

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

September 15-16, 2008
San Juan College; Room 9010
4601 College Boulevard, Farmington

September 17, 2008
Beclabito Chapter House

The third meeting of the Legislative Health and Human Services Committee (LHHS) was called to order at 10:05 a.m. by Senator Dede Feldman, chair. The chair recognized Representative Thomas C. Taylor. The LHHS members, staff and audience members introduced themselves.

Present

Sen. Dede Feldman, chair
Rep. Danice Picraux, vice chair
Rep. Keith J. Gardner
Rep. Joni Marie Gutierrez
Sen. Steve Komadina

Absent

Sen. Rod Adair
Sen. Mary Kay Papen
Rep. Gloria C. Vaughn

Advisory Members

Rep. Ray Begaye
Rep. Nathan P. Cote
Rep. Antonio Lujan
Rep. James Roger Madalena (9/16, 9/17)
Rep. Rodolfo "Rudy" S. Martinez

Sen. Sue Wilson Beffort
Rep. Jose A. Campos
Rep. Nora Espinoza
Rep. Daniel R. Foley
Rep. Miguel P. Garcia
Sen. Clinton D. Harden, Jr.
Rep. John A. Heaton
Sen. Timothy Z. Jennings
Sen. Gay G. Kernan
Sen. Linda M. Lopez
Rep. Rick Miera
Sen. Gerald Ortiz y Pino
Rep. Edward C. Sandoval
Rep. Jeff Steinborn
Rep. Mimi Stewart
Sen. David Ulibarri

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

Other Legislative Members

Rep. Paul C. Bandy (9/15, 9/16)

Staff

Tim Crawford

Michael Hely

Karen Wells

Guests

The guest list is in the meeting file.

Monday, September 15 - San Juan College

Welcome and Introductions

Nancy Shepherd, dean, School of Continuing Education, San Juan College, thanked the committee for coming and made brief comments about the college.

A quorum being present, the chair entertained a motion to approve the minutes of the June and July meetings of the LHHS. Motions were duly made, seconded and adopted.

Utility Assistance

Ona Porter, executive director, Community Action New Mexico (CANM), introduced Sara Kaynor, executive director of the San-Juan-County-based Economic Council Helping Others (ECHO), who briefly described the work of her organization. She reviewed numerous statistics regarding utility needs and housing issues in the Farmington area. She described the Farmington electric utility system, highlighting the area and population served by it. She commended the city and the work it does in ensuring access to utilities; however, the number of people seeking utility assistance far exceeds the available resources. The cumulative cost of reconnecting services once disconnected is higher than \$500,000 per year. Ms. Porter stated that at least 181,000 individuals in New Mexico qualify for the Low Income Home Energy Assistance Program (LIHEAP); it is estimated that the affordability gap for utilities for the working poor is \$800 per year. Weatherization can reduce costs significantly; however, only a small percentage of eligible homes are weatherized yearly. San Juan County can serve as a model for public/private partnerships; Marion Gas and Oil, a local energy producer, is working with ECHO on a grant to address this issue jointly.

CANM believes the focus for state general fund expenditures should be on bill assistance (25%), weatherization (70%) and appliance replacement. Increases in funding at the federal level are also needed. Energy efficiency should be emphasized in all new construction, including for low-income housing. Consumer protection and advocacy remain major focuses of CANM. She believes that a comprehensive plan is needed for energy affordability and sustainability in New Mexico. A Supreme Court decision, called Mountain States, provides an avenue for the establishment of household caps on disconnect fees.

Questions from committee members concerned the following:

- the veracity of the figures presented; Representative Taylor, who was in the audience, spoke to the issue, stating that the numbers are misleading;
- the formula by which the estimates are calculated;
- the need to balance providing energy assistance to those in need with the necessity for the energy companies to remain profitable;
- the feasibility of using weatherization dollars to rehabilitate mobile homes;
- the importance of education about energy conservation;
- the value of energy audits to determine the most effective weatherization measures for a household;
- whether the money appropriated in the recent special session of the legislature for LIHEAP is adequate; and
- the extent of cooperation with the Human Services Department (HSD) and the Workforce Solutions Department, particularly regarding the needs of Native Americans.

Housing Issues

Ruth Hoffman, executive director, Lutheran Advocacy Ministry (LAM), and Joseph Montoya, deputy director, New Mexico Mortgage Finance Authority (MFA), were invited to address the committee. Ms. Hoffman reviewed statistics regarding poverty, hunger and home ownership in New Mexico as depicted in a handout. Although 71.5% of New Mexico residents own a home, this ownership includes mobile and manufactured homes that are not appreciable assets. There are too few units of affordable housing to meet the need of those who qualify for such housing. She recommended that more low-income housing units be made available and that state money be invested in home rehabilitation. The LAM recommends establishing an ongoing funding stream for the New Mexico Housing Trust Fund and targeting the use of those funds for extremely low-income people. Additionally, the LAM supports expanded weatherization funding, funding for rehabilitation and emergency repairs to homes, implementation of the "Housing First" model in New Mexico and increased funding for tenant-based and project-based vouchers and subsidies.

Mr. Montoya noted that a stable home enables people to get out of poverty. He focused his remarks on issues of affordability and the disparate impact that the lack of affordable housing has on people living in poverty. MFA programs to address this disparity were described. He presented the MFA's 2009 legislative funding priorities.

The committee had questions and comments regarding the following:

- how the HERO Program is funded and the sustainability of that program;
- where and how the HERO Program is being implemented;
- the application of building codes and other regulations on sovereign nation land;
- the extent of problems due to buildings that do not meet code;
- how much of the cost of a home is labor;
- the need to revise regulations to permit wider use of manufactured homes;

- the benefits of partnerships with organizations like Habitat for Humanity; and
- the default rate of the MFA and the impact of the current housing crisis.

Pam Roy, Farm to Table, introduced Clark DeSchweinitz, also of Farm to Table, and Craig Maples, marketing director for the New Mexico Department of Agriculture in the northern part of New Mexico, Sharon Graham, and others. Ms. Roy presented information regarding food systems and barriers to obtaining adequate food. New Mexico is second-highest in the nation for those who experience food insecurity. One in six children experiences hunger on a daily basis. In a food system that works, all New Mexicans will have access to healthy, affordable and culturally appropriate food. She noted that in rural communities, food is less accessible and more expensive. Currently, most of New Mexico's agricultural products go out of state. The Healthy Kids, Health Economy Program is a measure designed to provide more than 200,000 at-risk children with healthy local foods and to create new markets for New Mexico farmers. Funding for this measure in 2007 has had a very positive impact in the state so far; additional funding will be sought for 2009. Ms. Graham described her experience as food service director for the Bloomfield schools and gave examples of healthy lunches that she is able to provide to local schools that include fresh fruits and vegetables. Shrinking federal funds pose a serious challenge to continuation of this program; state funding is more and more important.

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

- how school lunch menus maximize the use of seasonal foods;
- whether menus are uniform throughout a school district;
- whether schools can eat the foods they produce themselves;
- ways in which state funds are allocated to schools for food programs;
- how the Human Services Department (HSD) and the Public Education Department partner with Farm to Table and others to maximize efficiencies in food distribution;
- how much it would cost to ensure that fresh fruits and vegetables are available for school lunches every day; and
- why underfed children are overweight.

Senator Feldman spoke to the value of funding the Healthy Kids, Healthy Economy Program. Mr. Maples noted that no state money, except the \$85,000 funded in 2007, goes into the school lunch program. Mr. DeSchweinitz noted that better collaboration and better communication are needed to ensure better use of limited resources available for food. Ms. Roy spoke to the importance of farmers' market nutrition programs as a vehicle to improve health, support the local economy and address hunger. She also discussed the Electronic Benefit Program (EBP), which allows people to use food stamps to purchase food at farmers' markets. The economic value of food and nutrition programs was emphasized.

Electronic Medical Records Briefing

Legislative Council Service staffer Michael Hely provided a legislative history regarding electronic medical records. Senator Feldman drew the committee's attention to the National Conference of State Legislatures' frequently asked questions document on health information

technology. Mr. Hely reviewed key elements and differences in two bills debated during the recent special session of the legislature and the 2008 regular session of the legislature that did not pass. He covered important features and definitions that became the subject of debate. He identified that one aim of both bills was to address aspects of the privacy of electronic health records that are not adequately addressed in the federal Health Insurance Portability and Accountability Act (HIPAA). An issue of concern was whether the establishment of electronic medical records should be mandated. Issues regarding the burden of implementation of privacy rules need to be balanced by the desired protections to be achieved for consumers.

Physician Health Information Technology Survey and Study

Liz Stefanics, executive director of the New Mexico Health Policy Commission (HPC), reported on a survey the HPC conducted to determine the extent to which physicians in New Mexico are using electronic medical records. She described how the definitions for "health information technology", "electronic health record" (EHR) and "health information exchange" are the foundation to understanding the results of the survey. The study showed that 31% of respondents had already implemented EHRs, 32% were in the process of implementation of EHRs and 37% had no plans to implement EHRs. Most providers with no plans to implement EHRs are independent or sole practices. Additional research is needed. The full report is available on the HPC's web site.

Questions were asked about the following:

- the concerns regarding the cost of implementing EHRs;
- the difference between EHRs and electronic billing requirements;
- the lack of standardization in available EHRs technology, coupled with the cost of implementing EHRs;
- how the results of the survey are affected by the characteristics of the population surveyed;
- the availability or lack thereof of statistics from the Indian hospital and the veterans' hospital; and
- the imperative that individuals have the ability to access and amend their own medical records.

Senator Komadina described discussions that occurred in conference committee on the bill considered in the special session. The issue of immunity for providers seems to be the biggest stumbling block toward passage of this measure.

EHRs: Practitioner Experience

Dawn Brooks, chief executive officer of the San Juan Independent Practice Association (IPA), described the IPA and the process by which it obtained and implemented a community EHR system. Dr. Pope, a member of the IPA, stressed the importance of physician involvement in the process. Though expensive, he emphasized that the quality of care and access to care for his patients are vastly improved with the system. Ms. Brooks stated it was also done to improve practice management and efficiency. Their project, called "CHINS", was developed

collaboratively with many local, state and federal partners. She identified existing barriers to full implementation. After the initial start-up expense of \$232,000 and an additional investment by the IPA of \$400,000, the system now serves 69% of all the doctors in the IPA. Interoperability, or the necessity to interface with other EHR vendors, software and providers, proved to be a substantial challenge. Financial and regulatory challenges were also presented. Dr. Cumberworth, medical director of the IPA, commented on the efforts of the IPA to audit its own members for quality purposes and the ways in which EHRs improve these efforts. Ms. Brooks noted that EHRs have both a medical and a billing component. Health record locator services are subject to many HIPAA privacy concerns that hinder a physician's ability to access the information needed to make appropriate medical decisions. The IPA intends to continue the journey of implementation of EHRs.

EHRs: Privacy Issues

Twila Brase, president, Citizen's Council on Health Care, identified four elements that should be addressed in any legislation dealing with electronic records: patient trust, patient privacy, patient safety and patient rights. She contends that HIPAA actually permits disclosure, rather than protecting the privacy of patient information. She raised numerous concerns regarding the ease with which patient information can be inadvertently exposed without a patient's consent. She critiqued the EHR bill that was debated during the 2008 special legislative session. The patient consent requirement was weakened by the removal of the word "written". The centralized data system, the audit log and the warranty provisions all permitted private information to become accessible without patient consent. She asserted that provisions stronger than HIPAA should be written and put into state law. She made specific, strong recommendations for any future electronic medical records bills to protect privacy.

A committee member asked if the law in Minnesota requires electronic medical records to adequately protect patient privacy. Ms. Brase stated that the consent provisions in the law are among the strongest in the country, but that efforts are being made to strengthen it further.

Diane Fisher, general counsel, Presbyterian Healthcare Services (PHS), described its system for electronic health care records. She identified elements believed to be important for any future EHRs legislation. PHS holds that state laws should not duplicate HIPAA and should only identify additional protections that are lacking in HIPAA. She highlighted the features of the EHR bill to which PHS objected that would limit or hinder physicians' ability to provide care. She urged consistency between the ways paper records and electronic records are protected. The requirement for an audit log should be reasonable and not unduly costly. PHS is very supportive of EHRs, as it believes EHRs improve the quality of care; however, a balance of concerns must be addressed. She has offered PHS help in drafting a bill before the next regular session. Dr. Jason Mitchell, a PHS family practice physician, noted that EHRs promote collaboration in the patients' best interest and are consistent with the concept of a "medical home".

Maggie Gunther, executive director, Lovelace Clinic Foundation (LCF), testified that the health care industry lags behind all other industries in the use of technology. She discussed the importance of a health information exchange (HIE) to promote the safe sharing of information

electronically. In developing an HIE for the LCF, privacy concerns were at the forefront. A balance must be found among patients, providers, society and technology. She identified several states that have passed EHRs legislation and evaluated each piece of legislation based on whether it is consistent with HIPAA or more restrictive than HIPAA. One state, Rhode Island, has an "opt-in" provision, meaning no information can be entered into the EHR without overt consent of the patient; 99% of all patients do opt-in. She acknowledged that this topic is difficult and controversial. Future revisions should reflect input from community forums and stakeholders.

Committee members had questions and comments on the following topics:

- how EHRs in Minnesota interface with the Indian Health Service and to what extent data are shared;
- public health considerations inherent in EHRs;
- ways in which electronic health data can be, and should be, protected by firewalls and other existing technologies;
- whether this issue needs to be addressed by government at all or whether the private sector could take care of it;
- the role of personal responsibility for health information; and
- the dangers inherent in private, on-line collection of personal medical information.

Electronic Medical Record Environment and HIE Issues

Bob Mayer, chief information officer, Department of Health (DOH), presented the activities the DOH has engaged in to assist providers to implement EHRs. Barriers include cost of implementation, the lack of technical assistance, the impact of implementation on productivity and system selection. The DOH has targeted assistance in all four areas. The DOH has offered a grant to help offset start-up costs for providers. It has a web-based system that a physician can utilize for a monthly fee. Under exploration are tax incentives and enhanced reimbursement for those providers who implement EHRs. The DOH has partnered with the New Mexico Medical Review Association (NMMRA) and the Primary Care Association to provide technical assistance and develop a broadband subsidy (beginning in FY09). They offer work force analyses and templates for sole practice offices.

Dr. Bob White, LCF, described the LCF participation in a nationwide health information network (NHIN). Handouts visually depicted the process by which a HIE occurs. He described the history of this project in New Mexico. He identified multiple partners that participated in the development of the project. The elements of NHIN were identified. He discussed the difference between interoperability and connectivity and the technology by which computers can "talk" to each other to exchange information. Standards for interoperability are important and have been established. New Mexico is held in high regard for its role in NHIN. Out of 18 participants, New Mexico is one of five lead partners. He requested general fund support, budget participation by the DOH, state legislative convening power and ongoing involvement of the physician community. The state can play a major role in helping the project focus more on rural communities and the need to connect in these remote areas.

The committee asked questions on the following topics:

- the process by which medical information is added to form a complete medical record;
- who is the ultimate keeper of EHRs; and
- liability concerns with multiple contributors to EHRs.

Public Comment

Ms. Gunther lauded the DOH for installing electronic medical record systems in 50 primary care clinics around the state in one year. The estimated cost of which, according to Mr. Mayer, was \$1.75 million.

The meeting recessed for the evening at 6:15 p.m.

Tuesday, September 16 - San Juan College

The meeting was called to order at 9:13 a.m. by the chair.

Overview: Health Professional Practice Issues

Legislative Council Service staffer Karen Wells presented an overview of scope of practice issues and the efforts taken by several other states in reviewing prospective changes to professional scopes of practice.

Health Professional Scope of Practice Issues and Proposal (HJM 71)

Randy Marshall, executive director of the New Mexico Medical Society (NMMS), gave a brief history of the position of the NMMS on this issue. He acknowledged that it is difficult to address scope of practice changes during a legislative session due to the complexity of the issues. In 1997, a bill was introduced subsequent to a task force study that was passed, but vetoed by the governor. He presented proposed legislation defining a process for considering proposed changes to professional scopes of practice during the interim.

Barbara Posler, legislative committee chair of the New Mexico Dental Hygienist Association (NMDHA), presented a proposal to establish an advanced dental hygiene practitioner degree. Ginny Berger, president of the NMDHA, noted the great need for such a change due to the shortage of dentists in the state. Senator Feldman suggested that this proposal be utilized today to test the NMMS proposed bill.

Linda Siegle, lobbyist for numerous health professional groups, noted that all of the organizations she represents oppose the NMMS proposed bill. She contends that the most important issue in considering proposed changes to scope of practice is to ensure that the public is protected. Any change should be reviewed in light of the history of a practice, education and training and evidence of the competence of a profession to perform the proposed activities. Though all generally agree with this principle, there remains disagreement on how to accomplish it. Changes in scope of practice are inherent in today's health care system. Collaboration is critical. The organizations she represents feel these proposed changes belong in the realm of the

licensing boards, rather than a separate board or commission. Parameters that licensing boards would be required to consider could be developed. An independent entity could be established for consideration of new professions seeking licensure.

Jim Blenham, family nurse practitioner, gave the perspective of nurse practitioners, including a description of the education and training required for his profession, and the role of the Board of Nursing in regulating its profession. He critiqued the bill, expressing a fear that, as drafted, it reflects a physician bias. He urged caution in moving forward with a proposal of this nature.

Joe Menapace, lobbyist for the New Mexico Dental Association (NMDA), testified regarding the efforts the NMDA has undertaken to identify avenues to expand the supply of dentists in New Mexico. The NMDA does not have a position for or against the NMMS proposal. He provided a historical perspective about how changes in scope of practice that are developed unilaterally generally fail. He urged careful review of past efforts. He will take the NMMS proposal to the NMDA for consideration. Dr. Kirk Graham, DDS, past president of the NMDA, supports that suggestion. His only concern at present is that the bill may lack sufficient detail.

Mr. Marshall was asked to guide the committee through the intended process, relative to the dental hygienist proposal presented to the committee today. He walked the committee through the process, stressing that no binding decision will be made until the legislature decides to act upon, or reject, the proposal. Ms. Siegle described how the approach of the groups she represents would work. Mr. Menapace expressed concern that the HPC is not adequately funded at present to accomplish this work. Ms. Berger noted this process would not work in this instance, as dental hygienists do not have an independent licensing board.

Committee members discussed the following points and questions:

- the number of boards that would be affected by this proposal;
- why the Collaborative Practice Act passed in 1999 did not achieve the desired results;
- whether or not people seeking dental care in Mexico are receiving safe and quality care;
- the potential value of an independent review;
- clarification regarding the current role of the HPC in this area;
- a need for additional funding to accomplish this task;
- the composition of the proposed membership of the ad hoc review panel;
- why the school of medicine is specifically named as a member of the panel;
- whether any existing licensure board has ever approved a proposed change in scope of practice that is brought to it from a competing board;
- other scope of practice changes that are currently under consideration;
- whether the dental hygienists' proposal was brought to the Board of Dental Health for consideration;
- recognition that boards are generally supportive of their own profession, but not that of other, competing boards;
- clarification regarding the "sunrise" commission within the LCF that sets parameters for new professionals that want to be established;

- the need to ensure that the process has a level playing field that fairly represents all perspectives;
- support for an objective process of review;
- the estimated length of time such a process would take and whether it is efficient;
- how the shortage of health professionals affects the need to consider scope of practice changes;
- the potential for a "super board" to resolve disputes between related, subsidiary boards;
- the concept of exempting from educational expenses any health professional who agrees to make a 10-year commitment to practice in New Mexico (Senator Komadina); and
- acknowledgment that scope of practice changes alone will not solve the health professional manpower shortage problem.

Representative Gardner described his reasons for introducing HJM 71. He noted that workers' compensation has a process for vetting any proposed legislation that will affect it. He would like to see an objective process established that will remove the legislature from the need to resolve conflicts between boards.

Health Care Coverage for Children

Bill Jordan, deputy director of policy, New Mexico Voices for Children (Voices), introduced his co-presenters, Anne Stauffer, policy analyst for Voices, and Dr. Karen Gelpan, a pediatrician in Farmington. Voices believes every child deserves health care and every parent should be free from worry about the cost of that care. Though there may not be agreement about how to achieve these goals, Voices hopes that everyone can agree on the goals themselves.

Mr. Jordan testified that the funding provided in the recent special session will provide coverage to an additional 17,000 children, which will leave an estimated 40,000 children still without insurance. He noted that the HSD will not enroll children without adequate funding to cover the cost of enrollment. He presented statistics regarding uninsured children in New Mexico, employer-based insurance coverage and premium costs. The cost to cover children under Medicaid currently represents only 4% of the Medicaid budget and 15% of all spending on health and human services. An additional \$40 million (\$38 million for coverage and \$2 million for outreach and enrollment) would insure the remaining children. Voices also advocates for guaranteed issue for children under the Premium Assistance for Kids Program and a requirement that the state has the responsibility to ensure access to health care through education and outreach. Voices calls its measure "*Kids First!*". He highlighted the economic benefits of expanding Medicaid to cover all children in New Mexico and emphasized that these measures serve as a good first step in providing health care coverage for all New Mexicans.

Dr. Gelpan identified lower costs and better health outcomes as benefits of covering children, ultimately leading to a healthier society. She provided examples of care she has personally provided to children.

Anne Stafuuer provided some information about Washington state's efforts to cover all children.

Committee members asked questions regarding the following:

- the cost of providing a well-baby check in Dr. Gelpan's practice;
- the shortage of pediatricians and primary care physicians to provide care to all children;
- the point that the second-leading cause of death in America is now medical error attributable to the system of care;
- HSD goals for enrolling more children;
- the need for performance standards to accompany reform measures;
- the potential for using other, nonprofit groups to assist with enrollment; and
- clarification of the corporate structure and funding sources of Voices.

Larry Heyeck, deputy director, Medical Assistance Division, HSD, reported that Medicaid is working collaboratively with the Income Support Division offices and others to identify how to best enroll more children in their communities.

Review of 2008 Special Legislative Session

Mr. Hely provided an overview and explanation of the health legislation that was considered and the bills that passed in the 2008 special session of the legislature. He also described human services legislation and action taken on it.

Obstetric Health Care Practitioner Liability Insurance (HM 9)

T.C. Shaffer, program manager, HPC, described the organization of the task force that studied this issue. Barbara Overman, chair of the HM 9 Task Force, emphasized the cooperation and collaboration among those who attend births in New Mexico. Nurse midwives attend about one-third of the births in New Mexico. Outcomes are better than the rest of the nation. The increase in malpractice insurance rates is threatening the fragile infrastructure. She drew the committee's attention to maps depicting the availability of obstetric care in New Mexico. Elaine Brightwater, a certified nurse midwife, provided a historical context of the midwives' attempts to be included in the Medical Malpractice Act. Previous efforts were not fruitful. Much has been learned about models of obstetric care. Mr. Shaffer identified the legislative recommendations identified in the HM 9 report.

Questions from the committee addressed the following issues:

- the feasibility of "health courts" to mediate and resolve issues rather than lawsuits;
- the difficulty of working in an environment dominated by trial lawyers; and
- general commendation for the published report and the work of the task force.

Antidepressants and Youth Suicide (HM 34)

Mr. Shaffer and Lisa Marie Gomez presented the findings of HM 34/SM 9, which requested a study of the possible relationship between antidepressants and youth suicide. Copies of the research report were mailed to members of the legislature last month. Information was provided about the prevalence of youth suicide in the United States and New Mexico. Demographics, a description of the means of youth suicide, predisposing factors, common stressors and physical

findings were identified. In 2003, the federal Food and Drug Administration (FDA) conducted a study on the subject resulting in a "black-box warning" for antidepressants. Following the warning, continued research has shown declines in diagnoses for depression in youth; the percentage of patients not receiving antidepressant treatment for depression increased significantly. Best practices for the treatment of pediatric patients with depression were identified and described.

Committee members had questions and requested clarification on the following:

- the data correlating antidepressants and youth suicide;
- whether the Indian Health Service was consulted in the preparation of the report;
- whether control subjects were used in the study;
- whether the use of antidepressants ever stimulates the desire to commit suicide in someone who previously was not suicidal; and
- information regarding the percentage of youth receiving mental health treatment and the percentage being treated solely by primary care physicians.

Dr. Steve Adelsheim, University of New Mexico (UNM), has convened a panel that is continuing to study this issue. He notes the issue is complicated; mental health concerns among youth is seen as critically important. The data is still up for review. In his view, untreated depression leads to suicide far more often than suicide that occurs as a result of the use of antidepressants. Access to mental health services and close monitoring of youth who are at risk of suicide are probably the most important factors in preventing suicide.

Kooch Jacobus, deputy director, HPC, provides some additional insight into the black box warning. It is information that is provided as an attachment to pharmacists. Consumers have no awareness that the warning exists.

Dawn Brooks, San Juan IPA, commented that San Juan County has only two psychiatrists and no pediatric psychiatrists. This county relies on primary care providers as front-line providers of mental health services.

Health Care Provider Reimbursement in Detention Facilities (SM 48)

Tasia Young, executive director, New Mexico Association of Counties, introduced Tony Atkinson, chair of the San Juan County Commission and incoming president of the association. Reina Guillen, policy analyst for the HPC, identified the purpose of SM 48. Ms. Young provided background information that led to the introduction of the memorial. She introduced two members of the task force, Patrick Schnedegger and Rhonda Burroughs. A survey was conducted to gather information about the effect of counties funding health care services in county detention centers and the findings presented. The incidence and nature of health care provided was described, as were characteristics of those being served. Options for reimbursement besides counties were identified, including managed care, fixed payment models and inmate copayments. The report identifies four legislative recommendations that were presented to the committee. Mr. Schnedegger thanked the committee for its attention and asked

for its support on the recommendations. Ms. Burroughs commented that in some counties, the cost of providing jail health care is approaching 40% of the county's total budget.

Committee members had questions and comments on the following topics:

- how the workers' compensation payment rate compares to Medicaid reimbursement rates;
- how a system of jail health care is envisioned;
- the potential for economies of scale in pursuing a statewide system;
- the extent of involvement of the Corrections Department in the task force;
- acknowledgment that adequate reimbursement is essential to meeting the need;
- who pays for the transfer of prisoners;
- the effectiveness of cooperation and collaboration between state facilities and county facilities;
- whether the funding reflects accurate percentages of where people are receiving care;
- the appropriate department of state government to administer a health care provider program for county detention facilities; the panel identified a number of options that could be explored; and
- a request for staff to study other state models that could be utilized.

Overview of Indigent Funding in New Mexico

Ms. Wells provided a brief overview of the nature of funding for indigent health care in New Mexico. The presentation was intended to set a framework for understanding the panel presentation that was to follow.

Sole Community Provider (SCP) Issues

Ms. Burroughs, health care affiliate, and Lisa Akley, San Juan County health care affiliate, New Mexico Association of Counties, along with Jeff Dye, president, New Mexico Hospital Association, were invited to make their presentation.

Ms. Burroughs presented information about the Association of Counties health care affiliates and its resolution for standardized reporting of SCP funding. She identified the total amount of funding provided by counties for this purpose. The goals of the resolution are to assure the Centers for Medicaid and Medicare (CMS) that they are adhering to federal requirements and to build a baseline of data on uncompensated care. Ms. Akley gave information about county activity in this arena. She asserted that the counties' support and advocacy for local hospitals are critical to the safety net of health care.

Mr. Dye expressed support for the concept of standardized reporting of SCP funds, but desires that complexity is not added to what is already a complex system. He made the point that SCP funding is determined by a formula based on the Medicare upper payment limit and is not claims-based. Ms. Burroughs noted that while the maximum amount of SCP funds that may be

funded is formula-based, the counties do consider the amount of uncompensated care provided by the hospital in determining the amount of SCP funding they will support.

The committee had questions about the presentation on the following topics:

- how some hospitals are able to get SCP funding from multiple counties;
- how the definition for SCP has changed to allow communities with more than one hospital to participate;
- whether only hospitals are able to access SCP funds;
- how SCP funds are used;
- clarification that the funds, once received, are not tied to specific claims or specific individuals;
- clarification regarding any restrictions about how the hospitals spend the money;
- the reminder that the *counties* can request an accounting of how the money is spent as part of the negotiation with the hospitals for the use of the funds;
- the federal government's negative position on state requirements, or "claw-back" requirements to make the county whole;
- the assertion that transparency and reporting is a reasonable request, since a substantial amount of public money is involved and the state authorizes the existence of SCP;
- clarification regarding the proposed federal regulatory changes and the current moratorium on intergovernmental transfers;
- the opportunity to use indigent funds to cover more uninsured people;
- the multiple ways in which counties fund health care services; and
- the nature of how hospital (and other) data is collected and how it is used.

Native American Health Policy

Alvin Warren, secretary, Indian Affairs Department, offered comments about new strategies in Native American health policy. He identified some basic health disparities experienced by Native Americans and potential strategies for addressing them. Infant mortality, obesity, diabetes and alcohol-related deaths are prominent problems. Lack of coverage and lack of access to health care services are major contributing factors. Many people believe the federal government has the sole responsibility for caring for the health care needs of Indians; however, it has substantially failed in this endeavor. Even when including third-party reimbursement, federal prisoners receive almost twice the amount of funding for health care than that for Native Americans. The federal Indian Health Care Improvement Act has not been reauthorized in 16 years.

The DOH administers a number of health services programs for Native Americans. It also publishes a state health resource guide. The Behavioral Health Collaborative recently approved the addition of three more local Native American collaboratives. Other health initiatives are surfacing in Bernalillo County and elsewhere, and Native American health issues are included in the statewide comprehensive health plan.

Increased resources and sharing of existing resources will be key to any new strategies. Work is now being done to develop the health career pipeline for Native Americans and to increase resources to address suicide and substance among Indian youth. The Indian Affairs Department Strategic Plan for 2008-2010 includes strategies that speak to Native American health care needs. Its budget request includes requests for significant funding in this area.

Committee members expressed appreciation for Secretary Warren's testimony. Questions were asked regarding the following issues:

- the lack of Native American applicants for admission to the BA/MD program being offered at UNM;
- the need for a sustained effort that lasts more than four or eight years;
- a request for specific recommendations for programs that the LHHS can support and endorse;
- the unique needs of urban Indians;
- the need for enhanced collaboration between Native Americans and the state, perhaps addressed through a memorial;
- consideration of support for the New Mexico Indian Health Care Act to ensure the necessary continuity of effort;
- whether UNM established a center for Indian health at the health sciences center;
- how other centers at UNM, such as the center for rural and community health and the center for alcohol abuse, are working with Indian tribes and nations;
- ways to optimize the use of 638 tribes and Indian self-determination; and
- encouragement to participate in the Health New Mexico Task Force being developed by the DOH.

The meeting recessed at 5:50 p.m.

Wednesday, September 17 - Beclabito Chapter House

Welcome and Introductions

Representative Begaye called the meeting to order at 10:10 a.m. He recognized and welcomed the Navajo elders present in the audience. He invited the members to introduce themselves. The president of the Beclabito Chapter, Frank Johns, greeted the committee in Navajo and English. He then blessed the committee and the day's proceedings.

Native HOPE (Helping Our People Endure); Total Community Approach and Navajo Nation Behavioral Health Services

Regina Roanhorse, New Mexico Alliance for School-Based Health and Dine Local Behavioral Health Collaborative # 15, offered information in two presentations. She highlighted the youth vision and strategic plan for the Shiprock Navajo community developed by the youth. She also oriented the committee to materials identifying legislative initiatives of the local behavioral health collaborative. Ms. Roanhorse organized the local collaborative as a family member of a person with a behavioral health disorder. Her brother returned from Iraq with post-

traumatic stress disorder. She emphasized the need to keep a strong focus on youth and on assisting them in their development. Schools are an important access point to get needed services to youth and to begin to reverse the serious health disparities experienced by Native Americans. Navajo and pueblo youth are involved in policy decisions, as well as the behavioral health collaboratives.

She showed a video to the committee created by the youth, depicting physical and mental health services in the schools to reduce the high incidence of youth suicide, to teach leadership and to reduce alcoholism. The health center is huge part of community life. She advocated for more teen health centers on reservations.

A summit was sponsored by the Native American Consumer Network and Outreach Project to engage consumers and providers in dialogue. Summit participants identified a legislative agenda for 2009. The number-one priority for children and youth as a result of this summit is support for school-based mental health services.

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

- how outreach funding and capital outlay needs are determined;
- details about the Total Community Approach Behavioral Health Project;
- the process by which appropriations and capital outlay dollars flow to the tribes and pueblos;
- the amount of people served with last year's appropriation; and
- the need for more mental health professionals who speak native languages.

Project Trust: Enhancing Well-Being of Native American Youths, Families and Communities

Dr. Susie John, medical director, Teen Life Center, and Janie Lee Hall, school health advocate, DOH, began by identifying the many partners that have participated in Project Trust. The project does not provide direct services but has developed policy and best-practice recommendations. Dr. John stated that she is a physician and dietitian who has worked for Indian Health Services for close to 30 years and who runs a school-based clinic. She reiterated statistics regarding the health disparities highlighted by the previous speaker. Cultural practices and beliefs need to be recognized and incorporated into the system of services. The mental health and well-being of youth should be promoted, as youth are acknowledged as the future of the Native Americans. The project's full report identifies 32 policy, provider and research recommendations. Ms. Hall described the "upstream" approach to studying the issues and the literature search that was accomplished to identify the underlying causes and effects of previous trauma experienced by the Native Americans for years. They talked to many communities to gather information. Dr. John identified that the acronym "TRUST" stands for "truth and healing, responsiveness, understanding, self-determination and transformation". She reviewed the recommendations that emerged as a result of the project.

Committee members asked questions on the following topics:

- Dr. John's background;
- the difficulty of changing long-standing practices and the importance of trying to incorporate the recommendations of the report into health reform efforts; and
- the context of colonial, collective, multigenerational trauma that has generated many of the health disparities.

Community Health Representatives

Kimbro Talk, senior community health worker, Shiprock Service Unit, provided testimony about the nature of his work in the Beclabito community. He began with demographic information about the community. The history, goals and mission of the Community Health Representative (CHR) Program were described. The program incorporates traditional Navajo concepts in the provision of services. He spoke of the duties and functions of a CHR, which revolves around home visits. Services include patient care, health education, public health preparedness, health screenings and training. CHRs serve as liaisons between the Indian Health Service and the tribes. He described the significant role CHRs have played in history, including treating such public health problems as tuberculosis and diabetes. Currently, CHRs are trained in emergency response and incident management. They are often first responders in disasters. He summarized his job responsibilities and expressed that he is fully committed to continued involvement in service to his people in this way.

Committee members had questions in the following areas:

- recognition that Mr. Talk and others have helped put New Mexico's CHRs on the map in the U.S.;
- a request for specific ideas about how funding could be redirected to emphasize prevention; Mr. Talk stated that more funding is needed;
- the idea that preventive services could be reimbursed in the same way as treatment services;
- the need for increased funding for transportation; only Medicaid will fund transportation at present;
- whether the program receives any federal funding and any other sources of funding; and
- diabetes and hypertension as the most common health concerns in Beclabito.

Health Promotion and Disease Prevention in the Indian Health Service

Janet Hayes, health promotion and disease prevention coordinator, Northern Navajo Medical Center, described the health promotion and disease prevention program that she runs. The organization and structure of the program were depicted in a handout. Various graphs demonstrated the effectiveness of the program in several areas. The program is a best-practice model, developed by the Centers for Disease Control and Prevention (CDC), and adapted for Navajos. The mission promotes coordination with local resources and incorporation of cultural values. Currently, over 46,000 students and 6,000 teachers are participating in this program. An example of one component funded through this program is Camp Dibe Ni Taa Adolescent

Wellness Camp. Students at risk for diabetes and overweight students are targeted. Goals are to increase physical activity and encourage healthier food choices. Partnerships with others have resulted in such collaborative efforts as Envision New Mexico, which educates teachers about health promotion, and the Shiprock Marathon, the only Native American event of its kind. Partners for Wellness (P4W) is a component that serves individuals ready and willing to make changes in their lives for more healthy lifestyles. A summer mentoring program targets high school and college students to promote community service. Just Move It is a series of non-competitive runs and walks that are community-based. This initiative is now Navajo Nation-wide; participation has been steadily growing for 15 years. In 2007, over 38,000 people participated in 129 communities. Another component is called Walking Together for Navajo Nations. Begun in 1996, it has grown to include Hopis and Utes. Wellness on Wheels is a mobile unit to promote health and prevent disease. Four Corners Health Prep is a six-week-long program designed to introduce students to careers in health care. The key to success in the programs is the partnerships with related organizations.

Public Comment:

Frank John, Sr., president of the Beclabito Chapter, expressed concern about Medicare and Medicaid programs, such as those for home health care, that serve the elderly. The financial eligibility standards for many of these program exclude many needy people. He would like to see those standards updated to reflect the current cost of living. Transportation to services is also an issue.

Wallace Todacheeny thanked the committee for supporting all the programs described. More attention should be paid to elderly services, prevention and the needs of Beclabito Chapter and other remote parts of the state.

Lucille Claire commented that she is so proud of Secretary Warren and his position. She spoke on behalf of her mother who is very frail. Many elders are unaware that they may be eligible for Medicare and Medicaid. There are too few providers to meet the needs. She has been waiting for a long time to get dentures, but there is only one dentist in Shiprock, who complains that the HSD does not pay their bills.

Elizabeth Billy commented in Navajo. Representative Begaye translated. She has a Medicaid card that is no longer being honored. Mr. Hely suggested that she call her caseworker or meet with Kimbro Talk to find out if she has been dropped from Medicaid and to see if she can be re-enrolled. Representative Begaye translated. He pointed out that problems such as these are very difficult for the elderly to deal with since they must travel to Farmington to get resolution and may lack necessary documentation. Mr. Talk suggested that the Indian Health Service Hospital in Shiprock could help her. He noted that many people are reluctant to reveal their income in order to get benefits.

Jessie Yazzi also testified in Navajo, Representative Begaye translated. She thanked the legislators for coming to Beclabito. She told her story. She said that there are many people without records and that the health system is complicated and difficult to access. She told of people who worked in the mines and were exposed to radiation. She did not have any formal education, as she had to stay home to help raise her siblings. Her main concern is about the

elders, many of whom are in nursing homes far from their home towns. What brought her through all the struggle is her belief in God.

Melissa Kelly, one of the chapter community service coordinators expressed her appreciation for bringing Santa Fe to Beclabito, and for listening to the concerns expressed during public comment. She read a mission statement that was developed with the help of the elders.

A committee member asked if anyone had any input regarding the proposed state park in Shiprock. Dr. John said they had not yet discussed it as a community. The committee member also encouraged audience members and leaders to consider enrollment of some of their promising high school students in UNM's BA/MD program.

The meeting adjourned at 2:40 p.m.