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

July 25, 2016
Elder Center, 63 Tribal Road 41 at Tribal Road 61
Pueblo of Isleta Casino, 11000 Broadway Blvd. SE, Pueblo of Isleta

July 26-27, 2016
South Valley Family Health Commons
2001 N. Centro Familiar SW, Albuquerque

July 28-29, 2016
Science and Technology Center Rotunda
University of New Mexico
801 University Blvd. SE, Albuquerque

The third meeting of the Legislative Health and Human Services Committee (LHHS) was called to order on July 25, 2016 by Senator Gerald Ortiz y Pino, chair, at 10:09 a.m. at the Pueblo of Isleta Casino Ballroom in the Pueblo of Isleta.

Present
Sen. Gerald Ortiz y Pino, Chair
Rep. Miguel P. Garcia
Sen. Gay G. Kernan
Rep. Tim D. Lewis (7/28, 7/29)
Sen. Mimi Stewart
Rep. Christine Trujillo*

Absent
Rep. Nora Espinoza, Vice Chair
Rep. Deborah A. Armstrong
Sen. Mark Moores

Advisory Members
Sen. Craig W. Brandt
Sen. Jacob R. Candelaria (7/29)
Sen. Linda M. Lopez (7/25, 7/26, 7/27, 7/28)
Rep. James Roger Madalena
Sen. Cisco McSorley
Sen. Howie C. Morales (7/25, 7/29)
Sen. Bill B. O'Neill (7/26, 7/27)
Sen. Mary Kay Papen (7/25, 7/26)
Sen. Nancy Rodriguez (7/27, 7/29)
Rep. Patricio Ruiloba
Rep. Don L. Tripp (7/25, 7/26)
Sen. Sue Wilson Beffort
Rep. Gail Chasey
Rep. Doreen Y. Gallegos
Sen. Daniel A. Ivey-Soto
Rep. Terry H. McMillan
Sen. Sander Rue
Sen. Benny Shendo, Jr.
Sen. William P. Soules

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

*Appointed as a voting member for the duration of this meeting by Speaker Tripp. Prior to the meeting, Senate President Pro Tempore Papen appointed Senator Stewart as voting member of the LHHS in place of Senator Shendo.

Staff
Michael Hely, Staff Attorney, Legislative Council Service (LCS)
Shawn Mathis, Staff Attorney, LCS
Rebecca Griego, Staff, LCS
Alexandria Tapia, Contractor, LCS

Guests
The guest list is in the meeting file.

Handouts
Handouts and other written testimony are in the meeting file and posted on the New Mexico Legislature website at:
https://www.nmlegis.gov/Committee/Interim_Committee?CommitteeCode=LHHS.

Monday, July 25

Pueblo of Isleta Elder Center Tour
Members of the committee met at the Isleta Elder Center to tour the center and the adjacent assisted living facility. The tour of the center was led by Rita Jojola, director, who provided the members with background on the center and the many services it provides. More than 216 services are provided daily to pueblo members, including home services, respite, chore assistance, veteran support, fitness and mobility programs and meal delivery. The center seeks to expand its intergenerational program, which brings in children from the community to participate in traditional arts and crafts with elders.

Natalie Abeita, director, showed members of the committee the Assisted Living Facility located next to the Isleta Elder Center. The facility has a separate area dedicated to memory care. Members of the committee were able to view sample rooms and see the community areas of the center. Ms. Abeita explained that when a resident comes in, the medical staff works with the families to develop individual care plans. The facility is currently in the process of getting a Medicaid provider number to enable billing on behalf of Medicaid-eligible residents.

Welcome and Introductions — Pueblo of Isleta Casino
The official beginning of the meeting occurred after the tour. Senator Ortiz y Pino began the meeting by providing an overview of what the members of the committee had seen at the two centers for the benefit of the audience. He then asked members of the committee and staff to introduce themselves.

Welcome from Governor of the Pueblo of Isleta

E. Paul Torres, governor, Pueblo of Isleta, welcomed committee members and thanked them for choosing the Pueblo of Isleta as the meeting site. Governor Torres is in his fourth year of service as governor. He also serves as the chair of the All Indian Pueblo Council. Governor Torres shared with the committee that he had been invited to give an invocation in the Tiwa language of the Isleta people at the Democratic National Convention being held in Philadelphia. He stated that the Pueblo of Isleta is focused on achieving better health care for the entire community, and the aim of this meeting is to share experiences on what is working. He extended an invitation for the annual Isleta fiestas held in August and September.

Medicaid Update: Cost Reductions

Nancy Smith-Leslie, director, Medical Assistance Division, Human Services Department (HSD), presented to the LHHS on Native American participation in the Medicaid program. From June 2013 to June 2016, Medicaid has experienced a 64% increase in enrollment. Under the General Appropriation Act of 2016, the department was charged with implementing changes in the Medicaid program to reduce projected spending and reduce reimbursement rates paid to Medicaid providers in Medicaid managed care and fee-for-service (FFS) programs. A Provider Payments Cost-Containment Subcommittee of the Medicaid Advisory Committee (cost-containment subcommittee) was formed to make recommendations for reducing provider reimbursement rates, with a goal of saving the General Fund $30 million. Taking the subcommittee's recommendations into account, the HSD issued a proposal in April with additional reductions to achieve the savings goal. Ms. Smith-Leslie highlighted where rate reductions would occur and the phases in which the professional fee schedule changes will happen (please see handout for more information). The estimated savings for fiscal year (FY) 2017 from all provider rate reductions is between $105 million and $122 million total, of which $21 million to $26 million is General Fund savings. Following a period of public comment and tribal notification of cost-containment recommendations, two other subcommittees were formed: the Benefit Package, Eligibility Verification and Recipient Cost-Sharing Subcommittee and the Long-Term Leveraging Medicaid Subcommittee. The HSD is expecting recommendations from these two subcommittees in September.

As requested by the LHHS, Ms. Smith-Leslie addressed Native American enrollment in Medicaid. There are currently 126,050 Native Americans enrolled in Medicaid, 35,184 of whom are enrolled in Centennial Care. Ms. Smith-Leslie summarized the outreach initiatives being taken by the different managed care organizations (MCOs) in relation to Native Americans. The Native American Technical Advisory Committee was established at the beginning of Centennial Care and continues to meet quarterly to facilitate collaboration between the HSD and appointed tribal representatives. The HSD is currently participating in a six-state study group composed of states with the highest percentage of Native Americans enrolled in their Medicaid programs. Through coordination with the federal Indian Health Service (IHS), the study has determined that the largest potential for savings in Centennial Care is with long-term care services. The IHS and "Tribal 638s", which are facilities operated by tribes pursuant to federal P.L. 93-638 or 25 USCS §1651, have not traditionally had a significant role in the delivery of long-term care services.

Ms. Smith-Leslie reminded the committee that the HSD receives 100% federal "matching" funding for Native Americans enrolled in either FFS or managed care.

Angela Medrano, deputy director, Medical Assistance Division, HSD, provided the committee with an update on the NurseAdvice New Mexico (NANM) telephonic assistance hotline as requested pursuant to Senate Memorial 105 (2016). The HSD convened a task force on June 30, 2016 consisting of representatives from different health organizations. The HSD granted NANM access to the Medicaid web portal and made improvements to the process under which NANM invoices Medicaid MCOs for nurse advice services it provides to their enrollees. Now in its tenth year, NANM continues to explore revenue diversification options. Moving forward, the HSD is taking steps for researching its options for reimbursing NANM for services to Medicaid FFS recipients and to continue meeting with the New Mexico Hospital Association to explore options for contracting with additional hospitals.

Following the presentation, members of the committee discussed the following topics with the representatives from the HSD:

- participation during the public comment and tribal notification period;
- outreach efforts to hospitals not currently contracted with NANM and additions in membership to the task force to include stakeholders;
- the impact of rate reductions on providers from surrounding states;
- exemption from the Safety Net Care Pool Fund and hospitals with enhanced rates;
- inquiries on cost-containment recommendations, including co-payments for prescription drugs and value-based purchasing;
- the potential impact of rate reductions on practitioners and services;
- plans for monitoring rate reduction impacts, since rate cuts have not yet been implemented;
- the exploration of different ways to leverage Medicaid revenues;
- monitoring turnaround time from MCOs;
- state plan amendments to federal Centers for Medicaid and Medicare Services (CMS);
- IHS facilities around the state and Native American representation on HSD staff; and
- the impending deficit even with the estimated savings from the rate reductions.

After questions from the committee, the HSD and staff agreed to provide the following information:

1. a membership list of the cost-containment subcommittee;
2. the process for obtaining pre-authorization for benefits, to be explained by the MCOs as an agenda item at a future LHHS meeting;
3. a glossary of frequently used terms and acronyms for legislators' use; and

4. an economic assessment of rate reductions required through House Bill 2 on the economy, the effect of these reductions on the state's health care provider community and the recruitment and the retention of medical professionals in New Mexico.

Public Comment

Abuko Estrada, staff attorney, New Mexico Center on Law and Poverty (NMCLP), addressed the committee with a few points regarding the previous presentation. According to Mr. Estrada, there was confusion about the prescription co-payment recommendation at the meeting of the cost-containment subcommittee. He noted that the vote among cost-containment subcommittee members on this issue was not unanimous and that some members had abstained from the vote. In regard to tribal input, Mr. Estrada stated that there has been fairly limited tribal input provided on the issues and there has not been enough notice to tribal members to submit comments and attend meetings. The department has state and federal obligations to consult and collaborate with the tribes, but during this process of proposed rate cuts and discussion of co-payments, very little tribal input was given. Only a handful of tribes participated in the summit described by the HSD representatives from the previous panel. The HSD has obligations to provide adequate access to care, he stated, and the HSD has not properly analyzed what cuts will do to providers of care and the economy. Mr. Estrada concluded his statements by adding that the state cannot cut its way to health and prosperity, and he urged legislators to find other ways to fund health, education and public safety.

Ellen Pinnes of the Disability Coalition stated that she was pleased that the committee expressed concerns on the impact of cost-containment measures during the previous presentation. Ms. Pinnes stated that there is a federal law that requires the HSD to perform an analysis on the impact of cuts prior to making changes, not just to monitor effects after it implements measures. While the MCOs are obligated under their contracts to provide access to care, it is the HSD that is responsible for ensuring access. Ms. Pinnes repeated Mr. Estrada's assertion that there was not a unanimous cost-containment subcommittee vote and that there was a lot of confusion about brand-name prescriptions versus generics at the subcommittee meeting. She believes that if more people had understood the extent of the measure, more people would have stood in opposition to it.

Eric Lujan also addressed the committee regarding the previous presentation. Mr. Lujan has been assisting the All Pueblo Council of Governors with its newly formed health committee. He was present at the cost-containment subcommittee meetings held by the HSD and confirmed what was stated by the two previous speakers relating to voting on that subcommittee. According to Mr. Lujan, there was a lot of confusion about what was being voted on at the meeting. He stated that the document that the HSD distributed and that purported to explain the motion in question on cost containment was not very clear. Only five tribes participated during the consultation process, meaning that input from 15 other tribes was not included, and tribes are not getting the information they need regarding this issue. Mr. Lujan added that the IHS does not provide long-term care services and referrals come from the tribal level, not from the IHS.

Native American Aging Title VI Programming

Regis Pecos, co-founder and co-director, Santa Fe Indian School Leadership Institute, addressed the committee regarding the program for Native Americans offered pursuant to Title VI of the federal Older Americans Act. He began by stating that the Santa Fe Indian School Leadership Institute is one of only a few indigenous think tanks in the country and is celebrating its twentieth anniversary this year. Mr. Pecos provided the committee with an overview of the evolution of response in tribal communities. In the 1980s, there was no policy for state-tribal relations, education, taxes or environment in place for the tribes. Tribes were not eligible to receive state funds as this would violate the Anti-Donation Clause of the Constitution of New Mexico. When the federal government began decentralization and delegating more power to the states, there was no existing foundation or framework for tribes. One of the first major areas of development was the response for the delivery services and care for Native American elders. In 1991, New Mexico established the Indian Area Agency on Aging (IAAA). Over time, this has developed into one of the most comprehensive policies and statutes on education and taxes in the nation. The frameworks represent the best articulation of shared responsibility between the state and its 22 federally recognized tribes and pueblos. Mr. Pecos noted that one change that needs to be considered is the adaption of the federal Older Americans Act and federal appropriations to state programs under Title III. There is ongoing study as Congress considers the reauthorization of Title III appropriations and a reassessment of what was developed more than 25 years ago.

Rita Jojola, vice chair, New Mexico Title VI Indian Coalition, provided the committee with her professional background and how she became a part of this program. Ms. Jojola has worked to develop a strong program for the Pueblo of Isleta, and she explained some of the programs offered at the centers toured by members earlier in the morning. The types of services provided by the centers, including home delivery meals and chore assistance, are done in part with federal and state funding as well as a third party through Medicaid. Ms. Jojola is now working with the Santa Fe Indian School Leadership Institute to support her colleagues in other tribes and pueblos to expand capacity to provide services that are needed. The institute is pursuing a study to identify gaps and create a plan to address needs. Ms. Jojola added that support from the state is appreciated, and she asked for any additional help the legislature could provide in moving forward.

Mr. Pecos stated that the hope is that the coalition can come back before the LHHS with some policy recommendations that will help to fully maximize resources to address the needs of elders as an alternative to institutionalization. He is looking for a comprehensive and intergovernmental approach to better support elders and to keep them in their communities. Mr. Pecos noted that there is a concept of shared responsibilities among the tribes when it comes to caring for elders; the Pueblo of Isleta facilities are a great example of a cost-effective approach for making available assets work for a specific tribe.

Following the presentation, members of the committee and presenters discussed several points, including:

- whether the Medicaid Program of All-Inclusive Care for the Elderly (PACE) of therapeutic adult daycare services could be adopted at the Pueblo of Isleta. Ms. Jojola said that the Pueblo of Isleta had attempted to bring PACE to the pueblo, but it was not yet feasible;
- working to find opportunities to partner and connect with communities;
- recognition of the University of New Mexico Hospital (UNMH) by the HSD as an Indian hospital;
- the need for services for individuals starting at age 50 due to health disparities;
- an explanation of Title VI funding and how it is applied to communities;
- the organizational structure of IAAA and how it fits into the overall Area Agencies on Aging Program;
- reversions of federal funding for elderly services;
- issues with meeting administrative needs and requirements; and
- statistics of life expectancy, individuals living in poverty and the number of Native Americans receiving social security benefits — Ms. Jojola will follow up with this information.

Effects of Medicaid Cost Reductions on Native American Recipients; Changes to Federal Matching Funds Policy for Native Americans

Maria Clark, health care consultant, discussed the impacts of cost reductions on Native American health care with the committee. Medicaid cost reductions are being seen in prior authorizations since most MCOs require pre-authorizations for all imaging services. Ms. Clark explained that this is causing a delay in care to patients. For example, UnitedHealthcare's prior-authorization approvals are taking between four and six weeks. UnitedHealthcare is also no longer contracted with the UNMH, which has been a "huge loss of services", according to Ms. Clark. Molina Healthcare of New Mexico takes seven to 10 days to issue prior authorizations. Ms. Clark highlighted other issues and delays being seen with the different MCOs. According to her, there is no enforcement of the obligations of the MCOs; the state allows them to set their own rates, and the intensive treatment units are not getting paid. Ms. Clark stated that she was unsure why Native Americans are limited to access of care when a 100% federal funds matching percentage (FMAP) exists. The FMAP is an incentive, and the MCOs take no risk with the 100% FMAP. Long-term care on tribal lands is dysfunctional and suffers from a lack of coordination. Ms. Clark concluded by adding that the UNMH has a unique relationship with the IHS and should be considered for designation as an IHS facility.

Anthony Yepa, health advisor, Pueblo of Cochiti, discussed how reimbursement to providers is going to affect Native American care. Mr. Yepa believes that there are misunderstandings between the Medicaid MCOs and the state under Centennial Care. Indian health care is the responsibility of the federal government, and federal and state legislation has made it unclear for the MCOs to know what services they provide. Tribes are obligated to

comply with the federal Indian Health Care Improvement Act. It was believed that Centennial Care was going to save $470 million because of coordinated care and case management. However, Native Americans used to be limited in what services they could receive from the IHS — only 62% of IHS costs were ever funded, and that was for primary care. Mr. Yepa stressed the importance of examining MCO contracts. He has reviewd the 250-page contract that the state signed with the MCOs, but he does not believe that the HSD has the capacity to monitor compliance with that contract. Mr. Yepa raised concerns that guidelines and deliverables of the contract are not being met by the MCOs, in particular, the required health risk assessment for enrollees and subsequent follow-up with case managers. In the Pueblo of Cochiti, patients are not being properly contacted by case managers, and no tribal training from the MCOs has taken place. MCOs are at only 56% compliance with care coordination, two and one-half years into contract performance under Centennial Care. MCOs have over-assigned individuals to the lowest level of care, "Level 1", with 70% of enrollees in that category. Ten percent are in Level 2, and 5% are in Level 3 — the most acute. Mr. Yepa would like to see more enforcement from the HSD regarding data reporting and state reimbursement if the MCOs are not providing services.

In response to the presentation, members of the committee inquired about the following issues:

- requirements for prior authorization and its current use for primary care;
- the importance of compliance with federal law;
- the impact of UnitedHealthcare's termination of its contract with the UNMH for Native Americans;
- services provided under FFS, such as health risk assessments;
- the per member/per month capitation rate for Native Americans;
- statistics on appeals filed relating to the health risk assessment's recommendation for level of care; and
- the overall impact on patients and providers from the Medicaid cost reductions.

Public Comment

Ms. Pinnes, representing the Disability Coalition, noted that there has not been a huge increase in Medicaid enrollment. Budget cuts are a reflection of the state's decline in revenues. Medicaid costs are not out of control, she explained. The per-person cost in Centennial Care has only increased by 1% from 2014 to 2015. She reiterated that it is important to remember that this is not related to the cost of expansion; rather, it is due to a lack of state revenues. The University of New Mexico (UNM) Bureau of Business and Economic Research showed an increase of $75 million to the state due to Medicaid expansion.

Eric Lujan commented about the previous presentation and the termination of the UNMH/UnitedHealthcare contract. Members enrolled in UnitedHealthcare's Centennial Care plan were given the option to switch MCOs, and Native American enrollees need to be notified that they have the right to switch insurance providers. Members were supposed to receive letters

informing them of the contract change. The UNMH has stated that it will continue to see those patients at their own cost to ensure continuity of care. Mr. Lujan explained that the 100% FMAP will only apply if the service is provided at an IHS clinic and only if primary care is rendered on tribal land. He noted that the FMAP needs to be extended to non-IHS service providers, and the UNMH is the best place for this to happen.

Update on Family Caregiver Program

Lora Church, director, IAAA, Aging and Long-Term Services Department (ALTSD), addressed the committee regarding the family caregiver program. The IAAA is designated by the state to develop a comprehensive and coordinated service system of senior centers and adult daycare services in partnership with New Mexico's 19 pueblos and two Apache nations. The IAAA's general operational functions include contract management of state general funds for the provision of services ($2.5 million for FY 2017) as well as providing program monitoring, technical assistance, advocacy and training. Ms. Church was present to provide an update to the committee about the "Savvy Caregiving in Indian Country" initiative that was launched in fall 2015.

Ms. Church provided the committee with some background information on the Native American population in the state. There are approximately 224,000 American Indians residing in New Mexico, about 17,650 of whom are elders over the age of 65. In American Indian families, family members provide an estimated 90% of long-term care, 10% more than other ethnicities. Census data illustrate that the need for long-term care among American Indians will double over the next 25 years. Ms. Church discussed some of the financial, physical and emotional burdens families experience with providing long-term care as caregivers. A four-agency partnership has been created to address caregivers' needs in Indian Country. The partnership includes the Alzheimer's Association New Mexico Chapter, the National Indian Council on Aging, the ALTSD's Office of Alzheimer's Disease and Dementia Care and the IAAA. Together, the partnership has developed the Savvy Caregiver in Indian Country initiative, a lay caregiver education program, which is an expansion of the Alzheimer's Association's evidence-based training program offered to the general public. Ms. Church explained the four-phase process for the community trainer that prepares individuals for implementation of this program in their tribal communities.

Ms. Church gave an overview of the accomplishments, lessons learned and next steps for the four-agency partnership. In the last year, the partnership has created an orientation packet for the tribal community trainers that includes participant and facilitator forms to complete throughout the course of the Savvy Caregiver in Indian Country program. The IAAA and ALTSD have expanded the statewide service delivery database to collect training data. Two tribal senior centers at the Pueblo of Isleta and the Pueblo of Laguna have expressed interest in implementing this model at their facilities. Staff from both locations have completed the first three phases of training, with the last stage being implementation. The four-agency partnership continues to expand and create relationships with other programs and has presented its initiative at various conferences and trainings around the state. Ms. Church stated her belief that the

partnership's efforts will collaboratively help meet the goals of the New Mexico state plan for Alzheimer's disease and dementia and the state plan for family caregiving.

Members of the committee discussed with Ms. Church the role of community health workers in tribal areas and the need for professional credentialing as well as cultural and traditional knowledge. Ms. Church noted that the Savvy Caregiver in Indian Country program can be downloaded at the National Indian Council on Aging website.

Recess

The first day of the meeting recessed at 3:55 p.m.

Tuesday, July 26

Welcome and Introductions

The second day of the meeting was reconvened at 8:44 a.m. by Senator Ortiz y Pino. The chair welcomed everyone to the South Valley Family Health Commons and asked members of the committee and staff to introduce themselves.

Welcome and Tour of South Valley Family Health Commons

Bob DeFelice, chief executive officer (CEO), South Valley Family Health Commons, welcomed the committee to the center and provided an overview of the commons' parent organization, First Choice Community Healthcare (First Choice), and its future plans. First Choice was founded 40 years ago in response to a need for access to care in the South Valley. Started in the rectory of a church, First Choice now has eight community health centers located in three counties and one school-based health center. The South Valley Family Health Commons serves more than 55,000 people for medical, behavioral health, dental and federal Women, Infants and Children Program services and employs more than 400 individuals. Mr. DeFelice noted that the commons is a Medicaid provider that contracts with all of the MCOs and is also a Medicare provider. About 50% of individuals who receive services at its centers are covered by Medicaid; 12% are covered by Medicare; 15% are covered by private health insurance; and the other 23% are not eligible for health coverage. The commons is eligible for community health grants that help offset some of its operational costs so it is able to continue to provide services to the underinsured and uninsured. Mr. DeFelice explained how the commons applies a sliding-fee scale based on family size and income of the individual, essentially providing coverage for the individual.

Over the last few years, the commons has faced many challenges in the rapidly changing health care environment. The increased cost of doing business has been a constant issue, with changes adding over $2 million to its budget. Mr. DeFelice attributed some of this cost increase to the implementation of electronic health records, which he feels is not the solution to productivity and cost. While it is important for clients, electronic health records have been a burden to providers by adding the need for new equipment, tech support personnel and extra compliance measures.

Mr. DeFelice discussed some common charges at First Choice clinics: basic medical visits cost $158, for which 95% of patients pay a $30.00 copay. For people without health coverage, First Choice attempts to get people covered. It has a $35 million annual operating budget, according to Mr. DeFelice.

First Choice receives significant drug pricing discounts through the federal pharmaceutical discount program authorized by Section 340B(a)(5)(C) of the federal Public Health Service Act, known as "340B".

Mr. DeFelice explained that First Choice is able to recruit and retain some physicians through the National Health Service Corps loan repayment program. Through UNM's Project ECHO telehealth program, First Choice practitioners are able to consult for subspecialty care in areas such as hepatitis C care, rheumatoid arthritis and medically assisted treatment of substance dependence.

The commons has continued to expand its services over the years in response to the needs of the community. This has included increasing its behavioral health, dental and opioid support services. It currently has 18 physician providers who are licensed to prescribe Suboxone, each of whom has more than 100 clients. Mr. DeFelice added that the commons has developed its role as a teaching center through its partnerships with UNM and Central New Mexico Community College (CNM). Several family practice residents and nurses are currently doing their clinical rotations at the commons.

Mr. DeFelice cautioned that even with all of the work to increase the access to health care, communities are still facing many health challenges. The commons is committed to identifying social determinates that affect health and partnering with other community organizations to improve wellness. Mr. DeFelice shared a video with the committee that illustrated the direction that the commons is going with the expansion to a 20-acre facility. The new facility will include a teaching health center, a childhood development center, a workforce training center, a fitness center, a restaurant that serves healthy meals from locally grown produce and a community farm with a learning center. The video highlighted the goal of creating a "wellness ecosystem", with each component being self-sustaining.

Following the presentation, members of the committee engaged Mr. DeFelice about several aspects of his presentation and the facility. Before the committee was taken on a tour of the facility, the following topics were discussed:

- the challenges and benefits of electronic health records and systems interconnectivity for both patients and providers;
- the goal for the additions to the facility to become a model for health centers around the state;
- details on the medical resident program with UNM and CNM;
- retention of medical students post-graduation;

- student loan repayment incentives;
- issues with staffing of medical professionals and competitive salaries;
- an explanation of how the commons provides services to uninsured individuals and how the sliding scale is applied for payment;
- the dental center's expansion, successes and capacity for servicing the community;
- issues with credentialing providers with health insurers; and
- a request to work with the Albuquerque Public School District rather than create a charter school. Mr. DeFelice explained that the partnership was to be with an existing charter school.

Access to Linguistically Appropriate Health Care and Human Services

Senator Stewart introduced the panel to the committee and provided background on the issue of language access in the International District of Albuquerque. During the 2016 regular session, Senate Joint Memorial (SJM) 10 was passed establishing a Language Access Task Force. SJM 10 requests that the Department of Health (DOH) work with other state departments and agencies to develop a model for language access in state health and human services agencies to ensure that individuals with limited English proficiency (LEP) have full and meaningful access to state programs and services, as required under Title VI of the federal Civil Rights Act of 1964. Members of the panel shared their experiences in working with minority populations in this area and the challenges faced by these individuals.

Sovereign Hager, staff attorney, NMCLP, has been working on language access around New Mexico for several years. The directive under Title VI places the burden on state agencies to provide reasonable access to written translation of materials. State agencies have to assess the need for these services, determine the frequency of agency contact with this population and assign a reasonable part of their budgets to meet these needs. According to Ms. Hager, many state agencies are not meeting this need. Instead, state agencies rely on community-based workers to bear the costs and expend resources when this is really a state obligation. SJM 10 is about collaboration between community-based workers and state agencies to accomplish this federal requirement.

The New Mexico Asian Family Center is the only nonprofit organization that serves the Asian community in the state. Huong Nguyen, an education and policy specialist for the center, noted that New Mexico is one of five majority-minority states with many different racial communities. Approximately 180,000 people in New Mexico speak a language other than English. While Spanish remains the most spoken language in the non-English speaking population, many other languages continue to emerge, including Navajo (Diné Bizaad), Chinese and Vietnamese. Members of the community are impacted when services are not readily available. Ms. Nguyen shared stories where language barriers are an issue that impact youth and their parents. The center works with the Children, Youth and Families Department (CYFD) and the DOH to provide language services in child abuse cases and health screenings for infectious diseases. Ms. Nguyen stressed that if these language services are not available, necessary translation would not happen.

Nkazi Sinandile, co-founder and volunteer program coordinator, New Mexico Women's Global Pathways, spoke about some of the challenges her organization faces. Typically, it has served a majority of people from African countries, but recently it has been faced with an increase in refugees from the Middle East and Asia. The refugee population has been increasing by 50 to 100 people per month. The work is done on a volunteer basis or occasionally by donation. Ms. Sinandile stated that frequently children are relied on for interpretations, causing opportunity for inaccuracy and error. She shared with the community a few stories that illustrate the need for language services, particularly in emergency and public safety situations. Immigrants and refugees only know to call 911 in times of trouble, but there is no one available to help interpret the issues or problems to emergency workers. Fortunately, no deaths have resulted from an inability to communicate, but Ms. Sinandile noted that it is a real concern.

Antoinette Sedillo Lopez, executive director, Enlace Communitario, addressed the obligation that the state has to honor different languages. The federal government already has a language assessment tool for each federal program; the state needs to have a planning tool to assess the needs of the community. It is not enough to have a bilingual person in an agency since there are several other languages that may need interpretation. Ms. Sedillo Lopez said that the agency or department needs to plan if it is going to use community services, and if so, it needs to train and fairly compensate those groups providing the services. By means of a federal grant, the Albuquerque Police Department (APD) was able to develop a curriculum that has established a process for dealing with individuals in emergency situations who do not speak English. APD officers are provided with cards listing potential languages that they might encounter. During a situation, an officer can ask an individual to point to the language the individual speaks, and the officer can then get the appropriate interpreter on the phone through the use of a hotline. This model has increased officer safety and expanded emergency workers' ability to get people the help they need. It has received praise by the U.S. Department of Justice (DOJ) and is known as the APD Model; however, this training has not yet been provided for the whole department. Enlace Communitario and the other groups present are requesting the LHHS's endorsement to extend SJM 10 another year and to direct agencies that are listed in the memorial to submit their plans to the committee within 60 days.

Kay Bounkeua, executive director, New Mexico Asian Family Center, echoed the statements of the other panelists regarding the challenges that individuals who do not speak English face. Her family came here as refugees from Laos, and she shared her experience of having to act as an interpreter for her parents. This is something, she says, that remains an issue.

Ms. Hager directed the committee to a handout that could be used to determine the status of an agency's LEP services. Any agency receiving federal funding is supposed to have some type of LEP service in place. She noted that the organizations present on the panel are available to aid agencies in developing their LEP services. The handout asked the agencies listed in SJM 10 to provide information on the following:

1. all policies, procedures or other similar documents regarding LEP, including, but not limited to, agency plans, policies or procedures governing usage of translation or interpreter services;
2. all training materials relating to the support of LEP persons; and
3. the agency's most recent analyses of New Mexico language demographics and the populations accessing services.

The following topics were discussed when the chair opened the panel for questions and comments:

- whether entities, such as law enforcement agencies, health clinics and those mentioned in SJM 10, now have language access plans in place;
- whether language access advocates have enlisted medical malpractice insurers in the effort to educate health care providers on the importance of language access;
- an article in the *Albuquerque Journal* by Cecilia Portal relating to language interpreting services in Spanish;
- the creation of a nonprofit organization to certify language interpreters; and
- community health specialists, a profession promoted by Francisco Ronquillo to employ health professionals from other countries as health care workers, that can use their health expertise and multilingual competencies to assist non-English-speaking patients.

Motion 1

A motion was made by Senator Stewart, seconded by Representative Trujillo, for staff to draft a letter to the state agencies listed in SJM 10 inquiring about the status of their LEP services. The letter is to follow the language of SJM 10, asking them to submit their plans and to address the information requested above. The motion passed without objection. The committee determined that it would wait on the agencies' responses before extending the memorial during the upcoming session.

Minutes Approval

Upon review and proper motion by the committee, the minutes from the first meeting of the LHHS were approved unanimously.

Aid in Dying Decisions

Representative Bill McCamley testified before the LHHS on the issue of medical aid in dying. Representative McCamley shared his experience with his father, who suffered from a terminal nerve degeneration disease before his death in 2014. When his father was first diagnosed, his father signed an advance directive to refuse extraordinary measures to be kept alive, allowing him the opportunity to control his own end-of-life choices. In New Mexico, under the current law, his father would have been unable to make that decision. Representative McCamley believes this should not be a government decision — if a person is determined to be mentally competent and has a terminal illness, the person should have a choice over the person's

own body. He underscored that this is not assisted suicide. Representative McCamley will be sponsoring legislation during the 2017 session to make New Mexico the sixth state to extend this right to its residents.

Barak Wolff, public health advocate and former director of the DOH's Public Health Division, explained that aid in dying is the practice of allowing a mentally capable adult to take a self-administered dose of a lethal prescription to end the adult's life in the face of a terminal illness. He believes it is important to normalize the conversation and remove the fear surrounding this issue by encouraging families to have these discussions. There needs to be a shift in social policy and perception, which begins with getting out the facts of the issue. Mr. Wolff stated that today's discussion was not for the purpose of debating the issue but rather to begin the conversation.

Allen Sanchez, executive director, New Mexico Conference of Catholic Bishops, represented some of the concerns of the Catholic community. New Mexico, he stated, took away the power of a judge and jury to take a life when it enacted legislation banning the death penalty. It is unclear why this power should be accorded to a patient and doctor, he said. He believes this to be an ethical issue and stated that compassion is calling people to be with someone during that person's suffering. Mr. Sanchez raised the questions of who determines "competency", experimental drug treatments and doctors knowing the right time to write the prescription. There are too many stories where people live longer than expected, Mr. Sanchez said. He reminded the committee that this issue deals with life itself and that it is the responsibility of the state to protect the vulnerable.

Emily Bentley, multi-state campaign manager, Compassion and Choices, provided the committee with an overview of national trends relating to aid in dying. Colorado is currently in the process of joining Montana, Oregon, Washington and Vermont in passing aid in dying legislation through a ballot initiative. It is expected that 19 states will be proposing legislation this year. According to data she provided, the public supports the belief that government does not have a role in these decisions. Ms. Bentley provided the committee with several handouts, including a Compassion and Choices federal policy agenda, a fact sheet about aid in dying and a peer-reviewed article on Oregon's state law (please see website for more information). Medicare will now reimburse doctors for discussions with patients about end-of-life options. Ms. Bentley noted that Compassion and Choices is available to the committee to answer any questions and provide information. She added that aid in dying is a safe medical practice, and in 20 years of its use, there have not been any reports of abuse or coercion.

Alexandra Smith, an attorney who represented plaintiffs in the recent New Mexico Supreme Court case, *Morris v. Brandenburg*, explained some background on the issue. Ms. Smith explained that three conditions must be met in order for a patient to receive aid in dying medication: 1) the patient has a terminal diagnosis with six months or less to live; 2) the patient must be mentally competent to make decisions; and 3) the patient must self-administer the prescription. This practice is for situations where death is imminent, and it gives individuals the

chance to determine the time, manner and place of their death. Ms. Smith provided some information about the New Mexico Supreme Court case. The decision of the court was not that the practice should not be legal in the state, but rather, if it is to be done, it should be regulated legislatively. She noted that some concern had been raised about protecting vulnerable individuals like the poor and uninsured, when in fact, those that are interested in seeking out the practice tend to be well-educated, financially well-off and younger.

Erin Marshall, health policy consultant, Aid in Dying Task Force, has been working on education of these issues with various groups. Ms. Marshall talked about the first meeting of the voluntary task force and some of the membership that had attended. The goal of the task force is to establish a body of information to provide to the legislature to help in informed decision-making on the issue.

Upon request of the chair, several members of the public stepped forward to provide their input on the issue.

- Babs Mondschein, a resident of Albuquerque, shared her experience about her sister who had a brain tumor. Her sister had many complications and suffered through intensive care and eventually hospice. Ms. Mondschein believes her sister deserved a death with dignity and stands in support of this legislation.
- Nancy Abel is a member of the task force as a private citizen. Ms. Abel stated that everyone has these stories, and hers was about her brother. Her brother lived in Oregon and was diagnosed with leukemia. Ms. Abel said her family was privileged to witness the kind of death she would hope for herself and her loved ones — peaceful and painless, in the comfort of his own surroundings. Ms. Abel, along with millions of Americans around the country, hopes New Mexico joins them.
- Dr. James Zacharias, family therapist, spoke about his sister. Her doctors did not want to talk about the option with her, and she was finally referred to an end-of-life team that made the distinction between suicide and end-of-life choice.
- Laurie O'Doroughty voiced her strong support for adding this as an option for people in New Mexico.
- Jan Wilson believes that everyone should have a choice in this matter. She does not think this is about politics or ethics. Ms. Wilson shared her personal experience of her mother who was put under hospice care. Her mother had already done her advance directive prior to hospice, which made it easier on the family. The family had talked about the option and her mother did not want to take the medication for aid in dying but she agreed that people should have the choice.
- Dr. Lance Chilton, a retired pediatrician, believes people need dignity in death. Dr. Chilton shared a few stories of loved ones who had had terminal illnesses. He was unable to help them to die with dignity, and they should have been given this option. Dying with dignity is not requiring any one person — patient or physician — to do this; rather, it should be an option available to individuals.

Dr. Nancy Guinn, M.D., is a hospice and palliative care expert for Presbyterian Healthcare Services. She has analyzed current protocols on end-of-life decision-making and recommends changes to New Mexico law. In Oregon, she explained, two physicians must certify a terminal diagnosis. Dr. Guinn believes that New Mexico is too rural for such a requirement, and nurse practitioners and physician assistants should be permitted to make this certification.

After hearing from members of the public, the committee discussed the following issues with the panel:

- how the six-month mark is quantified in determining when the prescription is written;
- how determination of competency is made by physicians;
- how other states have legalized this practice — statutory versus ballot initiative;
- information on the task force, including membership, its work plan and the goal for an academic approach;
- inquiries about feedback from various professional medical associations;
- the importance of drawing feedback from the various religious and ethnic communities in the state;
- the distinction between aid in dying and assisted suicide;
- conscientious objection for physicians and pharmacists;
- information on the prescription itself — how Seconal works and how it is self-administered by the patient; and
- the need to hear from health care professional organizations.

In closing, Mr. Wolff recommended the HBO documentary *How to Die in Oregon*. He noted that the film is very informative, and he recommended it for viewing by people on both sides of the issue.

Workers' Compensation for Agricultural Workers

Gail Evans, legal director, NMCLP, gave the committee an update on workers' compensation for agricultural workers as well as background on the recent New Mexico Supreme Court case, *Rodriguez v. Brand West Dairy*. The plaintiff, Mr. Rodriguez, was injured while working at the dairy. Ms. Evans also told the committee about another individual who was injured on a chile farm back in 2012. Both individuals filed workers' compensation claims, and both claims were dismissed. New Mexico state law had an exclusion for farms and ranches that did not require them to carry workers' compensation insurance. When taken before the New Mexico Supreme Court, it was ruled unconstitutional discrimination to exclude farm and ranch laborers from the mandatory coverage of the Workers' Compensation Act. Ms. Evans noted that this ruling only impacts 7.5% of farms and ranches in the state, as the ruling only applies to operations that employ three or more paid workers. According to Ms. Evans, workers' compensation premiums are payroll-based, so coverage is only mandated for paid employees. Therefore, volunteer labor of family members or neighbors does not mandate coverage. The farm and ranch industry has over a billion dollars in profit per year; the cost of providing

workers' compensation to farm and ranch laborers is approximately 1% of the industries' profits. Due to the ruling of the court, there is no need for additional legislative action.

Zach Riley, New Mexico Farm and Livestock Bureau, stated his belief that the profits mentioned by Ms. Evans are not necessarily true and only represent a small percentage of the industry. Coming from a ranching background, Mr. Riley stated that in reality most farmers and ranchers make just enough to survive. This ruling really affects small farmers and ranchers in that, because they are afraid of legal ramifications, they will be unable to get the help necessary to do their work, which could result in a loss of crops and profits. Mr. Riley is unhappy with the court's decision and views it as a circumvention of the legislature. He stated that the decision would affect 90% of New Mexico's farms and ranches.

Members of the committee discussed the following points with the presenters:

- outcomes for the two individuals;
- the court ruling was not retroactive;
- efforts being made to enroll workers in Medicaid and other health insurance;
- the rationale of the court's decision;
- the inherent danger of the industry and the impact on rate costs;
- liability insurance carried by most producers to cover injuries;
- the issue with undocumented and contract workers employed by industry;
- the potential for tax incentives for small operations to help offset workers' compensation costs; and
- the possible need to reevaluate the number of workers requirement.

School Supports and Services for Foster Youth

Grace Spulak, director, FosterEd: New Mexico, presented to the committee about FosterEd's initiative. FosterEd works to ensure that low-income children have the resources, support and opportunities they need for healthy, productive lives. The program operates in four states, including New Mexico. New Mexico is the first state to incorporate youth involved in the juvenile justice system into this project. Ms. Spulak explained the FosterEd program model and highlighted some of its key milestones. FosterEd works with state and county partners to develop an individual plan for the student with a focus on the student's education by creating goals that can be reached within six weeks. An "education champion" — somebody who is going to be involved in the student's life for a long time — is identified to help support the student's long-term success. Part of the process is identifying barriers to the student's success and asking that student what the student's goals are. Ms. Spulak specifically talked about the Lea County project that focuses on students in foster care and those on court-ordered probation. There are currently 42 students in the program in Lea County, ranging between the ages of four and 19; however, there are 69 students in the county who would be eligible to participate in this program.

According to 2014 CYFD data, there are 2,156 children in protective custody and another 557 children on court-ordered probation. Many of these children are school-aged and could be eligible for FosterEd. Ms. Spulak underscored the importance of data sharing among state agencies, particularly among those involved with the foster care system and the juvenile justice system. Several memoranda of understanding between state agencies have been established as part of FosterEd's initiative to improve education outcomes for young people in the two systems.

In response to the presentation about FosterEd, the committee made the following inquiries:

- how the program was established in Lea County;
- qualifications of an education champion;
- current funding sources and efforts to receive federal funds to make the program sustainable in New Mexico;
- outreach to schools to provide training to staff on trauma and the effects of trauma on student behavior;
- helping with the transfer of school credits when students are moved to different schools or from detention facilities;
- the availability of counseling to students; and
- tracking of students who "age out" of the system or return to their homes.

Public Comment

Denicia Cadena of Young Women United addressed the committee regarding the needs of young women in the criminal justice system. The number of women and the duration of time that they stay in the system continue to grow. The closure of the juvenile wing of the detox center at Turquoise Lodge further limits options for help. There are few resources available to women, and the representative urged the committee to keep their needs in mind when addressing criminal justice issues. A member of the LHHS informed those present that a center in Carlsbad that had previously closed has now received the capital outlay funds necessary to reopen.

Recess

The second day of the meeting recessed at 5:01 p.m.

Wednesday, July 27

Welcome and Introductions

The third day of the meeting was reconvened at 8:44 a.m. by Senator Ortiz y Pino. The chair welcomed everyone and asked members of the committee and staff to introduce themselves.

Housing for and Protection of Vulnerable Persons

Myles Copeland, secretary, ALTSD, addressed the committee regarding the department's Adult Protective Services Division (APSD) and the Long-Term Care Ombudsman Program

(LTCOP). The responsibilities of the LTCOP are to identify, investigate and resolve complaints made by or on behalf of residents; provide services to assist the residents in protecting their health, safety, welfare and rights; and represent the interests of residents before governmental agencies and seek administrative, legal and other remedies to protect residents' rights and well-being. The LTCOP offers an independent voice to residents. The LTCOP operates with only nine staff members who oversee approximately 100 volunteers in the LTCOP. In FY 2015, staff and volunteers provided 9,952 consultations to residents, facility staff and other individuals. The program also educated more than 6,200 residents, providers, family and community members on ombudsman services, resident rights and long-term care support. In the last three years, the ombudsman has responded to more than 3,600 complaints. When a complaint is filed, the program works with the facility to find a resolution. Within 60 days, 99% of all complaints are resolved.

As a department, the goal is to prevent individuals from needing the APSD. The APSD responds to situations in which functionally impaired adults are being harmed, are in danger of mistreatment, are unable to protect themselves and have no one else to assist them. The APSD works with individuals 18 years of age and older. Secretary Copeland noted that only 6% of victims ask for help themselves; therefore, anyone who suspects that an adult is being abused, neglected or exploited has the duty to report it to the APSD. Individuals have a right to self-determination and can refuse service from the APSD. Like the LTCOP, the APSD maintains strict confidentiality of the victims and reports. With more than 6,000 investigations conducted per year, the APSD prioritizes cases based on level of urgency ranging from a few hours to a couple of days for response. The ALTSD works on lots of programs to support independent living and believes that home care and adult daycare can help people live at home longer, thus maintaining independence.

Juliet Keene, deputy director, Medicaid Fraud and Elder Abuse Division, Office of the Attorney General (OAG), informed the committee that the division is the federally certified fraud control unit for Medicaid. It has jurisdiction over Medicaid provider fraud and abuse, neglect and exploitation of those who reside in residential facilities. The division is looking at increasing authority over home situations. Ms. Keene talked about how cases the division receives from the APSD, HSD and DOH are handled. The OAG has a good relationship with the Office of Guardianship (OOG) in the Developmental Disabilities Planning Council (DDPC), working with both corporate and family member guardians.

While the division gets a lot of referrals about boarding homes, those are not currently under the purview of the division because these facilities do not provide assistance for activities of daily living (ADL), and boarding homes generally house individuals with behavioral health issues. Under the current law, boarding homes do not fall under the authority of any agency. In a brief discussion with a member of the committee, Ms. Keene agreed that the OAG would need some legislative authority in order to oversee boarding homes since they do not fit into the definition of a "facility". This is something the OAG will be pursuing in the future. For this upcoming legislative session, the OAG wants to reintroduce the Medicaid False Claims Act

legislation. The OAG does experience some difficulty receiving reports about abuse, neglect and exploitation at facilities. Ms. Keene concluded her presentation by informing the committee that the annual report for the OAG would be available soon and briefly highlighted some of the successes from the previous year.

Marina A. Tapia, senior legal counsel, DDPC, OOG, addressed the committee about the roles and limitations of her office's authority. The DDPC OOG provides legal services to income-eligible, allegedly incapacitated adults who may need a guardian appointed by the district court. Once the guardian is appointed, the OOG's role is limited, and the authority of the guardian over the protected person is provided through the court. Ms. Tapia talked about some of the issues affecting protected persons, including limited financial resources and housing. The OOG does not have authority when it comes to boarding homes. The DDPC is extremely concerned about individuals who live in boarding homes. The DDPC OOG recommends a statutory or regulatory definition for "boarding homes" and the examination of the Texas law to see how it could be adopted for New Mexico.

Brendan Gould, national certified guardian (NCG), executive director, Honor Guardianship Services, LLC, explained that there are two types of guardianships: limited and plenary. Mr. Gould spoke about some of the conditions in boarding homes, including poor handling of medications and operator intentions, but noted this is not always the case. He believes that boarding homes help prevent recidivism because once individuals have placement in a home, they stop returning to jail. Boarding home operators receive around $675 per month per person. According to Mr. Gould, overregulation of these homes could cause well-intentioned operators to close due to limited funding.

Maryhelen Kelley, NCG, Ayudando Guardians, shared her experiences with boarding homes and operators. Ms. Kelley serves 161 clients, 60 of whom are on the developmental disabilities (DD) waiver and 36 of whom are in boarding homes. She currently has 10 individuals on a waiting list for guardianship. Like Mr. Gould, she said that the intentions of boarding home operators vary — some really want to help while others are in it to make as much money as they can. Individuals with mental illness are better off with more structure, and boarding homes can teach them about independent living. Ms. Kelley believes it would be cost-effective for the state to help subsidize boarding homes by making placement more available and allowing for some regulation of the homes.

Ben Kesner, executive director, Board of Pharmacy, Regulation and Licensing Department, noted that the Board of Pharmacy is the only state agency that has some data on the number of boarding homes in the state due to its issuance of custodial drug permits. There are two levels of permits: boarding homes and nursing homes. As far as medications go, both types of homes are required to have a pharmacist who visits every three months. The Board of Pharmacy will license a location that has two or more individuals, and the operator pays for pharmacist inspections. Mr. Kesner added that the majority of the homes licensed are family residents caring for elders.

In response to the presentation, the committee addressed the following topics and concerns with the panel:

- the disparity between the number of active custodial drug permits and the list of facilities classified by the DOH as boarding homes previously provided to the committee;
- the lack of resources for reporting activities of concern and neglect in boarding homes;
- the need for educating the public on its responsibility to report issues and mistreatment;
- staffing issues in nursing homes;
- levels of Medicaid reimbursement to facilities and the statewide formula based on resident needs;
- self-determination of residents in nursing homes and the ombudsman perspective to allow for personal choice;
- quality of care in nursing homes and questions about complaint investigation;
- the handling of medication and controlled substances;
- the impact of facility closures on communities;
- the need for oversight and regulations of boarding homes;
- the potential for adaptation of the Texas model for boarding homes;
- ombudsman program availability for Native Americans and tribal governments;
- monitoring of guardians and lack of reporting from family guardians; and
- restructuring of the process for awarding guardianship contracts for corporate guardians.

Assisted Living

Linda Sechovec, executive director, New Mexico Health Care Association and New Mexico Center for Assisted Living, met with the committee to discuss assisted living facilities in the state. Ms. Sechovec stated that behavioral health is becoming a larger concern, and facilities are struggling to meet the needs of the population and the needs of individuals. While the definition for licensure of assisted living facilities varies from state to state, generally, assisted living facilities offer a multifaceted residential setting that provides personal care services, 24-hour supervision and assistance, activities and health-related services. The goal is to minimize the need to relocate by allowing "aging in place" and hospice services; accommodating individual residents' changing needs and preferences; maximizing resident's dignity, autonomy, privacy, independence, choice and safety; and encouraging family and community involvement. In 2010, some revisions of the regulations occurred, including new rules for administrator and staff training, Alzheimer's care and hospice services. New applicants for licensure are required to submit a description of their program services. This program narrative should identify the geographic services area; primary population served; types of services and care; and professional services. Ms. Sechovec talked about some of the personal care and health services offered by assisted living facilities, noting that they are not the same as boarding homes.

One issue for assisted living facilities is the disclosures required at admission. A facility may provide assistance with ADL and periodic professional nursing care for adults with physical or mental disabilities. National regulations have physical plant standards that are not always in line with the needs of the residents and are further out of line with the needs of the boarding home population. Ms. Sechovec discussed the usage of antipsychotic drugs in assisted living facilities nationwide and how it compares to New Mexico. The state is lower than most in usage, but about 17% of nursing home residents do require this medication; this issue has been trickling into assisted living facilities. Since there is not a federal payment program or regulations for antipsychotic drug usage in assisted living facilities, these settings may not have access to the same resources about alternative approaches to care.

Ms. Sechovec shared some of the other policies and procedures followed by these facilities. Assisted living facilities do have admission and retention policies that will not allow for the admittance of individuals requiring 24-hour continuous nursing care. Exceptions can be made for current residents receiving hospice care. Facilities must meet the state's criminal history screening requirements for administrative and care staff positions. Additionally, assisted living facilities are subject to DOH inspection and monitoring. Ms. Sechovec noted that funding is limited and surveys are not conducted as frequently as they should be. Public financing for these facilities is limited in New Mexico. Typically, only services are covered under Medicaid and Centennial Care — room and board charges are between the facility and the prospective resident. The average cost for an assisted living unit in the state is $3,600 per month.

On questioning, Ms. Sechovec and the committee members discussed the following topics:

- the need for a centralized location of information on facilities and program narratives;
- Medicaid reimbursements for services in an assisted living facility versus a nursing home facility;
- limited coverage under Centennial Care;
- concern about levels of care between private payers and Medicaid recipients;
- demographics of assisted living residents;
- inspection process and survey compliance;
- instances of potentially unfair sanctions and penalties for facilities;
- the process for ADL assessment and degree of assistance evaluation; and
- specific constituent issues with which Ms. Sechovec is willing to help.

Public Comment

Sandy Skaar noted that some individuals with developmental disabilities end up in boarding homes because they cannot afford the high cost of assisted living.

Jennifer Weiss-Burke, executive director, Serenity Mesa Health Center, expressed her dismay with the closure of the DOH's Turquoise Lodge substance dependence treatment services. Ms. Weiss-Burke noted the extremely limited options for substance detoxification (detox)

facilities for individuals under the age of 18 in the state. Formerly, individuals would receive treatment at Turquoise Lodge and then transfer to Serenity Mesa Health Center. With this closure, there is a loss in the continuum of care. She is very concerned with the dangerous nature of detox and the potential loss of life that will occur now that services have been cut off. The outpatient options proposed by the DOH are limited and not as helpful in the detox process, and emergency rooms are not a viable solution. She suggested a reduction in the number of adolescent beds as opposed to the outright closure.

Adan Carriaga works for Molina and is an individual in long-term heroin recovery. He shared his personal experience with drug addiction and detox. He raised the issue of a suicide plan being a condition of admission into a hospital. Medicaid does not cover the cost of detox. Some of the MCOs have service options for adults but not for adolescents. Mr. Carriaga mentioned that Molina is having the internal discussion about what can be done for adolescents in the wake of the Turquoise Lodge closure. He is concerned with the number of detox centers closing all over the state. Mr. Carriaga added that a person can detox with Suboxone, but that person has to already be in the process of withdrawal.

Jeff Holland, executive director, Endorphin Power Company, mentioned that there are regulations against placing adolescents with adults in detox facilities. According to him, the closure is cutting off the support that helps to prevent issues down the road. Mr. Holland stressed that the first 72 hours is crucial to the success of detox; to remove access to detox services risks failure.

Members of the committee asked for public comment on this issue. The concern with the of lack intensive outpatient treatment (IOP) and the success of IOP was raised. Members questioned claims by Turquoise Lodge of issues with filling the beds and the potential lack of outreach done by the facility. The method by which the closure was conducted was also called into question. Ms. Weiss-Burke noted that just because the beds are not full does not mean they are not needed. According to her, there is a need for more adult beds, but closing the ones available for adolescents is not the answer. Members of the committee requested some information on which IOPs offer detox and what type of detox they support. Concern was also raised about the condition of suicidal status for admittance. The public advocates stressed the importance of early determination and intervention. The chair noted that public comment on this issue would be opened up on the last day of this meeting.

Lorraine Mendiola has a son who is mentally ill and under the guardianship of Ayudando Guardians. Ms. Mendiola submitted a letter to the committee detailing her dissatisfaction and concern with the conditions of boarding homes in which her son has been placed. Her letter contained some examples of her son's experiences. She has attempted to communicate with various agencies and has been told that boarding homes are not regulated because they do not provide ADL. She is requesting legislation to be introduced during the upcoming session that requires all existing and future boarding homes in the state to be licensed, monitored and regulated.

Update on Assisted Outpatient Treatment

Brian Stettin, policy director, Treatment Advocacy Center, presented as part of a panel to provide the committee with an update on assisted outpatient treatment (AOT) and the newly enacted law. Mr. Stettin explained what AOT is, adding that it is a new form of civil commitment outside a hospital. Usually, a petition to the court is done prior to discharge from the hospital and is for individuals who have struggled with adherence to treatment resulting in repeated hospitalizations or incarcerations. There is a hearing where the patient is represented by counsel and an order is issued directing the patient to participate in treatment and directing the local health system to provide resources. A treatment plan must be part of the order issued by the courts. The purpose is to motivate the individual to participate in treatment; other states have this type of program and have demonstrated its efficacy. The newly enacted law does not mean AOT will be a reality, but it does offer an option for a local government to have a memorandum of understanding with the local court. To make this work in any part of the state, there will need to be some upfront investment. Access to AOT is available in both Bernalillo and Dona Ana counties. Last December, Congress appropriated $15 million for states to seed new AOT programs. Jurisdictions in New Mexico applied for the grant in June, and they believe the state's program has a good chance of receiving funding. Grant award notification will be in September.

Jamie Michael, director, Dona Ana County Human Services Department (DAHSD), represents one of the jurisdictions that applied for the grant program. In establishing the program in Dona Ana County, Ms. Michael worked with a variety of organizations, including Mesilla Valley Hospital, La Clinica de Familia, district courts and attorneys, New Mexico State University and the National Alliance on Mental Illness. In the last two years, the DAHSD has hospitalized 150 individuals two or more times. There have had been more than 300 civil commitment hearings in Dona Ana County, which take place every Friday at Mesilla Valley Hospital. The DAHSD hopes to use the federal grant money to help La Clinica de Familia to hire case managers and providers, Ms. Michael said. The majority of participants are Medicaid-eligible males between the ages of 18 and 38, making La Clinica de Familia a good fit for this program. The district judge oversees the inpatient commitment hearings and is committed to making this program work. Ms. Michael stated that the DAHSD anticipates a decrease in hospitalizations, a reduction in emergency room visits and less law enforcement involvement. If the DAHSD does not receive the grant, Ms. Michael stated, it will continue to try to serve as many people as it can with the resources it has.

Douglas H. Chaplin, director, Department of Family and Community Services, City of Albuquerque, helped submit an application for the grant in the amount of $1 million per year for the next four years. If awarded, the grant will accelerate the formation of infrastructure to ultimately reduce incidences and duration of psychiatric hospitalization, homelessness, incarcerations and interactions with the criminal justice system. Mr. Chaplin provided an overview of the comprehensive screening that AOT consumers would receive. He projects that with the grant, the City of Albuquerque will be able to serve 345 individuals over the next four years.

The panelists discussed with the committee the following topics:

- criteria required to petition the courts, which include a history of not adhering to treatment and multiple hospitalizations;
- the question of suicidal intentions as a basis for hospital admissions;
- the distinction between voluntary versus involuntary inpatient treatment;
- the "black robe" effect: using the authority and status of judges to encourage patients to do the things they need to do for themselves;
- an explanation of the mobile crisis teams and trainings for the APD;
- information sharing and access to mental health history for judges;
- the potential for reducing the prison population for individuals meeting program requirements;
- the need for state-funded beds in the southern part of the state and the difficulty of transporting patients to Las Vegas;
- commitment on behalf of the courts and district attorneys to the AOT program; and
- other possible avenues for funding in the event that the grant is not awarded.

A member of the committee requested information regarding the criteria for psychiatric hospital admission. This question was raised by the previous presentation about emergency rooms only admitting patients if they admitted to suicidal thoughts. The member wanted to see a written document detailing admission criteria.

Update on Behavioral Health Access

Maggie Hart Stebbins, Bernalillo County commissioner, was returning to testify before the committee on the progress of efforts made by Bernalillo County for the treatment of behavioral health. In recent years, several tragic events in Albuquerque have called attention to the issues facing the city and the need for appropriate training for law enforcement. Commissioner Stebbins shared a presentation that provided data on overdose rates and the history of behavioral health efforts in the county. In 2014, a joint task force between the county and the city was created to address opioid abuse. During the general election that year, 69% of Bernalillo County voters approved the advisory question on a new gross receipts tax dedicated to expanding access to behavioral health services, generating an estimated $17 million per year. That revenue was first available in December 2015.

The task force identified four key areas of priority: (1) crisis services; (2) community supports; (3) housing; and (4) prevention, intervention and harm reduction. Commissioner Stebbins discussed the recommendations and the business plan set forth by the task force (see handout for full details). Lisa Simpson, technical advisor to the adult detention reform coordinator, Bernalillo County, explained that the county has been using data-driven analysis to identify drivers of the criminal justice system costs by looking at who is in the system and why and how resources can be better used to serve them. By using data-driven strategies, the county has been able to work with criminal justice partners to reduce the jail population by 48%. Identifying the needs and characteristics of the population with frequent use of health care and

criminal justice resources allows access to services to be prioritized and services to be designed to meet the needs of that population. Ms. Simpson expanded on the community connections that are helping to supply supportive housing and wrap-around services to decrease the potential for relapse. She also discussed the efforts to expand crisis services with a hotline and the creation of a regional mobile crisis team. A focus has also been placed on providing services to schools since having mental health resources available at schools increases the likelihood of students seeking care by over 90%.

Barney Trujillo, commissioner, Rio Arriba County, noted that Rio Arriba County has ranked number one in heroin overdoses in the country for the past two decades. The county has been working to create a culture of accountability to restructure the treatment system. Rio Arriba County has created the Opiate Use Reduction (OUR) Enterprise to reduce the number of overdose deaths in the county through a short- and long-term strategy. In the short term, Rio Arriba County seeks to immediately reduce overdose deaths through an intensive outreach, education and Narcan distribution campaign targeting the highest-risk individuals. Next, the county plans to improve long-term accessibility and effectiveness of treatment services by forming the OUR Network, an accountable health network composed of service providers in Rio Arriba County sharing health information technology, case management and finance structure that reimburses providers for production of individual health outcomes.

Lauren Reichelt, director, Rio Arriba County Health and Human Services Department, stated that reducing deaths does not mean treating the drug problem. Overdose prevention does get immediate help to the individual and potentially moves the individual closer to a detox program. Santa Fe Mountain Center, an OUR Enterprise member, distributed 3,352 doses of Narcan to 1,214 individuals. Its efforts resulted in 62.7 reversals per month, or a little over two per day. At the same time, overdose deaths dropped from 39 in 2014 to 23 in 2015. Ms. Reichelt talked about how law enforcement has been trained to administer doses of Narcan and the efforts that have been made to educate the public on recognizing and stopping an overdose. OUR Network seeks to improve access to services and success rates of treatment by integrating Rio Arriba County's hospital, primary care, behavioral health, substance abuse treatment, courts, jails and other providers into a network charged with: (1) care coordination; (2) quality assurance/evaluation; and (3) outcome-based reimbursement. District and magistrate courts are tied into the network and encouraged to refer for services prior to sentencing. Ms. Reichelt highlighted several successes of the program and noted that it has been recognized by the White House for its efforts to develop a data-based care coordination network and jail diversion model.

Several members praised the two counties for their work to address this critical issue. In response to committee members' questions, the following points were discussed with the panel:

- efforts to reward MCOs and providers for working with programs;
- information about the Hoy Recovery Program;
- the voucher process for housing in Bernalillo County;
- the focus on long-term supportive housing;

- work by case managers to establish housing and ensure continuation of medication prior to release from detention centers;
- consequences for program violations and judges' discretion;
- an explanation of the medication Narcan and how it is administered;
- the importance of support during reentry into the community;
- the need for ensuring positive environment changes post-incarceration;
- the critical role for early intervention in the school system;
- prioritization of needs in Bernalillo County for the spending of tax revenues and the target date for funding to be available;
- the usage of existing nonprofits and community organizations to address needs and the potential for them to receive funding from the tax revenues; and
- the need for coding approval for billing of detox services at Hoy.

Status of Administrative and Civil Proceedings Involving Referred Behavioral Health Providers

Patsy Romero, chief operations officer, Easter Seals El Mirador (ESEM), provided an update to the committee on the investigation status. It has been three years since the suspension of Medicaid funding for behavioral health providers, and the behavioral health providers have lost the ability and right to provide services to more than 1,200 children and their families. The investigation by the OAG lasted for nine months, and ESEM was cleared of fraud twice. In the process, ESEM spent over $1 million to comply with the investigation and administrative costs. ESEM has appealed the fair hearing process to the district court and has filed a civil lawsuit against the HSD and several HSD employees for federal civil rights violations. It is also in the process of suing OptumHealth for breach of contract, as OptumHealth is still withholding ESEM's funds. Ms. Romero described the hearing process, which she deems as unfair. According to her account, the HSD acts as auditor, judge and jury with the right to overturn the hearing officer's decision. The provider is limited by the hearing officer's decision, and the process does not follow an opportunity for the provider to defend itself.

Ms. Romero detailed ESEM's experience with the credible allegations of fraud events. She discussed a Legislative Finance Committee (LFC) report that says that the HSD has error rate of 6.4%, which is deemed acceptable by the HSD. According to Ms. Romero, there was no evidence that ESEM hurt anyone or that it denied any services. This was caused by minor, non-intentional human errors. ESEM claims that OptumHealth owes it $660,000, while OptumHealth is claiming that the amount owed is only $370,000. Ms. Romero is cautious of OptumHealth's claims system and noted that there has been no proof that $11 million is in an interest-bearing account that is owed to New Mexico providers. According to her, ESEM fears retaliation, and the MCOs have been told by the HSD not to allow ESEM to be re-credentialed. Ms. Romero urged the committee to support upcoming legislation by Senator Papen regarding due process and to provide for an even playing field for providers in the state.

Shannon Freedle, CEO, Teambuilders, shared his experience with the HSD and the fraud allegations. Teambuilders was a community-based behavioral health provider for children. Mr.

Freedle claims that Teambuilders was targeted along with 14 other providers by the HSD and subsequently put out of business. Teambuilders was the last to be cleared by the OAG, with no instances of fraud discovered. Agave Health, a company that occupied the building Teambuilders had, gave notice that it was planning to leave the state. Teambuilders contacted the HSD about reopening after having been cleared of fraud allegations, and then received an overpayment demand letter for $12 million. Since mid-April to the present, Teambuilders had the opportunity to submit additional information that should have been requested originally. Mr. Freedle said that Teambuilders has reduced the number of challenged claims by 75%. He thinks the remaining alleged failed claims are within the national expected margin of error. He thinks Teambuilders will get to 5% or less, the threshold within which extrapolation is prohibited. The amount being extrapolated totals $3.2 million. Teambuilders' fair hearing is scheduled for the following week.

Mr. Freedle added that he has watched the needs of children and the communities go unserved. He claims that this company and he, himself, have been publicly defamed and have become victims of character assassination. He believes that the HSD did receive some information, but that the HSD acted brashly on it. Going on three years, no instances of fraud have been uncovered, and there is still no end in sight. According to Mr. Freedle, OptumHealth owes Teambuilders $5.5 million. Teambuilders will also be filing a lawsuit over this issue.

Nancy Jo Archer, executive director, Hogares, used to operate nine facilities in four different counties, employing 266 staff members. Open Skies, an Arizona company, took over the buildings Hogares occupied following the fraud allegations. In November 2014, 18 months after its suspension, Hogares was contacted by the OAG to supply documents for the audit process. Ms. Archer stated that Hogares delivered everything to the OAG, noting the demanding amount of effort to comply. The HSD wanted to negotiate overpayment, asking for $9 million. Hogares declined to negotiate and applied for a fair hearing. She echoed Ms. Romero's sentiment about a lack of fairness in the process. Hogares had $2,000 in claims considered faulty; under the HSD's audit, the amount was $6,000, extrapolated to $9 million. Ms. Archer claims that OptumHealth owes her company $2 million. OptumHealth stopped adjudicating claims and wants Hogares to subscribe to networks to allow Hogares to see its own data at $100 per month. Hogares has filed a lawsuit against the HSD and OptumHealth.

Members of the committee expressed frustration and sympathy for the panelists. In response to the presentation, the committee addressed the following topics with the panel:

- calls for the resignation of the secretary of human services;
- impacts on the community and the children receiving services from these providers;
- the long-lasting effects of dismantling the system and the difficulty of recovering from the loss of services;
- clarifications on the various monetary amounts involved;
- the unacceptable length of time this process has taken;
- the loss of clients during the transition and the lack of outreach;

- the status of other providers with fraud allegations;
- various questions about the extrapolated values;
- personal lawsuits for defamation of character; and
- the personal and professional toll of the allegation.

Public Comment

Mark Johnson, ESEM, thanked the committee for its support throughout this process. He stated that ESEM was forced to turn over its business with no disclosure and no due process to Arizona companies that do not provide the necessary services to the communities. Mr. Johnson provided more background on the incident. He noted that the HSD released funds for the DD programs but never responded to release funds for behavioral health, even though the practices were the same for both services. According to Mr. Johnson, the behavioral health program was shut down for $300 worth of billing errors — an error rate of less than 3%. He believes that the extrapolation that is being used by the HSD is not viable. In the over $265 million of billings reviewed, the OAG found $42,500 in billing errors. Mr. Johnson claims that the extrapolated amount is being used to mislead the public about the issue. In a meeting with the secretary of human services in which Mr. Johnson offered to pay the original amount, he was told that was not possible because it would set a precedent and that the "HSD needed a win".

Former Representative Liz Thomson thanked the committee for not letting what she referred to as "this disaster" go unheard. The impact from this will never be known in terms of the lives of the individuals it affected, she said. Ms. Thomson expressed disappointment in the lack of bipartisan representation, which existed when the issue first surfaced. According to her, the HSD has shown a pattern of disregard for vulnerable persons. The issue with the Supplemental Nutrition Assistance Program (SNAP) is further evidence of this. Ms. Thomson hopes those responsible will be held fully accountable.

Maggie McCowan, New Mexico Behavioral Health Providers Association, stated that she believes that the state is in the middle of a behavioral health workforce crisis. The allegations against providers are partly responsible for that, causing the loss of leadership. As an association, it has requested the HSD to standardize the auditing process. The HSD said it is working on it but cannot talk about any of it until this issue is settled.

Recess

The third day of the meeting recessed at 5:58 p.m.

Thursday, July 28

The fourth day of the meeting was reconvened at 8:37 a.m. by Senator Ortiz y Pino in the UNM Science and Technology Center Rotunda.

Welcome and Update on Health Sciences Center; Addressing Campus Sexual Assault

Dr. Robert G. Frank, president, UNM, told the committee that one of the most important things the university does is work to graduate students and that providing a safe environment is very important to student success. He highlighted some recent record high retention and graduation rates and talked about several buildings that will be getting improvements and renovations. UNM has focused on doing more for the campus with fewer resources and continues to cut costs, according to Dr. Frank. He outlined several ongoing reviews in the interest of increasing communications and reducing redundancy. Former student athlete Jill Pilgrim was hired to evaluate residence halls, revealing that athletes were not being treated differently; however, there were some things that did need improvement. UNM has been focusing on creating a culture of support and advice so students and faculty know where to go for resources and help if something happens to them.

Elsa Cole, University Council, UNM, has been part of the University Council for three years. Ms. Cole provided background on what led to the university's attention and recent efforts to determine the extent of issues of sexual misconduct at the school. Following her hire, Ms. Pilgrim's firm conducted a review and assessment on UNM's climate for sexual violence; the subsequent recommendations are known as the Pilgrim Report. UNM has begun the immediate implementation of those recommendations as well as those from the eventual DOJ review, including clarifying and consolidating policies and procedures and improving and increasing training and outreach.

Ms. Cole provided the committee with background on the DOJ investigation and Title IX of the federal Civil Rights Act of 1964. In April 2011, the United States Department of Education's Office for Civil Rights (OCR) issued a "Dear Colleague" letter clarifying that Title IX of the Education Amendments of 1972 requires schools to address reports by students of sexual assault as they are forms of sex discrimination. Following the release of the Pilgrim Report in December 2014, the DOJ informed UNM that the DOJ would be conducting a Title IX policy and procedures review of the campus regarding reports of student sexual assault and harassment. Although the OCR has opened and conducted numerous investigations on campuses across the country of sexual assault incidents, this is the only investigation that the DOJ has undertaken alone, and it is solely focused on policies and procedures, not any particular incident. Ms. Cole summarized the findings of the DOJ investigation, which was completed in June 2015. UNM continues to send the DOJ updates on UNM's policies, efforts to train staff and faculty about UNM's policies and efforts to educate staff, faculty and students about procedures for reporting and addressing sexual assault in ways that are timely, thorough and fair. Ms. Cole noted that ongoing collaboration with the DOJ has been cordial.

In April 2016, the DOJ issued its report acknowledging the many efforts made by UNM but still finding the university's policies and procedures to be not in compliance with Title IX. According to Ms. Cole, the report stated that UNM must take additional specific steps to bring itself into compliance. UNM's attorneys had an initial meeting with DOJ attorneys on June 22, 2016 to work on an agreement to address UNM's obligations under Title IX to prevent and

address sexual harassment and sexual assault and to provide clear and consistent procedures for reporting, investigating and responding to such conduct. UNM's suggestions regarding the agreement have been taken back to Washington, D.C., by the DOJ for review by the department.

Francie Cordova, director, Office of Equal Opportunity (OEO), UNM, is charged with investigating all issues and claims of violations of protected status and discrimination at UNM. Ms. Cordova discussed the structure and scope of the OEO, which directly reports to the university president on matters such as Title IX and disabilities accommodation. Student employees and staff received extensive, trauma-informed training to deal with issues of abuse. The OEO has been working to establish policy and process improvements while creating reporting templates to ensure case consistency. Ms. Cordova explained several initiatives the office has undertaken, including a climate survey, engagement and training with police, training on various policies and focusing on response and support (please see handout for full details). The OEO realizes that the problems are campus-wide, and it is working to create campus partners.

Nasha Torrez, dean of students, UNM, noted that there are a lot of things UNM has been working on. Ms. Torrez informed the committee about the LoboRESPECT Advocacy Center, which provides confidential and anonymous reporting for sexual assault or misconduct. The program is designed to provide support and relief in the aftermath of an assault. Ms. Torrez explained how LoboRESPECT, a student group, uses peer mentors to encourage student involvement. UNM has implemented mandatory online training and continues to spread the message through campus outreach, student orientations and a designated "safety week". UNM has also organized a Sexual Misconduct and Assault Response Team (SMART) that has completed a handbook with protocols and other written resource material for students, faculty and staff. The UNM Dean of Students Office is working to identify, develop and standardize ways to provide supportive measures to affected parties, according to Ms. Torrez. The "Protect the Pack" strategic campus-wide marketing plan is being used to foster responsibility among students.

Dr. Frank added that the university is a very complex place with moving parts and that it has changed the first year experience for students. UNM is dedicated to making sure the school is a safe and positive experience. According to Dr. Frank, UNM is working to reinforce the idea of peer help and the notion of looking out for each other. He admits that UNM has a long way to go but is doing so much better. He believes that if the Inspection of Public Records Act was amended to protect witnesses, more people would be willing to come forward.

Following the presentation, members of the committee discussed the findings of the DOJ report and the presentation. Some key points addressed were:

- a comparison of UNM's statistics to other universities — Ms. Cordova offered to share these data when they become available;

- plans to handle the potential increase in claims following efforts to increase awareness of issues and existing resources;
- the impact of the budget deficit on UNM's programs;
- the need for greater involvement and feedback from students;
- efforts to create consistency among policies and simplifying the procedures;
- the involvement of student athletes and coaches in the programs;
- the importance of understanding Title IX and its relation to universities and colleges of all size;
- the role of the university in regard to criminal charges;
- the time frame and statute of limitations for report filing;
- training level of campus police and its ability to handle investigations;
- student self-defense;
- neutrality in administrative hearings;
- the current status of DOJ involvement and next steps for implementation of recommended changes to UNM policies and protocols;
- the campus climate survey availability to the LHHS; and
- the issue of backlogged evidence and rape kit processing.

Sexual Assault Programming

Ashlynn Ota, student, began the presentation by sharing a letter she wrote to Dr. Frank regarding her sexual assault (the letter is available on the legislative website). Ms. Ota expressed concern and frustration with the administration's handling of her case and UNM's response to the DOJ report. Ms. Ota detailed the facts of her case and stated that she does not believe UNM has taken this issue seriously nor has it made the reduction of sexual assaults on campus a priority.

Claire Harwell, project director, Community Justice for Survivors of Sexual Violence Project, provided the committee with an overview of Title IX and other related laws protecting student's civil rights. The committee received several handouts supporting her testimony. Ms. Harwell represents students and believes UNM's response to the issue was unacceptable. The problems identified by the DOJ have been ongoing. Title IX requires a prompt, competent institutional response and an investigation of all complaints; the DOJ found the OEO has taken way too long in addressing and handling complaints. Ms. Harwell stated that it is the university's responsibility to mitigate harm following an assault; instead, students have experienced institutional betrayal. Students need to have the information about how to file complaints and know what their protections are. Ms. Harwell noted that the effects of a sexual assault and the handling of the case create real, long-lasting impacts on the victim's life. Trauma affects the chemical makeup of the brain. Scientifically, individuals are affected by apologies for medical errors. Ms. Harwell believes that if the university would do waivers for victims, it would help the students heal. She detailed a few legislative recommendations that would encourage oversight for the departments and increase reporting and training requirements.

May Sagbakken, director, Rape Crisis Center of Central New Mexico, is a member of the UNM SMART. She highlighted some of the steps the university has taken in addressing sexual

assault, acknowledging that UNM has made great strides in this area. Updated policies and campus-wide trainings are great, but there is more that needs to be done. The university needs to be held responsible for what it has not done and for not moving fast enough to address issues. UNM has not involved all stakeholders to ensure successful implementation of these policies. Ms. Sagbakken believes that without DOJ involvement, nothing on this issue would have been done. Sexual assault on campus has long been a persistent problem. She added that only when trauma is brought to light can victims begin to heal.

Aubriana Romero-Knell is a survivor of sexual assault at UNM. She shared her experience with the committee and stated that students are not allowed to carry any form of self-defense devices. She partook in a protest with other students carrying Nerf guns without darts to draw attention to the issue. A resolution was approved through the Associated Students of UNM (ASUNM) to allow students to carry mace; however, the administration took no action on the matter. She added that when UNM turns down allegations, it creates an environment where students feel they should not report assaults.

Karen Herman, director, Sexual Assault Services, New Mexico Coalition of Sexual Assault Programs (NMCSAP), called attention to the broader issue of sexual violence in New Mexico. She shared the following: 66% of incidents annually reported involve children; one in four women will experience attempted or completed rape in their lifetime; and one in 20 men will experience sexual assault. Ms. Herman underscored that early intervention is key in helping survivors cope and heal. She described what the comprehensive services would entail and the need for the expansion of services. There is a need to address violence in Native American communities and to address the evidence backlog in the criminal justice system.

Kim Alaburda, executive director, NMCSAP, thanked the LHHS for its continued support and attention to this issue. The NMCSAP receives $2.9 million in recurring funding from the DOH to conduct trainings and build support infrastructure. Funding helps pay medical bills for victims, Ms. Alaburda stated, because victims should not have to pay for their own examinations and evidence collection. This year, the NMCSAP received an additional $25,000 to expand its services to Spanish-speaking communities; the NMCSAP hopes to be able to expand services to other ethnic communities and rural parts of the state. Ms. Alaburda closed by adding that this is an opportunity to move the state forward by helping children, women and the most vulnerable people of the state.

Members of the committee thanked the panel and the survivors who came forward today to share their stories and experiences. Committee members inquired about the following information:

- the importance of teaching people what constitutes "rape";
- the need for directing messages to men and instilling in youth that rape is unacceptable;

- the problem with an offender not being properly punished and the effect that has on condoning the behavior and preventing individuals from coming forward after an assault;
- what is being done at other universities to address this issue;
- the importance of not assigning blame on the victim for the use of alcohol or drugs to excuse the violent criminal action;
- UNM police training and involvement in SMART;
- regulation of fraternities and sororities on campus;
- the need to educate both males and females on sexual assault and violence;
- the unintentional penalization of victims through the loss of benefits and scholarships as a result of dealing with their trauma;
- unclear campus policy about the use of mace; and
- the desire of the LHHS to readdress this issue in the future with an update on UNM's and the DOJ's progress.

Public Comment

Nandi Baldwin, former student, witnessed the daily activities of the women's resource center and would see all of the women coming in for help. Women are very underserved at UNM. She believes there is a need to stop the language of placing blame on the victim and a need to change the message from telling women to learn self-defense to teaching young men "don't rape".

Gail Houston, professor of English, and chair of the ethics committee, UNM, shared a personal story of a student coming forward after a sexual assault by a professor. The OEO was involved with the case. Professor Houston informed the committee that it was rumored that the perpetrator was returning to the department. She said that the students and faculty are very affected by this decision. Professor Houston expressed disappointment that Dr. Frank did not stay to hear the public comment. Men need to be here to show respect and concern and this needs to be a priority. She asked why it is okay to treat women this way, causing them to leave the department in situations like this. Professor Houston believes universities should cherish and protect the whistleblower.

Liz Hutchison, professor of history and director, Feminist Research Institute, UNM, appreciates the attention to the broader issue of gender inequality. She stated that the members of the faculty are part of this community and they are part of the problem and part of the solution. Professor Hutchison believes the training of faculty is crucial. She urged the support of all of the work in response to the DOJ findings. Professor Hutchison added that there are many silent survivors.

Danielle Kabella, Ph.D. student in anthropology, also expressed concern about the professor being allowed to return to the department. She believes she received an unfair grade and that it was due to sexual motivations. Ms. Kabella went to the OEO to complain and an eight-month-long investigation resulted. She noted that some professors, other students and

resources were supportive but that they did not have any ability to do anything about it. The professor was reinstated even after the finding that he was deemed to be a significant harm/threat to students. She was disappointed that the DOJ report is on UNM's radar and the professor was still brought back to the department.

Ronda Brulotte, professor of anthropology, UNM, believes that the broader issue of harassment on campus is being missed. She stated that this is not just about fraternity members or athletes raping younger students; in her experience, this goes on between staff and graduate students. The retaliation and fear of being on the campus have not been taken seriously by the university. Many students have left or are in the process of leaving. Professor Brulotte told the committee that she would not encourage students to come to graduate school at UNM because she does not feel like it is a safe environment.

Lizzy Small, alumnus, UNM, informed the committee that she is a survivor of sexual assault and the abuse of the administration. Ms. Small said she had amazing support from her professors, but the case was dealt with in the very same manner that the DOJ report expressed. The findings of the report are the same things that have been going on at UNM. Calling students' stories "anecdotal" is incredibly insensitive. Ms. Small also expressed disappointment that representatives of the administration did not remain in the meeting.

Rachel Levit, Ph.D. student, had three points to share with the committee. First, assuming that perpetrators are male students and victims are female students is faulty, as there have been many instances of faculty involvement in sexual assaults. Feminist faculty are left to support students at the risk of retaliation. Second, there are issues relating to transgender students, as 27% of transgender people experience sexual assault. They also tend to be repeatedly assaulted more than any other group. Third, the existence of homophobia, which has an impact on the reaction and judgment of the OEO.

Kyle Biederwolf, student president, ASUNM, talked about the work and outreach being done by the association. It held a student safety day and invited all students to come through and learn about campus resources. Mr. Biederwolf informed the committee that the ASUNM recently received capital outlay funding to install lights on the south side of campus. It is working directly with the policy office regarding the carrying of pepper spray on campus, and it has established a committee to address the campus weapons policy. Mr. Biederwolf stated that the ASUNM has worked with the OEO and wants to continue to work with it and wants to keep students involved. He said that he was involved with the student orientations and recognized the dean's office for its work to improve that. He added that UNM could do better but strides have been made to address these issues.

Jeff Devereaux, campus organizer, Planned Parenthood, questioned the lack of student engagement on these issues. He asked why the university does not have a student task force to address this issue. Students are a huge resource and these discussions need to take place.

Hunter Riley, Self Serve Sexuality Resource Center, talked about the organization's efforts on assault prevention. She believes that preventing sexual assault needs to be a priority of sex education. If youth are taught about what is healthy sexuality, it will make it easier for them to recognize what is unhealthy. Ms. Riley talked about a recent event held on campus with a section specifically for men. The administration came in and apologized for the event, according to Ms. Riley. The organization had brought in presenters that talked about pleasure-focused sex education, an approach that the World Health Organization has recognized. Ms. Riley stated that the center received feedback from those who saw the presentation that indicated that participants learned more about sex education in the five-minute presentation than they had in all of their past years of sexual education.

Forensic Evidence for Sexual Assault Survivor Services and Proceedings

Sarita Nair, chief government accountability officer and general counsel, Office of the State Auditor (OSA), addressed the committee regarding the issue of untested forensic evidence in sexual assault cases. The backlog of sexual assault forensic evidence kits, or rape kits, is not new or unique to New Mexico. The OSA oversees all law enforcement agencies in the state and got involved in the issue when the state was unable to apply for federal funding due to its unaccounted inventory of rape kits. As of December 2015, there were 5,410 untested kits in the state. Ms. Nair noted that calling this a "backlog" is a misnomer — in reality, there are kits all over the state that for various reasons have not yet been tested, and they are not all in a queue. The OSA issued a statewide survey to all law enforcement agencies and will be publishing a report of that survey this fall.

Several in-depth audits were conducted with various departments, and the OSA received a high degree of cooperation with each of those agencies. The OSA has identified some overarching needs:

1. adoption of best practices by law enforcement to ensure this does not happen again. Multidisciplinary teams of law enforcement coordinating with rape crisis centers can really help communities;
2. broader understanding of both the state and federal DNA databases;
3. greater funding and additional resources, particularly at the state crime lab. The City of Albuquerque has its own crime laboratory and is dealing with not only a backlog of rape kits, but also other evidence processing, such as ballistics; and
4. strategic planning for the future. With increased efforts to process rape kits, victims, rape crisis centers, police departments and court systems will need additional support and resources. It is important to be aware that as cases are reopened, there will be costs associated with prosecuting them.

Donna Richmond, director, La Piñon Sexual Assault Recovery Services of Southern New Mexico, noted that it will take at least three years to process more than 1,000 kits at its lab. From January to June of this year, La Piñon has generated 64 new kits. Labs are facing issues of prioritization, and each case has a different story. Ms. Richmond explained that it takes one

week to process a kit and a lab technician is able to process about seven kits per week. The lab is also responsible for having to process all other crime evidence, including DNA evidence in murder cases. Ms. Richmond also cautioned that victims may be re-traumatized when cases are reopened following the analyses of kits. Support services need to be in place to support victims years after the original event.

In response to questions from committee members, Ms. Nair and Ms. Richmond addressed the following:

- what can be done to help individuals navigate the experience of having cases reopened, particularly with limited budgets for services;
- how the survey process was conducted. It addressed policies and procedures of departments, statistics and resource needs of each department;
- comparison of other states on this issue;
- difficulty in attracting and retaining lab technicians;
- the requirement that the lab technician who tested the kit testify in person, preventing the possibility of outsourcing kit processing;
- questions about the various labs and their capabilities around the state;
- usage of a triage system to prioritize testing;
- hiring of additional staff;
- involvement and collaboration with tribal representatives;
- the statute of limitations in sexual assault cases;
- the importance of getting DNA profiles into the system to help stop repeat offenders; and
- the need to restore confidence in the system in order to continue to encourage victims to come forward.

Health Information Exchanges/Interoperability/Privacy and Security

Dale Alverson, M.D., New Mexico Health Information Collaborative (NMHIC), provided an update on the New Mexico Health Information Exchange (HIE). Dr. Alverson explained that the HIE provides "interoperability" between multiple systems allowing for secure information sharing when needed. According to Dr. Alverson, the HIE is a powerful tool that is improving the quality and safety of care every day in the state. There are currently more than 1,500 users with more than 3,000 patient documents accessed per month, with a total of 1.7 million patient records in the database. There have been statistically significant decreases in unnecessary procedures and testing because patient records housed in and accessible through the HIE indicate what has already been done. Not all health care providers are participating in the exchange, but the more that are, the more patient care should improve. According to Dr. Alverson, there is a big gap in the HIE with respect to recipients of patient health information available for Centennial Care recipients. These recipients exist in the system, but there no health records for them.

Dr. Alverson noted that health systems and facilities are not all using the same electronic health records information technology; providers within a health system can communicate only with others in the system. The HIE creates a central location for all of the records to be viewed. Exchanges are working together to negotiate contracts and improve data-sharing. The NMHIC is a member of a consortium with 18 other exchanges. Thomas East, CEO, chief information officer, LCF Research, explained that the NMHIC is using international standards for health records so data can safely and securely be delivered from other states through the exchange. Dr. East assured the committee that exchanges are secure and that few ransomware attacks have been successful, despite media reports.

Because New Mexico is an "opt-out" state, patient health information flows into the HIE without patient consent. However, patients can control which health organizations access their medical records. These records are only accessible to health care providers without patient consent in the event of a medical emergency or for reasons of public health. Dr. East discussed the current status of the NMHIC, whose current membership ranges from hospitals and provider groups to laboratories and a pharmacy. The NMHIC welcomes additional stakeholders, including home health, hospice, skilled nursing facilities, behavioral health, professional health care associations and ancillary service providers. The New Mexico Poison and Drug Information Center at UNM is a big utilizer of the system.

There is no recurring fee to contribute electronic patient records to the HIE, but there are set participation fees for hospitals, providers and health insurance companies. As of today, the NMHIC has a positive cash flow and a revenue stream that funds its day-to-day operations, and it is working with its software vendor on extended payment terms to allow time to build out statewide interoperability and to develop additional revenue sources. Projections show sustainability is dependent on full participation by large hospitals and health systems, regional hospitals/hubs, large provider groups, Centennial Care MCOs and other payers like commercial insurance and Medicare. The cost of interfaces is often a roadblock to sustainability — vendors do not want their clients to share data unless they get paid to work out interoperability. The NMHIC needs $400,000 to get CMS matching funds to put every health record in the state into the HIE. Dr. East concluded the presentation with a request for the legislature to enact the New Mexico Health Information Exchange Interoperability, Standards and Authorization Act. This act would mandate participation of health care providers, MCOs and self-insured employer groups in a statewide interoperability solution.

On questioning, Dr. Alverson and Dr. East discussed the following topics with committee members:

- increased telemedicine opportunities with the HIE;
- whether the focus of the standard electronic health record is on coding, billing and data collections rather than patient care;
- avoiding duplication of effort in creating electronic health records;
- the need for a one-time funding match for federal dollars;

- sustainability from revenues with full participation; and
- information sharing with the IHS for tribal areas.

Nick Edwardson, assistant professor, School of Public Administration, senior fellow, Robert Wood Johnson Foundation Center for Public Health Policy, UNM, and Jon Law, executive director, Paseo del Norte Health Information Exchange, addressed the committee with a separate presentation on an economic analysis of the NMHIE. The DOH commissioned the New Mexico Health System Innovation (HSI) to specifically examine the return on investment (ROI) of the NMHIE. Dr. Edwardson presented the findings of that economic analysis to the committee.

The study looked at health care cost reduction over a 10-year period. The HSD provided the HSI with actual Medicaid claims data for a year to do this research. The HSI looked at high-cost utilizer groups, including behavioral health, diabetes, obesity and tobacco use. For example, poorly managed diabetes cases cost between $41,000 to $45,000 in additional Medicaid dollars. Dr. Edwardson explained the methodology and the models used, choosing the most conservative numbers and statistics. The study created an "outreach effect" that allowed the HSI to alter HIE adoption rates over time. The study assumed a 50% utilization rate by the tenth year. The resulting projections indicated that the cost goes down over time across all four utilizer groups (please see handout for detailed graphs). Dr. Edwardson concluded that under the assumptions of the study, the HIE generates positive ROI after its first year, despite conservative estimates, improves health outcomes for New Mexico Medicaid enrollees and lowers the total cost of state Medicaid.

Dr. Law added that the value of HIEs is in the early stages of being understood. Paseo del Norte is based in El Paso and is a Texas-funded community-based exchange. Dr. Law shared information on the model used by Paseo del Norte and its efforts for service outreach for providers and doctors. The use of electronic health records is still lagging in El Paso, with about 40% of practices still using paper documents. Paseo del Norte is interested in servicing areas in parts of southern New Mexico, including Dona Ana and Otero counties. Dr. Law requested legislators to consider communities on the edge of the state and indicated his organization's interest in connecting to the HIE.

From discussions with providers in Las Cruces, Dr. Law stated that provider liability related to the transfer and use of data in the HIE is of concern. He advised the committee of legislation passed by the Texas House of Representatives (House Bill 2641) in 2015 that gives providers immunity while taking part in the exchange. Dr. Law briefly mentioned that a revamp of Medicare is planned for 2017, with Medicare providers receiving either a 4% rate increase or financial penalties, based on the quality of care. By 2020, the increase will be 5% and will continue to rise over time. This could mean a $162 million impact on hospitals, leading to greater reliance on electronic health records. CMS has not yet finalized this rule.

Following the presentation, the committee had the following inquiries and comments:

- different Medicare reimbursement rates, depending on the state;
- usage of research in marketing exchanges;
- the potential for the Medicaid program to benefit from the HIE;
- ongoing budgetary issues for New Mexico and the unlikelihood of state funding for the HIE;
- the number of health care practitioners not using electronic health records in Texas;
- the opt-out option for patients;
- the pros and cons of duplicative testing;
- the potential for integration of physical, behavioral health, dental and pharmacy records in the HIE; and
- the need for legislation to mandate health care providers to participate in the HIE, such as the law in place in Minnesota.

Public Comment

Richard Talley shared a letter he had sent to the secretary of health and the governor about the difficulty in getting a medical cannabis card. Mr. Talley has been trying to acquire a medical cannabis card for a family member suffering with chronic pain. According to him, it is taking 45 days to 55 days or longer for the DOH to issue cards. Because some medical conditions do not change from year to year, he does not understand why a yearly renewal is required. A member of the committee invited Mr. Talley to attend the Disabilities Concerns Subcommittee meeting being held the following week. The issue of the backlog is on the agenda, and representatives from the DOH are scheduled to be in attendance to address the issue.

Recess

The fourth day of the meeting recessed at 4:03 p.m.

Friday, July 29

The final day of the meeting was reconvened at 8:46 a.m. by Senator Ortiz y Pino. Members of the committee and staff were asked to introduce themselves.

SNAP; Human Services Program Efficiencies

Ms. Hager addressed the committee regarding what can be done to reconcile issues with SNAP. A federal court has recently appointed a special master to oversee the state's compliance with federal food programs. Unnecessary steps in the application process waste money and threaten the health of eligible families, according to Ms. Hager. She shared some examples of families affected by the problems with SNAP, which were often attributed to poor notification for eligibility renewals. Ms. Hager outlined the following "common sense" steps the HSD can take to improve accuracy and efficiency in SNAP and Medicaid.

1. Request only documents that are required by law. The HSD continues to require applicants to supply documentation that is not necessary to determine eligibility.

2. Make better use of the department's information technology systems. The HSD will request documents that are already electronically available in its system. Many states also automate renewals to eliminate paperwork.
3. Make client notices accurate and understandable.
4. Create a comprehensive, accurate online worker manual.
5. Collect and share data on enrollment and processing. Churn happens when eligible individuals lose benefits for a procedural reason. Churn creates an unnecessary increase in applications, which are more costly to the process than renewals.

Ms. Hager also listed the following procedures that the LHHS can implement now to improve the HSD's accuracy and efficiency.

1. Require data on renewal churn and track churn as a performance measure for the HSD in House Bill 2. The most direct way would be to track the share of clients up for renewal who experience an interruption in benefits but return to the program within 90 days of refiling an application.
2. Require data on the accuracy of expedited SNAP and track this information as a performance measure for the HSD in House Bill 2. According to HSD data, the rate of improper denial rose to 9.8% in 2014 from 1.8% in 2013. These data are tracked regularly, and the LHHS should request updated data sets.

Jon Courtney, program evaluator manager, LFC, detailed the timeline for special review in a memo to the LFC. Mr. Courtney summarized the financial impact of the *Hatten-Gonzales* lawsuit. The LFC estimated a General Fund financial impact from the lawsuit to be $5.4 million, with an additional $2.4 million in additional benefits and $3 million in administrative costs since 2014. The HSD has a different interpretation of overdue application rules. In a comparison with other states, New Mexico's performance is not doing great: 25% of a state's determinations nationally are inaccurate; New Mexico's error rate is 50%. New Mexico's error rates skew toward overpayment. The United States Department of Agriculture has sent the HSD a letter saying that the state may be liable to repay federal funds improperly paid. According to Mr. Courtney, there is some conflict between federal law and the court order.

Christopher Collins, general counsel, HSD, provided the committee with a summary of the federal court order and appointment of a special master. A federal magistrate has adopted the HSD's proposal to appoint a special master through January 2018, who is accountable only to the court. The special master will provide the court with objective information regarding the HSD's compliance. Mr. Collins stated that the department is committed to resolving problems with the administration of benefits, and he believes that the special master is a good step in the right direction to help bring litigation to a close. The HSD has filed a motion asking the court to lift the order prohibiting the closure of cases so the department can comply with federal law. In response to the suggestion made by Ms. Hager, Mr. Collins said that these are things the HSD has also identified and is working to address.

The committee questioned the panelists about the following aspects of the presentation:

- changes since the April meeting of the LFC;
- the appointment of the special master;
- allegations that the HSD is pursuing families to recover overpayments;
- the absence of an HSD representative, except for HSD counsel, at the committee meeting;
- clarification on the current status of the litigation and case closure;
- the process to apply for SNAP benefits;
- the number of clients in SNAP and Medicaid;
- HSD staffing issues and the failure to meet the seven-day federal requirement for emergency food assistance;
- allegations that HSD staff altered applications to disqualify applicants from eligibility for emergency food benefits and that this has been a long-term systematic practice;
- details about the HSD's "tiger team" established to address the backlog of unprocessed applications;
- electronic benefit transfer card abuse and fraud; and
- criteria for expedited SNAP eligibility.

Food and Nutrition Programs

Tony McCarty, executive director, Kitchen Angels, shared the program's background and successes. Kitchen Angels was founded in 1992 and serves northern New Mexico's most vulnerable residents, which include those under the age of 60 who are living with chronic or terminal illness; the elderly in severe medical crisis with extreme dietary requirements; and dependent children under the age of 12 of clients who are single parents. Mr. McCarty explained that the meal delivery service depends heavily on donations, grants and volunteers. Often, volunteers provide the only social interactions their clients receive. Almost 98% of clients are classified as economically disadvantaged, and the majority of the referrals to the program come from health care providers.

Stephanie Gonzales, president, Kitchen Angels, talked about some of the members of the program and the structure of the organization. Kitchen Angels only has four paid staff members who oversee the 550 volunteers in the program. The organization works closely with the community, partnering with local farms and grocery stores. Ms. Gonzales added that Kitchen Angels has partnerships with health care providers to help patients with transitions after hospitalization. It also provides special, high-calorie meals to out-of-town individuals receiving chemotherapy or radiation treatment at Santa Fe cancer centers.

Kitchen Angels has an operating budget of less than $730,000. Mr. McCarty informed the LHHS that in 24 years, it has never had a waiting list for services; however, it is seeing more and more need for services. The organization's client base has doubled since 2008. Last October, Kitchen Angels served its one millionth meal. A national organization, Feeding America, estimates overall food insecurity in northern New Mexico to be at 17.5%. Hunger is

one of the most important social determinants of health. Approximately 50% of seniors admitted to the hospital are malnourished. Food insecurity leads to non-adherence to treatment plans, behavioral health problems and higher rates of diabetes. Home-delivered meals can help reduce health care costs. Mr. McCarty added that without additional resources, the nonprofits that provide these services will be unable to continue to meet the needs of the community.

Cindy Howell, vice president of healthcare services, Molina, voiced her organization's excitement to have Kitchen Angels as one of its partners in its post-discharge meal program. Molina has begun providing nutritional meals to support Centennial Care members who are being discharged from an inpatient facility. Case managers work with the patient prior to release to determine whether there is a need for home meal delivery. Molina partners with Meals on Wheels and GA Foods in addition to Kitchen Angels. Ms. Howell described the services and characteristics of the three vendors. GA Foods is the newest partner, and it provides meals throughout the state by Fed Ex delivery, thus expanding the service area into rural parts of the state.

Catherine Sierra, manager, Transitions of Care, Molina, provided examples to the committee of how the program works, detailing the post-discharge meal referral process. Case managers are able to meet with the client at bedside and review service options with the client. They follow up with the client seven days later at the client's home to make sure that the client has been handed off to a physician and has medication and to ensure that the client's needs are being met. If a client has previously turned down food delivery service, this home visit allows the client to reconsider that decision. Ms. Sierra added that this service helps to decrease the likelihood of return to the hospital. She added that Molina can arrange for delivery to chapter houses on Native American reservations.

Members of the committee praised the presenters for their work and commitment to providing services to the homebound. In response to the presentation, the committee addressed the following topics with the panel:

- the program's overall benefit to the state in terms of cost savings and meeting the needs of vulnerable populations;
- the availability of service to both Medicare and Medicaid recipients;
- variety in meal and dietary options;
- successful training of volunteers;
- outcome data collection by Molina; and
- organizations around the country providing similar services and seeking Medicaid reimbursement.

Public Comment

Ruth Hoffman expressed concern for the high hunger rates around the state, particularly among children. Every week, more than 70,000 individuals seek assistance from food pantries and agencies; that is approximately the population of Santa Fe. Ms. Hoffman stated that the

efficient and accurate administration of SNAP is critical and is the responsibility of the state. She stated that the legislature has the responsibility to provide oversight of this program.

Bill Jordan, New Mexico Voices for Children, reminded the legislators that the state is number one in child poverty and number three in child hunger. He stated that churn in SNAP creates more work for the department and costs the state more money. He suggested that the state ought to be looking to save money in ways that do not hurt services for kids and families. In regard to the Medicaid issue from the first day of the LHHS meeting, Mr. Jordan noted that the Medicaid expansion is more than paying for itself through 2020. He stated that cutting Medicaid and losing federal funds is not helping anything, including the state's economy. According to Mr. Jordan, the state took in new revenue from the Medicaid expansion and spent it elsewhere, then cut the state's share of Medicaid by $86 million, giving up over $300 million in federal dollars. He believes the state needs to fully fund Medicaid.

Lisa Rossignol called attention to the larger issue of families with young children having programs systematically removed. New Mexico children are facing a crisis, and this is affecting their overall well-being. Health care is a civil right. Ms. Rossignol stated that there is no evidence that money has been misspent on Medicaid; the program was underfunded from the beginning.

Bill Miller, retired UNM faculty, volunteers with the homeless in Albuquerque. He works with Debbie Johnson, who founded the Tender Love Community Center. Ms. Johnson is originally from Africa and became homeless for three months. She noted that not every homeless person is suffering from addictions; sometimes it is just the person's circumstances. The Tender Love Community Center teaches individuals life skills like sewing. Currently, the program is only offering services to women because it does not have the resources to expand to men. Ms. Johnson invited the committee to learn more by visiting its facility and its website: tenderlovecommunitycenter.org.

Patty Keane, New Mexico Academy of Nutrition and Dieticians, spoke about how losing SNAP benefits impacts overall health and medical needs. SNAP impacts public health and chronic diseases through proper nutrition. Food insecurity is associated with poor health outcomes and increases the lack of adherence to medication, mental health problems and depression. Half of those hospitalized for low blood sugar lack sufficient food. Ms. Keane invited members to attend the upcoming New Mexico Hunger Summit on September 27, 2016.

Public Comment — Closure of Adolescent Treatment Center at Turquoise Lodge

Mr. Holland made the argument that the state cannot afford to close the adolescent treatment center at Turquoise Lodge. Commenting on the DOH's justification for this decision (because Turquoise Lodge has only been serving an average of five adolescents), he believes that this is tantamount to saying that these lives are an acceptable loss. Mr. Holland requested information on outreach by the state to market this program, the number of calls Turquoise Lodge received requesting services, and the procedure for admission to the center. He noted that

making the admission process difficult could discourage people from seeking help. Following his comments to the committee earlier in the week, Mr. Holland reported that he called several specialists in this area and not one of them reported receiving notification from the state about the difficulty filling beds at Turquoise Lodge. According to Mr. Holland, service providers were not given advance notice of Turquoise Lodge's closure. He stated that by closing the facility, the DOH is "cutting the legs off the system that has been created over years to provide continuity of care". If it is a matter of numbers, Mr. Holland urges, scale back but do not close Turquoise Lodge. The Endorphin Power Company has a contract with Turquoise Lodge for fitness and relapse prevention services while individuals are in treatment.

Bill Wiese, M.D., a former UNM faculty member, works in drug policy and has chaired many task forces to make recommendations on health policy. Dr. Wiese announced that opioid use is an epidemic and an emergency for the state. Dr. Wiese acknowledged the hard work of individuals like Mr. Holland who are making an incredible difference. However, he added, these successes are being overshadowed by systemic failures. According to Dr. Wiese, a survey revealed that 7.9% of school-aged kids admitted to using prescription opioids to get high within the last 30 days; another 2.8% admitted to using heroin in the last 30 days. He noted that these surveys are only of kids that are currently in school. Even so, there are thousands of kids in the state that need drug treatment services. If Turquoise Lodge could only average a census of five adolescents, that demonstrates "an outstanding example of the failure of the system". He reminded committee members that systemic changes were required to address the AIDS epidemic and that addressing the AIDS epidemic was not only a matter of money, but also of leadership.

John Dantis, a retiree with a background in social work and public safety, posited that changes need to be made to address root causes of teen drug abuse. He talked about the incredible work of a local adolescent recovery center. Mr. Dantis believes there needs to be a shift in priorities and funding and an examination of how much is being spent on local adult criminal justice programs, APD and the court systems. Altogether, over $400 million is being spent locally on these agencies. Instead of increasing the number of beds at the metropolitan jail, he suggested that investment should be made to expand services at treatment facilities. The closure at Turquoise Lodge "is a travesty to adolescents and families in the state". After two years of operating the adolescent program at Turquoise Lodge, he stated that the DOH needs to look at its business plan, not just close it. Mr. Dantis offered to provide whatever help is needed. He added that without question, the increase in carjackings in Albuquerque is related to the opioid crisis.

Laura Hurd, social services coordinator, shared her experience with Turquoise Lodge over the last year and a half. She challenged the DOH's claim that beds were going unfilled. She stated that she has worked with kids whose parents injected them with heroin as a "rite of passage". Ms. Hurd stated that if these teens have nowhere to go and end up dying, the state needs to take responsibility for their deaths.

Ms. Weiss-Burke believes that the state and Turquoise Lodge could have done better outreach to fill those beds. She also called all of the providers of services on the list that the DOH provided to the committee for resources that could be accessed in lieu of Turquoise Lodge. She noted that these are IOP services and do not provide the same services that Turquoise Lodge offered. Two of the locations on the list — the location in Raton and Agave Health — are closed. Another location, Desert Hills, just discontinued its IOP services in June. Ms. Weiss-Burke found two places that will provide services on a case-by-case basis for adolescents: Mesilla Valley in Las Cruces and The Peak in southern New Mexico. The Peak only deals with severe mental health issues, but typically it refers individuals to Turquoise Lodge.

David Burke, director of programming, Serenity Mesa, talked about the difficulty in getting patients admitted to Turquoise Lodge. Serenity Mesa sends representatives to Turquoise Lodge to tell individuals about services and to have them come tour the facilities. Mr. Burke said Serenity Mesa has a waiting list for young men seeking help. He is unsure why Turquoise Lodge is having trouble filling beds. He feels it could fill all 20 beds, but even filling one is worth it. Serenity Mesa cannot accept anyone who needs detox, and now it has nowhere to refer people. Sending kids to the UNMH to detox is not an option.

Donald Hume is a person in long-term recovery. He expressed his disappointment with the closure of the adolescent unit. Mr. Hume works with young people every day through the Espanola program Inside Out. He witnesses the need for treatment on a daily basis and said there needs to be a continuum of care. Mr. Hume stressed the importance of removing young people from their environment and providing them with a safe place to detox.

Mary Salazar, private citizen, worked at Milagro, a residential program for pregnant women. Ms. Salazar shared her experience with her daughter's heroin addiction and the difficulty she experienced trying to get her help. Apart from treatment being the humane way to deal with adolescents, she reminded the committee that drug addiction affects everyone. She cautioned that drug addiction does not discriminate and affects people from all walks of life. There needs to be better marketing for services and outreach so members of the public know where to turn for help.

Laurie Magee lost her son to a heroin overdose. Her son took pills from her cancer treatment and got addicted, but heroin was cheaper. She was desperate to get him help and found Turquoise Lodge. She told the committee that any day that you can have a child alive and safe is a blessing as a parent. Ms. Magee stated that she cannot imagine not having this as an option for parents. She pleaded for Turquoise Lodge to remain open to give that opportunity to those children and parents.

Anne Romero, mental health advocate, lost a close friend to suicide, which led to her involvement in this area. She said that people have become so complacent with the status quo that they have forgotten about doing the right thing. The closing of Turquoise Lodge suggests that these children have become disposable people. Ms. Romero cited examples of young people

suffering and dying every day, and said, "We can do better as a state". She reminded the committee that this is about people and that it is everyone's responsibility to do better.

Chelsie McGuire, ViewPoint Rehabilitation Center, informed the committee that she had personally referred three mothers to Turquoise Lodge for services. All three of them called her back informing her that they could not get a bed for their children. The reason they were turned away is unclear to Ms. McGuire. The mothers were unable to find help elsewhere. She stressed the importance of getting individuals, particularly adolescents, help when they are willing. There are kids out there who want help but she has nowhere to refer them. She encouraged accountability in this matter.

Motion 2

Following the public testimony, a motion was made for a letter to be sent on behalf of the committee requesting the DOH to reconsider, or at least delay, the closure of the adolescent treatment center at Turquoise Lodge. It was suggested that the letter include information the LHHS has gathered from recent presentations and public testimony, survey numbers provided by Dr. Wiese, lack of medically assisted detox options, delays in the processing of applications, IOP as an insufficient option for detox needs, request for information on how the center receives referrals and issues with the services of the other locations provided in the announcement of closure. The motion was seconded and passed without objection.

Adjournment

There being no further business before the committee, the third meeting of the LHHS adjourned at 1:35 p.m.