

NEW MEXICO PATIENT COMPENSATION FUND

ADVISORY BOARD MEETING

THURSDAY, JANUARY 6, 2022

2:33 P.M.

ZOOM VIDEO CONFERENCE MEETING

A P P E A R A N C E S

WILLIAM RITCHIE, CHAIR, (remote)

KATHLEEN LOVE, VICE CHAIR, (remote)

RAY VARGAS, MEMBER, (remote)

TROY CLARK, MEMBER, (remote)

MIKE DEKLEVA, MEMBER, (remote)

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1 CHAIR RITCHIE: It's 2:33, let's get started. I
2 call the meeting to order. We can start going through the
3 roll call while people come in. Hopefully everyone will have
4 joined by then.

5 I call to order this PCF Advisory Board Meeting for
6 January 6th. Thank you everyone for attending. We do seem
7 to get good participation. Let's go through a roll call real
8 quick of the Board.

9 Dr. Carson, I see you here. Ms. Love, I see you
10 here. Mr. Vargas, I saw you, your name popped up, are you
11 present?

12 MEMBER VARGAS: I am here. Good afternoon.

13 CHAIR RITCHIE: Welcome. Ms. Rodarte, I don't see
14 her present yet. Mr. Spitzer, not yet. Mr. Martinez. Troy,
15 I saw you here.

16 MEMBER CLARK: I'm here. Good afternoon.

17 CHAIR RITCHIE: Mr. Dekleva.

18 MEMBER DEKLEVA: Yes, I'm here.

19 CHAIR RITCHIE: Excellent. I thought you said you
20 might be a little late, so I'm glad you made it. Thank you.
21 I believe that represents a quorum. We do have a quorum
22 here, so we will proceed.

23 Everyone should have received the Agenda. There's
24 been a change to the Agenda. We have not received the
25 minutes from previous meeting, as they were not transcribed

1 in realtime and so we have will to seek to get those on board
2 and into the public record. However, we do have a court
3 reporter here today and we will have the minutes from today's
4 meeting out very rapidly.

5 May I have an approval of the Agenda from the Board.
6 Does anyone have any wishes to change the Agenda or anyone
7 not approve the Agenda?

8 MEMBER CLARK: I make a motion to approve the Agenda
9 as presented.

10 CHAIR RITCHIE: Thank you.

11 MEMBER CARSON: Second.

12 CHAIR RITCHIE: Thank you. Is anyone opposed to
13 that approval? Hearing none, it will be approved by
14 acclamation.

15 The next order of business is the Discussion of the
16 PCF Advisory Board Report. Melissa, are you able to project
17 that yet?

18 (pause)

19 CHAIR RITCHIE: Excellent, thank you. As it says
20 here, the Board is tasked with providing a report annually to
21 the Legislature, as part of their charter. So Ms. Love
22 undertook a lot of the work in putting this out, with the
23 help definitely of the Office of the Superintendent, and
24 edited by the Board. So this meeting is to publicly present
25 that report and have it open for discussion by the Board and

1 then the ability for public comment, then this report will be
2 sent to the Legislature when they open.

3 VICE CHAIR LOVE: Dr. Ritchie, may I make one point?

4 CHAIR RITCHIE: Yes, please.

5 VICE CHAIR LOVE: When you said that it was edited
6 by the Board, I just wanted to be clear, this is the time
7 when the Board can make the edits. I don't want to make it
8 sound as if we are afoul of the Opening Meetings Act by
9 having had any conversation with a quorum about the contents
10 of the report.

11 Additionally, I would propose that we start with
12 Troy Clark who has some substantive suggestions that we need
13 to make sure are addressed.

14 CHAIR RITCHIE: Thank you, that's exactly what I was
15 attempting to say, will be edited by the Board. We have not
16 met prior to this. This is the meeting for the editing.

17 SUPERINTENDENT TOAL: Mr. Chairman.

18 CHAIR RITCHIE: Yes.

19 SUPERINTENDENT TOAL: Before you get into the weeds
20 on this, I wanted to let you know that this morning the
21 Legislative Finance Committee issued its budget
22 recommendations and they did include the \$30 million for the
23 Patient Compensation Fund, so we were very delighted to see
24 that. Any members of the Board that feel so inclined to
25 thank the committee chair, who is Representative Patty

1 Lundstrom from Gallup, I'm sure that would be helpful. But I
2 am very pleased to see that. That recommendation goes a long
3 way in finalizing the budget.

4 CHAIR RITCHIE: Excellent news. Thank you very
5 much, Mr. Toal, for giving that breaking news, that is
6 certainly what we were hoping for and that may go a long way
7 towards easing some people's interpretation of the upcoming
8 costs of medical malpractice insurance and PCF costs in New
9 Mexico. Thank you.

10 While we have you on the line, so to speak, do you
11 have anything else to add before we get into the weeds, so to
12 speak?

13 SUPERINTENDENT TOAL: You're going to hear from the
14 Integrion people. From our perspective, the transition has
15 gone very well. We continue to work with them just on
16 transition matters, but they are certainly capable and able
17 to manage things and we are pleased that we got all the
18 system issues worked out. Debbie will give you a report
19 later in this meeting.

20 I am not going to be able to participate the whole
21 time because, as Troy and others know, it feels like the
22 session has already begun, so I have some other folks I need
23 to be talking to, but I wish you well. And of course this
24 report should be your report. We have no editorial comment
25 on it at all.

1 CHAIR RITCHIE: Thank you very much. Thank you for
2 all you've done, all the help so far. Yes, you are exactly
3 right, definitely the report reflects all the work you did as
4 well and our appreciation of that. Thank you.

5 SUPERINTENDENT TOAL: Thank you.

6 CHAIR RITCHIE: Ms. Love, I agree. If Mr. Clark has
7 some comments already lined up on this, edit suggestions, et
8 cetera, then definitely, I have no problem opening the floor
9 initially to Mr. Clark to talk about the report.

10 MEMBER CLARK: I appreciate that, Mr. Chair and
11 Ms. Love. As we all get used to the Open Meetings Act, I
12 want to first share appreciation to Ms. Love and anyone else
13 who took the time to draft things. My comments are not meant
14 to, by any means, say that there was not a tremendous amount
15 of work and effort put in and I think the attempt to be
16 accurate is there and my comments are simply to make sure
17 that we are accurate.

18 Is it possible, Mr. Chair, for me to share my
19 screen, it may be easier as I try and show where the
20 differences are back and forth with different documents that
21 get referred to, if that's possible. It may be helpful.

22 CHAIR RITCHIE: I have no problem with that if
23 Melissa can help with that.

24 MEMBER CLARK: I don't know if they have to allow me
25 to. I guess I can just try to do it, if Melissa will stop

1 sharing her screen.

2 MS. GUTIERREZ: Mr. Clark, you can go ahead and try
3 and be able to.

4 MEMBER CLARK: And I apologize to everyone, that I
5 am not the technical expert, but I will do my best to make
6 this look right. But I think, as I switch documents, I've
7 been told I have to stop sharing and re-sharing, so we'll see
8 how this goes. Can all see my screen that now has the second
9 paragraph of the report that Melissa was just sharing? I'm
10 sorry, the second page of the report that Melissa was just
11 sharing? Okay, I'm getting a head nod there.

12 Under the section where we talk about the allocation
13 of the debits, you see I have highlighted a few items. And I
14 think in order to be clear here, the two numbers highlighted
15 for the physicians and the hospital represent not a deficit,
16 but those are pulled from a different definition, which can
17 be confusing, this is complex. Those numbers are included in
18 the Milliman Report as the projected losses in their
19 calculations as they come to what the premium should be.

20 So I start with this to show you, and I'm going to
21 jump and stop sharing and pull up another document here so
22 everybody can follow along too, what I have seen. There are
23 several documents that are pertinent in our discussion as we
24 make reference to our earlier report that we gave to the
25 Superintendent back in October. We make reference to an

1 Exhibit C, which I am now showing, which is the Milliman
2 Actuarial Report and their PowerPoint presentation that was
3 based off of their report, and I will show you the actual
4 report here in a minute, because I think that's where we have
5 to get the corrected numbers.

6 But you will see right here, I don't have a way, I
7 don't think, to highlight it, other than with my cursor --
8 oh, maybe I can. The number \$25.528 million on this page of
9 the hospital indicated surcharge level of how they set the
10 surcharges is tied to this description of what the discounted
11 losses would be and they compare that to the line above it of
12 what the surcharges are.

13 To be consistent, and I will have to scroll up, I
14 believe, if I remember right, to find the same number for the
15 physician component, right here, on page 14 of Exhibit C.
16 Here's the 22,401,994. Those two numbers were pulled from
17 Exhibit C, I believe, in order to get to the report. Let me
18 get back to the report here I showed you earlier, and those
19 numbers should tie to what I showed you earlier right here.
20 But those are not what the deficit is.

21 We also make reference here in the report that it
22 ties to our report given to Superintendent Toal on October
23 26th. So in order to make sure (noise disruption on Zoom)
24 that we were correct in that report -- give me one second to
25 get there. I did go back and pull up that report, and I

1 believe we were accurate and we are okay and have nothing to
2 amend from our report. This here is the copy of that report.
3 Let me see if I can make it a little bigger so you don't have
4 to read accountant font.

5 In paragraph 11 we did correctly describe the 22.4
6 million as the projected discounted losses. We did not refer
7 to it as the deficit. And again, in paragraph 21, which is
8 the hospital's portion, we did appropriately refer to it as
9 the 25.5 million as projected discounted losses.

10 Having said that, I believe the corrected numbers,
11 if we go to the actual report, which is currently -- which
12 was posted and is still currently posted on the OSI website,
13 which is the basis of what that Exhibit C slide that was
14 pulled from. It's page 10 of the PDF. It's page 8 of their
15 report. Milliman describes the PCF surplus and deficit and
16 the allocated deficit of the 66.8 million. And I think
17 that's important, because in the report we talk about the
18 total 66.8, and you see here that the deficit is 56.6 million
19 for the physicians and 10.2 for the hospitals.

20 In our proposed report to the legislature we break
21 up that 56 million by pulling out the batch claims, which we
22 all agreed back in October unanimously to break that out. So
23 you would break this 56.6 million into 35 -- I'm sorry, 36.5
24 million, and then the 20.1 million as we currently have it in
25 the other report, to get there. Part of that is, and I

1 apologize, the accountant background in me, which I have
2 repented from many times over the years, but trying to make
3 sure all of our numbers tied and footed in order to get to
4 get to that 66.8 million, it is this schedule within the
5 actual Milliman Report that allocates what the deficit is,
6 not what the projected losses are. If you try to add up all
7 the different projected losses, they will not tie up, total
8 up to 66.8 million.

9 So I would propose that we change the numbers in
10 that section of the report to reflect the 56.6, although it
11 needs to be broken out into two components, so it would be
12 36.5, leave the 20.1 as it is currently reflected, and
13 changing the hospital and employed physician and surgeon
14 number to the 10.2 million so it properly totals up to the
15 66.8.

16 I believe this does two things. Not only does it
17 make it reflect accurately, but following along with what
18 Superintendent Toal just shared with us, I would hope that
19 the numbers tie to what he has presented for the need is and
20 that there's not a perceived change in what that deficit
21 balance was, if the 30 million that is now included in the
22 LFC budget doesn't get questioned due to potential changes
23 that were inaccurate. I believe we need to accurately
24 reflect it. That would be my proposal.

25 I have one other comment on a different part of the

1 report, but that is more opinion, I guess I would say. I
2 would like to leave this one, because I think this is just
3 making sure we chicken tie things the way they're
4 appropriate. And I pause there, Mr. Chair, to see if there's
5 any concern or comment about that, maybe something that I
6 missed.

7 CHAIR RITCHIE: Thank you. Does anyone have a
8 comment on Mr. Clark's edits, corrections, accounting
9 changes?

10 MEMBER CARSON: I have a comment about that. I
11 thought, as I recall from our meetings, that we did not come
12 to an agreement about how those charges and those numbers
13 were actually split, because OSI did not have that
14 information for us, whether those physicians were truly
15 employed by the hospital or were independent when those
16 numbers were generated. We couldn't really come up with good
17 numbers, whether these were truly independent physicians or
18 hospital-employed physicians when we looked at those. And so
19 I don't know that those numbers would be appropriate either.
20 I know that we had a large discussion about that, about how
21 to allocate those deficit numbers and that the ones that were
22 given by Milliman were probably not accurate.

23 VICE CHAIR LOVE: Dr. Carson, I agree that there was
24 a lot of conversation around how to split up the different
25 buckets that we talked about during the hearing. What I

1 understand is that there's -- based on the data and the way
2 the data was collected, there's no way to further delineate
3 that. And so Milliman has, based on the information that
4 they had, had to attribute it to so-called independent
5 physicians. My thought is, that I think that everyone agrees
6 that the repayment of that large portion of this deficit
7 can't be put on physician shoulders.

8 And so my hope is that, number 1, accepting that
9 this is where Milliman has put the deficit accountability
10 with a recognition that the data needs to be better collected
11 and evaluated going forward, that this gives us what we need
12 to be able to justify what the legislature hopefully will do,
13 which is to pay off at least that portion of the deficit so
14 that we can start cleaning and not have to have conversations
15 going forward about raising surcharges on independent doctors
16 to the point where practicing in New Mexico just isn't
17 sustainable anymore.

18 I guess the answer to your question is, yes, I
19 agree, it still continues to be a problem. But I think that
20 this is a good approach to take in order to support what it
21 is that we all want the Legislature to do.

22 MEMBER CARSON: I think my largest concern is that
23 we'd be giving these numbers to the Legislature without a
24 side note that says, "oh, and these numbers, we're giving
25 these to you, but they're based on bad data." So I just

1 don't -- but here we are, we're going to attribute this to
2 independent physicians, we're going to attribute this to
3 hospitals, but we really don't have good data for that.

4 VICE CHAIR LOVE: Well, one of the paragraphs in
5 here in the report, it talks about the problem with the data,
6 is intended to address that, but perhaps there's some
7 additional language that you would like to suggest that might
8 more clearly address that.

9 MEMBER CARSON: I really don't have an idea about
10 good language, but I do have concerns that we would tell the
11 Legislature that these numbers are based -- these are what
12 the numbers are that the physicians, the independent
13 physicians are responsible for this much versus the
14 hospitals, when I don't think that's true. I don't want the
15 Legislature...the idea that those numbers are correct. I
16 don't know if anybody else has -- I don't know how to fix
17 that.

18 VICE CHAIR LOVE: One suggestion, Dr. Carson, is
19 that perhaps under Section 3 we could it change to say, "the
20 Milliman Report concluded that the deficit has these causes,"
21 and then do a footnote and say, "that the Advisory Board has
22 serious concerns about the insufficiency of the data
23 collected and the ability to analyze the apportionment of
24 settlements between independent physicians versus employed
25 physicians and hospitals." Would that satisfy your concern,

1 which is a well-taken concern, by the way.

2 MEMBER CARSON: Yes. I think as long as we're
3 clear, if we're going to be changing these numbers, that
4 we're clear that we're saying that the deficit has causes,
5 but we're not exactly sure where those started. But
6 something with that kind of wording after number 3, I would
7 appreciate.

8 VICE CHAIR LOVE: So what if I say, "the Milliman
9 Report identified three causes of the deficit," and then
10 we'll do a footnote there, insert a footnote, and the
11 footnote will say, "the Advisory Board had concerns about the
12 adequate collection of settlement data."

13 MEMBER CARSON: May be attributed to independent
14 physicians versus hospital-employed physicians.

15 MEMBER CLARK: Ms. Love, that kind of gets into my
16 further comment, because I think the two tie together here.
17 I respect the ability here to try and make sure that we get
18 these caveats in, I think those are appropriate, Dr. Carson,
19 to get some form of caveat. I would prefer if we use "the
20 inability" instead of "inadequate." I think other people
21 that have not been part of this discussion may not understand
22 and read into it if we use the words, if it was inadequate,
23 if it's even possible to go back. They may read and say,
24 "why don't you go back and do it." I think we had that long
25 discussion over and over that it's not that somebody failed

1 to respond, it wasn't collected at the time, or settlements
2 couldn't be done, I would have preference to that. And I
3 like your idea, Ms. Love, of keeping it -- even if we refer
4 to it as the Milliman Report, because I believe one other
5 component of it, as you go through the report, is the rates
6 that we recommended that -- I know Superintendent Toal took
7 our recommendation and made his final decision, but I believe
8 they were both based upon Milliman making their
9 recommendation in their report of the repayment portion of
10 the hospital rates, was based off that 10.2 million. I think
11 we need to keep that in there so if somebody was to look and
12 say, "what portion is the hospital repaying as of the
13 estimate based from the actuaries today," unless
14 Superintendent Toal was to indicate that they created a
15 different number, which I think the changes were not based on
16 the hospital side, but on the physician side, so I feel
17 confident, and I don't know if he is still on the line to
18 confirm it, but I believe the premiums al -- or the
19 surcharges allocated to hospitals were based upon that 10.2
20 million for this year's portion of that repayment to make
21 sure we get that paid off.

22 CHAIR RITCHIE: I would like to get some
23 clarification on that. Mr. Toal I don't believe is on
24 anymore, but Mr. Walker is. I don't know if anyone else is
25 sure exactly what Mr. Toal's final decision was based on, but

1 perhaps Mr. Walker can chime in.

2 MR. WALKER: His final decision as to the rates?

3 CHAIR RITCHIE: Correct.

4 MR. WALKER: Well, it was, in large part, based on
5 the findings of the PCF Advisory Board, but also given the
6 promise of the funds from the Legislature, he determined that
7 he would essentially apply those funds to the deficit
8 attributable, or thought to be attributable to the physicians
9 primarily because a lot of that deficit, if not all of it,
10 was a failure to set rates in previous years at an
11 appropriate level for the physicians and unfair to ask
12 physicians now to make up that deficit when it wasn't their
13 fault that the rates weren't set high enough before. So I
14 think that was primarily his thinking about that.

15 Does that answer your question or do you need
16 follow-up on it?

17 CHAIR RITCHIE: I think that gives me an idea. My
18 concern on this was just, if the question came up in the
19 Legislature, when they see the 30 million, and they say,
20 "well, how is this broken down, how much of this is to help
21 pay off the hospital, the deficit for the hospitals, how much
22 for the deficit for the physicians, how much for the batch
23 claims." I don't know that the Advisory Board has the answer
24 to that, that's Mr. Toal's decision.

25 MR. WALKER: Right, right. So I would say,

1 primarily the batch claims, but also the physicians, the
2 failure to properly assess rates for the physicians in the
3 past. I think the feeling is, and there may be some
4 disagreement about this, but the feeling is that the
5 hospitals have not been in long enough to be able to
6 attribute a deficit towards the hospitals. And therefore,
7 they're not going to get the benefit of this money from
8 Legislature. The benefit is going to all go for the
9 physicians because of the batch claims and the failure in the
10 past to set the rates high enough.

11 MEMBER CLARK: Mr. Chair, if I could add in there,
12 just so it's on the record as well.

13 CHAIR RITCHIE: Yes.

14 MEMBER CLARK: The hospitals are in full support of
15 not having any of the funds approved from the Legislature go
16 towards any portion of the hospital deficit. We are in full
17 support that that should go towards the payment of the batch
18 claims and any amounts above the allocation of the batch
19 claims should go to physician deficit. In case that question
20 is asked by the Legislature, the hospitals are in full
21 support of that, and I believe we discussed that back in
22 October, but I want to make sure it's clear for everyone,
23 that there's no intent, nor desire, for any of those acquired
24 funds to come from, or be applied to the hospital deficit.

25 CHAIR RITCHIE: Thank you. And I think that the

1 report needs to spell that out, just preempt that question,
2 that needs to be included somewhere in our report to the
3 Legislature. We previously discussed that and that is the
4 intent or the desire, I guess, of the PCF Board as well, as
5 presumably the Superintendent's.

6 MR. WALKER: And if I may add, Melissa just sent me
7 a message, that she has confirmed that with the
8 Superintendent, it's to go to pay batch claims and the
9 physicians portion of the deficit, nothing for the hospitals.

10 VICE CHAIR LOVE: So how about a second footnote
11 then. So next to, identify three causes of the deficit, I
12 propose we say in the footnote, the Advisory Board had
13 concerns about the lack of data to identify the portions of
14 settlement payouts that should be attributed to independent
15 physicians versus hospital-employed physicians, in an attempt
16 to collect additional data, but that data is unavailable, as
17 it was not collected at the time of settlement. And then
18 after C, after the word hospitals, another footnote, the
19 hospitals -- or hospitals have agreed -- something like,
20 hospitals have agreed that the portion -- their portion of
21 the deficit will be paid through assessment of surcharges.

22 CHAIR RITCHIE: Mr. Clark.

23 MEMBER CLARK: I think that works. I might make one
24 other -- it may be more appropriate -- I think the two are
25 mixed together. I don't know if there's the need for the

1 footnote there under the hospitals, but I'm trying to find --
2 and, Ms. Love, you may be able to help me find it, there's a
3 reference to another solution, which I think was the generic
4 way to talk about the request of the Legislature. I believe
5 it's at the end here on page 3. I think I found it. It
6 says, "however, a deficit \$42-1/2 million due to physician
7 surcharge under payment for batch claim payouts," we will
8 need to correct that 42-1/2 million with the new correct
9 numbers. On behalf of two doctors will remain unpaid. The
10 Superintendent has requested funding from the Legislature to
11 bring the PCF solvency. What if we add a parenthetical to
12 say right there, it is agreed upon that none of the -- any
13 funding from the Legislature to the PCF will not be
14 attributed to hospital, but will only be attributed to
15 physician deficit. Does it cover there what you're trying to
16 accomplish by the footnote? And that way it accomplishes
17 what Dr. Ritchie was trying to accomplish, sending the
18 message to the Legislature before the question is asked, that
19 none of these dollars are intended to go to hospital deficit.

20 VICE CHAIR LOVE: Well, the sentence right before
21 what you read, which is the second sentence of that
22 conclusion, says, hospitals have committed to paying their
23 (Zoom inaudible) Medical Malpractice Act, because the act
24 requires that. Does that do it? And I'll just take out the
25 footnote.

1 MEMBER CLARK: I'm comfortable with that. Are you
2 comfortable with, that Dr. Ritchie and Dr. Carson?

3 CHAIR RITCHIE: I believe so. I mean, I would like
4 to see that in writing, but it sounds appropriate.

5 VICE CHAIR LOVE: Well, it's the second sentence of
6 the conclusion.

7 CHAIR RITCHIE: Right, okay. Does anyone on the
8 committee have an objection to that wording? Dr. Carson,
9 does that make that portion of it clear to you?

10 MEMBER CARSON: Yes, I think that helps. I do have
11 one more question. If we should include these numbers that
12 we do have for projection for the Legislature, so the 22
13 million, 20 and 25 that are projected for independent
14 physicians and hospitals as the number 4, with the
15 information for them that these are the projected 2022 costs.

16 MEMBER CLARK: Mr. Chair, if I might, and I
17 apologize, Dr. Carson. I'm going to be a little bit of an
18 accountable here. My only concern with doing that is, those
19 numbers are the projected losses as of the current year that
20 you compare to the surcharges collected through the current
21 year. And if we were to present those, I think you need to
22 present both sides of the equation and be very clear, that
23 while they are clearly variables of what creates the 66.8
24 million, my fear would be, that would be too easily confused
25 between the two and people trying to add up numbers and

1 understand what those differences are between the two.
2 They're not apples and oranges, but they're mandarins and
3 tangerines. It's like talking about the difference between
4 the national debt and the national deficit, they're two
5 different numbers. One plays into the other, but one is the
6 accumulation over time. And also the 66.8 includes in there
7 the projected additional expenses of \$6.1 million as a result
8 of having a third party and the differences from investment,
9 and there's a number of other variables that play into the
10 differences between those that are out there.

11 CHAIR RITCHIE: Mr. Clark, do you have any
12 suggestion then on any way to try to accomplish what
13 Dr. Carson is trying to accomplish, as far as making it clear
14 for the next year or do you think it's just not necessary?

15 MEMBER CLARK: I don't want to be presumptive on
16 what Dr. Carson's trying to accomplish. My preference would
17 be to leave it out to not be confusing to non-accountants and
18 trying to make a complex issue as clear as possible, but if
19 it doesn't accomplish something that she's trying to
20 accomplish, then I think we ought to talk about what that --
21 how we get to there.

22 MEMBER CARSON: I think what I'm trying to
23 accomplish here is, again just kind of going back to trying
24 to give the clearest picture about where the, where the money
25 lands in the buckets. So we have one idea that we put in

1 that says, we have this information, we don't think that it's
2 great, but it's here, but here's another -- but this is other
3 information that we were given that shows that the buckets
4 are split up this way. I'm sure the Legislature is smart
5 enough to look at that, if we can explain it, and say, "well,
6 here we have two different kind of causes or splits for the
7 deficit and we have one that was the projected losses" -- I'm
8 sorry, I don't have that report in front of me, so I don't
9 have the actual words for that. And then we have what came
10 out of Milliman, where we know our data probably not correct
11 because we don't have the hospital-employed physicians taken
12 out of that.

13 VICE CHAIR LOVE: May I address that, Dr. Ritchie?

14 CHAIR RITCHIE: Yes, please, go ahead.

15 VICE CHAIR LOVE: Dr. Carson, I wonder if -- what my
16 intention is, is to attach the -- our findings, as well as
17 the Superintendent's final order to this report. I'm
18 wondering if that would satisfy this issue so that anybody --
19 I think most of the legislators are not going to have the
20 time in this session to really dive deep into a lot of the
21 numbers. But I think you're right, there will be one or two
22 who, like Troy, have an accounting background and will look a
23 little deeper. And I think that maybe attaching those
24 documents so that they have that data in front of them might
25 solve that problem. Would that do it for you?

1 MEMBER CARSON: If that's reasonable, I think
2 something like that would be good.

3 MEMBER CLARK: I might add, I think that might be
4 helpful as well. And I think just to clarify, Dr. Carson, I
5 don't believe that the set of numbers that are in here gives
6 one look at the way it's bucketed and the way I broke out --
7 the way Milliman broke out that I highlighted broke out, are
8 two different looks at it. Because actually, if you take the
9 three numbers that are presented in the report right now that
10 are the projected losses, what queued me off on all this
11 being an accountant is, they actually add up to over 68
12 million, but they don't foot the 66.8 million. It's not two
13 different looks, it's really two different numbers and the
14 projected losses are just certain variables that -- there are
15 three variables that feed into the overall calculation of the
16 66.8, so you're missing a lot of other things like investment
17 income, the surcharges charged, the additional office
18 expenses, the additional third party expenses, all of those,
19 when you net up the 22 million and the 25 million, plus all
20 of those, end up resulting in the 66.8 million. So that's
21 where I was hesitant to present it, because if you only
22 present three numbers out of the equation of ten numbers, I'm
23 not sure what message you're actually sharing with them on
24 there, but it's not two different looks -- two different
25 looks and different ways to split up the bucket, if you want

1 to say it that way. That is not what it is.

2 MEMBER CARSON: Yeah, I'm okay with that, just
3 adding in the information. I think that will -- that makes
4 me happy, having that information to them. Thank you.

5 CHAIR RITCHIE: Mr. Clark, are you or anyone else on
6 the Board, are we happy then with solving some of the problem
7 with not having enough information, by including our report
8 as additional report or addendum to the Advisory Board
9 official report to solve some of that problem with the
10 numbers? Does anyone have an objection to that?

11 MEMBER CLARK: I do not.

12 CHAIR RITCHIE: Okay.

13 MEMBER DEKLEVA: No objection from me, Mr. Chairman.

14 CHAIR RITCHIE: Thank you. Hearing no objection,
15 then we will attach that and it will be part of the report.
16 Have we made any substantial reports then to the proposed
17 report, Ms. Love, from where we first started? Where are we
18 at with the wording?

19 VICE CHAIR LOVE: So under number 3, it will read,
20 "the Milliman Report identified three causes of the deficit."
21 The numbers will be changed to 36,500,000, 20,100,000, and
22 10,200,000. And after the word deficit in number 3, we have
23 a footnote that reads, "the Advisory Board had concerns about
24 the lack of data to identify the portions payouts that should
25 be attributed to independent physicians versus

1 hospital-employed physicians. It attempted to collect
2 additional data, but that data is unavailable as it was not
3 collected at the time of settlement."

4 CHAIR RITCHIE: Does anyone on the committee have a
5 comment on that wording?

6 MEMBER CLARK: For me, I believe that's acceptable
7 and may help me to address the other issue that I want to
8 address further down in the report.

9 CHAIR RITCHIE: Thank you. Anyone else? Do I hear
10 a motion to accept this change to the wording of the proposed
11 document? Who wants to move?

12 (multiple people speaking)

13 CHAIR RITCHIE: Go ahead, Dr. Carson.

14 MEMBER CARSON: I move.

15 CHAIR RITCHIE: Do I hear a second?

16 MEMBER CLARK: I will second that motion.

17 CHAIR RITCHIE: Thank you. Is there any objection
18 to it? Are there any nays? Does anyone have an objection to
19 this proposal? Hearing no objections, the motion is carried.

20 Mr. Clark, did you have a second point?

21 MEMBER CLARK: I do. Mr. Chair, fellow Board
22 Members, the top of page 3, where the paragraph continues on
23 to page 3, the second full sentence, beginning with the
24 second full sentence on the top of page 3, similar to what we
25 just talked about, my concern about using the inability

1 versus the inadequacy, same type of situation here. However,
2 because the PCF has not historically maintained data on how
3 the settlements are allocated, settlement payouts are
4 allocated, I am fine with that part, but then we start a
5 parenthetical that -- sorry, after the parenthetical, as
6 between hospital-employed physicians and independent
7 physicians, I'm okay with that, but then there's this phrase
8 that says, "there was an incentive for the hospitals to
9 attribute settlements to physicians." I will say, my biased
10 opinion, I don't think that is the -- I think there was the
11 potential for an incentive. I don't think any hospital -- I
12 think this could easily be read that hospitals did something
13 to affect the rates. The hospitals didn't set the rates, the
14 OSI set the rates. And I don't believe there's any evidence
15 that's been presented that the hospitals did try to shift
16 anything -- I don't think we tried to monkey with the data,
17 is what I'm trying to say and I don't know that the author
18 here is trying say that we did. There's a lot of potentials
19 that are out there. I would rather remain silent on this,
20 and my hope is that the footnote that we just put in that
21 talked about that data and the concern of the PCF Board as to
22 the adequacy of that data that's not available, would allow
23 us to remove the phrase, there was an incentive for the
24 hospitals to attribute settlements to physicians. And
25 whether or not the next sentence is left in or not, I think

1 the next sentence ties to that and I would recommend
2 removing, skewing of the risk assessment, probably because
3 it's more -- I feel like it's more covered now, and the
4 wording that was just put into the footnote above.

5 CHAIR RITCHIE: Does anyone have a comment on that?

6 VICE CHAIR LOVE: Well, I do. I think we can change
7 the language, but it seems to me that because it was a fairly
8 big conversation, it was the recommendation from Milliman,
9 and it was a fairly big conversation among the Board as to
10 whether or not to continue with the Experience Rating Plan.
11 I think that that topic should be addressed in this report.
12 I'm open to hearing other views of that. But it seems to me
13 that that stood out as sort of a particular issue for
14 determining what is the best way to go forward with risk
15 assessments, because one of the concerns that the Board had
16 after the hearing was, the risk assessments that had been
17 done in the past have not been based on adequate data. And
18 so I think we want to be really clear that that is one of the
19 things that this Board is going to be looking at in terms of
20 its future oversight of the fund.

21 That being said, I'm certainly open to word snipping
22 this so that it doesn't appear to make any accusations
23 against hospitals for doing things that we don't have any
24 evidence to show that they had done.

25 MEMBER CLARK: Mr. Chair and Ms. Love, and maybe

1 Mr. Walker could help with this. I absolutely agree with the
2 long discussions we had around the Experience Rating Plan,
3 and our confusion of it. It may partly be in there, but I
4 believe -- my recollection of the Experience Rating Plan
5 dealt with the allocation between larger hospitals and
6 smaller hospitals and whether to continue that process,
7 really did not have an impact on the allocation between
8 hospitals and independent physicians.

9 And if I may, I would like to hear Mr. Walker, make
10 sure we're clear, because I was one of the ones who was very
11 unclear about the whole ERP in October when we talked about
12 it, finally got an answer. But my current understanding is,
13 the ERP dealt with more the allocation between hospitals and
14 caps on larger hospital systems than it did between
15 physicians and hospitals.

16 CHAIR RITCHIE: Mr. Walker.

17 MR. WALKER: Mr. Clark, you probably understand it
18 better than I do. That's a question I would love to direct
19 to Mr. Baran, but Mr. Baran, who really understands this a
20 lot better than I do, is taking a new job as General Counsel
21 of the Department of Information Technology on Monday, so we
22 aren't going to have his expertise on this. I just have to
23 say, I cannot answer the question because I don't know enough
24 about that subject, and I apologize for that.

25 MEMBER CLARK: If that's the case, I would be open

1 to working -- and any suggestions from Ms. Love, on working
2 with the wording. I don't think the way it's worded it ties
3 it only -- ties those comments only to the Experience Rating
4 Plan, so if we can at least soften this somehow to where it's
5 clear that we're not inferring an accusation the hospitals
6 did something inappropriate.

7 MEMBER DEKLEVA: And if I could make a suggestion
8 perhaps, and this may or may not address the issue, Mr. Chair
9 and Vice Chair. I'll just read this into the record and
10 allow everybody to comment or change it, but maybe we can say
11 something like this, and I'm going to start with the first
12 full sentence on page 3 that reads, for hospitals, the
13 Experience Rating Plan, a system of anticipating losses based
14 on past losses has been used. However, because the PCF has
15 not historically maintained data on how settlement payouts
16 are allocated, as between hospital-employed physicians and
17 independent physicians, and here is my suggested change, it
18 is unclear in some cases how settlements were allocated
19 between various parties. And then we take out the sentence
20 about, this may have skewed the risk assessment, and we just
21 then jump down to the sentence that says, "there is no way to
22 reconstruct that data to determine whether any of the deficit
23 attributed to independent physicians should instead be
24 attributed to hospitals, the Board also recommended that the
25 Superintendent of Insurance and its third-party administrator

1 collect and keep additional data about claims handling so
2 accurate assessments of risk can be done for future rate
3 setting proceedings." And I think that last sentence, by the
4 way, goes to the heart of the matter, we're asking the TPA to
5 start keeping this data. I mean, that's one possible
6 suggestion that I would throw out for the group to consider.

7 VICE CHAIR LOVE: So, Mike, your suggestion is to
8 say, "it is unclear in some cases how settlements were
9 allocated between the parties."

10 MEMBER DEKLEVA: Yes, that's right, Kathy. And it
11 does go -- I think it does keep it -- it presents the issue
12 without getting into how the misallocations may have
13 occurred, to Troy's point, where -- I don't know that we all
14 necessarily recollect how the sum of the discussions on the
15 issue of how these misapportionments, if I can call them
16 that, may have occurred. And it certainly does address -- it
17 does sound -- and it should sound more neutral in terms of --
18 I'm uncomfortable with the language that is currently
19 written, for the same reason that Troy mentioned that he was.
20 If that makes sense.

21 VICE CHAIR LOVE: I'm fine with that change.

22 MEMBER CLARK: Mr. Chair, if I may. Mr. Dekleva,
23 could you read your proposed change again, I believe just
24 before you started, so I -- as I follow along. Are you
25 suggesting to make this -- to start your change right after

1 the parenthetical ends with the words independent physicians
2 and then add in what your change is? And if so, will you
3 read it again so I can try and process it.

4 MEMBER DEKLEVA: Let me read the whole thing, as I'm
5 suggesting it be written, because it does take out a sentence
6 and it would say, "for hospitals, the Experience Rating Plan,
7 a system of anticipating losses based on past losses has been
8 used. However, because the PCF has not historically
9 maintained data on how settlement payouts are allocated, as
10 between hospital-employed physicians and independent
11 physicians, it is unclear in some cases how settlements were
12 allocated between the parties. There is no way to
13 reconstruct that data to determine that data," and we can
14 just put that data, period, or we could keep that sentence as
15 written. "There is no way to reconstruct that data," and
16 then, "the Board has also recommended that the Superintendent
17 of Insurance and its third-party administrator collect and
18 keep additional data about claims handling so that the
19 accurate assessments of risk can be done for future rate
20 setting proceedings."

21 MEMBER CLARK: Mr. Chair, I think I'm okay with
22 that, or even leaving that sentence that -- the second part
23 of the adjustment, there's no way to reconstruct the data to
24 determine whether any of the deficit attributed, as it is
25 written, I'm comfortable with either one of those.

1 VICE CHAIR LOVE: I'm comfortable with the change
2 that leaves in the part about, there's no way to reconstruct
3 the data to determine whether any of the deficit should be
4 attributed to the independent physicians, instead of -- that
5 sentence.

6 MEMBER DEKLEVA: I'm good with that too.

7 CHAIR RITCHIE: Dr. Carson.

8 MEMBER CARSON: I'm fine with that.

9 CHAIR RITCHIE: Going forward, and it is certainly
10 for our communication, a third party administrator and the
11 PCF, that it's important to have this data, to have this data
12 parsed out so that accurate rates can be assessed and
13 accurate assessment can be made of the deficit responsibility
14 between the buckets, as we have been saying. I believe this
15 document includes that, correct? Is everyone in agreement
16 with that?

17 MEMBER CLARK: Mr. Chair, would you like a motion
18 like you asked for before, to accept this change?

19 CHAIR RITCHIE: I believe so. There's been some
20 questions where -- this is the editing by the PCF Board on
21 our report. It is an opening meeting and so the public has
22 been invited to observe, et cetera. There's been some
23 discussion in chat about whether there's a way to reconstruct
24 this data going back, and we've had that long discussion
25 already in Board meetings with Milliman, et cetera, and

1 that's why the emphasis going forward, and to my knowledge
2 the decision -- the assessment was that that data is not
3 reconstructable going back. Does anyone have a different
4 recollection of what our discussions were, just for the
5 edification of the public people observing the meeting?
6 Ms. Love or anyone, do you have any different comment on
7 that?

8 VICE CHAIR LOVE: I don't have a different comment.
9 It's definitely something that we really, really wanted data
10 on and were repeatedly told, both by the Superintendent of
11 Insurance's Office and also representatives of the different
12 parties involved that make up this Board, that we can't
13 recompile the information.

14 CHAIR RITCHIE: That is the way I understood it too.

15 VICE CHAIR LOVE: I think we all feel stuck.

16 CHAIR RITCHIE: Right. And that's why we're making
17 such a big point of going forward, setting it up so that it
18 can be obtained and refined and make sure that that does
19 happen going forward.

20 If there's no other comment on that, then let's have
21 a motion to change that wording to what was proposed by
22 Mr. Dekleva to eliminate the portion of the sentence after
23 the parenthesis, but leave the following sentence intact. Is
24 there a motion?

25 MEMBER CLARK: I make a motion to accept the changes

1 as proposed by Mr. Dekleva. Let me clarify, as agreed to by
2 Ms. Love with leaving in that last phrase, because I think he
3 proposed it both ways, to be clear on which proposal. So
4 leaving in those words, whether any of the deficit attributed
5 to the independent physicians should instead be attributed to
6 the hospitals. My motion is to leave that in, but make the
7 other changes that he recommended.

8 MEMBER VARGAS: I second.

9 CHAIR RITCHIE: Is there any objection to this
10 motion by any members of the Board?

11 (pause)

12 CHAIR RITCHIE: Hearing no objection, then the
13 motion passes. The document is changed. Are there any other
14 proposed changes to the document, questions or comments?

15 MEMBER CLARK: Mr. Chair, I know I continue to
16 dominate this one, I mentioned this earlier. In the next
17 full paragraph, down below on page 3, the printed figure,
18 forty-two-and-a-half million, will just need to be updated
19 commensurate to what we approved as the sum of the numbers
20 that we already voted on, just to be consistent. That
21 number is a sum total of those figures, so it will need to be
22 updated consistent with what we voted on as a Board. Other
23 than that, I have no other proposed changes.

24 VICE CHAIR LOVE: I have changed that to 42.5.

25 CHAIR RITCHIE: That's what it was originally. What

1 would it be changed to?

2 VICE CHAIR LOVE: Oh, wait. No, I changed it and
3 then I guess I rejected my change. 56.6.

4 MEMBER CLARK: I believe that is correct, because I
5 subtotaled everything.

6 VICE CHAIR LOVE: You can see that I am not an
7 accountant.

8 CHAIR RITCHIE: I believe that is what I have as
9 well. We will then change that final paragraph, the deficit
10 of 56.6 million due to physician surcharge, underpayments of
11 batch claim payments, payouts, on behalf of two doctors will
12 remain unpaid barring another solution. But then we discuss
13 the help that hopefully will come from the Legislation, with
14 the recommendation from the Legislative Finance. Is there a
15 motion to make that change to that number?

16 VICE CHAIR LOVE: So move.

17 CHAIR RITCHIE: Second?

18 MEMBER DEKLEVA: I would like to second.

19 CHAIR RITCHIE: Thank you. Any objection from the
20 Board to that change?

21 (pause)

22 CHAIR RITCHIE: The motion passes. I don't hear
23 anyone else wanting to make any further changes to this
24 document, but this is the final opportunity. Does anyone
25 else have any other comments on the content or the wording of

1 this document that will go to the Legislature? In
2 particular, and the point that I was trying to make earlier,
3 does it communicate the intent of what we are trying to
4 communicate to them and the basis that we are trying to give
5 them in this specific case, while we very much support that
6 \$30 million grant to the PCF to help make it whole and help
7 maintain access to the PCF in the care for the people of New
8 Mexico essentially. Does anyone else have anything more? We
9 probably need a motion to accept the entire document as
10 amended. Do I hear a motion?

11 MEMBER CLARK: I will make that motion and also
12 grant great thanks to Ms. Love and others who took the work
13 to do the initial draft, thank you for the efforts.

14 MEMBER VARGAS: I second.

15 CHAIR RITCHIE: Thank you. Let's have a role call
16 on this one.

17 Dr. Carson.

18 MEMBER CARSON: Yes.

19 CHAIR RITCHIE: Ms. Love.

20 VICE CHAIR LOVE: Yes, approved.

21 CHAIR RITCHIE: Mr. Vargas.

22 MEMBER VARGAS: Yes.

23 CHAIR RITCHIE: Ms. Rodarte. Mr. Spitzer. Mr.
24 Martinez. Mr. Clark.

25 MEMBER CLARK: Yes.

1 CHAIR RITCHIE: Mr. Dekleva.

2 MEMBER DEKLEVA: Yes.

3 CHAIR RITCHIE: Chair Ritchie votes yes as well.

4 On to Item 3, Presentation from Integrion.

5 Ms. Luera, I believe that is you. I have been looking
6 forward to this.

7 MS. LUERA: Good afternoon, everyone. Thank you for
8 allowing me some time to share an update with you on the
9 transition of PCF operations from the OSI staff to Integrion
10 Group, who was awarded the contract. I should also mention
11 the contract was signed and fully executed, so everything is
12 compliant with regard to the contract.

13 I'm sharing with you the milestones and how far we
14 have come. We always have to go back to the scope of work,
15 so I have included that for all the different areas defined
16 under the scope of work.

17 As far as admissions, the biggest project we had to
18 undertake was to take over the website and any application
19 portal. This is the portal where the underlying carriers
20 will upload their rosters of physicians, entities, all of the
21 QHPs that are applying for coverage to benefit from the
22 protection of the PCF.

23 So we contracted with Realtime Solutions, a New
24 Mexico based company, to be our partner in this and I am
25 happy to report that everything has been moved on to the

1 Realtime Solution servers. The 2022 rates have been loaded
2 and tested. We had our first batch submitted yesterday and
3 we've had a couple more in the works today that happened
4 without issue. As you know, our goal there was to make it
5 really seamless for all the underlying carriers, and after we
6 get this portion down pat we want to take a look at how we
7 can enhance and hopefully make this a more automated process.
8 We're open to listening to the underlying carriers to hear
9 what challenges they have with this portal. So we have to
10 get through January 1st.

11 As you know, all of the policies had to be canceled
12 and rewritten due to the change in the limits. I think we
13 will hit a milestone here towards the end of January and
14 having a good bit of the submissions uploaded and that, in
15 turn, generates the invoices for the PCF to be able to
16 collect the premiums. That was a big project. Lots of
17 credit to the IT and the PCF staff over at OSI throughout
18 this whole process.

19 As far as audit, we've had several meetings with the
20 OSI finance staff. One of the major elements of this scope
21 of work is to do a presentation to the Superintendent and the
22 PCF Advisory Board, so that will happen on an annual basis.
23 It's my hope, maybe once we get past legislature we can have
24 another time to chat during the meetings to talk about what
25 sort of content you want to see beyond the basic, surcharges

1 collected versus payments out, so we will be looking forward
2 to that. Another piece that goes into the audit in the
3 operations of the PCF is the monthly report as to surcharges
4 collected and claim space, so we will do that on a monthly
5 basis. We can certainly be available to provide that to the
6 Board or present it at the Advisory Board meetings, whichever
7 the Board might prefer.

8 Books and records. We will now be sort of the
9 custodian of the records and make sure compliance with the
10 Public Records Act. We have set up secure one drive folders
11 for PCF staff to start sharing their files with us so that we
12 can take them on and inventory them. There's also some paper
13 documents that we're going to have to schedule a time to go
14 up there and pick up. So again, once that happens we have to
15 inventory them. Anything that is paper that is able to be
16 scanned we will be scanning in and creating a designated
17 secured repository for all the PCF documents.

18 With regard to budget and fiance. We had a great
19 meeting earlier this week with the finance staff. We have a
20 real strong understanding of the budget process, how we're
21 reconciling the surcharges and what -- we had a little bit of
22 education as well with regard to some of the state standards
23 with regard to accounting. And of course here at Integrion
24 we have our own internal accounting controls and we talked
25 through those with OSI and PCF finance staff and they seem

1 comfortable with that, so we will be a partner in that
2 process. Because of some of the requirements of state
3 government there are some pieces of the finance over
4 operation that will still need to be overseen by PCF staff or
5 OSI staff, in particular their CFO, so we will be, honestly,
6 just a partner in that process and will work very closely
7 with them in the reconciliation of the monies that are coming
8 in and going out.

9 As far as the claims process, most of you know this
10 is something that Integrion has been doing for a little more
11 than a year now. So the claims process is continuing with
12 little change. The authority requests are still being sent
13 to Mr. Walker at OSI for review with the Superintendent, so
14 that's been a pretty seamless process. Hearing the
15 conversation that has just taken place with regard to the
16 report from the Legislature, I do want to assure the members
17 of the Board that we have taken as the highest priority the
18 ability to allocate share of fault when we are settling
19 claims. So one of the big internal processes that we have as
20 we are attending mediations and attempting to settle claims
21 is that the adjuster knows when it comes time to settle on
22 that final number there has to be agreement going forward in
23 terms of allocating fault. So I hope to have more
24 information for you on how that's going in a future meeting,
25 but that's an internal process that we have implemented here

1 at Integrion. And then of course we will be able to report
2 on that as well. That's going to be the key element.

3 As far as continuity and succession, our first
4 milestone is going to be to take the policies and procedures
5 documents that we received from OSI and make them our own.
6 So we have found the need to, and again this goes with
7 continuity and succession, put a little more detail into the
8 policies and procedures we have right now and create a
9 reference guide and a help guide. I think for the carriers
10 who are attempting to upload their batches and their
11 underwriting information, as well as having really good
12 training documents here for our staff so that there's always
13 a backup and there's never a delay in any of the process that
14 would have to take place.

15 And then we're also working on a calendar of events
16 for 2022. And I know that's something the PCF Board is going
17 to discuss as well, but we just want to make sure everything
18 is on the calendar. Deadlines is something that's our
19 responsibility, we're allowing certainly more than enough
20 time to comply with the deadlines and have the information or
21 whatever the deliverable is for all the PCF stakeholders.

22 As far as data, we talked a lot about this. The
23 other enhancement I wanted to share with you is that we have
24 added fields to our Claims Management System to account for
25 the required lost data. So if an enhanced series of required

1 fields required to set up a claim to issue a voucher for
2 payment and to quote the claim. So there are processes in
3 place to make sure that all that data is being collected and
4 the claim will not be able to move forward or close if those
5 pieces are not in place.

6 The general administration. So we obviously will
7 have to add some positions to take on all the
8 responsibilities of the PCF and that's really being finalized
9 right now. For those of you who know the name Ann Kirby,
10 she's been one of the adjusters who has been handling and
11 adjudicating the claims that we have for the PCF. She's
12 recently been promoted to manager overseeing the department.
13 So we will be looking for another liability adjuster to
14 replace her. She will continue to adjust until her
15 replacement is in place, but she's the person here who has
16 the greatest understanding of the claims process, the data
17 needed, and the measures we need to have in place to make
18 sure that we are collecting the data that's going to be
19 needed for the actuarial study of the rate setting.

20 We set up a general email address and that's
21 pcf@integriongroup.com for all inquiries that are coming in
22 whether it's an attorney requesting a coverage inquiry,
23 somebody just has a general question, and those all -- so we
24 felt that just having one email address was the best way to
25 go right now, those go to myself and Ann Kirby and as the

1 staff beefs up it will include additional folks on that
2 email. We also updated the website so it contains Integrion
3 contact information. We've updated some of the FAQs to
4 reflect the new changes to the app. So I would encourage
5 anybody who is interested to revisit the PCF website and
6 review some of the changes that have been made and if anybody
7 has comments on the content or possible enhancements, I would
8 love to hear about those.

9 And then as far as insurance, the requirement for
10 Integrion to maintain certain levels of insurance, all of
11 that necessary coverage is in place.

12 So obviously as the custodian of the records, we
13 will be responsible for responding to any IPRA requests that
14 come in and so we are awaiting our first IPRA to come in. I
15 won't say we're anxiously awaiting, but we know it's going to
16 happen and will be prepared to handled that appropriately and
17 timely on behalf of the PCF.

18 The IT milestone, again was the website and the
19 application portal moving from one server to the next and of
20 course updating the 2022 rates in the system. I can't take
21 credit for the 2022 rates. Sandra Ramirez at the PCF was the
22 one who tested those and when that was handed off to us it
23 was working perfectly. So very happy with that. And as I
24 mentioned before, we will be looking at ways to make
25 enhancements to the processes, the portal and the website as

1 we get a little further than six days into the contract.

2 Legal, that was another area that we talked a lot
3 about when we were interviewed for the RFP and where we
4 landed was that Integrion will be hiring in-house counsel to
5 -- I don't know if it's possible to fill the shoes of Bryan
6 Brock and Al Walker and Rick, but we're going to try. So
7 we've been interviewing attorneys this week and I think we're
8 real close to making an offer to somebody. We've had some
9 really, really strong and qualified candidates. We're not
10 going to wait for that person to be in place, but at the next
11 milestone I'm sure I'll be happy to hear that we will be
12 scheduling a meeting to take over -- to formally take over
13 all of the legal work that he's ready to hand off to us.

14 Surcharges and deposits. So Integrion is performing
15 all the tasks related to the surcharges and the batches being
16 uploaded, reviewing them, invoicing and approving, making
17 sure the payments are received timely. Obviously PCF staff
18 is holding our hand a little bit as we work through this
19 transition. As I said, they've been fantastic, but that
20 responsibility is solely on us now and we just reach out to
21 them when we have a question or an issue that we're stuck on.

22 The rates are loaded. January will be busy. So
23 then the next obviously big milestone that's coming up is the
24 actuarial RFP and so we would like to get going on that as
25 soon as possible and so I'll be looking to probably Anna

1 Krylova and the Superintendent, and again the PCF Advisory
2 Board on pulling the trigger on that so that we're not up
3 against those super tight deadlines that you all were up
4 against when trying to make the rate recommendation of this
5 past year. So that, obviously, is something that's very big
6 on our radar and that we want to get ahead of as soon as
7 possible.

8 So just a summary of the major milestones, just
9 transitioning the application portal, taking over that work
10 of reviewing the batches and invoicing the underlying
11 carriers as they're coming in, making sure the 2022 rates
12 continue to be 100 percent accurate. And, of course, making
13 things seamless for our carrier stakeholders. We've had a
14 couple of hiccups, we've had a couple of people we knew that
15 reset their passwords, but other than that it's been fairly
16 smooth.

17 And again, have actuarial RFP definitely on our
18 radar and we continue to have open communication with the
19 carriers as things change, as things get updated, as we maybe
20 find something that's maybe a little different from how
21 things used to be with them, we continue to communicate with
22 everyone so that all the carriers have the same information.

23 And that's the end of my formal presentation. And
24 so I'm happy to answer any questions if anybody has some for
25 me.

1 CHAIR RITCHIE: I have one question. When do you
2 see that request, the RFP, for the actuarial study would
3 ideally go out?

4 MS. LUERA: I was reviewing the rules and the
5 statute and I noticed that there was a date tied to the
6 actuarial study. Forgive me, I'm not remembering the correct
7 language. So when I say, "we need guidance," I think that's
8 probably a question for OSI. Do we need to wait for that
9 specific date to pull the trigger on anything or is that
10 something we could be working on right now? Because, like I
11 said, I would like to get a jump on that as soon as possible.
12 Again, I would like to get to it out in 30 to 45 days if
13 possible.

14 MR. WALKER: If I may, Dr. Ritchie.

15 CHAIR RITCHIE: Yes.

16 MR. WALKER: I'm not sure what rule you're referring
17 to, Debbie, but I think you can get started right now. And
18 I'll double-check our rules to make sure, but I think we were
19 all hoping for an early selection of an actuary this year.

20 MS. LUERA: Absolutely. Al, if it's okay with you
21 I'll send you that language that I noted that there was a
22 date. Maybe it's just a procedural date and doesn't have
23 anything to do with the RFP itself.

24 MR. WALKER: What we have done in the past is
25 because of the fiscal year transition, we have always waited

1 until July, but we have always had a little more time. We
2 haven't had a legislative deadline for establishing the
3 rates, so I don't think this year we're going to worry about
4 which fiscal year that report falls into. So if that's what
5 it is, then there's no reason at all to wait.

6 MS. LUERA: Great. Thank you. So I will get a copy
7 of the last RFP that went out, take a look at it, make some
8 modification, and follow the proper procedure. I'm assuming,
9 I hope I'm right, that the PCF Advisory Board would want to
10 take a look at that RFP before it goes out.

11 CHAIR RITCHIE: I believe so. I don't know if it
12 states in the statute or -- Mr. Walker, do you have any input
13 on that as well?

14 MR. WALKER: And I am sorry, I also don't have the
15 statutory language at the tip of my tongue. But I believe
16 that the Superintendent hires the actuary in consultation
17 with the advice of the Advisory Board. And I always hate to
18 speak for the Superintendent, but I don't think that he will
19 have any problem with seeking your advice on that question.

20 CHAIR RITCHIE: I was going to propose a next
21 meeting for this board to take place at the end of February,
22 so after the end of the legislative session. Is that good
23 timing to review that RFP or do you feel like you would try
24 to get that out earlier, Ms. Luera?

25 MS. LUERA: I will take a look at the last one, and

1 depending on what I think -- if there are a lot changes or
2 maybe not so many changes that need to happen, there's a
3 chance it could get out earlier, but we'll definitely set
4 that as a hard deadline, as the latest possible. And if it's
5 ready earlier I will let the Superintendent know, and you as
6 well Dr. Ritchie.

7 CHAIR RITCHIE: Thank you.

8 VICE CHAIR LOVE: Dr. Ritchie, I don't feel like the
9 Board needs to review the RFP. What I think that the Board
10 needs to have input on is the actual hiring of the actuary.

11 CHAIR RITCHIE: And I concur with that, as far as
12 that part of it, and I don't know if the Board wanted to see
13 the RFP before it went out, I think is the question. I am
14 certainly at the will of the Board on that. Does anyone have
15 a comment on whether we want to see the actual RFP or just
16 want to hear about the responses and the actual selection of
17 an actuary?

18 MEMBER CLARK: I would concur with Ms. Love on this
19 one. Generally an RFP process ends in the interviewing of
20 final candidates, and the RFP is to cover a base group of
21 information that can be brought to that final, we would have
22 the opportunity to interview and ask questions at that point.
23 So I would be very comfortable with not being part of the RFP
24 review, that's more of an editorial thing and just part of
25 the process of the selection in review of final candidates.

1 HEARING OFFICER WALKER: Thank you. Any other
2 comments?

3 MS. LUERA: If that is the will of the Board, then
4 we'll just certainly keep everyone updated in terms of, that
5 it's ready and it's going out and then we can talk about
6 timeline for reviewing the responses and possibly setting up
7 interviews with the finalists.

8 CHAIR RITCHIE: Thank you. And I appreciate your
9 evaluation and being anxious to get it on the road so that we
10 get things going in a very timely manner, we really
11 appreciate that.

12 MS. LUERA: Absolutely. Thank you.

13 CHAIR RITCHIE: Any other questions or comments from
14 the Board?

15 VICE CHAIR LOVE: I have a different issue to raise,
16 I'm not sure if you're ready for that. Are you ready for New
17 Business?

18 CHAIR RITCHIE: If there are no other comments or
19 questions on the presentation from Ms. Luera, then yes, I
20 have no problem going forward to New Business for the Board
21 and then we'll go to Schedule of Events and public comment.

22 VICE CHAIR LOVE: As you all know, we hired counsel
23 to serve in an advisory capacity to this Board. Vince Ward
24 is on this call, he is the lawyer who we hired. Since the
25 beginning of the year Mr. Ward is now no longer with the firm

1 that he was with before. He has his own practice.
2 Congratulations, Vince. But what that means now is that we
3 need to go through the progress of an RFP. I think that is
4 in progress, and Mr. Ward is going to put in a proposal under
5 the RFP. But for sort of reasons that are technical and
6 beyond my expertise, under the State Contracting
7 requirements, I just wanted to let everybody know that that
8 process is going to happen.

9 CHAIR RITCHIE: Thank you.

10 MR. WARD: This is Vince. I just want to jump in
11 really quick. I think that it is necessary to put on the
12 next Agenda a vote to do that; that is, to put the legal
13 contract out for an RFP.

14 VICE CHAIR LOVE: Can we do that now, can we make a
15 motion to --

16 MR. WARD: I don't believe so, because it wasn't on
17 the Agenda previously.

18 VICE CHAIR LOVE: This is why we have a lawyer
19 advising us. We will get that on the next Agenda. Thanks,
20 Vince.

21 MR. WARD: Thanks, everyone.

22 CHAIR RITCHIE: Thank you. I would have thought
23 that the time would have been now to do that, but since it's
24 not on the Agenda, it can't be done, I guess. Then that will
25 appear on the next Agenda.

1 Then strictly following our Agenda, the next item
2 would be Schedule of Events for Year 2022. As I just
3 mentioned, I believe we should have a meeting, the timing
4 seems to be most appropriate to be right after the session,
5 since what happens in the session would certainly have a
6 bearing on our discussions going forward, particularly with
7 the recommendations from the Legislative Finance Committee.
8 We will just have to nail down the exact date in the future
9 after discussion and polling, but at the end of February.
10 Does anyone have any discussion on that or feel like that's
11 too soon or too late? That's the biggest break we've gotten
12 to take so far, so I thought people would kind of be happy
13 about it.

14 Schedule of Events for the Year 2022, that obviously
15 is the first one, is to get the actuarial study rolling. And
16 so that would be where we would presumably be able to hear
17 back from Integrion on the process of the RFP for the
18 actuarial study. We will also put on that Agenda the RFP for
19 an attorney, counsel for the Board. And we will discuss the
20 Agenda further. If anyone has anything more to put on that
21 Agenda, I would like to hear it, but also Schedule of Events
22 for Year 2022 further on.

23 As Ms. Love said, some of this is in statute that we
24 are all still getting used to and so timingwise some of it
25 may be a little bit constrained, but we still start with the

1 study and then obviously by the fall we have to put together
2 recommendations for the Superintendent. Does anyone else
3 have any other comments on our Schedule of Events for Year
4 2022? Seeing none, I think it really is one step at a time,
5 but we will get to take approximately a six-week, seven-week
6 break, and then get started at it again, and I think that
7 will make everyone happy. Hearing no more comments on that,
8 that's our schedule coming up.

9 That leads to the final item, Public Comment.
10 Certainly we welcome having comment, that's why these are
11 Public Open Meetings. Dr. McAneny wishes to speak. so
12 please, Barbara, you are up.

13 DR. MCANENY: Thank you much, Mr. Chair, for
14 allowing me to comment, but it seems a bit pointless after
15 the document is already determined and sent. But I will
16 comment also for the record, that I was the lead Plaintiff on
17 the original suit against the previous Superintendent. I
18 read those reports. I can think of two ways that we would be
19 able to retroactively get the data of whether or not a given
20 event, a lawsuit, should be attributed to a hospital-employed
21 physician or an independent physician.

22 Whenever we credential a physician with a health
23 plan, we must determine their employment date. Every health
24 plan and the licensure boards demands this information
25 without any gaps. So if Milliman or any other actuary or the

1 Superintendent has the name of the physician and the date of
2 the occurrence, they should be able to get that attribution.

3 Secondly, either hospitals or practices have to
4 issue W-2s to all their employees and therefore, it is simple
5 to require that any person who is accessing the Patient
6 Compensation Fund should disclose who submitted their W-2.
7 You don't need to know the amount of the W-2, but you need to
8 know who was submitted and that would accurately attribute
9 physicians.

10 The third possible way is to see who did the billing
11 for that physician for that event. We all submit bills to
12 health plans. When we submit bills from the practice, the
13 practice submits the bills. If they're billing under the
14 hospital, the hospital is submitting the bills. So I think,
15 frankly, it's a little bit disingenuous to say that it is
16 impossible to go back and get this information. I think it
17 is eminently possible and should have been done, because I
18 think the numbers, as mentioned by Dr. Carson, are probably
19 very inaccurate because the attribution of claims to a
20 physician that is independent or hospital employed and was
21 significantly flawed. Thank you.

22 CHAIR RITCHIE: Thank you. And I think those record
23 all the comments, although there was certainly a lot of
24 debate on that. I am open to any comments from the Board or
25 others involved, including Mr. Walker, et cetera, they would

1 be in response to that and whether they felt that that was
2 looked at and considered.

3 (pause)

4 We have all these attorneys on and no one has a
5 comment on that.

6 MEMBER CLARK: Mr. Chair, I believe that the issue
7 is not the difficulty in unbundling the claims allocation, it
8 was not over the date of the employment or worked for, it was
9 whether there was a lump sum settlement, what portion was
10 allocated to physician or hospital, what was not done in a
11 settlement, whether it was one lump sum settlement done and
12 you can't retroactively go back and make those allocations,
13 it would be arbitrary at best, argued by either side who is
14 favored or disfavored by what the arbitrary allocation was.

15 DR. MCANENY: Mr. Chair, may I comment.

16 CHAIR RITCHIE: Go ahead.

17 DR. MCANENY: I think that's irrelevant. I think
18 it's irrelevant because if the physician is employed by a
19 hospital, a hospital employs the attorneys and determines the
20 settlement. So whether the settlement was created as partly
21 the hospital and partly the physician is irrelevant. The
22 question is whether or not that physician was an independent
23 physician or not. And if the hospital determines the
24 settlement, it doesn't matter how much they attributed to the
25 misdeed of the physician, it should go into the

1 hospital-employed bucket.

2 CHAIR RITCHIE: So you're saying that if the
3 settlement and the agreement to settle was determined by the
4 hospital, then obviously the hospital had to be the employing
5 entity and has to be responsible for the whole amount for the
6 physician to be counted as an employed physician.

7 DR. MCANENY: As you may recall, when we were suing
8 the previous Superintendent the issue was, if the independent
9 physicians were the only ones who were taking on the risk and
10 funding the Patient Compensation Fund, everything would have
11 come from the independent physicians. The question came in
12 on whether or not when the hospitals entered the fund and the
13 deficit began to appear at the time the hospital entered the
14 fund was attributed to hospital-employed physicians or
15 independent and that's really the question.

16 CHAIR RITCHIE: All right. Thank you. Certainly
17 there are varying opinions on that and I think a valid way
18 going forward to making sure we have the data as well and
19 perhaps another question to put to any actuary looking to use
20 the claims experience and the past data obviously to make
21 their recommendations going forward.

22 DR. MCANENY: Thank you.

23 VICE CHAIR LOVE: I would also add, that we still
24 have to go through the same process for the next several
25 years before the hospitals are no longer in the fund and so

1 one of the things that can be done is that someone who has
2 the know-how and the access to, or the ability to get that
3 data, could intervene in the action before the hearing
4 examiners and question the report of the actuary when they're
5 addressing the deficit, but I assume that that would have to
6 be addressed again in the coming two years.

7 CHAIR RITCHIE: I think each year the study will be
8 presented and there will be a public hearing on it and we
9 will get to examine the report and how they did it with data
10 they used and how they parsed it and certainly if we see that
11 they are not refining it in that way and we're not getting
12 that data on how to attribute the claims, then I certainly
13 think we can bring that up, absolutely. And I think that's
14 part of this committee's charge, is to point out things like
15 that for the Superintendent to take into account.

16 Any other public comment on these proceedings?

17 (pause)

18 CHAIR RITCHIE: Well, I thank everyone for
19 attending, participating. I thank everyone for the hard work
20 they did in coming up with this, particularly Ms. Love and
21 Mr. Clark on how much effort you put into the report. And as
22 I said, plan on the next meeting being at the end of
23 February. We will come up with an exact date after polling
24 the Board. Until then, please support your legislator in
25 that recommendation by the Legislative Finance Council, as

1 that was also the recommendation by the Superintendent and by
2 proxy this Board.

3 I will certainly entertain a Motion to Adjourn.

4 VICE CHAIR LOVE: So moved.

5 MEMBER CLARK: I will second.

6 CHAIR RITCHIE: Thank you very much,
7 everyone. Have a good afternoon.

8 (Meeting concluded at 4:18 p.m.)

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REPORTER'S CERTIFICATE

I, Kim Kay Shollenbarger, Registered Professional Reporter, do hereby certify that I reported the foregoing proceedings in stenographic shorthand via Zoom and that the foregoing pages are a transcript of those proceedings taken to the best of my ability.

I FURTHER CERTIFY that I am neither employed by nor related to any of the parties and that I have no interest in the final disposition of this case.

Kim Kay Shollenbarger, RPR