

SUMMARY OF RECOMMENDATIONS

LEGISLATIVE COMMITTEE ON HEALTH CARE

Nevada Revised Statutes 439B.200

This summary presents the recommendations approved by the Legislative Committee on Health Care (LCHC) (*Nevada Revised Statutes* [NRS] 439B.200) at its July 20, 2010, meeting. The LCHC submits the following recommendations and bill draft requests (BDRs) to the 76th Session of the Nevada Legislature:

PROPOSALS RELATING TO THE EXAMINATION OF THE HEIGHT AND WEIGHT OF CHILDREN PURSUANT TO ASSEMBLY BILL 191 (CHAPTER 285, STATUTES OF NEVADA 2009)

1. Codify the Statewide School Wellness Policy in accordance with the federal guidelines. Create the Statewide School Wellness Rating System. **(BDR 34–188)**
2. Draft a letter to the Health Division, Nevada’s Department of Health and Human Services (DHHS), and include in the LCHC bulletin a statement of support for the Health Division’s development of Web Education Modules concerning nutrition and physical activity for day care providers, school teachers, health care providers, and homeschool and distance education students.
3. Draft a letter to the Health Division and include in the LCHC bulletin a statement of support for the Health Division to utilize the Silver State Stars Quality Rating Improvement System for child care centers to educate parents about child care centers that limit sugar-sweetened beverages and serve low-fat milk.
4. Draft a Committee proclamation and include in the LCHC bulletin a statement of support for the Health Division to revisit the *2006 Strategic Plan for the Prevention of Obesity in Nevada*, make obesity-related issues a priority policy and program area for Nevada, evaluate changes since 2006, and create a new five-year obesity plan.

PROPOSALS RELATING TO THE REGULATION OF MEDICAL ASSISTANTS

5. Draft legislation to establish two tiers of medical assistants (medical assistants authorized to administer dangerous drugs and medical assistants not authorized to administer dangerous drugs) and to require medical assistants to meet one of the following qualifications for employment **(BDR –189)**:

- a. Medical assistants (MAs) who are currently employed are allowed to continue working as MAs; however, they must pass a national medical assistant examination and receive their certification and are not eligible to administer dangerous drugs until they are certified;
- b. The test must be taken within one year after becoming eligible to take the exam if not eligible on the date of passage. If they do not pass the exam, they may retake the exam within 90 days; and
- c. Medical assistants hired following the passage of this legislation are required to successfully pass the MA exam administered by either the American Association of Medical Assistants or the American Medical Technologists and must complete a training program before taking that exam and receiving their certification.

**PROPOSALS RELATING TO THE STUDY OF THE ABUSE OF PRESCRIPTION
NARCOTIC DRUGS IN NEVADA PURSUANT TO ASSEMBLY BILL 326
(CHAPTER 301, *STATUTES OF NEVADA 2009*)**

6. Draft legislation to allow interoperability of the Prescription Controlled Substance Abuse Prevention Task Force to share information with other prescription monitoring programs. The proposed language was adopted in principle from the Alliance of States with Prescription Monitoring Programs Model Act. The language proposed by the group is as follows (**BDR 40-190**):

NRS 453.154 Division required to prepare certain reports concerning controlled substances; Division and Board may enter into agreements with public agencies; requirements.

1. In this section, “diversion” means the transfer of a controlled substance from a lawful to an unlawful channel of distribution or use.

2. The Division shall regularly prepare and make available to other state regulatory, licensing and law enforcement agencies a report on the patterns and trends of distribution, diversion and abuse of controlled substances.

3. The Board and the Division may enter into written agreements with local, state and federal agencies to improve identification of sources of diversion and to improve enforcement of and compliance with NRS 453.011 to 453.348, inclusive, and other laws and regulations pertaining to unlawful conduct involving controlled substances. An agreement must specify the roles and responsibilities of each agency that has information or authority to identify, prevent or control diversion and abuse of controlled substances. The Board and the Division may convene periodic meetings to coordinate a state program to prevent and control diversion. The Board and the Division may arrange for cooperation and exchange of information among agencies and with other states and the Federal Government.

4. The Division shall report annually to the Governor, Legislative Committee on Health Care, and biennially to the presiding officer of each house of the Legislature on the outcome of the program with respect to its effect on distribution and abuse of controlled substances, including recommendations for improving control and prevention of the diversion of controlled substances in this State.

5. The Board may provide prescription monitoring information to other states' prescription monitoring programs and such information may be used by those programs consistent with this chapter.

6. The Board may request and receive prescription monitoring information from other states' prescription monitoring programs and may use such information consistent with this chapter.

7. The Board may develop the capability to transmit information to and receive information from other prescription monitoring programs employing the standards of interoperability.

8. The Board is authorized to enter into written agreements with other states' prescription monitoring programs for the purpose of sharing information to carry out the provisions of this chapter.

7. Amend NRS to provide legal immunity for a pharmacist, pharmacy, or other dispenser that makes a report in good faith to the State prescription drug monitoring program. The language proposed is as follows (**BDR 40–190**):

A pharmacist, pharmacy, or other dispenser making a report to the program reasonably and in good faith pursuant to this provision is immune from any liability, civil, criminal, or administrative, which might otherwise be incurred or imposed as a result of the report.

PROPOSALS RELATING TO THE CONSOLIDATION OF ADMINISTRATIVE SERVICES FOR HEALTH PROFESSIONALS AND OCCUPATIONAL LICENSING BOARDS

8. Draft a letter of support for Senator Wiener's BDR related to reviewing issues regarding various boards and holding them accountable. A copy of the letter is required to be forwarded to the Senate Committee on Health and Education and the Assembly Committee on Health and Human Services.

**PROPOSAL RELATING TO THE FEASIBILITY OF ESTABLISHING REGIONAL
CENTERS FOR THE PREVENTION AND TREATMENT OF ALCOHOL AND
SUBSTANCE ABUSE PURSUANT TO SENATE BILL 278
(CHAPTER 267, STATUTES OF NEVADA 2009)**

9. Draft an LCHC proclamation to recognize the efforts of the Local Community Coalition System for Prevention in Nevada (local alcohol and drug abuse prevention coalitions).

**PROPOSAL RELATING TO THE RECENTLY ENACTED PATIENT PROTECTION
AND AFFORDABLE CARE ACT OF 2010 (PUBLIC LAW 111-148),
THE HEALTH CARE AND EDUCATION RECONCILIATION
ACT OF 2010 (PUBLIC LAW 111-152), AND
THE CHILDREN'S HEALTH INSURANCE
PROGRAM REAUTHORIZATION ACT
OF 2009 (PUBLIC LAW 111-3)**

10. Draft an LCHC proclamation urging Nevada's Department of Health and Human Services to support meritorious applications from State organizations to obtain available outreach grants from the United States Department of Health and Human Services to enroll children and their families in Nevada Medicaid/Nevada Check Up.
11. Draft an LCHC proclamation urging the DHHS to adopt five of the eight program features required by the Children's Health Insurance Program Reauthorization Act in order to qualify for a performance bonus.
12. Draft an LCHC proclamation urging the DHHS to study the feasibility of applying for a "Community First Choice Option" under Section 1915 of the Social Security Act to provide community-based attendant support services to individuals with disabilities who are Medicaid eligible and require an institutional level of care.
13. Draft an LCHC proclamation urging the DHHS to study the feasibility of applying for the new Medicaid State Plan option, which will provide medical assistance to eligible individuals with chronic conditions who select a designated provider, a team of health care professionals, or a health team as the individual's health home, for the purpose of providing the individual with a *medical home*.

PROPOSAL RELATING TO CERTAIN FEDERAL SCHOOL PROGRAMS

14. Draft a letter to the superintendents of all school districts in Nevada encouraging them to adopt district-wide breakfast policies, and at the beginning of each school year, to notify the principals and teachers that it is allowable to have breakfast in the classroom. The letter may be transmitted electronically.

15. Draft legislation that requires schools that do not meet adequate yearly progress (AYP) for three or more years to implement breakfast after the bell (breakfast in the classroom or grab-and-go breakfast). **(BDR 34-191)**
16. Draft legislation that requires **(BDR 34-191)**:
 - a. Each school to report the following information to the LCHC and the Interim Finance Committee annually:
 - (1) Breakfast participation rates for the previous four years. Include the number of children who receive free and reduced-price breakfast that participate and the number of enrolled children who are qualified to access meals compared to the total enrollment of each school. Identify the method of breakfasts being offered (breakfast in the classroom, breakfast in the cafeteria, or grab-and-go breakfast) and the percentage of qualified students participating by each form of school breakfast; and
 - (2) The AYP for the school.
 - b. Each school district is required to report:
 - (1) A district-level summary of the breakfast participation report;
 - (2) A list of each school that is participating in a summer meal program. Include the number of qualified students participating in the program versus those students who would qualify for a summer meal program if one were being offered. Each district should indicate the number of dollars currently received by Nevada schools for this program and the dollars that remain in Washington, D.C., because the qualified students are not offered this program or are not participating; and
 - (3) The amount of federal dollars received by Nevada due to participation in school breakfast and school lunch programs. The number of qualified students who did not participate and, based on the lack of participation, the amount of federal money Nevada did not receive.
 - c. Each school district to increase by at least 15 percent annually the number of pupils who participate in the school breakfast program until the school district has total participation of pupils eligible for free or reduced-price breakfasts.

**PROPOSAL RELATING TO ESTABLISHING A FAIR AND EQUITABLE
SYSTEM FOR THE PAYMENT OF MEDICAL SERVICES PURSUANT TO
SENATE CONCURRENT RESOLUTION NO. 39
(FILE NO. 101, *STATUTES OF NEVADA 2009*)**

17. Draft legislation to establish that **(BDR 40–192)**:

- a. An out-of-network hospital must accept for the provision of emergency services and care, as payment in full, a rate which does not exceed the amount set forth for emergency services and care pursuant to the formula established by federal regulation (see 75 Fed. Reg. 37,233-4 (June 28, 2010)). This rate would apply for any patient who is transported by ambulance or otherwise seeks emergency care (as determined pursuant to the Emergency Medical Treatment and Labor Act [EMTALA]) at an out-of-network hospital and who has a policy of insurance that covers emergency care at not less than two other hospitals in this State;
- b. An out-of-network physician at an out-of-network hospital must accept for emergency services and care, other than services and care required to stabilize a patient, as payment in full, a rate that does not exceed the amount set forth for emergency services and care pursuant to the formula established by federal regulation. This rate would apply for any patient who is transported by ambulance or otherwise seeks emergency care (as determined pursuant to EMTALA) at an out-of-network hospital and who has a policy of insurance which covers emergency care by not less than two other physicians who provide emergency services and care at that hospital; and
- c. An out-of-network physician at an in-network hospital must accept for medical services and care, other than services and care required to stabilize a patient, as payment in full, a rate that does not exceed the amount set forth for services and care pursuant to the formula established by federal regulation. This rate would apply for any patient who has a policy of insurance, which covers the type of services and care by not less than two other physicians who provide that type of service and care.

This rate would apply if the following criteria are met:

- (1) The third party that issued the policy of insurance or other contractual agreement, which provides coverage to the patient, has submitted reports as required in this request;
- (2) The third party, which provides coverage to the patient has, in good faith, participated in negotiations or mediations pursuant to this request and has documented the occurrence and outcome of any negotiations or mediation;
- (3) The patient has paid the deductible, copayment, or coinsurance that the patient would have paid for the provision of health care by an in-network provider; and

- (4) The third party has paid the hospital or physician for the services and care within 60 days after receipt of the bill or, if applicable, within 60 days after the Office for Consumer Health Assistance, Office of the Governor, concludes mediation between the third party and the hospital.
- d. If an out-of-network hospital or physician believes that the rates are insufficient to compensate the hospital or physician for the services and care, the hospital or physician may enter into negotiations with the third party that provides coverage to the patient to resolve the difference between the amount charged and the amount paid by the third party. If such negotiations do not result in an agreement on the amount that will be paid for services and care, the hospital or physician may file a complaint with the Director of the Office for Consumer Health Assistance, Office of the Governor, and request that the Director mediate to determine the amount that must be paid for such services and care. Require the Director to establish a process for filing and handling complaints and mediate those complaints to determine whether the rates paid are sufficient in a particular circumstance and, if a rate is not sufficient, an acceptable rate that must be paid to the hospital or physician that filed the complaint.

Each third party that wishes for out-of-network hospitals and out-of-network physicians to accept, as payment in full, the amounts prescribed in this request shall:

- (1) Review the in-network hospitals and in-network physicians of the third party to determine whether a person who is covered by that policy of insurance or other contractual agreement, which provides coverage for health care, has adequate access to health care. Require the Commissioner of Insurance to annually study the providers of health care that are included in the networks, which are established by third parties, to determine whether those networks are adequate. The Commissioner shall prescribe standards of adequacy, which are based on the results of that study. The Commissioner will make the findings public and provide a copy to the LCHC;
- (2) Review the frequency with which persons covered by the policy of insurance are treated for emergency services and care by out-of-network physicians at in-network hospitals and the rate at which those services and care are reimbursed by the third party;
- (3) Ensure that persons covered by the policy of insurance or other contractual agreement that provides coverage for the provision of health care receive adequate information regarding in-network hospitals and in-network physicians and the financial impact of receiving medical services and care from out-of-network hospitals and out-of-network physicians, including, without limitation, the financial impact of receiving services and care from an out-of-network physician on the medical staff of an in-network hospital. The information must be provided in a format that is meaningful for persons

making an informed decision concerning medical services and care. This information must be accessible to persons covered by the policy of insurance or other contractual agreement; and

- (4) Submit, once each calendar quarter, a summary of the reviews and the educational efforts to the Commissioner of Insurance and the LCHC.
- e. On or before June 30, 2014, the LCHC shall review the rate of payment to determine whether providers of health care are being adequately compensated for the provision of services and care. The LCHC shall forward the results of the review and any proposed changes to the Senate Committee on Health and Education and the Assembly Committee on Health and Human Services.

Make this legislation effective January 1, 2012, to allow sufficient time for regulations to be adopted.

**PROPOSALS RELATING TO TRACKING AND REPORTING NEAR-MISS EVENTS
THAT OCCUR AT MEDICAL FACILITIES IN THIS STATE PURSUANT TO
SENATE BILL 319 (CHAPTER 502, *STATUTES OF NEVADA 2009*)**

18. Draft legislation to require each medical facility that is required to report information pursuant to NRS 439.847 to grant permission for the Health Division to report publicly, and in a facility-specific manner, the information submitted to the National Healthcare Safety Network. The information must be presented in an equitable and comparable format, including, without limitation, as a percentage or as a ratio of incidents to 1,000 patients. **(BDR 40–193)**
19. Draft legislation to require the Health Division to include on the Internet website established and maintained pursuant to NRS 439A.270, the reports of sentinel events, which are prepared pursuant to paragraph (c) of subsection 1 of NRS 439.840 and the facility-specific information reported pursuant to NRS 439.847 for each medical facility that has given permission for such reports. **(BDR 40–193)**

**PROPOSAL RELATING TO POSTGRADUATE EDUCATION
FOR A LICENSE TO PRACTICE MEDICINE**

20. Draft legislation to revise NRS 630.160 to allow the licensing process to begin for an applicant who: (a) is enrolled in a postgraduate residency program in this State; (b) has completed 24 months of the program; and (c) has committed, in writing, to complete a third year of the program. **(BDR 54–194)**