Little Hoover Commission's Public Hearing on
Governor's Reorganization of Corrections
9:00 AM, Thursday, January 27, 2005

Statement of Nancy Lyerla

My name is Nancy Lyerla and I have been a Registered Nurse for over twenty years. I have worked as a nurse in the California Youth Authority for the past four years, and prior to that I was a correctional nurse in both county and state correctional facilities for sixteen years.

I am here to speak to the current reorganization proposal's suggestions for addressing the delivery of health services in corrections. In general, we share the same goals: the delivery of safe and efficient health care services for the wards and inmates within the California Department of Corrections (CDC) and California Youth Authority (CYA). We also share a similar concern: the inability of these departments to offer quality healthcare for the patients we treat, to provide services in a cost-effective manner, and to recruit and retain adequate numbers of nursing and allied health staff.

I stand before you today because I want to offer more specific recommendations on how the proposed Office of Health Care Administration should be organized. A primary problem in the staffing of health care in the Corrections system can and should be addressed by this reorganization plan. Overall, registered nurses are not provided with appropriate supervision, because corrections staff oversees medical staff and makes inappropriate and uninformed decisions about patient care. The governor's plan thus rightly identifies the need for a separate health administration body. However, the plan lacks the specific mechanisms needed to rectify the current problem, which I would like to briefly address.

First I will examine the issue of inappropriate supervision of Registered Nurses. The California Nurse Practice Act requires that a Registered Nurse supervise all support personnel in the delivery of care. In both CDC and CYA, however, the roles are reversed. Registered Nurses are being supervised by medical technical assistants (MTAs), which

are essentially Licensed Vocational Nurses (or LVNs). The MTAs function primarily as correctional officers, and patient care is only a minor part of their responsibility. Even worse, it is common practice to redirect Registered Nurses to fill in for MTAs. With a severe RN shortage, this leaves even fewer RNs to complete the care that can only be provided by RNs. This is a complete misuse of licensed medical professionals that is neither cost effective nor efficient.

This role reversal relationship is actually representative of the larger correctional system, where healthcare services are subsumed under correctional administrative hierarchy. Though the departments are under court mandated reforms from inmate lawsuits such as Plata, Coleman and Madrid, the inappropriate supervision and management structures have not been addressed and the skills and talents of Professional Nurses are excluded from these processes.

If we are going to prevent further costly lawsuits, the health care systems in these departments must be taken out from under the custodial hierarchy, and Registered Nurses must be included in the development and delivery of quality patient care in accordance with the California Nursing Practice Act. In addition, civil service Licensed Vocation Nursing (LVN) positions should be established and filled as a part of the reform of the medical services in correctional facilities. This would create a safe and efficient nursing team for patient care and would further separate the functions of health care and custody.

Thus, we support the GRP's recommendation that the new Department of Correctional Services create a Division of Health Care Services, with two conditions. First, that the structure is completely autonomous from the custody function of the department. This lack of medical autonomy causes restricted access to timely and appropriate health care services. Secondly, that nursing policies, procedures, and training plans be developed, implemented and evaluated by Registered Nurses. A 2003 report on Healthcare Services in CYA states that facilities lack nursing policies and procedures and the resources and commitment to provide professional training.

Second, I would like to address the inefficiencies in the state’s system of recruiting and retaining Registered Nurses and allied health staff in both departments, to the detriment of the taxpayers of California. The reorganization plan suggests that contracting out the delivery of health services would increase efficiency, which could not be farther from the truth. The plan fails to address the massive cost overruns created by inappropriate staffing procedures and compensation, as well as recommendations by other experts in the field to address staffing shortages and skyrocketing costs by developing compensation packages and a professional environment that attract permanent workers.

Nearly 26% of the Registered Nurse positions are presently vacant in CDC and CYA because of the state's inability to provide safe staffing levels, a voice in patient care systems, a ban on mandated overtime, flexible work hours and competitive salaries.

According to a recent USA Today report, the California nurse vacancy rate is about half that of the state nurse vacancy rate, at 14%. Kaiser hospitals have a 5% vacancy rate for nurses because they adhere to a lower nurse to patient ratio than that established in regulations, and utilize professional nurses in planning and improving patient care. What a dramatic difference attention to working conditions and benefits makes on nurse recruitment and retention. And, what a difference such conditions would have on recruitment and retention of State nurses as well as on the healthcare services of California's citizens.

And just why does the high vacancy rate in these departments matter? Because high vacancy rates lead to unsafe care as proven by the above inmate lawsuits and the cost overruns for medical services. High vacancy rates also contribute to the injuries of both staff and patients. Finally, as these vacancies are filled with temporary registry staff, without adequate orientation or training, the quality and continuity of care for wards and inmates suffer.

Such a high vacancy rate also contributes to unnecessary costs to the state. The Department of Corrections alone spent **almost $15 million** for contracted registry RNs in fiscal year 2002-2003, and **almost $19 million** in fiscal year 2003-2004. In fiscal year 2003-2004, CDC spent **over $7 million** on overtime costs for state RNs. This is in sharp contrast to a recent Board of Registered Nursing survey that reports 75.3 percent of all licensed RNs throughout the state work less than one hour per month of overtime.
In their analysis of the 2004-2005 Budget Bill, the Legislative Analyst's Office noted that hiring and retaining Registered Nurses in civil service positions would be more cost-effective than the current practice of using registry nurses and overtime. In an April 2004 report the State Auditor recommended that Corrections "rein in costs associated with the use of medical registry contracts."

While the top salary for a CDC/CYA Registered Nurse is about thirty-one dollars an hour, the state currently pays, on average, sixty-three dollars an hour for contracted registry nurses. In addition, more and more of these registry nurses are brought in from other states. Termed traveling nurses, they often receive up to $2000 per month for housing allowances on top of their high hourly rates. The use of contracted registry nurses directly

contradicts the Governor's overall goal of improving the cost effectiveness of state government. Yet the Corrections Independent Review Panel recommends even more contracting out. Is the Governor's goal to improve efficiency and save money, or is he interested in awarding his corporate special interest donors with contracts to provide these services to the state (despite the increased cost to taxpayers)?

Contracting out services also fails to address two additional challenges with attracting and retaining qualified medical professionals in the Corrections field. First, many correctional facilities are located in rural areas, far from universities or large hospitals where health care staff are more plentiful, making the need to offer competitive packages even more important.. Second, health care classifications in corrections are already below average for health care staff within their region: e.g. entry level salaries for radiologic technologists at the California Medical Facility begin at $17.31 and top out at $21.03 an hour, while comparison salaries in the region start from $24.15 to $26.31 or greater. Before the state decides that contracting out the delivery of health services will result in cost saving, a careful study should be made of the existing personnel available, the regions where staff is needed, and the training and compensation packages that would enable the state to offer quality medical services in-house.

We applaud the state for prioritizing the Corrections system and look forward to continuing this dialogue on reforming the system to improve the delivery of health care services for patients, staff, and the taxpayers of California.