MINUTES OF THE MEETING
OF THE
LEGISLATIVE COMMITTEE ON HEALTH CARE
(*Nevada Revised Statutes* 439B.200)
January 8, 2002
Las Vegas, Nevada

The third meeting of the Legislative Committee on Health Care for the 2001-2002 interim was held on Tuesday, January 8, 2002, at 9:30 a.m., in Room 4401 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. This meeting was videoconferenced to Room 2135 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. Pages 2 through 4 contain the "Meeting Notice and Agenda" for this meeting.

COMMITTEE MEMBERS PRESENT IN LAS VEGAS:

Senator Raymond D. Rawson, Chairman
Assemblywoman Ellen M. Koivisto, Vice Chairman
Senator Bernice Mathews
Assemblywoman Merle A. Berman
Assemblywoman Bonnie L. Parnell

COMMITTEE MEMBERS PRESENT IN CARSON CITY:

Senator Maurice E. Washington

LEGISLATORS IN ATTENDANCE (NOT MEMBERS OF COMMITTEE):

Assemblywoman Barbara K. Cegavske

LEGISLATIVE COUNSEL BUREAU STAFF PRESENT:

Marsheilah D. Lyons, Senior Research Analyst
Marla McDade Williams, Senior Research Analyst
Leslie K. Hamner, Principal Deputy Legislative Counsel
Susan Furlong Reil, Principal Research Secretary
Gayle Nadeau, Senior Research Secretary

MEETING NOTICE AND AGENDA

Name of Organization:	Legislative Committee on Health Care (*Nevada Revised Statutes* 439B.200)

Date and Time of Meeting: Tuesday, January 8, 2002
9:30 a.m.

Place of Meeting: Grant Sawyer State Office Building
Room 4401
555 East Washington Avenue
Las Vegas, Nevada

Note: Some members of the committee may be attending the meeting and other persons may observe the meeting and provide testimony through a simultaneous videoconference conducted at the following location:

Legislative Building
Room 2135
401 South Carson Street
Carson City, Nevada

If you cannot attend the meeting, you can listen to it live over the Internet. The address for the legislative Web site is http://www.leg.state.nv.us. For audio broadcasts, click on the link "Listen to Meetings Live on the Internet."

A G E N D A

I. Introductions and Opening Remarks
Senator Raymond D. Rawson, Chairman

*II. Presentation Concerning the State Emergency Health Powers Act
Leslie K. Hamner, Principal Deputy Legislative Counsel
Legal Division, Legislative Counsel Bureau

*III. Presentation of Certain Local and State Efforts to Address Issues Related to Hospital Emergency Rooms That May Be Unable to Accept Patients (Senate Bill 484 [Chapter 292, *Statutes of Nevada 2001*])

A. Jane Shunney, Assistant to Health Officer
Clark County Health District

B. Jeff Davidson, M.D., Chairman
Clark County Medical Advisory Board

C. Stephanie Beck, R.N., Emergency Medical Services Coordinator
Washoe County District Health Department

D. Representative
Washoe County's Community-Wide Emergency Department Consortium

E. Carlos Brandenburg, Ph.D., Administrator
Division of Mental Health and Developmental Services, Nevada's Department of Human Resources

*IV. Presentation of Certain Hospital and Emergency Response Personnel Concerns Related to Hospital Emergency Rooms That May Be Unable to Accept Patients (Senate Bill 484 [Chapter 292, *Statutes of Nevada 2001*])

A. Bill M. Welch, President and Chief Executive Officer
Nevada Hospital Association

B. Robin Keith, President

Nevada Rural Hospital Project

C. Steve Peterson, Vice President, Operations
American Medical Response

D. Kenneth Riddle, Deputy Chief
Las Vegas Fire and Rescue

E. Jim G. Gubbels, Vice President, Corporate Services
Regional Emergency Medical Services Authority (REMSA)

*V. Presentation of Certain Health Insurer Concerns Related to Hospital Emergency Rooms That May Be Unable to Accept Patients (Senate Bill 484 [Chapter 292, *Statutes of Nevada 2001*])

A. Marie H. Soldo, Executive Vice President, Government Affairs
Sierra Health Services, Inc.

B. Janice C. Pine, Director, Government Relations
Saint Mary's Health Network

*VI. Presentation Regarding the Study of Medical Care Provided to Medicaid, Indigent, and Other Low-Income Patients in Nevada Including Discussion of Study Oversight (Senate Bill 377 [Chapter 598, *Statutes of Nevada 2001*])
Marsheilah D. Lyons, Senior Research Analyst
Research Division, Legislative Counsel Bureau

VII. Public Testimony

VIII. Adjournment

*Denotes items on which the committee may take action.

Note: We are pleased to make reasonable accommodations for members of the public who are disabled and wish to attend the meeting. If special arrangements for the meeting are necessary, please notify the Research Division of the Legislative Counsel Bureau, in writing, at the Legislative Building, 401 South Carson Street, Carson City, Nevada 89701-4747, or call Gayle Nadeau at (775) 684-6825 as soon as possible.

Notice of this meeting was posted in the following Carson City, Nevada, locations: Blasdel Building, 209 East Musser Street; Capitol Press Corps, Basement, Capitol Building; City Hall, 201 North Carson Street; Legislative Building, 401 South Carson Street; and Nevada State Library, 100 Stewart Street. Notice of this meeting was faxed for posting to the following Las Vegas, Nevada, locations: Clark County Office, 500 South Grand Central Parkway; and Grant Sawyer State Office Building, 555 East Washington Avenue. Notice of this meeting was posted on the Internet through the Nevada Legislature's Web site at www.leg.state.nv.us.

INTRODUCTIONS AND OPENING REMARKS

Chairman Rawson called the meeting to order at 9:36 a.m. and directed the secretary to call the roll. All committee members attended the meeting. Chairman Rawson explained that the Legislative Committee on Health Care is a standing committee of the Nevada Legislature and has the statutory authority to meet through the interim.

With the recent acts of terrorism on September 11, 2001, and concern over possible incidents of bioterrorism, Chairman Rawson announced that an overview of the state's draft legislation of the Emergency Health Powers Act would be the second item covered on the agenda. This draft legislation is based on "The Model State Emergency Health Powers Act, Draft as of December 21, 2001" (Exhibit A), developed by The Center for Law and the Public's Health at Georgetown and Johns Hopkins Universities for the Centers for Disease Control and Prevention (CDC).

Senator Rawson said he instructed legal staff to prepare the draft Emergency Health Powers Act legislation with certain considerations for Nevada, including the nuclear issue, that will result in a comprehensive review of Nevada's laws as this legislation is considered. Senator Rawson acknowledged there will be serious concerns about the amount of power granted by the proposed legislation but reminded the audience that the proposed legislation is a draft and that our system of government has diversified the power so that no single entity is able to exercise tyranny. Chairman Rawson stated the committee understands the implications to the protections of our democracy and is also cognizant that government must have the flexibility to respond in cases of extreme situations such as bioterrorism.

Chairman Rawson noted that the Legislative Committee on Health Care would consider changes to the state's draft Emergency Health Powers Act legislation (Exhibit B) and take action on it at the committee's next meeting, which is scheduled for February 12, 2002. Chairman Rawson expressed a desire to have a bill draft ready for consideration in the event the Nevada Legislature is called into special session before 2003.

PRESENTATION CONCERNING THE STATE EMERGENCY HEALTH POWERS ACT

Leslie K. Hamner

Before presenting a summary of the draft Emergency Health Powers Act legislation for the State of Nevada (Exhibit B), Leslie K. Hamner, Principal Deputy Legislative Counsel, Legislative Counsel Bureau (LCB), Carson City, drew attention to the CDC's spring 2001 request of the Center for Law and the Public's Health at Johns Hopkins and Georgetown Universities to develop a model emergency health powers act to help states respond in a rapid, orderly manner to bioterrorism, emerging epidemics, and other public health emergencies. The model act (Exhibit A) is intended to assist states that are considering new emergency public health laws by providing them with consensus-based model legislation to use as a starting point for examining their existing laws.

Ms. Hamner reported that the first version of the model act was provided to the public at the end of October 2001. Subsequent input from various organizations and individuals resulted in a second version, dated December 21, 2001 (Exhibit A). She explained that the state's draft legislation is based on the first version of the model act. She also noted that certain sections of the model act's second version deviate significantly from the first draft, which she drew attention to during her overview.

Referencing her handout titled "Summary of Draft of Bill to Enact the Model State Emergency Health Powers Act" (Exhibit C), Ms. Hamner reviewed the Emergency Health Powers Act draft legislation for the State of Nevada. This summary outlines Nevada's draft bill that was prepared by the LCB's Legal Division and includes, for comparison purposes, all of the provisions of the Model State Emergency Health Powers Act (Exhibit A) that was drafted for the CDC.

Assemblywoman Parnell asked Ms. Hamner if Section 41, dealing with vaccinations and treatment of persons during a state public health emergency, recognizes religious beliefs as an exemption. Ms. Hamner indicated it is her understanding that religious convictions are exempt under that section. Chairman Rawson interjected that if a religious exemption is not in the draft legislation, it will be added.

Continuing, Ms. Parnell pointed out that Section 43 of the draft legislation was the first section to clarify who can

collect information and where it is released in reference to an individual's personal data such as name and address. Ms. Parnell emphasized that the legislation must clearly state who could, and could not, be privy to that type of information. Ms. Hamner stated that at the committee's direction, a provision could be inserted into the legislation prohibiting a person from disclosing personal information except as otherwise authorized in Section 43. To allay potential concerns, Ms. Parnell suggested that the clarifying language be placed at the beginning of the bill rather than in Section 43 of the draft legislation.

Assemblywoman Berman noted that the model act is currently being considered by 20 other state legislatures that began their sessions the week of January 7, 2002. Ms. Berman asked that the committee acquire some of these states' emergency health powers act draft legislation and compare them to Nevada's draft legislation so pitfalls that other states may already have uncovered may be avoided. Chairman Rawson assured Ms. Berman that the committee would closely follow other states progress regarding this legislation.

Senator Rawson reminded the audience that this legislation will address extreme conditions and situations, and it is not intended for day-to-day use in Nevada. It is intended to try and guarantee that certain rights and protections will be maintained in the event a state of emergency were to be declared. Senator Rawson stated the committee welcomes input from all interested parties, whether critical or supportive.

Senator Rawson drew attention to a statement submitted by Jennifer King, Director, Health and Human Services Task Force, American Legislative Exchange Council (Exhibit D), titled "Power Grab: The States in a State of Emergency, The Model Emergency Health Powers Act."

PUBLIC TESTIMONY

Chairman Rawson announced that Janine Hansen would present testimony at the beginning of the meeting rather than during the portion provided for public comment to accommodate Ms. Hansen's need to leave early for travel purposes.

Janine Hansen

Janine Hansen, President, Nevada Eagle Forum, Sparks, Nevada, began by noting she supports a religious exemption in the proposed Emergency Health Powers Act legislation for the state. She then covered various concerns with the draft Emergency Health Powers Act legislation (Exhibit B):

- There are limited safeguards on the Governor's powers.
- Avoid forced vaccinations based on the authority of the individual making the decision as there may be potential harm or even life-threatening results; Ms. Hansen asked the committee to look into this section and make sure there is an appeal process "to protect individuals from the dictatorial authority of local health officials."
- Safeguard against placing children in quarantine where parents may have no control or authority over them.
- Personal health information needs to be held in strict confidence.
- The state's proposed emergency health powers act legislation needs to focus on health issues and not on the confiscation of individuals' property, although there should be a personal property exemption, with firearms and combustibles excluded from this exemption.

Ms. Hansen acknowledged that many of her concerns about the state's proposed Emergency Health Powers Act legislation were addressed in the presentation by Ms. Hamner. However, she is concerned about the possible abrogation of an individual's constitutional rights as she does not see any appeal process addressed in the draft legislation. In conclusion, Ms. Hansen drew attention to three articles she brought (Exhibit E) for the committee that she said address the concerns she raised during her testimony.

PRESENTATION OF CERTAIN LOCAL AND STATE EFFORTS TO ADDRESS ISSUES RELATED TO HOSPITAL EMERGENCY ROOMS THAT MAY BE UNABLE TO ACCEPT PATIENTS (SENATE BILL 484 [CHAPTER 292, *STATUTES OF NEVADA* 2001])

Senator Rawson explained that overcrowded hospital emergency rooms are an issue across the nation, particularly in large and rapidly growing cities such as Las Vegas. When an emergency room is full and can no longer safely accept additional patients, the hospital is placed on "divert" status. When a hospital is on divert, ambulances are redirected from that hospital emergency room to another hospital. Several concerns have arisen as a result of the divert situation, and during the 2001 Session the Legislative Committee on Health Care was given the task of developing a mechanism to address this issue. In an effort to provide a greater assessment of the divert issue, the meeting focused on testimony from professionals in a variety of fields.

Jane Shunney

Jane Shunney, Assistant to Health Officer, Clark County Health District, Las Vegas, noted that Clark County Health District has gathered statistics on the divert problem for the past 15 years. Divert initially was a seasonal problem in Las Vegas, Ms. Shunney stated. However, for the past few years, it has become an almost daily occurrence within the Clark County emergency medical services (EMS) system.

For many years, the responsibility for diverting patients seemed to rest with the ambulance services and the EMS pre-hospital personnel, Ms. Shunney explained. It was perceived that it was their problem, and it was up to them to solve the divert issue. After many years of being "responsible" for the situation, the American Medical Response (AMR) ambulance company hosted a workshop in the latter part of 2000 by the Abaris Group, a California consulting firm specializing in strategic planning for the emergency care field. Attending this workshop were representatives from the fire departments, the ambulance company, the Clark County Health District, emergency room physicians, and the chief executive officers from all the Clark County area hospitals. As a result of that workshop, Ms. Shunney said, three committees were established to address the divert situation: (1) the Ambulance Committee; (2) the Emergency Department (ED) Committee; and (3) the Hospital Blue Ribbon Committee.

Ms. Shunney noted the Ambulance and Emergency Department Committees have made progress. The Hospital Blue Ribbon Committee, composed of representatives from every hospital in the Las Vegas community, continues to meet. She said this committee shares data and continues to study issues related to the internal flow of patients within the hospitals and how that affects emergency rooms.

Jeff Davidson, M.D.

Jeff Davidson, M.D., Chairman, Clark County Medical Advisory Board, noted he also directs one of the emergency departments in Las Vegas and has served as chairman of the Clark County Health District's Medical Advisory Board Divert Subcommittee in Las Vegas for the past seven years. His experience has given him insight into emergency room diversion, some of the successes dealing with this issue, and an understanding of what action is still needed to solve the divert problem. Dr. Davidson stressed the emergency departments are seriously outpaced, and the current resources are unable to keep up with the daily demands of patients needing services.

In an effort to address the problem, Dr. Davidson said the Hospital Blue Ribbon Committee, assembled by the Clark County Health District about a year ago, formed three subcommittees, with each addressing various aspects of the divert problem: (1) EMS Subcommittee; ED Subcommittee; and (3) Hospital Subcommittee.

The EMS Subcommittee's task was to evaluate the current divert system. The subcommittee immediately developed a successful "open and closed" policy where an emergency department could open or close for a specific period of time, thus allowing emergency departments to regroup and reorganize. The policy also regionalized areas of Las Vegas into geographical sections better suited for families, patients, and physicians based on where the patients live. Dr. Davidson referred to a map of these regions in his handout (Exhibit F). Dr. Davidson noted that since the new diversion system was implemented on April 25, 2001, emergency departments have remained open on average 90 percent of the time instead of only 10 percent of the time, as had been the case.

Continuing, Dr. Davidson said the Emergency Department Committee has not been able to find solutions for the

emergency departments when they become overburdened and cannot take more patients but are forced by rotation to reopen. He noted this is where other groups working on the divert problem can provide assistance with alternatives being developed such as the Chronic Public Inebriate (CPI) Task Force, mental health support systems, shelter development programs, and urgent care centers. Dr. Davidson drew attention to the impact the CPI and mental health patients have on the emergency departments with the current system, especially during the holidays.

Chairman Rawson stressed it is important that the various task forces and committees established to work toward solutions to the CPI, divert, and mental health problems continue meeting and making progress toward resolving these issues; otherwise, the alternative will be legislative action to resolve these issues.

At this time, Chairman Rawson asked for testimony regarding the CPI issue.

Davette Shea

Davette Shea, Director Special Clinics, University Medical Center (UMC), Las Vegas, Nevada, testified that in January of 2000, a Chronic Public Inebriate Task Force was formed of Las Vegas emergency department nurse managers. Westcare, Las Vegas Mental Health Services, and other shareholders dealing with problems related to the CPI and mental health weaknesses in emergency departments were included on the task force. Ms. Shea noted before this meeting, little comparative statistical data was available to assess if a situation was better, staying the same, or worse.

Ms. Shea directed the committee's attention to data compiled since the formation of this task force in the handout titled "The Chronic Public Inebriate" (Exhibit G). Comparing 1999 to 2000, she noted the financial impact from the CPI problem has dramatically increased. Ms. Shea said the task force has attempted to demonstrate through this data the impact the CPI individuals have on bed availability for other sick and injured patients, as well as the impact on public services such as fire rescue, law enforcement, and private ambulance.

In December of 2001, the CPI Task Force was invited to meet with the Las Vegas Metropolitan Police Department's Mental Health Task Force. Ms. Shea shared these two task forces' plan to combine expertise, knowledge, and resources to provide a central location for triage and medical clearance for both the CPI and mental health patients.

Ms. Shea shared an example of success that can be achieved with such cooperation as demonstrated by the EMS triage protocol developed with the help of the Chronic Public Inebriate Task Force. This triage protocol, or what is called the "Chronic Public Inebriate Algorithm" (Exhibit G), allows the paramedic and EMS personnel in the field to do a basic assessment of CPI clients and determine whether they need treatment in the emergency room or can be transported directly to Westcare for assessment and detoxification.

Jerry Keller

Jerry Keller, Sheriff, Las Vegas Metropolitan Police Department, Las Vegas, stated he learned early in his career that "like medicine, policing requires prescription, and prescription without diagnosis is malpractice." He said mental health issues and their impact on emergency rooms is a significant problem.

Comparing the earlier testimony regarding the proposed Emergency Health Powers Act legislation to the mental health situation in Clark County, Sheriff Keller said the mental health issue is at "crisis, emergency proportions." He stated the mental health patients are required to be medically screened before they undergo psychiatric care. If the mental health patient is caught committing a crime, the arresting officer does not have the discretion to divert them; the officer must address the criminal behavior. Sheriff Keller averred police officers are not trained to diagnose peoples' medical or psychiatric conditions.

Stating that there is no system in place to deal with this aspect of the mental health issue, Sheriff Keller said the Las Vegas Metropolitan Police Department will present a plan to the Legislature that may require a change in the law or allocation of funds to address some of the problems police officers encounter. He agreed with Ms. Shea that a one-stop triage is needed where professionals can diagnose CPI and mentally ill individuals and enable them to obtain the assistance they need.

Sheriff Keller shared that because of crisis concerns regarding the mental health issue, the Las Vegas Metropolitan

Police Department hosted a meeting in March of 2001 among the Clark County District Attorney's office, the department's legal counsel, law enforcement, mental health advocates, mental health professionals, medical professionals, medical transport professionals, and service providers in Clark County to develop cooperative strategies to leverage not only budgeted funds, but also the systems already in place. He added the Las Vegas Metropolitan Police Department has a four-hour mental health training component required for all its officers, with at least 50 mental health specialists within the police officer core who have completed a minimum of 40 hours training.

The Las Vegas Metropolitan Police Department has talked to representatives from several United States cities that have successful applications of the mental health process, and the department is now crafting a plan utilizing the best practices from all the cities contacted in order to develop a system that will meet the needs of Clark County.

In conclusion, Sheriff Keller pointed out that the growth in Clark County in the last ten years has been equivalent to the entire population of Omaha, Nebraska; New Orleans, Louisiana; or Atlanta, Georgia, with no growth in mental health facilities, mental health planning, or mental health resources.
Chairman Rawson offered the committee's support in submitting a bill draft of the plan regarding solutions to the CPI and mental health issues that Sheriff Keller referenced during his testimony.

Dale Carrison, M.D.

Dale Carrison, M.D., Director, UMC Emergency Department, Las Vegas, addressed mental health issues as they affect patients and the divert system. Dr. Carrison said since his arrival to Clark County in June of 1991, there have been no increases in mental health resources. He described the divert and mental health situation as ineffective and praised the efforts of Sheriff Keller in creating a task force to work on the mental health and divert problems.

Dr. Carrison shared a situation he experienced in December of 2001 where he had four individuals in the emergency department on mental health petitions, which is the legal form to request the mental health evaluation of a patient. These patients were in the emergency department for more than 90 hours each, which accounts for 360 hours that four beds in the emergency department were unavailable for other patients in need of emergency services. He added that by Nevada law, if psychiatric patients are determined to be a danger to themselves or others or cannot tend to their own care, once medically cleared, they are to be taken immediately to a mental health facility. Dr. Carrison averred this is not possible because the resources of the EMS system in Clark County are overwhelmed, unavailable, and are in a crisis situation.

Ole J. Thienhaus, M.D., M.B.A.

Ole J. Thienhaus, M.D., Director of Psychiatry, UMC, Las Vegas, stated when he came to Nevada in 1995, he was amazed to learn there were no psychiatric emergency services (PES) in the state. He shared that he previously served as the director of the PES unit at the University of Cincinnati in Cincinnati, Ohio. Dr. Thienhaus compared the concept of a PES unit to the triage approach, which he noted he supports.

Dr. Thienhaus explained that Nevada's state hospitals have a crisis observation unit, not a PES unit. Another concern Dr. Thienhaus raised is the lack of accreditation of the state hospitals and the lack of qualified medical staff. He shared he has worked with the federal Veterans Affairs hospital, the state hospital, UMC, and the jails since moving to Clark County, and he has witnessed the misdirection of mental health patients. As a solution to this problem, Dr. Thienhaus offered his plan as specified in his handout titled "Proposal for Psychiatric Emergency Services in Clark County" (Exhibit H). His proposal for a state-of-the-art PES facility would be dedicated to the triage approach and immediate treatment of the mentally ill. Dr. Thienhaus also noted the facility would be located next to the general emergency room at UMC, which has the only Level I trauma center in Clark County.

In closing, Dr. Thienhaus mentioned he is pursuing the establishment of a residency program in psychiatry for Clark County that would commence, at the earliest, in July of 2003. He said a PES unit would provide an ideal psychiatric emergency training venue and meet the need for around-the-clock psychiatric coverage at such a unit by having the residents staff the facility under proper supervision.

Chairman Rawson asked Dr. Thienhaus if his proposed PES unit in Clark County would be a shared facility with funding coming from the state, which is responsible for the mentally ill, and the county, which is responsible for the indigent. Dr. Thienhaus responded that he does see a shared facility as the preferred option, which is how the PES

unit in Cincinnati was funded, so the patients would not be shifted from one facility to another. Chairman Rawson asked Dr. Thienhaus if the psychiatric residency program would be operated through the medical school at the University of Nevada School of Medicine. Dr. Thienhaus confirmed that the residency program would be a part of the University of Nevada School of Medicine.

Chairman Rawson noted that starting a clinical program in Clark County would be a challenge to move it through the University and Community College System of Nevada (UCCSN) and the subsequent budget requirements. In light of complicating factors, Senator Rawson asked Dr. Thienhaus to work with the various entities necessary to develop a model of the residency program and then present that model to the Legislative Committee on Health Care so the committee can move forward with a draft of the proposal, which will be outside the normal budget process. Senator Rawson outlined the following components for Dr. Thienhaus to address in his model for a psychiatric residency program:

- What will Nevada's funding share be?
- Including the residency program through the medical school, what will Clark County's funding share be?
- Where will the facilities be located and/or what magnitude will they be?
- What is the deadline to have the residency program in place?

Senator Rawson pointed out to Dr. Thienhaus that the committee would need a plan for the proposed psychiatric residency program by mid-summer in order to move forward and place it into the draft legislation process. He also emphasized that this is a solvable problem if diligent efforts are devoted to reaching a solution.

Vic Davis

Vic Davis, President, National Alliance for the Mentally Ill, Nevada Chapter, Las Vegas, stated the growing population in Las Vegas is having a major impact on the mental health resources in Clark County. He cited statistics that say 2,000 families are moving into the area each month, and he noted that national statistics indicate about one in five families have a member who suffers with a mental illness. This then equates to 400 mentally-ill people a month settling in Las Vegas, which translates to 10,000 people needing mental health services by the 2003 Nevada Legislative Session.

Mr. Davis noted he is a member of the Las Vegas Metropolitan Police Department's Mental Health Task Force that is looking into various alternatives to incarceration to move untreated individuals into the mental health system for the help they need. Mr. Davis provided the committee with a written copy of his testimony (Exhibit I).

Chairman Rawson drew attention to the statistics Mr. Davis presented, reemphasizing that an estimated 400 people with mental health problems per month are moving into Las Vegas.

Dick Steinberg

Dick Steinberg, Executive Director, Westcare, Las Vegas, said Westcare has been in the community as a nonprofit organization for 29 years and has been administering the detoxification facility for the last 15 years. Mr. Steinberg shared that Westcare brought some of these issues before the Nevada Legislature in 1981 when a liquor tax was incorporated into legislation to help with the problems of public inebriates and drug abuse issues. He noted mental health funding issues were raised during the 1981 Session, which was the last time funding for mental health was addressed in the legislative process.

In 1988, Mr. Steinberg testified, Clark County began augmenting Westcare's funding for the detoxification project. When Westcare went into business, expectations were to treat about 400 to 500 individuals a year. For the last several years, Mr. Steinberg pointed out, Westcare has seen about 4,000 individuals with no increase of service augmentation.

Mr. Steinberg commented Westcare is working on the divert issue with other entities dealing with this issue, such as the Divert Subcommittee, the CPI Task Force, and the Mental Health Task Force. He added that Westcare is also exploring adding mental health services to its program offerings, as well as a triage-type center, but Westcare will need more funding. Further, Westcare is proposing to move its current detoxification center closer to its hospital to

increase the number of detoxification beds from 25 to 60.

Stephanie Beck, R.N.

Stephanie Beck, R.N., Emergency Medical Services Coordinator, Washoe County District Health Department, Reno, reported that Washoe County faces somewhat different problems with respect to mental health and CPI issues. In the mid-1990s, Washoe County hospitals created the Reno/Sparks Emergency Department Consortium. The Washoe County District Health Department joined the consortium in 1997. Ms. Beck mentioned that a diversion subcommittee was formed at that time because the hospitals realized they needed to be proactive on this issue as divert problems were being experience in other regions of the country. The subcommittee's membership included hospitals, law enforcement agencies, mental health professionals, the Regional Emergency Medical Services Authority (REMSA) ambulance service, and the Washoe County District Health Department.

Ms. Beck provided the committee with information regarding diversion policies of some national EMS organizations, along with guidelines for ambulance diversion developed by the National Association of Emergency Medical Services Physicians (Exhibit J).

Ms. Beck noted these guidelines have been developed to include safeguards to prevent the following:

- Unacceptably prolonged transport times;
- Prolonged transport of unstable or critically ill patients;
- Requiring EMS personnel to make predictions about medical needs of patients without the requisite education or experience;
- Allowing diversion status during disaster situations;
- Lack of ongoing quality improvement or an evaluation component;
- The need for legislative immunity to protect EMS personnel and hospital providers;
- Insufficient medical input; and
- Use of hospital resource information that is not frequently updated.

Ms. Beck noted that national experts have hypothesized multiple underlying causes for diversion, such as:

- The decreasing number of hospitals and emergency departments;
- An increasing number of emergency department patients;
- Nursing shortages;
- Seasonal disease fluctuations such as the annual influenza epidemic and lack of specialty and other in-hospital beds;
- Increasing numbers of seriously ill patients;
- Financial pressures from Medicare and managed care organizations, which result in less "surge" capacity for the hospitals; and
- Unwieldy federal requirements such as the Consolidated Omnibus Budget Reconciliation Act (COBRA) and the Emergency Medical Treatment and Active Labor Act antidumping law.

The 2001 Nevada Legislature made some changes by augmenting funding for nursing schools; requiring the licensing of detoxification facilities by the Health Division, Nevada's Department of Human Resources (DHR); and allowing medical clearance of mental health patients by an advanced practitioner of nursing or a physician's assistant. But, Ms. Beck noted, these are multifaceted problems with great variations from hospital to hospital within each community.

Eileen Whalen, M.H.A., R.N.

Eileen Whalen, M.H.A., R.N., Director, Critical Care/Emergency Services, Critical Care/Emergency Department, Saint Mary's Health Network, Reno, noted she serves as Co-Chairman of the Reno/Sparks Emergency Department Consortium, which is committed to the issue of ambulance diversion. Meeting since 1995, the consortium initiated an ambulance diversion policy in 1998 that was agreed upon by all interested parties, including acute care facilities; mental health professionals; and fire, police, and public agencies. This policy is currently being revised in order to more fully address protection of certain subcategories of patients.
As opposed to Clark County, Ms. Whalen shared, Washoe County has three acute care facilities, and although the population is rising, no new acute care facilities are being planned. For this reason, Ms. Whalen emphasized, it is extremely important for all interested parties to work together to maximize their current resources. All three of the acute care facilities in Washoe County are in the process of expanding, remodeling, or replacing emergency departments based on capacity issues. Ms. Whalen further explained that the Emergency Department at Saint Mary's Health Network has reached its peak capacity in terms of overcrowding; it was built to process approximately 20,000 patients per year, and it annually treats 55,000.

Ms. Whalen shared that the acute care facilities each have process improvement initiatives in place with varying levels of success related to emergency department turnaround times. Ms. Whalen pointed out that the solutions for northern Nevada and for southern Nevada may be quite different and urged flexibility in developing solutions. Ms. Whalen provided the committee with a written copy of her testimony (Exhibit K).

Ms. Berman referenced Ms. Whalen's figure of 55,000 people being treated in the emergency room at Saint Mary's Health Network and asked if any of these people are out-of-state and/or transient individuals. Ms. Whalen responded that many of them are transient individuals. Ms. Berman asked if figures were available from other states to compare to Washoe County's numbers of out-of-state and/or transient individuals accessing emergency room services. Ms. Whalen replied that research could be compiled and provided to the committee. She added that Washoe County's population is around 325,000, which is significantly less than Clark County's population.

Carlos E. Brandenburg, Ph.D.

Carlos E. Brandenburg, Ph.D., Administrator, Division of Mental Health and Developmental Services (MHDS), DHR, Carson City, presented an overview of the division's emergency service programs. The division first became involved in providing PESs in southern Nevada in April of 1992, and the division opened the PES unit in northern Nevada in January of 1999. Dr. Brandenburg also clarified that the health services program at Northern Nevada Adult Mental Health Services (NNAMHS) is accredited by the Joint Commission on Accreditation of Healthcare Organizations (JCAHO).

Dr. Brandenburg explained that the PES unit is composed of two separate and distinct programs. The first is the psychiatric ambulatory service (PAS) and the second is the psychiatric observation unit (POU). These two programs are staffed with mental health technicians, psychiatric nurses, psychiatrists, psychologists, and social workers. Because these two programs are in the same location within the hospital grounds, he pointed out, the staff is able to readily move from one service unit to the other. In emergencies, staff is drawn from the psychiatric hospital.

The PAS programs at the Southern Nevada Adult Mental Health Services (SNAMHS) and NNAMHS are the entry port for all individuals seeking voluntary psychiatric assistance. As clinically appropriate, individuals are referred to community services such as case management or a variety of nonstate programs or services. Dr. Brandenburg testified that the PAS program at SNAMHS sees approximately 694 individuals a month and NNAMHS averages about 168 individuals a month.

Continuing, Dr. Brandenburg explained that the POU, referred to as the 10-bed psychiatric program, is for

individuals who have been sent to the observation unit after they have been found to be a danger to themselves or to others. Psychiatric treatment is provided immediately in a secure facility, he stated. Individuals in this program may be observed up to 72 hours, after which they must be discharged or admitted into the hospital. If discharged, the patient is referred to appropriate community-based services or other non-state programs. Dr. Brandenburg also noted that NNAMHS sees about 118 admissions a month, where SNAMHS averages around 267 admissions a month.

Dr. Brandenburg provided the committee with copies (Exhibit L) of four graphs labeled: (1) Monthly Ambulatory Crisis Contacts; (2) POU Served With Trend; (3) Hospital Source for Waiting; and (4) IP Admits per Month. Dr. Brandenburg also provided the committee with a document (Exhibit M) titled "Medical Director Office Actions to Fill Vacant Psychiatrist Positions."

Harold Cook, Ph.D.

Harold Cook, Ph.D., Clinic Director, NNAMHS, formerly known as Nevada Mental Health Institute, noted NNAMHS offers a full array of outpatient mental health services, including a 40-bed inpatient hospital and an emergency services department with a 10-bed observation unit. Dr. Cook stated the caseload at NNAMHS was 2,521 as of November 30, 2001.

Since opening in 1999, Dr. Cook pointed out that the PES unit has significantly reduced the number of admissions to the inpatient hospital at NNAMHS. He added that NNAMHS is meeting the mental health service demands in northern Nevada 99 percent of the time. Dr. Cook shared that the Washoe County hospitals' Emergency Department Consortium has developed a referral process to ensure that the necessary patient information is transmitted from the hospital emergency room to NNAMHS prior to the individual being transported to NNAMHS.

David Rosin, M.D.

David Rosin, M.D., Statewide Medical Coordinator, MHDS and Medical Director and Acting Agency Director, SNAMHS, provided the committee with copies of his discussion points (Exhibit N), which draw attention to following:

- The current divert crisis is complex and is caused by multidimensional, interrelated factors. Effective solutions are not simple or single dimensional.

- The demand for emergency psychiatric services in Clark County has grown faster than predicted because of: (1) rapid population growth; (2) an increase in service accessibility; and (3) a decrease in barriers to emergency treatment.

- The ability of SNAMHS to manage the volume of emergency referrals has been exceeded.

- The SNAMHS is working closely with the emergency room committee in an effort to provide prompt service and reduce the current crisis in emergency care.

Dr. Rosin explained that SNAMHS, a 78-bed acute care psychiatric hospital, is in the process of seeking joint accreditation with the goal of participating in the proposed psychiatric residency program. The SNAMHS also has four outpatient medication clinic sites, as well as an emergency service department that includes PAS and POU units. Dr. Rosin cited a number of statistics regarding patient caseload and the PAS and POU units at SNAMHS, which are covered in Exhibit N.

Dr. Rosin clarified that SNAMHS does monitor its clients in the community service system at the four medication clinics and at times provides crisis housing. He confirmed there is a staffing shortage causing delays in timeliness of service for some of the hospital's patients.

Dr. Rosin noted that in February of 2001, SNAMHS was perceived to be a major part of the diversion crisis and subsequently redesigned its admission procedures for PES, which helped reduce the amount of time the facility was being placed on divert status. Since September of 2001, though, SNAMHS has been on divert status a majority of the time due to lack of bed availability. From September 2001 until December 1, 2001, SNAMHS took steps to alleviate

this problem by sending a psychiatrist to perform triage at the UMC and Valley Hospital Medical Center emergency rooms and, if possible, discharge individuals awaiting transfer to SNAMHS. Because of staffing shortages at SNAMHS, this service has been discontinued.

Dr. Rosin explained that the State Board of Medical Examiners ruled last July that physicians seeking temporary licenses needed to qualify for permanent licenses by passing a general medical examination. Many of these physicians seeking these licenses are psychiatrists who have been out of medical school for some time, making it a burden to meet this requirement. This situation, therefore, has contributed to the psychiatrist recruitment difficulties for SNAMHS.

Chairman Rawson shared his observations regarding the divert issue from the information presented, acknowledging the following points:

- Nevada needs a psychiatric residency program.
- The entire divert issue is creating tremendous costs.
- Ambulance companies are being stretched financially, and ambulance crews are being forced to wait for extended periods of time in emergency rooms, which also affects their bottom line.
- Divert is hurting fire and police departments in terms of personnel costs.
- Other public-sector employees are adversely affected by the divert situation.

Chairman Rawson noted he is optimistic that solutions to the diversion problem are progressing. He views the PES unit as a key element to coordinated efforts in solving the divert issue. Senator Rawson asked for creative input and action in carrying these efforts

forward so that potential solutions to the issue can be presented to the 2003 Legislature. Dr. Brandenburg agreed with Chairman Rawson and noted SNAMHS and NNAMHS are committed to working with a variety of interested parties in looking at the divert issue in a creative light.

PRESENTATION OF CERTAIN HOSPITAL AND EMERGENCY RESPONSE PERSONNEL CONCERNS RELATED TO HOSPITAL EMERGENCY ROOMS THAT MAY BE UNABLE TO ACCEPT PATIENTS (SENATE BILL 484 [CHAPTER 292, *STATUTES OF NEVADA* 2001])

Bill M. Welch

Bill M. Welch, President and Chief Executive Officer, Nevada Hospital Association, Reno, addressed the hospital industry's concerns related to emergency divert and the hospitals' efforts in dealing with this issue. Mr. Welch pointed out there are two general reasons a hospital will go on emergency divert status, which are driven by many individual factors: (1) lack of available beds; and/or (2) shortage of professional staff to care for additional patients.

The rapid growth in Clark County, especially within the senior population, puts increased demand on available resources and hospitals, Mr. Welch stressed. Along with the rapid population growth, the number of uninsured citizens also has risen as indicated in a study commissioned by the Great Basin Primary Care Association. Also, Mr. Welch pointed out, there has been a dramatic increase in state-funded programs such as Medicaid. Because most private outpatient providers will not treat the uninsured population, these individuals utilize hospital emergency departments for their primary care, further straining hospital resources and contributing to the overcrowding of hospital emergency departments.

Mr. Welch elaborated that Nevada's population growth has led to hospital emergency departments becoming holding areas for psychiatric patients waiting transport to private or state psychiatric hospitals. This situation depletes bed space and staff resources from the hospital emergency departments' ability to accept patients with true medical emergencies. Seasonal events can also affect the emergency departments' patient handling capacity, e.g., an influx of

inebriated individuals during the holidays. Mr. Welch noted there is also a shortage of long-term care beds, and the process of admitting a patient to a long-term care facility is another example of how hospital services are stressed by inappropriate use of resources.

The shortage of health care professionals also contributes to the emergency divert problem and overcrowding of emergency departments, alleged Mr. Welch. Nevada, along with the rest of the country, finds itself in a crisis situation with not having sufficient health care professionals, including specialty physicians, to meet patient demands. Mr. Welch submitted a compilation of comments from Nevada Hospital Association members regarding factors and challenges

relating to the divert issue (Exhibit O). Summarizing some of the efforts of Nevada's hospital industry to address the emergency divert problem and relieve stress/overcrowding of emergency departments, Mr. Welch identified the following:

- Clark County has opened three new hospitals in the last seven to ten years to address space availability.
- Every major hospital in Clark County, including two of the three new hospitals, has undergone renovation and/or expansion to better accommodate patient demands.
- A number of urgent care centers have been opened.
- Nevada hospitals are funding expansion of four UCCSN nursing programs in an effort to relieve the health care professional staffing shortages.
- Clark County hospitals are raising funds to help implement the new Nevada State College nursing program so it can begin in 2002 rather than 2003.
- Nevada hospitals are spending $2 million annually on recruitment and $1.5 million on retention for licensed health care professionals.
- Nevada hospitals also work with more than 22 temporary employment agencies to fill staffing needs, spending $4 million annually, a cost much greater than if licensed health care professionals could be hired.

Continuing, Mr. Welch stated that in January of 2000, the Nevada Hospital Association formed the Nevada Nurse Task Force to address health care professional shortage issues and help facilitate solutions to the severe shortage of nurses in Nevada. One of the initiatives the task force is pursuing is to approach the 2003 Nevada Legislature for funding to double UCCSN's nursing programs. Ms. Parnell asked Mr. Welch if he considers the increase of mental health patients, lack of available beds, and staffing shortages the most serious issues facing hospitals today.

Responding to Assemblywoman Parnell's question, Mr. Welch directed her attention to a summary of comments from members of the Nevada Hospital Association in his handout (Exhibit O). From the member information gathered, Mr. Welch noted three of the most serious issues facing hospitals today are: (1) factors that cause the space availability problem, such as the influx of mental health patients into emergency departments; (2) professional staffing shortages, such as the nursing shortage crisis; and (3) space availability.

Chairman Rawson mentioned that he views staffing as the greater issue, as having more hospital beds without more staff to care for the increased number of patients would be counterproductive. Mr. Welch confirmed that staffing is the biggest problem for hospitals; stating the space availability problem tends to be experienced in the emergency departments rather than in the inpatient and acute care beds. Mr. Welch pointed out that three new

hospitals will be breaking ground in the near future in Clark County, and the existing hospitals are already having difficulty meeting their staffing needs.

Robin Keith

Robin Keith, President, Nevada Rural Hospital Project (NRHP), Reno, explained that NRHP is a voluntary consortium of all of Nevada's rural, not-for-profit hospitals. Ms. Keith testified regarding the impact on rural hospitals and patients when urban facilities cannot accept patients. She noted rural facilities seldom have to divert patients for lack of beds or staff; however, they frequently have to transfer patients for a higher level of care. Ms. Keith noted the NRHP member most affected by this problem is Boulder City Hospital, because it is in Clark County where the divert problem is most acute.

The divert problem, in the opinion of NRHP members, is a quality-of-care issue. This issue also concerns the Liability Cooperative of Nevada (LICON), according to Ms. Keith, who serves as the group's president. The LICON is a self-funded insurance trust through which professional liability insurance is provided to its member facilities. Ms. Keith also shared that increasing liability insurance premiums and locating liability insurance providers is another challenge facing hospitals and physicians.

The NRHP submits the solution to the divert issue rests in solving the shortages in the health care work force as well as the mental health problem. However, solving the mental health problem will not increase the supply of health care professionals, Ms. Keith alleged. Ms. Keith submitted that NRHP plans to support increasing the supply of medical professionals through legislation during the 2003 Session. Senator Rawson suggested a letter be sent to the UCCSN Board of Regents summarizing testimony from this meeting and stating that Nevada is experiencing a medical staffing shortage that must be addressed immediately within the state with a critical action plan.

Steve Peterson

Steve Peterson, Vice President, Operations, American Medical Response (AMR), Las Vegas, noted AMR is one of two private ambulance franchises in Clark County and employs more than 300 people. Roughly 200 transports per day are handled by AMR, with a majority of those ending or beginning in the hospital emergency room. Mr. Peterson offered his testimony from the viewpoint of the EMS providers rather than from an institutional perspective.

The largest cost for any EMS agency is staffing. Mr. Peterson said AMR budgets for deployment of man-hours based on day of the week, time of the day, and historical utilization patterns. The industry defines a reasonable turnaround time at generally 20 minutes. Mr. Peterson noted AMR's overall turnaround experience is 31 minutes; that number of transports is factored into the man-hour rate for the paramedics and EMTs with the cost to AMR of approximately $40,000 a month.

Continuing, Mr. Peterson explained there are other associated costs because AMR is a private carrier and must meet response-time standards of approximately nine minutes for 911 calls.

When AMR cannot meet this response time standard, a penalty is assessed against the ambulance company. During 2001, AMR spent about $180,000 on response-time penalties, approximately 40 percent of which were directly related to having crews delayed in hospital emergency rooms rather than being able to return to the streets and be available to respond to additional calls. Chairman Rawson interjected that the chart in Exhibit O gives the impression divert is not a problem and asked Mr. Peterson if the issue is not so much being diverted as being delayed in emergency rooms. Mr. Peterson confirmed that the problem is having the crews delayed in the emergency rooms.

Continuing, Mr. Peterson explained that AMR has no methodology to recover the additional penalties associated with the delays in the emergency rooms. Another problem facing AMR is the potential liability issue created from delays in response times. The timeliness of treatment is an issue, Mr. Peterson stressed, placing AMR at risk for litigation. Mr. Peterson expressed concern about the long hours that AMR's EMS staff may be engaged with patients, placing AMR personnel in a "care giving" role versus its actual role as EMS providers. The JCAHO certification is required for medical "caregivers," and AMR staff does not have this certification.

The emergency room crisis is one of capacity and demand, Mr. Peterson submitted. He expressed support for exploring the feasibility of alternative locations for ambulance transports. Mr. Peterson stated AMR is allowed to transport CPIs to a more appropriate facility than the hospital emergency room, and AMR also would like to have this option for mental health patients.

Kenneth Riddle

Kenneth Riddle, Deputy Chief, Las Vegas Fire and Rescue, Department of Fire Services, City of Las Vegas, Las Vegas, Nevada, said he has been directly involved in EMS in Las Vegas since 1974. Hospital diversion has become one of the fire departments' biggest problems. During the mid-1980s, not much attention was given to the divert issue, but as more fire departments instituted paramedic programs and transportation services, this issue became more of a concern. In 1988, Mr. Riddle averred, views were expressed at a Clark County Health District Medical Advisory Board meeting that divert was a hospital problem that was being made an EMS problem, which is still the perception. He mentioned a *U.S. News & World Report* cover story that highlights hospital diversions and closures as a nationwide problem, which is titled "Crisis in the ER," with a subtitle of "Turning Away Patients, Long Delays, and a Surefire Recipe for Disaster."

Divert and hospital closures in Las Vegas affect EMS crews in two ways, Mr. Riddle explained. Ambulances must travel farther to deliver patients, and ambulance crews are not able to transfer their patients in a timely manner. Since April of 2001, though, the EMS Subcommittee's policy of allowing hospitals to close their emergency rooms on a regional or geographical basis has helped give patients some choice on which hospital to be transported to. Also ambulances are more likely to remain in their districts.

In September of 2000, Las Vegas Fire and Rescue personnel attended the Abaris Group workshop, previously referenced on page 7 of these minutes, regarding strategic planning for the emergency care field. Mr. Riddle drew attention to a document (Exhibit P) from the Abaris Group's Web site titled "Ten High Leverage Strategies for Improving ED Flow and Capacity," which includes a section titled "Summary of 31 Ideas for Improving Hospital Bed Control." Mr. Riddle noted the following options are being explored to reduce turnaround times for ambulance crews:

- Increasing media attention to the problems;
- Charging a "wait-time" fee for EMS crews after 30 minutes;
- Asking the patients if they prefer to be transported to a different hospital after 30 minutes;
- Working to change laws and regulations that would allow ambulances to transport to urgent-care and quick-care clinics;
- Working toward mandatory laws or regulations regarding limits on delaying ambulance personnel;
- Approaching the issue from a liability standpoint that may affect hospital credentialing;
- Addressing JCAHO provisions regarding ambulance patient transfers and service availability;
- Appointing a centralized distribution coordinator for all ambulance transports; and
- Implementing an enhanced communications system.

Chairman Rawson emphasized that the Legislative Committee on Health Care will be a driving force in solving the divert problem; if those who are working on this issue cannot develop appropriate solutions, then the problem will be dealt with through legislation. Senator Rawson asked that he and/or the committee be kept informed of progress on finding solutions and that any obstacles to there efforts be presented to the committee. He also referenced the Abaris Group recommendations listed in Exhibit P and asked for a progress report on addressing each of those recommendations that may be effective in Nevada.

Ms. Koivisto asked Mr. Riddle who would be responsible for payment of the "wait-time" fee he referenced. Mr. Riddle responded that, if the fee were instituted, the facility would be responsible for paying it. Chairman Rawson interjected that ultimately any new increase will be passed on to the self-funded employers and insurance companies, so the issue of excessive wait times needs to be resolved before a fee becomes necessary.

Continuing, Chairman Rawson acknowledged receiving suggested agenda items from Jon Sasser, first identified on

page 26 of these minutes, and indicated he would have staff incorporate them into the committee's future agendas.

Jim G. Gubbels

Jim G. Gubbels, Vice President, Corporate Services, REMSA, Reno, explained that REMSA is a not-for-profit ground and helicopter emergency service provider in Washoe County. The

community-wide diversion policy implemented by the Reno/Sparks Emergency Department Consortium was not used much until 2001, Mr. Gubbels stated. He noted Washoe County does not have the magnitude of demands as in Clark County, but he asked for support for Washoe County's continuing efforts in data collection and quality improvement activities related to the divert issue.

PRESENTATION OF CERTAIN HEALTH INSURER CONCERNS RELATED TO HOSPITAL EMERGENCY ROOMS THAT MAY BE UNABLE TO ACCEPT PATIENTS (SENATE BILL 484 [CHAPTER 292, *STATUTES OF NEVADA* 2001])

Marie H. Soldo

Marie H. Soldo, Executive Vice President, Government Affairs, Sierra Health Services, Inc., and Health Plan of Nevada, Las Vegas, provided an insurance industry perspective on how the diversion issue is impacting hospital emergency room admissions of the insured population. Ms. Soldo noted the rapid growth of Clark County has had unintended consequences on the health insurance industry, namely with the increased demand for hospital beds and shortages in medical support staff.

Health plans and insurers are responsible for providing their members with access to appropriate quality care at reasonable costs. To do this, Ms. Soldo explained, health plans and insurers contract with hospitals, physicians, and other providers at agreed upon rates, which is critical to controlling health care costs. As a result of the growth in the marketplace, insurers and health plans may not be able to contract with every hospital, as they have in the past. Unfortunately, Ms. Soldo stressed, those same health plans and insurers experience emergency inpatient admissions to noncontracted hospitals when contracted hospitals are on divert status, which results in charges dramatically higher than the contracted rates. Ms. Soldo referred to statistical data in her written testimony (Exhibit Q).

Continuing, Ms. Soldo emphasized that divert is having an adverse effect on the insured population. Besides managed care plans, divert affects self-insured and indemnity plans, and it has an across-the-board effect on the payers of health insurance. In order for health plans and insurers to continue to provide reasonable premium rates, contracting with health care providers and hospitals is paramount. Ms. Soldo referred to a chart in her handout (Exhibit Q), which shows the average operating revenue per day that hospitals report. As shown on the chart, this average is $1,637, which is substantially less than what is paid to the noncontracted hospitals for emergency admissions that were diverted. Ms. Soldo expressed concern that she does not see any relief, and as a result, a factor must be included in premiums to cover the costs associated with the impact from divert.

Medicare and Medicaid programs resolved this problem through federal legislation, Ms. Soldo pointed out, which require noncontracted hospitals and physicians to accept established rates

for emergency room admissions and services. She noted both public and private employers are facing increased health care costs if insured patients are being diverted to noncontracted hospitals.

Janice C. Pine

Janice C. Pine, Director, Government Relations, St. Mary's Health Network, Reno, submitted there are differences as well as similarities on health care issues between northern and southern Nevada. She noted Washoe County's three hospitals are either expanding their emergency room capabilities and bed numbers or have plans to do so. With a much smaller population, Ms. Pine submitted the impact of diversion on Washoe County's emergency rooms is considerably less than in Clark County.

Ms. Pine pointed out the insurance market in Washoe County is described as an "exclusive" market, e.g., when a group contracts for hospital coverage, the contracts are either with Washoe Health System or Saint Mary's Health Network, not both. This can result in a patient, through no fault of his or her own, being transported to a noncontracted emergency room if one or the other hospital is on divert status or if state or local regulations/rules require emergency transport to a specific noncontracted facility. Ms. Pine noted the importance of distinguishing between a true emergency and instances when an emergency, as defined by Nevada law, does not exist, as well as determining valid reasons for diversions. For a true emergency, in a divert or trauma situation, Saint Mary's policy is to not disadvantage the patient and cover the additional charges for use of the noncontracted emergency facility. This cost is subsequently passed along to the consumer—meaning employers, employees, and individuals must pay the increased health insurance premiums.

Saint Mary's Health Network and Washoe Health System are exploring different options available in addressing the divert situation, without violating any antitrust issues, noted Ms. Pine. If antitrust becomes an issue, the hospitals will look to the committee for guidance. Ms. Pine provided the committee with copies of her written testimony (Exhibit R).

Elizabeth B. Gilbertson

Elizabeth B. Gilbertson, Chairperson, Health Services Purchasing Coalition (HSPC), Las Vegas, explained that HSPC is a consortium of self-funded health plans of large employers, as well as the Taft-Hartley Labor Act trust funds of many of the labor groups in Clark County. The HSPC covers more than 300,000 individuals belonging to union organizations such as the construction workers, culinary, fire, grocery store workers, police, teachers, and many of the large casinos. The goal of the coalition is to ensure affordable, high-quality health services for HSPC's members.

Ms. Gilbertson testified that HSPC is negotiating new contracts with the hospitals as the current contracts expire at the end of January 2002. She explained that most of these hospitals are for profit and owned by out-of-state corporations, and the hospitals are requesting increases of more than 20 percent. In 2001, Ms. Gilbertson declared, these same corporations increased

gross profits from 20 to 40 percent. Ms. Gilbertson then pointed out that in 1999, Nevada's hospitals had the nation's highest "markup" cost for hospital care, which is the difference between the actual cost of a day's hospital stay as reported to Medicare and the billed rates that hospitals charge. Ms. Gilbertson emphasized that since September 11, 2001, Clark County has been in economic distress, and if HSPC fails to successfully renegotiate contracts, its members will have to pay billed charges at the noncontracted hospitals. She noted this would have unfortunate consequences on HSPC members as well as for the communities in Clark County. Ms. Gilbertson concluded her remarks, asking for legislative intervention if affordable hospital contracts cannot be negotiated. Ms. Gilbertson provided the committee with an outline of her testimony and a listing of the HSPC members (Exhibit S).

Chairman Rawson declared that if necessary, the Nevada Legislature will intervene to achieve affordable health care in Nevada. He noted that the Legislature would prefer to avoid a regulatory solution; it would rather work with the principles of competition in a free market as much as possible. He emphasized that he is sending a strong message to the health care industry that legislative intervention is possible.

Ms. Koivisto affirmed Chairman Rawson's comments and pointed out that as policymakers, legislators need to consider the issue from all perspectives, not just divert on one side, the hospitals on the other, and finally the patient who ultimately is the one who has to pay. She added that small employers are not going to be able to offer health insurance coverage, and large employers will be offering less coverage at higher rates. Chairman Rawson remarked that there already is a serious health insurance problem in the state, and Nevada is facing these health care crises that must be solved. Ms. Soldo acknowledged this is a problem for all businesses and all types of health insurers, and she agreed with Ms. Koivisto that there would be reductions in health insurance benefits but with higher rates.

Senator Rawson remarked that many issues are impacted by the health care crises in Nevada, citing women's health insurance coverage as an example. He noted another pressing problem facing the Nevada Legislature is the rising cost of pharmaceuticals. Chairman Rawson said the Legislative Committee on Health Care must be observant of all the health care issues during the 2003 Nevada Legislative Session. In conclusion, Senator Rawson emphasized this is the time for businesses to be extremely prudent in the contracts that are developed and with issues surrounding divert,

because if people are sent to noncontracted hospitals for reasons outside the control of the insurance company or the insured, then the Legislature will intervene with firm solutions.

PRESENTATION REGARDING THE STUDY OF MEDICAL CARE PROVIDED TO MEDICAID, INDIGENT, AND OTHER LOW-INCOME PATIENTS IN NEVADA INCLUDING DISCUSSION OF STUDY OVERSIGHT (SENATE BILL 377 [CHAPTER 598, *STATUTES OF NEVADA* 2001])

Marsheilah D. Lyons

Marsheilah D. Lyons, Senior Research Analyst, Research Division, LCB, Carson City, presented testimony regarding the indigent care and disproportionate share study pursuant to

Senate Bill 377 (Chapter 598, *Statutes of Nevada 2001*), which "revises provisions governing payment of hospitals for treating disproportionate share of Medicaid patients, indigent patients or other low-income patients." Ms. Lyons covered the following points:

- The purpose of the study is to analyze and evaluate the cost of indigent care services provided by hospitals in Nevada and to evaluate programs designed to compensate hospitals for this care, principally the Medicaid disproportionate share program.

- The programs are being assessed to determine adequacy of funding and the degree to which the funds are distributed in a manner that matches costs for services provided and payments that are currently being received for such services.

- The study will review federal laws and regulations regarding disproportionate share and overall Medicaid reimbursements to hospitals.

- A schedule of revenues and expenditures by hospital will be developed for the provision of indigent/uncompensated care.

- The study will evaluate the conditions surrounding indigent care and overall hospital viability by geographical region.

In conclusion, Ms. Lyons stated, based on information gathered and the principles adopted by the Legislative Committee on Health Care, the consultant for this study will develop recommendations to allocate disproportionate share payments to hospitals in order to equalize the percentage impact on hospitals from the provision of indigent care. If necessary, recommendations may also be made regarding other state programs to provide equity. Ms. Lyons noted a draft report of this study would be presented to the Legislative Committee on Health Care in May of 2002, which will include schedules of costs and revenues and recommendations.

Chairman Rawson drew attention to concerns that were brought to him by members of the Legislative Committee on Health Care and many of the hospitals involved in this study. In light of these concerns, the time limitations, and to avoid the perception of a authoritarian approach in gathering information from the hospitals in the study, he asked the committee for approval to hire an outside consultant with expertise in this field, as well as past experience with the State of Nevada. He proposed the company of Engquist, Pelrine & Powell (EP&P) Consulting, Inc., noting that its cofounder, Gretchen Engquist, Ph.D., advised the committee for more than ten years on some of these specific issues. Ms. Koivisto indicated her support for Senator Rawson's request.

Chairman Rawson asked for a motion to authorize hiring EP&P as an additional consultant to assist with the indigent care and disproportionate share study pursuant to S.B. 377.

SENATOR MATHEWS MOVED TO AUTHORIZE CHAIRMAN RAWSON TO HIRE ENGQUIST, PELRINE & POWELL CONSULTING, INC. AS AN OUTSIDE CONSULTANT TO ASSIST IN THE STUDY OF PROGRAMS AND FUNDING FOR THE TREATMENT OF

MEDICAID,

INDIGENT, AND OTHER LOW-INCOME PATIENTS PURSUANT TO SENATE BILL 377 (CHAPTER 598, *STATUTES OF NEVADA 2001*). THE MOTION WAS SECONDED BY VICE CHAIRWOMAN KOIVISTO AND CARRIED. SENATOR WASHINGTON WAS ABSENT FOR THE VOTE.

PUBLIC TESTIMONY

Jon Sasser

Jon Sasser, Washoe Legal Services, Reno, requested that recommendations in the draft report from the indigent care and disproportionate share study, to be presented to the committee in May of 2002, be made available to the public, with sufficient time to review the document and discuss the policy proposals before the Legislative Committee on Health Care. Chairman Rawson assured Mr. Sasser the study will be kept as open as possible.

Sally Devlin

Sally Devlin, concerned citizen, Pahrump, Nevada, stated that in her view Nevada needs to be a part of the CDC's emergency management program, nationwide intrastate computer-linked pharmaceutical notification system to report medical outbreak clusters, and inter and intrastate telecommunications. She also expressed concern regarding communication, in general, in Pahrump from state and local government agencies; insufficient health services and educational opportunities in Pahrump; telemedicine; and training of professionals related to emergency medical issues.

Addressing Ms. Devlin's concerns, Chairman Rawson responded with the following:

- A framework is in place to involve Nevada in the computer-linked pharmaceutical notification system, with planned legislation for the 2003 Session to ensure the state's involvement in this system.
- The state received more than $90,000 from the CDC to work on Nevada's emergency management infrastructure, information network, and training, which is one of the reasons the state is advocating a state health powers act to compel further emergency planning and preparedness for Nevada.
- The state is working on interstate and intrastate telecommunications through the Health Division.
- Nevada is behind in providing services to Nevada's rural communities, but programs are emerging to buy equipment and provide training through the NRHP.
- Telemedicine will be addressed during the 2003 Nevada Legislative Session.
- There is a subcommittee that addresses rural issues.

Elizabeth B. Gilbertson

Elizabeth B. Gilbertson, Chairperson, Health Services Purchasing Coalition (HSPC), Las Vegas, offered her appreciation for Mr. Sasser's remarks regarding the indigent care and disproportionate share study.

Grant Hudlow

Grant Hudlow, Chief Executive Officer, Allied Science, Inc., Pahrump, and concerned citizen, noted he appreciated Senator Rawson's comments regarding a free market needing to make prudent business decisions and be held accountable. He also offered his observations for dealing with the mental health institutions in Nevada. Mr. Hudlow

stated that medical research is done by biochemists, and he expressed concern about the number of deaths and/or injuries to people each year due to medical errors. Chairman Rawson informed Mr. Hudlow that there is an interim subcommittee working on the issue of medical errors and indicated he would have staff include him on the agenda notification list for this subcommittee's meetings.

ADJOURNMENT

The committee's next meeting will be held on February 12, 2002, in Carson City.

There being no further business, the meeting was adjourned at 1:43 p.m.

Exhibit T is the "Attendance Record" for this meeting.

Respectfully submitted,

_____
Gayle Nadeau
Senior Research Secretary

_____
Marsheilah D. Lyons
Senior Research Analyst

APPROVED BY:

_____
Senator Raymond D. Rawson, Chairman

Date:_____

LIST OF EXHIBITS

Exhibit A is a document titled "The Model State Emergency Health Powers Act, Draft as of December 21, 2001," provided by Leslie K. Hamner, Principal Deputy Legislative Counsel, Legal Division, Legislative Counsel Bureau, Carson City, Nevada.

Exhibit B is a copy of Nevada's draft Emergency Health Powers Act legislation, provided by Leslie K. Hamner, Principal Deputy Legislative Counsel, Legal Division, Legislative Counsel Bureau, Carson City, Nevada.

Exhibit C is a document titled "Summary of Draft of Bill to Enact the Model State Emergency Health Powers Act," provided by Leslie K. Hamner, Principal Deputy Legislative Counsel, Legal Division, Legislative Counsel Bureau, Carson City, Nevada.

Exhibit D is a statement submitted by Jennifer King, Director, Health and Human Services Task Force, American Legislative Exchange Council, dated January 8, 2002, titled "Power Grab: The States in a State of Emergency, The Model Emergency Health Powers Act," provided by Senator Rawson.

Exhibit E consists of three articles provided by Janine Hansen, President, Nevada Eagle Forum, Sparks, Nevada, with the following titles: (1) "States Seek to Strengthen Emergency Powers"; (2) "States Weighing Laws to Fight Bioterrorism"; and (3) "Where Do Politicians Go in Their Afterlife?"

Exhibit F is a hard copy of a Microsoft PowerPoint presentation provided by Jeff Davidson, M.D., Chairman, Clark County Medical Advisory Board, Las Vegas, Nevada, titled "ED Diversion, Where to Go?"

Exhibit G is a document titled "The Chronic Public Inebriate" provided by Janelle Kraft, Senior Financial Analyst, Intergovernmental Relations, City of Las Vegas, Nevada, and referenced by Davette Shea, Director Special Clinics, University Medical Center, Las Vegas, Nevada.

Exhibit H is a document titled "Proposal for Psychiatric Emergency Services in Clark County," provided by Ole Thienhaus, M.D., Director of Psychiatry, University Medical Center, Las Vegas, Nevada.

Exhibit I is a written copy of the testimony of Vic Davis, President, National Alliance for the Mentally Ill, Nevada Chapter, Las Vegas, Nevada, provided by Mr. Davis.

Exhibit J consists of a letter from Stephanie Beck, R.N., Emergency Medical Services Coordinator, Washoe County District Health Department, Reno, Nevada, to Senator Rawson together with three documents titled: (1) "Ambulance Diversion"; (2) "Guidelines for Ambulance Diversion"; and (3) "Hospital Diversion Contingency Plan," provided by Ms. Beck.

Exhibit K is a written copy of the testimony of Eileen Whalen, M.H.A., R.N., Director, Critical Care/Emergency Services, Critical Care/Emergency Department, Saint Mary's Health Network, and Co-Chairman, Reno/Sparks Emergency Department Consortium, Reno, Nevada, provided by Ms. Whalen.

Exhibit L are copies of four graphs titled: (1) Monthly Ambulatory Crisis Contact; (2) POU Served With Trend; (3) Hospital Source for Waiting; and (4) IP Admits per Month. These graphs were provided by Carlos E. Brandenburg, Ph.D., Administrator, Division of Mental Health and Developmental Services, Department of Human Resources, Carson City, Nevada.

Exhibit M is a document titled "Medical Director Office Actions to Fill Vacant Psychiatrist Positions," provided by Carlos E. Brandenburg, Ph.D., Administrator, Division of Mental Health and Developmental Services, Department of Human Resources, Carson City, Nevada.

Exhibit N is a document dated January 8, 2002, titled "Efforts of the Division of Mental Health and Developmental Services to Address Concerns Related to Emergency Room Diversions," provided by David Rosin, M.D., Statewide Medical Coordinator, Division of Mental Health and Developmental Services, and Medical Director and Acting Agency Director, Southern Nevada Adult Mental Health Services, Las Vegas, Nevada.

Exhibit O is a document provided by Bill M. Welch, President and Chief Executive Officer, Nevada Hospital Association, Reno, Nevada, titled "Hospital Emergency Divert, Attachment A," along with a chart titled "2001 Emergency Room Divert."

Exhibit P is a handout titled "Ten High Leverage Strategies for Improving ED Flow and Capacity," which includes a section titled "The Abaris Group Summary of 31 Ideas for Improving Hospital Bed Control," provided by Kenneth Riddle, Deputy Chief, Las Vegas Fire and Rescue, Department of Fire Services, City of Las Vegas, Las Vegas, Nevada.

Exhibit Q is a written copy of the testimony of Marie H. Soldo, Executive Vice President, Government Affairs, Sierra Health Services, Inc., and Health Plan of Nevada, Las Vegas, Nevada, provided by Marie H. Soldo.

Exhibit R is a written copy of the testimony of Janice C. Pine, Director, Government Relations, Saint Mary's Health Network, Reno, Nevada, provided by Janice C. Pine.

Exhibit S is an outline of the testimony of Elizabeth B. Gilbertson, Chairperson, Health Services Purchasing Coalition, Las Vegas, Nevada, together with a list of the coalition's members, provided by Ms. Gilbertson.

Exhibit T is the "Attendance Record" for this meeting.

Copies of the materials distributed in the meeting are on file in the Research Library of the Legislative Counsel

Bureau, Carson City, Nevada. You may contact the library at (775) 684-6827.