MEETING MINUTES
NEVADA PATIENT PROTECTION COMMISSION (PPC)
January 17, 2025

The Nevada Patient Protection Commission (PPC) held a public meeting pursuant to NRS 241.020(3)(a) online and by phone on Friday, January 17, 2025, beginning at 9:00 AM. The agenda and meeting materials are available online at https://ppc.nv.gov/Meetings/2025/2025/.

1. **Call to order: Roll call**
   By: Dr. Ikram Khan, Chairman

   The meeting was called to order at 9:10 am by Dr. Ikram Khan, Chair. Executive Director Joseph Filippi proceeded with roll call, and it was determined that a quorum of the PPC was present.

   Commission Members Present
   Dr. Ikram Khan, Chair
   Marilyn Kirkpatrick, Vice Chair
   Dr. Andria Peterson
   Dr. Bayo Curry-Winchell
   Dr. Mark Glyman
   Bethany Sexton
   Flo Kahn
   Jalyn Behunin
   Walter Davis

   Commission Members Absent Excused
   Dr. Adam Porath

   Advisory Commission Members Present
   Scott Kipper, Insurance Commissioner, Division of Insurance (DOI); Celestena Glover, Executive Officer, Public Employees Benefits Program (PEBP); Shannon Litz, Deputy Director on behalf of Richard Whitley, Director, Department of Health and Human Services

   Advisory Commission Members Absent Excused
   Russell Cook, Executive Director, Silver State Health Insurance Exchange
   Richard Whitley, Director, Department of Health and Human Services

Staff Present
Joseph Filippi, Executive Director, PPC; Dylan Malmlov, Policy Analyst, PPC

Guests Present
Gabriel D. Lither, Senior Deputy Attorney General, Attorney General; Lindsey Miller, Constituent Services, Governor's Office; Malinda Southard, Deputy Administrator, DHCFP; Sandie Ruybalid, Deputy Administrator, DHCFP; Todd Rich, Agency Manager, DHCFP; Sheri Guant, Social Services Program Specialist III, DHCFP; Maile Campbell, Lead Actuary, DOI; Adam Plain, Insurance Regulation Liaison, DOI; Autum Blattman, Regional Coordinator, ADSD; Janel Davis, Chief Operations Officer, Silver Sage Health Insurance Exchange; Meagan Ranson, Silver Sage Health Insurance Exchange; Kareen Filippi, Management Analyst III, WIC; Cathy Dinauer, NSBN; Allison Combs; Allison Herzik; Amy Shogren; Ana Bonillas; Blayne Osborn; Brian Evans; Brian Hefferan; Brian Walsh; Brooke Brumfield; Cheri Glockner; Cherylyn Rahr-Wood; Chris Bosse; Cooper Irvine; Cynthia Alejandre; Dan Musgrove; Deanna Yates; Dorothy Edwards; Edith Duarte; Elissa Secrist; Emma Rodriguez; Esther Badiata; Ian Graf; Jacqueline L. Nguyen; James Wadhams; Jason Bleak; Jeanne Gerow; Jennifer Lanahan; Jill Hinxman; Jimmy Lau; Joan Hall; John F Packham; Keibi Mejia; Laurie Curfman; Lea Cartwright; Luke Flanagan; Mari Nakashima Nielsen; Mark Funkhouser; Megan E Comlossy; Misty Grimmer; Patrick Kelly; Paul Young; Reagan Hart; Ryan Roa; Ryley Harris; Sabrina Schnur; Sarah Adler; Shawna Ross; Shelly Capurro; Stefanie Abraham; Stephanie Woodard; Steve Messinger; Tomas Hammond

2. **Public Comment** *(No action may be taken upon a matter raised under public comment period unless the matter itself has been specifically included on an agenda as an action item).*

Jeanne Gerow, with the Nevada Hospital Association, provided public comment today. She shared a short video produced by the Nevada Hospital Association regarding the Nevada nursing shortage. The video is available on YouTube by clicking here. The video explained that Nevada is currently ranked 45th in the nation for Registered Nurses (RNs) and that there is a need for more than 3,000 RNs and Licensed Practical Nurses (LPNs) to reach the national average. Projections indicate that Nevada will remain among the top five states facing a severe nursing shortage. Currently, about 40% of Nevada's licensed RNs have an out-of-state address, indicating the true number of nurses Nevada needs. During the 2020 pandemic, the lack of an available workforce caused nurse burnout, increasing the shortage. Additionally, the number of nursing school graduates has not kept pace with Nevada's rapidly growing population. This has worsened the shortage, with qualified students being denied admission to Nevada nursing schools due to insufficient training slots.

3. **Informational: Introduction of New Commission Members**
By: Marilyn Kirkpatrick, Vice Chair

Vice Chair Kirkpatrick introduced PPC's new Commissioner, Dr. Mark Glyman, who then provided a brief introduction. Commissioner Glyman shared he is a trained medical doctor and dentist, both licensed in Nevada. He attended dental school at UCLA and medical school at Harvard Medical School, completing his training in a combined general surgery, maxillofacial, and craniofacial surgery program at Massachusetts General Hospital and Boston Children's Hospital. Currently, he serves as the Chief of Surgery at Southern Hills Hospital and has dedicated a significant portion of his career to public policy, with a focus on ensuring patient safety.

Chairman Khan welcomed Commissioner Glyman, acknowledging his extensive education and recognizing him as an incredible asset with a highly specialized subspecialty. He noted that Commissioner Glyman is deeply committed to patient advocacy and expressed enthusiasm about benefiting from his experience.

4. **For Possible Action: Review and Approve Meeting Minutes from December 13, 2024**

By: Dr. Ikram Khan, Chairman

Due to technical difficulties that occurred before the meeting, agenda item four will be moved to the next PPC meeting on March 14, 2025, for review and approval.

5. **Informational: Overview of Nevada's Health Care Industry and Insurance Market**
By: Scott Kipper, Insurance Commissioner, Nevada Division of Insurance

Insurance Commissioner Scott Kipper and Insurance Regulatory Liaison Adam Plain provided an informational overview of Nevada's Health Care Industry and Insurance Market. The presentation is available on the PPC webpage or by clicking here. Nevada's Division of Insurance (DOI) mission is to protect Nevada consumers and ensure that insurance carriers remain solvent. DOI regulates property, casualty, life, health, long-term care, title, service contracts, workers' compensation, funeral/burial pre-need, and bail bonds surety. Currently, Nevada has 1,485 authorized insurers, 140 of which are domestic carriers. Nevada's health insurance market represents the largest segment of direct written premiums, making up approximately 40% of the state's total. As part of this, DOI's role includes conducting analysis, reviewing, approving, or disapproving rates and forms, and reviewing insurers' rate and form filings to ensure a competitive and stable market. The Division reviews and approves policy forms used in the fully insured large group market (51 or more employees) but has no authority to review large group plans, provider networks, or drug formularies. Mr. Plain then discussed the Essential Health Benefit (EHB) benchmark, a federal law requiring states to select a benchmark plan regulated by the state, defining benefits in 10 categories that all applicable plans must cover. Beginning in Plan Year 2026, states may elect to add or remove EHB on a piecemeal basis, and starting in 2027, the generosity standard will no longer apply to EHB added piecemeal. The Advanced Payment of the Premium Tax Credit (APTC) is a provision designed to promote affordability in insurance by authorizing tax credits for individuals purchasing Qualified Health Plans through an Exchange, or alternatively, by paying the credit directly to the health insurer to offset the immediate cost of monthly premiums. Mr. Plain also explained the concept of Federal Defrayal, which aims to prevent states from exploiting the APTC formula to pass new state-mandated benefits. This ensures that the Affordable Care Act locks in the benefits that the federal government will pay for those who were in existence before December 31, 2011, as part of the state's EHB package. The primary responsibility of the states under defrayal is to identify which benefits are state-required and in addition to the EHB. Notably, Centers for Medicare and Medicaid Services (CMS) has been allowing states to use a claims-incurred calculation, as no state currently paying for defrayal makes the payments directly to the enrollees.

Vice Chair Kirkpatrick inquired about the limited number of insurance contracts and Medicaid managed care organizations (MCOs), asking if the DOI has the authority to monitor payments and billing practices. She noted issues with insurance companies requiring multiple pre-authorizations or changing billing methods for providers, such as anesthesiologists, and questioned whether the DOI could regulate these practices to align with other states. Mr. Plain explained that MCO-contracted providers and commercial insurance products are subject to Chapter 695G of the Nevada Revised Statutes, while the Division of Health Care Financing and Policy (DHCFP) imposes additional responsibilities and restrictions through contracts, including reimbursement procedures. Although Nevada has protections like a prompt pay statute requiring insurers to pay claims within a specific timeframe or face penalties, there are currently no specific provisions governing reimbursement agreements between providers and MCOs. He acknowledged that this issue needs further research. Vice Chair Kirkpatrick emphasized the difficulty patients and the private sector face adapting to constant insurance changes, questioning whether state legislation or federal support is needed to establish consistent standards and inform consumers of insurance methodology changes 180 days in advance of changes taking effect. Mr. Plain stated he could not recommend introducing legislation but noted Nevada has traditionally viewed such matters as contractual disputes between insurers and providers, making intervention uncommon. Vice Chair Kirkpatrick

stressed the importance of addressing this issue and mentioned a study would be helpful to determine what the proper notification time may be for insurance companies to provide notice to health care providers and patients regarding payment methodology changes including prompt payment regulations. Commissioner Curry-Winchell agreed, stating that current standards are unacceptable and highlighting the opportunity to improve practices to ensure better access to patient care.

Commissioner Peterson inquired about the EHB benchmark and whether it applies to Fee-for-Service (FFS) Medicaid. Mr. Plain clarified that it does not apply to FFS Medicaid but only to the regulated, fully insured market in Nevada.

Commissioner Kahn asked for clarification, asking if any additional benefit mandated by the state would become the state's responsibility and whether, in cases where such benefits result in premium increases, the enrollee would receive compensation, or the health plan provider would receive funds to offset the cost and keep premiums low. Mr. Plain provided a hypothetical example: if the 2025 legislative session mandates that rhinoplasty must be a covered benefit, and this causes premiums to rise by $20 per person per month, the state would classify it as a mandate exceeding the Essential Health Benefits (EHB) package. In such cases, Qualified Health Plan (QHP) issuers would perform the necessary calculations, and the state would be required to either pay consumers directly or compensate insurers by the specified amount per person per month to offset the cost. Commissioner Kahn then inquired, from a consumer perspective, how they could ensure that the premium would actually decrease by the specified amount. Mr. Plain responded that this question has been a topic of ongoing discussions with CMS over the past 12 months as part of the rate review and approval process.

Commissioner Kahn asked a follow-up question, noting that claims are often billed for the wholesale price of a drug, which can appear to reflect a high payment cost. However, on the back end, insurers may receive significant rebates on these drugs. She inquired how these rebates are incorporated into the claim-incurred basis to ensure insurers are paying only for their actual net cost after rebates. Mr. Plain acknowledged the question but stated he currently does not have an answer. He added that every state except Nevada is subject to defrayal on a medical benefit and mentioned that this issue is part of ongoing discussions with CMS.

Vice Chair Kirkpatrick agreed with Commissioner Kahn, stating that the topic of rebates is frequently mentioned but seems to rarely result in providing better health care or lowering insurance costs. She noted that she serves on a national board of over 4,000 counties and asked whether this topic should be brought up to a national conversation, given that Nevada is the only state discussing defrayal of a pharmaceutical benefit. She emphasized that the state should focus on lowering costs. Mr. Plain noted that CMS has been very reluctant to provide definitive information in writing that the Department of Insurance (DOI) can rely on. He stated that this is new territory for the state, and they are currently exploring ways to determine how any potential payment scenarios might work. Mr. Plain also expressed openness to any suggestions the Commission might have.

Commissioner Sexton commented on the insurer's perspective regarding rebates. She noted that, in general, rebates are considered during the actuarial analysis insurers conduct when determining premiums. She further explained that rebates are incorporated into the cost analysis as actuaries evaluate data related to rebates that may be accrued in connection with pharmacy costs.

Commissioner Peterson inquired whether the federal defrayal payment is related to the All-Payer Claims Database and how this information will help project the fiscal impact. Mr. Plain explained that when Nevada first started discussions with CMS about potential defrayal situations, the All-Payer Claims Database was not nearly as developed as it is today, or as he hopes it will be in the future. He also mentioned that, due to this, they had to conduct individual data calls to their licensed carriers and insurers to gather as much information as possible for their actuaries to review. He noted that the database will save the industry a tremendous amount of actuarial and administrative effort. Mr. Filippi added that, hopefully within the next year, the Commission can

receive a formal presentation on the All-Payer Claims Database (APCD), as it is still very new. Deputy Administrator Sandie Ruybalid provided more details regarding the timeline, noting that DHCFP expects to have three years of historical data by July of this year, as the database is currently in development.

Chairman Khan inquired about any historical data available from DOI regarding service denials over a specific period, such as six months to a year, and the denial of services to patients after being supported by information from the provider. He also asked about the percentage of cases denied at Level 1 that then go to level 2 or 3 appeal, noting that the challenge lies in the high rate of Level 1 denials, as denied services and claims can be burdensome to providers, patients, and their families. Mr. Plain noted that Nevada participates in the National Association of Insurance Commissioners (NAIC) program for the Market Conduct Annual Statement, which is filed each year by the health insurance and property and casualty insurance industries. He mentioned that the statements include questions on denial rates for claims, typically conducted by market segments, but he is unsure whether the NAIC makes the data publicly available. Chairman Khan then asked if Nevada has this information, to which Mr. Plain responded that Nevada does not have its own reporting but does have access to results filed by admitted insurers with the NAIC. Commissioner Glyman asked if there is a tracking mechanism to ensure providers are accurately self-reporting denials. Mr. Plain reiterated that he does not know if the NAIC's data is public but mentioned that the data undergoes checks for accuracy and that providers' data is audited by independent auditors who conduct claims run checks, including denials, with state regulators typically auditing this data every three years. Commissioner Glyman asked whether this process captures the number of denials on the initial basis, and Mr. Plain stated he would follow up with DOI for an answer and get back to the Commission.

Commissioner Peterson asked if Mr. Plain could comment on the recent Mental Health Parity and Addiction Equity Act and the efforts being made to bring insurers into compliance based on the NAIC's analysis. Insurance Commissioner Scott Kipper stated that the Division has received a grant from CMS to study various aspects of the state's marketplace, including NAIC compliance. He noted that the Division surveyed carriers last year, and the information gathered indicated that a deeper investigation is needed due to challenges in the marketplace. As a result, the Division is conducting an additional set of examinations. Chairman Khan requested that the DOI present specific data related to Nevada's denied claims and appeals at the next scheduled Commission meeting, along with an explanation if the information is not publicly available. He also requested additional information regarding the Mental Health Parity and Addiction Equity Act.

Commissioner Kahn asked Insurance Commissioner Kipper about his 2025 priorities regarding the healthcare space. Commissioner Kipper stated that his plan for the healthcare spectrum is to collaborate with the state Medicaid office on developing the Battle Born State Plans, which include the public option, and the reinsurance program directed by the Governor, with a go-live date of January 1, 2026. Commissioner Kahn then inquired whether the Division is reviewing the new FTC report discussing practices related to prescription drugs and the inflated costs of specialty generics. Insurance Commissioner Kipper confirmed that this will be part of their 2025 priorities. He noted that Pharmaceutical Benefits Managers (PBMs) are required to register with the Division as third-party administrators, placing them under the Division's regulatory oversight.

Commissioner Glyman commented on the topic previously raised by Chairman Khan, highlighting a hidden issue faced by providers in their offices: administrative staff often struggle to get in touch with insurance companies, leading to delays or the inability to schedule patients. This frequently results in frustration and, in some cases, delayed or denied care. He urged the Division of Insurance to address this issue by exploring uniform standards for insurance companies and potentially drafting legislative language to ensure providers can effectively contact insurers.

6. **Informational: Overview of AB 7 (2023) and Implementation Update Regarding Approved Regulation. LCB File No. R173-24**
By: Malinda Southard, DC, Deputy Administrator, Nevada Division of Health Care Financing and Policy

Malinda Southard, Deputy Administrator for the Nevada Division of Health Care Financing and Policy, shared a presentation on Assembly Bill (AB) 7 and its implementation, available on the PPC website or by clicking here. AB 7, originally proposed as Patient Protection Commission BDR 40-381 during the 2023 Legislative Session, mandates healthcare providers implement interoperable electronic health records (EHR) systems to allow patients electronic access to their records. Once passed, the Department of Health and Human Services (DHHS) was tasked with adopting regulations governing health information exchanges and the management, use, and confidentiality of EHR. An advisory group convened throughout 2024 to outline responsibilities, provide feedback, and finalize regulations, which were approved on June 17, 2024. The regulations emphasize flexible options for providers, direct patient access, and federal alignment. Compliance deadlines are July 1, 2024, for hospitals and practices with more than 20 employees; July 1, 2025, for all other providers; and January 1, 2030, for smaller practices and solo practitioners. A waiver process is available for providers unable to meet these deadlines. DHCFP is managing one-time funding grants for providers to comply with AB 7, available only until June 30, 2025.

7. **For Possible Action: Commission to recognize the implementation of AB7 (2023) and regulations LCB File No. R173-24 as meeting the requirements of NRS 439.918(1)(c)**
By: Dr. Ikram Khan, Chairman

Due to technical difficulties before the meeting, agenda item seven has been moved to the next meeting on March 14, 2025.

8. **For Possible Action: Discuss future meeting dates and topics**
By: Joseph Filippi, Executive Director

Due to technical difficulties before the meeting, agenda item eight has been moved to the next meeting on March 14, 2025.

9. **Public Comment** *(No action may be taken upon a matter raised under public comment period unless the matter itself has been specifically included on an agenda as an action item).*

No public comment was made.

10. **Adjournment**
By: Dr. Ikram Khan, Chairman

Vice Chair Kirkpatrick thanked the PPC and those who attended the meeting and adjourned the meeting.

Meeting adjourned at 10:45 AM.