

**STATE BOARD OF HEALTH
MINUTES**

**April 18, 2008
9:30 a.m.**

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

**Grant Sawyer Building
555 E. Washington Avenue
Room #4401
Las Vegas, Nevada**

BOARD MEMBERS PRESENT:

Edwin Homansky, MD
Frances Barron
Jade Miller, DDS, Chairman
Joan Anjum, RN
Lubna Ahmad, MD
Roger Works, DVM

HEALTH DIVISION STAFF PRESENT:

Adrian Howe, Radiation Physicist, Bureau of Health Protection Services
Amy Roukie, Deputy 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
Eileen Kessler, Health Resource Analyst II, Bureau of Health Planning & Statistics
Ihsan Azzam, Epidemiologist, Nevada State Health Division
Janet Osalvo, Executive Assistant, Nevada State Health Division
John Follette, Radiation Control Specialist II, Bureau of Health Protection Services
Karen Beckley, Supervisor Radiological Health Section, Bureau of Health Protection Services
Linda Anderson, Chief Deputy Attorney General, Office of the Attorney General
Lynn O'Mara, Health Resource Analyst III, Bureau of Health Planning & Statistics
Natasha Gardner, Administrative Assistant II, Bureau of Health Planning & Statistics
Pam Graham, BS, RN, LNC, Director, Frontier & Rural Public Health Program
Richard Whitley, MS, Secretary, State Board of Health, Administrator, Nevada State Health Division
Sonya Hill, Health Facilities Surveyor IV, Bureau of Licensure & Certification
Stanley R. Marshall, Chief, Bureau of Health Protection Services

ADDITIONAL TESTIMONY PRESENTED BY:

Brian Labus, Senior Epidemiologist, Southern Nevada Health District
Douglas Harding, Aribex, Inc.
Jack Kim, Sierra Health Services
Mary Anderson, MD, District Health Officer, Washoe County Health District
Robert Merchant, MD

OTHERS PRESENT:

Annette Wells, Las Vegas Review Journal
Bryan Lindsey
Jeanette K. Belz, J.K. Belz & Associates, Inc.
John Borrowman, Budget Analyst IV, Budget & Planning
John R. Bailey, Humana Health Plan
John Whaley, Social Services Chief III, Division of Health Care Financing & Policy
Kelly Simonson, HPN
Scott Cussard, Sierra Health Services, Inc.
Shaun Schoener, Sierra Health Services, Inc.
Stacy Shaffer, SEIU

Terry Smith, Humana

Jade Miller, DDS, Chairman, opened the meeting at 9:45 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 February 15, 2008 meeting.

Janet Osalvo, Executive Assistant, Nevada State Health Division, called roll and a quorum was established.

Dr. Miller introduced Edwin Homansky, MD. Dr. Miller then indicated that Dr. Homansky is a Board member serving in the capacity as a doctor of medicine.

Dr. Homansky stated that he has resided in Las Vegas since 1978. Dr. Homansky indicated that he is an emergency room physician, is Medical Director for a local ambulance service, was Chief Executive Officer for the Las Vegas Stars' baseball team and served on the Nevada State Athletic Commission for several years.

Dr. Miller welcomed Dr. Homansky to the Board. Dr. Miller then introduced Mary Guinan, MD, PhD, Acting State Health Officer.

Dr. Guinan stated that she currently is the founding Dean of the University of Nevada Las Vegas (UNLV) School of Public Health and had served as the State Health Officer from 1998 until January 2002. Dr. Guinan indicated that she was asked to serve as the Acting State Health Officer to assist with the current health issue concerning Hepatitis C.

There being no additions or changes to the February 15, 2008 minutes:

MOTION: Ms. Barron moved to approve the February 15, 2008 Board of Health meeting minutes, as presented.
SECOND: Dr. Works
PASSED: UNANIMOUSLY

2. Consent Agenda

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

Ms. Barron requested that consent agenda item number 2A be pulled for further consideration.

Dr. Miller stated that item number 2A is to be withdrawn from the consent agenda.

There being no further comments regarding items on the consent agenda:

MOTION: Dr. Homansky moved to approve consent agenda items 2B and 2C, as presented.
SECOND: Ms. Barron
PASSED: UNANIMOUSLY

2A. Request for geographic expansion pursuant to NAC 695C.165, "Geographic area of service:

Expansion.” Health Plan of Nevada’s request to amend their Certificate of Authority for geographic expansion to all ZIP Codes in Carson City, Douglas and Elko Counties.

Ms. Barron requested clarification of whether Health Plan of Nevada had been acquired and if the name was changed.

Jack Kim, Sierra Health Services, clarified for Ms. Barron that Health Plan of Nevada is a subsidiary of Sierra Health Services and its name has not changed.

There were no further comments or questions:

MOTION: Ms. Barron moved to approve consent agenda item 2A, as presented.
SECOND: Ms. Anjum
PASSED: UNANIMOUSLY

3. Case #616, Aribex Incorporated, represented by Douglas Harding: Request for variance to NAC 459.580 (8)(a)(11) “Intraoral dental radiographic systems.” (8) “Each X-ray control must be located to meet the following criteria:” (a) “Each installation must be provided with a protective barrier for the operator or must be so arranged that the operator can stand at least 6 feet from the patient and well away from the useful beam.” (11) “Neither the tube housing nor the position indicating device may be hand held during an exposure.” NAC 459.622 (3)(b), “Devices to control exposures.” (3) “Each X-ray control must be located so that it meets the following criteria:” (b) “For mobile and portable X-ray systems, the exposure switch cord must be at least 6 feet long.” Request to use a NOMAD portable hand-held X-ray device, primarily for dental applications.

Stan Marshall, Chief, Bureau of Health Protection Services (BHPS), indicated that in light of Mr. Harding’s request, approval of this variance would also provide Aribex, the manufacturer of the NOMAD portable hand-held X-ray device, with a blanket approval that would authorize all Nevada registrants to use this device for typical and atypical dental and veterinary uses. Based upon BHPS staff review, approval of this variance would not provide protection for the machine operator or adjacent other persons by physical separation from the X-ray source. The operator and all other individuals are currently required to stand behind a protective barrier or 6-feet from the patient and/or the useful X-ray beam.

Mr. Marshall stated that approval of this variance could cause detriment to the public health and impair substantially the purpose of the regulations stipulated in NAC 459 for the following reasons:

- Requirements cited in the variance do not apply to the applicant, as a manufacturer, nor does the variance application adequately address public health and safety requirements.
- BHPS staff interprets that the applicant has not proven that circumstances of this request are unique to use the X-ray machine; in addition, a variance from NAC 459 is applicable to radiation source users, not other individuals such as machine manufacturers, the general public, etc.
- The NOMAD portable hand-held X-ray device as described, does not provide the same level of radiation protection for machine operators as mobile or stationary X-ray devices.
- The described use of the NOMAD portable hand-held X-ray device for typical dental or veterinary radiographic examinations where the patient can be transferred to a stationary radiographic installation is contrary to NAC 459.556(3), which states: “Portable or mobile equipment may be used only for examinations where it is impractical to transfer the patient to a stationary radiographic installation.”
- The applicant failed to demonstrate an exceptional or undue hardship since the issues presented in the variance are currently being met by mobile X-ray system registrants.

- The applicant failed to provide a compelling reason or need for the NOMAD portable hand-held X-ray device to be hand-held rather than used with a positioning stand and remote features as are available from the manufacturer.
- Approval of this variance could increase radiation exposures to machine operators and present an unnecessary hazard to public safety if used in an unrestricted area.
- The applicant addressed only three of several requirements that prohibit the use of the NOMAD portable hand-held X-ray device, specifically for veterinary radiographic installations.

Mr. Marshall recommended that the Board deny variance request, Case #616.

Douglas Harding, Regulatory Manager, Aribex, stated that it's possible that the variance request may not have stated what was necessary for the Board to make a positive decision for Case #616 and if further information is required, he would provide what is needed.

Mr. Harding stated that the NOMAD portable hand-held X-ray device was developed approximately two years ago and the main difference of a NOMAD portable hand-held X-ray device compared to a standard X-ray device is that the NOMAD portable hand-held X-ray device is carried to the patient; the patient isn't required to go to a specific office or location. The NOMAD hand-held X-ray device is safe due to the protective shield is next to the hand and built into the device so there is virtually no radiation exposure for the operator. Additionally, there is a very effective back-scatter shield that consists of a lead impregnated acrylic that is equivalent to .5 milliliter. The NOMAD portable hand-held X-ray device is a unique design in that it generates electricity that triggers the X-ray therefore much less power is generated by almost 50 percent in most cases. The NOMAD portable hand-held X-ray device produces 60,000 volts, which is standard and 2.3 milliamps, which is approximately one third of what the standard X-ray device produces. The NOMAD portable hand-held X-ray device's screen is equal to or better than the standard screen due to its efficient design.

Mr. Harding stated that there have been a number of positive radiological and clinical studies performed on the NOMAD hand-held X-ray device. The NOMAD portable hand-held X-ray device is Food and Drug Administration (FDA) approved and was tested for radiation safety according to Underwriters Laboratory (UL) standards. There have been a number of positive radiological and clinical studies made on the NOMAD portable hand-held X-ray device by the United States Air Force, Computing Research Association (CRA), the University of Nevada Las Vegas (UNLV) School of Dental Medicine and other universities. Based on the formal studies, there was 100% consensus that use of the NOMAD portable hand-held X-ray device is safe and effective. Mr. Harding stated the Nevada Council on Radiation Protection (NCRP) exposure limit numbers that the average individual receives from a mammogram or full dental series of X-rays versus the exposure of radiation received with use of the NOMAD portable hand-held X-ray device is nearly the same. The number one use of the NOMAD portable hand-held X-ray device in dental office settings because it's fast and convenient. Advantages for the patient are fewer X-rays exposures, takes less time and use of uncomfortable oral paper cards are not necessary. The NOMAD portable hand-held X-ray device is also used in forensics for the fact that it's portable.

Mr. Harding requested that the Board approve the variance request for Aribex, Case #616.

Ms. Barron stated that the report that was provided by Mr. Marshall, BHPS, states that approval of the variance request would increase radiation exposure to the operator of the NOMAD hand-held X-ray device as compared to existing devices. Ms. Barron requested clarification of whether Mr. Harding disagrees with the BHPS decision.

Mr. Harding clarified for Ms. Barron that he is in disagreement with BHPS staff' decision.

John Follette, Radiation Control Specialist II, BHPS, stated that staff based their review on information taken from the Aribex website. Mr. Follette stated that BHPS staff had calculated different radiation exposure numbers for operators of the NOMAD hand-held X-ray device than Mr. Harding had stated.

Dr. Miller stated that with a background in pediatric dentistry and having experience working in hospital operating rooms, and humanitarian missions out of the country it is obvious that there are specific uses where the NOMAD hand-held X-ray device could be beneficial however, there is concern with operator use and radiation exposure. The university studies appeared to have been completed under ideal circumstances where the dentist was taking the exposures. Dr. Miller stated that normally the auxiliary staff takes the exposures and if the hand-held device is not held properly, the scatter radiation rate would be higher and pose a risk to public health. Radiation exposure numbers are cumulative and the Board ensures minimal radiation exposure from all sources. The stationary X-ray device is designed to minimize radiation exposure for the patient and operator. Dr. Miller indicated that there could be appropriate uses for the NOMAD hand-held X-ray device in certain settings such as hospitals, special needs, forensics, mobile situations, nursing homes and other atypical uses however, potential patient and operator exposure to scatter radiation would be unnecessary in typical use.

Dr. Homansky stated in appreciation of the research that BHPS staff had completed and acquired from the Aribex website. The individuals that requested the variance should have been able to successfully show that the NOMAD hand-held X-ray device was safe for public use. Dr. Homansky indicated that there was no evidence presented to substantiate safety for use of the device. There needs to be additional research completed on whether variances are requested or what method is used in other states. Additionally, there should be more dialogue among Health Division staff and the individuals requesting the variance so that consensus is reached prior to going before the Board.

Dr. Works and Cindy Pyzel, Chief Deputy Attorney General, indicated that the intent of a variance request is to present an individual for specific use of a product or equipment rather than requesting a blanket approval for a company.

Linda Anderson, Chief Deputy Attorney General, stated that this variance request was not intended to address new technology but that regulation amendments would be more appropriate.

There were no further comments or questions:

MOTION: Dr. Works moved that the Board deny Aribex Incorporated, Request for Variance, Case #616 for NAC 459.580 (8)(a)(11), "Intraoral dental radiographic systems", as presented.
SECOND: Dr. Homansky
PASSED: UNANIMOUSLY

4. Case #617, Michele Noreen, DVM, with sponsorship from the manufacturer, Aribex Incorporated: Request for a variance to NAC 459.622 (3)(b); "Devices to control exposures." (3) "Each X-ray control must be located so that it meets the following criteria: (b) For mobile and portable X-ray systems, the exposure switch cord must be at least 6- feet long." Request to use a NOMAD portable hand-held X-ray device for veterinary purposes.

Stan Marshall, Chief, Bureau of Health Protection Services, stated that approval of this variance would allow Dr. Noreen to perform radiography with the NOMAD portable hand-held X-ray device by using the exposure switch on the device properly rather than using a positioning stand and a 6-foot exposure cord, which would allow the operator to be closer to the useful X-ray beam and/or scatter radiation. This request is unique to the applicant in that this is the first variance sought for veterinary use of this device. The NOMAD portable hand-held X-ray device when hand-held does not provide the same level of protection for operators as mobile or stationary X-ray units operated in compliance with NAC 459.

Mr. Marshall stated that based upon staff review, approval of this variance could cause detriment to the public health and impair substantially the purpose of the regulation for the following reasons:

- The use of this X-ray system for routine veterinary use is contrary to NAC 459.556.3, which states that, “Portable or mobile equipment may be used only for examinations where it is impractical to transfer the patient to a stationary radiographic installation.”
- The variance request failed to demonstrate an exceptional or undue hardship since all of the issues presented in the variance are currently being met using mobile X-ray systems.
- The variance also failed to provide a compelling reason or need for the NOMAD X-ray unit to be hand-held, rather than used with a positioning stand and remote feature (e.g., a 6-foot cord with exposure switch), which are available from the manufacturer.
- Granting this variance would increase radiation exposure to the operator compared to stationary or mobile X-ray devices. The variance also could present a detriment to public safety if used in an unrestricted area.
- The variance addressed only one of several NAC 459 requirements that could prohibit use of the NOMAD hand-held X-ray device. None of the NAC requirements for veterinary medicine radiographic installations were addressed in the variance.

Mr. Marshall recommended that the Board deny variance request for Case #617, as submitted by Dr. Michele Noreen.

Mr. Harding spoke on behalf of Dr. Noreen. This variance was requested by an individual rather than the manufacturer.

Dr. Miller asked Mr. Harding to work with BHPS staff and assist in drafting proposed regulations related to the NOMAD hand-held X-ray device.

There were no further comments or questions:

MOTION: Dr. Works moved that the Board deny Dr. Michele Noreen, Request for Variance, Case #617, NAC 459.622 (3)(b), “Devices to control exposures.”, as presented.

SECOND: Ms. Barron

PASSED: UNANIMOUSLY

5. Informational Items

A. Report on the links between Hepatitis C and a Las Vegas ambulatory surgical center and related investigations.

Dr. Miller indicated that the Board, State Health Division, Southern Nevada Health District, Center for Disease Control and Prevention (CDC), other agencies, other State Board members and the Legislature throughout the State are extremely concerned with this issue. As this issue continues to progress, the Board will become more involved with adopting regulations that are brought forth by the Health Division in finding a resolution to ensure that this never happens again. The Board also wants to make sure that the individuals who were affected are taken care of with the necessary means. Dr. Miller stated that this is a presentation for the Board and is not part of a criminal investigation. Dr. Miller encouraged public individuals that may have lost confidence in Nevada’s health care system not to deny any preventative health care, especially relating to health, cancers and colorectal cancer.

Ms. Barron requested clarification of the Board’s role related to the Hepatitis C and Las Vegas ambulatory surgical center issues.

Ms. Pyzel clarified for Ms. Barron that it is not within the Board's purview to make charges against any facility or individual for any type of criminal violation. The Board represents the interest of protecting public safety through the regulatory process.

Ms. Anderson stated that the Board has always taken a strong role in bringing individuals together and having the information presented in the public forum. The Board's efforts are undertaken on behalf of public health.

Ihsan Azzam, MD, State Epidemiologist, stated that the excellent epidemiology and surveillance practices at the Southern Nevada Health District (SNHD) led to the detection of the Hepatitis C issue in Nevada. So far there are six individuals that are determined to have contracted clinic-associated acute hepatitis C with an onset of symptoms between October 24, 2007 and November 29, 2007. Five of these individuals had a procedure on the same day at the same facility. The genetic linkage and phylogenetic testing of the viral RNA from four of the five patients confirmed the epidemiological link and pointed to a common source of exposure.

Dr. Azzam indicated that in late December 2007, SNHD called the State to report two cases of acute viral Hepatitis C. Both patients reported having procedures at the same outpatient surgery center within 35-90 days of the disease onset. Although two cases of Hepatitis C did not constitute an outbreak, state and county officials felt that such an unusual observation was worthy of further investigation. On January 2, 2008, a third case of Hepatitis C was diagnosed on an individual that also had a procedure at the same facility in July 2007. SNHD typically receives reports for 0-4 confirmed cases of acute Hepatitis C per year and statewide there are generally no more than 12 confirmed cases. A joint investigation and inspection of the surgical center common in all three Hepatitis C cases was performed by SNHD, Nevada State Health Division (NSHD), and the Centers for Disease Control and Protection (CDC) on January 9, 2008. The objectives of the investigation were the following:

- Review the medical history of individuals who contracted the infection.
- Determine the source of transmission and implement control measures.
- Continue active surveillance and case finding to determine if additional persons were put at higher risk of exposure to blood borne infections.
- Provide advice and assistance to the Bureau of Licensure and Certification (BLC) in order to develop recommendations to prevent additional Hepatitis C transmission and ensure that such events would never happen again.

Dr. Azzam stated that the patients with acute Hepatitis C were then interviewed and blood samples were obtained to provide additional testing for other blood borne diseases.

Dr. Azzam indicated that the investigation continued by reviewing surveillance records, conducting a statewide look-back analysis to cross-match Hepatitis C laboratory reports with the facility records and procedure logs, review medical charts for individuals that had procedures on the same day as the infected persons and testing of all facility staff for blood borne diseases including Hepatitis C, B and HIV. None of the staff tested positive and none of the persons with clinic-associated acute hepatitis C tested positive for Hepatitis B or HIV.

Dr. Assam indicated that the investigation revealed infection control practices at the surgery center were inadequate. Direct observations of actual practices and staff interviews revealed reuse of syringes and reuse of single-use medication vials on multiple patients. Specifically, a clean needle and

syringe would be used to draw medication from a single-use vial of medication. If an individual required more sedation, the needle was removed, but the existing syringe was reused to re-enter the same vial. If there was medication remaining in the vial, it was being used to medicate the next patient. Upon observing the reuse of syringes and use of single use medication vials on multiple individuals, the practices were stopped and staff was educated about the risk of contamination. The infection control issues that were discovered at the surgery center prompted concerns about practices in other surgery centers in Nevada.

Dr. Azzam indicated that on February 27, 2008, SNHD began sending mail and held a press conference notifying approximately 40,000 individuals that underwent procedures at the surgery center. All of these patients had required anesthesia for a procedure at the facility from March 1, 2004 through January 11, 2008. It was recommended for individuals that were potentially exposed to undergo screening for possible blood borne pathogens, including Hepatitis C, B and HIV infections.

Dr. Azzam stated that in the United States (U.S.), transmission of Hepatitis C in healthcare settings is uncommon and primarily recognized in the context of outbreaks. However, transmission of Hepatitis C in such outpatient surgery centers maybe grossly underreported, or not clearly recognized due to, Hepatitis C having a variable and relatively long incubation period up-to 160 days. Sixty percent to 80% of acute Hepatitis C Virus (HCV) infections are asymptomatic and even some symptomatic cases could be very mild and may not be identified or reported. While acute Hepatitis C is reportable in every state only a few states, such as Nevada, are capable of confirming these cases and thoroughly investigate the source. Generally outbreaks of HCV have involved patient-to-patient transmission attributed to unsafe injection practices. The reuse of syringes and needles and/or sharing of medication vials have usually been implicated. Since 2001, there have been 14 viral hepatitis outbreaks in healthcare settings attributed to unsafe injection practices reported to CDC. And, according to CDC, within the past year, unsafe injection practices at three outpatient clinics in two states resulted in more than 28,000 patient notifications.

Dr. Azzam stated that this issue could have been avoided if standard antisepsis and sepsis precautions, which include basic safe injection practices, had been followed and respected. Provider education and requirements for proper infection control are crucial in preventing transmission of blood borne infections. Dr. Azzam indicated that syringes and needles should never be reused, even on the same patient, and single-use medication vials should never be shared between patients.

Dr. Azzam then stated that only a multifactor approach will remove blood borne and other pathogen transmission from ambulatory and other healthcare settings. It is mandatory that better surveillance, continuous professional education, increased public awareness, and state oversight are part of the practice.

Pam Graham, Acting Bureau Chief, Bureau of Licensure and Certification (BLC), stated that infection control is a critical component of safe quality health care. The BLC is committed to improving health care safety. This commitment is inherent in its mission to continuously improve safety and quality of care through its licensure and certification process and regulatory oversight to support performance improvement in health care organizations such as ambulatory surgery centers. At its heart, regulatory oversight is a risk-reduction activity. Compliance with standards is intended to reduce the risk of adverse outcomes.

Ms. Graham indicated that BLC staff has learned a great deal in working through the investigation in collaboration with the Department of Health and Human Services' staff, State Health Division staff, County Health Officers and staff within effected jurisdictions, Legislative bodies, professional Boards, Centers for Medicare and Medicaid (CMS), State agencies, other providers, public and the media. It takes a joint effort of the bureau, licensing boards, accrediting bodies, zoning and business licensing individuals, legal and law

enforcement, State and County health authorities including the Board of Health, national and state facilities and the care providers. Steps were taken within the Health Division to put together immediate and future action. The BLC in conjunction with the surveyor's from Southern Nevada Health District abated the immediate jeopardy posed to patients in the affected ambulatory surgery centers and required on-site correction of deficient practices.

The Governor issued emergency regulations for Ambulatory Surgery Centers that went into effect March 6, 2008. The emergency regulations covered important areas and reiterated how facility staff is to administer medications in a safe and efficient manner utilizing proper manufacturer instructions as well as following the accepted standards to practice for infection control. The emergency regulations will go before the Board for permanent adoption at the June 20, 2008 meeting.

Dr. Azzam, State Epidemiologist, issued a Technical Bulletin concerning infection control and a follow-up telephone call was made to each facility to ensure the bulletin was received, read and implemented. Additionally, Dr. Azzam is heading an Epidemiology team that meets quarterly. Dr. Mary Guinan is heading an expert panel to look at the scientific information and make recommendations. Training is being put into place for providers statewide through the State Health Division and the Area Health Education Center (AHEC) of southern Nevada. The Health Division is working on forming a Hepatitis C Task Force and public service announcements. The BLC surveyors and CMS are resurveying facilities that had infection control problems as a result of the prior survey. Results of the surveys will become available to the Board and the public, upon completion. The Health Division has a policy in place to advise the Board of Nursing and the Medical Examiners Board immediately upon finding a facility is not meeting the appropriate standard of practice. The Health Division is also meeting with each of the boards to produce a Memorandum of Understanding (MOU) to simplify the process and ensure that reports are completed in a timely manner.

The Division holds conference calls daily with county officials and five other accreditation organizations regarding the status of the Hepatitis C and Ambulatory Surgery Centers investigation. Formal notifications have been made to all business licensing entities whether city or county regarding whether appropriate action needs to be taken against any facility.

Recommendations for the future would be to implement public education, a health literacy initiative and enhance the Division website for public health and safety. Patients are the center of attention and are part of the solution by being active to inform their provider on how to practice appropriate infection control, especially when undergoing a procedure. The Division is looking at restructuring to help with efficiency. An annual facility report will be completed to include actions that have been taken on facilities throughout the year. This report would be provided to the Board members, Legislators, media and any other interested parties as well as being made available on the Division website. Ms. Graham stated that everyone is working to improve the system and restore confidence among patients and the public.

Ms. Barron stated that at Assemblywoman Sheila Leslie's hearing held on March 24, 2008, there was a female physician from Nebraska present that contracted Hepatitis C while being treated in a physician's office and it was suggested for not only Ambulatory Surgery Centers to be inspected, but also physician's offices and outpatient clinics. Ms. Barron requested clarification of whether any discussions had been held concerning that idea.

Ms. Graham clarified for Ms. Barron that there is ongoing discussion concerning this issue and it is apparent that some of the same physician's working in private practice and clinics also work in hospitals. Discussions have taken place with Mike Willden, Director of the Department of Health and Human Services and the Legislators. Accreditation was also discussed concerning other states and accreditation of clinical office practices in states where the state does not have jurisdiction. It's a possibility that the Joint Commission on Accreditation of Health care Organizations (JCAHO) and Home Health and Hospice Care

(HHHC) can perform crediting based on similar practice in the ambulatory surgery center sector for the state and this may be considered while working with the professional community but the decision would be up to the Legislature for enactment.

Ms. Barron indicated that she is concerned and also aware that accreditation is optional.

Ms. Graham stated that in Nevada the accreditation process for ambulatory surgery centers and physician's offices is voluntary. Currently, ambulatory surgery centers and home health care agencies in Nevada have accreditation in order to acquire Centers for Medicaid and Medicare Services (CMS) certification so Medicaid and Medicare payments can be received.

Amy Roukie, Deputy Administrator, Nevada State Health Division, stated that staff would be going before the Legislative Committee on Health Care next week in Las Vegas and many of the strategies and proposals presented today will be presented to the committee at that time. Additionally, staff has appeared before the Legislative Commission and discussed proposals therefore there will be additional discussions and recommendations from those committees. An option was discussed to possibly draft proposed regulation amendments to make it mandatory for ambulatory surgery centers and potential office-based surgery practices to be accredited.

Ms. Barron requested clarification of how many Hepatitis C cases had been identified.

Dr. Azzam clarified for Ms. Barron that there are currently six confirmed Hepatitis C cases that have been linked to the Endoscopy Center (Clinic) on Shadow Lane in Las Vegas and one case that is unconfirmed. There is a differentiation between acute and chronic cases of Hepatitis C and there are thousand of these cases reported to the Health Division.

Ms. Barron stated that 40,000 letters were sent to individuals that were treated at the Clinic and there are only seven confirmed Hepatitis C cases. Ms. Barron then asked for additional information concerning the investigation.

Brian Labus, Senior Epidemiologist, Southern Nevada Health District, indicated that SNHD is working to determine whether all reported Hepatitis C cases can be linked to the Clinic. The acute cases are straight forward because it means exposure occurred during the six months prior to having any symptoms but chronic cases mean exposure could have been contracted from the clinic or as long as 30 years earlier. SNHD is working to determine which cases are related to the Clinic by contacting each patient that has positive lab results and a questionnaire is being completed and returned to the SNHD. This process began last week therefore the information has not been tallied. Only the acute cases can be determined whether the individual contracted Hepatitis C from the center. There should be some determination soon resulting from the questionnaire process. Mr. Labus indicated that some of the questionnaires are not completely filled out and it is difficult to determine where the individual contracted Hepatitis C without the complete information.

Mr. Labus then stated that the SNHD is in the process of determining the appropriate steps to take in finding whether cases of Hepatitis C can be linked to other clinics.

Ms. Barron asked whether SNHD is working with the CDC in determining the appropriate steps to take.

Mr. Labus clarified for Ms. Barron that SNHD is working with the CDC and the State Health Division to determine the appropriate steps.

Dr. Guinan commended Mr. Labus for his commitment and diligent efforts while working on the Hepatitis C investigation. Mr. Labus is one of the best infectious disease epidemiologists in Nevada.

The first two cases of Hepatitis C were reported in December 2007 to SNHD that alerted there could be a problem. This was good health practice by the physicians that reported the disease and wonderful follow-up by SNHD staff and called the State Health Division. The third Hepatitis C case was recognized, CDC was contacted and the agencies collaborated. This was incredibly good cooperation between local, state and federal public health agencies. There is a wonderful public health system working that has stopped the clinic from operating and the patient care safety is protected and will continue.

Dr. Miller asked Dr. Guinan to describe the roll that she has taken in the Hepatitis C investigation.

Dr. Guinan stated that she will work to apply and ensure patient safety in Nevada. It is imperative that this type of practice is never repeated. There is discussion of creating an expert panel and before a panel is created Dr. Guinan will be speaking with other experts to determine the appropriate steps. Dr. Guinan indicated that Nevada is not the first state to encounter problems in this area. Dr. Guinan stated that her role is to determine the criteria and bring the panel together with appropriate professionals that can perform this function. Dr. Guinan then stated that other states are being looked at to determine how officials handled this type of problem. Michigan, New York, New Jersey, Nebraska, Oklahoma have all worked through a regulatory process after a problem was recognized related to Hepatitis C or B, related to unsafe injection practices. This process is so complex there may be a need for subcommittees to extract scientific data for translation purposes. The information is being compiled to determine how other states had handled this type of problem and what may work best in Nevada. Dr. Guinan then stated that she would appreciate any comments or suggestions that members may have by sending an email to mary.guinan@unlv.edu. Dr. Guinan stated that she is a member of the Public Health Commission of Nevada Medical Associate that represents physicians and try to understand how to proceed. The association meetings have reflected a great deal of concern that patients are now afraid to receive the appropriate care that is needed. The purpose is to ensure safe health care for all individuals. The patient needs to be part of the health care team and get educated about what to expect in a physician's office, how to report suspicions of unsafe practices and how to inquire into whether the practices are safe for the patient. Some of the patients cannot be located therefore those patients may not hear about the issue and be appropriately tested. The media does help with notifying the public.

Dr. Guinan stated that the Board would be informed of the status throughout the investigation.

Dr. Homansky stated that it is important to note the Medical Examiners Board had learned of the Hepatitis C contamination issue in a public broadcast. Dr. Homansky then requested clarification of how the source of contamination was discovered.

Mr. Labus clarified for Dr. Homansky that the source of contamination was found by process of elimination with cleaning procedures at the facility. That led to the possible reuse of syringes and vials that was consistent with what had occurred in other states in the past.

Dr. Homansky asked whether Mr. Labus was expecting other acute cases of Hepatitis C to be reported within the next four to five months.

Mr. Labus stated that there is a possibility that additional cases of Hepatitis-C could be reported. The incubation period for Hepatitis-C is six months, which equates to late July 2008.

Dr. Homansky stated that Mr. Labus provided a great service in determining that there was a Hepatitis C issue however there was a lack of resources in place to appropriately inform the public. It was unknown which jurisdiction should carry that responsibility. This issue has been an educational experience for authorities and all would be better prepared if something of this nature should happen again.

Robert Merchant, MD, stated that he has practiced in Reno since 1979 and received a Vascular Fellowship at the University of Arizona and has run the Reno Vein Clinic for nine years. One way to treat varicose veins is with therapy injections. Approximately seven years ago the facility became Association of Academic Health Centers (AAHC) accredited by choice, so that the procedures of the facility would be overseen by an outside source. Dr. Merchant stated concern that there is ongoing unlicensed practice of medicine through medical spas in Nevada. Dr. Merchant indicated that he had owned a medical spa and had hired only healthcare providers licensed by the Cosmetology Board. Dr. Merchant stated that the Reno Vein Clinic provides plastic surgery procedures that are normally performed in medical spas. In the State of Nevada non-medical individuals own medical spas and Dr. Merchant indicated concern that single-use vials of Botox and other fillers could be used for plastic surgery procedures on multiple patients. Unfortunately, medical spas are not overseen by licensing boards.

Ms. Graham indicated that Mr. Whitley has spoken with the Cosmetology Board concerning functions of medical spas and tattoo parlors in Nevada. Sterilization issues are being considered at these entities. The Health Division plans to work with medical and other professionals in Nevada to address these regulatory issues and make changes for the future.

7. Reports

A. Chairman - Jade Miller, DDS

Dr. Miller stated the Legislative Health Care Committee meeting will be held on Monday, April 21, 2008 at 9:00 a.m. and will be broadcast on the Legislative website at www.leg.state.nv.us, click on "Live Meetings".

Dr. Miller then indicated that conversations have taken place with Mr. Whitley and the appropriate council concerning the Hepatitis C issue and the Board's role.

B. Secretary – Richard Whitley, MS, Administrator, Nevada State Health Division

Mr. Whitley stated that the primary focus for the Health Division has been on the Hepatitis C issue in the State.

Mr. Whitley indicated that direct services have been made a priority during the mandatory budget cuts currently taking place across the State. The challenge of cutting General Funds has given the Health Division an opportunity to look at how federal funds are being utilized. The intention is to find more effective ways to invest federal funds within the State. Mr. Whitley indicated that the Health Division will be held accountable to demonstrate how State and Federal funds can be maximized.

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

Dr. Anderson stated that Washoe County is also experiencing budget shortfall and as a result all Washoe County departments have been requested to reduce its budget by 2.5% to 15% of the General Fund portion. The Washoe County Health District (WCHD) has been asked to reduce its budget by 5%. The total budget for the WCHD department is approximately \$20M of which 50% or \$10M is funded by federal and other grants and fees. The remaining \$10M comes from the General Fund therefore the cut equates to \$523,550. The budget cuts would impact the family planning program, scheduling patients and there will be more efficiency by utilizing a team approach with nurse practitioners, community health aides and clerical staff. Additionally, some health practitioners will retire which helps to alleviate any mandatory personnel reductions.

Dr. Anderson stated that May is older Americans month and chronic disease is a main issue that older Americans face. Chronic disease is an area that not many funds have been available to address. The focus would be on prevention and transportation for seniors.

Dr. Anderson stated that immunization needs are an issue in Nevada, among the lowest in the Nation. Dr. Anderson then stated that immunizations will be free for children in various locations around the State on Nevada Infant Immunization Day, Saturday, April 26, 2008, 10:00 a.m. until 2:00 p.m. Dr. Anderson then provided a flyer that will be distributed to the public through the State's immunization program.

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

Ms. Barron indicated that the State Environmental Commission (SEC) meeting was held on March 18, 2008 in Reno. The three coal-fire power plants that have been proposed for Nevada have all been public noticed and now the SEC is working with public comments. The Governor has designated a committee for this purpose, the Climate Change Advisory Committee. The committee has issued a statement that states, "Coal without carbon capture will admit too much greenhouse gas." There is a problem in most of the counties in Nevada with ozone. Clark county will likely be designated a non-attainment level area due to many issues but one reason is due to overflow of greenhouse gas into southern Nevada from California. The source of ozone for all of Nevada is from background and transportation.

Ms. Barron indicated all mercury for the U.S. is being shipped into Hawthorne, Nevada. At this time, Ohio, New Jersey and Indiana stores its own mercury but this will be shipped to Nevada in the future. Ms. Barron had requested that the SEC notify the State Health Officer and the County Health Officer's upon shipment of mercury to Nevada.

Ms. Barron indicated that problems exist in Nevada with the Environmental Protection Agency (EPA) due to funding continues to decline with increasing requirements. Ms. Barron requested that a copy of a report that was received at the SEC meeting titled, "Hazardous Waste Treatment and Disposal Facility", at the Beatty storage location, be emailed to Board members. All the hazardous waste is coming from not only Nevada but other states and being buried in Beatty. The report is interesting due to it reflects how waste is being stored in Nevada.

12. Public Comment and Discussion

Dr. Miller indicated that another State Board he represents, the Trust Fund for Public Health, is losing approximately one third of its funding in the amount of \$10M. The funds will be allocated elsewhere and the ability to fund grants for a variety of health related issues will be impacted.

Dr. Anderson stated that Washoe county had been certified by the EPA as an attainment area after a 15 year effort to control carbon monoxide. Clearly, if there are sources that increase greenhouse gases, attainment levels are at risk. Individuals need to know that if an area is classified as "non-attainment", there are certain businesses that cannot be attracted due to the stringency of requirements on certain business which may emit greenhouse gases and contribute to those levels. It takes a considerable amount of time for an area that has been classified as an attainment area to revert to a non-attainment area.

Dr. Miller stated that the next State Board of Health meeting is scheduled for June 20, 2008 in Las Vegas.

There being no further comments, Dr. Miller adjourned the meeting at 12:20 pm.