NEW MEXICO PATIENT COMPENSATION FUND

ADVISORY BOARD MEETING

MONDAY, OCTOBER 25, 2021

TUESDAY, OCTOBER 26, 2021

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)

ALBEN MARTINEZ, MEMBER, (remote)

TANYA RODARTE, MEMBER, (remote)

EZRA SPITZER, MEMBER, (remote)

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1 VICE CHAIR LOVE: Okay, let's go ahead and call the
2 meeting to order and do a quick roll call just to make sure
3 that we have a quorum of the Board. This is Kathy Love, I'm
4 present. I'm just going to read the names off, if that's
5 okay.
6 Troy Clark.
7 MEMBER CLARK: Present.
8 VICE CHAIR LOVE: Dr. Karen Carson.
9 MEMBER CARSON: Present.
10 VICE CHAIR LOVE: Ezra Spitzer.
11 MEMBER SPITZER: Present.
12 VICE CHAIR LOVE: Dr. Ritchie will be joining us.
13 Ray Vargas.
14 MEMBER VARGAS: Present.
15 VICE CHAIR LOVE: Mike Dekleva.
16 MEMBER DEKLEVA: Present.
17 VICE CHAIR LOVE: Tanya Rodarte.
18 (silence)
19 VICE CHAIR LOVE: Alben Martinez.
20 MEMBER MARTINEZ: Present.
21 VICE CHAIR LOVE: Thanks, everyone. So we have
22 before us a fairly hefty Agenda and some discussions to have
23 regarding the evidence that was presented at the recent
24 hearings.
25 So first of all, I just want to make sure that

1 everyone has received a copy of the meeting Agenda and ask
2 whether or not we have a motion to approve the Agenda.
3 MEMBER VARGAS: This is Ray Vargas. I move to
4 approve the Agenda.
5 VICE CHAIR LOVE: Is there a second.
6 MEMBER DEKLEVA: This is Mike --
7 MEMBER CARSON: Karen Carson. Second.
8 VICE CHAIR LOVE: Thank you. Is there any
9 opposition to the Agenda? We have received a copy of the
10 minutes, which is basically the transcript from September 9th
11 and from the October 8th meeting. Since they are word for
12 word transcripts I will entertain a motion to approve those
13 meeting minutes.
14 MEMBER CLARK: This is Troy. I move to approve.
15 VICE CHAIR LOVE: Is there a second? Can I get a
16 second?
17 MEMBER VARGAS: This is Ray. I second.
18 VICE CHAIR LOVE: Thanks, Ray. Is there any
19 opposition? So those will be approved.
20 So let's get into the discussion of the evidence
21 presented and hopefully everybody received this afternoon a
22 copy of the Proposed Findings of Fact and Conclusions of Law
23 and let me just tell the rest of the committee members what
24 my understanding is and how I think we're going to be going
25 forward with those proposed findings and that is, that we

1 are, as a Board, tasked with submitting a recommendation to
2 the Superintendent of Insurance and we have a Word version of
3 the proposed findings and it is our job to figure out what
4 part of those proposed findings we intend to adopt and what
5 we would like to change about it.
6 So my thought is that first, we can have a
7 discussion about the evidence and about those findings
8 generally, and then perhaps we should talk about how we want
9 to go about, if there are any changes that we want to make to
10 those findings, how we go about doing those and what the
11 procedure should be after that.
12 So first of all, I would just like to open up the
13 floor for a conversation about those findings and anything
14 anybody wants to make sure that we discuss with regard to
15 them. Is there anybody who wanted to get that discussion
16 started?
17 MEMBER CLARK: This is Troy. I don't mind opening
18 with some remarks.
19 VICE CHAIR LOVE: Please do.
20 MEMBER CLARK: Thank you, Madam Chair. I think we
21 need to remember that our role as an advisory board is to
22 recommend to the Superintendent a sustainable plan. And I
23 think there were a number of good questions that were raised
24 during the evidentiary hearing presented into evidence and
25 now seeing the report that comes from Mr. Baran submitted in,

1 I think there's some components that I would recommend that
2 we take into consideration as a Board, recognizing that an
3 actuarial calculation that is submitted may be able to
4 accomplish getting things to curing the deficit within a time
5 period, but I would propose that there's a couple of other
6 items in there that the actuary actually caveated his report
7 with and that is reminding us as Board members, as they
8 presented their report, that the calculations as they have
9 presented them are dependent upon the participation in the
10 Fund, both by hospitals and doctors, remain constant. That
11 there is not a loss of participants involved in there.
12 So they have recommendations that they have made in
13 the report, some of which I think the facts bear out some of
14 the situations that are there. I think there are some
15 discussions we need to have about in regards to what I will
16 refer to as the batch claims that we discussed, and that that
17 20.1 million probably is not appropriately attributed to the
18 physicians and surgeons per their report, that was a decision
19 made outside of the construct of the Patient Compensation
20 Fund protocols and guidelines and rules, but that we need to
21 be considerate also of the impact of the decisions of the
22 mathematical calculations on that caveat that the actuary and
23 Mr. Baran overly emphasized over and over on maintaining that
24 number of participants and that we don't drive people from
25 the Fund, which has a corresponding impact to the greater

1 good of the citizens of the State of New Mexico and being
2 able to access (Zoom inaudible) don't want to make decisions
3 that drive people away from the State to provide and produce
4 the number of care providers (Zoom inaudible) but starting
5 point for discussion.
6 VICE CHAIR LOVE: Was there anybody who wanted to
7 follow up on that?
8 MEMBER VARGAS: Yeah, this is Ray Vargas. I agree
9 with what Troy said. I think the fact of the matter is, we
10 all share a common goal of making sure that the Fund remains
11 or becomes and remains solvent and becomes accessible both
12 for the physicians and hospitals, as well as the people of
13 New Mexico.
14 So I think in considering what we do or what we
15 recommend to the Superintendent, we need to find a way to
16 strike a balance based on the evidence that was presented to
17 us. And one of the observations that I have to make is that,
18 although the New Medical Malpractice Act requires hospitals
19 to get their portion of the deficit cured within five years,
20 it does not put such a time limit on the individual
21 physicians. So in looking at the recommendation of the
22 actuary, I think we need to take that into consideration, the
23 fact that there may be additional time and should be
24 additional time available to the individual physicians.
25 VICE CHAIR LOVE: Because I'm not able to see

1 everybody, I'm calling in, if anybody else has any other
2 comments along those lines, please speak up.
3 MEMBER DEKLEVA: This is Mike Dekleva. I concur in
4 the remarks made by Mr. Clark and Mr. Vargas.
5 VICE CHAIR LOVE: So what I am hearing is, that
6 number one, we all agree in the overarching goal of the
7 committee to, number one, ensure that essentially patients
8 are protected, make sure that the Fund is solvent eventually.
9 And importantly, ensure that doctors' practices are
10 sustainable in the State of New Mexico so that we don't lose
11 important health care.
12 There is a huge deficit to what I view as sort of a
13 long history of mismanagement during previous
14 administrations, and that some of those problems that led to
15 this deficit include the batch claims that amount for about
16 $20 million worth of the deficit. The difficulty and lack of
17 tracking in settlements to determine sort of what buckets, as
18 we were talking about the other day, the settlement would fit
19 into, whether hospital-employed or independent doctors. And
20 then problems with the risk assessments that we think may not
21 have been done on fully sound insurance principles, and
22 appropriate data having not been requested of the hospitals.
23 And then there was also a concern that the hospital
24 data is short term and so claims haven't matured, and so we
25 could be facing additional deficit issues. So what I would

1 propose that this committee incorporate into a recommendation
2 is an indication that we think that a strong third-party
3 administrator is going to be important going forward, that
4 adequate data collection be insured, that there be future
5 proper tracking of settlements, and that for now we not
6 recommend that the physicians have to fix the deficit just
7 yet, that we recognize that there is a longer period of time
8 over which the physician portion of the debt can be cured and
9 recommend the increases for hospitals, but a -- increases and
10 surcharges for doctors, but not the additional deficit
11 repayment.
12 And then recommend further study and work by this
13 committee in concert with hopefully the third-party
14 administrator and the Superintendent of Insurance Office to
15 find a solution going forward, whether it be a longer time
16 period, ten years or so, to resolve the doctor deficit or
17 what other creative solutions we might be able to come up
18 with with additional time.
19 Does anybody have any comments along those lines?
20 Or disagreement. Please feel free to chime in with
21 agreement.
22 MEMBER MARTINEZ: This is Alben Martinez. I
23 actually completely agree. I'm obviously coming in late to
24 this whole process, and I spent a lot of time kind of looking
25 back at the transcripts from the previous meetings, so really

1 trying to get abreast of the situation and what we're looking
2 at. And I do feel that same way, that if we do raise things
3 way too much, not even necessarily like truly raise
4 something, but if the perception is there that is really
5 high, it can scare providers out of the Fund and then go into
6 that spiral that we're talking about.
7 VICE CHAIR LOVE: Thank you.
8 MEMBER CLARK: Madam Chair, this is Troy again. I
9 think I would look at, and from the executive summary slides,
10 and I know we don't have them up here, but on pages 15 and
11 25, the actuary actually produced a bar graph that showed the
12 increments of the various components of the increases that
13 were proposed, that I thought was helpful breaking out to
14 say, "this much of the increase relates to the true risk
15 assessment," (Zoom disruption) sorry, there was some
16 background noise there. The true risk assessment in what the
17 value of the claims is, this much is attributable to the
18 change being from base coverage going from 200 to 250,000 as
19 the attachment point.
20 You have this much that is attached to the running
21 of the PCF with a TPA and what the associated expenses are
22 there. And I was going to say, one is on page 15 for the
23 physicians, one is on 25. And then you've got another
24 component that deals the repayment of the deficit. As you
25 stack those on top of each other, looking at what the

1 potential increment could be. I guess the other one I failed
2 to mention that is in there is, also in the adjustment to go
3 from one confidence level to another.
4 Historically we have been at the actuarial central
5 point, and we have been given numbers in the reports that get
6 us to a 70 percent confidence level and 80 percent confidence
7 level and 90 percent confidence level, and although those
8 produce a higher confidence level or a higher likelihood that
9 the estimates cover the needed losses, to move from one to
10 the other is a one-time hit to move to a higher confidence
11 level.
12 And I think the staffing of all of those in trying
13 to accomplish it all in one year has a huge potential
14 detrimental impact on that one caveat that I mentioned
15 earlier of maintaining the same stable number of participants
16 in the PFC. And so while they may each independently have
17 wisdom to them, I think trying to do them all in one year
18 creates a significant risk to that caveat.
19 VICE CHAIR LOVE: Would anybody else like to speak
20 to that point? There's another point that I wanted to raise
21 that is in the Findings of Fact and Conclusions, was a
22 recommendation from the Milliman Study and that is the
23 suggestion that the current system move away from the
24 hospital-experienced rating system, the ERP. And I would
25 like to hear thoughts about this.

1 My concern, and I'll just put that out there and see
2 what other people think is that, I don't think we know enough
3 about the system and the merits of moving away from the ERP.
4 And I would also think that it would be something that we
5 would want to have involvement from a third-party
6 administrator in making that decision.
7 So my proposal would be that we defer that decision
8 making until we have a third-party administrator who we can
9 work with on that topic. But I'm interested in hearing what
10 others think about that.
11 MEMBER CLARK: This is Troy. I would say, amen.
12 MEMBER VARGAS: This is Ray Vargas. I would just
13 make the observation that, although it was recommended to us,
14 we didn't hear any particular evidence or learn anything
15 about that particular view of hospital claims, risk. I just
16 wish we had a lot more information, because nobody explained
17 it to us or explained why it was or was not working, so I
18 think it would be premature to just toss it out at this
19 point.
20 MEMBER CLARK: This is Troy again. I --
21 MEMBER DEKLEVA: This is Mike Dekleva. I'm sorry,
22 go ahead.
23 MEMBER CLARK: I concur and say that, I think the
24 risk is -- I think we've heard a little bit, like Mr. Vargas
25 has said. But I fear that we haven't heard any of the

1 position of why it was used or what the industry trend is
2 that may be the counter-argument to removing it, to feel
3 comfortable to know that we should move in that direction or
4 not.
5 So I support deferring that decision, which I am
6 guessing by my, and obviously I'm not the insurance casualty
7 expert, but I do believe that we could move forward with a
8 rate proposal and defer taking action on that one component
9 with the actuary's recommendation.
10 VICE CHAIR LOVE: Do my members of the Board have a
11 contrary position on that topic?
12 MEMBER CLARK: Madam Chair, I did hear Mike Dekleva
13 trying to say something and I --
14 VICE CHAIR LOVE: Oh, I'm sorry.
15 MEMBER CLARK: I didn't mean to talk over him, but
16 given the nature of this, can't see faces, I apologize, Mike.
17 MEMBER DEKLEVA: Oh, no problem, Troy. And I would
18 just simply echo the thought that this is a decision that
19 could be deferred. I think that a properly qualified TPA
20 could be a great resource to the Board and to the
21 Superintendent in giving us additional information and
22 guidance on how some of these decisions, like the one we're
23 discussing about deferring, can be handled. So I'm in
24 agreement with Ms. Love's and Mr. Clark's statements.
25 VICE CHAIR LOVE: Do any other Board members have

1 any other issues to raise with regard -- before we talk about
2 how we proceed next, any other issues with regard to what
3 people would like to see in the report or concerns about what
4 they want to make sure does not go into the report?
5 MEMBER VARGAS: This is Ray Vargas. I think
6 something I would like to see in the report are some
7 recommendations for the type of data that should be looked at
8 in the future. I was quite frankly surprised that, for
9 example, certain claims history was omitted because it didn't
10 have a cap on it. Whereas, it seems to me that it makes more
11 sense to look at those claims that exceed a cap in assessing
12 the risk of a particular entity. There were a lot of just
13 things -- questions that aren't answered by Milliman or the
14 report and I would recommend using a different actuary in the
15 future.
16 VICE CHAIR LOVE: This is Kathy. I agree with those
17 points. Anybody else want to address those?
18 MEMBER CLARK: This is Troy. I would say that I
19 think, for the most part, I concur on the data. I'm not
20 certain whether it takes a different actuary or just the
21 actuary being provided more clarity on the assumptions, but
22 there clearly was -- I think we had an actuary who mentioned
23 that he had not read through House Bill 75 and some of the
24 nuances that were there, so that would be the only part that
25 I would say, I'm not sure if it's the actuary or the

1 assumptions that they were provided, because their
2 calculations actually seemed to make sense that they placed
3 in there.
4 VICE CHAIR LOVE: Well, if there are no other
5 comments or no other topics of discussion about the details
6 of what should or should not be included in the report, I
7 would like to move to a conversation about what's the next
8 step and how do we get these Findings of Fact and Conclusions
9 done so that the Superintendent can move forward as soon as
10 possible within this very short deadline.
11 We have our counsel, Mr. Ward, Vince Ward, is on the
12 call as well. Mr. Ward, I'm inviting you to jump in, if you
13 have any suggestions to keep us from running afoul from many
14 of our rules, since this is a little bit different in the
15 past, since we're serving as a hearing officer as a committee
16 rather than as an independent individual hearing officer.
17 So what I would suggest that we do, if this is okay,
18 is that we choose a couple of people who can take these
19 comments and incorporate them into the draft that we have
20 from counsel for the Superintendent of Insurance's Office and
21 work together to make a final -- a proposed final proposal to
22 provide to the Board members and reconvene for a short
23 meeting tomorrow to do a vote on that final version.
24 Mr. Ward, would that be -- would that sound kosher?
25 MEMBER CLARK: Madam Chair, this is Troy. Can I ask

1 one housekeeping measure? There are several participants in
2 this call who have phone numbers showing as their name who
3 are not on mute, who we keep getting background
4 interruptions. If we could ask everyone who dialed in by
5 their phone to please put their phone on mute.
6 VICE CHAIR LOVE: Good idea. Would everybody please
7 mute your phones, we've got lots of background and it's
8 making it hard to hear.
9 (pause)
10 VICE CHAIR LOVE: So I guess the first question is,
11 I'll ask Vince to weigh in if we're doing anything improper.
12 But with that suggestion that we come up with a smaller group
13 of people who can finalize this proposal based on the
14 conversation we had today and then reconvene tomorrow
15 afternoon. Does anybody have any comments about the merits
16 of doing it that way?
17 MR. WARD: This is Vince, and I concur. This is the
18 correct way to proceed. I've been in communications with the
19 Superintendent's office just to keep them apprised of the
20 timing of the recommendation and also the path for getting
21 there and we think that this is a sound way to do it.
22 One procedural matter is, before the meeting is
23 convened today, what we need to make clear is that the
24 meeting will be reconvened for tomorrow at a particular place
25 and time, so we need to address that. And we need to be very

1 clear that the meeting tomorrow is a continuation of today's
2 meeting in order to complete the Agenda.
3 VICE CHAIR LOVE: Okay. So with that, do any
4 members of the Board have any comments or discussion about
5 that proposed process?
6 (silence)
7 VICE CHAIR LOVE: Vince, do we need to make this by
8 a motion and a vote of the Board or can we just declare this?
9 MR. WARD: I would just make sure that it's
10 reflected in a vote so that it's clear that it's a decision
11 of the Board.
12 VICE CHAIR LOVE: I'm going to move that what we do
13 is, we reconvene this meeting tomorrow in order to complete
14 the Agenda to have a final vote on a final version of the
15 Findings of Fact and Conclusions to propose to the
16 Superintendent of Insurance, and that we defer to a smaller
17 group of individuals to wordsmith those findings based on the
18 conversation and the wishes of the Board that were expressed
19 during our discussion about the hearing and about the
20 proposal, that that final draft be circulated to the Board
21 members as soon as possible, and that we reconvene tomorrow
22 by Zoom at 2:30 p.m.
23 MEMBER VARGAS: This is Ray Vargas, I second that.
24 VICE CHAIR LOVE: All in favor?
25 BOARD MEMBERS: Aye.

1 MEMBER CLARK: This is Troy.
2 MEMBER MARTINEZ: This is Alben Martinez. Aye.
3 MEMBER VARGAS: Ray Vargas. Aye.
4 MEMBER CARSON: Karen Carson. Aye.
5 VICE CHAIR LOVE: Kathy Love. Aye.
6 MEMBER SPITZER: Ezra Spitzer. Aye.
7 MEMBER DEKLEVA: Mike Dekleva. Aye.
8 VICE CHAIR LOVE: Great. Any opposition?
9 (pause)
10 VICE CHAIR LOVE: That's how we'll proceed. I think
11 the next thing that we need to do is recruit a couple of
12 volunteers to do the wordsmithing, because wordsmithing, in
13 my experience, is no fun with too big of a group. So I would
14 ask for a couple of volunteers.
15 I think the obvious choices might be the lawyers in
16 the group, but I'm open to whoever is willing to do it. And
17 I'm happy to help. I've got a deposition tomorrow, so I'm
18 going to need a little bit of help sort of carrying the
19 laboring oars.
20 (pause)
21 VICE CHAIR LOVE: Ray and Mike, would you be willing
22 to help?
23 MEMBER VARGAS: This is Ray. I can help.
24 MEMBER DEKLEVA: This is Mike Dekleva, I can help,
25 but I'm in a meeting all morning tomorrow and so I cannot

1 take the lead laboring oar on the drafting. I am available,
2 however, to review and to make comments.
3 VICE CHAIR LOVE: Well, how about you, Troy, would
4 you be able to assist with this?
5 MEMBER CLARK: Yes, I believe I can make that
6 happen. I only have one meeting that I have to work around.
7 VICE CHAIR LOVE: Okay, great. Okay, if there are
8 no objections to that plan, that's how we will proceed.
9 Going back to the Agenda. We're deferring number 3
10 to the continued meeting tomorrow. And let's have an update
11 on the selection of the third-party administrator.
12 MR. BROCK: Thank you, Vice Chair Love. This is
13 Bryan Brock, with the OSI. The evaluation committee has met
14 twice to discuss proposal evaluations and there are
15 evaluation committee interviews that will be held Wednesday
16 afternoon. Board members are invited to attend. It's
17 certainly not mandatory or required, but at that meeting the
18 proposers, or bidders, will provide an overview of their
19 proposal each independently. In other words, there will be a
20 specific time set up for a specific offer.
21 Evaluation committee members may ask questions to
22 seek clarification on the offer, but if there are Board
23 members that choose to attend and if a Board member has a
24 question, that Board member should send that question through
25 the chat function, these will be held via Zoom, through the

1 chat function to Anna Krylova. Anna can pose the question
2 that the Board member has, but she will ask it as an
3 evaluation committee member. That will be a way for Board
4 members who choose to participate and who have questions to
5 be involved in the process.
6 So again, those will be held Wednesday afternoon.
7 Melissa will send out more specific invitations very soon.
8 And again, it's not mandatory that you attend, but it's an
9 opportunity if you would like to. The evaluation committee
10 will have a final recommendation by October 29th and the
11 contract process, assuming everything goes according to plan,
12 should be initiated November 5th.
13 VICE CHAIR LOVE: This is Kathy Love. I have a
14 question. As I understand it, there were initially two
15 applicants and one of them backed out, so we just have one
16 now, is that still true?
17 MR. BROCK: So because this is a competitive
18 process, Vice Chair Love, the details about the status of any
19 offers or offerors must remain confidential.
20 VICE CHAIR LOVE: So that means that we find out who
21 the applicants are on Wednesday when we attend the
22 interviews?
23 MR. BROCK: Correct.
24 VICE CHAIR LOVE: Is the contract a year-to-year
25 contract?

1 MR. BROCK: So the initial contract is year to year
2 with the ability to extend the contract, should the OSI and
3 the Board wish to do.
4 VICE CHAIR LOVE: Thank you.
5 MR. BROCK: Thank you.
6 MEMBER CLARK: This is Troy. If I could ask the
7 question. Does that mean if we find out who the participants
8 are on Wednesday, that the outcome could be a selection of
9 one or no selection of any of the applicants, that they may
10 be as a result of the interviews that any or all may be
11 deemed inadequate, is that a potential outcome?
12 MR. BROCK: Mr. Clark, by the end of the process
13 that could be the outcome. We're certainly hoping that that
14 isn't the outcome. And part of the purpose of the interviews
15 is to try and get some clarity to try and get some confidence
16 in what's being offered. But you're absolutely right, it
17 could be that the Advisory Board and the Superintendent
18 believe that there is not an offer that is in the best
19 interests of the PCF or of the State.
20 MEMBER CLARK: Thank you. And we would hope that we
21 could find someone as well, but I think just earlier, from
22 all of our conversations on the Board, very high level of
23 concern about the competency of that TPA and the role that
24 they fill.
25 MR. BROCK: It is an important role, I agree with

1 you.

2 VICE CHAIR LOVE: Any other questions? At this time
3 I would like to open the meeting up to public comment.

4 MEMBER CLARK: Madam Chair, this is Troy. Before we
5 go to public comment, and I apologize for not following the
6 Agenda closely enough. Could we go back, for Mr. Vargas and
7 I's benefit, and maybe just talk about some of the high level
8 -- have a continuing discussion of Item Number 2 to make
9 certain that what Mr. Vargas and I assemble tomorrow, we at
10 least have agreement from the Board on the structure and it's
11 really more of a review tomorrow of the exact wording.

12 VICE CHAIR LOVE: Sure. I will let you lead that
13 conversation.

14 MEMBER CLARK: Maybe I would put out there, because
15 I don't know that we talked about specific details. I think
16 we're all in agreement conceptually about how much pain could
17 be borne, but I may throw out there as a starting point for
18 discussion of this group to lead Mr. Vargas and I down the
19 right path, that maybe I'll just make it as a recommendation,
20 some of the bullet points that we'll work out the wording on
21 and get everybody's reaction. But my recommendation would be
22 that we keep the physician and surgeon confidence level at
23 the central actuarial level and -- which is a 19.7 percent
24 increase. But I think I sense that we all had a tone of not
25 applying an additional increase over and above that for

1 repayment of deficit from the physician and surgeon
2 perspective at this time, that we would keep the hospital and
3 outpatient facilities -- I think you have to keep both groups
4 at the same confidence level. It would be really odd to have
5 two different confidence levels. So keep the hospital and
6 outpatient facilities at the central confidence level, which
7 is an 18.1 percent increase, but they also have a proposed --
8 I had to calculate the amount -- 4.8 percent additional
9 increase for deficit repayment since the hospital and
10 outpatient facility portion is mandated by the statute to be
11 repaid over five years.
12 I do believe Mr. Vargas made a recommendation about
13 deferring any decision on the -- it's referred to as an ERP.
14 I apologize, I'm forgetting what that stands for, but -- one
15 second here.
16 VICE CHAIR LOVE: It's essentially the experience --
17 MEMBER CLARK: Experience rating plan. To defer
18 that beyond any decision right now. And then I would also, I
19 think I heard discussion around the batch claims and
20 segregating the $20.1 million attributable of the deficit to
21 the batch claims into its own category to be determined also
22 how to deal with that after a date of tomorrow.
23 So maybe we could reopen the discussion of peoples
24 thoughts as a starting point, if that's consistent with
25 peoples considerations and Mr. Vargas and I can move forward

1 from that and work on the wording to match up against the
2 recommendation that came from Mr. Baran.
3 VICE CHAIR LOVE: This is Kathy Love. I agree with
4 those points. What I do not think that we want to do is make
5 a finding that the 4.8 percent additional increase for the
6 deficit is a -- I don't think we want to make a finding as to
7 the specific amount of the deficit that is attributable to
8 the hospitals versus independent physicians. I oppose making
9 a finding on that, because I think that there was such a
10 problem with the data and the analysis, that I don't think
11 that we want to make a finding that the analysis was accurate
12 on that. But I do agree with the 4.8 percent increase for
13 the repayment of the deficit for this year.
14 MEMBER CLARK: Maybe said another way, at least if
15 that's the best information we have at this point, make that
16 assessment so it starts that repayment process and if it
17 needs to be modified in future years because of changes,
18 obviously it would have to be modified to meet the repayment
19 obligation.
20 VICE CHAIR LOVE: Yes, I agree with that.
21 MEMBER CLARK: I'm comfortable with that.
22 CHAIR RITCHIE: Madam Vice Chair.
23 VICE CHAIR LOVE: Yes.
24 CHAIR RITCHIE: This is Bill Ritchie. I sincerely
25 apologize for arriving late, courtesy of Southwest Airlines.

1 VICE CHAIR LOVE: And I will happily pass you the
2 baton.
3 CHAIR RITCHIE: Well, it sounds like you're doing a
4 very good job and I have missed quite a bit, I missed a lot
5 of the discussion. I don't know what discussion it was on
6 the ERP. Milliman suggested that that be dropped, that
7 discount be eliminated. And so I wonder, was there more
8 discussion on that? I also would like there to be a
9 physician representation on the wordsmithing, I would
10 certainly volunteer for that as well. But was there more
11 discussion on the ERP?
12 VICE CHAIR LOVE: The upshot is that we all agreed
13 that there wasn't enough information submitted for us to
14 decide to continue forward with the ERP or dump the ERP, so
15 we're going to do some more studies of that and hopefully
16 have input from hopefully a fabulous new third-party
17 administrator after this week.
18 CHAIR RITCHIE: I don't know if it was brought up in
19 the meeting so far, but I am concerned that we do have this
20 finite time that the hospitals and other entities have to
21 supposedly pay back or bring the Fund to right with regards
22 to the deficit that can be attributed to hospitals, et
23 cetera. And that because of the way that suits take time to
24 mature, I believe Milliman stated it was somewhere around
25 four years or so, plus or minus, that I'm concerned that once

1 that they are sun-setted out of the act, that there will
2 still be suits coming in that they will have a financial
3 responsibility for, so to speak. It's almost like that we
4 need to establish, or somehow think about the repayment as
5 including some sort of tail or have funding to accomplish
6 that as well, to account for suits that live past their time
7 in the PCF. And I wonder if anyone has a comment on that?
8 MEMBER CLARK: This is Troy. I would just say that
9 I think the concept of a tail is already built into the PCF's
10 structure by being on an occurrence basis and what that
11 future potential payout is, is re-evaluated every year. So,
12 yes, there is potential for it to be either direction,
13 overfunded or underfunded at the end based on the estimates.
14 But as far as a tail formally, and I don't know if
15 you were suggesting a tail or just comparing that to the form
16 of it, but that's built it. But right now the actual dollars
17 that we have in the PCF don't go out on the same timeline as
18 when the occurrences occur, because you're funding it
19 prospectively for what will come in down the future based off
20 the estimates of the report.
21 So in theory, if the actuaries were exactly correct,
22 at the end it would be a net zero balance. I realize there's
23 still that risk that exists and I think that may be why over
24 the five years that we are in we, as the Board, may want to
25 consider moving from a central actuarial estimate to a 70th

1 or 80th percent confidence level to increase the certainty
2 that that balance is accurate enough to cover those claims
3 coming in, but I'd go back -- and I know you missed this
4 conversation earlier, Dr. Ritchie, I think trying to do all
5 of these things in the first year would have a severe impact
6 on the number of participants we have in the current year.
7 But I would think that may be the way that we attack
8 this in future years as we meet, is increasing that
9 confidence level to a greater level of confidence as we near
10 that separation point and get to see what some of that
11 trending is over the next two to three years.
12 CHAIR RITCHIE: Thank you, Troy. I think that's
13 exactly what my point is, that we need to really consider
14 that because of the lack of data both in time and in depth so
15 that we may need to increase that confidence level to
16 accommodate that, exactly.
17 The difference whether the ERP is continued or not,
18 is a large amount. Has there been any more discussion on
19 that? Because that is a big number value and I'd hate for
20 anyone to get in a deeper hole than everyone is already in,
21 by us making a mistake early on and not having a large
22 enough, or too large for that matter. We all know that this
23 has built up over time and that the longer something goes on,
24 the bigger the mistakes can become. Is there any way to get
25 more information on the ERP? Has anyone come up with that in

1 the discussion earlier?
2 VICE CHAIR LOVE: Well, do you mean for this
3 recommendation to the Superintendent or do you mean after
4 this for future?
5 CHAIR RITCHIE: I think in our recommendation to the
6 Superintendent to build in any discussion, recommendation,
7 that if the Superintendent is confident that the ERP
8 discussion by Milliman is accurate and would represent --
9 elimination of it would represent the better way to go or not
10 eliminating it pending more information. I guess it's
11 whether we decide to let the Superintendent, with his
12 knowledge of insurance, be able to judge Milliman's
13 recommendation on the ERP.
14 VICE CHAIR LOVE: This is Kathy Love, for the
15 record. We can only proceed with our findings and
16 conclusions and our proposal to the Superintendent based on
17 the evidence that was presented at the hearing, and I think
18 that there was a consensus that we just didn't have
19 sufficient evidence to decide whether to keep or dump that
20 process for risk assessments. So our recommendation was
21 going to be to defer that decision until we can gather more
22 information and have the advice of a third-party
23 administrator. I don't think that impacts what the findings
24 will be with regard to the rate setting in this go-around.
25 MEMBER VARGAS: This is Ray Vargas. I would also

1 add that what we do is make recommendations and I think the
2 Superintendent can accept or reject them as he sees fit in
3 his position as the fiduciary of this Fund.
4 MEMBER MARTINEZ: This is Alben Martinez. I think
5 one of the things with the ERP is that it does seem like the
6 -- it does have merit in how it is trying to bring us certain
7 standard of quality, but it also sounds like, through the
8 discussion at the hearing, that some systems can learn how to
9 subvert the system and to take different actions that may not
10 be necessarily illegal or unauthorized, but use it
11 inappropriately.
12 MEMBER CLARK: This is Troy. I would also add, I
13 think I agree with Mr. Vargas's comments about the
14 Superintendent. If he feels more educated on this, obviously
15 he can move in the direction that makes sense. But I would
16 also add that I think our recommendation, if I read the
17 report correctly, if we don't eliminate it, it actually
18 collects surcharges at an 18.1 percent rate -- I'm sorry, an
19 18 -- a rate that includes an 18.1 percent increase versus a
20 3.6 percent increase, which if the decision is later made, so
21 it's the more conservative of the decisions, if the decision
22 later is to remove the ERP, those extra surcharges collected
23 as a result of deferring in the grand scheme, would go to
24 having a lower deficit at the end of 2022 when we meet again
25 to set 2023 rates. So I don't think this is a recommendation

1 that actually puts us more at risk, it's the more
2 conservative of the two, if I interpret this correctly.
3 CHAIR RITCHIE: Does anyone else have any more to
4 comment on that? I think that we still don't know enough
5 about the ERP and so I think our recommendation there is
6 going to be -- it seems like it's going to be pretty vague to
7 the Superintendent, which is fine. He has the expertise to
8 make that call and he has Milliman's report to go by as well.
9 MEMBER CLARK: I would concur, Mr. Chair, as well as
10 saying, if my interpretation is not correct, it's not the
11 more conservative, and he feels that there is a more
12 conservative decision, he has that insight and knowledge to
13 make that decision to make sure we're acting in the best
14 interests, because we all declared, even before you got on, a
15 consistent intent of where we're headed with this and
16 creating a sustainable plan in getting that deficit cured.
17 So we certainly don't want to do something that
18 would be exacerbating the deficit. So I would one, be
19 looking to the Superintendent who is much more knowledgeable
20 on this ERP issue to make certain that he understands both
21 sides, the positives, the negatives, the pro and cons, that
22 weigh into that, which I don't feel comfortable at this point
23 that I have enough knowledge to give counsel a recommendation
24 to him on.
25 CHAIR RITCHIE: It sounds like the whole committee

1 is in agreement there then. So are there any other questions
2 or comments or any old business to go back to?
3 MEMBER CLARK: I would just ask, Mr. Vargas, if
4 we're going to be drafting this together, anything else that
5 you think we need to make certain that we can do an effective
6 job by tomorrow at 2:30?
7 (pause)
8 MEMBER VARGAS: I think we have our marching orders.
9 Troy, I'll work on this in the morning and try to get a draft
10 to you and Dr. Ritchie to look at so we can hammer things out
11 before we present it to the rest of the Board at 2:30.
12 MEMBER CLARK: Sounds good. Thank you, Madam Vice
13 Chair and Mr. Chair, for allowing us to have that additional
14 conversation so we can try and bring back something that's in
15 line.
16 CHAIR RITCHIE: Absolutely. Thank you, gentlemen,
17 very much for agreeing to start that, and I look forward to
18 getting that first draft and looking it over. It does not
19 seem like it should be that controversial. I think all of
20 the people who have worked on this, all of the Board and all
21 of the people at the OSI who have bent over backwards to
22 generate data for us and find data that at first people
23 didn't think was available, for us now to get a
24 recommendation to Mr. Toal in an extremely short amount of
25 time. We're not going to do it this way in the future. I am

1 sure that we will have much more time in the future with much
2 better deadlines to work with starting in 2022, so that we
3 can do it in a much more controlled fashion and even more
4 transparent.
5 Madam Vice Chair, am I missing anything on the
6 Agenda?
7 VICE CHAIR LOVE: The next thing that we were about
8 to call for is public comment.
9 CHAIR RITCHIE: Exactly. Is there any public
10 comment? Please raise your hands, if so. Melissa can give
11 us a heads up on whose hands maybe up, if we miss it.
12 (pause)
13 MS. GUTIERREZ: No hands are raised.
14 CHAIR RITCHIE: Thank you.
15 MS. GUTIERREZ: You're welcome.
16 CHAIR RITCHIE: Shattering silence here. Well, I
17 don't know if I can take that as a good sign or a bad sign.
18 I will choose to take it as a good sign. If there's no more
19 comment and no more comments from the Board, then we can
20 adjourn this and we will meet overnight, in the morning, and
21 then again tomorrow afternoon. Or not meet as a Board, but
22 start wordsmithing our recommendations based on this meeting
23 to formally give to Mr. Toal, and then present tomorrow
24 afternoon.
25 MR. WARD: Chairman, this is Vince Ward. Can I just

1 speak up for a point of order?
2 CHAIR RITCHIE: Please do.
3 MR. WARD: I suggest that you frame this as a recess
4 and then reconvening rather than an adjournment.
5 CHAIR RITCHIE: Thank you. Even I as a novice in
6 the legal world can see the value to that.
7 MR. WARD: And then can I make one other point.
8 Melissa, can you work to ensure that there's the posting, if
9 possible, of the reconvened on whatever platform you've been
10 doing that?
11 MS. GUTIERREZ: Yes, sir, that will be posted to the
12 PCF website.
13 MR. WARD: Thank you very much.
14 MS. GUTIERREZ: And we will be using the same Zoom
15 link and log-in information.
16 MR. WARD: Excellent.
17 VICE CHAIR LOVE: Melissa, will you please on all
18 future meetings of the Board also include Mr. Ward on
19 notices?
20 MS. GUTIERREZ: Great, I can do that. Is that your
21 email address, Mr. Ward?
22 MR. WARD: That's correct.
23 MS. GUTIERREZ: Okay.
24 CHAIR RITCHIE: Excellent. If there's no other
25 comments, then we will recess for now.

1 VICE CHAIR LOVE: May I make one last comment, Dr.
2 Ritchie. Chairman, thank you. The only last thing I wanted
3 to say is, thank you very much to Bryan Brock for a great
4 presentation, for getting us your materials in a very short
5 turnaround, to Ms. Krylova for all of the data that you
6 pulled together and the constant fielding of requests from
7 different members of the Board, and for all the staff, thank
8 you very, very much for making this as efficient process as
9 it could possibly be under the circumstances.
10 MR. BROCK: Vice Chair Love, this is Bryan Brock.
11 While I very much appreciate the comments, it was Todd Baran
12 who really did the work to prepare the presentation for you.
13 VICE CHAIR LOVE: You're right, and thank you for
14 all your work and for his work as well. And I apologize, I
15 intended to include him primarily. Thank you.
16 CHAIR RITCHIE: Absolutely, that is what I mentioned
17 earlier, the staff at the Office of Superintendent of
18 Insurance has been wonderful and has worked very hard on all
19 this with very short time and we really appreciate the work
20 you've done for us, for the State, and I appreciate now more
21 than ever before how much work you guys do. Thank you very
22 much. We will then recess the meeting until tomorrow.
23 (Meeting in Recess)
24 OCTOBER 26, 2021
25 CHAIR RITCHIE: Have the members of the Board had a

1 chance to read the recommendations as they were written up by
2 the members of the Board selected to do so? Are we ready
3 then to open the meeting to discuss and open it to any
4 additional edits by other members of the Board?
5 MEMBER CLARK: Mr. Chair, this is Troy. I have read
6 it.
7 MEMBER DEKLEVA: Mr. Chair, this is Mike Dekleva. I
8 have also read it.
9 MEMBER VARGAS: Mr. Chair, this is Ray Vargas. I've
10 read it.
11 MEMBER SPITZER: Mr. Chair, this is Ezra Spitzer. I
12 have just read it, thank you for the time.
13 VICE CHAIR LOVE: This is Kathy Love. I have no
14 objection to opening it up for comments.
15 MEMBER CARSON: Karen Carson. I have also read
16 this.
17 MEMBER MARTINEZ: This is Alben Martinez. I have no
18 objection to opening it for comment.
19 CHAIR RITCHIE: Okay, then we'll call the Board
20 meeting back into session from our recess. I believe that
21 will suffice as a roll call, what we just did.
22 So we are now in receipt of basically our written
23 edits to the recommendations by the Office of the
24 Superintendent of Insurance and we now are going to have a
25 period of time for this Board to further comment or have any

1 additional edits to our initial proposal before we finalize
2 it with a vote to send it on to the Superintendent.
3 I will now open the floor -- actually, first, I
4 believe -- I think, Mr. Dekleva, did you wish to present the
5 actual written work and the changes/recommendations on it to
6 the Board and the meeting?
7 MEMBER DEKLEVA: Mr. Chairman, I think Troy Clark
8 was going to do that, if I'm not mistaken.
9 MEMBER CLARK: That's correct. Mr. Chair, this is
10 Troy. I can walk through the changes just to highlight for
11 everyone, and then it would be my recommendation to go
12 through completely the substantial changes that we have made
13 to the document that this is based upon and then we can open
14 up for conversation, if that works for you.
15 CHAIR RITCHIE: Thank you. I just wasn't sure which
16 one of you is, my phone wouldn't tell me who is who. Thank
17 you.
18 MEMBER CLARK: Not a problem, okay. Board, I'm
19 going to carry through and I will try and make reference to
20 page numbers as we go through. We took the document that we
21 were all familiar with that we read through prior to
22 yesterday's meeting and made adaptations to it as we felt
23 necessary. So I will share with you, and I will ask Mr.
24 Vargas and Ms. Love to commentate along with me if I miss
25 anything.

1 I will start off by saying, that I think under the
2 Findings of Fact listed on page 1, numbers 1 through 7, there
3 were no material changes. A couple of grammatical things.
4 The first area that we would call out is on page 2,
5 sub-bullet point number 9, subtopic E, we did make a change
6 to that to the wording that is now there, saying that as part
7 of the actuarial study they reviewed the current hospital
8 experience rating plan and recommended using a manual rating
9 system than the ERP, just to be clarified, for some later
10 discussion that we're going to have.
11 If we proceed down to number 12, this paragraph,
12 these next couple of paragraphs actually changed as a result
13 of some of the recommendations that we have that differ from
14 the Milliman/OSI recommendation. It says, "the Fund deficit
15 is attributable to a long history of mismanagement during
16 prior administrations. The Fund deficit grew partly as a
17 result of so-called batch claims, multiple claims against one
18 physician that arise out of a similar scheme or type of
19 procedure. Partly due to the failure to raise surcharges
20 that independent physicians, when recommended, and possibly
21 related to other factors for which there is insufficient data
22 to support."
23 Moving on to page 3, number 13, we also changed
24 this. And 14, I'll go through both of those. The ability to
25 accurately allocate deficit obligations is complicated by

1 historical failure to track Fund administrators, to track the
2 appropriate allocation of -- that should read, the historical
3 failures of Fund administrators. Ray, if you will make note
4 to make that edit, that it says, historical failures to
5 track, that's a duplication. It needs to be, of Fund
6 administrators to track the appropriate allocation of
7 settlement payments among hospitals, hospital-employed
8 physicians and independent physicians. So it's recognizing
9 the fact that historically that data wasn't capture, there
10 was no historical allocation, so there's nothing to go back
11 to.
12 Number 14, clarifies 20.1 million of the individual
13 QHP deficit was caused by settlement payouts for the
14 so-called batch claim. We are recommending the amount should
15 be removed from the overall deficit attributable to QHPs and
16 should be segregated with a separate plan to extinguish that
17 debt. You'll see that when we get down to the
18 recommendations at the end.
19 I'm going to skip over several of the next items, as
20 there were no material changes. Many of them there were no
21 changes at all. All the way down on to page 4, down to item
22 number 24, commencing in 2020 the PCF rating plan for
23 hospitals included an experienced rating plan known as the
24 ERP component. The ERP operated to reduce the total
25 surcharges paid in 2020 and 2021 by larger hospitals,

1 resulted in the PCF collecting 12.3 percent less in
2 surcharges from hospitals in 2021 than would have been
3 collected had the ERP not been implemented.
4 Continuing on to 25, 26 and 27, you will see we also
5 now highlight in reference to that ERP that although it was
6 recommended that the ERP should be eliminated, that
7 recommendation being made by Milliman, the committee found
8 that not enough information about the ERP and how it
9 functioned was presented. The decision of whether to
10 eliminate the ERP should be made after further study by the
11 OSI and the qualified third-party administrator that is to be
12 retained.
13 26 then gets into some details about the
14 calculations, and so the changes that were made here were
15 really made to references within the executive summary report
16 that the 2021 is surcharge rates for hospital QHPs are
17 carried forward to 2022. The hospital QHP participation
18 levels remain constant. The PCF will collect 26.9 million
19 and change in surcharges in 2022, which will result in an
20 underfunding of projected losses by approximately 1.4
21 million. To eliminate the projected underfunding at the
22 central confidence level the hospital QHP surcharge rates
23 would need to increase by 3.6 percent for the 2022 PCF plan
24 year, which becomes 18.1 percent based on the ERP if it is
25 not eliminated. Applying a 3.6 percent surcharge increase,

1 2021 hospital rating plan exposure factors yields the rates
2 per exposure reflected in the column headed 2022 PCF rates on
3 page 26 of Exhibit C, which is the executive summary. Slides
4 we received yesterday entered as Exhibit C, which these will
5 need to be recalculated based upon the recommendation to not
6 eliminate the ERP.
7 I'm on number 27 now. The term confidence level
8 refers to the probability that rates will generate sufficient
9 income, recover projected losses. Changing the confidence
10 level, the increase in the base coverage level, the PCF
11 exposure and addressing the deficit all in the same year
12 poses significant threat to the goal of maintaining a stable
13 number of participants in the PCF. Therefore, the PCF
14 Advisory Board does not recommend implementing the
15 recommended change to the confidence level this year, but
16 does encourage that recommendation to be considered in future
17 years. This goes back to our conversation yesterday of,
18 since it is not required by the statute, it is the intent to
19 get there, but we also don't want to drive a number of
20 participants out, which affects the underlying assumptions
21 made by Milliman in their report.
22 Jump down on page 5 to paragraph 31, in the middle
23 of this paragraph, two lines up from the bottom of the page,
24 we made some edits to this since. This allocation was based
25 on anecdotal evidence that was not by testimony or documents

1 at the hearing. In the future the PCF should attribute lost
2 payments for employed physicians, going to the top of the
3 next page, directly to the hospitals. Further, if a
4 non-employed physician and the hospital are both the subject
5 of a claim, the PCF should endeavor to allocate lost payments
6 made on behalf of hospital and non-employed providers based
7 on a reasonable estimate of comparative fault. So this
8 refers to that data that just doesn't exist because the
9 allocations haven't been made, but prospectively going
10 forward, if we end up in a situation where there is a claim
11 with a non-employed physician, as well as a hospital, then we
12 would ask the PCF to ensure that there is an allocation
13 between the two categories or to make that allocation so it's
14 by a third party, not by either side.
15 Carrying down, the last couple of items here, number
16 24. Based on evidence presented, including the information
17 about the lack of data regarding the appropriate allocations
18 between hospital-employed physician settlements, the
19 remaining 58.7 million of the PCF deficit is allocated to
20 individual provider QHPs, both employed and independent, and
21 to the entities owned and operated by these providers.
22 On Exhibit B, section -- that's done on Exhibit B,
23 page 10. The statute does not require independent providers
24 to extinguish their proportionate share of the deficit in any
25 particular time period and therefore, not required to

1 extinguish their share of the deficit in five years, because
2 hospital surcharges will be based in part by the aggregate
3 amount of the individual surcharge amounts for its employed
4 providers, the hospital will pay the Fund deficit assessment
5 allocable to employed providers by rating class as shown on
6 Exhibit C, page 16. So this is the whole discussion of what
7 we laid out previously, that we are not recommending, as you
8 will see in the recommendations that are just about to follow
9 here, an allocation to the recovery of the deficit on the
10 independent providers, but we are on the hospitals, and
11 calling in Section 41-5-25(E) of the statute, that it doesn't
12 require that to be done. So given the situation, we don't
13 want to drive the number of participants out of the Fund,
14 we're recommending not doing that this year.
15 35, the deficit reduction plans are predicated on
16 the assumption that provider and hospital participation the
17 PCF stable over the next five years. We felt it important to
18 highlight and call that out in this last item, because that
19 is the basis of our recommendation for not making the
20 allocation and also for not implementing any change in the
21 confidence level.
22 So based on these findings, now on page 7, you will
23 see listed A through J the recommendations that we are
24 proposing to make that will open this up for discussion and I
25 will go through each one of these explicitly and then turn

1 the time over for questions.
2 A, the PCF should further study, in conjunction with
3 the OSI and the third-party administrator to be retained,
4 either to eliminate the ERP. The ERP should not be
5 eliminated this year. PCF surcharges should be assessed at
6 the central confidence level for all QHPs resulting in a 19.7
7 percent increase in surcharges for individual providers and
8 provider-owned entities and an 18.1 percent increase for
9 hospitals and outpatient facilities.
10 C, the risk classifications for individual providers
11 set out on pages 16 to 20 of Exhibit C should be adopted for
12 use by the PCF.
13 E, the PCF should defer the proposed deficit
14 reduction plan for individual QHPs.
15 F, 20.1 million of the individual QHPs deficit due
16 to the so-called batch claims should be placed in a separate
17 category of deficit and a separate plan to extinguish that
18 deficit should be studied.
19 G, the PCF surcharges for provider-owned entity
20 should be assessed at the 10 percent of cumulative individual
21 QHP surcharges for all individual QHPs who practice within
22 that entity and deficit assessment should be assessed at 10
23 percent of the aggregate deficit assessment amounts
24 recommended on page 16 of Exhibit C.
25 H, hospital outpatient QHP surcharges should be

1 assessed according to the rating plan that appears on page 26
2 of Exhibit C, plus the surcharges and deficit reduction
3 amounts for employed providers that are shown on Exhibit C,
4 page 16.
5 Going forward, the PCF and its actuaries in
6 conjunction with the selected third-party administrator
7 should collect additional data about claims, including but
8 not limited to allocating employed providers settlement
9 payments to the hospitals and in cases of hospitals or
10 hospital employees that include claims against individual
11 QHPs, the PCF should estimate an allocation of comparative
12 fault and allocate the comparative share of any payments
13 appropriately on new settlements.
14 J, these should become effective January 1, 2022.
15 Mr. Chair, I hope that covers the highlights of the
16 changes we made. We have attempted to take our conversation
17 from yesterday and put it into words and know that the
18 attempt to do so sometimes we miss things, so we're open to
19 discuss.
20 CHAIR RITCHIE: Thank you very much, Mr. Clark, I
21 appreciate that. And I will open it now for discussion,
22 questions from the members of the Board on the
23 recommendations. If you have them on the conclusions or the
24 first part of the summary, the changes there, fine. But we
25 want to focus primarily on the recommendations. So the floor

1 is open for members of the Board to comment or question the
2 recommendations.
3 MEMBER CLARK: Mr. Chair, this is Troy. One
4 housekeeping item and I know this might not be, but whoever
5 is on (505)238-4877, if they would mute their phone, we
6 continue to get interrupted back noise.
7 CHAIR RITCHIE: Thank you, I can't see that on my
8 phone, so I appreciate that.
9 (pause)
10 MEMBER CARSON: This is Dr. Karen Carson. I do have
11 a question about the ERP, if I could. My understanding
12 yesterday is, that because we didn't understand the ERP well
13 and it's only been in place for about a year and a half, is
14 giving five hospitals a large discount that we would not
15 recommend keeping the ERP at this time and allow the Office
16 of the Superintendent to evaluate that, but to recommend not
17 to keep it.
18 MEMBER CLARK: This is Troy. I guess I can respond.
19 Ray, if you would add to that. If we heard incorrectly, our
20 understanding was that we decided not to take action
21 consistent with the recommendation to eliminate it until we
22 knew a basis of why we would make that decision. We all felt
23 uneducated, so I think we concur that we don't understand it
24 well enough to make a recommendation. But our thought was,
25 that means leave it as is and not eliminate is until we

1 understood why we're eliminating it. But if that's not the
2 consensus of the group, we can -- I think fair to bring back
3 up for conversation.
4 I think all of us just feel like the OSI may be a
5 better source of knowledge on whether it is effective or not,
6 if there's pro or cons. All we heard was the reason that
7 Milliman felt like we should eliminate. We didn't hear any
8 of the counter-argument to that, so we didn't want to make a
9 -- and this is my opinion now, we didn't want to make a rash
10 decision -- a brash decision without understanding the full
11 picture of the what the ERP does. And also by eliminating
12 the ERP it would reduce the hospital's portion from 18.1 down
13 to 3.6 percent increase.
14 Ray, do you have anything further on that?
15 MEMBER VARGAS: Yeah. The only thing I was going to
16 add to that is, I understood the discussion to be that we
17 were going to wait until we have the experienced third-party
18 administrator on board to help them evaluate -- use them to
19 help us evaluate that, because the information that Milliman
20 gave us just didn't give us enough to go off of.
21 CHAIR RITCHIE: This is Bill Ritchie. Now, I
22 believe, Troy, you said something kind of backwards, the way
23 I was understanding it. So if the ERP, if we do what
24 Milliman recommended and eliminate the ERP, then the increase
25 in surcharge rates for the hospital going forward would be 18

1 percent or 3 percent?
2 MEMBER CLARK: I will tell you that part of the
3 reason that I think we should look to experts on this is,
4 what I have heard and what I read and see are conflicting.
5 If I look at page 25 of the executive summary slides and what
6 is written in there, if the ERP is not removed in 2022, this
7 adjustment should be removed from the surcharges, is the
8 bullet point that it says. And the adjustment is a reduction
9 of 12.3 percent. So if you did not remove it, if you left it
10 in, that is what would leave the surcharge increase at the
11 18.3 percent -- I'm sorry, 18.1 percent as opposed to if you
12 do remove it, then the increase goes to 3.6. I thought that
13 we were trying to take the most conservative approach until
14 we understood it, which would mean the leave ERP as is, don't
15 remove it and that would leave the surcharges at the 18.1
16 percent. If our interpretation of the presentation is not
17 correct, we would like the OSI to correct that for us, but I
18 think we were under the impression, leaving yesterday, that
19 we would want to stay with the more conservative -- we would
20 want to recommend the more conservative approach of not
21 entering in that 12.3 percent reduction, which by the
22 presentation yesterday is accomplished by actually removing
23 the ERP.
24 MEMBER CARSON: So this is Dr. Carson. My
25 understanding is, it is a smaller percent, but it is based on

1 a larger number, because the ERP decreases the actual
2 beginning number. So the discount that is started is much --
3 is several million. And we are only -- we are basically
4 looking at five very large hospitals, the ones that are most
5 -- really the highest risk. We have others who are getting
6 no discount. So I agree that it's not very clear, but I also
7 don't want the committee to recommend that the ERP not be
8 eliminated. I would rather say that it's not clear and that
9 we need more information before we can make a recommendation
10 one way or the other.
11 MEMBER CLARK: Mr. Chair, I think Dr. Carson brings
12 a great point that -- I think I saw that Mr. Baran is online
13 here, could we take the opportunity to ask him to clarify
14 this for us. And if not, then we follow -- I think our -- I
15 think we're all trying to get to the same end, it's just the
16 ERP is confusing enough the way it's presented that we want
17 to make certain that what we are doing is charging
18 appropriately to make sure that we don't risk making the
19 deficit larger.
20 CHAIR RITCHIE: Right. I mean, absolutely.
21 Mr. Baran, can you further clarify this for us, because we
22 seem to still have questions about what it actually means to
23 have or have not the ERP.
24 MR. BARAN: I'll try to come at it from a different
25 way without adding to what's already in the record. So as

1 the witness testified, that the rate development process is a
2 year-over-year percentage increase. You don't go back to
3 square one. You look at the prior year's rates and you
4 determine the future risk and you determine what rate
5 increase over the prior year is needed to fund those
6 projected losses. So it's incremental year over year.
7 What happened in 20 -- get my years straight. When
8 the ERP was implemented, the foundational rates were owed by
9 all of the hospitals. But as Dr. Carson commented, five of
10 the largest hospitals qualified for this experienced rating
11 plan discount. So those five hospitals didn't pay at the
12 same percentage level increase as the rest of the hospitals.
13 If we had not had the ERP, everybody wouldn't have
14 paid at the same percentage increase for those last two
15 years, which means more money would have been collected by
16 the Fund and more -- a smaller percentage is needed to fund
17 the future risk. If you eliminate the ERP, you're making it
18 more equitable and more stable, because there's no
19 opportunities for the hospitals to qualify for that discount,
20 which mathematically should be precise, but there's different
21 ways of looking at data.
22 And I don't think any of the large hospitals were
23 trying to gain the system, but there could have been
24 different perspectives on what claims should or should not be
25 in the different buckets. So eliminating that uncertainty

1 creates more stability and ensures higher reliability of that
2 projection. So, yes, the rates will only go up three percent
3 if it's eliminated, but that's on the assumption that
4 everybody was paying the full amount in the prior year.
5 I don't know if that clarified anything. It's
6 counter-intuitive because of the way rates are developed,
7 that by eliminating a discount you decrease the percentage
8 increase you need, but because the foundation number you're
9 looking at is what should have been assessed, not what was
10 actually collected, the end result is more reliable.
11 MEMBER CLARK: Mr. Baran, this is Mr. Clark, this is
12 Troy. Maybe we can simpify this, because I think it just
13 clicked when you said that.
14 MR. BARAN: Okay.
15 MEMBER CLARK: Because of the percentages based off
16 of what should have been assessed versus what was actually
17 collected, is it a true statement then, if we recommend to
18 remove the ERP, it is actually more conservative and we would
19 collect more in surcharges by $3.2 million, I'm taking this
20 again from slide 25, than if we did not. Forget what happens
21 with the percentages, hard dollars, if we recommend removal
22 of the ERP that would result in a $3.2 million greater
23 assessment of surcharges to hospitals than if we did not
24 remove.
25 MR. BARAN: No. Theoretically, if everything stays

1 the same, if you remove the ERP, you're going to collect the
2 same amount, but it's going to be paid by a different cohort
3 of hospitals.
4 MEMBER CLARK: So do you have access to slide 25 of
5 the executive summary slides from yesterday?
6 MR. BARAN: Yeah, let me pull that up here.
7 MEMBER CLARK: If you would help me understand
8 bullet point number 2.
9 MR. BARAN: Okay, hold on, let me...
10 MEMBER CLARK: I apologize if I'm just dense or slow
11 on this.
12 MR. BARAN: No, it's, it's, like I said, it's
13 counter-intuitive.
14 (pause)
15 MR. BARAN: Let me get to 25. Okay, I am there.
16 Bullet point...
17 MEMBER CLARK: Second bullet point on the right.
18 MR. BARAN: Okay.
19 MEMBER CLARK: It says, "if the PCF removes the ERP
20 for 2022, the overall surcharges should increase by
21 approximately 3.2 million."
22 MR. BARAN: Correct. So what happened was, if you
23 look at the first bullet point with the ERP in place, there
24 was a $3.2 million reduction in surcharge collections, not in
25 assessments. So if you remove the ERP, that $3.2 million

1 gets back into the actual amount paid by the plans. I mean,
2 by the participants.
3 MEMBER CLARK: So let me ask this one more time,
4 because I think I'm getting it. The confusion that lies,
5 hopefully with all of us, but really goes between bullet
6 point 2 and 4. Bullet point 2 says, if we recommend removing
7 the ERP, actual assess surcharge and collections would
8 increase $3.2 million over what was collected in 2020.
9 MR. BARAN: Correct.
10 MEMBER CLARK: The fourth bullet point says, if you
11 don't do that you're going to remove this percentage change,
12 but it's really not a more conservative move, it's more
13 conservative obviously to collect, it's more sustainable if
14 you collect the additional 3.2 million. So bullet point 2
15 and seem to contradict each other, but it's because one is
16 talking about hard dollars and one is talking about an
17 average rate increase spread across everybody.
18 MR. BARAN: Correct. So the other way to look at it
19 is coming at it from a third different direction is, let's
20 assume that the projected losses for hospitals for 2022 is
21 $25 million. The Milliman study says there's two ways to
22 assess surcharges to reach that amount. One is to leave the
23 ERP in and increase surcharges across the board by this
24 higher percentage of 18 percent, roughly. The second is, to
25 remove it and apply a percentage increase over the rates that

1 would have been assessed in 2021, but for the ERP. You're
2 trying to get to the same number exactly, that $25 million,
3 the ultimate loss number isn't changing, so it's just a
4 question of how you're going to get to that number and who's
5 going to pay it.
6 In removing the ERP means that all of the hospitals
7 are just based on the exposure rating plan and you're not
8 giving this benefit to a few of the larger hospitals when
9 this benefit may not be -- we don't know exactly -- it adds a
10 level of unpredictability to the surcharge calculation. So
11 since you're trying to get to that same $25 million either
12 way (Zoom interruption)
13 MEMBER CLARK: If we could ask Barb McNaney to
14 please mute her phone. I'm sorry, it's a pet peeve of mine.
15 CHAIR RITCHIE: Thank you.
16 MR. BARAN: No, no, I appreciate that. Whether you
17 leave it in or out, you're still going to need to reach that
18 $25 million number, but it's going to be spread out against
19 all of the hospitals and none of them are going to get the
20 advantage of this discount.
21 Whereas, if you leave it in, it's spread out amongst
22 fewer hospitals. So the conservative versus non-conservative
23 is, do you have a more stable and predictable rating plan if
24 you remove it, yes, so that's the conservative perspective.
25 MEMBER CLARK: Thank you, Mr. Baran. I would pose

1 to Mr. Vargas and Ms. Love to make certain that -- to me,
2 that changes our perspective. I don't think we have drafted
3 the wording the way, or the recommendation the way that we
4 thought we were intending it. I think we were flip-flopped
5 on it, but I would want to confer with them.
6 Mr. Chair, I think we may need to change
7 recommendation A then to follow Milliman's recommendation of
8 eliminating the ERP.
9 Mr. Vargas, do you concur?
10 MEMBER VARGAS: I do.
11 CHAIR RITCHIE: Thank you, that is the way I read it
12 as well. That was my concern, and so I appreciate that.
13 VICE CHAIR LOVE: Excuse me, this is Kathy Love. My
14 concern -- I don't have a problem with that for this report
15 and for this rate setting. My concern is that I don't think
16 that we want to make a recommendation that binds future
17 analyses to the ERP, and I think that that decision making in
18 the future should be deferred to our third-party
19 administrator and the OSI.
20 And so I just want to be clear that in the
21 recommendations that we say we're doing it for this round,
22 but it should be evaluated more closely what is the more
23 appropriate approach going forward.
24 MEMBER CLARK: This is Troy. I appreciate that,
25 Kathy, because I do believe that -- I think we were trying to

1 buy time to become educated on the issue and become educated
2 by the OSI and the selection of a third-party administrator
3 to us. And so it seems to me that we ought to revise the
4 language to something to the effect of, following the
5 recommendation of Milliman for elimination of the ERP from
6 the calculations for this year, but still maintain our
7 request that in conjunction with the OSI and third-party
8 administrator, that we review the appropriateness of the ERP
9 going forward for future years.
10 MEMBER VARGAS: This is Ray. I concur in that.
11 CHAIR RITCHIE: I think that the bottom line is
12 that, that the Superintendent and the third-party
13 administrator need to evaluate this using Milliman's
14 recommendations this year and years going forward. Is that
15 not what we want?
16 MEMBER CLARK: I think we were saying just a little
17 different, Mr. Chair. That for this year to be conservative
18 and to accomplish getting that additional 3.2 million in
19 there, that we were actually saying we should recommend to
20 the Superintendent, he can follow through as he says fit if
21 he feels like he understands this more clearly than we do,
22 but our recommendation would be to eliminate the ERP so the
23 additional 3.2 million is collected and then have it reviewed
24 whether it goes part of the PCF surcharge calculation in
25 rating hearings going forward or not.

1 CHAIR RITCHIE: I think that's the same thing.
2 Since Milliman did recommend eliminating it, I think we're
3 saying the exact same thing.
4 MEMBER CLARK: Okay.
5 CHAIR RITCHIE: Okay. Any other comments or
6 questions about recommendation A? Hearing no other
7 comments/recommendations we'll vote on the whole thing as a
8 unit at the end.
9 Moving on to recommendation B. Any comments,
10 questions on recommendation B?
11 MEMBER CLARK: Mr. Chair, as a result of the
12 education we just got on the ERP, I believe, to be accurate,
13 if we recommend revising A the way we just talked about, we
14 actually need to change the 18.1 percent number to a 3.6
15 percent number. Mr. Baran could correct that, that's what
16 the overall percentage would be, is a 3.6 percent by
17 eliminating. We had made the adjustment here to reflect not
18 removing the ERP, but just to be accurate as we just heard
19 about the differences between our dollars and percentages,
20 the percentage actually goes to a 3.6 percent increase if we
21 make that change to number A.
22 CHAIR RITCHIE: I think I hear it this way. But,
23 Mr. Baran, can you weigh in on that, please.
24 MR. BARAN: That is correct. It takes the
25 percentage for the hospital increase down.

1 CHAIR RITCHIE: All right.
2 MEMBER CLARK: And we would correspondingly need to
3 go back, I have to scroll up here and make these similar
4 change that we had made in the Findings of Fact into that
5 section.
6 MEMBER VARGAS: This is Ray. Can you give me that
7 number again, I'm kind of making changes as we go.
8 MEMBER CLARK: I'm trying to find it here, Ray, give
9 me a second.
10 MEMBER CARSON: Number 25 up on the top is the ERP
11 recommendation.
12 MEMBER VARGAS: What's the percentage that we're
13 going to use now, 3.8?
14 MEMBER CLARK: 3.6. I think in bullet point 26,
15 Ray, we still refer to it as the 3.6. I think we would
16 eliminate the parenthetical which says -- which becomes 18.1
17 percent based on the ERP, we would just remove that
18 parenthetical California, I believe.
19 MEMBER VARGAS: Got it.
20 MEMBER CARSON: And right above that, number 25, we
21 just need to change the wordsmithing there.
22 MEMBER CLARK: Yeah, we would no longer recommend --
23 we need to fix number 25.
24 MEMBER VARGAS: I'll do it right now.
25 MEMBER CLARK: Okay. Thank you.

1 (pause)
2 CHAIR RITCHIE: That's our recommendation. We, of
3 course, will still defer to the Superintendent on his final
4 decision, of course. Okay. Any other comments, since A and
5 B are really combined together, any other comments or
6 questions on those two?
7 (pause)
8 CHAIR RITCHIE: All right. Hearing none, let's go
9 on to recommendation C on the risk classification being
10 adopted as recommended by Milliman, the changes to it. Does
11 anyone have any comments or questions on that?
12 (pause)
13 CHAIR RITCHIE: All right, hearing none.
14 Recommendation E, PCF should defer the proposed deficit
15 reduction plan for individual qualified health providers in
16 recommend E, as in echo. Are there any comments or questions
17 on this? This is part of our interpretation statute and
18 based on all the above facts that were presented in the
19 report.
20 (pause)
21 CHAIR RITCHIE: Okay, it's an easy audience. All
22 right. Moving on to recommendation F. The batch claims
23 deficit, approximately 20.1 million for the individual
24 qualified health providers should be placed in a separate
25 category of deficit and a separate plan to extinguish that

1 deficit should be studied. Does anyone have any comments or
2 questions on that recommendation?
3 MEMBER CARSON: This is Karen Carson. I just had a
4 question about that actual amount, and I know that there were
5 three physicians who were in the batch claims. I was
6 looking, I could only find numbers for the two and we never
7 had a number for the third, that I could find. Maybe I
8 missed it. Is that 20.1 included -- does that include all,
9 all of those physicians or are we missing the one?
10 CHAIR RITCHIE: Mr. Baran, do you have an answer to
11 that on whether that 20.1, or Anna, covers all the batch
12 claims?
13 VICE CHAIR LOVE: This is Kathy Love. Can I just
14 interject. I think we would have a problem adding an
15 additional number that wasn't presented as evidence at the
16 hearing.
17 MEMBER CARSON: Well, I know there was a name
18 presented, but it didn't include a number with it. And so
19 that was my only concern, is that -- I don't know if there's
20 a way to make that -- maybe not an exact number, if there is
21 a larger number of batch claims.
22 VICE CHAIR LOVE: I think it's a good point. This
23 is Kathy again. Perhaps what we should do is just adjust the
24 language slightly to indicate the total number, what we do
25 know, and suggest that the Superintendent of Insurance look

1 to see whether there are additional batch claims that should
2 be included in that number.
3 MEMBER CARSON: Yeah, that would be great. Then my
4 second question about that is, so those claims were put in
5 the physician and surgeon bucket and so would we want to
6 remove that from the P and S number that is due to the fund?
7 MEMBER CLARK: Yes, that was the intent of carving
8 them out into their own bucket. Maybe it's appropriate if we
9 modify the language just to clarify that when we put them in
10 their own separate category, that we state where they're
11 removed from. But I do think they testified that's where
12 they were currently categorized as, under P and S.
13 MEMBER CARSON: Yeah, so I would just like that
14 clarified in the wording.
15 MEMBER VARGAS: Okay, what do you propose to add to
16 that?
17 MEMBER CARSON: I think just, that this be placed in
18 a separate category of deficit and the -- I think those
19 monies would be removed from what is the deficit attributed
20 to the physician and surgeons.
21 MEMBER VARGAS: How about in a separate category and
22 separate plan from the physician and surgeon.
23 MEMBER CLARK: Or, and remove from the physician and
24 surgeon category.
25 MEMBER CARSON: Category maybe, yeah.

1 MEMBER VARGAS: Got it.
2 MEMBER CARSON: Thank you.
3 CHAIR RITCHIE: Now, bear in mind, these are just
4 recommendations to the Superintendent. These don't have to
5 be wordsmithed to the point of becoming law, that these are
6 just recommendations. So as long as the intent is clear to
7 Mr. Toal, I think that we have done our job.
8 MEMBER VARGAS: Okay, I have now changed paragraph F
9 to read as follows: "it is assumed that 20.1 million of the
10 individual QHP's deficit is due to so-called batch claims and
11 should be placed in a separate category and a separate plan,
12 remove from the physician and surgeon category. If the
13 amount of the deficit attributed to the so-called batch
14 claims is different from the 20.1 million, then the amount
15 placed in the separate category of deficit should be adjusted
16 accordingly."
17 MEMBER CLARK: Works for me.
18 MEMBER VARGAS: Okay.
19 MEMBER CLARK: Does that work for you, Dr. Carson?
20 MEMBER CARSON: Yes, that works for me. Thank you.
21 CHAIR RITCHIE: I think bullet points 14 and 34 are
22 affected by this, if we choose to go back. That's where that
23 recommendation comes from.
24 MEMBER VARGAS: I'll adjust those accordingly.
25 CHAIR RITCHIE: Right. Okay. Does anyone else have

1 any comments, recommendations to change recommendation F?
2 (pause)
3 A. Okay.
4 CHAIR RITCHIE: Moving to recommendation G. PCF
5 surcharges for provider-owned entities should be assessed at
6 10 percent of the cumulative individual QHP surcharges for
7 all individual QHPs who practice within the entity, and
8 deficit assessments should be assessed at 10 percent of the
9 aggregate deficit assessment amounts recommended on page 16
10 of Exhibit C. Any comments on this? This comes out of
11 Mr. Baran's report.
12 (pause)
13 CHAIR RITCHIE: Moving on to recommendation H.
14 Hospital/Outpatient QHP surcharges should be assessed
15 according to the rating plan that appears on page 26 of
16 Exhibit C, plus the surcharges and deficit reduction amounts
17 for employed providers as proposed on page 16 of Exhibit C.
18 (pause)
19 CHAIR RITCHIE: Then going to recommendation I.
20 Going forward, the PCF and its actuaries, in conjunction with
21 the selected third-party administrator should collect
22 additional data about claims including, but not limited to
23 allocating employed providers settlement payments to
24 hospitals and, in cases of hospitals or hospital employees
25 that include claims against individual QHPs, the PCF should

1 estimate an allocation of comparative fault and allocate the
2 comparative share of any payments appropriately on new
3 settlements.
4 I have one question on this, whether we need to
5 distinguish anywhere in here between independent health care
6 providers and hospital employed qualified health care
7 providers.
8 MEMBER VARGAS: This is Ray Vargas. I think it
9 would follow the definition in the new act.
10 VICE CHAIR LOVE: This is Kathy. I agree. The
11 distinction was more important with regard to deficits than
12 it is going forward with surcharges.
13 CHAIR RITCHIE: Okay.
14 MEMBER CLARK: This is Troy. I concur that this
15 really is a deficit-related issue as the -- in the future
16 surcharges going forward would be on a combined basis.
17 CHAIR RITCHIE: Between the hospitals with all of
18 their employees.
19 MEMBER CLARK: Correct. It would either be a
20 hospital and their employees claim or be an independent
21 employer claim.
22 CHAIR RITCHIE: Right. All right. Any other
23 comments or questions about this recommendation?
24 (pause)
25 CHAIR RITCHIE: All right, hearing none, then this

1 Board has been charged with providing recommendations to the
2 Superintendent of Insurance on rate setting for the PCF for
3 next year, 2022.
4 We received the Milliman report a very short while
5 ago. And it held hearings on a very expeditious basis and
6 tried to put together as best we can our recommendations
7 based on the reports presented by Mr. Baran and Milliman and
8 others within the OSI who have provided much needed data and
9 we really appreciate everything that's been done for that.
10 So having done that, I'd like to hear a vote, if the
11 Board is ready, based on what we have done today to put forth
12 this series of recommendations to the Superintendent of
13 Insurance.
14 MEMBER CLARK: Mr. Chair, this is Troy. Could I
15 ask, I think on some of the other changes we heard Mr. Vargas
16 read what he changed it to. Could we get an understanding of
17 what recommendation A wording was changed to, before we ask
18 for a vote?
19 CHAIR RITCHIE: That's exactly my point. So let's
20 have that, if we are confident enough to do that. So we need
21 the exact wording of each of these points. I think --
22 MEMBER VARGAS: I'll read it to you right now.
23 CHAIR RITCHIE: Okay. And the other point, I think
24 you need to read A and B as these were both changed
25 significantly, because they are in conjunction with each

1 other.

2 MEMBER VARGAS: Okay. This is Ray Vargas. A is now
3 changed to, the PCF should further study, in conjunction with
4 the OSI and the third party administrator to be retained
5 whether to eliminate the ERP. The ERP should not be
6 eliminated this year, but that decision should be studied and
7 re-evaluated by the OSI and the third-party administrator
8 going forward.

9 B, PCF surcharges should be assessed at the central
10 confidence level for all QHPs, resulting in a 19.7 percent
11 increase in surcharges for individual providers and
12 provider-owned entities, and a 3.6 percent increase for
13 hospitals and outpatient facilities.

14 CHAIR RITCHIE: Thank you. Members of the Board,
15 does anyone have an objection to -- or does anyone have any
16 further comments or an objection, essentially, to our voting
17 on sending these recommendations to the Superintendent of
18 Insurance? Since we're doing this virtually and I really
19 can't see hands, looking at faces, does anyone have an
20 objection, please speak up.

21 (pause)

22 UNIDENTIFIED SPEAKER: No objections here.

23 MEMBER DEKLEVA: This is Mike Dekleva. I have no
24 objections.

25 MEMBER VARGAS: This is Ray Vargas. I'm wondering,

1 to do this right, if we need to do a motion.
2 VICE CHAIR LOVE: This is Kathy Love. I was just
3 going to propose a motion. Would that be okay?
4 CHAIR RITCHIE: I think so. I was kind of getting
5 to that point, ending discussion now. So I am open to a
6 motion.
7 VICE CHAIR LOVE: This is Kathy Love. I move that
8 we accept the report as drafted and edited today during this
9 phone call.
10 MEMBER DEKLEVA: I second that motion. This is Mike
11 Dekleva.
12 CHAIR RITCHIE: Is there any further discussion?
13 (pause)
14 CHAIR RITCHIE: All right.
15 UNIDENTIFIED SPEAKER: Have a roll call vote on
16 this.
17 CHAIR RITCHIE: Please, Ms. Gutierrez.
18 MS. GUTIERREZ: Give me just a second here.
19 Mr. Vargas.
20 (pause)
21 MS. GUTIERREZ: Can you hear me?
22 CHAIR RITCHIE: We can. We did not hear Ray.
23 MEMBER VARGAS: I'm sorry. My vote is yes.
24 MS. GUTIERREZ: Ms. Love.
25 VICE CHAIR LOVE: Yes.

1 MS. GUTIERREZ: Mr. Clark.

2 MEMBER CLARK: Yes.

3 MS. GUTIERREZ: Mr. Dekleva.

4 MEMBER DEKLEVA: Yes.

5 MS. GUTIERREZ: Ms. Carson.

6 MEMBER CARSON: Yes.

7 MS. GUTIERREZ: Mr. Ritchie.

8 CHAIR RITCHIE: Yes.

9 MS. GUTIERREZ: Ms. Rodarte.

10 (pause)

11 MS. GUTIERREZ: Mr. Spitzer.

12 MEMBER SPITZER: Yes.

13 MS. GUTIERREZ: Mr. Martinez.

14 MEMBER MARTINEZ: Yes.

15 CHAIR RITCHIE: All right. Then the yeses have it.
16 And these recommendations, as amended today, will be sent
17 forward to Superintendent of Insurance for his decision,
18 which he has until the end of the month, I believe, by
19 statute to put in.

20 So I don't believe we have much in the way of
21 further housekeeping. We will have another meeting after the
22 interviews of the third-party administrator. And I believe
23 these will not be published, these recommendations -- I don't
24 have an answer to that, actually.

25 Ms. Love, or does anyone know whether these

1 recommendations will be published or just the
2 Superintendent's decision?
3 VICE CHAIR LOVE: I believe that these
4 recommendations will be published, that's what has been done
5 in the past. They were published and posted on the PCF
6 website.
7 MS. GUTIERREZ: Mr. Chair, this is Melissa.
8 CHAIR RITCHIE: Yes.
9 MS. GUTIERREZ: So I'm available to file and serve
10 these for the Board, if you'd like. I would just need the
11 version that you want filed and approval of your signature
12 and I will file them to the docket, to the PCF docket and
13 serve to the recipients on the E service list and that will
14 include the Superintendent so he will get a filed copy of
15 these recommendations.
16 CHAIR RITCHIE: Thank you. Since this is the first
17 time we've ever done this, I appreciate that.
18 MS. GUTIERREZ: They will become part of the record
19 for this hearing.
20 CHAIR RITCHIE: Right.
21 MEMBER VARGAS: This is Ray Vargas. I just emailed
22 to all the amended recommendations, as amended and voted on
23 today.
24 CHAIR RITCHIE: And then that will come to me for a
25 signature and everyone else will get to review that and that

1 will be placed in the docket for everyone, correct?

2 MS. GUTIERREZ: Yes. Do I have your approval to add

3 a certificate of service to this document?

4 CHAIR RITCHIE: Yes.

5 MS. GUTIERREZ: Then I'll send over just for your

6 final signature approval and file and serve.

7 CHAIR RITCHIE: Excellent, thank you. Is there any

8 other business or anything more to finalize our business

9 today?

10 (pause)

11 CHAIR RITCHIE: Great.

12 VICE CHAIR LOVE: Congratulations, everyone.

13 CHAIR RITCHIE: Yes, thank you, everyone, for

14 getting us through this and before the end of October.

15 MEMBER CLARK: A big thanks to Mr. Vargas and

16 Ms. Love for their work on getting this assembled today for

17 us to be able to review.

18 CHAIR RITCHIE: Yes, thank you very much for the

19 wordsmithing and putting this all together for us, we really

20 appreciate it. Next year absolutely will not be in this

21 rushed fashion. So I believe we can adjourn the meeting and

22 we will post and let everyone know when the next meeting will

23 be.

24 (Meeting adjourned)

25

1 REPORTER'S CERTIFICATE

2 I, Kim Kay Shollenbarger, Registered Professional

3 Reporter, do hereby certify that I transcribed the Zoom audio

4 and that the foregoing pages are a transcript of the Zoom

5 audio proceedings and that the Zoom audio was of fair

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