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NEW MEXICO PATIENT COMPENSATION FUND
ADVISORY BOARD MEETING
FRIDAY, DECEMBER 17, 2021
2:30 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)
 - ALBEN MARTINEZ, MEMBER, (remote)
 - TANYA RODARTE, MEMBER, (remote)
 - RUSSEL TOAL, SUPERINTENDENT, OSI, (remote)
- REPORTED BY: KIM KAY SHOLLENBARGER, RPR
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ALBUQUERQUE, NEW MEXICO 87102

1 CHAIR RITCHIE: This meeting of the PCF Advisory
2 Board should be very short. It's really just to get the
3 process started and discuss any details on our next task,
4 which is providing a written summary and report to the
5 legislature, to the next legislative session coming up in
6 January. That is our deadline. We've already set up another
7 meeting in early January, and I would like to have the report
8 finished or ready to be finally edited at that point so that
9 we can present it on time to the session. That meeting is on
10 January 6th and we will say that again at the end.

11 It has been very busy the last few weeks obviously,
12 with the legislature and the Medical Practice Act, which
13 obliquely affects us, but not completely. So I think we can
14 establish what we want to say in our report and then get that
15 written. That is really the only item of business that I
16 have today. Although, as I happened to leave off the Agenda,
17 we will entertain New Business.

18 As that order of business, as I go through the list
19 here, I believe we have certainly a quorum here. Is anyone
20 aware of any committee members that are not here, besides
21 Dr. Carson?

22 (pause)

23 CHAIR RITCHIE: I think everyone else is here.

24 VICE CHAIR LOVE: Chairman Ritchie, this is Kathy
25 Love.

1 CHAIR RITCHIE: Yes.

2 VICE CHAIR LOVE: I believe Erza Spitzer maybe not
3 on this call.

4 CHAIR RITCHIE: Thank you. I see someone just as an
5 iPhone, but I acknowledge that. I believe Mr. Spitzer, if
6 you are here, speak up, please. If not...

7 (pause)

8 CHAIR RITCHIE: Thank you. Superintendent Toal is
9 here too, I appreciate that. The Agenda item for our task of
10 a report to the legislature. Obviously our report that we
11 provided to the Superintendent would form the basis of our
12 report to the legislature and I would propose that that would
13 be the core of our report and that will provide the
14 legislature with our thoughts and obviously our
15 recommendations, our distinct thoughts, and then with a
16 commentary or also a report on exactly what the
17 Superintendent's final report and decision was as well.

18 Does anyone have any comment, any of the Board
19 Members have a comment on that or a specific recommendation
20 to change any of that proposal?

21 MEMBER VARGAS: Chairman Ritchie, this is Ray
22 Vargas. I think that's a great idea, that we basically just
23 modify our findings and conclusions into a report form so
24 that the legislature knows what we discussed, what we found
25 and what we recommended.

1 CHAIR RITCHIE: Thank you.

2 MEMBER DEKLEVA: Mr. Chair, this is Mike Dekleva,
3 and I agree with you and also with Mr. Vargas's comments. I
4 think that's definitely the way to go.

5 CHAIR RITCHIE: Thank you very much. Any other
6 comments? Anything additional? Mr. Toal, did you...

7 SUPERINTENDENT TOAL: Yes, just to note that you
8 will need to include the logistical stuff about the Board was
9 formed on such and such a date, here are the appointees from
10 the respective organizations. The Board met on these days,
11 and then the rest of it, I think to the point you and others
12 have made, can then just be the report that you did on the
13 surcharge issue.

14 CHAIR RITCHIE: Thank you very much. It's all the
15 schooling on how to do the reports for state government and
16 et cetera that I can get.

17 SUPERINTENDENT TOAL: We can pull that stuff
18 together for you.

19 CHAIR RITCHIE: Thank you, I really appreciate that.
20 We certainly will include all of that to make sure the
21 legislature knows all of what we have been doing, what they
22 tasked us to do, what they tasked us -- or what came of their
23 tasking to form a board and who joined it and then how we met
24 and what we did, I completely agree and understand what you
25 are saying there. Any other points to be made to the

1 legislature beyond those recommendations at this time?

2 Does anyone have anything that they think might
3 possibly be included in the report beyond what we have just
4 talked about?

5 (pause)

6 MEMBER MARTINEZ: I have nothing else to add.

7 CHAIR RITCHIE: Thank you, Mr. Martinez.

8 (pause)

9 CHAIR RITCHIE: Hearing none, I think the process
10 will be, we will get the information from the Office of the
11 Superintendent, and our report. I believe we should pass
12 this through our attorney, Vince, to at least edit this, help
13 put it together, make sure we're doing it properly, and then
14 at the January 7th meeting, or prior to that January 7th
15 meeting, we will disseminate it to the Board and then we will
16 present it at the January 7th meeting for the Board to have
17 public comment to it and accept any other public comment to
18 it at that point prior to the final presentation to the
19 legislature.

20 Mr. Clark, I see you just joined.

21 VICE CHAIR LOVE: Mr. Chairman.

22 MEMBER CLARK: Yes, I did just join, sorry.

23 CHAIR RITCHIE: Yes, that's okay. Ms. Love first,
24 and then Mr. Clark.

25 VICE CHAIR LOVE: Chairman Ritchie, I would be happy

1 to take the information that we receive from OSI and
2 collaborate with you on a draft report that we can run by
3 counsel before we submit it to the entire Board to review. I
4 would just ask that we remind the entire Board that when we
5 submit the proposed draft to them, not to have conversations
6 over email, but to wait until our meeting, at which point we
7 can review it together like we did with the final
8 recommendations to the OSI.

9 CHAIR RITCHIE: Thank you for that reminder from the
10 legal standpoint, that we really -- because the Opening
11 Meetings Act, we really should not be discussing things
12 certainly in numbers that approach a quorum or what's called
13 rolling quorum without these being subject to the Open
14 Meetings Act and having to be declared and visible to the
15 public. Please don't discuss it until we get to that open
16 meeting.

17 Mr. Clark, we were discussing putting together our
18 report to the legislature and as Ms. Love just said, we will
19 be putting that together with the information and we will get
20 that report out to the Board prior to our next meeting and
21 then we will have an open public discussion of that on the
22 6th of January to finalize it prior to conveying that to the
23 legislature.

24 MEMBER CLARK: Perfect. Thank you.

25 CHAIR RITCHIE: As far as New Business goes, I will

1 open it to the floor in a moment. What I would say that we
2 do need to discuss and that is, our next meeting. However,
3 looking forward we will need to discuss also a more or less
4 calendar for the year on when we start working and gathering
5 data to accomplish what we did this year, in a much more --
6 or much less time sensitive manner, I guess you would say.
7 So that we can discuss, and I think definitely include
8 Superintendent Toal, in establishing when an actual study is
9 commissioned, what the deadline is for its receipt, and when
10 the Board can start looking at that and working on our
11 recommendations for him well ahead of the timeline that we
12 had this year. I believe that will be on the Agenda for the
13 next meeting, is to lay out that schedule of events for the
14 next year, for the next calendar year.

15 Does anyone have any comments on that, first?

16 (pause)

17 CHAIR RITCHIE: Any other New Business that anyone
18 would want to bring up for this meeting?

19 SUPERINTENDENT TOAL: Mr. Chairman, this is the
20 Superintendent. Just a couple of things. One, I want to let
21 you know that notices for the meeting and information on the
22 meeting is, of course, posted on our PCF website, but we are
23 also going to start posting this information on our regular
24 OSI website. We have had a couple of people contact us
25 saying they couldn't find the information, so I wanted you to

1 know that we are going to do that. So when you make your
2 decisions about meeting dates and all the rest of that, we
3 will post it in both places.

4 ~~Secondly, as you know, per the requirements of the~~
5 law we have contracted with Integrion to be the third party
6 administrator for operation of the PCF, at least the
7 administrative matters. And on the call today we have the
8 lead person from Integrion, Debbie Luera. Debbie, I don't
9 know if you wanted to just simply say a word or two.

10 Also on the call is our general counsel, Bryan
11 Brock, and he and Debbie have been leading the transition
12 effort. So Bryan can probably give you a status report on
13 where that stands.

14 Debbie.

15 CHAIR RITCHIE: Thank you.

16 MS. LUERA: Good afternoon, it's a pleasure to be
17 here with you all. Yes, we are very excited to take over the
18 administration and operations of the PCF. Right now we have
19 been working quite diligently to work on taking over the
20 application system and the website, and our goal obviously is
21 to make this as seamless as possible for all of the PCF
22 stakeholders.

23 So if the Board feels it's appropriate, I would be
24 happy to provide an update once this has all taken effect
25 after January 1st. Perhaps the next meeting, if time allows.

1 Otherwise, I can certainly provide some written
2 correspondence to share with the Board. But we are well on
3 our way to ensuring a very smooth transition and we certainly
4 appreciate all of the support of the OSI and all of
5 Superintendent Toal's and Bryan's staff who have been working
6 really hard with us to make this transition as painless as
7 possible.

8 CHAIR RITCHIE: Thank you, Debbie. Bryan, anything
9 you want to add?

10 MR. BROCK: Thank you, Superintendent, Chairman
11 Ritchie and Members of the Board. I echo the sentiments of
12 Debbie. We have been working hard to make the transition go
13 smoothly. As I have expressed to both the Integrion group
14 and our staff members at the OSI, we will not flip a switch
15 on January 1st and have the TPA running all of the services.
16 We still need to perform some training, there still needs to
17 be some more transition work, but the two organizations are
18 working together very, very well. Again, as Debbie said, to
19 make the transition as absolutely seamless as possible for
20 the users of the program, the doctors, the carriers
21 especially.

22 So with that, I say thank you to Debbie and her team
23 and look forward to continuing that transition work.

24 CHAIR RITCHIE: Thank you very much for all the work
25 you have done so far, Bryan, really appreciate that and

1 appreciate that this, I think, will be a great transition.

2 And I know you guys will be a lot of help to the Board.

3 Thank you.

4 ~~SUPERINTENDENT TOAL:~~ Dr. Ritchie, it pains me to
5 tell you that we are losing Bryan at the end of this month.
6 He is retiring. I told him he's too young for that and
7 begged him to stay, but he has met his mark and he will be
8 leaving us on December 31st. Any of you who might know of
9 attorneys who are interested in working at a state-paid level
10 and being overworked at that level, we are happy to take
11 applicants. It is a very rewarding job and it's an essential
12 job. We are going to miss Bryan. I am sure that you and
13 others have a sense of how valuable he's been to us. I can't
14 express to you how valuable he's been to me personally, but
15 to the Agency. He's really been essential and he's a person
16 of high ethics, high work standards, and someone who's had a
17 really exemplary career of public service. We wish him well,
18 but he will not be available to you all as a resource after
19 December 31st.

20 VICE CHAIR LOVE: Congratulations, Bryan, we wish
21 you the best.

22 MR. BROCK: That's very nice, thank you. I'm at the
23 tail end of a career that's just over 28 years in public
24 service. I'm very proud of the many things that I have been
25 able to accomplish and help other folks accomplish, including

1 the work that we have done on the PCF in the very recent
2 past. So thank you for the very kind comments, I appreciate
3 it very much. Good luck to everyone, because it's hard to
4 imagine, and especially right now, work that's more important
5 than the work that we are all doing and the efforts we are
6 putting into this. So, please, please continue to work hard,
7 folks need it.

8 UNIDENTIFIED SPEAKER: Many more of us echo Kathy's
9 remarks and appreciation, Bryan, for what you have done. So
10 on behalf of the hospital association and our members, thank
11 you.

12 CHAIR RITCHIE: Yes, and thank you again on behalf
13 of the committee, this committee, because we could not have
14 done a lot -- certainly could not have gotten that work
15 accomplished as quickly as we did without your help. You
16 will be sorely missed, and I cannot thank you enough.

17 MR. BROCK: Thank you.

18 SUPERINTENDENT TOAL: Dr. Ritchie, I'd just want to
19 remind the Board that we also do an annual report, it has
20 been posted on our website. And anybody who may be
21 interested can go to the OSI website and see that annual
22 report.

23 CHAIR RITCHIE: Thank you. Excellent idea for
24 everyone to just take a glance at that. I appreciate that.
25 Any other New Business anyone can think of for the committee?

1 (pause)

2 SUPERINTENDENT TOAL: Kathy, did you not want to
3 update folks on the bill.

4 ~~VICE CHAIR LOVE: I am happy to. For those who~~
5 haven't been following the special session, as about half an
6 hour ago we just passed an amendment that was supported
7 jointly by the medical society, hospital association, patient
8 representatives and the trial lawyers to do two things.

9 SUPERINTENDENT TOAL: And the OSI.

10 VICE CHAIR LOVE: Oh, yes, thank you. And the OSI,
11 that's exactly right. To remove (Zoom audio disruption)
12 independent provider, which was creating a potential problem
13 with insurance coverage for independent providers. It
14 changes nothing about the original intent of the bill that
15 all of us have talked about, which is that independent
16 providers, no matter where they go, carry a cap of \$750,000.
17 There was some confusion that this language created, so the
18 bill fixes that.

19 The bill also fixes an unforeseen problem that we
20 encountered over the last, I guess about six weeks, where
21 outpatient health care facilities that were owned or
22 controlled by physicians, independent providers, were having
23 difficulty getting insurance coverage. We need some time to
24 get to the bottom of what that problem is, because obviously
25 we don't want any outpatient health care facilities closing

1 their doors in January. We just passed a bill that will
2 postpone the implementation of the higher cap for those
3 facilities so we can get to the bottom of the problem,
4 hopefully come up with a solution and get these (Zoom audio
5 disruption) and also protect patients and their families if
6 they are hurt in these outpatient facilities where
7 catastrophic injuries can happen. So that just passed about
8 half an hour ago, it's hot off the presses.

9 UNIDENTIFIED SPEAKER: Kathy, if I can augment that
10 real quick. I think it also passed at a level that allows
11 for the emergency clause to be enacted, thereby enabling it
12 to be in place January 1.

13 VICE CHAIR LOVE: That's right, that's exactly
14 right.

15 UNIDENTIFIED SPEAKER: All we're waiting on is the
16 governor's signature at this point, but thanks to all
17 involved.

18 CHAIR RITCHIE: So all of the amendments passed and
19 that gave the bill to pass through both houses, through the
20 House and the Senate, and so it's on the governor's desk with
21 a two-thirds majority so that it can take place 1 January,
22 correct?

23 VICE CHAIR LOVE: You got it.

24 CHAIR RITCHIE: Terrific. Thank you very much, that
25 is good news. I was not quite up to the minute on that,

1 thank you. Well, that is the latest news then. We have all
2 been working very hard on this and so I think everyone needs
3 a break on Friday afternoon.

4 If there is no other business that anyone has, then
5 we can call -- Mr. Toal, anything more?

6 SUPERINTENDENT TOAL: Just that I wish everybody on
7 this call, happiest of holidays and best new year. And I
8 want to express my appreciation for the outstanding work that
9 you have done and the respectful manner in which it has been
10 handled. I look forward to being even more -- us
11 collectively being more successful next year.

12 Thank you, Dr. Ritchie, you and your Vice Chair have
13 really done an outstanding job.

14 CHAIR RITCHIE: Thank you very much, I appreciate
15 that. Yes, Ms. Love was exceedingly helpful. I think we
16 worked it out well and next year we will be able to do it in
17 a little more leisurely fashion and not have the stress of
18 this year.

19 Kathy, did you have something to say?

20 VICE CHAIR LOVE: I look forward to continuing to
21 working with all of you.

22 CHAIR RITCHIE: Thank you to all the members of the
23 committee and happy holidays to everyone. Thank you very
24 much.

25 (Meeting adjourned at 2:55 p.m.)

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REPORTER'S CERTIFICATE

I, Kim Kay Shollenbarger, Registered Professional Reporter, do hereby certify that I transcribed audio minutes of the December 17, 2021, Patient Compensation Fund Advisory Board and that the foregoing pages are a transcript of those audio meeting minutes reduced to printed form by me to the best of my ability.

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



Kim Kay Shollenbarger