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MEETING OF THE PATIENT COMPENSATION FUND

ADVISORY BOARD

TRANSCRIPTION OF AUDIO PROCEEDINGS

October 26, 2023

TRANSCRIBED BY:

ANNE DEHON, CCR #263
Bean & Associates, Inc.
201 Third Street NW, Suite 1610
Albuquerque, New Mexico 87102
(505) 843-9494

JOB NO: 8891N

1 CHAIRMAN RITCHIE: Vince, do we need a
2 motion to do it that way?

3 MR. WARD: I don't think -- no, just because
4 there's nothing that's necessarily in your
5 resolution that suggests that you were going to use
6 a court reporter. I think it's fair to put it on
7 the record. As the Chair, I think, just put it on
8 the record so it's clear for the record.

9 CHAIRMAN RITCHIE: Okay. So, yeah, in lieu
10 of having a court reporter, we will record this,
11 and then we'll be able to transcribe that later for
12 the minutes. Hearing no objections, we'll move
13 that in the record.

14 So we'll call the meeting to order, then.
15 And so let's have a roll call to make sure we've
16 got a quorum here.

17 MS. LUERA: Chairman Ritchie?

18 CHAIRMAN RITCHIE: Present.

19 MS. LUERA: Vice Chair Love? Mr. Clark?

20 MR. CLARK: Here.

21 MS. LUERA: Mr. Dekleva?

22 MR. DEKLEVA: Here.

23 MS. LUERA: Mr. Vargas?

24 MR. VARGAS: Here.

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

1 MS. STEVENS: Here.

2 MS. LUERA: Mr. Martinez?

3 MR. MARTINEZ: I'm here.

4 MS. LUERA: And Mr. Autio?

5 MR. AUTIO: Here.

6 CHAIRMAN RITCHIE: Terrific. Thank you,
7 everyone, for joining in the middle of, I'm sure, a
8 busy day for everyone. And I hope that we can make
9 this very short and people can get back to their
10 day jobs.

11 So can I have an approval of the agenda, a
12 motion?

13 MR. CLARK: So moved. This is Troy.

14 MR. VARGAS: This is Ray. I second.

15 CHAIRMAN RITCHIE: Okay. Are there any
16 objections? Hearing none, the agenda is approved.
17 Next, approval of the meeting minutes which would
18 be primarily the meeting minutes and the
19 introduction of the proposed report or
20 recommendations to the superintendent. So do we
21 have a motion for that?

22 UNIDENTIFIED MALE: Ms. Luera, have we
23 received the minutes of the last meeting yet?

24 MR. WARD: Yeah, I don't think we have. I
25 think that's correct.

1 UNIDENTIFIED MALE: Then we can't act on
2 that.

3 CHAIRMAN RITCHIE: Okay. Then we'll have to
4 defer that, but we have received the proposed
5 findings, conclusions and recommendations, so we
6 will now discuss that. And do we need to enter
7 that into the record?

8 UNIDENTIFIED MALE: I don't think this is --

9 MS. STEVENS: This isn't a hearing.

10 CHAIRMAN RITCHIE: So we'll just discuss
11 that.

12 MS. STEVENS: Yeah.

13 CHAIRMAN RITCHIE: So, then, we move on to
14 number two, discussion of all the evidence
15 presented during the surcharge rate hearing, so
16 this would be outside, then, of the actual report.
17 Is there any discussion of our last meeting and the
18 information that was admitted and the discussions
19 that were made? Anything that was left unsaid or
20 undiscussed?

21 MR. VARGAS: No, I think we covered it all
22 in the last meeting.

23 UNIDENTIFIED MALE: I agree.

24 CHAIRMAN RITCHIE: Okay. Hearing no
25 objections to that, then, let's address now number

1 three, the recommendations. Everyone should have a
2 copy of the proposal, the proposed recommendations,
3 and let's -- I propose that we go through the -- as
4 we have up here, the tracked copy.

5 So, within this first section, we'll just go
6 through it real quickly straight down the line here
7 and see if anyone has any -- any recommendations.

8 Mr. Autio, Nick, do you have something here
9 that you added already?

10 MR. CLARK: Mr. Chair --

11 CHAIRMAN RITCHIE: Yeah.

12 MR. CLARK: -- this is Troy. Can I make a
13 recommendation that possibly we have Mr. Vargas
14 just walk us through --

15 CHAIRMAN RITCHIE: I think that's fine.

16 MR. CLARK: -- the recommendations or the
17 changes? Since we already saw the rest of it, he
18 can identify what the changes are and then on each
19 one have you ask if there's any questions or
20 concerns?

21 CHAIRMAN RITCHIE: Thank you. I think
22 that's fair. Yeah, Mr. Vargas, I'm sorry, I
23 stepped all over what you could probably do way
24 better than I could.

25 MR. VARGAS: No problem.

1 CHAIRMAN RITCHIE: So present it and then we
2 can discuss the changes.

3 MR. VARGAS: Sure. Ms. Luera, can you
4 please scroll down to paragraph number 24, please?

5 MS. LUERA: Of course.

6 MR. VARGAS: So, since our last meeting, the
7 first change that was made, you may recall, Mr.
8 Clark noted that it would not be the legislature
9 but the superintendent who would make the decision
10 how to allocate the \$32.5 million from the
11 legislature, so that correction was made in
12 paragraph 24.

13 And then, in our last hearing, we heard
14 evidence from the actuary about the percentages if
15 the allocation was changed from 50/50 between
16 independent physicians and surgeons and the
17 hospitals to 38/62, 62 percent of it being
18 allocated to the independent physicians and
19 surgeons and 38 percent to the hospitals.

20 And you'll see, in paragraph 25, what I did
21 was incorporated the information that was provided
22 by the actuary on those numbers and also
23 incorporated the supplemental exhibit that the
24 actuary provided to us. And I tried to do that as
25 accurately as possible, but my subcommittee members

1 caught a mistake on the overall rate increase.
2 Instead of 66.2 percent, you'll see it was 63.2, so
3 that correction was made. But it was just a
4 straightforward inclusion similar to the prior
5 numbers that we had at 50/50. It was just with the
6 new allocation.

7 Does anybody have any questions on that?

8 Let's go ahead and move down to the next --
9 I think it's going to be under the recommendations
10 where we have the next changes. Let's see. Sorry,
11 yep, under the independent outpatient healthcare
12 facilities we were -- we asked a lot of questions
13 of the actuaries. Obviously, they just didn't have
14 the data that we needed.

15 So, based upon their recommendation, I
16 included the fact that they've been essentially
17 just putting a ten percent premium on top of the
18 surcharges for the independent practitioners that
19 practice within the independent outpatient
20 healthcare facilities, and so we incorporated their
21 recommendation to keep it just at a ten percent
22 surcharge.

23 But you'll see, in paragraph 32, I also
24 incorporated -- it looks like I have a typo in
25 there, but I incorporated the board's -- or the

1 committee's recommendation that in the future the
2 PCF compile data on a per-procedure basis like it
3 does for hospitals so that we can get a more
4 accurate way of determining the appropriate
5 surcharge for independent outpatient healthcare
6 facilities.

7 Anybody have any questions on paragraphs 31
8 and 32?

9 MR. CLARK: Mr. Vargas, you mentioned --
10 this is Troy, sorry. You mentioned a typo. Could
11 you highlight what that is for those of us who
12 don't see it?

13 MR. VARGAS: It's the word determining in
14 paragraph 32. There we go. Thank you. Thanks for
15 fixing that. Okay.

16 CHAIRMAN RITCHIE: All right. This is
17 Chair. I would comment that, basically, this is --
18 this is continuing the exact same practice as what
19 the fund does for any -- any healthcare entity
20 that -- yeah, that if you're a practice you're
21 charged a ten percent premium for each of the
22 providers covered within your practice, and it was
23 just automatically extended to outpatient
24 healthcare facilities just because that's the way
25 it's done. So this would be, going forward, to

1 compile the data to see if we need -- if we think
2 it should be done differently or not.

3 And that's what I understand. If anyone on
4 the committee understands it differently or wants
5 to present something different at this point,
6 though I think we discussed it last time, but
7 that's the way I take it and that's why we are
8 doing it that way.

9 MR. VARGAS: I think that's right, Mr.
10 Chair. Thank you. Okay. Let's go ahead and
11 scroll down to the recommendations. These changes
12 were discussed at the last meeting. Under A, we
13 just, you know, deleted the last phrase of that
14 last sentence that we had discussion about in the
15 last meeting, and that was the phrase that began
16 "because the additional surcharge could cause an
17 exodus of eligible independent providers." At our
18 last meeting we agreed just to delete that.

19 MR. CLARK: And Mr. Vargas -- Troy again --
20 just to be clear, we also the words this year and
21 you'll see those in purple --

22 MR. VARGAS: Correct.

23 MR. CLARK: -- at the end of the sentence.
24 That was part of the discussion last time, so thank
25 you for doing that.

1 MR. VARGAS: Correct. Thank you. Okay.
2 Let's move down to the next page. Under B we
3 incorporated the recommendation that the
4 superintendent allocate the \$32.5 million infusion
5 from the legislature by allocating 62 percent to
6 the independent physicians and surgeons and 38
7 percent to the hospitals.

8 And let's see.

9 CHAIRMAN RITCHIE: Well -- and this is
10 Chair. Again, to just clarify that a little bit,
11 so that is based on the number of physicians. So
12 it's not to the -- it's 38 percent to the hospitals
13 based on the employed physicians. It's not like
14 just to the hospitals. It's based on the physician
15 allocation in the hospital bucket because of the --

16 MR. CLARK: It's based upon the (inaudible).

17 CHAIRMAN RITCHIE: I don't know if we should
18 add anything to that because, I mean, that's what
19 it is. That's why we're doing it. But it's not to
20 the hospitals just as the hospitals. It's to the
21 hospitals as employers of 38 percent of the
22 physicians.

23 UNIDENTIFIED MALE: Mr. Chair, if I could
24 make a motion -- a recommendation, I guess we can
25 cover the whole thing in a motion later, but I'd

1 make a recommendation to cover that after the word
2 hospitals, at the end of B we could put a comma and
3 use the words "based upon the ratio of independent
4 physicians to employed physicians" and then have a
5 period before accepting of that.

6 MS. LUERA: I'm having problems typing
7 today. Based upon the ratio of independent --

8 UNIDENTIFIED MALE: To employed physicians.

9 MR. VARGAS: And I think -- I don't know
10 that we defined employed physicians anywhere in
11 this report, so maybe we should change that to
12 physicians employed by hospitals.

13 UNIDENTIFIED MALE: Yeah, that's fine.

14 UNIDENTIFIED MALE: Mr. Chair, it might be
15 appropriate to ask if everybody is okay -- I don't
16 know that we have to have a vote, but just before
17 we get to discussion, if there's a concern with
18 that outside of Mr. Vargas, now we seem to be okay
19 with that, that that covers it all?

20 CHAIRMAN RITCHIE: So is there -- is
21 everyone clear on those changes? If no one has a
22 question on those changes, then is there any
23 discussions of the changes?

24 MR. DEKLEVA: Just a little -- just one --
25 this is Mike Dekleva. Just one little change to

1 make it a little bit clearer. I think we should,
2 after -- in this clause that was added, you know,
3 after ratio, it says ratio of independent. I think
4 it should say ratio of independent physicians to
5 physicians employed by hospitals. So I'd put in
6 physicians right there just to make it clear.

7 UNIDENTIFIED MALE: Yeah, that's better.

8 MR. VARGAS: Good grammatical catch. Thank
9 you.

10 CHAIRMAN RITCHIE: Okay. Hearing no further
11 discussions, I think -- (inaudible). Yes, please
12 keep going, Mr. Vargas. We'll vote on the whole
13 thing in todo at the end.

14 MR. VARGAS: Okay. Let's go ahead and
15 scroll down, and you'll see we added a
16 recommendation in F for independent outpatient
17 healthcare facilities, and it's consistent with
18 what we had in paragraph 20 -- or, excuse me, in
19 the prior discussion about outpatient healthcare
20 facilities that we recommended the surcharge
21 continue to be an additional ten percent of the
22 surcharges calculated for the practitioners working
23 in the facility but that we also recommend that,
24 going forward, the PCF compile data based on a
25 per-procedure basis as it does for hospitals so we

1 can use that data to determine whether we've -- the
2 ten percent is the correct way to do it or if it
3 makes more sense based on the data from the
4 per-procedure compilation that we expect to get in
5 the future.

6 Does anybody have any questions on that
7 recommendation?

8 MR. CLARK: No.

9 MR. VARGAS: And I think that's it for the
10 changes.

11 UNIDENTIFIED MALE: Mr. Chair, I'll provide
12 you a motion to accept the report with the
13 amendments that we've included in this meeting as
14 we've gone along as proposed.

15 MR. VARGAS: This is Ray. I'll second that
16 motion.

17 CHAIRMAN RITCHIE: Hearing a motion to
18 second, is there any discussion? Okay. Let's do a
19 roll call vote just because this is the final
20 product.

21 MS. LUERA: Okay. Chairman Ritchie?

22 CHAIRMAN RITCHIE: Approve.

23 MS. LUERA: Vice Chair Love?

24 VICE CHAIR LOVE: Approved and present.

25 CHAIRMAN RITCHIE: Yes.

1 MR. CLARK: Welcome. Troy approves.

2 MS. LUERA: Mr. Dekleva?

3 MR. DEKLEVA: Approved.

4 MS. LUERA: Mr. Vargas?

5 MR. VARGAS: Approved.

6 MS. LUERA: Mr. Spitzer just in case he
7 joined late? Ms. Stevens?

8 MS. STEVENS: Approved.

9 MS. LUERA: Mr. Martinez?

10 MR. MARTINEZ: Approved.

11 MS. LUERA: Mr. Autio?

12 MR. AUTIO: Approved.

13 CHAIRMAN RITCHIE: Okay. I believe, then,
14 that passes, and we do have a quorum. And so that
15 is one of the main parts of this meeting, so let's
16 go back to the agenda because we still have room
17 for any public comment, number four. Is there any
18 public comment online?

19 Okay. Hearing none, number five, any other
20 matters of the board? Okay. Crickets in here.

21 Number six, then, next meeting date. And
22 this next meeting would be to discuss the report
23 that goes to the legislature. That report -- we
24 went back and forth last year, I believe, on when
25 that report was due, and, Vince, will you

1 reiterate, the first day of the session, is that
2 when that's due?

3 MR. WARD: I don't have the statute in front
4 of me. I can look at the statute, but my
5 recollection is we delivered it on the first day of
6 the legislature.

7 MS. LOVE: This is Kathy Love. That's
8 what -- that's what the statute reads.

9 MR. WARD: Yeah.

10 CHAIRMAN RITCHIE: And that's what I
11 remembered. Okay. So that gives us -- and that
12 time is when, time certain of --

13 UNIDENTIFIED MALE: January 18th?

14 MR. WARD: January 16th at noon.

15 CHAIRMAN RITCHIE: January 16th at noon. So
16 we back up from that, I believe, to figure out when
17 we want to meet to have time to discuss and write
18 that report and then edit, agree to it and then get
19 it to the legislature.

20 So it seems that we want to give it a full
21 two weeks to accomplish that, so we're looking at
22 either meeting between Christmas and New Year's or
23 right after New Year's. Do I hear anyone who has
24 any real problems meeting right after New Year's?

25 UNIDENTIFIED MALE: I believe Mr. Autio's

1 schedule is open on December 25th.

2 MR. AUTIO: Sorry, I couldn't find the
3 unmute button. Yeah, I'd definitely prefer not to
4 do Christmas, but I will do Christmas if need be.

5 CHAIRMAN RITCHIE: I don't think we have to
6 worry about that.

7 MR. DEKLEVA: I'm in favor of meeting after
8 the first of the year.

9 CHAIRMAN RITCHIE: All right.

10 MR. DEKLEVA: That's Mike Dekleva, by the
11 way, for the record.

12 MR. VARGAS: This is Ray. I agree, and I'm
13 just going to propose that we do January 5th.

14 MS. STEVENS: (Inaudible).

15 MS. LOVE: This is Kathy. I'm unavailable
16 on the 5th. I'll be flying back to town that day.

17 MR. VARGAS: What about the 8th?

18 MS. LOVE: That works fine for me.

19 UNIDENTIFIED MALE: The 8th works for me.

20 CHAIRMAN RITCHIE: That gives us one week to
21 discuss what's going to be in it and write it or do
22 we -- or do we have the same subcommittee write it
23 and then that meeting is to discuss and edit it?

24 UNIDENTIFIED MALE: In which case wouldn't
25 we need a meeting earlier in December to decide

1 what's in it for the subcommittee to draft?

2 CHAIRMAN RITCHIE: I don't recall how we did
3 it last year.

4 MS. LOVE: Well, last year -- what we've
5 done for the last two years is that I drafted it,
6 circulated it to, I believe, a small subcommittee,
7 and then we discussed it with the group. And the
8 reason we did it that way is because I think the
9 statute is pretty clear about the type of
10 information that's supposed to be contained in it.

11 So I would propose that we start with a
12 draft kind of based on last year's but with our
13 updated information that we've come up with the
14 report today and then meet to make any changes that
15 are necessary.

16 MR. DEKLEVA: That sounds like a good idea.
17 And maybe we can do something like, you know,
18 Kathy, if you're willing -- this is Mike Dekleva --
19 to take the lead on preparing that, and then, you
20 know, we can decide on a subgroup of people to work
21 on it with you.

22 MS. LOVE: That would be fine.

23 CHAIRMAN RITCHIE: I think that that might
24 work, but I think, then, that we should have a
25 meeting to give direction to that small subgroup in

1 early December and then we can meet at that time
2 after the 1st of January.

3 MR. CLARK: Mr. Chair, this is Troy. Or in
4 mid December. I guess part of it would depend
5 on -- I think we heard people returning from a
6 holiday vacation or holiday. I don't know when
7 people are planning on leaving.

8 UNIDENTIFIED MALE: Are you talking about in
9 December or in January?

10 MR. CLARK: In December. So could we have a
11 pre-meeting the week of the 15th, for instance?
12 I'm sorry, that's January.

13 MS. STEVENS: That's a Friday. Meet the
14 11th?

15 MR. CLARK: The 11th or the 18th. I don't
16 know how long people --

17 CHAIRMAN RITCHIE: I really -- I really
18 don't want it to be rushed in January or to have a
19 very long meeting in January discussing anything
20 one week before. So --

21 MR. VARGAS: I could meet December 11th or
22 the 14th.

23 CHAIRMAN RITCHIE: Thursday works better for
24 me, the 14th.

25 UNIDENTIFIED MALE: That would be better for

1 me. LFC meets that week, and I don't know what
2 time slot we're going to be asked to present in,
3 but less likelihood on the 14th than the 11th.

4 CHAIRMAN RITCHIE: So Thursday, the 14th,
5 the afternoon of Thursday, December 14th. Does
6 anyone online have a problem with that?

7 MR. MARTINEZ: This is Alvin Martinez. I
8 have no problem with that one.

9 CHAIRMAN RITCHIE: Okay. Doesn't sound like
10 that is an issue, then. Then let's place it, and
11 Mr. Ward --

12 MR. WARD: What time? Did I miss what the
13 time is on the 14th?

14 CHAIRMAN RITCHIE: I was going to suggest at
15 1:00 on the -- or, I'm sorry, let's make it 1:30 on
16 the 14th. Give people time to come back from their
17 three-martini lunch. So we've got plenty of time
18 to get that out. We'll do that at the proper time,
19 and we'll post an agenda at the appropriate time
20 before that, at least a week before that. Then --

21 MS. LUERA: Do you want to set the January
22 meeting now, too?

23 CHAIRMAN RITCHIE: Yes, so back to the
24 January date. Thank you. So we were looking at
25 January 15th. I don't know. That is MLK Day,

1 you're right, because the 15th --

2 MR. VARGAS: We were talking about the 8th
3 because the legislature starts on the 16th, I
4 think.

5 UNIDENTIFIED MALE: They don't start on MLK
6 Day, do they? No, they start on Tuesday, the 16th.

7 MR. VARGAS: So that gives us, you know,
8 eight days.

9 CHAIRMAN RITCHIE: So, okay. Does Monday
10 morning or afternoon work better for people? First
11 thing in the morning early or right after lunch?

12 MR. VARGAS: I think the morning works well.
13 Let's say 9:00.

14 UNIDENTIFIED MALE: Mr. Vargas, that's not
15 the morning. That's halfway through the day.

16 MR. VARGAS: That's early morning for me.

17 UNIDENTIFIED MALE: Monday works fine for
18 me, but I'm flexible.

19 CHAIRMAN RITCHIE: Okay. So let's do it
20 Monday, January 8th. We'll do it 9:00 a.m, almost
21 midday, and schedule that, you know, potentially
22 for two or three hours if there's any questions.
23 So plan on the rest of that morning, if necessary.

24 So any other comments, matters, problems?
25 All right. Then I thank everyone again for showing

1 up and keeping it short and sweet, and we'll see
2 everyone in December. And, please, let us know if
3 there becomes any issue with the timing, but
4 otherwise we will stand adjourned. Thank you.

5 MR. VARGAS: Thank you.

6 MR. WARD: Thanks, everyone.

7 UNIDENTIFIED MALE: Thanks, everyone.

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SANTA FE OFFICE
119 East Marcy, Suite 110
Santa Fe, NM 87501
(505) 989-4949
FAX (505) 843-9492

BEAN
& ASSOCIATES, Inc.
A
PROFESSIONAL COURT
REPORTING SERVICE

MAIN OFFICE
201 Third NW, Suite 1630
Albuquerque, NM 87102
(505) 843-9494
FAX (505) 843-9492
1-800-669-9492
e-mail: info@litsupport.com

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SANTA FE OFFICE
119 East Marcy, Suite 110
Santa Fe, NM 87501
(505) 989-4949
FAX (505) 843-9492

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ASSOCIATES, Inc.
PROFESSIONAL COURT
REPORTING SERVICE

MAIN OFFICE
201 Third NW, Suite 1630
Albuquerque, NM 87102
(505) 843-9494
FAX (505) 843-9492
1-800-669-9492
e-mail: info@litsupport.com