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

September 26, 2018
Burrell College of Osteopathic Medicine
3501 Arrowhead Drive, Room 152
Las Cruces

September 27-28, 2018
New Mexico State University
Fulton Athletics Center
1815 Wells Street
Las Cruces

The fifth meeting of the Legislative Health and Human Services Committee (LHHS) was called to order by Senator Gerald Ortiz y Pino, vice chair, on September 26, 2018 at 9:15 a.m. in Room 152 of the Burrell College of Osteopathic Medicine (BCOM) in Las Cruces.

Present
Sen. Gerald Ortiz y Pino, Vice Chair
Rep. Gail Armstrong (9/27, 9/28)
Rep. Elizabeth "Liz" Thomson

Absent
Rep. Deborah A. Armstrong, Chair
Rep. Rebecca Dow
Sen. Mark Moores
Sen. Bill B. O'Neill
Sen. Cliff R. Pirtle

Advisory Members
Rep. Joanne J. Ferrary
Sen. Cisco McSorley (9/28)
Sen. Mary Kay Papen
Sen. Nancy Rodriguez (9/28)
Rep. Patricia Roybal Caballero
Sen. William P. Soules (9/26, 9/28)
Sen. Elizabeth "Liz" Stefanics
Sen. Bill Tallman (9/26, 9/27)

Rep. Miguel P. Garcia
Sen. Gay G. Kernan
Rep. Tim D. Lewis
Sen. Linda M. Lopez
Rep. Rodolpho "Rudy" S. Martinez
Sen. Howie C. Morales
Rep. Angelica Rubio
Rep. Nick L. Salazar
Rep. Gregg Schmedes
Rep. Christine Trujillo

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

Staff
Michael Hely, Staff Attorney, Legislative Council Service (LCS)
Christopher Pommier, Bill Drafter, LCS

Guests

The guest list is in the meeting file.

Handouts

Handouts and other written testimony are in the meeting file.

Wednesday, September 26

Welcome and Introductions

Committee members and staff introduced themselves. The committee convened as a subcommittee. The September 26 portion of the meeting was broadcast online and is available at https://www.youtube.com/watch?v=rvb1QJGrF-Q.

Welcome to BCOM

John Hummer, Ph.D., executive director and president, BCOM, welcomed the committee. Dr. Hummer updated the committee on what is happening in and around the BCOM. Medical education in the southern part of New Mexico was discussed as well as collaboration within and outside the state. Dr. Hummer emphasized the BCOM mission and that underrepresented minority students comprise 27% of students in class. Dr. Hummer said that the BCOM is ranked first among college members of the American Association of Colleges of Osteopathic Medicine and is in the top five in the nation for the number of underrepresented minority students it educates. Dr. Hummer said that BCOM's fourth class will start in August 2019 and that the BCOM is increasing opportunities for individuals in its service area.

Dr. Hummer said that the BCOM will have contributed $5.8 million in gross receipts taxes to New Mexico since it opened. He projected that the BCOM would pay up to $2.5 million per year if the BCOM does not grow. The BCOM currently employs 94 full-time employees with $9.9 million in payroll. The BCOM's average salary is $106,000.

Dr. Hummer discussed the BCOM's charity and community work. He predicts that the BCOM will provide $1.6 million in scholarships by the end of next year. He targeted $500,000 per year for the New Mexico State University (NMSU) Foundation. The BCOM offers free Medical College Admission Test (MCAT) preparation courses and free American College Testing (ACT) preparation courses. The BCOM also offers regular community health fairs. Dr. Hummer said that the BCOM does all this and still manages to keep tuition below the national median for private, nonprofit osteopathic medical schools.

Committee members made comments and asked questions about the following topics.

- How does the BCOM get so many residencies? Dr. Hummer reported that the BCOM expects to place its students in about 100 residencies. Funding only nine residencies in Albuquerque costs nearly $1 million. While Medicare-funded residencies are capped, Dr. Hummer explained, that cap does not prevent new programs from starting

new residencies. After five years, a new program will get capped. The BCOM facilitates residencies at hospitals and shows the benefits, Mr. Hummer said, but it is up to the hospitals to grow the residencies. Also, Medicaid is now going to fund indirect expenses to Memorial Medical Center and Mountain View Regional Medical Center, both in Las Cruces. There are 22 BCOM students in Tucson, Arizona, and the BCOM is working with Northwest Medical Center in Tucson to start emergency residencies. There are also elective rotations in Juarez, Mexico.

- There was discussion about the possibility of a dental school. Dr. Hummer said that a dental school is a very expensive endeavor. There is a dental school starting in El Paso, Texas, so he recommended waiting to see how that comes along.
- Future programs could include a physician's assistant degree and a master's degree in biomedical science.
- A higher proportion of doctors of osteopathy, as opposed to medical doctors, enter into primary care, public health, Indian health and the military.
- There was discussion about the capacity of the MCAT and ACT preparation programs.

Health Information Interoperability

Thomas D. East, Ph.D., chief executive officer (CEO) and chief information officer, New Mexico Health Information Collaborative (NMHIC), and Timothy Washburn, R.N., B.S.N., M.B.A.-H.M., senior director of outreach systems, Memorial Medical Center, addressed the committee about health information interoperability. Dr. East presented each legislator with a handout that shows health encounters in each district by zip code, age, gender and which facilities were utilized. Dr. East said that these reports are examples of what can be done with health information. Dr. East then went through his slide presentation, explaining that the NMHIC exchanges information and creates longitudinal records. Providers can see patients' histories, and the NMHIC is beginning to offer analysis. Dr. East discussed successes with poison control cases. He said that having access to the NMHIC makes for more efficient and effective responses, and he presented additional examples.

Dr. East said that the NMHIC does not receive an entire medical record. It asks providers to send a transition-of-care record or a core data set. (See page 12 of the handout for a list of data providers and data elements.) Some organizations provide better data sets than others. Dr. East asked that legislators create some way to encourage organizations to provide recommended data sets to the Office of the National Coordinator for Health Information Technology of the U.S. Department of Health and Human Services.

Dr. East asked for funding. New Mexico is one of only four states that have not taken advantage of a 90:10 federal funding match that is only available until 2021, Dr. East said. The Human Services Department (HSD) is responsible for the federal application via Medicaid. The NMHIC proposes to use the federal dollars to get the rest of the state connected and sharing information, including with neighboring states; to upgrade the software platform; to coordinate care statewide; to analyze population health; and to coordinate community medical reconciliation

wherein the whole community can confirm the best and latest prescriptions. For example, Washington, D.C., used the federal funds to create a homeless registry with information about what is important to that population. Also, the funds could be used to manage the creation and use of advance directives. The NMHIC is already working with the Department of Health (DOH) to use the department's platform to notify providers if a patient has a particular antibiotic-resistant organism. There was discussion of an all-payer claims database. Dr. East reiterated the desire for legislation to require data-sharing with the NMHIC. He pointed out that North Carolina has laws requiring providers to share data as a condition of receiving Medicaid reimbursements. Dr. East also requested $1 million in recurring funding.

Mr. Washburn gave a provider's perspective by going through his slide presentation. He discussed issues of siloed information, pointing out that providers do not need more data, but they do need to know what to do with it. He asked that any solution be simple and easy to use. It is more effective to have a single portal than having to enter the same information on four different websites or portals. Mr. Washburn said that doctors will not pursue data contractors to get information into a system.

Committee members made comments and asked questions about the following topics.

- Is there any case law connecting data usage to the standard of care in medical malpractice cases? While there are medical malpractice cases regarding breakdowns of communication, no known cases exist regarding standards of care for an information exchange.
- There was discussion of an all-payer claims database. Medical records can shed light on claims information, so clinical information must be linked to claims data.
- Is $1 million is enough to finish deployment of the NMHIC? The overall cost will be $5 million to $7 million, depending on how much vendors will charge. Mr. Washburn said that New Mexico has not applied for the 90:10 federal matching funds because budgets are tight and the state's 10% share has been hard to raise. There is willingness in the HSD and Medicaid, but the HSD must decide between patient care versus the NMHIC in terms of finances.
- The NMHIC should become sustainable through subscriptions. More extensive use means more demand. Joie Glenn, member, NMHIC board of directors, spoke about Senate Bill 145 (2018), which attempted to create a health information interoperability fund but was pocket vetoed in 2018. Members suggested that the best way to get the bill through is with the Legislative Finance Committee (LFC). The NMHIC should get any proposed bill before the LFC when the LFC finalizes budget requests. Ms. Glenn said that is the plan going forward.
- Dr. Dale Alverson, chief medical informatics officer, NMHIC, discussed difficulties with continuity and quality of care. People see 28 different doctors by the time they are 65, he said. Tests get repeated, which drives up costs.
- There was discussion of digital health care cards with bar codes that would contain all of a patient's health information.

- There was discussion of privacy issues and how the NMHIC handles that.
- There was further discussion of the necessity of having one simple system.
- There was discussion of the difficulty providers have in sharing information. Legislation to mandate participation has been shot down quickly. Mr. Washburn criticized such legislation as presenting an unfunded mandate. He said that with the 90:10 match, the state may not need proscriptive legislation yet. The most logical way to get buy-in is to help businesses understand that the cost barrier is disappearing. Get rid of the barrier to connection first so that the legislature can avoid considering an unfunded mandate.
- Managed care organization (MCO) representatives James Ross, vice president of legislative and government affairs, Western Sky Community Care, and Marla Shoats, lobbyist, Blue Cross Blue Shield New Mexico, expressed support for transparency and quality care for New Mexico residents.

Public Comment

Carol and Timothy Kane of Las Cruces represented Oxford Houses, which are addiction-recovery homes. They addressed the committee about plans to create men's and women's houses in Las Cruces. There was discussion of community support and fundraising efforts. They said that the organization does not have anyone on staff to monitor the residents, and it only has one outreach worker for the whole state. The outreach worker resides in Albuquerque. Oxford Houses has a state contract with Dr. Wayne Lindstrom, director, Behavioral Health Services Division, HSD. There is a need for three outreach workers, which would cost $80,000 per year, including benefits. Each worker could set up two to three houses every year.

Caroline Zamora, public relations coordinator, Aprendamos Intervention Team, addressed the committee about early intervention services in Dona Ana County. Aprendamos Intervention Team is the largest provider in the state. It needs more physical therapists and occupational therapists in the Las Cruces area. There are currently 80 children on the autism wait list. It takes one to two years to get an autism diagnosis. An early childhood intervention program is needed in the Las Cruces area to evaluate children for autism. Ms. Zamora said that there are problems finding board-certified behavioral analysts (BCBAs). Aprendamos uses telehealth to find BCBAs from other states. It is an access challenge.

Senator Papen said that NMSU is going to test for autism. She said that facilities like Aprendamos Intervention Team cannot get paid for the services they provide. There are organizations waiting six months for $200,000 in reimbursements. That could kill an organization, she said.

Dick Mason addressed the committee on behalf of Health Action New Mexico (HANM) in support of the creation of a health care value and access commission.

Stacy Blazer-Clark from La Pinon, a sexual assault response agency with a crisis center and child advocacy center, addressed the committee about conducting forensic interviews with

children who have been abused. When La Pinon opened in 2015, it had 350 cases. Last year, it had 900 cases. La Pinon works collaboratively with the Children, Youth and Families Department (CYFD) and local law enforcement. The interviews are recorded. Advocates and case managers meet with non-offending family members. Ms. Blazer-Clark discussed services and requested funding because the organization lost some funding last year. She asked legislators to visit the centers to learn what is being done there so that when funding opportunities do arise, they will think of La Pinon. La Pinon serves clients all the way to the Arizona border, as well as in the City of Deming and in Luna, Hidalgo and Grant counties.

Health Care Value and Access Commission

Nandini Kuehn, Ph.D., director, Health Services Consulting, and R. Philip Eaton, M.D., emeritus vice president for health sciences, University of New Mexico Health Sciences Center, addressed the committee regarding recommendations for creating a New Mexico Health Care Value and Access Commission to measure, monitor and report on ways to improve the value of, and access to, health care. Dr. Kuehn discussed the history of the task force that was organized to study the creation of such a commission to monitor the state's health system components. Dr. Kuehn discussed rising health care costs and the lack of good analytical health care data.

Dr. Eaton discussed the multidimensional nature of health care and the difficulty of coordinating all the moving parts of public health, service delivery and coverage. He discussed structural fragmentation and the critical need for effective primary care, prevention and community-based care. He explained that an oversight commission would manage New Mexico's health care system as it changes from a "more is better" mindset to a "value is better" mindset. A commission would examine all options available to a health care system and make recommendations for creating and maintaining a value-based health care system in which value and access are defined and measured regularly.

Dr. Kuehn identified current roadblocks to a more effective health care system, including the lack of analytical or storage capacity to collect, accumulate and analyze data and model forecasts; policy options; the lack of capacity to research and develop long-term solutions or assess innovative practices; the lack of coordination of payment reform, such as paying for value, in the current health care system; and the lack of policies to optimize coordination of state services.

Dr. Kuehn identified other states with similar oversight commissions. She said that Maryland's cost for health care is 16% below the average of five other states. Massachusetts has estimated a savings of $5.9 billion attributed to its commission. Pennsylvania has reduced infections and deaths in hospitals. Vermont's Green Mountain Care board consolidated health decision making under one board to set private and public hospital budgets and to oversee health care delivery system reform.

Dr. Kuehn proposed a structure for New Mexico that would include an independent entity with a nine-member commission reflecting geographic diversity and the skill sets required to

provide unbiased analyses. The commission would have the authority to receive de-identified, comprehensive utilization data and to levy assessments from providers and payers to become self-funding. Dr. Kuehn said that to recommend changes, the commission would identify cost drivers and payment outliers; variations in utilization; opportunities for payment reform; rural and urban issues; and socioeconomic drivers of health care costs. The proposed commission would also monitor implementation of its recommendations and assess the impact of federal policy on the state.

Committee members made comments and asked questions about the following topics.

- Starting small, with incremental changes to Medicaid was discussed.
- The history and current status of the New Mexico Health Policy Commission was discussed. The commission has been de-funded, but statutes could be rewritten to incorporate the task force's recommendations. Staff support for a volunteer and ex-officio commission would be critical. It would be important not to overburden staff.
- Committee members recommended that the task force start a conversation with the NMHIC.
- The Office of Superintendent of Insurance (OSI) requested comments from insurance companies. The OSI is starting to get some comments.
- Enforcement authority was discussed.
- The task force's recommendations from the point of view of employers and insurance companies was discussed.

Quorum and Minutes

Senator Papen appointed Senators Stefanics, Soules and Tallman as voting members of the LHHS for the duration of the meeting. A quorum was established. Senator Stefanics moved to approve the minutes of the August 6-9, 2018 and August 22-24, 2018 meetings. Representative Thomson seconded the motion. The motion passed without objection.

Surprise Billing

Paige Duhamel, Esq., health care policy manager, OSI, and Mark Epstein, M.D., chief medical officer, True Health New Mexico, addressed the committee regarding surprise-billing issues. Ms. Duhamel said that 36% of New Mexicans who had surgery and 35% of New Mexicans who visited emergency departments received surprise medical bills; nationally, 57% of patients have received surprise medical bills, according to Ms. Duhamel's handout. The OSI has no authority over providers' invoicing under current law. There is a proposal to require insurers to hold harmless those patients who require out-of-network non-emergency care. Often, surprise billing appears when the patient has no ability to choose the patient's provider. For example, a patient may be in an in-network hospital, but the laboratory or anaesthesiologist may be out of network, giving rise to an out-of-network cost passed on to the patient. Ms. Duhamel discussed draft legislation and consensus-building between providers, payers, hospitals and the state. She identified benchmark reimbursement rates as a sticking point among stakeholders and explained the different concerns. She said that a benchmark set at the highest end of the eightieth

percentile is a windfall for insurers. The discussion also included the use and cost of air ambulance services.

Dr. Epstein addressed the committee as a representative of patients. In that role, he said that it is imperative to take the patient out of the equation. He also gave his input on air ambulances and discussed the difficulty of addressing surprise-billing issues when payers and providers act in a monopolistic way. Dr. Epstein said that there is a big difference between billed charges and allowed charges. Allowed charges are reflected in market value, and providers and payers agree on payments by contract. To address any outliers, he recommended using empirical data that reflects the market. Dr. Epstein said that setting a benchmark for reimbursements too low is bad for providers, but setting one too high leads to inflation. Dr. Epstein said that surprise billing causes bankruptcies to patients, and those bills should be shifted to the payer and provider.

Committee members made comments and asked questions about the following topics.

- Is there any rhyme or reason to billing in health care? The OSI does not have the data. Nobody knows how charges are determined in health care.
- Websites and whether they are making a difference in health care costs were discussed. Ms. Duhamel said that patients do not know how to use the websites or where to find them.
- Air ambulance charges, national lawsuits related to air ambulance regulations, the extent to which the Federal Aviation Administration regulates air ambulances and the possibility of creating a public air ambulance service were discussed.
- Medicare supplement plans were briefly discussed.
- Depending on compromises on the benchmark reimbursement rate and other issues, there is draft legislation nearly ready for endorsement.
- A direct prohibition of surprise billing was considered and discussed. The OSI does not have authority over providers, but new legislation could give the OSI authority to enforce a prohibition through trade practice and fraud provisions in statute.

Recess

The meeting recessed at 4:15 p.m.

Thursday, September 27

Reconvene

Senator Ortiz y Pino reconvened the meeting at 9:15 a.m. Members introduced themselves.

Welcome and Introductions: Transforming NMSU

John Floros, Ph.D., president, NMSU, welcomed the committee and outlined a long list of programs and projects that pertain to health and human services with which NMSU is

involved. Alexa Doig, Ph.D., R.N., director, School of Nursing, NMSU, and Ajit Karna, assistant professor, Department of Public Health Sciences, NMSU addressed the committee regarding their areas of expertise.

Dr. Doig presented her slides. She said that nursing contributes to health care transformation throughout the state. Dr. Doig highlighted that NMSU has been graduating registered nurses for over 25 years. On average, approximately 75% of NMSU graduates stay in New Mexico. NMSU heavily recruits in New Mexico, and approximately 75% of its students come from minority or underrepresented backgrounds. Dr. Doig discussed programs to enhance recruitment. NMSU is part of a nursing education consortium that seamlessly feeds into the NMSU program. NMSU works with all major health care organizations to facilitate recruitment of NMSU graduates. Dr. Doig said that the national entry degree for nursing is a bachelor's degree. Dr. Doig discussed the severe shortages of primary and behavioral health care providers, the nurse practitioner programs, the doctoral programs and training requirements.

Mr. Karna presented his slides and discussed the process he pioneered to reduce the time and cost of processing mosquitos for researching public health issues such as pathogens. Every five minutes, seven people die of a mosquito-borne illness, he said. NMSU's Arrowhead Center has been instrumental in growing his business and addressing this public health issue.

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

- Mr. Karna's mosquito trap and his processes;
- funding for nursing programs and factors that limit graduating more nurses, such as a lack of qualified faculty members;
- a speech and hearing clinic;
- the history of doctorates of nursing and nationwide trends; and
- the nursing shortage in Dona Ana County and the importance of understanding the cultural connections between Las Cruces, El Paso and the borderlands area.

Public Comment

A Mr. Hamilton addressed the committee. He said that he is 73 years old. He suffered a severe case of sepsis. He thanked nurses. He was diagnosed eight years ago with Parkinson's disease, including tremors and cognitive impairment. Mr. Hamilton said that a good disease registry must be inclusive of people with neurodegenerative diseases and young people with autism. He asked the committee to carry a message to the state that New Mexico needs a comprehensive registry for neurological diseases.

Market Stability Task Force: Individual Responsibility and Premium Down Payment Option

Stan Dorn, senior fellow, Families USA, and Cheryl Gardner, CEO, New Mexico Health Insurance Exchange (NMHIX) addressed the committee regarding health care market stability and the premium down payment option. Mr. Dorn said that the federal government is allowing

states to build on, and even exceed, federal Patient Protection and Affordable Care Act (PPACA) protections for consumers and how the individual mandate can be used by states. He discussed Maryland's proposed legislation to create an individual mandate that is a more realistic assessment of what low-income households can truly afford. The proposal would exempt everyone with incomes below the Medicaid threshold of 138% of the federal poverty level (FPL). It would exempt additional low-wage workers who cannot afford insurance but are subject to penalty under the PPACA. It would also use state income tax filing as an opportunity to enroll the uninsured into coverage.

Mr. Dorn discussed the benefits of using tax filings to find eligible uninsured people. Those who owe a penalty for being uninsured the prior year can turn their penalty into a down payment to help buy insurance. To address the expense of administering such a down payment program and to lower premiums, Mr. Dorn recommended getting more young and healthy people enrolled first. Also, he recommended bringing in federal dollars through premium tax credits and other programs. Further, Mr. Dorn discussed increasing enrollment for premium tax credits to put New Mexico in a better position for a waiver. He recommended increasing federal spending in New Mexico now to serve as a baseline against which the federal government will determine future funding.

Ms. Gardner addressed the committee regarding the decision of the NMHIX to transition from a hybrid state-administered exchange using a federal platform to an entirely state-run marketplace that uses its own proprietary intellectual property platform. Ms. Gardner discussed the challenges of using the federal platform, including the increased fees that the federal government charges. She presented slides about rising costs and a lack of control over the web portal. The NMHIX will begin to transition to a state-run marketplace in a week, with a launch in 2020. She said it will cost only 20% of the costs of the first launch. The NMHIX board of directors approved a budget of $116 million to make the transition.

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

- funding and the PPACA requirement that insurers pass on any exchange costs to all insured individuals, not just those on the exchange;
- other health care proposals, such as the Medicaid buy-in option; and
- undocumented immigrants and engaging colonias in designing health care policy. Listening sessions are being set up. Committee members asked that HANM and the New Mexico Center on Law and Poverty work together on statutory language to follow Mr. Dorn's recommendations.

Public Comment

Maria Stewart, founder, Stroke Emergency Trauma Help (SETH), addressed the committee regarding the loss of her son to stroke due to the lack of ambulances fitted specifically for stroke sufferers. The focus of SETH is to advance education and training to prepare first responders and school staff to recognize stroke symptoms and immediately follow best practices

for treating a stroke. Through this effort, SETH members hope to procure a mobile stroke unit, which is an ambulance fully equipped to begin treating a stroke victim upon arrival on the scene and giving the victim the best possible chance of survival.

Shelly Nichols-Shaw addressed the committee regarding frustrations with the lack of enforcement of federal Americans with Disabilities Act of 1990 (ADA) requirements in Las Cruces and elsewhere. She outlined several issues that she alleges violate the ADA, but no agency or department appears to have authority to enforce the ADA. Committee members suggested asking staff to research the issue and asking the new governor to increase enforcement authority in executive agencies.

Health Insurance: Federal Trends and State Authority

Ms. Duhamel and Colin Baillio, director of policy and communications, HANM, addressed the committee regarding the history and current trends regarding the PPACA at the federal level, the issues this presents for New Mexico and the actions that the state may take to address these issues. Ms. Duhamel said that the PPACA reformed the market to protect people with preexisting conditions. Broadly, PPACA consumer protections include nondiscrimination provisions requiring insurers to sell health plans to any applicant, prohibiting charging more based on health status or gender, 10 essential health benefits, requiring all qualified health plans to cover essential health benefits, the prohibition against annual or lifetime limits, prohibiting health plans from imposing dollar limits on any of the essential health benefits, and free preventive services.

Ms. Duhamel explained the federal trends that impact the PPACA consumer protections and that could impact New Mexicans. She discussed the repeal of the PPACA's individual mandate, the expansion of substandard insurance and lawsuits against preexisting conditions protections. Ms. Duhamel explained that the repeal of the individual mandate could cause uninsured rates and marketplace premiums to increase. The expansion of substandard insurance could also increase marketplace premiums and enrollment in coverage that does not offer access to care or financial protection for insureds. Lawsuits could end protections for people with preexisting conditions and could cause various other parts of the law to be lost.

Ms. Duhamel explained how splitting the market by moving healthy younger people into their own insurance pool causes the premiums paid by older and sicker people to increase. She discussed the problems with short-term plans, association health plans and multiple-employer welfare arrangements. Ms. Duhamel and Mr. Baillio recommended that New Mexico adopt the following protections: (1) a new version of the PPACA individual responsibility rule that prioritizes enrollment in health coverage, similar to the "insurance down payment" model; (2) common sense rules on substandard insurance; (3) the PPACA's consumer protections against lawsuits threatening to reinstate coverage denials for preexisting conditions; and (4) boosting enrollment so up to 50,000 uninsured New Mexicans could be eligible for free gold or bronze plans.

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

- cooperation among industry, government and advocacy communities;
- what needs to be done at the state level to protect, maintain and expand New Mexicans' health care options;
- the Employee Retirement Income Security Act of 1974;
- what other states have done regarding short-term plans, such as banning them outright; and
- the need for more outreach and education to show that many people could sign up for free insurance.

Recess

The meeting recessed at 3:30 p.m.

Friday, September 28

Welcome and Introductions

Senator Ortiz y Pino reconvened the meeting at 9:15 a.m. Members and staff introduced themselves.

Medicaid Buy-In Report: Phase One Discussion

Patricia M. Boozang, senior managing director, Manatt Health, and Chiquita Brooks-LaSure, managing director, Manatt Health, addressed the committee regarding phase one of the Medicaid buy-in option for New Mexico. Ms. Boozang and Ms. Brooks-LaSure presented slides on different models of Medicaid buy-in options. Phase two of the report will be a quantitative analysis of these models as they relate to New Mexico. A Medicaid buy-in does not extend Medicaid to new people; that would be a Medicaid expansion. Instead, it is intended to leverage the existing Medicaid system. Ms. Boozang identified three high-priority goals: (1) increasing coverage to reduce the uninsured rate; (2) increasing affordability; and (3) simplifying enrollment — and the system generally. Ms. Boozang said that the Medicaid buy-in is part of a broader strategy to address these issues.

Ms. Brooks-LaSure discussed the basic Medicaid buy-in models under consideration. Under a targeted Medicaid buy-in, the state would offer Medicaid-like coverage that would be off the marketplace to those not eligible for Medicaid, Medicare or subsidized marketplace coverage. New Mexico could subsidize coverage for those who need financial assistance. The state could do this without federal approval and without leveraging federal dollars.

Under a qualified health plan (QHP) public option, the state would offer a lower-cost product on the marketplace to individuals and small employers, likely in partnership with an existing insurer. New Mexico could capture potential savings under a waiver to further increase affordability. A QHP could capture savings and apply those savings to other areas. This plan would be offered as part of the marketplace and would meet marketplace requirements. While

there is potential for federal funding, the state would have to function like an insurance company in evaluating risk. Starting a QHP would require a Section 1332 waiver, so it would depend on federal approval.

A basic health program (BHP) option would be separate from the market-based risk pool. It would cover individuals with incomes below 200% of the FPL who are not Medicaid-eligible, including people who would be Medicaid-eligible but for their immigration status. Over time, New Mexico could expand the BHP option through another buy-in model. Currently, more than half of individuals in the marketplace are under 200% of the FPL, so that would move a lot of people out of the marketplace risk pool. However, Ms. Brooks-LaSure said, the BHP option could be an interim step before a full Medicaid buy-in model is established. There was some discussion of undocumented immigrants.

Under a Medicaid buy-in-for-all option, which would require a federal 1332 waiver, New Mexico could offer Medicaid coverage to everyone, except individuals covered by Medicare. This buy-in would be offered as a lower-cost option that would be off the marketplace. Individuals eligible for subsidies could apply their subsidies to the cost of coverage.

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

- piecemeal options for adopting parts of each model;
- committee members would like to schedule a meeting after the interim session to present these issues and options to the entire legislature. Ms. Boozang and Ms. Brooks-LaSure said that Manatt Health could get the qualitative data and recommendations for phase two to the committee by December 2018;
- other options, such as down payments and reinsurance;
- clarification that these options are not Medicaid expansions and not Medicaid reforms generating federal dollars;
- the state's authority and flexibility to set reimbursement rates;
- the proposed Health Security Act that will be introduced in the upcoming 2019 legislative session. The next phase of the Manatt Health report will include all reforms that increase affordability and simplification;
- network adequacy and health equity. The OSI has a mandate to ensure network adequacy; and
- that requirements for a BHP option are under Section 1331 of the PPACA.

Public Comment

Families testified in support of the Medicaid buy-in concept and affordable health care for all New Mexicans. Maria Burciaga addressed the committee in support of access and affordability.

Dominic Cappello, co-author of *Anna, Age Eight: The Data-Driven Prevention of Childhood Trauma and Maltreatment*, discussed his book, authored with Dr. Katherine Ortega

Courtney, and their findings. Mr. Cappello and Dr. Courtney are scheduled to present to the committee in October. However, Mr. Cappello was in town while the committee was meeting and was available to make a short presentation. Mr. Cappello discussed adverse childhood events (ACEs). He urged New Mexico to start using data and urged agencies to think collaboratively about child abuse. He recommended changing the risk factor portion of the school funding formula. Currently, it is based on geography. New Mexico might include ACEs scores in that formula — perhaps the ACEs score in a particular district.

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

- restructuring the CYFD;
- family, infant and toddler services;
- requiring ACEs scoring in various agencies within the state system;
- the economic cost to New Mexico of child abuse and other ACEs. Mr. Cappello agreed to work with Dr. Courtney to get those numbers; and
- the creation of a data-driven children's cabinet and empowering and requiring all agencies that deal with children to communicate constantly.

Jim Jackson, Disability Rights New Mexico, discussed a lawsuit filed on behalf of children with multiple-ACEs scores in the foster system. He also addressed the committee regarding disability-related issues upcoming in the 2019 session, including building PPACA protections into state law, using new funds to meet the needs of those currently on the developmental disabilities waiver waiting list and finding ways to supplement the funding formula to earmark extra funds for children in special education and to address the lack of accounting in use of those funds. There is currently no requirement to track money earmarked for special education.

LFC Health Notes: Cost, Use and Effectiveness of Inpatient Behavioral Health Services for Adults

Jenny Felmley, Ph.D., program evaluator, LFC, addressed the committee regarding the cost, use and effectiveness of inpatient behavioral health services for adults. Dr. Felmley reviewed her handout, noting that only 23% of behavioral health spending is from Medicaid; the majority is from the General Fund. Dr. Felmley said that Centennial Care 2.0 promises expanded behavioral health services. She discussed institutions of mental disease (IMDs) in New Mexico. An IMD is a hospital, nursing home or other residential treatment facility with the primary purpose of treating individuals with mental diseases, though it may also offer medical and nursing care. New Mexico's four private psychiatric hospitals and three DOH behavioral health facilities are IMDs. Dr. Felmley discussed the number of operational hospital psychiatric and mental health beds in New Mexico. She speculated that hospitals cannot bill for diagnosis related group (DRG) codes on the same day as behavior health codes. DRG codes offer higher reimbursement rates to providers, so hospitals choose to bill under DRG codes. The LFC cannot capture that information if it is not being coded and billed. Dr. Felmley noted that general and

acute care hospitals are not billing for, or receiving, Medicaid reimbursements commensurate with their share of the market.

Dr. Felmley discouraged the committee from building a behavioral health institution in southern New Mexico. The New Mexico Behavioral Health Institute at Las Vegas is currently the only state-owned and state-operated psychiatric hospital in New Mexico. According to Dr. Felmley, the current need for civil commitment services in the southern part of the state is clear, but the need for a new state-run psychiatric hospital is less so. Dr. Felmley outlined several reasons for this: (1) the patient base is not there; (2) there are substantial construction costs; (3) there would be high operating costs; (4) there is a short supply of mental health professionals; and (5) inpatient services can be avoided by enhancing outpatient services and other services further upstream, like community-based wraparound services. According to Dr. Felmley, hospital administrators believe they have a strong case for the benefits of continuity of care, and they think patients would have better outcomes if they were allowed to remain in the community.

Dr. Felmley explained that there are still obstacles to Centennial Care 2.0. The federal Centers for Medicare and Medicaid Services (CMS) has not yet approved Centennial Care 2.0 and has asked for a complete rewrite. The CMS likely will not fund room and board for Medicaid recipients. The HSD is still in the process of reviewing draft rules to govern new services and providers, as well as the policy manual to accompany them. In short, according to Dr. Felmley, Centennial Care 2.0 has lots of promise, but there will be lag time between implementation and when services may become available to New Mexicans.

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

- mental health parity;
- the time it takes to stabilize a person in acute need, the number of available beds and the wait times;
- of the difference in services available in the northern part of the state (beds) and the southern part of the state (residential treatment centers);
- medically assisted treatment at state-run hospitals; and
- bad data — the encounter data that comes through the Medicaid system is far lower than the MCO financial data. Senator Ortiz y Pino expressed distrust for expenditure reports coming from MCOs and there was further discussion of the need for transparency and cooperation from MCOs.

Oral Health Focus 2020: Pursuing New Opportunities in Dental Education, Economics and Workforce

Tom Schripsema, D.D.S., executive director, New Mexico Dental Association (NMDA), and Jennifer L. Thompson, D.D.S., president, NMDA, addressed the committee regarding "Oral Health 2020", a seven-year roadmap to improve oral health. Dr. Schripsema said there is no shortage of dentists, referring to a map on page nine of his handout. He discussed problematic issues with starting a dental school in New Mexico. He said that there are not enough students.

Rural areas, including in states to the east and south, are regional problems. A dental school could be regional and based in El Paso. Unfortunately, the highest number of out-of-state students that a dental school in El Paso could take is four. Dr. Schripsema discussed dental therapists and the dental therapy field in other states. He recommends using community dental health coordinators (CDHCs) in New Mexico rather than dental therapists. CDHCs are community health workers with a dental focus. They are members of the communities they serve, which he said leads to a cultural bridge. Perhaps in the future, the CDHCs could take x-rays, coordinate telemedicine with a dentist and offer palliative care in emergencies. Currently, there are 16 CDHCs who have graduated from Central New Mexico Community College (CNM). There are five working in the Navajo Nation. Dr. Schripsema said that the NMDA needs to work more closely with CNM to make the program more viable. By this time next year, the NMDA plans to have a functional toolkit for CDHCs.

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

- the lack of data on the effectiveness of CDHCs;
- the number of dentists per county;
- the Western Interstate Commission for Higher Education requirements;
- Texas subsidies for dental schools and students; and
- asking the BCOM to partner on a regional dental school.

Adjournment

There being no further business before the committee, the LHHS adjourned at 3:30 p.m.