

1 been a challenge literally since it was formed.

2 MR. BARENBERG: Do you know how
3 Wisconsin and Indiana got to the point where they
4 had such a large surplus?

5 THE WITNESS: Wisconsin benefitted from
6 surcharges that were redundant for a fairly long
7 time, as we're looking back on them, that allowed
8 them, over time, to build up a pretty substantial,
9 positive surplus. Wisconsin has an interesting
10 nuance in their law, they can't distribute those
11 excess funds back to the healthcare providers that
12 paid the surcharges in. There's no authority of
13 the PCF to actually distribute those excess funds,
14 and so the only way that Wisconsin can provide
15 relief or, you know, release those excess funds,
16 is to provide future rate subsidies. And so
17 they're right now in a period where most of the
18 indicated rates for next year are being subsidized
19 out of surplus and the doctors are paying a
20 fraction of the actuarial indicated rates.

21 Indiana, the same thing. They simply
22 have been able to charge what, in retrospect, have
23 been redundant surcharges and build up a surplus,
24 which not only creates funds for rate subsidies,
25 but also a substantial amount of investment

1 income.

2 MR. BARENBERG: What do you mean by
3 "redundant surcharges"?

4 THE WITNESS: Oh, just rates that were
5 higher than were needed to pay the losses, and
6 other expenses.

7 So, with the benefit of hindsight, just
8 like we've been looking here and seeing those
9 situations where the surcharges were higher or
10 lower, now that all the claims are settled, same
11 thing there, except they were pretty consistently
12 higher than the claims payout. And some of that
13 in Indiana and Wisconsin, was certainly related to
14 the tort reform in those two states.

15 MR. BARENBERG: And I have one more
16 topic for Mr. Walling, but are there any follow-up
17 questions?

18 MR. MARTINEZ: I have one question --
19 this is Mr. Martinez -- in your opinion, and I
20 know this is almost like a self-answering
21 question, would it be wise perhaps for the people
22 in the offices of insurance to be able to travel
23 perhaps to Wisconsin and analyze their Fund to see
24 what differences might improve the Fund here in
25 New Mexico?

1 THE WITNESS: I guess I'm going to couch
2 my answer in, anytime you get into these
3 specialized types of programs, interaction is
4 always a positive. The development of best
5 practices, we see this in underground storage tank
6 funds and mine subsidence funds. They have very
7 open lines of communication and are very collegial
8 with one another. And so, absolutely, I think the
9 more that the patient comp funds and the birth
10 injury funds interact with one another and talk
11 with one another, the more likely they are to
12 develop as management and kind of make one another
13 better because what they're doing is so
14 specialized, that it's a really nice peer-to-peer
15 communication approach. Great question.

16 MR. MARTINEZ: Thank you.

17 MS. LOVE: This is Kathy Love.

18 CHAIRMAN RITCHIE: Go ahead, Kathy.

19 MS. LOVE: Sorry, I couldn't see you.

20 Mr. Walling, did you say you do
21 actuarial analyses for Wisconsin?

22 THE WITNESS: I did the work for
23 Wisconsin for, goodness, ten years.

24 MS. LOVE: For what -- okay.

25 THE WITNESS: And one of my business

1 partners now does that work. I basically handed
2 it off to him.

3 MS. LOVE: Do you think the years you
4 made recommendations about increases in surcharges
5 in Wisconsin, were those recommendations followed?

6 THE WITNESS: Oh boy, a different kind
7 of challenge, because the amount of investment
8 income that were being generated and the amount of
9 surplus that Wisconsin had, the question was
10 oftentimes more how much of a rate subsidy was
11 going to be drawn out of surplus or how much of
12 the investment income was going to offset the
13 rate.

14 So it was -- it's hard to answer your
15 question, because the moving parts were so
16 dramatically different, especially just the amount
17 of surplus that is sitting in the Wisconsin fund.

18 MS. LOVE: They got that surplus by
19 collecting surcharges initially and then investing
20 what they had collected, correct?

21 THE WITNESS: Correct.

22 MS. LOVE: Thank you.

23 MR. AUTIO: This is Nick Autio. You
24 mentioned that substantial tort reform that
25 resulted in robust PCFs in other states what

1 specific tort reform are you referring to?

2 THE WITNESS: Actually, if you look at
3 both Indiana and Wisconsin are kind of my two
4 primary touch points here, just because I got a
5 pretty decent familiarity with them. If you look
6 at the tort reform in both those states, it's not
7 any one thing, it's really, honestly, a
8 comprehensive view on a number of different
9 aspects of tort reform.

10 Indiana, for a long time, had that hard
11 cap of a million dollars that candidly was
12 increased only because of the surplus of the
13 Patient Comp Fund. But, I think it's a really
14 worthwhile process, if you're interested in those
15 types of things, to look at the elements of tort
16 reform in Indiana and Wisconsin because it wasn't
17 one issue, it was really looking at a number of
18 factors that affects medical professional
19 liability, and implementing, in my opinion, a kind
20 of comprehensive strategy.

21 MR. AUTIO: It is that comprehensive
22 strategy, that in your opinion, caused those funds
23 to be far more robust than --

24 THE WITNESS: It's certainly a
25 contributing factor. The rates that were charged

1 in Indiana and Wisconsin certainly have turned out
2 to be more than was needed to pay the claims. So
3 part of it just simply the redundancy that we've
4 actually seen historically in the rates. I think
5 part of what contributed to that rate redundancy
6 is the tort reform.

7 MR. AUTIO: Thank you.

8 MR. BARENBERG: I have a follow-up
9 question.

10 Southwest Enterology Associates
11 presented a charge showing the absolute values of
12 malpractice rates in neighboring states, do you
13 know how a similar comparison would be between New
14 Mexico and Wisconsin and Indiana?

15 THE WITNESS: Indiana has some of the
16 lowest medical professional liability rates in the
17 country. Wisconsin's are in the bottom ten, if
18 I -- I'd have to go back and look. I've actually
19 provided -- there's an annual rate survey of
20 leading insurers by state, so both Integrion and
21 the Commissioner's office have the rates for
22 leading insurers by state, but Indiana and
23 Wisconsin professional liability rates are quite
24 low, relative to say an Illinois or a Michigan or
25 Ohio.

1 MR. BARENBERG: Any more questions on
2 this topic?

3 And then there's one last topic.

4 CHAIRMAN RITCHIE: What's the last
5 topic?

6 MR. BARENBERG: That is the rate change
7 history.

8 CHAIRMAN RITCHIE: Great.

9 MR. BARENBERG: Yesterday Integrion
10 requested from OSI any data on rate changes and
11 Anna Krylova, the chief actuary for OSI provided a
12 spreadsheet with that data. I'd like to move that
13 into evidence as Exhibit C, if the Board agrees
14 that's a sufficient foundation, otherwise, I would
15 have to go through a foundational witness with a
16 series of questions.

17 CHAIRMAN RITCHIE: Any objections to
18 that from the Board?

19 (No response.)

20 MS. LOVE: Well -- this is Kathy Love.
21 I'd like to know, I trust that Anna probably put
22 together what information she had, I would like to
23 know what that is and where she got it.

24 MR. BARENBERG: So, I don't have the
25 information as to where she got it, all I could do

1 at this point is lay a foundation as a record of a
2 public office activities or as a business record.

3 THE WITNESS: You can provide a little
4 background, if that's helpful.

5 MS. LOVE: That would be great.

6 MR. BARENBERG: I'm sorry, Ms. Love, I
7 wasn't sure which -- if you were saying that's
8 great to Mr. Walling or to me.

9 MS. LOVE: I'd like to hear what both of
10 you have, just so we know what this is.

11 THE WITNESS: So Anna and before her
12 Allan Seeley, have maintained an Excel spreadsheet
13 with all of the activities at the rate actions of
14 the PCF. So this spreadsheet is a living document
15 a that's been maintained for a good long time. I
16 don't know when it was created, they've certainly
17 identified that in the document, but it's an
18 exhibit that I have seen from the Department
19 previously and I know is something they've
20 maintained internally to memorialize the rate
21 actions of the PCF.

22 MR. BARENBERG: And I have less
23 information than that. It would just be that we
24 were told that this is maintained by OSI as part
25 of its regular data keeping.

1 MS. LOVE: I don't have any problem with
2 that as an exhibit.

3 MR. BARENBERG: So I will then move
4 to -- I'll show the spreadsheet in a moment, but I
5 move to offer this as Exhibit C.

6 CHAIRMAN RITCHIE: I see no objections,
7 Exhibit C admitted.

8 (Exhibit C admitted.)

9 MR. BARENBERG: I'm going to hand you
10 the hard copy. It's the only hard copy I have,
11 and then I will put it up on the screen.

12 (Sharing document on screen.)

13 MR. BARENBERG: So I'm showing that as
14 Exhibit C, I did not have any specific questions
15 for you on this so I leave it to the Board if
16 there's any questions about this document.

17 MR. AUTIO: Mr. Barenberg, can you zoom
18 in.

19 MR. BARENBERG: What do you want me to
20 zoom in, if I zoom in, it will eliminate portions
21 of it, so I'll start with the upper portion where
22 it is on the individual providers.

23 THE WITNESS: And I'll provide a little
24 background here.

25 The actuarial firm doing the work for

1 the PCF at this point in time, is what today is
2 known as Wells, Towers, Watson. You will see that
3 in '91 and '92, there were pretty substantial rate
4 changes taken, but after that it was, you know, a
5 triennial review which typically resulted in eight
6 to ten percent.

7 MR. AUTIO: This is Nick Autio. Do
8 those changes represent -- are these the changes
9 that were recommended by the actuary, or are those
10 the changes that were actually implemented by the
11 Superintendent of Insurance?

12 THE WITNESS: What was actually
13 implemented, at least that's my understanding this
14 is what -- the column labeled "Doctors Rate
15 Change" is what was actually implemented.

16 MR. AUTIO: And for independent
17 physicians, is there a total number we have on
18 this spreadsheet, Mr. Barenberg, that you can
19 scroll to?

20 MR. BARENBERG: Yeah. Let me scroll
21 down to the lower portion.

22 THE WITNESS: And then, starting in '07,
23 you'll see we went to doing actuarial studies
24 every-other-year, and you'll see the range of
25 indications shown there. The reason 2016 and '17

1 have two rate changes is the decision was made
2 essentially to implement that 18.1 percent change
3 as two consecutive annual changes, so those two
4 8.7 percent increases all came out of one
5 regulatory decision.

6 MR. CLARK: So the columns under
7 actuarial report were the recommended high and
8 low, so somewhere between the figure on the left
9 and the figure on the right and the amounts in
10 what would be the third column are what were
11 actually implemented by the OSI; is that correct?

12 THE WITNESS: Yeah. In the Doctors'
13 Rate Change column, correct.

14 MR. BARENBERG: Mr. Clark, when you
15 said, "third column," were you referring to
16 average hospital rate change?

17 MR. CLARK: No, Column 1, 2 and 3. Go
18 to calendar year 2007 on 7/1 of '07, the way I
19 read this is the Superintendent issued a
20 nine-and-a-half percent increase based on a
21 recommendation from the actuarial of somewhere
22 between 19 and 27 percent. Is that a correct way
23 to read this report?

24 THE WITNESS: That is correct. And
25 then, similarly, in '09, the indicated range that

1 we produced was between plus 15 and plus 50 and
2 plus 9.5 is what was implemented.

3 MR. CLARK: And are there -- one last
4 question: Are, there actuarial report ranges that
5 can be tied to the hospital average rate changes
6 that are included in the seventh column?

7 THE WITNESS: Only for the years where
8 we actually did rate indications. For the years
9 when we were -- when each hospital was producing
10 their own independent funding study, you're not
11 going to be able to kind of create that
12 comparison, so -- and I don't know what the other
13 actuaries did during that brief period where I
14 wasn't involved, so I can't tell you what method
15 this is.

16 MR. CLARK: So I believe this is
17 helpful. I don't want to speak on behalf of
18 Ms. Love, but I think this is mostly what she
19 asked, and I don't know Debbie indicated that
20 piece in, that would give us what the ranges are
21 for the hospital in the years that we've got was
22 going to be the last few years compared to what
23 the actual rate change was.

24 THE WITNESS: I think between myself and
25 OSI we can do the same thing for the hospitals on

1 this exhibit.

2 MR. CLARK: I'll let Ms. Love answer
3 whether or not that's what she wanted. I think
4 that's what we were looking for.

5 MS. LOVE: Yeah. I think that's
6 helpful. So, for every year there is a blank,
7 there was no actuarial study; is that correct?

8 THE WITNESS: Correct. Again, at this
9 point in time, they were doing actual studies
10 every-other-year.

11 MR. AUTIO: I don't want to interrupt
12 you if you have another question.

13 MS. LOVE: No, these are the actuarial
14 recommendations from the report, and I guess we
15 would need to look to the orders or the
16 recommendations from the hearing officers as to
17 what they recommended to the OSI if we went into a
18 little more data about what was actually
19 recommended by the hearing officer; is that right?

20 THE WITNESS: I'm not sure that's how
21 those hearings -- I'd have to go back and look,
22 but I think at that point, the OCI made a decision
23 based on the actuary's presentation, I don't think
24 there was an intermediary.

25 MS. LOVE: Okay.

1 MR. AUTIO: This is Nick Autio.
2 Mr. Walling, just so I can hopefully confirm my
3 understanding of what's on this table, for
4 example, if you look at 2016, was there a
5 recommended -- at a low central estimate, was
6 there a recommended 18.1 percent increase
7 recommended there?

8 THE WITNESS: Yeah. I'm not wild about
9 characterizing that as the low. That was simply
10 the expected. It's the same terminology we're
11 using now, so that was the recommendation without
12 the additional risk margin.

13 MR. AUTIO: Okay. So that was the
14 recommendation with no risk margin.

15 THE WITNESS: Correct.

16 MR. AUTIO: And at a 90 percent
17 confidence level, that would have been a 46.8
18 percent.

19 THE WITNESS: Correct.

20 MR. AUTIO: So we can assume that the 75
21 percent confidence level is at 18 and 46 percent.

22 THE WITNESS: Yes.

23 MR. AUTIO: And the actual rate that was
24 implemented was 8.7 percent correct.

25 THE WITNESS: No. It was 8.7 percent

1 twice. They actually almost got -- they got the
2 majority of the 18 percent increase, they just
3 chose to implement it as two consecutive annual
4 changes.

5 MR. AUTIO: But for -- just so we're
6 clear, in 2016, though, there was -- are you
7 saying there was a -- just over a 17 percent
8 increase or was there an 8.7 percent increase in
9 2016?

10 THE WITNESS: There was -- the decision
11 in 2016 was to increase surcharges 8.7 percent
12 that year and also to implement -- to do the same
13 thing the next year. So, that was -- the reason
14 it's organized the way it is, is in this table is
15 the data for '16 and '17 all came out of one
16 actuary analysis and one hearing.

17 MR. BARENBERG: So is it correct that
18 when you read this table for '16 and '17, the
19 recommendation was an 18.1 percent increase over
20 the two-year period?

21 THE WITNESS: I guess I would suggest it
22 was really that you implement an 18.1 percent
23 increase now, and the decision was made instead of
24 doing it all at once to phase it in over two
25 years.

1 MR. AUTIO: And to that point, though,
2 for 2016, the recommendation was at least an 18.1
3 increase.

4 THE WITNESS: Correct.

5 MR. AUTIO: And when we turn to Exhibit
6 4, Page 2 of your report, Page 44, when we look at
7 2016, based on your tended ultimate loss ratio,
8 that year shows an 85.5 percent loss ratio,
9 correct?

10 THE WITNESS: Yes.

11 MR. AUTIO: So more money was paid in
12 than paid out for physicians in 2016, correct?

13 THE WITNESS: I think you're off a
14 row -- nope, you're correct.

15 So, yeah, but then in 2017, despite
16 getting two consecutive 8.7 percent increases,
17 there was a shortfall, already, as of year-end '22
18 of \$1.4 million and projected to be ten-and-a-half
19 million dollars, so ... Because we're talking
20 about 30 claims, it is very hard to make
21 generalizations about the experience from one
22 year.

23 MR. AUTIO: And in fact when we look at
24 Appendix 5, which addresses a number of claims
25 over six years of your report, indeed up to 2016

1 and 2017, there were -- well, I guess close with
2 payments -- they were pretty similar claim
3 frequency those two years, correct?

4 A. So far. Now, 2015 only had 12, which
5 highlights the volatility of doing excess medical
6 professional liability.

7 MR. AUTIO: No further questions.

8 MR. CLARK: One simple clarification, we
9 as a Board, if we were to add 8.7 and 8.7 together
10 people would think that there was was a 17.4
11 percent increase.

12 THE WITNESS: Need to multiply it.

13 MR. CLARK: And the result is the 18.16
14 percent increase on 18.1 percent recommendation.

15 THE WITNESS: Cool. Thanks for doing
16 the math.

17 MR. DEKLEVA: Mr. Walling, I just had a
18 question for -- this is Mike Deklava -- I think I
19 know the answer but I just want to ask it, that
20 is, if we see the blank spaces in Column 3, for a
21 year where a recommended rate increase was made,
22 we'll use 2012 as an example, where the
23 recommended rate increase was between 2.8 and
24 27.8, is it accurate to say that because that
25 third -- that box on the third column for 2012 is

1 blank, that there just wasn't a rate increase made
2 that year; is that how you interpret it?

3 THE WITNESS: That's how I'm
4 interpreting it, and that's consistent with my
5 recollection.

6 MR. DEKLEVA: Okay.

7 MR. BARENBERG: Ms. Luera, do you know
8 if that means there was no increase, or we just
9 don't have the data?

10 MS. LUERA: That's my understanding. No
11 rate increase.

12 MS. LOVE: What was that answer? Was
13 that no rate increase?

14 THE WITNESS: No change.

15 MR. BARENBERG: Her understanding there
16 was no rate increase.

17 MR. CLARK: In 2018 -- this is Troy
18 Clark again -- in 2018, was it zero percent? Is
19 there a reason there's a zero percent versus a no
20 rate increase? Does that indicate anything other
21 than --

22 THE WITNESS: Somebody typing in zero.
23 I believe. I don't know whether that's my
24 analysis or not. I just don't remember whether we
25 did the 2018 or not.

1 MR. CLARK: And the recommended increase
2 that year was actually a 17 percent reduction; is
3 that correct.

4 THE WITNESS: Again, I don't recall
5 whether I did that analysis, and so --

6 MR. CLARK: According to this report.

7 THE WITNESS: But when you change
8 actuaries, you run the risk of different methods
9 and assumptions, so I'm not -- without more
10 information I'm not in a position to say anything
11 about that actuarial range or what was
12 implemented.

13 MS. LOVE: This is Kathy Love. I have a
14 follow-up question about the '16 and '17 years.
15 Was there an actual analysis done in 4/20/16?

16 THE WITNESS: I don't know the specific
17 month that it was done.

18 MS. LOVE: Okay. But it was done for
19 2016, for that year.

20 THE WITNESS: My expectation is it
21 actually would have been valued as of 12/31/15.

22 MS. LOVE: Okay. And then was there
23 also one done that was valued as of 12/31/16.

24 THE WITNESS: No. That's the whole
25 point. The reason you got a single box is that

1 the analysis, as of 12/31/15 led to two rate
2 changes, one in October of '16; one in October of
3 '17. So the recommended rate change was
4 implemented.

5 MS. LOVE: I just wanted to be explicit
6 about that. It was just one actuarial analysis
7 that resulted in the two rate changes.

8 THE WITNESS: Yup.

9 MS. LOVE: Sorry, I think I lost you
10 guys for a second there. I just wanted to be
11 clear that there was only one actuarial analysis
12 done for those two rate changes at the
13 8.7 percent, I think you were clear on that, I
14 just wanted to be absolutely clear.

15 THE WITNESS: Yes.

16 MS. LOVE: Thanks.

17 CHAIRMAN RITCHIE: Any other questions
18 on this topic?

19 (No response.)

20 CHAIRMAN RITCHIE: I have like three
21 final questions. Does anybody else have any final
22 questions not necessarily on this, but overall?

23 MS. LOVE: I do.

24 CHAIRMAN RITCHIE: Go ahead, Kathy.

25 MS. LOVE: Mr. Walling, you were asked a

1 number of questions about an illusory coverage
2 issue, and my question to you is, that has nothing
3 to do with your analysis and recommendations as to
4 the surcharge rate setting this year, does it?

5 THE WITNESS: No. It was a separate
6 item of scope that was added at the beginning of
7 the project.

8 MS. LOVE: And that's something that
9 counsel for the Superintendent of Insurance asked
10 you to include in this report?

11 THE WITNESS: I don't honestly recall
12 who asked for it.

13 MR. BARENBERG: I will represent that I
14 did not request it.

15 CHAIRMAN RITCHIE: Anything else?
16 Anybody else online?

17 (No Response.)

18 CHAIRMAN RITCHIE: I had just three
19 quick questions, since we are getting late.

20 Do you look at the increasing number of
21 physicians that become W2 employed physicians,
22 there is certainly a trend nationwide and in this
23 state, did that factor in anywhere in the
24 analysis?

25 THE WITNESS: Sure. It affects the

1 independent physician claim counts, because we are
2 looking at claim counts per million dollars of
3 surcharge. So as we see that demographic shifted
4 from being independent to being W2 employees, all
5 the things being equal, that should start reducing
6 the number of independent physician claim counts.
7 So sure, as I said yesterday, the three main data
8 points we look at -- well, four main data points,
9 are reported claims, closed claims, paid losses
10 and surcharges.

11 And so to the extent that a shift in the
12 demographics of the healthcare providers in New
13 Mexico shifts people from the independent to the
14 hospital affiliated, it's going to affect,
15 candidly, all four of those metrics.

16 CHAIRMAN RITCHIE: Okay. Thank you.

17 Second, how much does the inflationary
18 adjustment that was put in two years ago on the
19 caps, how much do you feel that affects the rates
20 going forward?

21 THE WITNESS: It depends -- it varies by
22 years.

23 CHAIRMAN RITCHIE: Right.

24 THE WITNESS: And the last couple of
25 years, we've been in a bigger inflationary

1 position than the long-term average. I expect
2 that to settle down over time, but we actually
3 show the CPI numbers somewhere on Page 9 of 91,
4 you can see what the CPI looks like. And you'll
5 see that for '21 and '22 it's much higher than the
6 long-term average.

7 CHAIRMAN RITCHIE: Quick follow-up to
8 that. Have you seen other states, other
9 benchmarks being used than the CPI?

10 THE WITNESS: There's basically two
11 common approaches, one is the overall CPI; the
12 other is just the medical component of CPI. So we
13 use -- we monitor both of those. In I forget
14 which -- because we actually looked at it here and
15 I forgot whether medical CPI showed a year earlier
16 or a year later, but we saw the same spike in
17 medical CPI, but it was a year different than the
18 overall CPI.

19 CHAIRMAN RITCHIE: And are they in the
20 same range?

21 THE WITNESS: Yeah. Pretty comparable.

22 CHAIRMAN RITCHIE: And number three, do
23 you see any trend in this basically over
24 15 percent increase to apply the physicians
25 increase in their recommended rate increases, do

1 you see any -- this trend per year of the base
2 rate, do you see that changing in the future? Do
3 you see that -- where do you foresee that going in
4 the future as an actuary?

5 THE WITNESS: As an actuary, if you're
6 exactly right, the rate still needs to go up with
7 inflation. So if I got my crystal ball just
8 dialed in and got the surcharges exactly right,
9 you still need to keep up with inflation. Now,
10 what does that mean? It means severity inflation,
11 also means frequency inflation. So if we're
12 seeing a change in the underlying frequency of
13 claims, that also affects that number. So you're
14 really trying to monitor changes in frequency
15 trends, changes in severity trends, and also some
16 of those other demographic trends that you were
17 talking about, like a shift from an independent to
18 W2 employed, all three of those are going to have
19 an influence on kind of what I would expect the
20 indicated rate needs to be if this recommended
21 change was implemented.

22 My answer next year is still going to
23 be, not knowing anything else, you need to keep up
24 with inflation.

25 CHAIRMAN RITCHIE: Okay. Thank you.

1 Are there any other questions?

2 (No response.)

3 CHAIRMAN RITCHIE: Then I think we have
4 two more items, one is, as we did last year, I
5 suggest that we have a small group, it has to be
6 four or less so it is not a quorum, to write the
7 report as we did last year, the recommendations as
8 we did last year; and then, number two, we need to
9 set a date for a future hearing to discuss that
10 report and vote on it. We have to announce that
11 at least ten days in the future so that report, or
12 that later meeting cannot be sooner than
13 approximately I think Vince told me the 5th of
14 October. We have not heard back. I don't
15 believe, a deadline from the superintendent when
16 it has to be there, but we'll assume that the
17 Superintendent still wants it well before the end
18 of October. And so, first off, do we have any
19 volunteers for who gets to put this together as a
20 Board report?

21 MR. VARGAS: This is Ray Vargas, I'm
22 happy to volunteer.

23 MR. AUTIO: This is Nick Autio, I'm also
24 happy to volunteer. I just a have a question,
25 though, do we as a Board want to meet, first, to

1 actually talk about what recommendations we're
2 going to include in the report, or do we want to
3 meet as that sub group, put a report together and
4 then meet as the Board to actually decide on what
5 our recommendations will be? I just don't want to
6 put the cart before the horse, and that group --

7 MS. LOVE: Oh I agree.

8 MR. VARGAS: Yes.

9 MR. CLARK: Mr. Chair, in fairness --
10 this is Troy Clark again -- for previous years, we
11 identified kind of bullet points and then these
12 are the -- our recommendations and then sent a
13 subcommittee off to go draft it into a report.

14 CHAIRMAN RITCHIE: Correct. We do have
15 this time constraint because of the Open Meetings
16 Act, we have to have ten days before each of those
17 meetings to announce them. So we have -- don't
18 have a hard-and-fast date from the Superintendent
19 so far so we have some leeway. So we can --

20 MS. LOVE: Mr. Chairperson.

21 CHAIRMAN RITCHIE: Yes, Ms. Love.

22 MS. LOVE: Chairman Ritchie, I apologize
23 if I talked over you. I've got a little bit of
24 sketchy service right now. What I was going to
25 suggest is that since we don't have that

1 information and since we are under the time of the
2 meeting notice now, perhaps we can do a "dual
3 full" and come up with a date for all of us for
4 the Board to meet again and go from there.

5 CHAIRMAN RITCHIE: A date for the Board
6 to meet to discuss these -- this meeting, or a
7 date to discuss preliminary bullet points?

8 MS. LOVE: To discuss what they want to
9 see in the reports that the subcommittee will then
10 draft.

11 CHAIRMAN RITCHIE: Okay.

12 MR. CLARK: Mr. Chair, just a
13 recommendation, I know we've got ten-day limit,
14 too, we could we pick a date at least ten days out
15 from today for us to meet and discuss this meeting
16 and identify the bullet points, but not wait until
17 that meeting to set the next one for a notice that
18 we could pick the second meeting being four, five,
19 eight days later to whatever that subgroup feels
20 is enough time for them to bring a report back.

21 CHAIRMAN RITCHIE: And since this year
22 we have more leeway. We got going faster, don't
23 have the time constraints, don't have the
24 Superintendent time constraints. I think we have
25 time for that this year, so that second week,

1 then, of October, probably, is when we're looking
2 at.

3 MR. MARTINEZ: Chairman Ritchie.

4 CHAIRMAN RITCHIE: Yes.

5 MR. MARTINEZ: This is Alfonso Martinez,
6 with that being said, if we wanted to re-call our
7 witness, would we be able to do that probably not
8 at the meeting where we will be discussing, but at
9 a later time. But in case we wanted to bring him
10 back if we have any clarifying points that we
11 need.

12 CHAIRMAN RITCHIE: Vince stepped out, so
13 I don't have a legal person to ask the question
14 of.

15 MR. MARTINEZ: We kind of discussed that
16 last year about being able to kind of re-call our
17 witness, because I know in previous years we've
18 had questions that have come up during our
19 discussions.

20 CHAIRMAN RITCHIE: I think that's what
21 this second day was for, to be honest as I
22 remember from last year. Because we did feel that
23 same way last year and that's what this second day
24 was for, to give us more time for that.

25 THE WITNESS: If it's beneficial my

1 professional standards require me to -- the
2 wording for that is prevent misuse of my work
3 product. So, to the extent that any
4 clarifying questions that you have helps prevent
5 that, I'm happy to be available, as long as it
6 doesn't run afoul of legal requirements.

7 CHAIRMAN RITCHIE: Well then let's set
8 the dates and clarify with Vince and see if it's
9 going to be necessary, but have a date to you to
10 be available.

11 THE WITNESS: Perfect.

12 CHAIRMAN RITCHIE: So, as far as that
13 second week in October, this -- Thursdays and
14 Fridays have worked for people in the past, and so
15 are there any days that week that people cannot do
16 it? Anyone on the Board?

17 MS. LOVE: Can you repeat the week
18 you're looking at.

19 CHAIRMAN RITCHIE: The second week in
20 October.

21 MR. CLARK: October 9th; is that right,
22 that week, Mr. Chairman?

23 CHAIRMAN RITCHIE: Correct.

24 MR. DEKLEVA: Chairman Ritchie, are you
25 asking if we can do it on the 12th or 13th? This

1 is Mike Dekleva.

2 CHAIRMAN RITCHIE: That seems to be
3 working out. I was just asking, first, if there
4 are any days to strike that week.

5 MR. DEKLEVA: From any my standpoint --
6 again, this is Mike Dekleva -- I'm good to go. I
7 can make anything work during that week. Later in
8 the week is better but I'll be able to make
9 something work.

10 CHAIRMAN RITCHIE: Thank you, sir.

11 UNIDENTIFIED MEMBER: Mr. Chair for me,
12 the 9th and 10th are difficult. I can rearrange,
13 but I think it would be better for 11th or 13th.

14 CHAIRMAN RITCHIE: We are trending late
15 in the week. Ms. Love?

16 MS. LOVE: I can do some mornings.

17 CHAIRMAN RITCHIE: Mornings? Okay.
18 Mornings of say the end of the week, Thursday,
19 Friday in the mornings would work for you?

20 MS. LOVE: The 10th, 11, 13, any of
21 those.

22 CHAIRMAN RITCHIE: Thank you. Then, how
23 about the morning of the 12th? Thursday the 12th
24 in the morning, again, 9:00 a.m. in the morning?
25 Are there any problems with that?

1 (No response.)

2 MR. CLARK: I have an obligation at 11,
3 if we're done by 11 -- I can go remote, no
4 problems at all on Friday the 13th in the morning.

5 MR. DEKLEVA: I can do it on the 12th in
6 the morning until 11 -- Mike Dekleva again for the
7 Court reporter -- and then on the 13th, I can make
8 everything work except that I'm out from about 11
9 to 1:30.

10 CHAIRMAN RITCHIE: How about starting
11 earlier, 8, 8:30 in the morning? Anyone who
12 cannot do that?

13 (No response.)

14 CHAIRMAN RITCHIE: How about doing an
15 8:00 start on Thursday?

16 MS. LOVE: Can we do it by video
17 conference?

18 CHAIRMAN RITCHIE: We can.

19 MR. DEKLEVA: I'll probably be on video
20 conference, as well. I'm in favor of that.

21 CHAIRMAN RITCHIE: We certainly can make
22 accommodations for that for a hybrid meeting
23 again, I believe, as long as we give notice of
24 that.

25 So 8:00 a.m. on Thursday the 12th? Okay

1 then, that's when we'll do it, set up to get that
2 done.

3 MR. CLARK: Mr. Chair on that, simply
4 using our facilities, do we want it to be hybrid
5 and if so, do you want to try and get our
6 facility, or do you want to go to all remote?

7 MS. LOVE: I would propose we go all
8 remote for this one, simply because we're not
9 taking any testimony we're just having a
10 conversation and I see it's easier for everybody
11 to hear.

12 CHAIRMAN RITCHIE: Any problem with that
13 that you know of?

14 MS. LUERA: I'll confirm with Vince.

15 CHAIRMAN RITCHIE: We will confirm with
16 Vince. We can do that, as long as we can do that.
17 I don't have a problem with that.

18 MR. CLARK: I'll do a smaller room in
19 case we need it.

20 CHAIRMAN RITCHIE: Lets set a date to do
21 the next one. How long do we want to give for
22 that report to be generated and then come back
23 with a committee, one week, two weeks? I think we
24 did it last year, Mr. Clark, Mr. Dekleva, I know
25 you were very involved in it.

1 MR. CLARK: I was two years ago, I took
2 a hiatus this last year. I don't want to take
3 credit where it isn't due. Ms. Love and
4 Mr. Vargas are recurring, I might recommend we do
5 one week, just in case there are additional items
6 needed, that we give ourselves a last-minute
7 buffer.

8 MS. LOVE: I think we're getting good at
9 it. We can do it in a week.

10 MR. AUTIO: Mr. Chairman, this is Nick
11 Autio. A week probably makes sense, that would be
12 us finalizing the report and getting it on the
13 20th and then to have until the 31st to actually
14 decide on recommendations, even if we pushed it
15 two weeks, you wouldn't have sufficient time, so a
16 week makes sense.

17 CHAIRMAN RITCHIE: Correct. I believe
18 there is a deadline to the end of October, so that
19 following Thursday, that morning, how does that
20 look to people, the 19th?

21 MR. CLARK: This is Mr. Clark. That
22 works for me.

23 MS. LOVE: I cannot do the 19th. I can
24 do the 18th.

25 CHAIRMAN RITCHIE: Okay. How about the

1 20th?

2 MS. LOVE: I could do that by Zoom,
3 only, and I would not be able to be on video, I'll
4 be post procedure, but I'm happy to do it on the
5 20th.

6 CHAIRMAN RITCHIE: Okay, Mr. Dekleva?

7 MR. DEKLEVA: On the 20th at what time?

8 CHAIRMAN RITCHIE: Either one, morning
9 or afternoon.

10 MR. DEKLEVA: You know what, yeah,
11 morning is preferable, but I can do afternoon,
12 too.

13 CHAIRMAN RITCHIE: If we do it morning,
14 we could potentially get it to the Superintendent
15 that afternoon, technically, that full a little
16 over a week. Morning of the 20th?

17 MR. MARTINEZ: Morning.

18 CHAIRMAN RITCHIE: Okay. Then morning
19 of the 20th, as well, for meeting.

20 UNIDENTIFIED MEMBER: At 8 or 9?

21 CHAIRMAN RITCHIE: 9:00 a.m., so we have
22 dates and times, and that one will be also all by
23 video.

24 MS. LUERA: As long as it's okay.

25 CHAIRMAN RITCHIE: As long as counsel

1 agrees to that.

2 Okay. And obviously notices will be
3 sent out. We'll get that out to everyone by
4 email.

5 MR. AUTIO: Mr. Chair, this is Nick
6 Autio. I don't know if an expedited transcript of
7 this hearing is needed, but I think it would be
8 good for everyone to have a transcript to review
9 it before our meeting on I guess the 12th. So I
10 assume that's plenty of time for the court
11 reporter by the 12th -- by the 5th, by the 5th or
12 6th of October?

13 THE COURT REPORTER: I suppose that's
14 possible.

15 CHAIRMAN RITCHIE: So do we want to
16 decide who's going to write up our report now, or
17 do we want to wait until that next meeting, to
18 give people a chance to think about it?

19 MS. LOVE: I think anybody who's willing
20 to do it, if we had to seize on it, the group last
21 year worked --

22 MR. DEKLEVA: Here's a suggestion --
23 this a Mike chiming in -- here's a suggestion, why
24 don't we have to -- I'm trying to remember which
25 different groups of people we have represented

1 here, but I nominate Ray Vargas to write the
2 initial draft, but I'm happy to be on the
3 committee with Nick and Ray, and you know, to, you
4 know, work on the draft that way we have a
5 representative from each different interest within
6 the group, but we might want to have one of the
7 patient representatives on, too, right, so maybe
8 we can have four people kind of lead the charge on
9 reviewing the draft and so forth. Does that sound
10 good?

11 MS. LOVE: That's great.

12 MR. AUTIO: This is Nick Autio. Yes,
13 we've got the nurse representative, too, Kathy, I
14 don't know if you want to talk, I don't know if
15 the patient representatives are on, we need to
16 avoid having five people but I also want to make
17 sure the nurses are part of that, too, if they
18 choose to do so. So I'm going to consider -- I
19 guess we can discuss that at our next meeting,
20 though.

21 CHAIRMAN RITCHIE: Let's decides on that
22 at the next meeting. We can talk to people before
23 then on who's willing to do it. It is four people
24 because we can't be -- we can't reach quorum. So
25 figure on four people, max, and at the next

1 meeting we can make a final decision on that.

2 Okay. Well, then we are 23 minutes
3 past, but we did get it all done, I think. So any
4 other business?

5 I thank everyone for being here doing
6 this in this way. I think we're getting better at
7 this as the years go by and so I really appreciate
8 everyone's help. Thank you Mr. Barenberg for all
9 your help.

10 MR. DEKLEVA: Thank you.

11 CHAIRMAN RITCHIE: And thank you
12 everyone. We will adjourn until next meeting on
13 the 12th. Thank you.

14 MS. LOVE: Thanks everybody.

15 MR. DEKLEVA: Thank you. Bye-bye.

16 (Adjourned at 11:26 a.m.)

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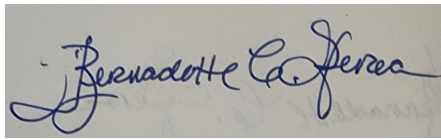
BEFORE THE NEW MEXICO SUPERINTENDENT OF INSURANCE
AS CUSTODIAN OF THE PATIENT'S COMPENSATION FUND

IN THE MATTER OF DETERMINING)
PATIENT'S COMPENSATION FUND)Docket No.
SURCHARGE RAGES FOR CALENDAR)2023-0018-CF
YEAR 2024,)

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[assuming - best]

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[hand - implementing]

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[legal - luera]

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[physicians - protection]

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[provide - ray]

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New Mexico Rules of Civil Procedure for the
District Courts

Article 5, Rule 1-030

(e) Review by Witness; Changes; Signing.

If requested by the deponent or a party before completion of the deposition, the deponent shall have thirty (30) days after being notified by the officer that the transcript or recording is available in which to review the transcript or recording and, if there are changes in form or substance, to sign a statement reciting such changes and the reasons given by the deponent for making them. The officer shall indicate in the certificate prescribed by Subparagraph (1) of Paragraph F of this rule whether any review was requested and, if so, shall append any changes made by the deponent during the period allowed.

DISCLAIMER: THE FOREGOING CIVIL PROCEDURE RULES
ARE PROVIDED FOR INFORMATIONAL PURPOSES ONLY.
THE ABOVE RULES ARE CURRENT AS OF APRIL 1,
2019. PLEASE REFER TO THE APPLICABLE STATE RULES
OF CIVIL PROCEDURE FOR UP-TO-DATE INFORMATION.

VERITEXT LEGAL SOLUTIONS

COMPANY CERTIFICATE AND DISCLOSURE STATEMENT

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