

**STATE BOARD OF HEALTH
MINUTES**

**October 19, 2007
9:00 am**

**Grant Sawyer Building
555 E. Washington Avenue
Room #4412
Las Vegas, Nevada**

**Legislative Building
401 South Carson Street
Room #2134
Carson City, Nevada**

BOARD MEMBERS PRESENT:

Frances Barron (teleconference)
Jade Miller, DDS, Chairman
Joan Anjum, RN
Lubna Ahmad, MD
Roger Works, DVM
Vishvinder Sharma, MD
William E. Quinn, IV, Vice Chairman

HEALTH DIVISION STAFF PRESENT:

Alex Haartz, Secretary, State Board of Health, Administrator, Nevada State Health Division
Chad Westom, Environmental Health Specialist IV, Bureau of Health Protection Services
Cindy Pyzel, Chief Deputy Attorney General, Office of the Attorney General
Deborah McBride, Chief, Bureau of Community Health
Doug Banghart, Health Program Manager I, Bureau of Community Health
Ed Sweeten, Radiation Physicist, Bureau of Health Protection Services
Janet Osalvo, Executive Assistant, Nevada State Health Division
Joe Pollock, Public Health Engineer III, Bureau of Health Protection Services
Linda Anderson, Senior Deputy Attorney General, Office of the Attorney General
Lisa Jones, Chief, Bureau of Licensure and Certification
Lori Cofano, Health Program Specialist I, Bureau of Family Health Services
Luana Ritch, Chief, Bureau of Health Planning and Statistics
Nataliya Wood, Environmental Health Specialist, III, Bureau of Health Protection Services
Sonya Hill, Health Facilities Surveyor, III, Bureau of Licensure and Certification
Stanley R. Marshall, Chief, Bureau of Health Protection Services
Tami Chartraw, Health Program Specialist I, Bureau of Community Health

ADDITIONAL TESTIMONY PRESENTED BY:

Cari Rovig, Executive Director, Nevada Immunization Coalition
Cheryl G. Huett, Goodi's Lemonade
Cheryl Hug English, Medical Director and Associate Dean of Admissions, University of Nevada Reno
Crystal Abba, Assistant Vice-Chancellor, System of Higher Education
Dennis Porter, City of Henderson
Dr. Trudy Larson, Infectious Disease Pediatrician, University of Nevada School of Medicine
Frankie Millie, Meningitis Angels
Glenn Savage, Director, Environmental Health, Southern Nevada Health District
Jen Sweeney, Chief Operating Officer, Southern Hills Hospital and Medical Center
Dr. Kimberly Center, Pediatric Infectious Disease Specialist and Director, Wyeth Pharmaceuticals
Larry Becker, Becker Amusement, Inc.
Lawrence Sands, DO, MPH, Chief Health Officer, Southern Nevada Health District
Linda Potter
Patrick C. Hsu, MD
Rutu Ezhuthachan, MD, Chief of Pediatrics, Southwest Medical Associates, Inc.
Steve Dixon, Chief Executive Office, Southern Hills Hospital and Medical Center
Zia Khan, MD, Southern Hills Hospital and Medical Center

OTHERS PRESENT:

Bonnie Sorensen, Southern Nevada Health District
Brian Fitzgerald, Douglas County Parks & Recreation
Dave Johnson, Southern Nevada Water Authority
Jeff Williams, Williams, LTD
Jo Alexander, Southern Nevada Health District
John Day, City of Las Vegas
Julie Bertonlist
Kate Hoffmann, Clark County
Kurt Stembridge, GlaxoSmithKline
Michael Hatch, GlaxoSmithKline
Mitch Bishop, Southern Nevada Water Authority
Nancy Hall, Senior Environmental Health Specialist
Pam Beal, Southern Nevada Immunization Coalition
Pat Garlin, Nye County School District
Sandra Donnelly, Clark County Water Rec. District
Steve Kutz, Washoe County District Health Department
Tim Kelley, City of Henderson
Veronica M. Nicholl, Southern Nevada Health District

Sandy Moore, Elko County School District
Kim Mason, Carson Tahoe Hospital
Jack Kim, Sierra Health Services
Sheila Story, Carson City School District
Dan Fischer, City of Las Vegas
Annette Wells, Las Vegas Review Journal
Annamarie Shepherd, TMCC Student
Celia Martin, CDI Head Start
Virginia Johnson, NVCFMA
Shanon Barnett, GlaxoSmithKline
Mike Goff, Southern Nevada Water Authority
Forrest Huett, Goodis Lemonade
Rose Wang, CDC
Bryan Wachter, Retail Association of Nevada
Juan Thomas, Wyeth
Mary Bodendorfer, Wyeth
Howard Herz, Olde Fashion Passion

Jade Miller, DDS, Chairman, opened the meeting at 9:10 am. Dr. Miller indicated that the meeting was properly posted at the locations listed on the agenda in accordance with the Nevada Open Meeting Law.

1. Roll Call and approval of the minutes from the August 17, 2007 meeting.

Janet Osalvo, Executive Assistant, Nevada State Health Division, called roll and indicated that Ms. Barron will be teleconferenced into the meeting shortly. A quorum was established.

Ms. Barron called and was teleconferenced into the meeting.

Dr. Miller asked if there were any corrections to the August 17, 2007 meeting minutes.

Mr. Haartz stated that Dr. Mary Anderson, Washoe County District Health Officer, had forwarded an email recommending changes to the August 17, 2007 minutes as follows:

- 1) Page-9, item-C, first paragraph, third sentence should read: authority to inspect food “processing and manufacturing” establishments, pursuant to, etc...
- 2) Page-10, item-C, fifth paragraph, fourth sentence replace “innate” with “an egg”.
- 3) Page-11, item-C, first paragraph, omit the last sentence in that paragraph.

There being no additional comments or changes to the August 17, 2007 minutes:

MOTION: Ms. Barron moved to approve the minutes of August 17, 2007 Board of Health meeting including the suggested changes made by Dr. Anderson.

SECOND: Dr. Sharma

PASSED: UNANIMOUSLY

2. Presentation of the 2006 Water Fluoridation Quality Awards from the Centers for Disease Control and Prevention (CDC) and the Association of State and Territorial Dental Directors (ASTDD) to the Southern Nevada Water Authority and the City of Henderson water treatment facilities for maintaining optimal fluoride levels for the twelve months of 2006.

Dr. Miller stated that Ms. Lori Cofano, Health Program Specialist I, Bureau of Family Health Services, would present awards to Mr. Dave Johnson, Treatment Manager, Southern Nevada Water Authority and Mr. Tim Kelly, City of Henderson Water Operations Supervisor.

Ms. Cofano stated on behalf of the Centers for Disease Control and Prevention (CDC) and the Association of State and Territorial Directors to present the 2006 Water Fluoridation Quality Awards to the Southern Nevada Water Authority and the City of Henderson. The awards are only presented to water systems that meet fluoridation water requirements for an entire twelve (12) month period.

Ms. Cofano then presented the 2006 Water Fluoridation Quality Awards to Mr. Johnson and Mr. Kelly.

Dr. Miller congratulated Mr. Johnson and Mr. Kelly for being recognized and for receiving the awards. Dr. Miller stated that the Southern Nevada Water Authority and the City of Henderson has received the awards for several consecutive years.

3. Consent Agenda

Dr. Miller asked Board members if either consent agenda item number 3A or 3B would need to be pulled for further discussion.

There being no comments regarding items on the consent agenda:

MOTION: Mr. Quinn moved to approve Agenda items 3A and 3B on the consent agenda as stated.
SECOND: Dr. Works
PASSED: UNANIMOUSLY

4. Case #602 Linda Potter: Request for variance to NAC 444.792(2), "Location." "The minimum horizontal separations that must be maintained between the perimeter of the components of an individual sewage disposal system and the following features, etc. * The required distance between a well and the components of an individual sewage disposal system may be increased by the administrative authority depending on the depth to the water table, soil profile and site characteristics." Request to install a septic tank and disposal field less than 100 feet from a watercourse.

Stan Marshall, Chief, Bureau of Health Protection Services (BHPS), requested approval of the variance request that was submitted by Linda Potter. Ms. Potter's request was to install an individual sewage disposal system (i.s.d.s.) with a septic tank and disposal field approximately 88 feet from Kingston Creek. NAC 444.792(2) states that the disposal field needs to be located at least 100 feet from a water course. Ms. Potter had stated that strict application would be a financial burden as the home would then need to be moved from the lot or demolished. The intent of the 100 foot separation distance between the i.s.d.s. and a watercourse is to prevent contamination of the watercourse by treated septic effluent. The fast percolation rate of the native soil demonstrates that the treated effluent would have a very limited horizontal spread toward Kingston Creek. Subsequently, staff believes there is no risk to public health as it is unlikely that effluent from the proposed i.s.d.s. would reach Kingston Creek. Mr. Marshall stated that BHPS staff had solicited comments on behalf of Ms. Potter's variance request from the Lander County Building Department and the Nevada Division of Environmental Protection. Neither

agency has presented concerns related to the variance request. Staff believes that the State Board of Health (Board) has not received any similar variance requests. Approval of this variance request would not cause detriment to public welfare or substantially impair the purpose of the regulation.

Dr. Miller stated that Ms. Linda Potter is in the audience and asked whether she would like to add any comments.

Ms. Potter thanked the Board and Mr. Joe Pollock, Public Health Engineer III, Bureau of Health Protection Services, for assisting her with the variance. Ms. Potter indicated that the variance process is interesting and informational.

Mr. Quinn stated that the schematics presented for Ms. Potter's variance were great and easy to visualize. Mr. Quinn requested clarification of the percolation rate in the Kingston Creek area and what the granular soil conditions are. According to the map's topography, there appears to be about ten (10) feet of slope from the i.s.d.s. to the creek. Mr. Quinn then indicated that depending on the percolation rate there could eventually be some migration of effluent to Kingston Creek.

Mr. Pollock stated that two (2) percolation tests were completed, 1.666 minutes per inch and 1.428 minutes per inch. Mr. Pollock indicated that the soil composition for the first 12 inches consists of sandy soil then small gravel and small shale extends for 36 inches; then sandy soil, small gravel, yellow clay and 60 inches sandy soil, larger rocks and gravel.

Mr. Quinn indicated that based on Mr. Pollock's explanation, the soil condition would be sufficient.

There were no further questions or comments:

MOTION: Mr. Quinn moved to approve the variance request for Linda Potter, Case #602, to NAC 444.792(2), "Location" as presented.

SECOND: Ms. Anjum

PASSED: UNANIMOUSLY

6. Case #611, Southern Hills Hospital and Medical Center, LLC, 9300 W. Sunset, LV, NV: Request for Variance to NAC 449.61214(1)(2), "Amount of surgery required following approval. After approval of service for open-heart surgery is granted, such surgeries must be performed in an approved hospital at the following rates: (1) Not less than 80 operations during the first 12 months after approval. (2) Not less than 150 operations during the second 12-month period after approval." Southern Hills Hospital does not believe they can meet the minimum of 80 operations during the first 12-months or the minimum of 150 operations during the second 12-month period after approval.

Lisa Jones, Chief, Bureau of Licensure and Certification (BLC), stated that Southern Hills Hospital and Medical Center is a 139-bed hospital and was initially licensed in November 2003. The intent of the regulation is to ensure that staff maintains competency by performing a minimum number of operations, thereby increasing the likelihood of high-quality outcomes. The open-heart surgery regulations were first adopted by the Board of Health in 1989. The minimum volume requirements were included in the regulations at that time. During recent research, BLC has found that six (6) other states have regulations governing open-heart surgery. Of the six (6) only two (2) appear to incorporate minimum volume requirements. Staff found that the American College of Surgeons recommends that hospital cardiac surgical programs perform a minimum of 100-150 procedures per year for quality, and 200 procedures per year for efficiency.

Ms. Jones indicated that Southern Hills Hospital and Medical Center is requesting a variance as the facility expects to perform less than the minimum requirement, approximately 40 operations during the first 12 months after approval of this variance and approximately 80 operations during the second 12-month period after approval. The hospital then expects to meet the minimum number of operations by the third and each succeeding 12-month period thereafter.

Ms. Jones stated that Southern Hills Hospital and Medical Center reported that the majority of complicated cardiac patients are transferred to other facilities with open-heart surgery programs which delays treatment and could negatively impact patient outcome. Southern Hills Hospital feels it is losing approximately 70 cardiac catheterization laboratory procedures per month due to lack of an open-heart surgery program because cardiologists refuse to bring patients to the hospital without open-heart surgical capability and the cardiologists prefer not to start a procedure, then transfer a patient to another hospital for a higher level of care. Strict application of the regulation would result in the facility not pursuing approval to provide open-heart surgery services and the continued transfer of cardiac patients.

Ms. Jones indicated that the facility plans to use its parent corporation, Hospital Corporations of America-Clinical Cardiovascular Management Network (HCA-CCMN), a department within the corporation, to assist with opening the program. The assistance and resources that this corporate program will provide includes, but is not limited to, training, staff competency, quality improvement, and peer review. The facility will also participate in the Society of Thoracic Surgeons National Cardiac Database which provides another layer of ongoing monitoring and analysis of quality data.

Ms. Jones stated that BLC staff recommends the Board to approve the request for variance with the following stipulations:

1. The applicant will report the following quality indicators to the Board at 6 months, 12 months, and finally 24 months after the approval of the open-heart surgery program:
 - a) The cardiovascular surgery patient volume,
 - b) The average length of stay,
 - c) The Parsonnet pre-operative risk assessment score for each elective case,
 - d) The risk-adjusted mortality rate, and
 - e) The readmission rate compared to the national average.
2. To maintain staff competency, the registered nurses and surgical technicians involved in open-heart surgeries will be required to rotate to a "sister" facility when volume is less than 3 cardiovascular cases per month.
3. The variance should be effective for only 24 months following approval of the program.

Ms. Jones then introduced Jen Sweeney, Chief Operating Officer of Southern Hills Hospital and Medical Center (SHHMC).

Jen Sweeney introduced Steve Dixon, Chief Executive Officer, Southern Hills Hospital and Medical Center; Zia Khan, MD, Southern Hills Hospital and Medical Center; and Patrick C. Hsu, MD. SHHMC is located in the Southwest valley in Las Vegas. This area is one of the fastest growing areas within Clark County. The ability to provide open-heart surgery will save lives. Currently patients are transported across the Las Vegas Valley in the event heart surgery is needed and SHHMC staff does not believe this is optimal patient care. SHHMC staff is committed to exceeding all the volume measures which apply to the existing open-heart programs, patient safety and comprehensive cardiac care.

Patrick Hsu, MD, stated that he is in his tenth year of practice in Nevada. Dr. Hsu stated that he currently serves as secretary for the Medical Executive Committee of SHHMC and previously served as Quality Care Chairman of SHHMC. Dr. Hsu then stated that he had served as Vice Chief of Cardiology at Sunrise Hospital.

Dr. Hsu stated that he is in support of an open-heart program at SHHMC as it will enhance patient care in the Southwest valley. Dr. Hsu stated that he has been involved in the open-heart surgery plan for SHHMC to ensure quality benchmarks. SHHMC has already achieved several benchmarks for quality. SHHMC was the first hospital in Southern Nevada to acquire achievement for their work in heart failure from the American Heart Association and third to receive recognition for coronary disease. The open-heart program will absolutely strengthen quality measures for the future. Taking care of patients beginning with the diagnosis of cardiovascular disease through surgery at one (1) location would provide the most optimal and safe care for patients.

Zia Khan, MD, SHHMC, stated that he has been practicing in Las Vegas for ten (10) years. Dr. Kahn indicated that he has served on the Credentials Committee at SHHMC, currently is the Chair of the Department of Medicine at SHHMC, and has been Director of the cath lab at SHHMC and at Summerlin Hospital. Dr. Khan stated that he is in support of the request for variance for SHHMC for the patients will benefit greatly. Currently there is an active cath lab at the SHHMC. The surgeons at SHHMC are capable of performing very complex procedures which are currently not permitted.

Dr. Khan stated that having to transport cardiac patients has greater risk because of the inherent changes in blood pressure and heart rate that the transport process creates. This could lead to greater morbidity and fatality in general. Dr. Kahn indicated that having quality basic care at one location would lead to lower costs, fewer number of days in the hospital and better outcomes for patients.

Dr. Kahn stated that he has been a staff member with SHHMC since its inception and patient quality and safety is a most important factor.

Dr. Sharma requested Clarification from Ms. Sweeney on the reason that SHHMC is determined to start a cardiac care program; whether there is a lack of cardiac care programs within the vicinity or if the facility requires additional revenue.

Ms. Sweeney clarified for Dr. Sharma that the cath lab would accommodate the need for comprehensive services that would be available at SHHMC. Currently the facility can only provide patient treatment to a certain point and then transport the patient to another facility at which the patient's care would continue.

Dr. Sharma asked Ms. Sweeney whether SHHMC would eventually have a program in neurosurgery and other tertiary care services because movement of the patient from one part of the valley to another might be detrimental to patient care.

Ms. Sweeney stated that SHHMC would evaluate different service programs. Hospitals group together and provide tertiary services for a more high level of care.

Dr. Sharma stated that some recent studies have suggested that low-volume is not as much a determinant of outcome and much larger studies have shown a significant difference between outcomes in a low-volume hospital versus a high-volume hospital, and the surgeons' experience. Dr. Sharma stated that there needs to be clarification of whether cardiac patients are as important to the facility as other patients.

Dr. Kahn stated that no one specialty patient is more important than another. Looking statistically nationwide, cardiovascular incidence continues to be the highest mortality rate. SHHMC has put together very stringent quality control measures that will monitor lack of experience in new surgeons which may

arise from opening a new program. Dr. Kahn indicated that based on observations since the inception of SHHMC, the facility and its patients could have already benefited by having a complete cardiovascular program.

Dr. Sharma requested clarification of how the metric was chosen for the study at SHHMC. Dr. Sharma stated that in his opinion, 40 patients chosen for statistical purposes is a low number. Based on 40, there would only be 3.3 surgeries performed per month.

Ms. Sweeney stated that SHHMC expects to perform more than 40 surgeries. The number of 40 surgeries was used to ensure that emergency medical service providers and cardiovascular surgeons were aware that a program was being planned.

Dr. Sharma asked whether the cardiovascular program at SHHMC would be a closed program or open program and what participation was expected.

Ms. Sweeney indicated that SHHMC is currently working on these measures and the program would be a closed program with a selective cardiovascular surgery group.

Dr. Sharma indicated that the experience of surgeons is known within the community and indicated that he doubts SHHMC could accomplish what was intended. Dr. Sharma requested clarification of the type of surgeons SHHMC planned to add to its staff.

Ms. Sweeney clarified for Dr. Sharma that all the surgeons would have to have quality measures with low mortality rates, be outstanding members of the community, be willing to work and put together a quality program.

Ms. Anjum requested clarification of Ms. Sweeney what the incentive was for nurses to maintain employment at SHHMC.

Ms. Sweeney stated that SHHMC currently has a low turnover rate among its nursing staff and is lower than the national average. Nurses who are currently on staff have shown an interest in participating in the cardiovascular program.

Dr. Miller requested additional information concerning prospective surgeon's volumes and outcomes.

Ms. Sweeney stated that a surgeon must practice at more than one (1) hospital to provide care for all patients. SHHMC intends to open a program where cardiovascular surgeons work well with the cardiologist that refers patients. SHHMC would easily pull data concerning the cardiovascular surgeon's caseload and experience before making a determination on whether to staff the surgeon.

Dr. Sharma stated that an additional stipulation needs to be incorporated in the existing stipulations stating that, "The surgeon who is awarded the contract should at least have 150 surgeries in the past three (3) years aggregate." Dr. Sharma then stated that the program would have a much better chance of success.

Dr. Miller indicated that Dr. Sharma could propose to add stipulations.

MOTION: Dr. Sharma moved to approve the request for variance Case #611 for Southern Hills Hospital and Medical Center with the stipulations proposed by staff and with an additional stipulation that the surgeon who is awarded the contract should at least have 150 surgeries in the past three (3) years.

SECOND: Ms. Barron

Dr. Miller stated that in the recommendations there are several indicators that will be assessed on a six (6) month, twelve (12) month and twenty four (24) month basis. Dr. Miller then requested clarification from Ms. Sweeney the type of actions that would be taken by SHHMC if unsatisfactory data is obtained at one (1) or any of the assessments.

Ms. Sweeney stated that SHHMC would have a heart council that would be comprised of physicians, registered nurses, technicians and administration, to track and trend the data on a monthly basis. Any unsatisfactory trend would be intervened immediately and appropriate actions would be taken to correct the problem along with appropriate steps to prevent recurring issues.

Dr. Miller stated that a matrix that would assist in identifying any unsatisfactory trend would be appropriate. Dr. Miller then indicated that the Board has the authority to review the data and revoke this variance if there appears to be any problems.

Ms. Sweeney stated that SHHMC currently reports to a large number of nationwide organizations in terms of quality and other indicators. Upon unsatisfactory indicators, these other organizations would also intervene and take action.

Dr. Miller stated that the Board is committed to having the highest quality of care with the best possible outcome.

There were no additional questions or comments:

Dr. Miller then stated that a motion had been made and seconded to include an additional stipulation, "The surgeon who is awarded the contract should have performed at least 150 surgeries in the past three (3) years."

PASSED: UNANIMOUSLY

Alex Haartz, Secretary, State Board of Health, Administrator, Nevada State Health Division, reviewed the regulation adoption process for Board members.

6. Consideration and adoption of proposed regulation amendments to NAC 392, "Pupils," NAC 394, "Private Educational Institutions and Establishments," NAC 432A, "Services and Facilities for Care of Children," and NAC 441A, "Communicable Disease," LCB File No. R099-07.

Deborah McBride, Chief, Bureau of Community Health (BCH), stated that the proposed regulations declare the following pathogens as communicable diseases and set vaccination requirements at various age frames: *Bordetella pertussis*, Hepatitis A, Hepatitis B, Varicella, *Streptococcus pneumoniae*, and *Neisseria meningitidis*. NAC 392 and NAC 394 will require the immunization of children against pertussis prior to entry into the 7th grade within public and private schools. NAC 432A will require the immunization of children against Hepatitis A, Hepatitis B, varicella and pneumococcus for entry into a licensed child care facility. NAC 441A will require the immunization of persons against meningococcus prior to entering a University (as defined in the regulation). Establishment of these additional vaccination requirements will further ensure the protection of young children, preteens and college students, and household and casual contacts. The administration of these vaccines within the pediatric, family practice and public health clinical setting is a standard of preventive care at this time. The 2007 childhood and adolescent recommendations approved by the Advisory Committee on Immunization Practices (ACIP) and published by the Centers for Disease Control and Prevention (CDC) recommends the standard use of vaccines to immunize against these diseases.

Ms. McBride indicated that the Nevada State Immunization Program provides all the vaccines to protect against these diseases to over 300 public and private providers statewide. The BCH Immunization Program staff and immunization coalition members are continuing to expand and educate this network of providers. Ms. McBride stated that the vaccines are purchased at the federal contract price using federal and state general funds.

Ms. McBride indicated that concerns sometimes arise regarding vaccine supply. At this time, adequate vaccine supplies exist in both the public and private sectors. Though funding, manufacturing and distribution problems can arise they are usually temporary. In these instances, Health Division staff, Health District staff and Immunization Coalition members work in unison to ensure the vaccines are distributed equitably among Nevada's communities. Additionally, many vaccines have more than one (1) manufacturer therefore another company is able to supply the vaccines if another company is struggling with supply.

Ms. McBride stated that the CDC had published recommendations and letters of support have been received by the Bureau related to the regulation amendments.

Ms. McBride then indicated that individuals wishing to speak on behalf of the proposed regulation amendments were in attendance as follows: Rutu Ezhuthachan, MD, Chief of Pediatrics, Southwest Medical Associates, Inc.; Dr. Kimberly Center, Pediatric Infectious Disease Specialist and Director, Clinical Affairs, Wyeth Pharmaceuticals; Dr. Trudy Larson, Infectious Disease Pediatrician, University of Nevada School of Medicine; Frankie Millie of Meningitis Angels; and Cari Rovig, Executive Director, Nevada Immunization Coalition.

Dr. Trudy Larson, Infectious Disease Pediatrician, University of Nevada School of Medicine, stated that she has been involved with immunizations and disease prevention among children for many years in the State of Nevada and is in favor of the bordetella pertussis and meningococcus vaccine requirements. Ms. Larson indicated that there used to be bordetella pertussis (whooping cough) outbreaks among children and this has changed due to vaccination requirements. Children are well immunized until school age. Like other vaccines, the immunity from pertussis, diphtheria and tetanus minimizes over time and requires a booster later for immunity defenses. Recent outbreaks of pertussis were unexpected and therefore, under-diagnosed, particularly among high school aged children. Pertussis symptoms include coughing that lasts at least three (3) weeks up to nine (9) weeks. A study showed that on average an adolescent missed five (5) days of school and an adult missed on average of seven (7) days of work. Adolescents and adults, parents in particular, have been the index pertussis cases that infect newborns where disease and death is most likely to occur. Pertussis is the only disease in the United States that has increased. The inclusion of bordetella pertussis for children entering the seventh grade could increase their immunities for ten (10) more years.

Dr. Larson indicated that *Neisseria meningitidis* disease, meningitis is not seen much any more. Child care facilities were the main cause of spreading meningitis. Pneumococcal for the child care facilities was the number two (2) cause of meningitis. Meningococcus is now the primary cause of meningitis and when looking at the epidemiology chart on who gets sick there is a peak between the age of 15 and 24. The main causes are teens drinking from the same cup. The vaccine is actually being recommended at the pre-teen age 11-12, but will take a long time before coming to a wide spread usage requirement. This makes sense to add this requirement for young adults who enter into dorm life. Dr. Larson stated that prevention is far better than having to treat the disease. Dr. Larson then recommended that the Board adopt the proposed regulation changes.

Cheryl Hug English, Medical Director of Student Health Center and Associate Dean of Admissions, Student Affairs, School of Medicine, University of Nevada Reno (UNR), stated that *Neisseria*

meningiditis does affect a specific age group and it is important to have immunization requirements for the groups that are affected the most. The new vaccine, Menactra, is a new vaccine and an effective treatment however, Menactra vaccine is only effective on four (4) of the five (5) sub-types of meningococcal meningitis. The fifth type, sub-zero type B that the Menactra vaccine does not treat effectively accounts for 35% of the infections in the United States (US).

Ms. English stated that the university and the student health center take vaccination requirements seriously. Each year during orientation, parents are addressed on the importance of the student receiving the meningococcal meningitis vaccine; plus a letter is sent to incoming students.

Ms English indicated that the proposed amendment language is fine and asked the Board to consider adding additional language that states, "Any student under the age of 23 intending to live in on-campus housing shall not move into a campus residence until the student submits proof of immunity to *Neisseria meningiditis*."

Dr. Kimberly Center, Director of Clinical Affairs and Vaccines, Wyeth, stated that she is Board certified in Pediatrics and Pediatric Infectious Diseases. Dr. Center stated that pneumococcus is a common pathogen and is the number one (1) cause of meningitis and pneumonia for all ages in the US outside of the newborn period. There are 90 strains of pneumococcus and is mostly spread from colonization in the nose. The vaccine, Prevnar includes seven (7) stereotypes that have accounted for the vast majority of invasive disease in children and was licensed in February 2000 and was subsequently recommended by the Advisory Committee on Immunization Practices in the same year. It is observed that there are pneumococcal disease reductions not only in immunized individuals, but also reduced among unvaccinated individuals, mostly noticed among adults over the age of 65, where there has been a two thirds reduction. The impact that Prevnar has had on prevention has averted bloodstream infection and meningitis, ear infections, pneumonia in children and 5200 deaths.

Dr. Center presented an analysis of costs of pneumococcal disease. Conclusions of the analysis is that Prevnar is highly cost effective when only direct effects are included and is cost saving when invasive pneumococcal disease and hospitalized pneumonia in unvaccinated individuals were included; modest declines of invasive disease among non-vaccinated populations can have a favorable impact on the cost effectiveness of a routine immunization program; and the cost effectiveness of the use of Prevnar has been much more favorable than was previously predicted. Dr. Center indicated that the analysis is conservative and going forward cost effectiveness should improve.

Dr. Sharma indicated that he there has been assumptive association with autism that vaccination prevalence in North America. Dr. Sharma requested clarification from Dr. Center whether the "super bug" a new stereotype of streptococcus pneumonia has been incorporate into the Prevnar vaccine and if not, indicate the plan.

Dr. Center clarified for Dr. Sharma that "super bug" prevention is not included in the Prevnar vaccine. Wyeth has in development a pneumococcal vaccine that does include the "super bug" and it is expected to begin the regulatory process in 2009. Dr. Center stated that it is observed that there is an increase in the incidence of autism and the association between vaccine and autism, the Institute of Medicine has prepared a report on this potential association. Evidence from studies does not suggest there is an association between vaccination and autism in the US. Specifically for Prevnar, there is no association.

Rutu Ezhuthachan, MD, Chief of Pediatrics, Southwest Medical Associates, Inc., stated that she is a Board Certified Pediatrician and has been in practicing in Las Vegas for four (4) years. As a pediatrician, the health of a child is the main focus. A notable amount of children spend most of their time in day care facilities so vaccination is mandatory. Dr. Ezhuthachan stated that the main point when caring for a child is

to bring them to healthy adulthood. Dr. Ezhughachan stated in favor of the proposed regulations so that preventable diseases will be prevented.

Frankie Millie, Meningitis Angels, spoke concerning the loss of her son, Ryan. In Ryan's memory, Meningitis Angels was started and currently there are over 400 families participating. Ms. Millie stated that the best thing a parent can give a child is proper immunizations for protection against vaccine preventable diseases. Ms. Millie requested the Board to adopt the proposed regulations and not limit the requirements for college entry-level students.

Dr. Miller thanked Ms. Millie for her heart-felt testimony. Dr. Miller then stated that many letters had been received from Meningitis Angels.

Cari Rovig, Executive Director, Immunization Coalition, stated that she is in favor of the proposed regulations. Nevada has many visitors pass through the state and as a result the state sees many disease occurrences. The State needs to have high-level standards for disease prevention. Nevada ranked last in the nation during an immunization study in 2005 and has remained at the bottom since. That means one (1) in three (3) of Nevada's children are not properly immunized. The proposed regulation changes would help to ensure Nevada's children and young adults are properly immunized in accordance with the national standards of care.

Ms. Rovig indicated that the Immunization Coalition, the Nevada State Health Division and the local health districts have implemented a number of events such as; Never Miss a Shot campaign, educating parents; and education tools and information specific to day care facilities. The Immunization Coalition has partnerships with Clark County, Washoe County, Carson City, Douglas County and the rural school districts to help build strategies for any new requirements and provide appropriate communication to staff and parents. The Immunization Coalition provides information and training for health care providers and is in the process of implementing a new program for providers. The Immunization Coalition also works with payers, insurers and self-insured companies to promote coverage and fair reimbursement for vaccine costs. The Immunization Coalition works with other states and national partners to promote timely immunizations and ensure national standard are being met or exceeded.

Ms. Rovig stated that Nevada's children must be protected from all vaccine preventable diseases today.

Crystal Abba, Assistant Vice-Chancellor, System of Higher Education and Director of Public Policy, stated in support of the proposed regulations. Ms. Abba indicated that the System of Higher Education requests that the regulations be expanded to include all education institutions in the future however, at this time its appropriate to limit the regulations to only universities.

Dr. Miller indicated that there had been a suggestion by Dr. Hug English to include the following verbiage, less than 23 years of age, and add "intends to reside in on-campus housing and the student should not move into student housing until the student provides evidence of appropriate vaccine requirements."

MOTION: Ms. Anjum made a motion to approve the proposed regulation amendments to NAC 392, "Pupils," NAC 394, "Private Educational Institutions and Establishments," NAC 432A, "Services and Facilities for Care of Children," and NAC 441A, "Communicable Disease, LCB File #R077-07 and include the mandatory language in Section eight (8) as, "Any student under the age of 23 intending to reside in on-campus housing shall not move into a campus residence until the student submits proof of immunity."

SECOND: Dr. Ahmad

Ms. Barron was participating via teleconference and requested clarification of where the additional language would be added.

Dr. Miller stated that in Section eight (8), number two (2), Letter C would be added and state, “intends to”, then add, “reside in on-campus housing shall not move into a campus residence until the student submits proof of appropriate immunity.”

PASSED: UNANIMOUSLY

7. Consideration and adoption proposed amendments to NAC 444, “Sanitation,” LCB File No. R100-07.

Amy Roukie, Administrative Services Officer, IV, Nevada State Health Division, stated that her intention was to provide information to the Board concerning the Legislative process. The regulation changes to NAC 444 and NAC 446 are related to fee increases. There is a requirement for the Board to hear information related to amending NAC 444 and NAC 446 and approve the Health Division to raise fees based on legislatively approved budgets. In this budget State Fiscal Year 08-09 (SFY08-09) is requiring more fee revenue than what is currently projected based on the current fee schedule and the projected volume of work through the biennium.

Ms. Roukie went over a flow chart that provided information about how the Health Division came to the conclusion to raise fees contained in NAC 444 and NAC 446.

Stan Marshall, Chief, Bureau of Health Protection Services (BHPS), requested approval of the proposed regulations to NAC 444. The proposed regulations involve increasing the fees for permits and other services for individual sewage disposal systems (i.s.d.s.), temporary mass gatherings, labor camps, public swimming pools, public spas and facilities for sanitation for camping spaces. The increases are needed to cover costs of implementing the program and to fund the SFY 08-09 budget approved by the 2007 Legislature. The purpose of the text changes are to update and clarify existing regulations to streamline alternative oversight of i.s.d.s. and remove regulations governing commercial sewage systems which had been regulated by Nevada Division of Environmental Protection since July 1, 2005. The proposed amendments include changes to sterilization of second hand articles, lighting levels at schools, permitting requirements for nitrogen removal waste water treatment units, permitting requirements involving a distance from a property to a community sewer system, permitting requirements for an aerobic waster water treatment units and design requirements for chamber and elevated mound systems. Regulations governing commercial i.s.d.s. have been deleted from NAC 444. During the public workshops concerns about the proposed sections 18 and 19 were discussed specifically reducing the distance from a property line to a community sewer system that would require a property owner to connect to a community sewer system. The current required distance is 400 feet and the propose amendments would require that the sewer main be located adjacent to the property before a property owner would be required to connect. During the workshop a sewer utilities ordered that the 400 foot distance should remain in effect as it is the only mechanism in place that would reduce the number of septic systems within that service area. Since the workshop BHPS staff has received numerous letters, emails and phone calls from various utilities in southern Nevada expressing similar concerns. Mr. Marshall indicated that technical requirements to NAC 444 occurred by Board adoption on March 25, 1999 and NAC 444 fees were revised by Board action on January 22, 2004.

Dr. Miller requested clarification of the reason for fee increases and what future projections would be.

Ms. Roukie clarified for Dr. Miller that the State has grown over time and there is a significant increase in workload. Staff in 2007 was and still is unable to accomplish workload due to a lack of staff and resources. Ms. Roukie indicated that the cost of doing business continues to change. The cost of staff goes up over

time with cost of living adjustments, cost of motor pool vehicle rentals, costs of gasoline, cost of paperwork, etc. Division staff needed to define what it costs to fulfill the workload that the Division is mandated to perform.

Ms. Roukie stated that costs were analyzed based on the facility types and actual workload hours it takes to address that facility type therefore some costs would increase or decrease. Some facility types take longer to inspect due to location, number of complaints and size of the establishment.

Dr. Miller requested clarification of when the fees were increased last.

Ms. Roukie clarified for Dr. Miller that it was on January 22, 2004.

John Day, City of Las Vegas Public Works stated that he is also the manager for the sanitary sewer system for Las Vegas. Mr. Day indicated that currently NAC 444 states if a new septic permit is requested, the requirement is if the sewer system is within 400 feet the requirement is to connect into the existing sewer system. The proposed regulations eliminate this requirement stating that the sewer would have to be adjacent to the property line or crossing the property line. The City of Las Vegas is concerned that there was not enough research on the cost analysis for building a new septic system or extending the sewer line to the property. More investigation would be preferred. Whether the permit is requested in Clark County or any other county in the State, there would be more requests for sewer systems and connection is determined on a case-by-case basis. A sub-division consisting of five (5) lots or more is governed by 100 feet per lot, there is discrepancy in this area and the City of Las Vegas is opposed to those changes.

Joe Pollock, Public Health Engineer III, BHPS, indicated that currently NAC 444 states an operating permit per i.s.d.s. is valid until the system fails or until a community sewer system is installed in the area. The proposed amendment to NAC 444.784 would add the requirement that the sewer system is available and in physical contact with or adjacent to the property before the operating permit would become invalid. NAC 444.786 currently requires that an application for a permit for an i.s.d.s. be denied if the installation will not comply with the NAC 444.750-444.8396, inclusive, if a community sewer system is available within 400 feet of the property line or the proposed i.s.d.s. is located within the service area of a sewer company. The proposed amendments would require the application for an i.s.d.s. be denied for the same reasons except, the sewer system would need to be available or in physical contact with or adjacent to the property line instead of the 400 feet.

Mr. Pollock indicated that he had met with and had telephone conversations with officials of the City of Las Vegas, City of Henderson and the Clark County Water Reclamation District. The common concern with the amendments, as written, would take away the growth mechanism for the sewer utility. Mr. Pollock stated that it was his understanding that the utilities do not have the funds to pay for growth and that the focus is more on new development than is on the existing occupied properties. Currently the sewer system would be considered available if the property is within 400 feet of a sewer main. The property owner would then be required to extend the sewer main to the existing location to the property and the property owner would be financially responsible for the service lateral and the hook-up fees charged by the utility.

Mr. Pollock stated that BHPS staff opinion is the Health Division regulations should not be used to override decisions that were made when the subdivision and the parcel maps were approved.

Dr. Miller indicated that there is a break-even point where by the time you put in your septic or the line is extended and I know there is a lot of variables there, but if this is familiar to you,

Mr. Pollock stated that there are costs associated with putting in a septic system whether replacing a failed one and a set cost per foot of sewer main that is being installed depending on the area. A new

septic could cost less than having to tear up existing roads to add a line to an existing sewer. It is difficult to determine what the breaking point would be. Mr. Pollock agreed that the breakeven point is something that could be looked at and agreed that something more should be determined by the developer.

Mr. Pollock stated that he does not agree that there would be more septic systems installed in the future. The city does have control over how many sewers are installed.

Mr. Quinn indicated that he built a subdivision under the 100 foot rule. The problem is more than just hooking up to an existing i.s.d.s. Mr. Quinn stated that his opinion is that individuals would rather live in the county rather than the city because of the tax base. The builder pays the tax fees on the number of fixture units that you would be hooking up to the i.s.d.s. plus you pay an annual sewer fee that increases regularly. It's a political issue rather than a Board issue.

Dr. Miller requested Linda Anderson, Senior Deputy Attorney General, Office of the Attorney General, to state legal opinion on this issue.

Ms. Anderson stated that NRS 444.650 which is the authority for NAC 444, specifically states that any regulations the Board adopts within the jurisdiction of a health district would not be applicable to that part of the state therefore, the regulations being adopted today would not apply to Clark County, Washoe County or Carson City.

Dennis Porter, Director of Utility Services, City of Henderson, asked the Board to delay making a decision concerning sections 23 and 24 in the proposed amendments until City of Henderson officials could meet with BHPS staff to acquire a full understanding of the regulations.

Dr. Miller requested clarification of whether approval of a proposed regulation amendment could be made omitting a certain section of that regulation.

Cindy Pyzel, Chief Deputy Attorney General, Office of the Attorney General, stated that the regulation could be approved with the exception of a certain section but could cause additional amendments later if the health district jurisdiction had not formerly passed regulations pertaining to that area.

Dr. Miller stated that individuals could meet with Ms. Anderson concerning this issue.

Mike Goff, Senior Hydrologist, Southern Nevada Water Authority, stated that his office supports the Clark County Water Reclamation District's opposition for the removal of the language concerning the 400 foot requirement.

Dr. Miller asked the individuals representing the water districts to meet with Ms. Anderson in the hallway to obtain clarity whether the regulations would apply in their jurisdictions. The Board will take to the floor for a vote upon your return.

Mr. Haartz stated that a letter from Clark County Water District was provided prior to the meeting advising the Board of the water district concerns with the proposed amendments to NAC 444. Mr. Haartz indicated that besides the 400 foot distance concern that was presented today, Clark County relayed an additional concern with the proposed amendments to NAC 444. Mr. Haartz then indicated that he had a conversation with a representative of Clark County who was concerned with the proposed amendment defining an accessory structure, page one (1) section two (2). The concern was that as a policy Clark County does permit mother-in-law quarters or additional structures on lots that would contain both a bathroom and kitchen. This definition is termed as single family dwellings. Clark County uses the definition, "accessory structure" to include kitchen and bathroom facilities. Mr. Haartz indicated that the proposed amendments may not pertain to Clark County however, it was necessary to advise the Board on all relevant issues.

Dr. Miller indicated that item seven (7) will be tabled until Ms. Anderson and Clark County representatives return to the meeting.

8. Consideration and adoption proposed regulation amendments to NAC 446, "Food Establishments," LCB File No. R101-07.

Stan Marshall, Chief, BHPS, stated that the 2007 Legislative process requires the Health Division to increase fees for support of the consumer health program budget related to NAC 446. The proposed amendments reflect increased fees for annual food establishment permits and other services for food establishments in Nevada. The proposed amendments are for fee increases only. Without the proposed fee increases, insufficient staffing and program support levels would be expected to cause a delay in facility permitting activities, delayed or missed compliance inspections, delayed follow-up inspections to verify corrective actions have been implemented, the investigation of complaints and a higher risk to exposure of contaminated food products in food establishments in the private sector, school kitchens, etc. Currently BHPS staff is required to inspect vendors at temporary special events to ensure compliance with NAC 446. Workshops were held and the public was notified of the proposed amendments including the proposed fee structure however no temporary food establishment vendors or coordinators attended the workshops. Mr. Marshall requested that the Board approve the proposed amendments to NAC 446, as presented.

Dr. Miller stated that NAC 446 could have the same jurisdiction principle as NAC 444 and requested clarification from Ms. Anderson.

Ms. Anderson clarified for Dr. Miller that the NAC 446 proposed amendments related to fee increases for food establishments are the same as with NAC 444. These regulations would not be applicable in areas where the local health district had already adopted regulations for that purpose. The fees are related only to the establishments within the jurisdiction for which food permits are issued.

Virginia Johnson presented on behalf of the Nevada Certified Farmers Market Association, Las Vegas farmers markets and Ms. Ann Luella, President of the Certified Farmers Market Association. Ms. Johnson thanked the Southern Nevada Health District for adopting special rules and regulations for farmers' market vendors. Ms. Johnson stated that the fee increases related to farmers markets are high primarily for Northern Nevada vendors. In Northern Nevada, farmers markets take place about 20 times per year which at the current permit rate would calculate to be about \$1,000 per vendor. Approximately 20 to 40 vendors participate in each farmers market. The proposed rate increase would more than quadruple the fee from \$50 to \$207 per vendor and the permit is valid for 14 days. Most vendors are small businesses and non-profit organizations and would be unable to absorb the fee increase. For many of the vendors, farmers markets are a primary source of income and this fee increase could force them out of business. Farmers' market vendors are not typical food establishment vendors. Most of the products are low-risk in nature and do not have contamination properties. During the last several years, farmers' market managers and vendors have worked cooperatively with the Washoe County Health Department to establish a fair and equitable fee based on the product intending to be sold, hours of operation and number of occurring events.

Ms. Johnson stated that additionally the proposed amendments would impose weekly inspections which farmers market vendors feel are excessive. Ms. Johnson asked the Board to consider establishing a separate fee structure for farmers' markets vendors.

Ms. Roukie stated that there are different costs related to temporary food vendors. The State has historically maintained the \$50 cost per temporary food vendor and has cost \$25 for non-profit temporary food vendors. When evaluating the work and the cost of doing business, it was determined as a policy decision to not incur the same fee hike for non-profit organizations that we do for the for-profit therefore, the

for-profit vendor fee is being requested to increase to \$207 and the non-profit vendor fee is being requested to increase to \$50. Ms. Roukie indicated that most of the vendors Ms. Johnson was speaking of operate within the local health district jurisdictions therefore fees for those farmers' market vendors would not change.

Brian Fitzgerald, Recreation Superintendent, Douglas County Parks and Recreation Department, stated that the Douglas County Parks and Recreation Department contracts with the market provider in Douglas County. Douglas County has had the farmers' market vendors selling for over ten (10) years and would like these events to continue. Mr. Fitzgerald stated that he believes the fee increases would cause undue finance and hardship for farmers' market vendors. Mr. Fitzgerald indicated that upon meeting with BHPS staff, he understands that revenue needs to be increased to support funding for additional staff. Mr. Fitzgerald requested that a new separate category be established for farmers' market vendors and to consider an annual permit which would prevent additional costs and repeat business for State staff.

Mr. Marshall stated that staff understood the guidance for budget development and the intention was not to develop new fees for farmers' market vendors. Mr. Marshall then indicated that BHPS is limited to certain categories for which fees could be increased therefore staff proposed the fee structure based on what was subject to that increase.

Dr. Miller asked whether the Board could approve the amendments without including the fee increases for temporary food vendors and ask staff to work with that group to develop a fee structure and guidelines.

Ms Pyzel clarified for Dr. Miller that the Board could approve the amendments excluding proposed increases for temporary food vendors and another option would be to request a variance for a hardship. Larry Becker, Becker Amusement, Inc. stated that he is a small food vendor and paying for a \$207 permit would put him out of business. Mr. Becker indicated that the profits are often less than the permit would now cost.

Cheryl G. Huett, Goodi's Lemonade, stated that they do other events besides farmers markets. They do around 150 shows per year that equates to approximately 400 set-up and tear-down displays and products. Vendors work hard for their money. Business costs increase for everyone and Goodi's Lemonade pays for insurance benefits for 34+ employees. Ms. Huett indicated that she was unable to attend the workshops for she was working. Ms. Huett requested that notices to be sent again to the vendors and perhaps more people could attend the workshops. Ms. Huett requested clarification of whether permanent food establishment fees would be increased.

Mr. Marshall clarified for Ms. Huett that the proposed restaurant annual permit fee would increase from \$155 to \$200 for the first 40 restaurant seating capacity plus \$1.50 per additional seat.

Ms. Huett stated that she interpreted the restaurant fee increase to be \$50 per seat for a year round operating restaurant with vendors who attend events whether one (1) day or three (3) days 14 days increase. Ms. Huett indicated that the fee increase needs to be equally distributed for all food types. Ms. Huett stated that she felt the fee increase is not being fairly distributed and requested that the State impose a more structured fee for temporary food vendors.

Howard Herz, Olde Fashion Passion, stated that he feels part of the problem is the State doesn't know the difference between an individual opening a single jar of chocolate and offering a sample versus serving a full course dinner. The proposed fee increase would eliminate food service at craft fairs. Mr. Herz indicated that a farmers market and craft fair are similar events and asked the Board to consider both entities together in the decision. Mr. Herz requested the Board to consider a seasonal six (6) month permit rather than mandating an individual inspection.

Jeff Williams, Williams LTD, stated that he has participated in farmers' market events for over 30 years in Northern Nevada. Mr. Williams stated that he feels the fee increase would cause a serious hardship for vendors in Northern Nevada and doubts that any food vendor would be willing to pay the proposed fee. The fee is just too high.

Mr. Haartz stated that if the Board adopted regulations with a tiered schedule that was comparable to what Washoe County, Clark County and Carson City utilized, the dollar value of the fees would be different. There are different costs associated with the determination of the fee structure based on what personnel and operating costs are for each jurisdiction. For example, the Legislature provides approximately 64% of the Health Division's operating budget for this activity, which means the difference would come from collected fees. Washoe County puts in approximately 78% of county revenue to offset the cost of the fee and Carson City puts in approximately 90 percent, so there would be different fee structures for each jurisdiction based upon policy decision by that jurisdiction as to how much to offset the actual cost of the fee. Considering this, there would be different fee structures based upon policy decision by that jurisdiction as to how much to offset the actual cost to the fee. Mr. Haartz stated there is value in having a unified approach and the Board could take several actions. The Board could adopt the fee schedules as proposed and direct staff to work with the industry and draft regulations with a fee structure similar to the different jurisdictions and sensitive to the nature of farmers markets and craft fairs. The Board could adopt the proposed amendments excluding the two (2) proposed fees for temporary food vendors, leaving the fees as they currently are, then direct staff to work with the industry and draft a revised proposal that utilizes a tiered structure or set an annual permit fee.

Ms. Pyzel stated that a 14 days permit could be looked at to consider whether 14 days would be consecutive or whether 14 days would be considered worked days for the vendor.

Ms. Roukie requested that based on the projected revenue if the fees are not approved for temporary food vendors there would be a loss of approximately \$80,000 - \$85,000 a year which would leave an underfunded budget which would create a problem for the Health Division.

Dr. Miller indicated that if the fees are too much for the vendors to pay, the vendor will not acquire a permit and that would cause a loss of projected revenue as well. This is a consideration as well.

David Cole stated that if fees are increased, he would stop coming to Nevada.

MOTION: Mr. Quinn moved to approve the proposed regulation amendments to NAC 446, "Food Establishments", as presented by staff.

Dr. Miller stated concern that for a short period of time vendors would be required to pay the increased fee and choose not to attend any upcoming events with a loss of revenue anyway. Dr. Miller suggested approval of the proposed amendments with the exception of the temporary food vendor fees until staff and the industry work together to create a reasonable rate.

Mr. Quinn stated in favor of Dr. Miller's request as long as there is a definitive time allowance.

Dr. Works stated that he felt the Board should approve the proposed amendments with the exception of temporary food vendors. Dr. Works indicated that there would be incentive for the industry and staff to get together as soon as possible and create a permit fee structure so that lost revenue would not be an issue.

SECOND MOTION: Dr. Works moved to approve the proposed regulation amendments to NAC 446, "Food Establishments", LCB File No. R101-07, excluding the section pertaining to temporary food vendors, keeping those fees at the current level

until staff and the industry could work together to create a reasonable rate and later present those fees to the Board.

SECOND: Ms. Anjum

Mr. Quinn requested that the Board add a time limitation to the motion made by Dr. Works.

There were no additional questions or comments:

AMENDED MOTION: Dr. Works moved to approve the proposed regulation amendments to NAC 446, "Food Establishments", LCB File No. R101-07 as he had already proposed and that the proposed amendments would come before the Board no later than the April 18, 2008 Board meeting.

SECOND: Ms. Anjum

PASSED: UNANIMOUSLY

Dr. Miller continued with item #7. Dr. Miller requested clarification from Ms. Anderson whether Southern Nevada entities had any objections for approval of the regulations as presented by staff.

Ms. Anderson clarified for Dr. Miller that there were no longer any objections to the proposed amendments for NAC 444 and Southern Nevada recommends adoption of the regulations as presented by staff.

There were no additional questions or comments:

MOTION: Mr. Quinn moved to approve the proposed regulation amendments to NAC 444, "Sanitation", LCB File No. R100-07, as presented by staff.

SECOND: Dr. Works

PASSED: UNANIMOUSLY

9. Consideration and approval of Southern Nevada Health District's proposed regulations governing the "Sanitation and Safety of Used Mattresses, Bedding, and Upholstered Furniture," as adopted by the Southern Nevada District Board of Health on September 27, 2007.

Glenn Savage, Director, Environmental Health, Southern Nevada Health District (SNHD), indicated that Nancy Hall, Senior Environmental Health Specialist, Southern Nevada Health District, was operating a power point presentation to go along with the presentation. Mr. Savage stated that in April 2006 staff brought regulations concerning public accommodations to the Southern Nevada Board of Health and the regulations were approved. In June of 2006 the SNHD brought those regulations to the Board and the regulations were approved by the Board. During that process ways and manners were discussed how to sanitize beddings, mattresses and other materials used for the public and the SNHD has made appendices to the regulations. After adopting the regulations and mandatory inspections occurred, staff found some issues with stained mattresses, broken coils, drug paraphernalia between mattresses, broken slats, torn fabric materials, missing mattress tags, bedding and pillows were in poor condition, and bed bugs along with evidence of bed bugs. There were reports of bed bug bites and secondary infections caused by bed bugs. Mr. Savage stated that some of these issues came from businesses that were bringing those type mattresses and box springs into Southern Nevada. The businesses had indicated that they had proper business licenses, procedures and control measures in place to provide control of sanitized mattresses and box springs into the community. Additional issues found during inspections of mattresses reflected missing tags or improper information on the tags. SNHD continued the investigation in an attempt to locate where the mattresses initiated and found that mattresses came from Southern Nevada or California. Those facilities were inspected and found that the facility had a

lack of proper sanitation and handling of used mattresses and bedding; no knowledge of the law and unknown requirements of a proper business license. Those facilities were closed down.

Mr. Savage stated that there are basically two (2) types of sanitation being used by the industry; one is through heat and the other by using chemicals. In California there are a couple of facilities that use the heat process and it was impressive how the use of heat was used for that process. The use of inspectors to monitor that proper heat was used during the process, monitoring and logging of each step. Mr. Savage indicated that the use of a chemical called, "sterifab" is used in the process to sanitize used mattresses and materials. If "sterifab" if used properly is effective in the process of sanitizing used mattresses as a fungicide and bacteriacide. The manufacturer of "sterifab" is from New York and indicated if used properly "sterifab" would sanitize about 25 used mattress sets per case of the product. What was found is that facilities were using about one (1) container per 25 mattresses so the effectiveness was not sufficient for the purpose.

Mr. Savage stated that the SNHD needed to come up with regulations for a solution to concerns of sanitation and refurbishing of used mattresses and materials. In September 2007 the SNHD brought regulations to the Southern Nevada Board of Health for approval and the regulations were approved.

There were no additional questions or comments:

MOTION: Dr. Works moved to approve the Southern Nevada Health District's proposed regulations governing the "Sanitation and Safety of Used Mattresses, Bedding, and Upholstered Furniture," as adopted by the Southern Nevada District Board of Health on September 27, 2007, as presented.

SECOND: Mr. Quinn

PASSED: UNANIMOUSLY

Dr. Miller stated that the agenda would be taken out of order and requested Lawrence Sands, DO, MPH, Chief Health Officer, Southern Nevada Health District, to provide his report, item 12-C.

Dr. Sands stated that the SNHD Tobacco Control Program staff is collaborating with the Nevada Tobacco User's Helpline to launch the local Brief Intervention Project. This project is adapted from the brief intervention approach for clinicians developed by the Agency for Healthcare Research and Quality (AHRQ) to address tobacco use with patients regularly and efficiently. There is strong evidence from many clinical trials that brief smoking cessation counseling delivered by physicians, dentists and other clinicians increases smoking cessation rates among adult patients. The SNHD encourages healthcare staff to take advantage of resources developed by staff in order to help incorporate the use of brief intervention strategies when caring for patients who use tobacco products.

Dr. Sands indicated that the SNHD recommends healthcare providers to routinely and consistently deliver a brief 3-step intervention consisting of what is called the 3 A's. 1) Ask about tobacco use at every visit; 2) Advise all tobacco users to stop; 3) Assist the patient by offering medications to aid in quitting and/or assist in referrals to community programs. Brief intervention materials are free of charge. Healthcare providers may request these materials by accessing an order form at the health district's Get Health Clark County website at www.gethealthyclarkcounty.org or by calling (702) 759-1276, which is the Office of Health Disease and Prevention.

Dr. Sands stated that the health district sponsored the Point of Distribution (POD) Squad, a full-scale pandemic flu planning exercise on August 23-25, 2007 at the Primm Resort and Casino. The exercise was developed to test the health district's mass prophylaxis vaccination and alternate District Operations Center (A-DOC) capabilities. The exercise planning team was composed of numerous and diverse agencies, including the health district, representatives from local resorts and emergency response partners. The

exercise included over 140 participants and activities included setting up a POD for dispensing mass prophylaxis and POD manager training for staff. Other issues addressed during the exercise included: exercise safety; logistics; participants; exercise documentation; training development; and operations. Clark County Medical Society member, Dr. Max Doubrava participated by presenting legal issues related to the practice of medicine, ethics and a response to a flu pandemic. Currently, health district staff is working on the exercise after-action report in order to analyze the exercise results, identify strengths to be maintained and built upon, identify potential areas for further improvement and to support the development of corrective actions.

Dr. Sands stated that on October 5, 2007, the SNHD and Area Health Education Center (AHEC) of Southern Nevada offered, "The Use of Anti-virals in the Prevention and Control of Influenza." The training took place at the Ravenholt Public Health Center Auditorium at the Shadow Lane campus. Objectives for physician training included the role anti-virals play in the prevention and control of flu and the role of non-pharmacological interventions. The speaker for this training was Robert Peters, MD, PhD, FAAFP, who is a noted expert on pandemic flu and anti-virals. A second training was offered that same day for nurses, first responders and business personnel. The second training was presented by Dr. Arpana Gupta, an author of the Ventura County, California, Pandemic Influenza Response Plan. After both trainings, an update was provided by Brian Labus, Senior Epidemiologist, SNHD, on the upcoming flu season in Clark County.

Dr. Sands indicated that two (2) health district programs had received very positive external evaluations. The Tobacco Control Program was recently reviewed by Battelle, a contractor providing external evaluation of all programs funded by the Task Force for the Fund for a Healthy Nevada. The second positive audit was for the Family Planning Program. The auditors made note of the programs Information and Education Committee process and documentation as well as the Quality Assurance and Improvement process and felt that these components should be nationally recognized.

Dr. Sands thanked the Board for approving the SNHDs regulations governing the sanitation and safety of used mattresses, bedding and upholstered furniture.

Dr. Miller indicated that Mr. Haartz would present agenda item #10 and then provide the Secretary's Report.

10. Scheduling of 2008 Meetings

Mr. Haartz indicated that there would be a meeting on December 7, 2007 in Carson City with videoconference to Southern Nevada. Mr. Haartz then stated the proposed Board meeting dates for calendar year 2008 as follows:

February 15, 2008
April 18, 2008
June 20, 2008
August 22, 2008
October 17, 2008
December 19, 2008

Mr. Haartz indicated that item #10 is an action item. The Board could approve the proposed 2008 meeting dates as a whole and as the meeting dates arise, the Board could amend the dates, if needed, or the Board could go through each date and validate each for the next calendar year.

Dr. Miller stated that there are two (2) dates that conflict with his schedule. Dr. Miller stated that August 22, 2008 was conflictive and offered that meeting to be held on August 15, 2008. Dr. Miller then stated that

October 17, 2008 was conflictive and offered that meeting to be held on October 24, 2008. Dr. Miller asked whether any other Board member had a conflict with the proposed 2008 meeting dates.

Ms. Pyzel asked whether October 24, 2007 was the recognized holiday, "Nevada Day".

Mr. Haartz stated that staff would verify October 24, 2007 on whether it would be recognized as "Nevada Day".

Dr. Miller asked Ms. Osalvo to email the revised 2008 meeting date schedule to Board members.

There were no additional questions or comments:

MOTION: Dr. Works moved to approve the proposed 2008 Board meeting dates with changes indicated by Dr. Miller.

SECOND: Mr. Quinn

PASSED: UNANIMOUSLY

11. Reports

A. Chairman - Jade Miller, DDS

No report

B. Secretary – Alex Haartz, Administrator, Nevada State Health Division

Alex Haartz, Secretary, State Board of Health, stated that the State and local health district authorities are meeting regularly to discuss topical issues and are working to coordinate more closely concerning the Clean Indoor Air Act (CIAA). Regulations intend to be written uniformly and eventually seek adoption by the Board for all jurisdictions. Regulations would protect the public health and also assist restaurant owners and customers for a better understanding of the law.

Mr. Haartz stated that several candidates were interviewed on September 25-26, 2007 for the purpose of selecting an appropriate individual to fill the State Health Officer position. There has been a top candidate identified and that name was given to Michael Willden, Director, Department of Health and Human Services. Mr. Haartz stated that upon any announcement of State Health Officer position being filled, the Board members would be notified. The interview panel was comprised of the following individuals: Mary Anderson, MD, MPH, District Health Officer, Washoe County District Health Department; Lawrence Sands, DO, MPH, Chief Health Officer, Southern Nevada Health District; Vicky Fogelman, DVM, MPH, Director, Carson City Health and Human Services; L. Dee Brown, MD, MPH, Director, State Public Health Lab, University of Nevada Reno; Frances Barron, State Board of Health member; Alex Haartz, Administrator, Richard Whitley, Deputy Administrator and Leslie Tashiro, Personnel Officer, Nevada State Health Division.

Mr. Haartz stated that Governor Jim Gibbons had instructed all State agencies to reduce their budget by 5%. Health Division staff have produced and forwarded a proposal of budget reductions to the Department of Health and Human Services Director, Michael Willden.

Mr. Haartz stated that there has been a great deal of concern about radon leaking into the school building within Douglas County. Douglas County School District has retained a contractor to perform testing for radon at the school.

Mr. Haartz indicated that at the December 7, 2007 Board meeting there would be the mental health crisis update by the Department of Mental Health and Developmental Services (MHDS) that Ms. Barron has requested during the August 17, 2007 meeting, there will be an update on status of the collection and analysis of emergency room transfer time data that has been collected by SNHD, and additional regulations will be presented for approval dealing with radiological health for fee and language changes, medical laboratories for fee increases and language requirements also.

Mr. Haartz stated that there was a recent recall on pot pies. The Centers for Disease Control and Prevention (CDC) came to Nevada did an epidemiological investigation on six (6) cases that at the time did not appear to be related to the pot pie recall. Mr. Haartz indicated that he is not convinced that the six (6) were related to the pot pie recall, but the cases are included in the national information.

C. Southern Nevada Health District – Lawrence Sands, DO, MPH, Chief Health Officer

This item was taken out of order after item 8 on page-19.

D. Environmental Commission – Frances Sponer, Board of Health Designee

No report

12. Public Comment and Discussion

There being no further comments, Dr. Miller adjourned the meeting at 1:00 pm.