

1 NEW MEXICO OFFICE OF THE
2 SUPERINTENDENT OF INSURANCE
3 NEW MEXICO PATIENT'S COMPENSATION FUND
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7 CORRECTED TRANSCRIPT
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14 ADVISORY BOARD MEETING
15 TUESDAY, AUGUST 29, 2023
16 NEW MEXICO HOSPITAL ASSOCIATION
7471 PAN AMERICAN WEST FREEWAY, NE
ALBUQUERQUE, NM 87109
ZOOM VIDEOCONFERENCING PLATFORM AVAILABLE

17
18 BOARD MEMBERS IN ATTENDANCE:

19 WILLIAM RITCHIE, M.D. Board Chair
MR. TROY CLARK Board Member
20 MR. NICK AUTIO Board Member
MR. MICHAEL DEKLEVA Board Member
21 MS. ELLEN STEVENS Board Member
MR. RAY VARGAS II Board Member
22 MR. ALFONSO B. MARTINEZ Board Member
VINCENT WARD, ESQ. Board Counsel

23
24
25 Reported by: Mary Therese Macfarlane, NM CCR No. 122

1 ALSO PRESENT: ALICE T. KANE
 Superintendent of Insurance

2

3 JENNIFER ROMERO, OSI Staff

4 GABRIELLE ADAMS, M.D.
 Southwestern Gastroenterology

5 JAMES WILLETT
 Doctors Co.

6

7 BARRY BERENBERG, ESQ.
 Patients Compensation Fund

8 CARRIE ROBIN BRUNDER

9 JEFF HAISLEY

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P R O C E E D I N G S

CHAIRMAN RITCHIE: I'm Bill Ritchie, I'm the
Chair of the Board, and we'll call this meeting to order.

I'd like to start with roll call for the
board members.

MS. LUERA: This is Debbie Luera calling roll.
Chairman Ritchie?

CHAIRMAN RITCHIE: Here.

MS. LUERA: Vice Chair Love will not be here.
Mr. Clark.

MR. TROY CLARK: Here.

MS. LUERA: Mr. Dekleva.

MR. DEKLEVA: I'm here remotely.

MS. LUERA: Mr. Vargas.

MR. VARGAS: I'm here on Zoom.

MS. LUERA: Mr. Autio.

MR. AUTIO: Here in person.

MS. LUERA: Mr. Spitzer.

MR. SPITZER: (Note: No Response.)

MS. LUERA: Ms. Stevens.

MS. STEVENS: Here on Zoom.

MS. LUERA: And Mr. Martinez.

MR. MARTINEZ: I'm here on Zoom.

CHAIRMAN RITCHIE: Thank you. Thank you for
everyone attending.

1 The next order of business is the Approval
2 of Agenda. Do I hear a motion?

3 MR. AUTIO: Motion to approve.

4 MR. CLARK: Second. This is Troy on the second.

5 CHAIRMAN RITCHIE: Any objections or additions?

6 (Note: No response.)

7 All Right. Thank you.

8 The next item of business in an opportunity
9 for Southwest Gastroenterology to argue the motion before
10 us for this meeting.

11 And I believe I did see Dr. Adams here. I
12 assume she's going to speak for it.

13 DR. ADAMS: Correct.

14 CHAIRMAN RITCHIE: Welcome.

15 DR. ADAMS: Thank you. Thank you, Dr. Ritchie
16 and board members.

17 So my name's Dr. Gabrielle Adams. I'm the
18 president of Southwest Gastroenterology. It's an
19 independent single-specialty GI group that has been
20 providing care to New Mexicans since -- for over 40 years.
21 We have participated in the Patient Compensation Fund and
22 been under the Act since 1980 as a group. I personally
23 have been under the Act with the Patient Compensation Fund
24 since 1977 when I moved here.

25 So I received Notice from the New Mexico

1 Medical Society inviting the members to participate and
2 intervene, if they felt it was necessary, at the PCF Rate
3 Hearing meeting that's in September. And so I followed
4 the instructions -- they were quite onerous, by the way,
5 not easy to follow, and I think I might have been the only
6 one that was able to get through the process; I invite you
7 all to try it -- and signed up to be able to share with
8 the Board how these rate increases are impacting my
9 practice in New Mexico and the patients in New Mexico.

10 And then I was notified Friday that
11 apparently I needed to provide you with some additional
12 information, and here I am.

13 CHAIRMAN RITCHIE: All right. Do you want to
14 summarize exactly what your, uh -- any points you already
15 made on the written motion?

16 DR. ADAMS: Well, my understanding when I signed
17 up and spoke with the Office of the Superintendent of
18 Insurance was that my statement that will be on behalf of
19 Southwest Gastroenterology, one of our members, that -- I
20 was anticipating discussing that at the rate hearing
21 meeting next month.

22 But in terms of why it is important is that
23 our rates over the past three years have increased
24 tremendously. And I reviewed the actuarial analysis that
25 was presented to the PCF Board, and I see that the

1 anticipated increases could be as high as 57 to 67
2 percent. And it's just simply not tenable. I mean, our
3 independent physicians in New Mexico cannot continue to
4 support these kind of raises in insurance premiums.

5 We already are underserved in New Mexico.
6 People are leaving all the time. A neurosurgeon that --
7 you know, that my practice knows, left. You know, we have
8 very few neurosurgeons in New Mexico. He is one of the
9 latest to leave recently. He's going to Arizona. He
10 stated increased rates of malpractice insurance amongst --
11 No. 1 amongst a whole list of other things that he's
12 leaving.

13 We cannot afford to lose more physicians.
14 I'm concerned about the ability of my practice to stay in
15 practice, because we can't afford further increases in
16 rates.

17 And so I want to have the opportunity to
18 present to the Board fully, and to the Superintendent of
19 Insurance to let her know how this is impacting our
20 practice, our ability to practice, our ability to provide
21 care to New Mexicans.

22 CHAIRMAN RITCHIE: Thank you. That summarizes
23 it very well. I appreciate that.

24 And so the next item is a discussion of
25 whether to go into executive session to consider this

1 motion.

2 Do I hear any discussion or motion to go
3 into executive session?

4 MR. CLARK: Mr. Chair, this is Troy Clark. I
5 have a quick question.

6 I believe the request that we go into
7 executive session is whether to entertain the request for
8 Southwest GI to be an Intervenor, not to hear their
9 position today but whether or not they can, in essence,
10 testify at the rate hearing for us to hear further input
11 for us to take into consideration. Correct?

12 CHAIRMAN RITCHIE: As I understand it, yes. In
13 discussion with Mr. Ward, that is the question.

14 And since it does involve certain areas
15 beyond the expertise of several members on the board,
16 insofar as it's sort of legal questions, then that was one
17 of the discussions of whether to go into executive
18 discussions to discuss it or not.

19 Yes, sir.

20 MR. VARGAS: This is Ray Vargas. I'd like to
21 hear from Mr. Ward on his advice on that.

22 CHAIRMAN RITCHIE: Yes, Certainly. Please.

23 MR. WARD: Well, there are just a few things
24 here. No. 1, remember that your charge is to act as a
25 hearing officer, and that's been delegated to you as a

1 Board. Typically if the hearing officer were to decide a
2 legal issue like this -- you know, a motion -- the hearing
3 officer gets to deliberate, and those deliberations are
4 not typically part of that public record. But because you
5 all are a Board, you all are in the position where your
6 meetings are public.

7 There is an exception to the Open Meetings
8 Act that allows for you to discuss with your legal counsel
9 and, to sort of think of it as sort of a privileged way
10 here, what the legal standard is for intervention.

11 And we could do that. It's really your
12 prerogative as a Board whether we do that publicly, but I
13 think that this is a legal issue with respect to an act on
14 a pending motion for a party who wants to intervene into
15 the hearing.

16 My advice to you would be to exercise your
17 option to go into an executive session where we can
18 discuss it in accordance with the Open Meetings Act and
19 you can ask me any questions that are essentially legal
20 questions.

21 CHAIRMAN RITCHIE: Thank you. Are there any
22 other questions of Mr. Ward or of the Board?

23 MR. VARGAS: No, Mr. Chair. This is Ray Vargas.

24 Based on Counsel's advice I'd like to move
25 that we go into executive session.

1 CHAIRMAN RITCHIE: Thank you very much.
2 MR. CLARK: I second that. Troy Clark.
3 CHAIRMAN RITCHIE: All right. Let's poll.
4 Since can't be in both places, let's poll the board.
5 MS. LUERA: Mr. Ritchie.
6 CHAIRMAN RITCHIE: Yes, ma'am.
7 MS. LUERA: Vice Chair Love? I believe Mr.
8 Vargas has her proxy.
9 MR. VARGAS: Yes (Proxy).
10 MS. LUERA: Mr. Clark.
11 MR. CLARK: Yes.
12 MS. LUERA: Mr. Dekleva.
13 MR. DEKLEVA: Yes.
14 MS. LUERA: Mr. Vargas?
15 MR. VARGAS: Yes.
16 MS. LUERA: Mr. Autio?
17 MR. AUTIO: Yes.
18 MS. LUERA: Ms. Stevens?
19 MS. STEVENS: Yes.
20 MS. LUERA: Mr. Martinez.
21 MR. MARTINEZ: Yes.
22 MR. RITCHIE: Thank you very much. Hearing no
23 dissents, as a matter of fact, then we will now go into
24 executive session to discuss this motion for Southwest
25 Gastroenterology to be admitted to discuss the meeting --

1 at the next meeting to intervene.

2 MR. ADAMS: Mr. Chair, did we find the technical
3 way to be able to accomplish that or do we have to ask
4 people to disconnect and make sure only board members are
5 left on, and ask them to reconnect at -- later?

6 MS. LUERA: I can't find it in my settings
7 anywhere, so I would say the best option is to ask
8 everybody who is not a board member to drop off.

9 MR. ROMERO: And how will we know when to get
10 back on?

11 MR. WARD: Mr. Chair, we could give a time for
12 people to get back on, assuming that we can resolve, you
13 know, our discussion by that time, and we can resume the
14 board meeting at a stated time.

15 CHAIRMAN RITCHIE: I understand. Can --

16 MR. WARD: So after it's done, then let them
17 back in.

18 UNIDENTIFIED VOICE: That's how -- I somehow
19 came out. Sorry. I'm back.

20 MR. VARGAS: Okay. Mr. Chair, this is Ray
21 Vargas. I propose we just tell everybody to log back on
22 at 4:30. I can't imagine we're gonna need more than 15
23 minutes to discuss this.

24 MR. WARD: Agreed. Makes sense.

25 CHAIRMAN RITCHIE: Thank you. That was going to

1 be my time, as well.

2 So at 4:30 the Board will come out of
3 executive session. And please, people, log back in then,
4 and we'll allow a little bit of time and then discuss our
5 verdict, essentially.

6 So please everyone log out except for
7 members of the board.

8 MR. WARD: And Ms. Luera, if you would remain on
9 to make sure you monitor who-all's in there.

10 MS. LUERA: Sure.

11 MR. WARD: Until we get down to just board
12 members.

13 (Note: In recess from 4:16 p.m. to 4:34 p.m.)

14 CHAIRMAN RITCHIE: This is Jeff Ritchie again.

15 And so the matters discussed in the post
16 meeting were limited to those stated in the motion to
17 close the meeting. This statement shall be recorded in
18 the minutes of the meeting as required by Section
19 10-15-1(J) of the New Mexico Open Meetings Act.

20 And so do I hear a motion?

21 MR. CLARK: Mr. Chair, this is Troy Clark.

22 I would make a motion that we grant
23 Southwest Gastroenterology the right as an Intervenor,
24 subject to the following conditions: That any materials
25 that they can submit in writing for their position and

1 comments be submitted within 10 days of today, and that
2 they limit their discussion at the hearing to no more than
3 10 minutes.

4 MR. VARGAS: Mr. Chair, this is Ray Vargas. I
5 second the motion.

6 CHAIRMAN RITCHIE: Thank you, gentlemen.

7 All right. Could we have a roll call,
8 please.

9 MS. LUERA: Yes.

10 Chairman Ritchie?

11 CHAIRMAN RITCHIE: Yes.

12 MS. LUERA: Vice-chair Love.

13 MR. VARGAS: Yes (Proxy).

14 MS. LUERA: Mr. Clark.

15 MR. CLARK: Yes.

16 MS. LUERA: Mr. Dekleva?

17 MR. DEKLEVA: Yes.

18 MS. LUERA: Mr. Vargas.

19 MR. VARGAS: Yes.

20 MS. LUERA: Mr. Autio.

21 MR. AUTIO: Yes.

22 MS. LUERA: Ms. Stevens.

23 MS. STEVENS: Yes.

24 MS. LUERA: Mr. Martinez.

25 MR. MARTINEZ: Yes.

1 CHAIRMAN RITCHIE: Thank you. So that passes
2 unanimously.

3 MR. ADAMS: Dr. Ritchie: I just wanted to say
4 I'm going to prepare an Order that will be filed on the
5 public docket related to the Motion to Intervene.

6 CHAIRMAN RITCHIE: Thank you very much.

7 So the last item on the agenda is any
8 public comment. (Note: Pause.)

9 Okay. Anyone from the board?

10 (Note: No response.)

11 Seeing none -- hearing none, seeing none in
12 the Chat, I thank everyone for attending.

13 And just we're trying to get the precedence
14 set properly here as we work our way along, so I
15 appreciate everyone working on that, and we will see
16 everyone on September 21st.

17 Thank you very much. We're adjourned.

18 MS. LUERA: Thank you.

19 (Note: Proceedings adjourned at 4:36 p.m.)
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NEW MEXICO PATIENT COMPENSATION FUND
BOARD OF DIRECTORS MEETING
REPORTER'S CERTIFICATE

I, MARY THERESE MACFARLANE, DO HEREBY CERTIFY that I a duly licensed Certified Court Reporter for the State of New Mexico.

I FURTHER CERTIFY that I reported semiographically to the best of my ability the proceedings had in the aforementioned cause, and the foregoing transcript, comprised of pages 3 through 13 is a full, true and correct transcription of my notes so taken.

I FURTHER CERTIFY that I am neither employed by nor related to nor contracted with (unless excepted by the rules), with any of the attorneys or in this matter, and that I have no interest whatsoever in the final disposition of this matter.

Dated this 12th day of September, 2023.



Mary Therese Macfarlane
NM CCR Certificate No. 122
License Expires 12/31/2023

[1 - board]

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