

**STATE BOARD OF HEALTH
MINUTES**

**December 7, 2007
9:30 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 (Las Vegas)
Jade Miller, DDS, Chairman (Carson City)
Joan Anjum, RN (Las Vegas)
Roger Works, DVM (Carson City)
William E. Quinn, IV, Vice Chairman (Las Vegas)

BOARD MEMBERS NOT PRESENT:

Lubna Ahmad, MD
Vishvinder Sharma, MD

HEALTH DIVISION STAFF PRESENT:

Adrian Howe, Radiation Physicist, Bureau of Health Protection Services
Alex Haartz, Secretary, State Board of Health, Administrator, Nevada State Health Division
Cindy Pyzel, Chief Deputy Attorney General, Office of the Attorney General
Debbi Bryant, Administrative Assistant III, Bureau of Licensure and Certification
Ed Sweeten, Radiation Physicist, Bureau of Health Protection Services
Fergus Laughridge, Supervisor, Emergency Medical Services, Bureau of Licensure and Certification
Jackie Bowling, Radiation Control Specialist II, Bureau of Health Protection Services
Janet Osalvo, Executive Assistant, Nevada State Health Division
Jennifer Dunaway, Health Facilities Surveyor, IV, Bureau of Licensure and Certification
Karen Beckley, Supervisor, Radiation Control Section, Bureau of Health Protection Services
Linda Anderson, Senior Deputy Attorney General, Office of the Attorney General
Linda Ledette, Community Health Nurse II, Bureau of Community Health
Lisa Jones, Chief, Bureau of Licensure and Certification
Lynn O'Mara, Health Resource Analyst III, Bureau of Health Planning and Statistics
Patricia Chambers, Health Facilities Surveyor, III, Bureau of Licensure and Certification
Stanley R. Marshall, Chief, Bureau of Health Protection Services
Timothy Mitchell, Radiation Control Specialist II, Bureau of Health Protection Services
Todd Myler, Administrative Services Officer I, Bureau of Licensure and Certification
Vickie Estes, Health Facilities Surveyor, III, Bureau of Licensure and Certification

ADDITIONAL TESTIMONY PRESENTED BY:

Allan Ward, Home Instead Senior Care
Bill M. Welch, President and Chief Executive Officer, Nevada Hospital Association
Dan Berkable, American Toxicology, Inc.
Dan Kerrigan
Jeanne Rucker, Environmental Supervisor, Environmental Health Services Division, Washoe County
District Health Department
Lill Fiore, Always There
Mary Anderson, MD, MPH, Washoe County District Health Officer
Rebecca Hansen, Division of Health Care Financing and Policy
Robert H. Talley, DDS, Executive Director, Nevada Dental Association
Shelly Jewell, Care Minders Home Care

OTHERS PRESENT:

Chris Bosse, Renown Health
Connie Anderson, Division of Health Care Financing and Policy
Elizabeth Neighbors, Lake's Crossing Center, Division of Mental Health and Developmental Services

Gail Yedinak, University Medical Center
Gary Weaver, Horizon Hospital
Jeff Brasel, Senior Environmental Health Specialist, Washoe County District Health Department
Jennifer Johnson
Julius Jessup, Native Home Health
Kathy Stoner, Division of Health Care Financing and Policy
Larry Staples, JMA Architects
Lawrence Sands, DO, MPH, Chief Health Officer, Southern Nevada Health District
Linda Hoxsie, Division of Health Care Financing and Policy
Lynn Hunsinger, Division for Aging Services
Mary Ellen Britt, Southern Nevada Health District
Michael Mason, Lake's Crossing Center, Division of Mental Health and Developmental Services
Michael McMahon, Consumer Direct Personal Care
Michelle Mays, Division of Health Care Financing and Policy
Michelle Posey
Rick Mahone, Care Minders Home Care
Shelle Sponseller, Accessible Space, Inc.
Snow Morrison, Renown
Susan Nielsen, Division of Health Care Financing and Policy

Jade Miller, DDS, Chairman, opened the meeting at 9:48 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. The meeting started late due to inclement weather conditions and temporary evacuation of the Legislative Building in Carson City.

1. Roll Call and approval of the minutes from the October 19, 2007 meeting.

Janet Osalvo, Executive Assistant, Nevada State Health Division, called roll and indicated that Dr. Ahmad and Dr. Sharma were excused. A quorum was established.

Alex Haartz, Secretary, State Board of Health, Administrator, Nevada State Health Division, provided clarification of the revised agenda.

There being no additions or changes to the October 19, 2007 minutes:

MOTION: Ms. Barron moved to approve the minutes of October 19, 2007 Board of Health meeting minutes, as presented.

SECOND: Dr. Works

PASSED: UNANIMOUSLY

2. Consent Agenda

Dr. Miller asked Board members if any of the consent agenda item numbers 2A, 2B, 2C or 2D would need to be pulled for further discussion.

There being no comments regarding items on the consent agenda:

MOTION: Dr. Works moved to approve agenda items 2A, 2B, 2C and 2D on the consent agenda, as presented.

SECOND: Ms. Barron

PASSED: UNANIMOUSLY

3. Consideration and approval of Washoe County District Health Department, Environmental Health Services Division's proposed regulations governing the "Food Establishments", as adopted by the Washoe County District Board of Health on October 25, 2007.

Jeanne Rucker, Environmental Health Supervisor, Washoe County District Health Department, recommended approval of the regulation amendments for the Washoe County District Health Department. Ms. Rucker stated that the amendments specifically change the definition of a "special event", with various other changes in section 170 which apply to special events and temporary food establishments. Ms. Rucker indicated that the changes were mainly for maintenance purposes. These regulations require utensil washing sinks to be available at special events that exceed more than one (1) day in duration and that wastewater tanks be on-site during the events. Ms. Rucker indicated that the previous regulations allowed for temporary food establishments to operate at the same location for a period not to exceed 14 days or a total of 26 days per calendar year. The 26 days per calendar year was reduced to 14 days.

Ms. Rucker then stated that the regulation amendments were passed unanimously by the Washoe County District Board of Health on August 23, 2007.

There were no questions or comments:

MOTION: Dr. Works moved to approve the Washoe County District Health Department regulations governing food establishments, as presented.
SECOND: Ms. Barron
PASSED: UNANIMOUSLY

4. Consideration and adoption of proposed amendments to NAC 457, "Cancer" and NAC 459, "Hazardous Materials", LCB File No. R149-07.

Stan Marshall, Chief, Bureau of Health Protection Services (BHPS), stated that the proposed amendments are intended to further enhance existing Nevada Radiation Control Requirements to maintain the State Radioactive Material program compatibility with the U.S. Nuclear Regulatory Commission (NRC) and to increase fees for Radioactive Material users. In 1972, Governor Mike O'Callaghan signed an agreement with the NRC to implement licensure and other regulatory requirements for all Radioactive Material users in the State. Periodic regulation amendments are necessary to support the Radioactive Material program and to maintain compatibility with federal requirements.

Mr. Marshall stated that by direction of the Executive Branch Audit Committee of the Department of Administration's Division of Internal Audits conducted an audit of the State Health Division and specifically addressed whether the State Health Division should continue to administer the Radioactive Material program. In 2003, the findings and recommendations of the post audit review determined that the State Health Division should continue to administer the Radioactive Material program relinquished by the NRC, evaluate staffing levels and increase fees to cover the State's program costs. Increasing fees would eliminate the need for General Fund subsidies. If the proposed amendments are approved, the fee increases would impact Radioactive Material licensees, X-ray registrants and Mammography Technologists.

Mr. Marshall stated that in 2006, based on historic deficits and continued industry growth, the Radiological Program staffing level was determined to be deficient by 12 staff members. The proposed budget for State Fiscal Years 2008/2009 was approved by the 2007 Legislature which continued 100%

fee-support funding and a staff increase of five (5). The proposed fee increases would support all aspects of the statewide Radiation Control program that regulates Radioactive Materials, Machine-Produced Radiation and certification of Mammography Technologists. The proposed fee increases would additionally support program elements such as; technical staff training, public outreach regarding radiation concerns and issues, program administration, staffing, travel for routine compliance inspections, complaints and investigations, technical evaluations of new radiation use technologies, periodic review of Board of Health technical and administrative regulations to affect appropriate revisions, statewide support to local responders for radiological emergency response planning and field response to radiation incidents, etc.

Mr. Marshall then provided a brief summary of the proposed regulations:

1. Fee increases to fund the Legislature-approved budget for radioactive materials, X-ray machine use and mammography technologist certification (Sections 1-4).
2. An administrative update to reflect the new address of the Nevada State Health Division in Carson City (Section 5).
3. Correction of one (1) text error (Section 6).
4. Program participation in a national sealed radioactive source tracking system required by compatibility requirements of the Nuclear Regulatory Commission (Sections 7-10).
5. Transportation regulation revision to maintain compatibility with Nuclear Regulatory Commission regulations(Section 11) and;
6. Deletion of two (2) obsolete medical regulations (Section 12).

Dr. Works requested clarification of whether BHPS staff is required to provide periodic inspections of equipment such as those used for mammography and X-ray purposes.

Mr. Marshall clarified for Dr. Works that NAC 457 requires annual inspections of mammography X-ray equipment.

Dr. Works indicated that in 2003 the Radiological program was found to be deficient and there was an increase in fees at that time to support additional staff. Dr. Works requested clarification of whether BHPS staff would be able to meet inspection requirements.

Mr. Marshall clarified for Dr. Works that BHPS continues to fulfill staff requirements with existing and new positions. As positions are filled, BHPS would have the ability to meet the requirements but, until all the positions are filled, the requirements cannot be met.

Dr. Works requested clarification of the percentage of inspections that are not being met.

Ed Sweeten, Radiation Physicist, BHPS, clarified for Dr. Works that the inspections are divided into various categories, medical, dental, podiatry, veterinary and industrial. Each category requires different inspection frequencies. Medical inspections for hospitals, clinics, imaging, etc., are required annually. Medical inspections are nearly 100% on schedule. There have been a large number of new dental facilities that have begun practice. These new dental facilities are required to be inspected within six (6) months of opening and this requirement is a priority. Dental offices found to have no problems are subsequently inspected within five (5) years and those found with problems are inspected more frequently. Podiatrists and veterinarian facilities are inspected each three (3) years and there is a current inspection backlog of about 50%.

Robert H. Talley, DDS, Executive Director, Nevada Dental Association (NDA), stated that the NDA is concerned and in opposition of the proposed fee increases for the registration of dental X-ray units. Technology has rendered the need for inspections of dental units obsolete and NRS 459.2013 authorizes the State Board of Health to exempt some units from the inspection requirements. Dr. Talley indicated that

safety certification could be administered by the State Board of Dental Examiners at the time of renewing dental X-ray unit licenses and this would eliminate inspection requirements for the State Health Division.

Dr. Miller stated that he expects the State Health Division to demonstrate responsibility and that the state tax dollars are spent wisely. Dr. Miller stated that as a private practice dentist and a Board member, he is very impressed with Health Division staff and has confidence that whatever is required would be accomplished. Dr. Miller then indicated that he considers the public's safety as well. Dr. Miller then stated that he understands there is economic slow down and its impacting state funding therefore, in order to pay for certain programs, fees need to be increased.

Dr. Works stated concerns of whether Mammography X-ray machines and equipment are being inspected according to the requirements. If inspection timelines are not currently being met, the Board needs to be aware of inspection status.

Mr. Marshall indicated that there are vacant positions at this time and they are difficult to fill. Radiological Health program positions tend to compete with comparable salaried positions in the private sector and other government agencies. When State positions are not filled and there is vacancy savings, the funds are not spent, and the Bureau remains in a solvent position with carry-over funds for the next fiscal year. The need for additional staff positions is mainly due to industry growth. Nevada's staffing issues are not different from any other state. All states experience competition with the private sector and other government agencies when comparing salaries and staff retention.

Dr. Miller requested clarification of whether the proposed fees are comparable with other states.

Mr. Marshall clarified for Dr. Miller that the proposed fee schedule drafted was comparable to neighboring states' schedules and the fees are below the Federal Rate Standards.

Mr. Quinn stated that the Board is required to provide appropriate services for the citizens of the State of Nevada. Mr. Quinn then stated that in fairness BHPS staff has conducted research with consideration of private industry and neighboring states and drafted a proposed fee schedule.

Dr. Miller asked Mr. Haartz to clarify for the Board what the options were for consideration.

Mr. Haartz indicated that the Board has two (2) options, either approve, LCB File No. R149-07, as presented, or take no action and request that staff provide additional information so that a decision could be made at a future Board meeting.

Ms. Barron asked whether BHPS staff could meet inspection requirements if the Board was to approve the regulation amendments as presented.

Mr. Marshall stated that upon approval and after the vacant positions are filled, BHPS would make an attempt to provide all mandatory inspections. Mr. Marshall then stated that he believes the proposed fee increases would fund for completion of the required inspections.

There were no further questions:

MOTION: Dr. Works moved to approve proposed amendments to NAC 457, "Cancer" and NAC 459, "Hazardous Materials", LCB File No. R149-07 as presented.
SECOND: Mr. Quinn
IN FAVOR: Ms. Anjum, Ms. Barron, Mr. Quinn, Dr. Works
ABSTAINED: Dr. Miller
PASSED: By Majority

Comments:

Dr. Works requested BHPS staff to provide an assessment for the Board on the status of mandatory inspections within the state. Dr. Works then asked whether alternate ways of getting inspections completed had been considered, such as contract services.

Mr. Marshall stated that BHPS had reviewed staffing requirements and resources and the Bureau is always open to possible alternatives. Some alternatives have been utilized within the Bureau, but to no avail. Contract services generally cost more than BHPS currently spends for those services. Mr. Marshall indicated that if the inspections were completed by federal government staff, the rates would be two (2) to five (5) times higher and the duration would be significantly longer.

Mr. Marshall then stated that the Bureau would provide status updates to the Board, as requested.

5. Consideration and adoption of proposed regulation amendments to NAC 449 and NAC 450B, "Emergency Medical Services Transfer of Patient Care," LCB File No. R138-07.

Fergus Laughridge, Supervisor, Emergency Medical Services, Bureau of Licensure and Certification, stated that the 2005 Legislature passed Senate Bill (SB) 458 that sought to address the time which persons who are transported to a hospital is transferred to a place in the hospital to receive services. Legislation passed as a result of ambulance services reporting wait times in excess of 30 minutes. With passage of SB 458, Nevada Revised Statute (NRS) 450B.790 established that the transfer of a patient between Emergency Medical Services (EMS) and the hospital must occur within 30 minutes. The major concern by the Legislature was that in Clark County, waiting times greater than 30 minutes were elapsing from the point an ambulance arrived at a hospital's emergency department to when the hospital assumed responsibility for the patient. The ambulance was unable to depart until this had occurred, also known as "waiting time". As a result, the Legislature adopted what is essentially a three-tiered approach by making data collection mandatory in Clark County but discretionary for the remaining sixteen (16) counties. In the sixteen (16) rural counties, participation in the Board's data collection system would occur either as a result of a county-driven process or by Board decision (in Washoe County) as specified by NRS 450B.795(3)(4).

Mr. Laughridge stated the Legislature provided the Board with two (2) options for implementing the required data collection and related reporting duties. Under NRS 450B.795(7)(8), the Board can either oversee the data collection itself through an appointed Advisory Committee in the county of interest or delegate it to a county or District Board of Health. It was determined that the Board would adopt regulations establishing its duties as well as a delegation process. The Board directed staff to draft the necessary regulations stipulating that the regulations should contain a mechanism and criteria by which the Board could delegate its responsibilities. The proposed regulations detail a process and mechanism by which the Board may delegate responsibilities to a District Board of Health. The Health Division participated in discussions with the Southern Nevada Health District (SNHD), the Nevada Hospital Association (NHA) and representatives from Clark County EMS during the 2007 Legislature in preparation of these draft regulations. The agency received a letter from the NHA following the public workshops indicating that the NHA had determined the proposed regulations were acceptable as presented at the public workshops.

Mr. Laughridge indicated that at the time Board packets were prepared, a Legislative Council Bureau (LCB) draft regulation was not available. The LCB draft regulation dated, November 29, 2007, was received by the agency on December 3, 2007. The Board has received a copy of the LCB draft regulation this morning. There is a significant difference in appearance between the document that was received in the Board packet mailing in preparation of this meeting and the document received this morning.

Mr. Laughridge then stated the specific requirements that a county or District Board of Health must include in its written letter of request to receive delegation pertaining to section six (6) of the proposed regulation:

- Statement which indicates that the District Board of Health has the ability to carry out the duties set forth in NRS 450B.795;
- Statement which indicates that each hospital and each provider of emergency medical services located in the county will participate in the collection of data;
- Description of the system that will be used to collect data in the county;
- List of the persons appointed to the Advisory Committee required pursuant to subsection seven (7) of NRS 450B.795;
- Description of the process that will be used to review the circumstances of waiting times for the provision of emergency medical services and care which exceed 30 minutes; and
- Statement that the District Board of Health will require each hospital and provider of emergency medical services located in the county to contribute equally to the cost of carrying out the collection of data pursuant to NRS 450B.795.

Mr. Laughridge stated that the LCB proposed draft regulation has been reviewed by staff and the original intent of the proposed regulation has not been lost. Additionally, staff communicated the changes to the SNHD on November 30, 2007. Mr. Laughridge recommended that the Board adopt the proposed regulation amendments to LCB File No. R138-07, as presented.

Bill M. Welch, President and Chief Executive Officer, NHA, requested additional time to review the LCB draft of the proposed regulation amendment that was presented.

Dr. Miller granted Mr. Welch additional time to review the proposed regulations. Dr. Miller then stated that the agenda would be taken out of order and requested Lisa Jones, Chief, Bureau of Licensure and Certification (BLC), to present agenda item number eight (8).

8. Consideration and adoption of proposed amendments to NAC 652, "Medical Laboratories," LCB File No. R176-07.

Lisa Jones, Chief, BLC, stated that the proposed amendments would increase fees for laboratory facilities and laboratory personnel and clarify certain licensure requirements. These amendments will affect lab personnel and facilities licensed throughout the state of Nevada, as well as laboratories outside the state that examine specimens collected in Nevada. BLC is proposing a fee increase that will fund the Legislatively approved budget to support the statutorily required medical laboratory licensure workload. The laboratory licensing program is funded exclusively through licensure fees. Ms. Jones indicated that two (2) elements drive the need for increased fees:

- The 2007 Legislature approved two (2) new laboratory positions to meet the statutory workload, and;
- Personnel costs and operating costs have increased over the past ten (10) years. Lab licensing fees were last increased in 1997.

Ms. Jones indicated that BLC had received numerous comments expressing concern with the amount of proposed fee increases specifically related to increases for certain lab personnel. BLC restructured the proposed fee increases to reflect an overall lower and graduated increase for licensed personnel, as well as lower increases for small volume laboratories. Additional concern was expressed during the workshops that BLC should not eliminate the provision for Laboratory Technologists in the military to qualify as Technologists in the State of Nevada. BLC researched this with all four (4) branches of the military and found that the qualifications for a Technologist in the military are those that would qualify a person as a Technologist in Nevada however, it has been indicated that some Technicians in the military may be performing functions considered those of a Technologist. Such technicians would not automatically qualify for a technologist license in Nevada. Based on the comments that BLC received, a revised fee proposal and technical clarifications were presented to the Medical Laboratory Advisory Committee (MLAC) at its November 6, 2007 meeting along with the calculation spreadsheets used to derive the Medical Laboratory program workload, costs and fees. At that time the MLAC voted to recommend approval of the proposed amendments by the Board.

Ms. Jones indicated that additional comments received were that the agency should incorporate more cost saving measures before seeking fee increases. A suggestion given was that personnel licenses be for a lifetime or consider a renewal period to be longer than two (2) years. This approach was utilized in 1997 when licensing renewal requirements were changed from yearly to biennial. BLC reviewed this possibility and researched licensure periods and compared to other professional boards in Nevada and other states, it was determined that BLC would not pursue a change at this time. The two-year cycle is consistent with other licensing boards and provides a level of professionalism that will protect consumers by emphasizing continuing education requirements.

Ms. Jones stated that the Health Division received two letters expressing concerns that the proposed fee increases would negatively impact non-profit laboratory services. The first letter was from the Southern Nevada Health District, Carson City Department of Health and Human Services and the Washoe County District Health Department; the second letter was from the University of Nevada, School of Medicine. In consideration of these letters, BLC drafted an Errata that maintains licensure fees at the current rate for laboratories operated by cities, counties, health districts or District Boards of Health, or the State Laboratory maintained by the University of Nevada School of Medicine.

Ms. Jones indicated that BLC solicited input from all stakeholders and has incorporated public comments into the Errata presented for approval along with the proposed amendments. Ms. Jones then recommended that the Board adopt the proposed regulation amendments to NAC 652, "Medical Laboratories," LCB File No. R176-07, as presented.

Dan Kerrigan stated that if NAC 652.420(c) is removed, many Medical Technologists will no longer qualify to practice in their occupational field. If the proposed amendments are approved, there is no provision that protects individuals already in that capacity, especially individuals serving in the military. Mr. Kerrigan stated that Technicians cannot perform any high complexity testing that requires human interpretation, only a Technologist can perform this function. If this section is deleted from the regulations, qualified Technologists who are currently certified to practice in Nevada would be forced to work in another state because it would require a Bachelors degree. The proposed fee increases would initiate the highest fee in the United States for licensing Phlebotomists and supervisors. Mr. Kerrigan asked that the Bureau consider extending the term of licensing, to be valid for a minimum two (2) years instead of one (1). Mr. Kerrigan requested the Board to deny the proposed regulation amendments to NAC 652.

Dan Berkable, American Toxicology, Inc., stated concerns that waived testing was being classified as on-site drug testing. Mr. Berkable indicated that studies have shown waived tests and screened drug

testing results have been found to be unreliable. If an individual performs an inaccurate test, the individual could lose their job. Mr. Berkable stated that the Clinical Laboratory Improvement Act (CLIA) does not have requirements for individuals who perform waived tests and CLIA also has determined that the on-site drug testing is a waived test. Mr. Berkable stated that he feels BLC is attempting to write a new regulation just for waived testing. Mr. Berkable stated that on-site testing should not be waived. Mr. Berkable stated that CLIA stipulates waived test devices should be used within a laboratory. Mr. Berkable then stated in opposition of the proposed amendments.

Ms. Jones stated that NAC 652.155 would add a definition for physicians to oversee individuals that perform waived tests within a laboratory.

Vickie Estes, Health Facilities Surveyor, III, BLC, stated that the labs Mr. Berkable referenced pertain to private practice and would not serve the general public. A chiropractor is allowed to perform waived testing in the office. If a construction site prefers to perform on-site drug testing, a physician would have to consider that location as a private practice location in order to have the waived tests performed at that site. The Food and Drug Administration (FDA) is the entity that determines complexity of the tests. CLIA was adopted in 1992 and in 1995 the Nevada Legislature adopted a law that allowed Nevada requirements to be more stringent in the areas of personnel and waived testing than the federal government. There are some manufacturers that don't get tests classified by the FDA. The tests are marketed to any entity that would purchase them. In Nevada, in terms of a waived lab or physicians' private practice, only waived tests can be provided. In terms of the laboratory licensure program, many years ago Nevada streamlined the complexity of laboratories. Labs that serve the general public have licensed Lab Directors, general supervisors, Technologists and assistants. The waived test rules stipulate that the manufacturers directions need to be followed, competency of the people performing the test needs to be documented and accuracy needs to be verified.

Mr. Berkable requested clarification of the requirements to become a point-of-care analyst.

Ms. Estes stated that the Board has adopted regulations concerning point-of-care tests. Test sites are required to be within a medical facility, such as a hospital, skilled nursing facility or an ambulatory surgical center. The tests are performed at the patients' bedside or in the near vicinity of the patient and under the jurisdiction of a licensed Laboratory Director.

Linda Anderson, Attorney General's Office, stated that the Board has authority to adopt regulations for individuals who are providing technical duties other than the collection of blood in all of the categories that the Board currently licenses. Technologists have the ability to provide other technical duties in addition to the collection of blood. The Legislature passed this law so that it's not specific to just collecting blood and individuals who collect blood have to be licensed. NRS 652.210 allows physicians, EMT's, nurses, dentists and laboratory personnel to collect blood. Ms. Anderson then stated that the Legislative Council Bureau and the Attorney General's office have reviewed the proposed amendments and the amendments are within compliance of statutory authority.

Ms. Estes indicated that she had contacted all of the military branches and Military Technologists are already within Nevada's requirements. Ms. Estes stated that there are no jobs threatened in the rural areas and there is no intention of revoking licenses that are already provided. The proposed amendments are intended to streamline the requirements and be less confusing.

Mr. Kerrigan requested clarification of how NAC 652.210, as written, would give the Board authority to pass regulations regarding the certification of personnel except those that collect specimens. Mr. Kerrigan indicated that when individuals request renewal of their license under NAC 652.210, the regulation would no longer exist. If NAC 652.210 no longer exists, the regulations will require a Bachelor's degree and all individuals currently licensed do not have a degree.

Ms. Estes stated that when individuals who are currently licensed allow their license to lapse and don't have a Bachelor's degree, a variance would need to be requested.

Dr. Miller requested clarification of whether a first time applicant would qualify to obtain a license without a Bachelor's degree.

Ms. Estes clarified for Dr. Miller that those individuals who are seeking a license for the first time would not qualify without meeting the requirements.

Dr. Miller requested clarification of whether a military license requires an individual to have a Bachelor's degree.

Ms. Estes clarified for Dr. Miller that in order to obtain a license in the military, the individual must have a Bachelor's degree.

MOTION: Dr. Works moved to approve the proposed amendments to NAC 652, "Medical Laboratories," LCB File No. R176-07, as presented.

SECOND: Mr. Quinn

COMMENT:

Mr. Haartz stated that there was an errata presented and asked the Board to clarify whether the errata is part of the approved proposed amendment.

There were no additional questions or comments:

AMENDED MOTION: Dr. Works moved to approve the proposed amendments to NAC 652, "Medical Laboratories," LCB File No. R176-07, including the errata, as presented.

SECOND: Mr. Quinn

PASSED: UNANIMOUSLY

5. Consideration and adoption of proposed regulation amendments to NAC 449 and NAC 450B, "Emergency Medical Services Transfer of Patient Care," LCB File No. R138-07, continued.

Dr. Miller stated that agenda item number five (5) would be heard and requested Mr. Welch to continue with his presentation.

Mr. Welch thanked the Board for giving him additional time to review the proposed amendments. Mr. Welch indicated that the NHA and EMS would be in support of the proposed amendments with the exception of one (1) word. Section six (6), subsection (f), refers that the county or District Board of Health will require each of the hospitals and emergency providers to share equally the costs associated with the collection of data. The NRS indicated that the county or District Board of Health may charge a fee and the initial legislation that was introduced in the language was, "may". The hospitals and EMS would financially support the collection of data and there has been over \$30,000 allocated for the development of software, hardware purchases, development of training tools and personnel training costs.

Ms. Anderson indicated that a statement of, "whether the county or District Board of Health will require....." This language would allow each to contribute equally to the costs.

Mr. Welch stated that changing the language as Ms. Anderson stated would be acceptable.

Cindy Pyzel, Chief Deputy Attorney General, Attorney General's Office, stated that in section ten (10) of NRS 450B.795 states, "The State Board of Health may require each hospital and provider of Emergency Medical Services located in a county that participates in the collection of data, pursuant to this section, to share in the expense of purchasing hardware, software, equipment and other resources necessary to carry out the collection of data pursuant to this section."

Dr. Miller requested clarification of how the regulation amendment should be changed.

Ms. Pyzel clarified for Dr. Miller that changing the regulation amendment as Ms. Anderson suggested to amend section six (6) subsection (f) to delete the word "that" and insert the phrase "of whether" would accomplish congruence with the statute and with the intent that was expressed at previous meetings.

There were no additional comments:

MOTION: Ms. Barron moved to approve the proposed regulation amendments to NAC 449 and NAC 450B, "Emergency Medical Services Transfer of Patient Care," LCB File No. R138-07 with the change in language of section six (6) subsection (f) to remove the word "that" and insert two (2) words "of whether".

SECOND: Mr. Quinn

PASSES: UNANIMOUSLY

6. Consideration and approval of the delegation of duties of the Board of Health set forth in NRS 450B.795 in Clark County to the Southern Nevada District Board of Health as of the date LCB File No. R138-07 regulations become effective.

Fergus Laughridge, Program Manager, Emergency Medical Services and Trauma, BLC, stated that Senate Bill (SB) 244 amended Nevada Revised Statutes (NRS) 450B.790 to require that the Board establish a system of collecting data concerning the waiting times for the provision of EMS and care to each person who is transported to a hospital by a provider of EMS. In addition to the requirement, the Legislature specified the data to be collected and related to reporting duties.

Mr. Laughridge indicated that the Legislature's concern was excessive waiting times that had been occurring within Clark County. As a result, the Legislature adopted what is essentially a three-tiered approach by making data collection mandatory in Clark County but discretionary for the remaining sixteen (16) Nevada counties. Participation of the other sixteen (16) Nevada counties in the data collection system would occur either as a result of a county-driven process or directed by the Board.

The Board has two (2) options for implementing the required data collection and related reporting duties. Under NRS 450B.795(7) and NRS 450B.795(8), the Board can either oversee the data collection itself through an appointed Advisory Committee in the county of interest or delegate the duty to a county or district board of health. During the August 17, 2007 Board meeting an informational item concerning SB 244 was presented to the Board. The Board was given a copy of the Draft of Petition #32-07 that was received from the Southern Nevada Health District for the Southern Nevada District Board of Health to accept delegation. As a result, the Board expressed sentiment that delegation to the Southern Nevada District Board of Health appeared appropriate. However, it was determined that the Board would first adopt regulations establishing its duties as well as the delegation process. The Board directed staff to draft the regulations and that the regulations should contain a mechanism and criteria by which the Board could delegate its responsibilities. Subsequently, the Southern Nevada District Board of Health unanimously voted to accept delegation of duties from the State Board of Health at its regular meeting on August 23, 2007. This action was communicated in writing to the Health Division by Southern Nevada District Board of Health Chairman, Steven Kirk on August 23,

2007. Additionally, on October 25, 2007, the Southern Nevada District Board of Health adopted regulations under which EMS providers in Clark County are to participate in a data collection system.

Mr. Laughridge indicated that while the Board regulates the permitting and operation of EMS personnel and equipment in the sixteen (16), counties, under NRS 450B.077, the Southern Nevada District Board of Health regulates such services in Clark County. Upon adoption of the proposed amendments, LCB File No. R138-07, agenda item #5, the Board has effectively adopted the regulations necessary for delegation of its duties to the Southern Nevada District Board of Health relating to the required study of hospital waiting times. These regulations will not go into effect until they are approved by the Nevada Legislative Commission and filed with the Nevada Secretary of State's office. This is anticipated to be within the next thirty (30) to forty-five (45) days and prior to the Board's next scheduled meeting on February 15, 2008. The Southern Nevada District Board of Health will also need to provide the Board with a letter containing the information required by section six (6) of the Board's newly adopted regulations.

Mr. Laughridge requested that the Board approve delegation of its duties set forth in NRS 450B.795 to the Southern Nevada District Board of Health, to become effective with the Secretary of State's filing of LCB File No. R138-07, and upon written receipt from the Southern Nevada District Board of Health of the delegation criteria required by section six (6) of the Board's newly adopted regulations identified as "Proposed Regulations of the State Board of Health" LCB File Number R138-07, agenda item #5.

There were no questions or comments:

MOTION: Ms. Barron moved to approve the delegation of duties of the State Board of Health set forth in NRS 450B.795 to the Southern Nevada District Board of Health as of the date LCB File No. R138-07 regulations to become effective with the Secretary of State's filing and upon written receipt of the Southern Nevada District Board of Health of the delegation criteria.

SECOND: Mr. Quinn

PASSED: UNANIMOUSLY

Mr. Quinn requested clarification of whether State General Funds would be used as part of this delegation.

Mr. Haartz clarified for Mr. Quinn that there would not be any State General Funds utilized as part of the delegation.

7. Consideration and adoption of proposed amendments to NAC 450B, "Emergency Medical Services Centers for the Treatment of Trauma," LCB File No. R139-07.

Fergus Laughridge, EMS, stated that NRS 450B.237 gives the Board authority to adopt regulations which establish the standards for the designation of hospitals as centers for the treatment of trauma. The Administrator of the Health Division is given authority to designate hospitals, as Centers for the Treatment of Trauma, which comply with the regulations adopted by the Board. The 2005 Legislature amended NRS 450B.237 by establishing a tiered designation for centers in Clark County. With the amended language, the Health Division may not designate a hospital as a Centers for the Treatment of Trauma within Clark County without the approval of Southern Nevada Health District. The statutory amendments were cause for the Health Division to seek regulation amendments as well.

Mr. Laughridge stated that the proposed amendments were developed to reflect current national and state trends in development of a Trauma System of Care rather than developing trauma centers. The agency sought to clarify the application process for hospitals that apply for or renew designations as a Center for the Treatment of Trauma or a Pediatric Center for the Treatment of Trauma, while allowing for provisional

authorization in a county whose population is 400,000 or more. The proposed regulations eliminate redundant language and streamline the application process.

Mr. Laughridge indicated that the amended process gave course to reduce the fees charged for obtaining or renewing a designation. The designation of a hospital as a Level IV center has been eliminated. Currently, there are no hospitals in Nevada designated at this level and this level is not verified by the American College of Surgeons, Committee on Trauma. A provision has been added that will establish a graduated process when a new center is added to the existing trauma system at an entry level III.

Mr. Laughridge stated that a draft of the proposed amendments was reviewed with the Southern Nevada Health District and the Southern Nevada Health District's Regional Trauma Advisory Committee's to ensure applicability statewide. Drafts of the proposed amendments were sent to ambulance service providers, firefighting agencies, hospitals, the NHA and interested parties for review and comment.

Mr. Laughridge indicated that Renown Health Systems submitted written comments and a copy of its letter was included in the Board packets in preparation of this meeting. Based upon the comments received a revised draft was developed and forwarded to LCB. After review by LCB, a few revisions were made that do not change the intent of the regulation.

Mr. Laughridge then stated that staff recommends the Board to adopt these amendments as presented.

There were no additional questions or comments:

MOTION: Mr. Quinn moved to approve the adoption of proposed amendments to NAC 450B, "Emergency Medical Services Centers for the Treatment of Trauma," LCB File No. R139-07, as presented.
SECOND: Ms. Anjum
PASSED: UNANIMOUSLY

9. Consideration and adoption of proposed amendments to NAC 449, "Agencies to Provide Personal Care Services in the Home and Fees," LCB File No. R182-07.

Jennifer Dunaway, Health Facilities Surveyor, IV, BLC, stated that AB 337 was passed during the 2005 Legislative Session requiring licensure of Personal Care Agencies by the Health Division. AB 337 also requires an agency to have a Surety Bond filed with the Health Division and conduct employee criminal history background checks with the Department of Public Safety following NRS 449.179 to 449.188.

Ms. Dunaway indicated that BLC staff worked with the Division for Health Care Financing and Policy (DHCFP), Division for Aging Services (DAS), Office of Disability Services (ODS), and interested stakeholders while drafting these proposed amendments. The amendments were drafted to address the legislative intent of protecting the client and ensuring the safe delivery of quality care, while maintaining the client's ability to direct their own care and provide instruction to the personal care attendant on the best way to provide their individual activities of daily living.

Ms. Dunaway stated that the Board adopted regulations that established these minimum standards for agencies to provide Personal Care services in the home on August 16, 2006. The Legislative Commission did not approve these regulations due to concerns that were expressed by the public. The public was concerned that the regulations interfered with self-directed care, the regulations did not allow medical services under NRS 629 to be provided in these agencies, the definition of "micro-board" did not require incorporation, and the public wanted to remove Intermediary Service Organizations

(ISO) from licensing by the Health Division under NAC 449 as an, "Agency to Provide Personal Care Services in the Home".

Ms. Dunaway stated that the AB 576 amended NRS 426 and provided for the following:

- Certification of Intermediary Service Organizations (ISO) which provides certain services relating to personal assistance received by person with disabilities.
- Section 31 of AB 576 clarified the definition of an "agency to provide personal care services in the home" by removing the term "micro-board" from NRS 449.0021(2) (b) and excluding from the definition, an organized group of persons comprised of the family or friends of a person needing Personal Care services that employs or contracts with persons to provide services specified by subsection 1 for the person if:
 - (1) The organization of the group of persons is set forth in a written document that is made available for review by the Health Division upon request; and
 - (2) The Personal Care services are provided to only one person or one family who resides in the same residence; or an ISO.

Ms. Dunaway indicated that passage of AB 576 during the 2007 Legislative Session addressed these concerns and removed ISO and the term "micro-board", from the NRS 449.0021 definition. The regulations parallel the NRS regulations that were sent to LCB therefore, did not require modifications. The only change that was made to the proposed amendments removed the definition of a "micro-board" in one (1) section.

Ms. Dunaway stated that there were numerous public comments expressing dissatisfaction with the licensing fees at both workshops. A suggestion was to make the fee the same as for a Residential Facility for Groups, however, the proposed fees are the minimum required to support the program costs of initial licensing including home visits and complaint investigations. Since services are provided in a client's home, it is believed by BLC staff that home visits are necessary to determine compliance with the NAC.

Ms. Dunaway stated that BLC staff believes the proposed amendments are at minimal standards that have been drafted to ensure non medical activities of daily living are provided to the client in a safe manner. Additionally, there is oversight by an agency that may be held responsible if the client is not protected from abuse, neglect or exploitation.

Ms. Dunaway then recommended that the Board adopt the proposed amendments to NAC 449, "Agencies to Provide Personal Care Services in the Home and Fees," LCB File No. R182-07, as presented.

Shelly Jewell, Owner/Operator, Care Minders Home Care, stated in favor of the regulations but had concerns with the proposed licensing fees. Ms. Jewell stated that the proposed licensing fees are excessive and would have a negative impact on smaller Personal Care Agencies (PCA). Increasing costs related to training and fingerprinting would be difficult to pay. Ms. Jewell requested that the initial licensure fee be paid to BLC upon receipt of the business license instead of when submitting an application. Ms. Jewell stated concern of the costs being passed on to the consumer and indicated that PCA overhead is extreme. PCA agencies that receive patients who participate in Medicaid receive lower payments for those patients requiring services. With an increase in licensure fees, accepting Medicaid patients would have to be reconsidered. Ms. Jewell indicated that acquiring a Surety Bond for a PCA agency would be difficult to pay for and this cost would be passed along to the consumer.

Allan Ward, Owner/Operator of Home Instead Senior Care, stated that he is also the President of the Senior Coalition in northern Nevada. Mr. Ward indicated opposition to the proposed amendments. The proposed amendments are extensive and have higher fees when compared to most states. The non-medical care providers in Nevada are paid an entry level hourly rate and even with retirement and vacation benefits there is a 100-200 percent turnover rate. A PCA spends a little over \$200 for every caregiver before the caregiver is authorized to begin work for an agency and with additional training requirements, the cost could increase to more than \$500 per caregiver. Currently it costs about \$20 per hour for an in-home caregiver to care for a parent or loved one at home. Most families cannot afford to pay this amount of money. Mr. Ward expressed concern for the senior population of Nevada. Unless a senior qualifies for Medicaid, families cannot afford in-home care. Mr. Ward stated that he feels there are adverse effects on the public when considering in-home Personal Care services. Mr. Ward requested the Board to consider the fee structure, the costs that are associated in finding qualified caregivers and the proposed additional training requirements.

Lill Fiore, Always There, indicated that she owns several agencies in Nevada. Ms. Fiore stated that she feels non-skilled agencies are paying as high of fees as skilled agencies. Ms. Fiore requested consideration that the fee would cover a number of years instead of being paid each year. Ms. Fiore also indicated that there are a number of contradictions within the proposed amendments.

Dr. Miller requested clarification from BLC staff concerning the discussion about a \$1,200 fee for the Assisted Living facilities.

Ms. Jones clarified for Dr. Miller that BLC staff evaluated the \$1,200 fee due to the considerable amount of comments that were received. Residential Facilities for Groups do not provide skilled services.

Dr. Miller asked whether required training for a caregiver could be obtained over a period of time after beginning work rather than prior to the caregiver beginning work at a facility.

Ms. Dunaway stated that in section 19 there are six (6) core areas where a caregiver would need training prior to providing services to a client. Under subsection six (6) of that requirement, there is a list of several specific duties individualized to a clients needs. There is not required training in all areas, only training for what the client would need. The regulation amendments allow caregivers to acquire training 12 months immediately preceding the date on which the attendant first begins providing care for a client. The training is required prior to providing services to a recipient. Caregivers also need to have First Aid training within six (6) months of licensing however agencies could hire caregivers that already have these requirements with another agency. Ms. Dunaway stated that BLC staff worked with many stakeholders during the development of the regulation amendments and feel that every attempt was made to meet PCA needs.

Ms. Barron asked whether the State Medicaid Homemaker program was considered while drafting the proposed amendments.

Ms. Dunaway indicated that BLC does not oversee the State Homemaker program. During the 2005 Legislative Session there was testimony presented that desired licensing of agencies that provide Personal Care services in the home. The Health Division was asked at that time to draft regulations and provide oversight for individuals within those agencies. BLC worked with the Division of Health Care Financing and Policy (DHCFP), Division for Aging Services (DAS) and the Office of Disability Services (ODS) to draft the regulations.

Ms. Barron asked whether BLC has a relationship with the State Homemaker program and whether that program has similar requirements.

Mr. Ward clarified for Ms. Barron that individuals practicing in Medicaid authorized facilities are required to have training, fingerprinting and TB testing, which is the same as what's required in the proposed amendments to the PCA regulations.

Dr. Miller requested clarification of neighboring states PCA fees compared to Nevada PCA fees.

Ms. Jones clarified that the fees in Nevada are higher than other States due to the fact that licensure fees support the entire program.

Mr. Ward clarified for Dr. Miller that the fee is about \$750 on a nationwide average.

Rebecca Hansen, DHCFP, requested clarification of how often BLC would provide inspections and the penalty for an infraction.

Ms. Dunaway clarified for Ms. Hansen that BLC would conduct initial licensing surveys and complaint investigations. BLC provides inspections for a PCA every six (6) years. Agencies that are found to be non-compliant, Administrative Sanctions would be considered. A monetary penalty is only one (1) of approximately six (6) sanctions that are available for infractions, depending on the severity. Monetary penalties are unusual and other penalties are preferable, such as limited occupancy or specific in-service training.

Ms. Dunaway stated that a Surety Bond is required for a PCA and the cost of the bond depends on the number of employees. An agency with seven (7) or fewer employees the bond costs \$5,000, seven (7) to 25 employees the bond costs \$25,000 and more than 25 employees the bond costs \$50,000.

Ms. Dunaway then stated that NRS 449.440 and NRS 449.450 requires an application for a license to be submitted initially to start the process and that the fee would accompany the application.

Mr. Haartz stated that as a suggestion, the Board could consider reducing the fee to 50 percent of the proposed amount and direct staff to present actual costs one (1) year later. The Board would then be provided with a more accurate idea of what it costs for an individual's care.

Dr. Miller stated that Mr. Haartz' suggestion to reduce fees at 50 percent of the proposed fee and have staff present the actual costs to the Board in one (1) year was a desirable option.

There were no additional questions or comments:

MOTION: Ms. Barron moved to approve the adoption of proposed amendments to NAC 449, "Agencies to Provide Personal Care Services in the Home and Fees," LCB File No. R182-07, as presented, including a 50 percent reduced fee for an agency to provide personal care services in the home and have staff present actual costs for an individual's care at the December 19, 2008 Board meeting.

SECOND: Dr. Works

PASSED: UNANIMOUSLY

10. Adoption of the 2006 edition of the American Institute of Architects Guidelines for Design and Construction of Health Care Facilities.

Jennifer Dunaway, BLC, indicated that as stated in NAC 449.0105, each edition of the American Institute of Architects (AIA) Guidelines shall be reviewed for appropriateness/suitability for the state. BLC staff reviewed the 2006 edition of the AIA Guidelines and recommended to the Board during the December 8, 2006 meeting excluding seven (7) sections of the document that required revisions and the material

contained in the appendix, as it is advisory only. The Board requested that BLC hold additional public workshops and consider additional acquired public comments for implementation into the 2006 edition of the AIA Guidelines. BLC subsequently held two (2) public workshops in July 2007, one (1) in Carson City and one (1) in Las Vegas.

Ms. Dunaway stated that the items discussed at the workshops included:

- The requirements for single patient rooms in an Acute Care hospital for medical surgical units, Obstetric facilities (labor and delivery), in-hospital skilled nursing units, and for a typical patient room in Small Primary Care Hospitals,
- The items included in the comparison chart between the 2001 and 2006 edition,
- Participant concerns about pre-approval of functional program requirements and interpretations of certain AIA Guidelines and the definition of renovation.

Ms. Dunaway indicated that item #1, throughout the guidelines the International Plumbing Code is referenced which creates confusion because NRS 444.340 & 444.350 requires compliance with the Uniform Plumbing Code (UPC). BLC recommended that all references to the International Plumbing Code (IPC) throughout the document be excluded. All public comment received was in agreement with this recommendation. Pertaining to item #2, "Typical Patient Rooms", public comments were heard by the Board members at the December 8, 2006 meeting opposing Chapter 2.1, section 3.1.1.1. This section requires single-bed patient rooms in newly constructed hospitals. This requirement also applied to section 3.9.2 for patient rooms in a Long Term Care acute wing of a hospital, commonly referred to as a Long Term Acute Care (LTAC). Additional information was received at the two (2) public workshops that were held in July 2007. Concern was expressed by Nevada Rural Hospital Partners and the Nevada Hospital Association that the construction costs of providing single-bed rooms would be so high it would have a negative impact by limiting the total number of hospital beds that could be constructed, leaving the health care needs of Nevada's population unmet. Because of these comments, BLC staff recommend excluding the requirement for single-bed rooms in hospitals. Minimum room dimensions will be required for new construction which appears in the AIA Guidelines in Chapter 2.1, section 3.1.1.2 space requirements.

Mr. Quinn asked whether BLC and the industry had agreed with adoption of the 2006 AIA Guidelines. Mr. Quinn then stated that a full presentation may not be necessary.

Ms. Dunaway stated that an agreement had been met with all appropriate individuals.

Mr. Quinn indicated that he had thoroughly read the AIA information that was provided for the Board in the packets and the information was appropriately prepared and made complete sense.

Ms. Dunaway then stated that the 2006 edition of the guidelines overall have provided a comprehensive set of physical environment standards that include intent to protect the public health and safety. BLC has incorporated the comments that were received in writing and at the public workshops and recommends the Board to adopt the AIA Guidelines for Design and Construction of Health Care Facilities, 2006 edition, with the exclusions presented and without including the appendix material.

There were no additional questions or comments:

MOTION: Mr. Quinn moved to approve the adoption of the 2006 edition of the American Institute of Architects Guidelines for Design and Construction of Health Care Facilities, as presented.

SECOND: Dr. Works

PASSED: UNANIMOUSLY

11. Informational Item

Centers for Disease Control and Prevention (CDC) Epidemiology investigation conducted in Nevada as part of a large national disease outbreak was tabled for a future meeting.

12. Reports

A. Chairman - Jade Miller, DDS

No report

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

This item was heard after 12C.

C. Washoe County District Health Department – Mary Anderson, MD, District Health Officer

Dr. Anderson thanked the Board for adopting the Washoe County District Health Department, Environmental Health Services Division's regulations governing "Food Establishments", as presented by Jeanne Rucker. Dr. Anderson also thanked the Board for exempting county Health Departments from the fee increase for Public Health laboratories.

Dr. Anderson indicated that the monthly meetings that are held between local officials and the Health Division have been beneficial. Meeting regularly has increased the ability of improved cooperation and energized the efforts in addressing problems throughout the state.

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

Alex Haartz, Secretary, State Board of Health, stated that no formal announcement has been made concerning hire of the State Health Officer. This process is in negotiation. It is hopeful that by the February 15, 2008 Board meeting there would be a State Health Officer in ex-officio capacity. Mr. Haartz stated that there will be additional regulation amendments presented at the next two (2) meetings. NAC 441A, Communicable Disease, which has no proposed fee structure and NAC 442, Newborn Screening, would be on the February 15, 2008 agenda. The Clean Indoor Air Act (CIAA) regulations are intended to be considered at the April or June 2008 meeting. The Health Division in conjunction with the local Health Authorities has been working with the regulating community and drafted the CIAA regulations. The next step is to submit the draft regulations to LCB and hopefully accommodate standards for what the CIAA requires.

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

Ms. Barron asked whether the Board could expect an update on the Mental Health situation within the state.

Mr. Haartz indicated that the Mental Health update would be provided at the February 15, 2008 meeting.

Ms. Barron indicated that her recollection is that the WestCare contract was extended until December and requested clarification of whether the extension is still in effect.

Mr. Haartz stated that WestCare was in the form of a Compliance Agreement that was in place for the Martin Luther King Crisis Unit Facility. The WestCare agreement expires on December 31, 2007. The Health Division was notified by Mental Health and Developmental Services that those beds are not licensed and WestCare would possibly apply for a variance.

Ms. Barron thanked Mr. Haartz for the update. Ms. Barron stated that the Environmental Commission held meetings in Carson City and Reno. The greatest concern for the Commission is the Mercury Stockpile and the climate changes. There are three (3) issues surrounding Mercury in the state: Mercury from power plants, mines and the National Stockpile. In September, the Commission adopted a temporary regulation that added Mercury to the list of highly hazardous substances that are regulated under the Chemical Accident Prevention program. The Federal Defense Logistics Agency has determined that the Hawthorne Army Depot will be the repository for the Nations' Mercury Defense Stockpile. Hawthorne is one (1) of three (3) locations in the United States. Five thousand tons of spent Mercury will eventually be moved to Hawthorne. Ms. Barron indicated that she requested the State Environmental Commission (SEC) notify the State and county Health Officer's once the transport begins. The SEC agreed to Ms. Barron's request. Until the Defense Logistics Agency (DLA) concurs with the SEC plans, the DLA will not be transporting the Mercury to Hawthorne. The entire program is being looked at on a federal level and Ms. Barron indicated that she would keep the Board posted on what is happening. Nevada is working closely with its regions on Mercury emissions from mines. Regions eight (8), nine (9) and ten (10) are creating a Memorandum of Understanding (MOU) regarding the level of Mercury.

Ms. Barron stated that the Governor has appointed a Climate Change Advisory Committee and the Committee is very active. The Committee will come up with a structure in the spring of 2008. Ms. Barron indicated that she would apprise the Board when this comes to fruition. Ms. Barron stated that the SEC is also working with Tribes in terms of what is going on with climate change.

Ms. Barron stated that the SEC has little impact concerning State budget cuts. Only one (1) percent of the SEC funds come from the State's General Fund. Some positions are left vacant as individuals retire or promote in support of the budget cuts.

Ms. Barron then stated that there were three (3) Coal Fire Plants approved based on recommendations but a MOU would require that the plants be retrofitted to control carbon dioxide emissions as soon as technologies are commercially available.

12. Public Comment and Discussion

There being no further comments, Dr. Miller adjourned the meeting at 1:55 pm.