

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

**September 10-12, 2012
Kennedy Lounge
New Mexico Highlands University
905 University Avenue
Las Vegas**

The fourth meeting of the Legislative Health and Human Services Committee was called to order by Senator Dede Feldman, chair, on September 10, 2012 at 9:15 a.m.

Present

Sen. Dede Feldman, Chair
Rep. Danice Picraux, Vice Chair
Sen. Gay G. Kernan
Rep. Dennis J. Kintigh
Sen. Linda M. Lopez
Rep. Antonio Lujan
Sen. Gerald Ortiz y Pino

Absent

Rep. Nora Espinoza

Advisory Members

Rep. Ray Begaye (9/10)
Rep. Miguel P. Garcia (9/11 and 9/12)
Rep. James Roger Madalena
Sen. Cisco McSorley (9/10 and 9/12)
Rep. Bill B. O'Neill
Sen. Mary Kay Papen
Sen. Nancy Rodriguez
Sen. Sander Rue (9/11)
Sen. Bernadette M. Sanchez (9/10 and 9/11)
Rep. Mimi Stewart

Sen. Rod Adair
Sen. Sue Wilson Beffort
Rep. Eleanor Chavez
Sen. Steven H. Fischmann
Sen. John C. Ryan
Rep. James E. Smith

Guest Legislator

Sen. Clinton D. Harden, Jr. (9/11 and 9/12)

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

Handouts

Meeting handouts are posted on the legislative web site.

Monday, September 10

Welcome and Introductions

Senator Feldman called the meeting to order and invited members of the committee and legislative staff to introduce themselves.

The committee was welcomed by Dr. James Fries, president of New Mexico Highlands University. He used the opportunity to advocate in favor of a higher education funding formula that rewards improvement based on outcomes measures. Representative Stewart noted that the university's college of education is rated first in the state for teaching of reading.

Attachment Disorders and Child Development

Shirley Crenshaw, M.S.W., L.C.S.W., explained how acts of omission have a greater negative impact on children than acts of commission. Multiple caregivers, institutionalization, drug-addicted or alcoholic parents, environmental stressors such as poverty, and parents with their own unresolved traumas create what could be described as developmental traumas disorder. This condition is characterized by lack of trust and lack of belief in the existence of a reliable parent, which creates anxiety. A child's fear becomes defiance, and the child's terror becomes aggression.

Dr. George Davis, a psychiatrist with the Children, Youth and Families Department (CYFD), advised that there is a high rate of misdiagnosis of children with attachment disorder. He told the committee that the CYFD has early childhood trauma programs, and research is underway. According to Dr. Davis, childhood experiences studies conducted by the Kaiser Foundation and the Centers for Disease Control and Prevention reveal that over one-third of all adults were sexually abused as children. These studies showed long-term physical effects over the course of a lifetime for those with adverse childhood experiences. This trauma is pre-verbal. It is a lack of neural development that changes brain chemistry and anatomy and cannot be addressed with medication.

Diana McWilliams, the acting chief executive officer of the Interagency Behavioral Health Purchasing Collaborative, stated that the first task is to map trauma-based services across the state. According to Ms. McWilliams, New Mexico's Centennial Care Medicaid program includes family support services.

On questioning, the presenters and the committee members addressed the following concerns and topics:

Early intervention and prevention. Trauma is generational. A committee member suggested that the legislature should be concentrating on home visitation regardless of marital or economic status. There should be more funding for the healthy families initiative. The paradigm is shifting — in order to help the child, the parents must be trained.

Concern about the emphasis on reunification of the family at all costs. Several members have received complaints from constituents about state agencies that have removed children from safe care settings and put children back into harm's way to accomplish reunification with the child's family of origin.

Overmedication of children to control behavior. Several committee members expressed concern about the tendency to medicate children. Panel members explained that training parents, teachers and caregivers to closely supervise and regulate the behavior of a child whose brain has not developed a working hippocampus is the appropriate approach to address childhood trauma, not medication. Close and constant supervision is required.

Better treatment and services for foster parents. Foster parents should receive better training, and state agencies should be better at handover and in providing support to foster parents. Several committee members have received reports that state agencies treat foster parents poorly. Even worse, when foster parents adopt, they lose all services.

Prescription Drug Abuse

The afternoon was dedicated to presentations on prescription drug abuse and the opioid addiction epidemic from: Bill Weese of the Robert Wood Johnson Foundation; Larry Loring, president of the Board of Pharmacy; Dr. Michael Landen, the Department of Health's chief epidemiologist; Lynn Hart, the executive director of the New Mexico Medical Board; Bob Twillman, director of policy and advocacy for the American Academy of Pain Management; Mike Wallace, chair of the Board of Nursing; and Luella Duran of the Heroin Awareness Committee.

On questioning, presenters and committee members addressed the following concerns and topics:

Virtually all diverted drugs are legally prescribed. The increase in the availability and prescribing of opioids is matched by an increase in accidental overdose deaths. Prescriptions of opioids continue to increase, with opioids more readily available in New Mexico than in the rest of the country. Unfortunately, what began as a law to penalize a physician for undertreating pain appears to have resulted in overprescribing of opioids. It is hoped that a recent amendment to the Pain Relief Act requiring physicians and others who prescribe certain pain medications to attend continuing education on pain management will heighten prescriber awareness.

The prescription monitoring program. The Board of Pharmacy's prescription monitoring program is a powerful tool for prescribers to track patients that doctor-shop to seek drugs and for regulators to identify physicians who are overprescribing opioids. The Board of Pharmacy, the New Mexico Medical Board and the Board of Nursing have adopted or are adopting rules to require their respective licensees to refer to and use the prescription monitoring program. Other boards that license other health professionals, such as dentists and osteopaths, are expected to follow.

The lack of inpatient treatment beds. Several committee members expressed concern that outpatient treatment alone is ineffective and that the state has a dire shortage of inpatient treatment beds.

Red tape that makes disposal of pain medications problematic. Federal law enforcement and environmental laws are barriers to setting up drug take-back programs or incinerators. As a result, there are currently only a few drug take-back options available to New Mexicans.

Pharmaceutical companies and drug education. One of the presenters noted that drug education for medical professionals is done by the pharmaceutical companies and that this creates an inherent conflict of interest. Committee members were told that the pharmaceutical companies are participating in drug awareness campaigns, but representatives of the pharmaceutical industry declined the committee's invitation to appear.

Opioids are a gateway drug to heroin. Ms. Duran stated that her organization receives 64 to 85 heroin overdose calls per month in Albuquerque. Ms. Duran told the committee members that it only took one oxycontin shared between five young people at a party to start her son's heroin addiction.

Tuesday, September 11

Introduction, Overview and Tour of New Mexico Behavioral Health Institute (NMBHI)

The morning began with a tour of the NMBHI. Dr. Troy Jones, executive director, led the tour of the 300-acre campus, which includes an adult psychiatric hospital, a forensic division, a nursing home and a sex-offender unit. The NMBHI also operates an off-campus outpatient community mental health center. Dr. Jones took the opportunity to request an additional \$75 million to \$81 million in capital outlay funding for both a nursing home and additional psychiatric housing.

On questioning, Dr. Jones and committee members discussed the following concerns and topics:

Lack of licensing and regulation of adult residential care facilities. Boarding homes for the mentally ill are not licensed or regulated in New Mexico. Several committee members suggested looking to laws of other states as templates for future legislation.

The need to update the mental health code. According to Dr. Jones, the mental health code is "antiquated" and needs updating. One member suggested that there should be a task force charged with updating the code every few years. Another suggested revisiting legal requirements and procedures for civil commitment.

Legislation to expand the scope of practice for non-physician health care workers when a physician is not available. Dr. Jones explained that patients are often admitted after hours when a physician is not on the premises. He believes that legislative changes are warranted to permit

emergency prescribing of psychotropic drugs by psychologists and psychiatric nurses and to authorize non-physician employees to evaluate and admit psychiatric patients after hours. This is important in light of the health care work force shortage throughout the state and the challenge of attracting and retaining psychiatrists and other health care professionals.

Sexual Assault Programs

Kim Alaburda, director of the Coalition of Sexual Assault Programs, gave some startling annual rape statistics for New Mexico. Sixty-seven percent of those raped are children; of those, 44 percent are under the age of 12. Nearly all of these children are raped by someone they know, and 38 percent are raped by a family member. According to Ms. Alaburda, these statistics show that rape prevention efforts focusing on rapes by strangers do not address the root causes of most of the cases of sexual assault of children.

One million dollars in annual Department of Health funding has more than doubled the number of rape crisis centers in the state since 2004. There has also been an increase in sexual assault nurse examiner (SANE) units. In the last nine years, more than 11,000 SANE exams have been performed.

On questioning, the following concerns and topics were raised:

Men make up a significant percentage of victims of rape. Nationally, one of six men is a victim of rape. Men are now seeking help from rape crisis centers.

Accreditation of rape crisis centers ensures use of best practices.

The new paradigm in rape prevention is working with offenders. The most effective treatment programs are those for adolescents.

Rape crisis centers see the results of human trafficking. Federal funds may be available to form a human trafficking task force.

Rape crisis and prevention training needs to be extended to Indian reservations and tribal lands.

Amendments to Immunization Act: Registry of Critical Patient Data

Dr. Lance Chilton, member of the New Mexico Pediatric Society, advocated for using the New Mexico Statewide Immunization Information System to collect health information for children that could be accessed during disasters and other emergencies.

Child Advocacy

Child advocates Shelly A. Bucher and Esther Devall, both professors at New Mexico State University, returned to the topic of childhood trauma. They advised the committee that, nationally, there are three million referrals for child trauma and the most prevalent cause is child neglect. Ms. Bucher and Dr. Devall hope to build a continuum of trauma-informed care and

training systems, with the goal of coordinating existing programs and resources to avoid duplication and eliminate gaps.

Another important aspect of their work is the development of training materials to teach techniques for interviewing children who may be victims of child abuse. While "everyone" in New Mexico is required to report child abuse, more training to recognize and respond to child abuse is needed by teachers and other professionals. The largest group being trained currently is foster parents.

Alternative Pain Management

The day closed with a panel of acupuncture practitioners, including Dr. Nityamo Lian, Dr. Selah Chamberlain and Michelle Frost, who works at the county detox facility. Panelists advocated the use of acupuncture for a number of reasons: it is a widely available and less expensive alternative to traditional medicine; there are no drug interactions from acupuncture; and acupuncture can provide relief to those attempting to recover from drug addiction. Panelists advocated for including acupuncture among the state's essential health benefits. Acupuncture is not currently covered under Medicare or Medicaid, but it is covered under the Mi Via waiver.

Public Comment

Commenters reminded the committee that the disabled are sexually abused more frequently, that the disabled need to be accounted for in the event of a public emergency and that there is no regulation of boarding homes for the mentally ill.

Wednesday, September 12

Centennial Care: Updated Waiver Application

Julie Weinberg, the director of the Medical Assistance Division of the Human Services Department (HSD), gave an update on the Centennial Care waiver application and the corresponding request for proposals (RFP) to managed care organizations.

On questioning, the following concerns and topics were raised:

Providing Medicaid recipients with explanations of benefits. Ms. Weinberg stated that providing recipients with explanations of benefits would be expensive and that the HSD would rather spend the money on care. She nevertheless agreed to take this suggestion under advisement.

Protection of behavioral health dollars. According to Ms. Weinberg, the Medicaid managed care organizations will have to demonstrate that they spend the same level on behavioral health services and there should not be a drop in utilization of behavioral health services under Centennial Care. There will be reporting required with behavioral health services broken out. Ms. Weinberg promised to provide the committee with citations to provisions in the RFP that purportedly protect behavioral health dollars.

Home visiting and early intervention. Ms. Weinberg stated that these services are not included in the waiver application because they are being offered now by managed care organizations and behavioral health organizations as "value added services". There is no plan to increase funding for these services until there is a determination as to effectiveness. A member requested Ms. Weinberg to provide information on how much the state spends on home visiting. Another member wanted to know what percentage of families that qualified for Medicaid received the home visiting benefit and was promised this information by Ms. Weinberg.

Tribal consultation in connection with the waiver. In response to complaints about lack of tribal consultation, the HSD has created a Native American subcommittee to the HSD Medicaid Advisory Committee. In addition, a Native American advisory board to all of the Medicaid managed care organizations is required under the RFP.

Outreach to persons eligible for Medicaid. One committee member commented that approximately 50,000 New Mexicans are currently eligible but not enrolled in Medicaid. Ms. Weinberg stated that the HSD believes that the eligible-but-not-enrolled population is between 20,000 and 30,000. According to Ms. Weinberg, the Medicaid managed care organizations are not required to conduct outreach under the RFP and are not paid for doing outreach. The HSD contracts with the New Mexico Primary Care Association to conduct outreach and make presumptive eligibility determinations.

ASPEN: The HSD's Enrollment Information Technology

A panel from the HSD, including Charissa Saavedra, deputy secretary, Ted Roth, director of the Income Support Division of HSD, and Sean Pearson, chief information officer, reported on the department's online enrollment system. The new system should provide Medicaid recipients with internet access. An online eligibility application can originate from anywhere, but a caseworker will still have to make the eligibility determination. Most of the \$105 million implementation budget was paid for with federal funds. According to the panel, this system is different from the system that will be used for the health insurance exchange and did not use exchange grant funds.

Consumer Experience with the New Mexico Works/Temporary Assistance for Needy Families (TANF) Program; Status Update: New Mexico Works

A panel of experts from New Mexico Legal Aid reported that those who are disabled and cannot work are nevertheless required to work under the state's TANF program. All adults and minors in households are required to complete extensive paperwork, even those who are severely disabled. There are no caseworkers available to help these persons, and failure to complete the paperwork will result in sanctions. Participants are required to keep track of work hours and obtain a receipt showing hours worked. This requirement may ask too much of the mentally disabled, who are then dropped from the program. In response to a question, a disability advocate indicated that the state could have applied for a waiver under the TANF program but did not.

The next panel, from New Mexico Works, explained that all parents receiving TANF aid must participate in a job enrollment program run by SL Start.

Supporting Health Development During a Child's First Three Years

Dr. Andrew Hsi discussed supporting health development during a child's first three years. He provided details about the FOCUS (formerly Los Pasos) and Milagros programs. FOCUS is funded by the Department of Health through the University of New Mexico to provide support and services for families of children from birth to three years of age who are at risk for or experiencing a developmental delay and includes home visiting services. Milagros is another University of New Mexico initiative, a perinatal substance abuse program that has served over 2,000 women since its inception. Dr. Hsi was invited to provide the committee with a request for an appropriation to expand his programs statewide.

Supporting Early Childhood Development

Mimi Aledo-Sandoval, senior fiscal analyst with the Legislative Finance Committee, presented more startling statistics regarding New Mexico's children. New Mexico ranks forty-ninth for child well-being, with nearly 30 percent of young children living in homes with household incomes below the federal poverty level. One-third of children lived in families where no parent had a full-time job in 2009. New Mexico ranks forty-seventh among states for child homelessness. Approximately 71 percent of births were covered by Medicaid in 2010. The details of the CYFD 2014 budget request are found in Ms. Aledo-Sandoval's handout.

Dan Haggard, director of early childhood services for the CYFD, provided an overview of early childhood investment zones and reviewed early learning programs, including home visiting. Unfortunately, there is not enough funding to serve all children in need in the state. The severity of abuse and neglect has increased. While home visiting services are the most effective, there is a shortage of local resources in the communities where populations most at risk are located. Counties of greatest need have been identified as early childhood investment zones.

On questioning, the following concerns and topics were raised:

The distinction between case management and true home visiting. Home visiting has a curriculum, with assessments administered over time. Often rural areas lack support services for home visiting. Project ECHO is providing local practitioners with support.

Medicaid may be the best funding source for home visiting. According to Ms. Aledo-Sandoval, the HSD's Medical Assistance Division has not shown an interest in home visiting. Mr. Haggard reminded the committee that Medicaid only provides reimbursement for medically necessary care. Members suggested looking at efforts by other states, such as Kentucky, to roll home visitation into their Medicaid programs.

Attorney General's Informal Opinion on Creating a State Exchange

Mark Reynolds, assistant attorney general, explained the informal opinion issued by the attorney general on the legal implications of the governor creating a health insurance exchange by executive order after having vetoed exchange legislation. In short, in the opinion of the attorney general, such action may be an unconstitutional violation of the separation of powers. A copy of the informal opinion is posted on the committee web site.