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Patient's Compensation Fund
Advisory Board

Moderated by Chairman William Ritchie
Thursday, April 13, 2023
10:40 a.m.

Remote Proceeding
Albuquerque, NM 87102
(505) 827-5832

Reported by: Brett Torrence
JOB NO.: 5854307

A P P E A R A N C E S

List of Attendees:

Dr. William Ritchie, Chairman

Kathy Love, Vice Chair

Debbie Luera

Troy Clark

Michael Dekleva

Alben Martinez

Ray Vargas

Vincent Ward

Jennifer Catechis, Superintendent

Barry Berenberg

Anna Krylova

Amelia Nazworth

Chris DeWald

Ellen Stevens

Nick Autio

Annie Jung

Julia Ruetten

Elizabeth Healy

Jenica Cortese

LouElla Pacheco

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P R O C E E D I N G S

THE REPORTER: Okay. We are now on the record at 8:40 a.m. It is April 13, 2023. You may begin.

DR. RITCHIE: Thank you.

Deb, can you go ahead and go through the roll so we can officially establish a quorum?

MS. LUERA: Yes. Chairman Ritchie?

DR. RITCHIE: Here.

MS. LUERA: Vice Chair Love?

MS. LOVE: I'm here.

MS. LUERA: Dr. Carson? Mr. Clark?

MR. CLARK: Present.

MS. LUERA: Mr. Dekleva?

MR. DEKLEVA: I'm here.

MS. LUERA: Mr. Martinez? Mr. Spitzer?
Ms. Stevens?

MS. STEVENS: Here.

MS. LUERA: Mr. Vargas?

DR. RITCHIE: Okay. Well, I guess we're just barely there. Hopefully the others --

MS. LUERA: Mr. Martinez just joined.

DR. RITCHIE: Excellent. Okay. There you go. Excellent. Okay.

MR. MARTINEZ: [Unintelligible]

1 response.]

2 DR. RITCHIE: You're kind of garbled,
3 but -- can you hear us okay, Mr. Martinez?

4 MR. MARTINEZ: Yeah, I could hear you
5 guys okay. I -- can you hear me better?

6 DR. RITCHIE: A little better.

7 MR. MARTINEZ: Okay.

8 MR. VARGAS: Hi. Good morning. It's
9 Ray Vargas. Sorry I'm late.

10 DR. RITCHIE: Excellent. Ray, welcome.
11 So now we have a comfortable margin for a quorum.
12 Okay. So -- gone through the roll call. Is there --
13 people have looked over the agenda. Is there anyone
14 that has any additions, subtractions, or comments on
15 the agenda?

16 Okay. Then we will signify that as
17 approval of the agenda. Has everyone had a chance to
18 look over the minutes? Okay. We have a motion to
19 approve the minutes?

20 MR. CLARK: I'll move. This is Troy.

21 MR. VARGAS: Ray Vargas, this is
22 second.

23 DR. RITCHIE: Thank you. Any
24 objections?

25 MS. LOVE: No objection, but would

1 somebody please resend the agenda and the minutes to
2 the whole group? Thank you. Sorry for the --

3 MS. LUERA: I can do that.

4 MS. LOVE: I don't know why I'm having
5 a hard time finding it, and I spoke to Ezra Spitzer,
6 who didn't think that he had gotten any of that
7 either, so it may be a junk problem -- junk mail
8 problem.

9 MR. WARD: Debbie, are you -- can you
10 circulate? I don't know that I have just one email
11 string, just with everybody. I'm sure I do somewhere.

12 MS. LUERA: Yes. I will absolutely
13 recirculate.

14 MS. LOVE: Thank you, Debbie.

15 DR. RITCHIE: Thank you, Debbie.

16 Okay, does everyone see that screen
17 where the slide's at?

18 MS. LUERA: Yes.

19 DR. RITCHIE: Okay. So let's continue
20 on with the report on the --

21 MS. LUERA: Okay. So the first item up
22 on report of PCF status is the -- I'm sorry. The
23 first item is PCF batch claims, excess of lost
24 insurance.

25 DR. RITCHIE: Right. This item is on

1 because this was the discussion that came out because
2 of the excess cost -- or the very high cost of excess
3 claims. And so, just wanted to let everyone know and
4 give the superintendent welcome for joining us. And
5 get any comments on that decision and the reasoning
6 behind it.

7 MS. CATECHIS: I was going to say, you
8 broke up on me.

9 DR. RITCHIE: Yes. Would just -- this
10 is on the agenda because I know there was discussion
11 of decision not to purchase --

12 MS. CATECHIS: Okay. Okay. So, good
13 morning. Thank you all for having me. We got a
14 request from Willis Towers Watson to redo the
15 re-insurance. We reviewed it, we did a soft ask of
16 the Board because the -- OSI wants to have your input
17 on all the major decisions that we've made.

18 We have chosen not to reinstate it
19 because, at the end of the day, the gain from it, if
20 used, just wasn't there that we would be saving the
21 PCF more money than we would actually gain in
22 protection utilizing this type of plan at this point
23 for the amount of money that they wanted to increase
24 it and for what it would cover, and so that's kind of
25 where we went.

1 We got some confidence back from the
2 soft inquiry with the Board that you would be okay,
3 for the most part, with that decision. Understanding
4 that we're now getting to a point where the cost
5 wasn't going to equal the benefit from it in any way
6 for the PCF. So. And so it's canceled. And my
7 actuary, Anna -- others felt that it would be fine
8 doing it that way. So.

9 DR. RITCHIE: Thank you very much.
10 That was --

11 MR. WARD: This is Vince. Hey,
12 Dr. Ritchie?

13 DR. RITCHIE: Yes?

14 MR. WARD: Dr. Ritchie, can I just make
15 a point here?

16 DR. RITCHIE: Yes.

17 MR. WARD: I just want to clarify that
18 Barry Berenberg and I discussed the approach to
19 reaching out to Board members to get individual input.
20 And that process was done in such a way that there
21 wasn't ever any interaction between individual Board
22 members; there wasn't anything that could be construed
23 as a rolling quorum. There wasn't any vote taken or
24 need to express votes.

25 This was an informal process to inquire

1 among people who have knowledge in this area, and the
2 superintendent, as I understood it, wanted individual
3 input on that decision, so I just want to make it
4 clear for the record.

5 Barry, I don't know if you have
6 anything to add to that.

7 MR. BERENBERG: I don't have anything
8 to add.

9 MS. CATECHIS: And I appreciate you
10 finding a solution for me to get a sense of individual
11 perception.

12 DR. RITCHIE: Thank you very much for
13 that advance keeping us in the straight and narrow.
14 And we really appreciate being able to give the input.
15 I fully support not reinsuring for those rates,
16 although it does point out that the high cost, not
17 only of insurance but a high cost of -- where we stand
18 with the malpractice act and the PCF at this time.

19 Do you have any other comments,
20 Superintendent?

21 MS. CATECHIS: I do not, but I do -- I
22 really do appreciate you guys' willingness to assist
23 in that way. Like I said, I wanted to make sure that
24 decisions were made with expert input in mind as we
25 moved forward with it.

1 MS. LOVE: May I ask a question?

2 MR. DEKLEVA: I do have a question as
3 well. This is Mike Dekleva.

4 MS. CATECHIS: Yes.

5 DR. RITCHIE: Go ahead, Mike.

6 MS. CATECHIS: I think I saw Kathy's
7 hand up quite a while --

8 DR. RITCHIE: Yeah, Kathy was first.
9 Yeah. Kathy, go ahead.

10 MS. LOVE: You know, Mike's might be
11 smarter than mine. Go ahead, Mike.

12 MR. DEKLEVA: I doubt it. I doubt it,
13 Kathy. I -- my question for the superintendent was,
14 simply, were you able to obtain different bids from
15 different insurers with regard to this exposure for
16 batch coverage?

17 MS. CATECHIS: We -- we did not. This
18 was simply based upon what Willis Towers Watson
19 presented to us. They do work with trying to figure
20 out best plans possible, and so they have come back
21 with, "Here's what you have, here's what they
22 continue." This was basically just a decision on this
23 particular policy.

24 We can have them go and search for
25 others, but in talking internally with some of the

1 staff that we have here, they didn't believe there was
2 going to be other options much different than what was
3 given here.

4 MR. DEKLEVA: Okay. Yeah. And I would
5 just -- and I suspect that's probably true. I would
6 just maybe offer the suggestion that, you know, maybe
7 that sort of competitive quotes could be obtained at
8 some point in the future for this coverage. There is
9 some concern, in my mind anyway, that, you know, that
10 not having the coverage does expose the fund to some
11 risk.

12 But I can appreciate, you know, the
13 predicament that you were in this year, with, you
14 know, the cost outweighing any conceivable benefit.
15 My question was just simply to, you know, see whether
16 maybe that can be a process that can be explored in
17 future years, depending on what the Board recommends
18 and what you ultimately decide with regard to whether
19 that batch exposure needs to be insured.

20 MS. KRYLOVA: This is Anna Krylova.
21 Can I chime in on this? I just wanted to add that
22 we've never had any other quotes. Nobody else wants
23 to write it. Last year, or maybe it was the year
24 before, when Coverys non-renewed the policy, we had
25 the broker search for other quotes, and they weren't

1 able to come up with anything. Coverys kind of came
2 back and offered this lower coverage option that we
3 went with, but there were no other companies willing
4 to write the PCF.

5 MR. DEKLEVA: I appreciate that
6 information. Yeah. Thank you. that pretty much
7 answers my question.

8 DR. RITCHIE: Thank you for that. I
9 think that is exactly what I was saying about the
10 expense. So we really appreciate that and appreciate
11 the consideration in how that was handled. So, any
12 more comments on that?

13 MS. CATECHIS: Kathy was --

14 DR. RITCHIE: Yes, Kathy?

15 MS. LOVE: Yes, please. So,
16 Superintendent, I don't have any disagreement with
17 your decision on that whatsoever. What my question is
18 -- and hopefully we won't ever have another Dr. Klonis
19 or another Dr. Schlicht and Bryant who causes this
20 kind of a problem for patients -- but what I do
21 wonder, and this is something I think that we've
22 talked about over the last year, is whether there is
23 in place, or if we can come up with a system, where
24 there can be some close monitoring of physicians who
25 are repeat offenders, for lack of a better term.

1 And some consequences for participation
2 in the fund if they are repeat offenders. And I don't
3 know if that would have solved, for example, the
4 Klonis problem, but I think it would help keep an eye
5 on, you know, people who perhaps don't -- have lost
6 the privilege or should lose the privilege of the
7 protection of the fund.

8 MS. CATECHIS: So, if I remember
9 correctly, we put into place the three occurrences
10 issue. And I think there's places that have been put
11 -- I can't speak to prior to new rules, but I think
12 that's it. Anna? Help me refresh that one?

13 MS. KRYLOVA: Yeah. The three
14 occurrences is just a yearly limit.

15 MS. CATECHIS: Okay. How do you
16 prevent --

17 MS. KRYLOVA: But we do have -- we do
18 have a bit of a system, if you would consider that,
19 and that's if a doctor has a claim in future periods,
20 they do have a debit of 25 percent, I believe. If
21 they have two claims, that's 50 percent.

22 And I think if they have three claims,
23 that would be a 57 percent, and -- Debbie would
24 probably be able to remind me, but we do -- we do
25 surcharge for the doctors that have had claims. In

1 terms of not letting them participate at all, I don't
2 know that we have that mechanism.

3 I don't think we have any sort of
4 underwriting standards that would allow us to reject a
5 doctor if they've had multiple claims.

6 MS. CATECHIS: Is there anything that
7 prevents us from exploring that?

8 MS. KRYLOVA: Not that I know of, but
9 it would -- I would imagine we would have to go
10 through the legislature.

11 MS. CATECHIS: Okay.

12 DR. RITCHIE: But it seems like we
13 would be -- we're kind of relying on their actual
14 carrier to drop them or to police that, but --

15 MS. CATECHIS: Yeah, because they have
16 to have the first piece, but --

17 DR. RITCHIE: I don't know if we can --
18 you know, if we have the power. It seems like it
19 would need to go through the legislature. Any other
20 comments? Do we want to explore this?

21 MR. BERENBERG: This is Barry. I
22 wanted to point out that the statute requires the
23 district court clerk to report judgements to the --
24 trying to find the exact words -- the licensing board
25 for when there's a judgement against a healthcare

1 provider. I don't know if that helps with any of it.

2 DR. RITCHIE: That would be to the
3 medical board, or --

4 MS. CATECHIS: Medical, which is at
5 RLB.

6 DR. RITCHIE: -- now, the nursing board
7 as well.

8 MR. BERENBERG: It says, "Appropriate
9 board of professional registration and examination."

10 DR. RITCHIE: Right. But there's --

11 MS. CATECHIS: That's going to be RLB.
12 But maybe -- and I'm just really thinking broadly
13 there -- we could do some sort of MLU with RLD for
14 them to send that information to us for the PCF
15 purposes.

16 DR. RITCHIE: It's certainly a thought.
17 Mr. Martinez?

18 MR. MARTINEZ: So I have a big
19 question. What would the process be like? Because it
20 seems like we always run into these issues because
21 we're occurrence-based. Has there been any thought or
22 discussion about going to a claims-based PCF and
23 jumping out of the occurrence-based?

24 MS. LOVE: What we've learned over the
25 last year and a half is that legislators -- I'm

1 hearing an echo. Is anyone else? Thanks,
2 Mr. Martinez.

3 What we're learning from insurers, the
4 underlying insurers, is they will not insure on a
5 claims-made basis within the fund.

6 MS. KRYLOVA: And I think that's
7 because of the PCF requirement to have occurrence-
8 based coverage. And that's because if a doctor were
9 to, like, suddenly leave the fund, they could leave
10 the fund with claims that are unpaid, so that they
11 would have no coverage. That's the reason why the
12 current requirement was put in place.

13 MS. LOVE: Dr. Ritchie, you're on mute,
14 I think.

15 DR. RITCHIE: Yup. I'm muted. Sorry.
16 Mr. Martinez -- your hand's down now. So -- yes.
17 Occurrence, I think, is a lot cleaner way to do it.
18 But I don't know the answer to that either.

19 So any other comments? Okay. On to
20 the next item on the agenda, then. To the report on
21 the status. Ms. Luera, I think you're on.

22 MS. LUERA: Yes. Trying to get all my
23 slides coordinated here.

24 DR. RITCHIE: Yes.

25 MS. LUERA: Okay. Can you see --

1 actually, I think I need to page down over here.
2 Okay. So the first thing I wanted to report on was
3 the participating carriers. That just talks to the
4 availability of coverage here in New Mexico. We do
5 have 12 participating carriers. Some only obviously
6 write the hospitals; others write the physicians and
7 other types of facilities as well.

8 You can see that The Doctors Company is
9 a leading company insuring independent physicians,
10 followed closely -- well, not so closely -- by Medical
11 Protective Group. So there are a good number of
12 carriers participating in PCF coverage. Just wanted
13 to share that with you.

14 Moving on to the report of PCF status
15 at year end. So, at the renewal period this year,
16 every hospital renewed, and so that's good news
17 because they are contributing significant surcharges
18 into the fund. We had 15 hospitals and outpatient
19 healthcare facilities, 435 group entities, and 4000
20 nine-ten.

21 Now, this is year-end data. This
22 doesn't look at the renewals that took place January 1
23 of this year. I can absolutely report on that next
24 meeting. We're still aggregating the data. So based
25 on the data that comes through the portal, there were

1 \$54,000,800 and change in surcharges that came in to
2 the PCF last year.

3 Now, part of that is going to -- was
4 allocated to the prior fiscal year because OSI
5 operates on a fiscal year basis. But that's a good
6 amount of money. You can see that 30 million of that
7 was for individual physicians, and that's the
8 independents and the agents of the hospitals. We had
9 23,000,329 for hospitals, and then 1.4 million in the
10 entity surcharges for the groups that covered the
11 doctors -- or the doctors own.

12 So then we have the breakdown of
13 individual providers, and you can see it's almost
14 evenly split between agents of the hospital and
15 independent providers. 15.3 for the independents and
16 14.7 for the individual providers.

17 And so, for the sake of time, I'm going
18 to go through this a little bit quickly. I will share
19 out these slides as soon as the meeting concludes, so
20 that everybody can review and, of course, if there are
21 any questions on anything, please let me know.

22 I wanted to prepare a slide also for
23 the hospital surcharges. This data's fairly easy to
24 look at. As I mentioned, all of the hospitals renewed
25 for 2023. We had a significant increase in surcharges

1 because, as you know from the writ-making process last
2 year, they are paying in their respective surcharges
3 for the exposures that they have, but they also have a
4 portion of surcharge dedicated to bringing down the
5 deficit that was allocated to hospitals.

6 So last year was about 23.3 million;
7 this year, 35.5. So really a significant jump there,
8 and you can see the surcharges listed out here by
9 hospital.

10 Next is just a little bit of
11 information on the group entities. So we look at the
12 entities by surcharge amounts and the entities by the
13 number of providers. So you can see Southwest Medical
14 has the largest surcharge amount and the largest
15 number of providers, and then, you know, going on down
16 the list. You can see those entities and the
17 respective surcharges that they are putting into the
18 PCF.

19 Okay. Next up is a look at the
20 individual providers. We have 3,113 M.D.s and D.O.s
21 participating, 556 PAs, 891 nurse practitioners, 278
22 CRNAs, and two chiropractors. So I also broke out the
23 top 10 physician specialties, just so you can see the
24 provider counts for specific specialties that are
25 participating in the PCF.

1 Now, the emergency medicine number
2 might be a little high, only because there's a lot of
3 -- there are a lot of providers who would do, like,
4 locum or do contract work, and so each time they have
5 an assignment, they have to submit another batch into
6 the PCF. But really good numbers, I think, for the
7 family medicine, internal medicine, specialties of
8 that sort.

9 So that's the brief overview. Like I
10 mentioned, I will share this presentation out. The
11 next part of the overview will be the financial
12 report, and I'm going to hand off to our controller,
13 Amelia Nazworth, to go through these couple of slides
14 with you.

15 MS. NAZWORTH: Thanks, Debbie. Do you
16 want to move forward a slide for me?

17 MS. LUERA: I'm getting there. My
18 computer's running slow.

19 MS. NAZWORTH: Thank you. Okay. This
20 slide shows the balance sheet graphs for the prior
21 three fiscal year ends, and also as of February 28th,
22 2023. On the first graph, the liabilities are in red,
23 and the assets are in blue. The largest asset is
24 cash, which is approximately 130.8 million at February
25 28th.

1 Long-term claim liabilities are the
2 largest portion of the liabilities. There was an
3 increase of 6.4 million in this balance from 6/30/21
4 to 6/30/22. And the long-term claim liability is
5 adjusted annually, after the actuary analysis is
6 completed, so the balance at February 28th is the same
7 as it was at 6/30/22, and that number comes from the
8 12/31/21 actuary report. So every year as that report
9 is done, there is an adjustment made.

10 The chart on the right shows the
11 deficit over the last few years. And so, when the
12 December 31, 2022, actuary audit is complete, the
13 long-term claim liability will again be adjusted, and
14 that will impact the deficit. I also wanted to note
15 that the 32 million appropriation is not included in
16 the assets or the deficit as of February 28th.

17 Any questions on this slide, or -- do
18 you want to move to the next, Debbie?

19 This slide here shows expenses. And so
20 claims paid are the largest expenses. This shows it
21 for the last three fiscal years, as well as the eight
22 months from July through February of '23 that's
23 currently reported in the accounting system.

24 Here we can see in February, there's no
25 actuarial adjustment. Again, that happens once a

1 year. Usually, that is the second largest expense
2 when they make the adjustment. Other expenses include
3 insurance, prior coverage of expenses, and reporting
4 the balance and other through February is primarily
5 related to insurance. Contractual costs include
6 attorney, our Integrion contract, and actuarial
7 services.

8 Any questions on expenses?

9 DR. RITCHIE: No. Thank you.

10 MS. NAZWORTH: Thank you.

11 DR. RITCHIE: Okay.

12 MS. LUERA: Sorry, I jumped too
13 quickly. Okay. The next item on the agenda was
14 Recommendations on Experience Rating Plan for
15 Hospitals and Outpatient Facilities. I don't have a
16 slide prepared for this. Last year when this was
17 discussed, given the short-term participation of the
18 hospitals in the PCF, we decided not to move forward
19 with looking at an experience rating plan for
20 hospitals and facilities.

21 Mr. Dekleva has his hand up.

22 DR. RITCHIE: Mike, you have a
23 question?

24 MR. DEKLEVA: Yeah. Thank you. I just
25 wanted to ask that we could get both of the slide

1 decks, if that's okay?

2 MS. LUERA: Absolutely.

3 DR. RITCHIE: Yeah.

4 MR. DEKLEVA: Thank you.

5 MS. LUERA: So if there's no other
6 discussion on that, I'll move forward to the report on
7 tracking the allocation of settlements. As you know,
8 this is something that Integrion has been tracking
9 since we were awarded the contract. So today, I have
10 2022 year-end data to share with you. This is
11 calendar year, and so last year we had 67 settlements
12 for a total of 36,285,592.

13 You can see here the breakdown of the
14 settlements. The largest portion was hospitals at
15 21.8 million. And then we had 8.4 million for
16 independent physicians. 4.7 million for the hospital
17 employed or agent physicians, and then 1.2 million
18 paid on behalf of a physician entity.

19 So the other item I wanted to share
20 with you, based on the 2022 data, is the claim
21 payments by accident year. Just so you can see, you
22 know, all the claims paid in 2022, these are the
23 accident years that these payments go back to. So we
24 had, you know, one really old claim that was finally
25 adjudicated and settled for 400,000.

1 And then we move a little bit more
2 recent, 2014, '15, '16, you can see the largest
3 portion of settlements was from the 2018 accident
4 year. So that can give you an idea of the lag between
5 the date of the occurrence and the date that the
6 claims are being settled.

7 Are there any questions on this data?

8 MS. LOVE: Debbie, I'm wondering if it
9 would be possible to also see, at some point, not just
10 the date of the malpractice, but also the date that
11 the claim was filed, or that the claim -- that the PCF
12 was notified of the claim.

13 MS. LUERA: Yeah. That's not something
14 that we're actually tracking in the claim data now,
15 but I believe that's something that could be appended
16 in.

17 MS. LOVE: Yeah. It'd be interesting
18 to know how long these cases are being litigated and,
19 you know, it's possible -- sometimes what happens is
20 you have an accident year, but then it takes three
21 years for somebody to file the claim. But I also
22 would like to see, if they're being quickly filed, how
23 long it's taking to get them through the system.

24 MS. LUERA: Okay. Makes sense.

25 DR. RITCHIE: Okay. Troy?

1 MR. CLARK: Yeah, one quick question.
2 I'm assuming, but I want to clarify, Debbie: When you
3 present this as settlements, this is both settlements
4 and adjudications, so total claims paid out? Or is
5 this settlements only?

6 MS. LUERA: Correct. I'm sorry, yes.
7 It is all adjudications, so settlements and anything
8 that might have gone to trial.

9 MR. CLARK: Thank you.

10 MS. LUERA: Okay to move forward,
11 Chairman Ritchie?

12 DR. RITCHIE: Yes. Yes, please.

13 MS. LUERA: Okay. The next agenda item
14 was the update regarding appointment of Superintendent
15 of Insurance. I have a little bit of information on
16 that and hopefully someone from OSI might have
17 additional information to share. What I know is that
18 the process is a responsibility of the insurance
19 nominating committee. They last met on March 30th, so
20 a couple weeks ago.

21 And when I reviewed the agenda, they
22 were finalizing the interview questions to ask of the
23 candidates. And I also included, for everyone's
24 convenience, a list of the participants in the
25 insurance nominating committee. So that's what I

1 have. I don't know if OSI has information to
2 supplement there.

3 MS. CATECHIS: I can give a little bit
4 more. They finalized the questions; they've provided
5 those questions to the five applicants that applied.
6 That deadline for those questions returned is this
7 Saturday. They will follow up with a scheduled
8 interview process on the 24th of April.

9 Their ultimate goal from the last
10 meeting on the 30th would be to have someone have a
11 permanent position by -- they were thinking May 1st as
12 kind of where they're trying to go, or June 1st at the
13 latest. So that's where they're at, at this point.
14 It will be a public meeting as it always is, and the
15 agenda should list out the schedule of the interviews.

16 And for full disclosure, I am one of
17 the five applicants.

18 DR. RITCHIE: Mr. Clark, do you have a
19 question, or is your hand just still up?

20 MR. CLARK: Sorry. I forgot to take it
21 down. Solved.

22 DR. RITCHIE: So I appreciate us
23 getting this information, and, Debbie, you're getting
24 this for us? I looked at that agenda as well. It
25 looks like -- yeah. Work on the questions and --

1 sounds like it's moving right along, which certainly
2 seems very appropriate. Any questions from anyone on
3 this? Okay. Then --

4 MS. LUERA: Next item is the update
5 regarding the 2023 legislative session and the impact
6 on PCF. I prepared just a brief summary of SB 523,
7 which has been signed. As you all know, that's
8 related to the independent outpatient healthcare
9 facilities, so this legislation created a definition
10 and created clarification.

11 It also sets limits of recovery for
12 these independent outpatient healthcare facilities at
13 \$1 million per occurrence, which we know is different
14 than both the hospital limits and the independent
15 provider limits. So these independent outpatient
16 healthcare facilities must maintain underlying
17 insurance of 500,000 per occurrence, 1.5 million
18 annual aggregate.

19 And one thing I also forgot to mention
20 was that the one million per occurrence will be
21 updated annually, based on the three-year average CPI
22 for urban consumers.

23 Does OSI or anybody else want to add
24 anything to what I've shared here?

25 MS. CATECHIS: Not particularly with SB

1 523. I did want to give the PCF Advisory Board an
2 update. The 32.5 million was signed into the budget.
3 There was some problematic language that had been tied
4 to it that the OSI objected to, because we felt like
5 it was going to conflict with other statute, and
6 therefore needed to be struck.

7 It tied the 32.5 million to the OSI,
8 guaranteeing how claims would be paid out in the
9 future, so that was struck, thankfully, and we can
10 utilize the 32.5 to the deficit reduction. In
11 addition, I am waiting to hear -- once we get the
12 junior bill, there was another \$15 million that the
13 governor's office put into the junior bill to reduce
14 med mal premiums for doctors and independent physician
15 facilities.

16 The language is pretty broad, so that's
17 why I'm waiting to see how it comes in and how we
18 might be able to utilize that for the PCF. Moving
19 forward, I don't think we can make direct payments for
20 doctors, but if we can utilize it to assist with their
21 rates on the PCF or further reduction of the deficit,
22 I'm waiting to see that exact language and what can be
23 done with it. So, wanted to update you on that.

24 DR. RITCHIE: Great. Thank you. Troy?

25 MR. CLARK: Yeah. Just a quick

1 comment. Superintendent, 15 million is very clear in
2 its language. Around applying to the independent
3 physicians, and I've made this comment before, but I
4 just wanted to make sure it's on the record and all
5 hear it.

6 On the 32 million, it is not earmarked
7 as -- in my reading, for independent physicians only,
8 and it would be our recommendation that it be applied
9 equally across all providers, whether they are
10 employed by hospitals or whether they are independent.
11 I think the political ramifications of making an
12 allocation to hospitals directly would be unnecessary
13 if we just apply it across evenly to all providers.
14 Hospitals would indirectly get their portion of
15 benefits that way, so that's my recommendation.

16 DR. RITCHIE: To clarify, Troy --

17 MS. CATECHIS: Appreciate that.

18 DR. RITCHIE: -- that's your
19 recommendation, not the recommendation of the
20 committee.

21 MR. CLARK: That is correct.

22 DR. RITCHIE: Yeah.

23 MR. CLARK: I can't speak on behalf of
24 the committee.

25 MS. CATECHIS: Loud and clear. Thank

1 you. I do appreciate that though. Yeah.

2 DR. RITCHIE: And any other comments?

3 So, I mean, I do -- to support sort of
4 what Troy said, I mean, it does sound like the
5 application is intended for physicians and the
6 hospitals aren't doing their part on their part of the
7 deficit. And it's pretty much split between
8 physicians that are covered by the PCF 50/50, but you
9 can see that the losses are certainly very asymmetric.

10 And the hospitals certainly have the
11 opportunity to shift that or influence where that loss
12 is applied, whether it's to the physician or to the
13 hospital entity, to some extent. And so I don't know
14 if that will be the OSI or not, but, you know, I think
15 that's all our bit. We really appreciate you
16 considering that, Superintendent.

17 MS. CATECHIS: Well, my understanding
18 when we put in the 32.5 was -- our ask in our
19 presentation was for physician deficit reduction. And
20 so that was the intent of the ask, if that helps.

21 DR. RITCHIE: But then, is that
22 independent physicians or employed physicians or both,
23 I think, is the question.

24 MS. CATECHIS: And I think that's
25 difficult. I'm with Kathy, I think it's hard to

1 separate out the debt data of where the physician is,
2 and the actuarial report does the best that it can.

3 DR. RITCHIE: Right.

4 MS. CATECHIS: At this point.

5 DR. RITCHIE: We definitely appreciate
6 how difficult that is. Thank you.

7 MS. CATECHIS: And I would stand it
8 that, if the Board wanted to take further action and
9 make a formal recommendation, the OSI is open to that
10 as well.

11 DR. RITCHIE: Mr. Dekleva?

12 MR. DEKLEVA: Yeah. Thank you,
13 Chairman Ritchie. I just -- this won't be a surprise
14 to anybody, but I join in Mr. Clark's recommendation
15 to the superintendent on how that larger amount of the
16 fund is distributed.

17 And on a separate, unrelated matter, I
18 have a meeting at 9:30 that I need to attend, so I'll
19 be dropping off shortly before then. Hopefully that
20 won't disrupt the quorum of today's meeting, but I've
21 got to be on a 9:30 meeting.

22 DR. RITCHIE: Thank you. Hopefully we
23 are going to be winding down here.

24 MR. WARD: I think we're still fine.
25 Yeah, I think we're still fine. Right? Since --

1 DR. RITCHIE: Yes. We had an excess.
2 Okay. Any more comments on this, or are there any
3 motions to make for recommendations for the Board to
4 make? Okay. I mean, I've heard several different
5 opinions -- or a couple different opinions on the
6 board. I think it is difficult -- it is a difficult
7 situation.

8 I do trust the superintendent and the
9 Office of the Superintendent to look at this
10 carefully, but is there any will of the Board to make
11 an official recommendation, or we will just put in our
12 input, our comments, and leave it at that?

13 MS. CATECHIS: Also, so you know, the
14 funds will not be allocated to the office for a while,
15 so if you need to have a secondary meeting because you
16 want to have this discussion, you've got some time on
17 that.

18 DR. RITCHIE: Thank you. Thank you
19 very much for that.

20 MR. WARD: I also just think for
21 purposes of the notice about what you guys are going
22 to act on, that it would be, you know, prudent to
23 possibly take up at a future meeting.

24 DR. RITCHIE: I think that's exactly
25 right. Thank you. I mean, I think that's the point.

1 Whether we want to have a future meeting on it.

2 MS. LOVE: This is Kathy. Am I
3 hearing correctly? It seems like we don't really have
4 any disagreement; do we? We're saying -- I think what
5 I'm hearing everybody say is all doctors get the
6 benefit of it, hospitals don't. Would be the sort of
7 non-official thinking of the Board right now.

8 DR. RITCHIE: I think that that's
9 tolerant. That's the case. It sounds like the
10 intent, to the understanding of everyone involved.
11 However, is it -- if you do it prorated, just by
12 individual physician, or do you do it by the hospital
13 losses -- or not the hospital losses, but just the
14 losses per physician, which seem to be asymmetric.

15 In other words, there is almost an even
16 number of independent and employed physicians, and yet
17 the losses are not even. They do not follow that.
18 And so the liability to the fund is not evenly
19 distributed according to the same ratio as the actual
20 number of physicians in each category.

21 MS. LOVE: Well, maybe I'm missing
22 something, but my understanding of what we've found
23 based on the data that was kept, which we all
24 recognized was not ideal in past years, was that we
25 were able to put settlements into a hospital bucket

1 and a doctor bucket.

2 But within the doctor bucket, we
3 weren't able to purse out hospital doctors versus
4 independent doctors, and so my thought was that that
5 money goes into the doctor bucket, whether they're
6 hospital doctors or independent doctors. Takes care
7 of that deficit, and then hospitals continue to pay
8 off their deficit.

9 More complicated than that, then if
10 we're going to make a recommendation, I do think that
11 we need to have a separate meeting.

12 DR. RITCHIE: I concur, if we decide we
13 need a separate meeting. But -- Debbie, in your
14 presentation, you did indicate that you were able to
15 separate out the claims for hospital-based physicians
16 separate from the claims for independent physicians, I
17 believe. Is that not correct?

18 MS. LUERA: That's correct as of the
19 date that Integrion started taking over the claims.
20 So it's not going back to provide a full historical
21 picture.

22 MS. KRYLOVA: This is Anna Krylova. If
23 I can provide a comment on that? I do believe the
24 actual report did separate out the hospital employed
25 doctors and put them in the hospital bucket, so to

1 speak.

2 So if you remember the two types of
3 exhibits in the actual report that referenced
4 independent physicians and hospitals, the exhibits
5 referencing the hospitals -- those were inclusive of
6 the hospital-employed providers. To the extent that
7 the actuaries were able to estimate the split between
8 the hospital-employed providers and the independent
9 providers.

10 DR. RITCHIE: So then, Debbie, would
11 you say that that was past data, and that Integrion
12 now is able to separate them out? Because that's the
13 data you seem to show today, that you could assign
14 independently the hospital liability, the hospital-
15 employed physician liability, and the independent
16 physician liability, according to what you presented
17 just a little while ago.

18 MS. LUERA: Right. The data that I
19 showed was all settlements that were paid out in 2022.
20 And, as Anna said, we relied on the actuaries prior to
21 that to make their estimations.

22 DR. RITCHIE: So going forward --

23 MS. LUERA: So we'll have it going
24 forward. We just can't go, you know, all the way
25 back. To things that were settled prior to Integrion

1 taking over the contract.

2 DR. RITCHIE: Right.

3 Troy?

4 MR. CLARK: I was just going to make
5 one quick comment that I think Deb just clarified.
6 That is that asymmetric allocation or asymmetric
7 payment that you're referring to, Mr. Chair, was only
8 the 2022 payout, so it was only one year, not over
9 time.

10 And Ms. Krylova also covered the other
11 point of -- we do have the actuarial allocation
12 between physician in a hospital -- or, I'm sorry,
13 employed by a hospital and independent physician
14 allocations in the deficit. So I think there could be
15 some discretion of the superintendent on how exactly
16 to make that allocation between the two
17 mathematically, but I also agree with Ms. Love that I
18 think we're all on the same page of making the
19 allocation process all physicians, and I'm supportive
20 of that.

21 DR. RITCHIE: Thank you. And I believe
22 that's kind of what I'm saying as well. That it would
23 be a mathematical decision whether you apply the ratio
24 in some way to the past, if you think it's
25 appropriate, or assuming it was somewhat similar in

1 the longer-ago past than it was just for 2022, or if
2 you just do it evenly. You know. I think that was
3 the question that I --

4 MS. CATECHIS: I was going to say, I
5 don't think we had this discrepancy in the 30 million
6 from the previous year. That went to reduce
7 physicians, so I believe we used the 32 in the same
8 fashion as the 30 the previous year.

9 DR. RITCHIE: And then the 15 you're
10 still deciding?

11 MS. CATECHIS: Well, the 15 I was just
12 waiting -- my budget and finance people pulled down
13 HB2 and went through that. They're pulling down
14 junior next, and the only thing I was wanting to look
15 at in the junior was the exact language because I knew
16 they kind of -- when they were discussing it, they
17 were looking at making it a little bit broader.

18 And then how that 15 million moves
19 forward, it's very clear there that it should be
20 physicians, and I do know that's what the kind of
21 intent was, but it's kind of how -- do you utilize
22 that on the front end, or do you utilize that for
23 further deficit reduction? Is what I want to know.
24 What the options are to help with the intent of that
25 15 million.

1 DR. RITCHIE: Okay. Thank you very
2 much. It sounds like it's all being considered very
3 well.

4 Are there any other comments? Okay.
5 Thank you very much. We're starting to get a little
6 attrition, so let's proceed on with the rest of the
7 agenda. Really, we're down to public comment. Is
8 there anything anyone has before we talk about future
9 meetings?

10 MS. CATECHIS: I just want to say thank
11 you for having me, and I want to tell you how much I
12 appreciate on this side the work that you do on behalf
13 of the PCF, and your thoughtful consideration and
14 professional consideration of how to maintain the fund
15 and move forward with it. And I do appreciate your
16 willingness to answer random questions on the fly that
17 I've had in the last couple months. And so I just
18 wanted to put that out there for all of you.

19 DR. RITCHIE: Thank you very much. We
20 really appreciate you participating as well, and we
21 appreciate all the information we get from the OSI and
22 all the work Integrion's doing. And that makes our
23 job much easier, or easier for us to do, to make
24 recommendations, and we appreciate how you listen to
25 us. And appreciate all the work that the Board does

1 individually as well.

2 So let's discuss a future meeting
3 schedule. Debbie, what is the timetable for the
4 actuarial studies and any deadlines going forward?

5 MS. LUERA: So I put this slide
6 together. We did sign the letter with Pinnacle for
7 them to provide the actuarial study again this year.
8 It was written into -- I'm sorry. It was written into
9 the engagement letter that we will receive the data on
10 July 15th, no later than July 15th. So I expect it
11 right at that time.

12 So we've already scheduled the rate
13 hearing for September 21/22, so that gives the Board a
14 couple months to go through the data, for the data to
15 be presented specifically to the Board, and so it
16 looks as though, you know, a meeting between July 15th
17 and -- or shortly after July 15th for the data to be
18 presented to the Board would be a solid
19 recommendation.

20 DR. RITCHIE: That does seem
21 appropriate. Does anyone see any need to have a
22 meeting, as of now, between now and the actuarial
23 study being received?

24 MR. CLARK: No.

25 DR. RITCHIE: Okay. Thank you. I

1 don't see one either. Okay. So sometime after July
2 15th. I think we need to still build in a little bit
3 of leeway. From past experience, that July 15th
4 deadline that seems so solid seems to be not quite as
5 solid sometimes for the actuarial data. But earlier
6 the better, so I think the very first part of August
7 -- or early August seems to be appropriate.

8 Is that agreeable to everyone, and then
9 we need to figure out the exact dates -- exact date?
10 Does anyone have a comment on specific times or days
11 of the week that they absolutely cannot do a meeting?

12 MR. CLARK: Mr. Chair, this is Troy.
13 Maybe a question -- and maybe I misunderstood the
14 bullet point. Is the received data on July 15th when
15 Integrion receives it back from the actuaries, or
16 that's when they receive the data by, and it would
17 actually be later in August before we would have
18 something to discuss?

19 MS. LUERA: Generally what happens is
20 Integrion receives the data. We of course forward
21 that to OSI, and then we all review and see if we have
22 any questions or would like to have them, you know,
23 remodel anything or add any other data, any other
24 assumptions into the report that they've provided.
25 But I would think that could be accomplished between

1 July 15th and early August.

2 MR. CLARK: Thanks for that
3 clarification. So I think, in comment to your
4 question, Mr. Chair, early August makes sense.

5 DR. RITCHIE: Okay. Or perhaps just,
6 you know, kind of mid-August. Your point's well
7 taken, Troy. And maybe we give them just a little bit
8 more time since it does seem like there's more exam
9 and summarization by the OSI and Integrion. So
10 perhaps that third week of August -- August 14 through
11 18.

12 I would propose -- since seems like the
13 best time that's worked out for people has been early
14 afternoon or right after lunch, we could do that on
15 August 17th, starting at 1 or 1:30 tentatively. Does
16 anyone have any obvious problems with that that you
17 know of right now?

18 MS. LOVE: I cannot do the week of the
19 14th or the week of the 21st, but I could do the first
20 two weeks of August.

21 DR. RITCHIE: Okay. How about, then,
22 August 10th?

23 MS. LOVE: That's fine with me.

24 DR. RITCHIE: All right. Debbie, do
25 you think that that is sufficient time for us to have

1 good data to discuss in a report?

2 MS. LOVE: Between the 15th and the
3 10th?

4 MS. LUERA: I do think so.

5 MS. LOVE: Yeah.

6 MS. LUERA: Yeah, that should be plenty
7 of time.

8 MR. CLARK: Mr. Chair, this is Troy.
9 August 10 does not work for me. I've got a board
10 meeting that whole afternoon.

11 MS. LUERA: Would it be helpful if I
12 sent out a poll for --

13 DR. RITCHIE: Yeah.

14 MS. LUERA: -- for what day that week?

15 MS. LOVE: Great idea, thank you.

16 MS. LUERA: Okay. I'll do that.

17 DR. RITCHIE: Yeah, we'll have to do
18 that. Was a shot in the dark. I was hoping. So
19 yeah. So -- but it appears that week seems to be a
20 possibility, or a good time. So let's try for that
21 week sometime, and if people will come up with a poll
22 for, you know, mornings and afternoons, suggestions,
23 and then the day.

24 So then, are there any other -- any
25 other business? Old or new, by the Board or any of

1 our guests? Okay. Hearing none, I definitely want to
2 again express my appreciation for everyone's work on
3 this, from Integrion to the OSI to all the Board
4 members.

5 And, you know, everyone agreeing to
6 meet with this, and for that next meeting, I would
7 suggest that we really should do that, or try to do
8 that in person. I don't know if anyone has an
9 objection to that. I hope not, but I think that's the
10 intention, for that meeting to be in person. And
11 we'll work out the details on that later, on where.

12 So anyone else, any comments or
13 anything? Okay. Then we are adjourned. Thank you
14 for helping me keep this going and make my flight. I
15 appreciate everyone.

16 THE REPORTER: Off the record now at
17 9:41.

18 (Whereupon, the meeting concluded at
19 9:41 a.m.)

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CERTIFICATE OF DEPOSITION OFFICER

I, BRETT TORRENCE, the officer before whom the foregoing proceedings were taken, do hereby certify that any witness(es) in the foregoing proceedings, prior to testifying, were duly sworn; that the proceedings were recorded by me and thereafter reduced to typewriting by a qualified transcriptionist; that said digital audio recording of said proceedings are a true and accurate record to the best of my knowledge, skills, and ability; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this was taken; and, further, that I am not a relative or employee of any counsel or attorney employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.



BRETT TORRENCE
Notary Public in and for the
State of New Mexico

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I, ANDREA HINEGARDNER, do hereby certify that this transcript was prepared from the digital audio recording of the foregoing proceeding, that said transcript is a true and accurate record of the proceedings to the best of my knowledge, skills, and ability; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this was taken; and, further, that I am not a relative or employee of any counsel or attorney employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.



ANDREA HINEGARDNER

[1 - actuarial]

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[actuaries - audio]

<p>actuaries 35:7 35:20 40:15 actuary 8:7 21:5,8,12 add 9:6,8 11:21 27:23 40:23 addition 28:11 additional 25:17 additions 5:14 adjourned 43:13 adjournment 3:17 adjudicated 23:25 adjudications 25:4,7 adjusted 21:5 21:13 adjustment 21:9,25 22:2 advance 9:13 advisory 1:2 28:1 afternoon 41:14 42:10 afternoons 42:22 agenda 5:13,15 5:17 6:1 7:10 16:20 22:13 25:13,21 26:15 26:24 38:7</p>	<p>agent 23:17 agents 18:8,14 aggregate 27:18 aggregating 17:24 ago 25:20 35:17 37:1 agree 36:17 agreeable 40:8 agreeing 43:5 ahead 4:6 10:5 10:9,11 alben 2:8 albuquerque 1:12 allocated 18:4 19:5 32:14 allocation 3:9 23:7 29:12 36:6,11,16,19 allocations 36:14 allow 14:4 amelia 2:14 20:13 amount 7:23 18:6 19:14 31:15 amounts 19:12 analysis 21:5 andrea 45:2,18 anna 2:13 8:7 11:20 13:12 34:22 35:20</p>	<p>annie 2:18 annual 27:18 annually 21:5 27:21 answer 16:18 38:16 answers 12:7 anybody 27:23 31:14 anyway 11:9 appears 42:19 appended 24:15 applicants 26:5 26:17 application 30:5 applied 26:5 29:8 30:12 apply 29:13 36:23 applying 29:2 appointment 3:11 25:14 appreciate 9:9 9:14,22 11:12 12:5,10,10 26:22 29:17 30:1,15 31:5 38:12,15,20,21 38:24,25 43:15 appreciation 43:2 approach 8:18</p>	<p>appropriate 15:8 27:2 36:25 39:21 40:7 appropriation 21:15 approval 5:17 approve 5:19 approximately 20:24 april 1:7 4:3 26:8 area 9:1 asset 20:23 assets 20:23 21:16 assign 35:13 assignment 20:5 assist 9:22 28:20 assuming 25:2 36:25 assumptions 40:24 asymmetric 30:9 33:14 36:6,6 attend 31:18 attendees 2:2 attorney 22:6 44:14 45:10 attrition 38:6 audio 44:8 45:4</p>
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