possible legislative changes to the SNCP program to exclude payments to hospitals with significant profits, such as CHS in Carlsbad. Another committee member noted that these issues extend beyond Carlsbad and encouraged the Mayor's Hospital Reform Committee to continue working on solutions.

Nonprofit Rural Hospital Panel

Brenda Romero, administrator of Presbyterian Espanola Hospital, Presbyterian Healthcare Services (PHS), described the 80-bed acute care hospital that was founded in 1946. Working with the community, PHS took over in 1977. Today, there are 28 primary care and multi-specialist providers, including a cardiologist, endocrinologist, neurologist and clinical pharmacist. Ms. Romero, who has been with the hospital for 30 years, said that the employment of 347 individuals makes the hospital a huge economic driver. Presbyterian Espanola Hospital is a lifeline in the community, she said, and its goal is to improve the health of everyone in the region.

Al Santos, administrator of Lincoln County Medical Center in Ruidoso, told committee members that the center is a nonprofit CAH that opened in 1950, is owned by the county and has been affiliated with PHS since 1972. The medical center was recognized by the Joint Commission as a top performer on key quality measures in 2011 and 2012 and was named a top 100 CAH in 2013. With 34 primary care and specialty providers, including dentists, the hospital is currently in the early stages of a renovation project. Nine new providers — all under 42 years of age — have been brought into the community, along with their families, Mr. Santos said. The medical center manages three rural clinics, an emergency medical services program with 36 paramedics and a free mental health triage service for all residents of Lincoln County. The

mental health clinic, which has been operating for two years, is based on a five-visit model, and this triage has helped reduce ER admissions by 20 to 30 percent. At least a dozen other counties have asked for help in setting up a similar program, Mr. Santos said. Emergency medical technicians are being leveraged to provide some primary care under the supervision of the hospital medical director and this is helping to reduce hospital admissions. The SNCP program has been very important to the center's financial planning; 71 percent of the county is on Medicaid, Mr. Santos said.

Public Hospital Panel

Gila Regional Medical Center (GRMC) in Silver City serves four counties — Grant, Hidalgo, Luna and Catron — and has 68 beds, 723 employees and a payroll of nearly $36 million, Brian Cunningham, CEO of GMRC, told committee members. The center has a 10-bed adult behavioral health unit, a cancer center, an outpatient surgical center, primary and specialty care clinics, rehabilitation services and a fitness/wellness center. As a county-owned public hospital, the GRMC is governed by a board of trustees appointed by county commissioners, and any profits return to the hospital and staff. A strong hospital is an economic driver, Mr. Cunningham said. Impacts of the ACA include significant costs for equipment upgrades and training, transition to electronic health records, new coding and huge financial challenges. The GRMC was $9 million in the red during this transition, Mr. Cunningham said, and had to replace the entire senior leadership. In just under a year, the GRMC accomplished a $10 million turnaround and now is just beyond a break-even point. Mr. Cunningham said that he applauds transparency efforts and feels that nurse staffing legislation is well-intended, but that the nurse staffing formula does not take into account other staffing needs. Health care is the most complex industry on the planet, he said.

Michael Miller, government relations representative for special hospital districts, described how a district is formed as a political subdivision with its own elected board. A petition from voters within designated boundaries, signed by a certain percentage of voters who voted in the last election, is presented to the board of county commissioners, which then calls for an election. Board members are elected to staggered terms and must stand for election every five years, Mr. Miller explained. The board can sue, be sued, impose taxes, establish a tax rate for hospital operation and maintenance and call for a bond election. The board has the power to lease the hospital to outside entities, as has been done in Artesia. There is a ceiling on the amount of the mill levy that can be imposed, and the mill levy must go to the public for a vote every four years for reauthorization. There are six hospital districts in southern New Mexico: Nor-Lea, Jal, Eunice, Artesia, Roosevelt County and South-Central Colfax County. There are more hospital districts in the southern part of the state because of oil and gas revenues, Mr. Miller said, but sometimes local property valuation will not support a hospital district.

Shawn Lerch, CEO of Miners' Colfax Medical Center in Raton, said that the medical center, in partnership with the University of New Mexico (UNM), is the national leader in research of diseases of miners (see handout). A black lung and respiratory disease outreach program includes a mobile unit that travels throughout the state and parts of the western United

States providing comprehensive health screening with satellite connectivity to telehealth. Founded in 1904 to serve miners and their families, Miners' Colfax Medical Center today is a 25-bed CAH and is the only intensive care unit and the only obstetrics service within a 100-mile radius. The medical center also operates 47 long-term care beds in the original hospital. This unit is highly ranked, due in part to a gerontologist on staff and one of the lowest rankings for use of psychotropic medication in long-term care. With a payroll greater than $16 million and with 233 employees, the center is an economic driver in the community, Mr. Lerch noted. Mr. Lerch said pay rates for health care providers need to be increased; a nurse can make $5.00 more per hour by crossing the border into Colorado. While slow payments from the MCOs have been a problem, the new SNCP and uncompensated care programs have benefited the medical center, Mr. Lerch said, turning its bottom line from red to black. Miners' Colfax Medical Center currently is budgeting for renovation of unoccupied spaces in its facility to expand behavioral health services for adults, children and geriatric clients, generating as many as 150 new jobs.

Investor-Owned Hospitals

Mary Beth Maassen, community relations and patient advocate, Los Alamos Medical Center, described the 47-bed facility that serves Los Alamos County and the surrounding region with emergency services, general and specialized surgery, obstetrics, pediatrics and neonatology, as well as physical therapy, diagnostic imaging and full laboratory services. The medical center went through four owners in seven years prior to being purchased in 2011 by LifePoint Health, a Tennessee-based company that operates hospitals in 20 states.

With $1.4 million in capital improvements in 2014, Los Alamos Medical Center showed an 89 percent improvement in meeting and improving patient safety goals and measures over a three-year period, Ms. Maassen said, and moved from the bottom 10 percent to the top 10 percent nationwide. It also earned the LifePoint Operational Excellence Award, an iVantage Analytics Award for Overall Excellence in Outcomes and Financial Stability and four-star status from Medicaid's patient satisfaction rating system. In 2014, its chief nursing officer, Tracie Stratton, R.N., M.S., won LifePoint's Nursing Officer of the Year in a competition with more than 60 hospitals nationwide. In the past year, Los Alamos Medical Center provided more than $2.4 million in services to the uninsured and annually sponsors multiple special events and health fairs in the community. Its strength is in the dedication of its staff, Ms. Maassen emphasized, and in its partnerships with Classic Air Medical, X-Ray Associates of New Mexico, Emergent Medical Associates and Blue Cross Blue Shield of New Mexico in the emergency room.

Public Comment

Bruce Wetherbee thanked committee members for putting the day's program together and lamented that there was no media presence. He urged more state money for hospitals, noting that traveling nurses are going to spend their money elsewhere.

Mike Gallagher, Lea County manager, told members that the hospital situation that was described in Carlsbad also exists in Hobbs, and it is of great concern to his community.

Recess

The committee recessed at 3:35 p.m.

<u>Thursday, August 27</u> — NMMI, Daniels Leadership Center Auditorium, Roswell

Welcome and Introductions

Senator Ortiz y Pino welcomed those assembled and asked committee members and staff to introduce themselves. He noted that many committee members were absent due to a Legislative Education Study Committee meeting also being held in Roswell. He then introduced Dennis Kintigh, a former state representative and current mayor of Roswell.

Mayor Kintigh welcomed committee members to Roswell and praised the LCS for its year-round professional, nonpartisan assistance. Roswell experienced another major shutdown in behavioral health services, Mayor Kintigh noted, and committee members will hear more about how the city has dealt with this major crisis. His interest in behavioral health comes from a law enforcement background — if social services do not exist, then individuals needing help end up in the criminal justice system. Mayor Kintigh said he supports reintroduction of the assisted outpatient treatment bill that was carried last session by Senator Papen.

Dorothy Hellums is chair of Roswell's Community Health Care Solutions Committee and was appointed by the mayor following her retirement from 27 years in health care administration. This committee is composed of a broad base of health practitioners in private and group practices, school district officials and community groups that work to recruit and retain health care providers (see handout). The committee is very proactive, Ms. Hellums said, noting that city officials attended a recent American Academy of Physicians conference in Albuquerque for recruitment purposes and was the only city delegation in attendance. It also has met with the director of preceptorship programs at UNM and has hosted students just completing their first year of medical school. The city provides welcome receptions, concert tickets, free passes to gyms and many other amenities in its efforts to attract new providers to the community. Ms. Hellums said that the credentialing bill passed by the last legislature has been crucial for new physicians to be able to bill for services and that the non-compete bill has helped in recruiting physicians. The committee is close to bringing a medical residency center back to Roswell, Ms. Hellums said, where medical residents can train alongside local physicians.

Seferino Montano is CEO of La Casa Family Health Center, a 40-year-old nonprofit serving four counties and operating clinics in Clovis, Portales and Hondo, as well as in Roswell. In addition to primary care clinics, La Casa Family Health Center operates a dental clinic in Clovis, multiple school-based dental clinics in several communities and a pediatric clinic in Roswell. Mr. Montano said that he was surprised when he was asked by the Roswell mayor whether La Casa Family Health Center could take over behavioral health services in Chaves County after the pullout of Turquoise Health and Wellness. With his board's approval, and after consultation with PMS, the MCOs, the Department of Health (DOH), the mayor and county commissioners, La Casa Family Health Center committed to begin building a community

behavioral health services model. Most of the behavioral health practitioners left the area after two failed transitions, but some agreed to stay on. La Casa Family Health Center has hired a clinical director, is interviewing for two staff positions and has a psychiatrist starting in just a few days, Mr. Montano said.

On questioning, committee members and participants discussed the following issues:

- La Casa's Family Health Center's need for a new facility to accommodate expanded services;
- consultation with the LFC on possible state funding assistance for a new facility;
- other area organizations that already deal with substance abuse issues;
- plans to collaborate with Mental Health Resources in Roosevelt County; and
- the use of social work interns to supplement existing staff.

Report on Health Care Professional Summit

Representative Armstrong and Charles Alfero, executive director of the Hidalgo Medical Services (HMS) Center for Health Innovation, discussed the health care professional summit held in Albuquerque earlier this month, sponsored by the New Mexico Primary Care Training Consortium. Residency training slots paid by Medicare are hospital-based, and they have been capped. Since the ACA, new efforts are under way to utilize Medicaid funding to expand training to rural area clinics, hospitals and FQHCs, which would also present great opportunities for rural communities to recruit and retain providers. One way to do this is to create a residency program separate from a medical school, such as one in family medicine at HMS. Another way is to take an existing program and expand it by creating a relationship with an FQHC. The consortium has received federal grants for technical assistance on this, Mr. Alfero said, and could possibly be the entity that applies for accreditation to the Accreditation Council of Graduate Medical Education. This would create economies of scale through a broader umbrella-accredited program. Mr. Alfero also discussed ongoing efforts to interest and train young people for future careers in health care. The summit broke out into work groups to discuss different approaches, Representative Armstrong said, noting that Senator Mark Moores also attended.

Vanessa Hawker, director of budget and administrative services at UNM Health Sciences Center (HSC), spoke from the audience to report that UNM currently has 18 state-funded residencies and will ask for another nine, for a total of 31 in family and internal medicine, psychiatry and general surgery.

Health Care Work Force Pipeline Panel

Betty Chang, M.D., associate dean for graduate medical education (GME) and professor of internal medicine at the UNM HSC, said that GME is a complex enterprise that is not capable of rapid expansion. There are 53 UNM residency programs and two stand-alone programs, one at HMS and the other at the Memorial Medical Center in Las Cruces. Currently, there are two more programs seeking accreditation, one in plastic surgery and the other in clinical informatics (medical records). Dr. Chang described the history of funding for residency programs nationally (see handout), with Medicare, in 1984, setting payment rates to hospitals for residency salary and

faculty time. In 1997, the federal Balanced Budget Act of 1997 put a cap on the number of positions, that Medicare could fund, giving rise to current efforts to expand slots through alternative funding. State-funded GME positions, which cost $100,000 each, are allowing for increased exposure to underserved and underrepresented populations, especially in rural areas throughout the state.

Valerie Romero-Leggott, M.D., vice chancellor for diversity at UNM HSC, told committee members that she is responsible for a variety of programs that address faculty diversity, linguistic and cultural competence, family involvement and community engagement, and that she is responsible for leadership on issues of inclusion and equity. In addition, her Office for Diversity leads a series of K-20 educational pipeline programs, HEALTH NM (see handout). Starting with Dream Makers Health Careers Club in middle school and followed by a high school club program and a Health Careers Academy, HEALTH NM continues with five separate programs for students in college and two programs for students in graduate school in pharmacy and pre-med. The Office for Diversity also conducts programs to advance science, technology, engineering, mathematics and health, commonly know as "STEM-H", research and development and conducts an annual Career Exploration Extravaganza at the UNM HSC campus, where approximately 800 students from around the state come to envision themselves as scientists and health professionals.

George Mychaskiw II, D.O., introduced himself as the founding dean and chief academic officer of the new Burrell College of Osteopathic Medicine under construction on the campus of New Mexico State University in Las Cruces (see handout). The college is a freestanding, privately funded and independently operated entity that is dedicated to improving the health of residents in the southwestern United States and in northern Mexico, Dr. Mychaskiw said. By August 2016, the college will have 162 osteopathic medical students, 38 full-time faculty, 38 post-baccalaureate students and 89 employees. As of August 4, 2015, the college has received more than 2,700 student applications. Pending final approval, 168 new residency positions will be created, he said, with many more in progress. Clinical training will take place primarily in Albuquerque, Las Cruces and El Paso. It is the Burrell College of Osteopathic Medicine's intent to establish a culturally diverse, supportive and inclusive environment, with the philosophy of osteopathy closely aligned with American Indian and Hispanic cultural ways of healing body, mind and spirit.

Dr. Mychaskiw said he will be asking legislators to amend NMAC 5.7.4, the Primary Care Physician Student Loan-for-Service Program's definition of "university", to include Burrell College of Osteopathic Medicine, as well as UNM School of Medicine. A committee member noted that adding the Burrell College of Osteopathic Medicine will reduce the amount of funds available for UNM students. Committee members suggested that the legislature may need to expand the loan repayment fund and provide more funding to middle and high school pipeline programs.

Mr. Alfero described Forward NM Pathways to Health Careers, a work force development program of HMS that has been funded through the DOH, where finding out about health careers starts in junior high school (see handout). A variety of programs, including school clubs and summer mathematics and science, health career and ACT- and MCAT-preparation academies aim to improve the supply of homegrown talent. This model should be expanded statewide, Mr. Alfero urged, so there will be less dependence on recruitment efforts outside of New Mexico.

State Health Care Loan Programs

Harrison Rommel, Ph.D., financial aid director of the Higher Education Department (HED), said there are 29 state-run financial aid programs for students of health care education. Loan-for-service programs are for students currently pursuing a degree, while loan-repayment programs are for practicing professionals who have completed their education. Both programs require repayment with interest if the service commitment (usually two to three years) is not fulfilled (see handout), Dr. Rommel explained. In 2014, the legislature expanded incentives for student loan repayment for health professionals practicing in underserved communities and provided funding for a new CYFD-worker loan-repayment program.

The HED was only able to fund 29 of 133 eligible applicants for practicing professionals in FY 2015 and 27 of 106 eligible applicants in FY 2016. The allied and medical loan-for-service programs could not fund all eligible applicants in FY 2015 and FY 2016, but the nursing loan-for-service program did fund all eligible applicants, Dr. Rommel said. In 2016, 33 nursing graduates will enter the New Mexico work force. Dr. Rommel also described programs for nurse educators and for a primary care tuition waiver for the last year of medical school, as well as a dental residency program and Western Interstate Commission for Higher Education loans-for-service in veterinary medicine and dentistry. The financial aid budget has received reduced appropriations since 2011, Dr. Rommel noted, even with the addition of new programs.

UNM Hospital Shaken Baby Syndrome Prevention Program

Jayme Vincent Robertson, M.S.N., R.N., R.N.C., director of the Intermediate Care Nursery Unit at UNM Hospital, and Frances Kathleen Lopez-Bushnell, A.P.R.N., Ed.D., M.P.H., M.S.N., C.T.S.C., director of nursing research at UNM Hospital, presented a short video and printed educational materials about shaken baby syndrome (see handout). New Mexico has the highest rate of death from child abuse, Ms. Robertson said, and shaken baby syndrome is a leading cause of learning disabilities. It is often underreported, undertreated and misdiagnosed. Crying is the main cause of the abuse, she said, and while most perpetrators are males in their 20s, women with postpartum depression are another subgroup of abusers. Educating new parents about shaken baby syndrome while the parents are still in the hospital has been determined by research to reduce the incidence of the syndrome by 47 percent, Ms. Robertson said. UNM Hospital has replicated this education program and is implementing it now, utilizing a life-like doll to show parents how easily an infant can be injured and teaching parents to walk away for a moment while the baby is safely in a crib. Every parent or guardian is getting this instruction, and UNM is tracking the results.

After demonstrating the use of the doll and showing the video to committee members, Ms. Robertson and Ms. Lopez-Bushnell asked legislators to help by mandating this education at all birthing facilities in New Mexico prior to a baby's discharge. Most hospitals already teach breastfeeding, but few educate parents about shaken baby syndrome. Thirty-nine babies with shaken baby syndrome that were brought into the UNM Hospital ER cost an average of $300,000 each to treat, the nurses testified; two dolls for each center, plus the video and educational materials, averages about $2,000, they said. Committee members commented that the video could be shown in clinic waiting rooms and also in home visitation programs. The committee chair said he wanted the LHHS to consider a bill mandating this preventive training and asked presenters to work on this with LCS staff.

Safe Staffing

Jack Needleman, Ph.D., professor and chair, Department of Health Policy and Management, University of California at Los Angeles (UCLA) Fielding School of Public Health, said that for the past 15 years, he has conducted research on nurse staffing and quality of care in hospitals. He presented committee members with a written copy of his comments, a PowerPoint presentation, several articles on nurse staffing and inpatient hospital mortality and the 2015 National Healthcare Retention & RN Staffing Report from NSI Nursing Solutions, Inc. His research has been utilized by the Centers for Medicare and Medicaid Services, the Joint Commission, the American Nurses Association and the U.S. Agency for Healthcare Research and Quality, among others. Prior to coming to UCLA, Dr. Needleman was on the faculty at the Harvard School of Public Health.

Dr. Needleman discussed in detail five key issues, as follows.

1. Nursing is complex and cognitively and managerially challenging work.
2. There is extensive evidence that nurse staffing levels influence patient safety and outcomes, such as death and hospital-acquired complications.
3. Patients are entitled to nurse staffing at levels that ensure safe and reliable care.
4. Higher, safer staffing is affordable.
5. The right staffing levels vary from hospital to hospital and unit to unit, so hospital-staff jointly developed models are a good approach to ensure the right staffing.

In five years of data involving 250,000 patients, the causal relationship between staffing and outcomes is clear, Dr. Needleman said, and policy and management should reflect this: lower-than-target staffing is associated with higher mortality rates and with "missed care" (the failure to deliver care) correlating with adverse events. The charge that more staffing is not affordable is simply a "red herring", Dr. Needleman asserted.

Diane Spencer, R.N., said that New Mexico needs to adopt SB 284, the safe staffing legislation carried by Senator Lopez that died in last year's regular legislative session, because hospitals keep cutting back on staff. Unsafe staffing levels are the main reason experienced nurses leave. Nurses are like the canary in the coal mine, Ms. Spencer said, with two out of five

departing nurses citing understaffing as the reason and 54 percent citing excessive workloads. Improved staffing is not more costly; it actually saves millions of dollars, Ms. Spencer noted. While the DOH has opposed safe staffing legislation every year, along with requirements for it to publish information quarterly, as has the NMHA, 14 other states are working on similar legislation, which, like SB 284, mirrors federal legislation that is languishing in Congress.

Lorie MacIver, B.S.N., R.N.C., president of District 1199 NM, National Union of Hospital and Healthcare Employees, asked committee members: does New Mexico want to be in the forefront or at the bottom, again? The state can educate nurses, but if nurses cannot be retained, what is the point? Nurses will stay if there is a state law for safe staffing.

On questioning, committee members and panel presenters discussed the following topics:

- medical errors as the top reason for hospital deaths;
- increasing nurse responsibilities, such as discharge planning, adding to daily pressure;
- other states that have adopted the model proposed in New Mexico include California, Connecticut, Illinois, Minnesota, New Jersey and Texas; and
- the importance of recognizing nursing as the core of patient care.

Public Comment

Sharon Argenbright, said she holds a master's degree in nursing, has taught nursing and has worked in acute care. Nurses are leaving, she said, and now 25 percent of nurses are "traveling", which increases costs. Dr. Needleman has called for a 1:5 ratio of nurses to patients, but Ms. Argenbright said that 1:4 or 1:3 is better. Last week, on the floor where she was working, there was a 1:9 ratio. What is needed is a bill with teeth to force hospitals to do what the law says, she said.

Adjournment

There being no further business before the committee, the meeting was adjourned at 2:50 p.m.