



NEVADA LEGISLATURE
LEGISLATIVE COMMITTEE ON HEALTH CARE
(Nevada Revised Statutes 439B.200)

SUMMARY MINUTES AND ACTION REPORT

The second meeting of the Nevada Legislature's Legislative Committee on Health Care was held on Wednesday, December 9, 2009, at 9 a.m. in Room 4401 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. The meeting was videoconferenced to Room 3138 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. A copy of this set of "Summary Minutes and Action Report," including the "Meeting Notice and Agenda" ([Exhibit A](#)) and other substantive exhibits, is available on the Nevada Legislature's website at <http://www.leg.state.nv.us/interim/75th2009/committee/>. In addition, copies of the audio record may be purchased through the Legislative Counsel Bureau's Publications Office (e-mail: publications@lcb.state.nv.us; telephone: 775/684-6835).

COMMITTEE MEMBERS PRESENT IN LAS VEGAS:

Senator Valerie Wiener, Chair
Senator Allison Copening
Assemblyman Joseph (Joe) P. Hardy, M.D.
Assemblywoman Ellen B. Spiegel

COMMITTEE MEMBERS PRESENT IN CARSON CITY:

Senator Maurice E. Washington

COMMITTEE MEMBER ABSENT/EXCUSED:

Assemblywoman Peggy Pierce, Vice Chair

LEGISLATIVE COUNSEL BUREAU STAFF PRESENT:

Marsheilah D. Lyons, Principal Research Analyst, Research Division
Sara L. Partida, Principal Deputy Legislative Counsel, Legal Division
Sally Trotter, Senior Research Secretary, Research Division

INTRODUCTION AND OPENING REMARKS

- Senator Valerie Wiener, Chair, welcomed members, presenters, and the public to the second meeting of the Legislative Committee on Health Care (LCHC). Chair Wiener noted the procedures for Committee business and testimony.

APPROVAL OF MINUTES OF THE MEETING HELD ON NOVEMBER 4, 2009, IN LAS VEGAS, NEVADA

- The Committee **APPROVED THE FOLLOWING ACTION:**

ASSEMBLYMAN HARDY MOVED TO APPROVE THE “SUMMARY MINUTES” OF THE NOVEMBER 4, 2009, MEETING HELD IN LAS VEGAS. THE MOTION WAS SECONDED BY ASSEMBLYWOMAN SPIEGEL AND PASSED UNANIMOUSLY.

PRESENTATION REGARDING RECENT PATIENT PRIVACY CONCERNS AT THE UNIVERSITY MEDICAL CENTER OF SOUTHERN NEVADA (UMC)

- Kathy Silver, Chief Executive Officer (CEO), UMC, provided background information on the breach of patients’ records incident in the UMC trauma center that occurred on October 31 and November 1, 2009. She reported on the progress of the investigation by the Federal Bureau of Investigation, U. S. Department of Justice. Ms. Silver also discussed the extent of the breach and how many records were involved.
- Hope Hammond, RHIT CCS, Chief Privacy Officer for Clark County, UMC, described actions taken by the UMC to ensure the patient record breach incident would not reoccur. Actions included: (1) restrictions in the use of patient face sheets; (2) a new process implemented to mask Social Security numbers; (3) employee training; (4) adding locks and electronic or key card controls on doors; (5) mailing a breach notification letter and information about the enactment of the breach law which took effect on September 23, 2009; and (6) initiation of a hotline to receive information to determine why the patient information was accessed.

Discussion ensued regarding industry benchmarks for safeguarding patient information, current activities to safeguard information at UMC, safeguards that were in place at the time of the incident, and the penalties for information breach activities.

UPDATE OF THE STUDY CONDUCTED PURSUANT TO SENATE BILL 307 (CHAPTER 88, *STATUTES OF NEVADA 2009*) CONCERNING ISSUES RELATING TO MEDICAID

- Michael J. Willden, Director, Department of Health and Human Services (DHHS) provided a November 24, 2009, report to the LCHC detailing information on first quarter funds available for the S. B. 307 study ([Exhibit B](#)). He provided a history of

S.B. 307 and the efforts made by DHHS to obtain funding for the Medicaid study. Mr. Willden noted that alternative paths were being explored due to a lack of donations. He stated that the DHHS has held meetings with the Nevada Hospital Association (NHA), a number of providers, and several consultants. Mr. Willden indicated that there are studies being financed independently by various groups including: (1) the NHA and consultant Spivey/Harris Health Policy Group to evaluate a hospital provider tax; (2) the UMC, in cooperation with Service Employees International Union (SEIU), who engaged Sellers Dorsey, to review the inpatient and outpatient upper payment limit programs, a physician upper payment limit program, and restoration of the graduate medical education; and (3) UMC, Sunrise Hospital, Valley Health System, and North Vista Hospital, who have engaged Gjerset & Lorenz LLP, to evaluate an upper payment limit program with options that would include a private hospital upper-payment-limit component.

In response to Chair Wiener's request for an update on Nevada Medicaid's financial situation, Mr. Willden reported currently there is a projected shortfall of \$55 million to the end of the biennium in the State General Fund.

- Chair Wiener asked what the process would be if a viable alternative were furnished and if it would be acceptable to the federal government.
- Charles Duarte, Administrator, Division of Health Care Financing and Policy (DHCFP), DHHS, responded by providing background on discussions between the DHCFP and Sellers Dorsey and SEIU. He stated the primary goal is to submit a State Plan Amendment (SPA) to the federal government, which he explained is a request to change the contract that is currently in place with the federal Medicaid program partners at the Centers for Medicare and Medicaid Services (CMS), U.S. Department of Health and Human Services. Mr. Duarte stated if the SPA were submitted in this quarter, between October and the end of December 2009, a date would be preserved, which would determine how far back the payments will be made retroactively once the SPA is approved. Mr. Duarte stated the DHCFP would be sending language to the federal government to publicly post and lockdown an effective date for the programs. He discussed the tremendous amount of work needed to put together a sound proposal and to answer any questions the federal government may have. Mr. Duarte further stated he does not have the staff assistance to do the work for the initiative so it would fall to the independent consultants. Concluding, he stated the counties will set the priorities in terms of a timeline and which initiatives they want to go forward.

Responding to Chair Wiener's question regarding the timeline for submission and if the consultants had plans ready to submit and "lockdown" a date, Mr. Duarte stated there was no specific language at this time, but plans should be submitted within one or two weeks.

- Jim Spinello, Local Government Affairs Director, R & R Partners, representing UMC, provided written comments ([Exhibit C](#)) outlining: (1) the combined efforts of hospitals

working together to increase Medicaid funding for both public and private hospitals; (2) the need for Nevada hospitals to receive a higher rate of reimbursement; (3) a background on the collaborative efforts by key stakeholders; and (4) the necessity to commit private resources to fund outside expertise. Mr. Spinello stated the purpose of testimony by the represented groups is to: (1) advise the LCHC of efforts to form a plan; (2) introduce the consultants to the LCHC; (3) inform the LCHC of the groups' commitment to work together to find the highest level of reimbursement possible; and (4) assure the LCHC that the experts and their clients pledge to minimize the need for State resources to accomplish implementation of these plans. He stressed the plans that will be introduced do not require statutory changes and can be implemented administratively.

Discussion ensued regarding compatibility of the studies and clarification of the federal government's approval process.

- George Ross, Director, Legislative and Government Affairs, HCA Sunrise Hospital, stated Sunrise will make every resource available to provide a proposal in a timely manner and added that all of the elements of the proposal have already been accomplished in other states. Responding to Chair Wiener's question regarding patient care he stated that it would remain the same.
- Dan Musgrove, Government Affairs Group, Vice President, McDonald, Carano, Wilson, representing Valley Health Systems, stated that other jurisdictions with similar programs have noticed cooperation between entities and systems working together in a public-private partnership to maximize available resources.
- James E. Gjerset, Attorney, Gjerset & Lorenz, representing the private hospitals, discussed the Texas hospital program model that Nevada's plan would be modeled after and the public-private collaboration to set funding entitlement for the programs. He stated the federal approval process is the only component necessary for completion of Nevada's program. Mr. Gjerset commented the SPA will be ready to present to Mr. Duarte within a week to ten days.
- Martin Sellers, Chief Executive Officer, Sellers Dorsey, reiterated that there are no new endeavors within the proposal. He discussed the importance of working with the federal government, following all of the rules, and recommended total transparency. Mr. Sellers stated within a week he would provide the SPA drafts to State staff.
- Chair Wiener asked if there were any specifics about the proposed SPA that could be provided to the LCHC and if the process could be expedited.
- Mr. Gjerset responded that previous experience with this type of filing should expedite the process. He stated that it usually takes nine months to one year between submittal and completion of the application and the approval process.

- Mr. Sellers added that the claim is retroactive to the date of public notice.

A discussion ensued between Assemblyman Hardy and the consultants regarding the filing process for the SPA and the publication dates, retroactive credit, and the DHCFP's goal for giving public notice and filing. Mr. Gjerset explained the benefits of filing before the end of this quarter.

- Mr. Duarte stated that the DHCFP's target date for the public notice and the SPA filing is January 1, 2010.

In response to Chair Wiener's request for specificity of the acronyms and highlighting ones that would provide the greatest financial impact for the State, Mr. Gjerset discussed the upper payment limit (UPL). He explained the UPL is the mathematical calculation the federal government uses to determine the maximum amount that will be paid to various provider groups in each state. Further, Mr. Gjerset reported the federal government allocates a block grant amount which denotes the maximum amount that will be paid to each state. He stated every Medicaid program is a UPL program with the exception of disproportionate share hospital (DSH) payments. Mr. Gjerset reported on the state payment and federal match and noted the difference is what determines the UPL. He explained the SPA proposal would use financing vehicles that utilize local and community funding to receive a state share of the match and draw additional funding under the UPL into the community.

Responding to Assemblywoman Spiegel's request for clarification on UPL disparities, Mr. Gjerset stated the disparities are based on cost calculations and what a particular state pays in relationship to the cost of services. He commented that any increase in the federal matching rate would have a positive effect on Nevada.

- Continuing, Mr. Gjerset reported the public-private collaborative concept they are proposing in Nevada is already in place in other states including sister hospitals to North Vista, Sunrise, and Valley Health Systems. He stated the program will be designed so that every private hospital, regardless of their affiliation, and every governmental entity can participate. Mr. Gjerset noted the initial development would be expensive and time consuming, but the end result would be beneficial to everyone. He explained the concept proposed would charge the payment of charity and free care that hospitals formerly paid to local governments. Mr. Gjerset stated that hospitals will provide the expanded charity care with the hope that the UMC will use some of the funds to expand the Medicaid program. He noted that the UMC could draw the federal matching funds, which would increase the Medicaid payment and provide more funds to expend operations. Mr. Gjerset directed members to a model depicting the flow of funds and the difference in funding matches that would generate additional Medicaid supplemental payments and expanded care of the indigent and needy ([Exhibit D](#)).

In response to Assemblyman Hardy's inquiry about the collaboration and if it would be available statewide, Mr. Gjerset affirmed that it was a statewide program.

- Martin Sellers, previously identified, explained it was awareness of the public-private collaboration that led his organization to seek additional opportunities for the UMC to receive federal funds.
- Scott Reasonover, Senior Consultant, Sellers Dorsey, discussed Medicaid reimbursement and opportunities to increase the Medicaid reimbursement at the UMC by restoring the graduate medical education (GME) training program and increasing payments for graduate training and teaching costs.

Discussion ensued regarding the impact of restoring the GME program at the UMC. Mr. Sellers explained that the decision of the Legislature to remove State financing caused the UMC to lose federal match funding. He commented that their plan would replace State financing with Clark County money and restore the federal medical assistance percentage (FMAP).

In response to Chair Wiener's inquiry regarding the amount of FMAP, Mr. Sellers stated the match amount varied and the exact figures would be provided to Mr. Willden when they are available.

- Mr. Reasonover followed up his testimony with background on the GME program. He stated that GME is the clinical training of physicians who provide resident services in a teaching hospital under the supervision of a licensed physician. He commented that teaching hospitals incur higher costs, which are recognized by both Medicare and Medicaid programs as reimbursable costs. Mr. Reasonover reported that expansion of the current patient UPL program would increase the cap enabling a higher reimbursement payment. Concluding his testimony, Mr. Reasonover discussed reimbursement of federal dollars for outpatients at the UMC using the same process used for inpatients.
- Assemblyman Hardy asked if there were GME programs available for dentists and orthodontists.

Discussion ensued regarding GME programs for dental students and success in other states that offered dental GME programs.

- Michael Willden, previously identified, clarified that additional revenue raised would not offset the projected \$55 million Medicaid shortfall.
- Charles Duarte, previously identified, discussed establishing UPL methods. He stated the risk involves additional review and scrutiny by the federal government. Mr. Duarte expressed concern on behalf of the State in the event of a deferral and the material impact it would have on the DHCFP. He commented that any deferrals would be at the counties' own risk and they would have to make up any shortfall.

- Martin Sellers, previously identified, explained the importance of transparency and assured the LCHC that all technical requirements would be reviewed and discussed with the federal government.
- Bill M. Welch, President/CEO, Nevada Hospital Association, provided an overview of the provider tax concept. He reviewed: (1) the problem of Medicare and Medicaid reimbursement decline; (2) reasons for considering a provider tax; (3) the process; and (4) the next steps of the process ([Exhibit E](#)). Mr. Welch commented on the increase of Medicaid patients and the overall hospital deficit of negative 3.91 percent. He stated that under the current circumstances, hospitals could not continue to offer the services they are presently providing. He stated the NHA is looking for options to maximize federal dollars into our State and infuse monies into the reimbursement system.
- Jeff Harris, Spivey/Harris Health Policy Group, provided background information on his experience with Medicaid financing. He stated the first phase of his responsibility is to give an accurate UPL calculation and then to coordinate with the other consultants to provide precise, trustworthy data. Mr. Harris explained the second phase is to model a provider tax noting the positive and negative aspects. He commented the difficulty is making a tax work statewide that is uniform for all hospitals in the State. Mr. Harris reported he will provide various models using different tax bases and payout methods for consideration.

Responding to Chair Wiener's comment regarding legislative approval and request for a timeline for the provider tax initiative, Mr. Welch affirmed that the provider tax initiative will require statutory change with approval from the Nevada State Legislature. He stated that the first phase of the plan would be presented to the NHA in January and the full plan would be presented to the LCHC in February 2010.

PRESENTATION CONCERNING THE STATUS OF REGULATIONS RELATING TO THE DISPROPORTIONATE SHARE PAYMENTS MADE TO CERTAIN HOSPITALS PURSUANT TO SENATE BILL 382 (CHAPTER 421, *STATUTES OF NEVADA 2009*)

- Michael J. Willden, Director, DHHS, did not testify.
- Charles Duarte, previously identified, provided testimony ([Exhibit F](#)), which included: (1) background on the Medicaid DSH program that included the establishment and intent of the program; (2) state share funding by intergovernmental transfers from Clark County and Washoe County; and (3) State net benefit to Medicaid and Nevada Check Up services as a State match that benefits local governments. He commented on the auditing and reporting requirements in Section 1923(2) of the Social Security Act of 1935 that would necessitate changes to Nevada's DSH program. Mr. Duarte reported that the new federal requirements and compliance concerns were the impetus for S.B. 382. He explained that the DHCFP would work with stakeholders in developing a SPA and applicable revisions to the *Nevada Administrative Code*. Mr. Duarte advised the deadline for approval of the State Plan is June 30, 2010.

He directed the Committee's attention to the December 1, 2009, status report of regulations relating to DSH payments made to hospitals pursuant to S.B. 382 ([Exhibit F-1](#)), which included an update on stakeholder meetings, major program considerations, and program characteristics. Mr. Duarte detailed the DSH program funding and distribution ([Exhibit F-2](#)) and he explained there is a federal dollar ceiling rate established in federal law. He noted that Clark County contributes about \$65 million and Washoe County \$1.5 million with a \$47 million fixed federal appropriation totaling \$113 million in DSH payments. Mr. Duarte further commented the State receives approximately \$19 million in net benefits for matching funds for Medicaid and Nevada Check Up services.

Concluding, he noted the proposed SPA will not change the process of distributing funds to hospitals but will utilize a different distribution methodology to recognize the proportionate or disproportionate share of services provided to Medicaid clients and the uninsured in each of the eligible hospitals.

Responding to Senator Washington's inquiry regarding the new methodology for distribution and establishment of floor or ceiling amounts, Mr. Duarte stated that eligibility criteria would not change. He noted the plan would make the distribution more representative of hospitals which serve a disproportionate share of clients. Mr. Duarte explained that currently each pool runs out of funds before all of the eligible hospitals can be paid. He stated that staff created an exponential function, which allows recognition of all eligible hospitals in the pool that serve a larger share of their costs to Medicaid and the uninsured with appropriate payment, while ensuring that other hospitals are recognized and supported. He added that the methodology will recognize a specific hospital's contribution to caring for Medicaid and indigent patients within the pool and it will affect funding that goes to certain hospitals. Mr. Duarte stated the Interim Finance Committee will review the SPA and the Legislative Commission will review the regulations.

- Andy North, Director of Public Policy and Advocacy, St. Rose Dominican Hospitals and Saint Mary's Regional Medical Center, provided a Microsoft PowerPoint presentation, which outlined a proposed DSH distribution model that would not change pool fund amounts but would change the distribution of pool funds ([Exhibit G](#)). He discussed: (1) the proposed Medicaid DSH payment methodology ([Exhibit G-1](#)); and (2) eligibility based on minimum federal requirements and Medicaid inpatient utilization rate as an indicator of indigent care ([Exhibit G-2](#)). Mr. North noted that under the CHW plan 29 percent of the hospitals in the State would qualify creating an element of disproportion. He presented the differences between the CHW and the DHCFP plan.
- Chris Bosse, Vice President of Government Relations, Renown Regional Medical Center, discussed the history, key components, and relationships related to the current DSH program ([Exhibit H](#)). Ms. Bosse noted that the program was designed to supply supportive funding to hospitals that provided more than their share of care to the

low-pay and no-pay populations. She also outlined the federal and State eligibility criteria.

Discussion ensued regarding the billing and collection process by Renown for county eligible indigent patients. Ms. Bosse clarified that an agreement was made that Renown would participate in the DSH program with a limited indigent care budget. She reported no payments are received for care of the Washoe County approved indigent population.

- Continuing, Ms. Bosse discussed a summary of mandated changes for the DSH program in S.B. 382 and the key guidelines for consideration including: (1) the role of public hospitals providing care in Nevada; (2) the role of rural hospitals providing care in Nevada; and (3) the hospitals that demonstrate a commitment to serving a disproportionate share of uninsured and Medicaid patients receiving resources.
- Kathy Silver, CEO, UMC, provided an overview of the proposal among the UMC, Clark County, Washoe County, Renown Regional, and Nevada Rural Hospital Partners. She recognized that changes were necessary to be in compliance with the new regulations. Ms. Silver stated that since funding is tied to distribution, the DSH program should remain unchanged. She commented the proposal by the UMC would: (1) make no change to the amounts or the eligibility criteria; (2) retain the same distribution; (3) maintain the hospital pools and guaranteed amounts; (3) design a redistribution method in the event a hospital or pool is capped; and (4) design a distribution method for hospitals without guarantees. Ms. Silver voiced support for the State's proposal.
- Robin Keith, President, Nevada Rural Hospital Partners (NRHP), responded to comments made by Andy North, previously identified. She stated she disagreed that rural hospitals were protected in the CHW plan because the current \$4 million distributed to public and private hospitals in counties with populations fewer than 100,000 would be reduced to \$1 million. Ms. Keith commented that the CHW proposal is not consistent with State policy decisions concerning the protection of rural hospitals. She stated that the NRHP supports the State's proposal.

Responding to a request by Chair Wiener regarding the impact of a reduction in funds to rural hospitals, Ms. Keith stated that the rural hospitals' ability to absorb the loss of funds is minimal and any reduction would be devastating.

- Senator Washington asked about the proposed reductions in the distribution amount to Renown Regional Medical Center and the reduction in the number of hospitals that would receive DSH funds in the CHW proposal. He also inquired if the eligibility levels in the CHW proposal were based on State levels.
- Andy North, previously identified, stated the funding amounts were decreased because there would be fewer hospitals that would qualify. He commented the rural hospitals

were separated out in the CHW plan so that they would receive a greater proportion of available dollars. Mr. North said the CHW attempted to propose a plan that would be equal for all hospitals and all hospitals would have the opportunity to qualify. He added qualifications could be changed so that more hospitals would be eligible.

- Senator Washington asked what impact the CHW proposal would have on the Carson Tahoe Regional Center (CTRC).
- Robin Keith, previously identified, referenced [Exhibit F-2](#) provided by Charles Duarte. She stated that under the CHW proposal CTRC would receive no DSH dollars and noted that the State's proposal would allocate \$1 million in funds to the CTRC. Ms. Keith reported that in 2001, when the pool structure was constructed, there was a debate about rural hospitals and how the DSH program ought to relate to rural hospitals and DSH dollar allocation. She noted that approximately 5 percent of the total is distributed to the eight or nine hospitals that qualify under the current program.

In response to Senator Washington's inquiry regarding approval by the Legislature to change eligibility requirements at the State level, Charles Duarte, previously identified, stated that change to the SPA would have to be approved by the Interim Finance Committee. He discussed the potential effects on the hospitals in the State if eligibility is changed.

- Senator Washington opined the dollars should follow the providers of indigent care.
- Chair Wiener read a statement submitted by Misty Grimmer, on behalf of North Vista Hospital, stating their support to the CHW proposal provided by Andy North ([Exhibit I](#)).
- Assemblyman Hardy commented on the possibility of finding a compromise between the CHW and the State's plan. He suggested the stakeholders hold discussions before another hearing on this issue.
- Assemblywoman Spiegel requested that Sunrise Hospital submit any alternative proposal they might have.

PRESENTATION CONCERNING THE HISTORY OF LEGISLATION FROM PREVIOUS SESSIONS OF THE NEVADA LEGISLATURE WHICH PROPOSED TO LIMIT PAYMENTS FOR MEDICAL SERVICES PROVIDED TO INSURED PATIENTS AND DISCUSSION OF METHODS FOR 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*)

- Marsheilah D. Lyons, Principal Research Analyst, Research Division, Legislative Counsel Bureau (LCB), provided a table with a history of legislation from previous sessions that proposed to limit payments for medical services ([Exhibit J](#)) and an Issue Brief ([Exhibit J-1](#)) detailing the provisions of A.B. 289 (Chapter 344, *Statutes of Nevada 1997*). She noted that A.B. 289 contained health care cost containment legislation and noted the provisions of the bill ended in 1999. Ms. Lyons commented all of the bills listed in the table dealt specifically with hospitals or health facilities and practitioners or providers.

In response to Chair Wiener's inquiry about the sunset date for A.B. 289, Ms. Lyons stated the bill sunsetted in 1999. She added that a report, entitled "The Effect of Assembly Bill 289 in Controlling Health Care Costs, LCB Background Paper No. 88-4," is available on the Legislature's website at: <http://leg.state.nv.us/Division/Research/Publications/Bkground/BP88-04.pdf>.

- Chair Wiener reviewed the history of legislative action on S.B. 157 during the 2009 Legislative Session. She stated the issue was heard at the first LCHC meeting, and she had requested it be added to the agenda today due to the complexity of the issues.
- Senator Copening inquired about any meetings held by the interested groups.
- Chair Weiner asked for an update on any discussions by the interested parties.
- Bobbette Bond, Health Services Coalition and the Nevada Health Care Policy Group, stated that they had not met. She opined legislative intervention was necessary on this issue. Ms. Bond commented that S.B. 157 came the closest to what would be acceptable by all groups.
- Bill Welch, previously identified, stated that the NHA had concerns with the measure. He agreed that S.B. 157 was the closest to a compromise on this issue. He discussed the need to level standards between self-funded and commercial carrier plans. Mr. Welch noted other issues that needed to be addressed, which includes prompt pay laws, assignment of benefit standards, challenges with hospitals, and holding contracted physicians to meet standards.

- Bobbette Bond detailed concerns about: (1) usual and customary rates; (2) statutory language that includes physicians, because hospitals cannot force physicians to accept contracts; and (3) self-funded plans that have to be willing to comply with statute to gain access to the benefits.

Discussion ensued regarding Assemblywoman Spiegel's inquiry about any benefits if hospitals could contract with physicians. Mr. Welch noted difficulties with physicians agreeing to terms of contracts and differences between large and small physician groups and reimbursement rates. He also mentioned problems with workforce shortages.

- Assemblyman Hardy commented on physicians contracting with hospitals and the workforce shortage.
- Chair Wiener stated that earlier testimony indicated that S.B. 157 is the closest compromise to what the interested groups hoped to accomplish. She reported that the full Committee will attempt to address the concerns of the bill and continue with discussions that were not completed during session. Chair Wiener stated that the last version of S.B. 157 (First Revision) will be scheduled for a hearing at the next LCHC meeting. She invited physicians and any other interested parties to participate.
- Senator Copenig asked for presentations by the interested groups with suggestions for solutions and how a resolution could be reached.
- Chair Wiener encouraged all interested presenters to bring resolutions based on issues they had with the first revision of S.B. 157 from the 2009 Session.
- Assemblywoman Spiegel asked to hear from interns.
- Mr. Welch opined the last version of the bill heard in Senate Finance was livable and thanked the LCHC for the opportunity to review the issues.
- Ms. Lyons noted the importance of hearing from Valerie Rosalin, from the Governor's Consumer Health Office.
- Lawrence P. Matheis, Executive Director, State Medical Association, stated he will participate in the process.

PRESENTATION CONCERNING TOBACCO PREVENTION EFFORTS OF THE NEVADA TOBACCO PREVENTION COALITION

- Lawrence P. Matheis, President, Nevada Tobacco Prevention Coalition, provided a Microsoft PowerPoint handout ([Exhibit K](#)) and described the purpose of the Coalition and their activities, which included assisting various groups in coordinating efforts and advancing anti-tobacco policies in Nevada. He noted the impact of tobacco on the health of Nevadans and discussed the costs of smoking-related diseases. Mr. Matheis

commented on the success of the Nevada Clean Indoor Act (*Nevada Revised Statutes* [NRS] 202.2483) and its impact on reducing illnesses resulting from secondhand smoke. He reported on the assistance provided by master settlement agreement funds and the tobacco prevention programs developed using those funds. Mr. Matheis cautioned against reducing those funds and stressed the importance of maintaining education to reduce tobacco use of future generations. Mr. Matheis recommended sustaining a commitment to maintain and produce viable funding sources for tobacco prevention such as tobacco taxes.

- Chair Wiener asked Mr. Matheis to comment on recent information that tobacco concerns have been successfully addressed and other issues, such as obesity, have become more of a problem. Mr. Matheis stated that it would be unwise to give up on any one program. He proposed a long-term commitment to the health of Nevadans by dealing with all of the issues.

Discussion ensued regarding preventable diseases, healthy choices, and multi-generational education.

Responding to Assemblyman Hardy's question about whether any other state has actually taxed cigarettes out of existence, Mr. Matheis stated he will provide the LCHC with more reports and studies on this issue. He cautioned that setting taxes too high tends to cause illegal and underground sales of tobacco products.

UPDATE CONCERNING THE DISTRIBUTION AND ADMINISTRATION OF THE H1N1 INFLUENZA VACCINE IN NEVADA

- Richard Whitley, M.S., Administrator, Health Division, DHHS, introduced the Health Division's new Immunization Program Manager, Christine N. Smith.
- Tracey D. Green, M.D., State Health Officer, Health Division, DHHS, provided an overview of the vaccine program ([Exhibit L](#)) that included program goals; a vaccine allocation update; public health vaccination clinic locations; coordination with other partners; dose and administering tracking; and information on Tamiflu. She stated that in early November all target groups throughout the State were offered the vaccine equally. Dr. Green reported, due to an increase in availability, as of December 11, the target populations will be expanded to include all populations, ages 24 and over, and all populations, 64 and over, that have underlying medical conditions. Dr. Green noted that the H1N1 virus has decreased across the nation and that Nevada is currently at a lower rate than the nation.
- Dr. Green affirmed Assemblyman Hardy's comment that patients, over the age of 64 with underlying conditions, could receive the vaccine after December 11.

Discussion ensued regarding how many providers are administering the immunization and the date it would be available to the general public. Christine N. Smith, previously

identified, stated that every enrolled and approved provider who received immunizations have administered the vaccine. Discussion continued regarding the number of pharmacies that were provided the vaccine.

- Dr. Green said in anticipation of holiday closures of physicians' offices, they have reached out to pharmacies to provide immunizations.
- Assemblywoman Spiegel stated her pharmacy had applied three times to distribute the H1N1 vaccine. She asked if all of the applications had been processed and how long the notification process took.
- Ms. Smith reported there was a backlog due to the amount of applications received and the labor intensive process to approve applications. She noted a problem with a computer error that caused records to be lost. Ms. Smith described the process for notification, outreach activities, and weekly reminders that were sent to pharmacies.
- Dr. Green reported that, with adequate supplies of the vaccine, an outreach will be conducted to pharmacies that have not applied to distribute the immunization.

Discussion continued regarding a fast-track process for vaccine providers, the length of the season for the H1N1, and if the H1N1 vaccine would be included in the seasonal flu vaccine next year.

- Assemblyman Hardy asked about herd immunity and the percentage of population receiving the vaccine.
- Dr. Green responded it is a state-by-state option to determine when the immunization will be available to the general public with no specific guidance by the Centers for Disease Control. She stated she will provide data at the next meeting regarding the number of vaccines provided for H1N1 versus the general seasonal flu vaccine.

In response to Assemblyman Hardy's question about immunizations provided by the Southern Nevada Health District (SNHD), Lawrence K. Sands, D.O., M.P.H., Chief Health Officer, reported on the efforts of the SNHD to hold clinics during working hours, five days per week, and large-scale pods held on weekends at various locations in Clark County. He discussed special programs for smaller groups as more vaccines are made available, holding more outreach clinics, and continuing the program until spring of 2010.

Responding to Assemblyman Hardy's inquiry regarding when the general population could be vaccinated, Dr. Green stated there are not adequate doses at this time. She stressed the importance of a strategic plan to ensure that the supply is not depleted and reported there is only a certain allocation received each week. Dr. Green noted that December 11 was advertised as a target date and stated that anyone over the age of 24 with underlying health conditions would not be turned away.

Discussion ensued regarding lag times between data collection, reporting, and vaccine allocation.

PRESENTATION CONCERNING CHILD AND ADULT IMMUNIZATIONS IN NEVADA

- Christine N. Smith, previously identified, reported on: (1) activities to increase immunizations and education information; (2) enhancement of the immunization registry; (3) prenatal hepatitis C prevention; and (4) vaccine accountability and management. Ms. Smith stated an important component to the immunization program is the statewide immunization registry (Web IZ). She noted the Web IZ registry provides complete information on vaccinations administered to adults and children that includes a history for appropriate vaccinations for the population. Ms. Smith commented that recent changes to NRS give parents an option if they choose not to include their child's immunization records in the registry. She reported that currently records can only be inputted by direct entry; however, an electronic operation to exchange data is projected with enhancements scheduled over the next two years ([Exhibit M](#)).

In response to Chair Wiener's inquiry about how many visits would be needed to comply with the list of required vaccinations, Ms. Smith responded there are a base set of immunizations scheduled at specific ages. She also described the process used to work with providers to ensure that children are immunized.

- Tracey D. Green, previously identified, stated that Nevada's transient nature makes percentages difficult but WebIZ assists in tracking transient children moving within the State.

Discussion ensued regarding information on numbers from WebIZ and challenges with transient rates in Nevada. Chair Wiener requested more information on data for children who have moved, which Dr. Green stated she will provide.

- Cari A. Rovig, M.B.A., Statewide Executive Director, Nevada Immunization Coalition, explained the Coalition is a nonprofit entity that partners with the State Immunization Program to focus on immunization issues. Ms. Rovig stated there are no dedicated resources at the State or federal level to educate the public or provide adult vaccinations. She noted that coalitions have been valuable in addressing adult immunizations in communities and in working with partners to provide immunizations. Ms. Rovig stated the Coalition would continue to provide education on adult immunizations. She commented that the Coalition also addresses updated vaccine requirements for college students and was instrumental in implementing "cocooning," which is immunization for adults to protect newborn babies. Ms. Rovig added that Nevada was the first state to implement the cocooning project.

Responding to Assemblyman Hardy's inquiry regarding the inclusion of the pertussis vaccine to worker's compensation patients, Ms. Smith stated she would provide that information to the LCHC.

PRESENTATION CONCERNING THE LEGISLATIVE AUDITOR'S REPORT ON THE DEPARTMENT OF HEALTH AND HUMAN SERVICES, HEALTH DIVISION-INSPECTION PROGRAMS (LA 10-05) ISSUED ON NOVEMBER 5, 2009

- Richard Whitley, previously identified, discussed the audit report entitled, *Department of Health and Human Services Health Division – Inspection Programs 2009*, by the Legislative Auditor ([Exhibit N](#)). He stated the three programs that provide inspections within the Health Division's Bureau of Health Care Quality and Compliance were audited. Mr. Whitley noted that inspections of health facilities and radiological health are statewide programs and that environmental health inspections focus on rural and frontier Nevada, which do not have local health departments. He commented that the Health Division accepted all of the Legislative Auditor's findings and stated a formal corrective action plan will be submitted within the required 60-day time limit. Mr. Whitley pointed out that prior to the audit, the hepatitis C event in January 2008 had forced the fundamental review and reorganization of the inspection process.
- Mary Wherry, Deputy Administrator, Health Division, DHHS, provided an update on progress in the "need to improve" areas of the audit report including: (1) timely inspections; (2) monitoring of inspection reports; (3) development of written policies and procedures; and (4) supervisory oversight including improving work performance standards and training supervisors to review periodic reports and ensure performance of duties by staff. She addressed each recommendation including the action steps and estimated completion date, along with an updated status of each recommendation ([Exhibit O](#)).
- Tracey D. Green, previously identified, commented on a new process where any complaint involving immediate jeopardy would be investigated within 48 hours.

PRESENTATION CONCERNING THE NEVADA SYSTEM OF HIGHER EDUCATION'S (NSHE) EFFORTS TO ADDRESS THE HEALTH CARE WORKFORCE SHORTAGES IN NEVADA

- Maurizio Trevisan, M.D., M.S., Executive Vice Chancellor and CEO, University of Nevada Health Sciences System, NSHE, introduced John Packham, Ph.D., University School of Medicine, Director of Health Policy Research, Center for Education and Health Services Outreach (CEHSO).
- John Packham, previously identified, summarized the key points of health programs in Nevada ([Exhibit P](#)) and discussed ongoing research in progress by the CEHSO. He stated that health care provider shortages have been endemic to the State over the

past decade. Dr. Packham reported that in comparison to other states Nevada has fewer providers per capita in rural and frontier areas of the State. He pointed out that Nevada ranks low in the United States for the number of health care providers, which includes mental health professionals, primary care physicians, and specialty care surgeons.

Dr. Packham provided the *Physician Workforce in Nevada* report ([Exhibit P-1](#)) and discussed Nevada's poor ranking in overall physician supply and specialty physicians per capita. He pointed out that, although Nevada ranks low nationally for registered nurses, the number has increased and he attributed the increase to the doubling of nursing programs.

Continuing his testimony, Dr. Packham reported that the American Association of Medical Colleges recently released a report on physician workforce data at the State level that revealed Nevada ranks 22nd in the nation in the percentage of physicians who graduate and practice in Nevada ([Exhibit P-2](#)). He recommended establishing a health workforce agency and advised there is federal legislation pending that will allocate dollars to states with established workforce agencies.

- Assemblywoman Spiegel asked if the nationwide rating could be skewed because of the shortage in rural areas. Dr. Packham responded that 90 to 95 percent of the physicians are practicing in urban areas of the State, which would drive the statewide per capita figures up.

Responding to Chair Wiener's request for a report on nurse retention, Dr. Packham stated that surveys of graduating nurses included questions regarding their future plans. He discussed the severe shortage of teaching faculty for nursing programs throughout the United States, which he said is one of the top barriers to nursing program expansion.

- Maurizio Trevisan, previously identified, echoed that teaching shortages in nursing programs are a national issue. He noted that every year there are 300 qualified applicants turned down in the State due to lack of instructors.

Discussion ensued regarding the number of students applying for nursing programs and the retention rate for nurses in Nevada. Dr. Trevisan stated that approximately 1,600 nurses will graduate from the NSHE and private programs this year.

Dr. Trevisan provided a Microsoft PowerPoint presentation addressing the health care workforce shortage ([Exhibit Q](#)). He reported the NSHE trained 15,200 students in medical professions in the State and pointed out that NSHE schools provide care to low-income residents, primarily young people and the elderly. Dr. Trevisan said the Health Sciences System was created to promote: (1) efficiency and effectiveness; (2) an internal and external collaboration and a systems approach; and (3) development of new programs. He reported on recent growth in the NSHE program and efforts to increase the recruitment and retention of students by: (1) the development of a new clinical placement system in

collaboration with Nevada hospitals; and (2) the facilitation of a uniform statewide student nurse clinical orientation program. Concluding, he noted the biggest challenges faced by the NSHE are program expenses and limited resources.

PRESENTATION CONCERNING THE DELEGATION OF RESPONSIBILITY BY LICENSED HEALTH CARE PROFESSIONALS TO NONLICENSED ALLIED HEALTH CARE WORKERS

- Marsheilah D. Lyons, previously identified, discussed a summary of responses received from a survey she provided to various licensing boards regarding: (1) the titles of nonlicensed or State regulated allied health care workers that provide clinical support to professionals they license; and (2) a description of the duties they perform, including any clinical tasks that may be delegated or assigned to that allied health care worker ([Exhibit R](#)).

Discussion ensued regarding concern voiced by the State Board of Nursing about supervision and identification of medical assistants and concerns noted by the LCHC regarding potential confusion that could arise in distinguishing between licensed and unlicensed medical personnel and using different descriptors for similar tasks. Assemblywoman Spiegel requested an expansion to include licensed titles. Chair Wiener stated the LCHC would study licensed, unlicensed, certified, and registered titles.

- Ms. Lyons, continuing her presentation, noted other unregulated paraprofessionals who may deal with prescription drugs that were identified by the Stated Board of Pharmacy, which include medical assistants, radiological technicians, and nuclear medicine technicians.

Discussion continued between Ms. Lyons and members of the LCHC about the additional information needed regarding job titles and requirements for those job titles. Ms. Lyons pointed out that she had requested information on the titles of nonlicensed or State regulated assistants. Assemblywoman Spiegel asked to include licensed, certified, and regulated personnel and how it is determined that a person is qualified to perform their job duties. Assemblyman Hardy described situations in which a receptionist could be considered an assistant. Chair Wiener asked that the request for information specify providers of clinical care.

CONSIDERATION OF REGULATIONS PROPOSED OR ADOPTED BY CERTAIN LICENSING BOARDS PURSUANT TO *NEVADA REVISED STATUTES 439B.225*

LCB File No. 131-09, Board of Psychological Examiners

- Sara L. Partida, Principal Deputy Legislative Counsel, Legal Division, LCB, provided a synopsis of the regulations proposed or adopted by certain licensing boards in Nevada, which the LCHC is required to review pursuant to NRS 439B.225. The full text of her presentation is available as [Exhibit S](#).

PUBLIC COMMENT

- Lilliam Shell, Regional Operations Director, Nevada Health Centers, Inc., expressed her willingness to work with the LCHC on the regulations for medical assistants. She explained that Nevada Health Centers, Inc., employs staff for rural areas and conducts a medical assistant training program. Ms. Shell discussed a national certification program that the Nevada Health Centers, Inc., promoted for medical assistants.
- Denise Selleck Davis, Nevada Osteopathic Medical Association, reported on a number of licensed osteopathic physicians working in the State who were not included in previous counts provided by the NSHE. She mentioned a master's degree nursing program available at Touro University Nevada. Ms. Davis discussed the cooperation of Valley Hospital Medical Center in developing over 90 resident programs and additional programs to retain graduates in Nevada.
- Chair Wiener discussed agenda items for the January 13, 2010, meeting of the LCHC.

ADJOURNMENT

There being no further business to come before the Committee, the meeting was adjourned at 5:03 p.m.

Respectfully submitted,

Sally Trotter
Senior Research Secretary

Marsheilah D. Lyons
Principal Research Analyst

APPROVED BY:

Senator Valerie Wiener, Chair

Date: _____

LIST OF EXHIBITS

[Exhibit A](#) is the “Meeting Notice and Agenda” provided by Marsheilah D. Lyons, Principal Research Analyst, Research Division, Legislative Counsel Bureau (LCB).

[Exhibit B](#) is a letter dated November 24, 2009, to Chair Wiener, from Michael J. Willden, Director, Department of Health and Human Services (DHHS).

[Exhibit C](#) is the written testimony of Jim Spinello, Local Government Affairs Director, R & R Partners, Las Vegas, Nevada, dated December 9, 2009.

[Exhibit D](#) is a Microsoft PowerPoint presentation titled “Nevada Medicaid Financing Options,” dated December 9, 2009, offered by James E. Gjerset, Attorney, Gjerset & Lorenz, Austin, Texas.

[Exhibit E](#) is a Microsoft PowerPoint presentation titled “Provider Tax Study Update,” dated December 9, 2009, given by Bill Welch, President and Chief Executive Officer, Nevada Hospital Association, Reno, Nevada.

[Exhibit F](#) is the written testimony of Charles Duarte, Administrator, Division of Health Care Financing and Policy (DHCFP), DHHS, titled “Legislative Committee on Health Care, Update on the Medicaid Disproportionate Share Hospital Program and S. B. 382,” dated December 9, 2009.

[Exhibit F-1](#) is a letter dated December 1, 2009, to the Legislative Committee on Health Care from Charles Duarte, Administrator, DHCFP, DHHS.

[Exhibit F-2](#) is a document titled “Disproportionate Share Hospital Program (DSH) in Nevada,” submitted by Charles Duarte, Administrator, DHCFP, DHHS.

[Exhibit G](#) is a Microsoft PowerPoint presentation titled “Disproportionate Share Hospitals in Nevada,” given by Andy North, Director of Public Policy and Advocacy, St. Rose Dominican Hospitals and Saint Mary’s Regional Medical Center.

[Exhibit G-1](#) is a document titled “Proposed Medicaid DSH Payment Methodology,” provided by Andy North, Director of Public Policy and Advocacy, St. Rose Dominican Hospitals and Saint Mary’s Regional Medical Center.

[Exhibit G-2](#) is a table titled “Eligibility Based on Minimum Federal Requirements and Medicaid Inpatient Utilization Rate Above the State Mean,” submitted by Andy North, Director of Public Policy and Advocacy, St. Rose Dominican Hospitals and Saint Mary’s Regional Medical Center.

[Exhibit H](#) is Microsoft PowerPoint presentation titled “Disproportionate Share Proposal, Legislative Committee on Healthcare,” dated December 9, 2009, presented by Chris Bosse, Vice President, Government Relations, Renown Regional Medical Center.

[Exhibit I](#) is a statement submitted by Misty Grimmer, representing North Vista Hospital, dated Wednesday, December 9, 2009.

[Exhibit J](#) is a table titled “History of Legislation From Previous Sessions of the Nevada Legislature Which Proposed to Limit Payments for Medical Services Provided to Insured Patients and Discussion of Methods for 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*),” provided by Marsheilah D. Lyons, Principal Research Analyst, Research Division, LCB.

[Exhibit J-1](#) is an Issue Brief from the 2005 Session titled “Assembly Bill 289 – An Overview of Nevada’s Health Care Cost Containment Initiative of the 1987 Legislative Session,” prepared by the Research Division of the Legislative Counsel Bureau, furnished by Marsheilah D. Lyons, Principal Research Analyst, Research Division, LCB.

[Exhibit K](#) is a Microsoft PowerPoint presentation titled “Tobacco Prevention in Nevada,” submitted by Lawrence P. Matheis, President, Nevada Tobacco Prevention Coalition.

[Exhibit L](#) is a document containing an update on the H1N1 vaccine program offered by Tracey D. Green, M.D., State Health Officer, Health Division, DHHS.

[Exhibit M](#) is a document titled “State of Nevada Immunization Program Overview,” submitted by the Bureau of Child, Family and Community Wellness, Health Division, DHHS.

[Exhibit N](#) is a report titled *Audit Report, State of Nevada, Department of Health and Human Services, Health Division – Inspection Programs 2009*, prepared by the Legislative Auditor, Audit Division, LCB.

[Exhibit O](#) is a table highlighting the areas of needed improvement cited in the Audit Report, provided by Mary Wherry, Deputy Administrator, Health Division, DHHS.

[Exhibit P](#) is a Microsoft PowerPoint presentation titled “Status of Health Professionals in Nevada, Presentation to the Legislative Committee on Health Care,” dated December 9, 2009, prepared by Caroline Ford, M.P.H., Assistant Dean, Office of Health Professions, Research and Policy, University of Nevada, School of Medicine, submitted by John Packham, Ph.D. University of Nevada School of Medicine, Director of Health Policy Research, Center for Education and Health Services Outreach (CEHSO).

[Exhibit P-1](#) is a report furnished by John Packham, Ph.D., titled *Physician Workforce in Nevada, Characteristics and Distribution*, 2009 Edition, CEHSO Health Workforce Report, dated November 2009, by John Packham, Ph.D., Director of Health Policy Research, CEHSO, and Tabor Griswold, M.S., Health Services Research Analyst, University of Nevada, School of Medicine.

[Exhibit P-2](#) is a document titled “Findings from the American Association of Medical College’s 2009 *State Physician Workforce Data Book* (AAMC Center for Health Workforce Studies, November 2009),” submitted by John Packham, Ph.D. University of Nevada School of Medicine, Director of Health Policy Research, CEHSO.

[Exhibit Q](#) is a Microsoft PowerPoint presentation titled “Health Sciences System, NSHE’s Efforts to Address the Health Care Workforce Shortages,” Legislative Committee on Health Care, dated December 9, 2009, provided by Maurizio Trevisan, M.D., M.S., Executive Vice Chancellor and CEO, University of Nevada Health Sciences System.

[Exhibit R](#) is a table titled “Responses to a Quick Survey Regarding Nonlicensed Allied Health Care Workers and the Duties Delegated or Assigned by Licensed Health Care Professionals to the Allied Health Care Worker,” offered by Marsheilah D. Lyons, Principal Research Analyst, Research Division, LCB.

[Exhibit S](#) is a document titled “Agenda Item XIII: Consideration of Regulations Proposed or Adopted by Certain Licensing Boards Pursuant to NRS 439B.225,” furnished by Sara L. Partida, Principal Deputy Legislative Counsel, Legal Division, LCB.

This set of “Summary Minutes and Action Report” is supplied as an informational service. Exhibits in electronic format may not be complete. Copies of the complete exhibits, other materials distributed at the meeting, and the audio record are on file in the Research Library of the Legislative Counsel Bureau, Carson City, Nevada. You may contact the Library online at www.leg.state.nv.us/lcb/research/library/feedbackmail.cfm or telephone: 775/684-6827.