

OFFICE OF SUPERINTENDENT OF INSURANCE
PATIENT'S COMPENSATION FUND ADVISORY BOARD MEETING

TRANSCRIPT OF PROCEEDINGS
December 14, 2023
1:38 p.m.
7471 Pan American West Freeway, Northeast
Albuquerque, New Mexico

BOARD CHAIRMAN: WILLIAM RITCHIE, M.D.

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2	<p>1 APPEARANCES</p> <p>2 BOARD CHAIRMAN</p> <p>3 DR. WILLIAM RITCHIE</p> <p>4 2100 Louisiana Boulevard, Northeast, Suite 410</p> <p>5 Albuquerque, New Mexico 87110</p> <p>6 505-681-6780</p> <p>7 ritchiewl@nmortho.com</p> <p>8 BOARD MEMBERS</p> <p>9 TRIAL LAWYER REPRESENTATIVE</p> <p>10 MS. KATHLEEN J. LOVE</p> <p>11 McGinn, Montoya, Love & Curry, PC</p> <p>12 201 Broadway, Southeast</p> <p>13 Albuquerque, New Mexico 87110-3424</p> <p>14 505-843-6161</p> <p>15 kathy@mcguinnlaw.com</p> <p>16 CERTIFIED NURSE PRACTITIONER REPRESENTATIVE</p> <p>17 MR. ALBEN MARTINEZ, JR., MSN, FNP-BC (VIA ZOOM)</p> <p>18 Pediatric Hospitalist</p> <p>19 Presbyterian Rust Medical Center</p> <p>20 7105 Hensch Avenue, Northeast</p> <p>21 Albuquerque, New Mexico 87109</p> <p>22 C-505-610-3453</p> <p>23 alfonsomrtz25@gmail.com</p> <p>24 HOSPITAL REPRESENTATIVE</p> <p>25 MR. TROY CLARK</p> <p>NMHA President & CEO</p> <p>505-343-0110 Office</p> <p>505-235-9844</p> <p>tclark@nmhsc.com</p> <p>PHYSICIAN REPRESENTATIVE</p> <p>MR. NICK AUTIO, JD</p> <p>New Mexico Medical Society</p> <p>505-263-8234</p> <p>nautio@nmms.org</p>
3	<p>1 PCF ATTORNEY</p> <p>2 MR. VINCE WARD (VIA ZOOM)</p> <p>3 505-270-1609</p> <p>4 vincent@wardlawnm.com</p> <p>5 OSI ATTORNEY</p> <p>6 MR. BARRY BERENBERG (VIA ZOOM)</p> <p>7 SUPERINTENDENT OF INSURANCE</p> <p>8 MS. ALICE KANE (VIA ZOOM)</p> <p>9 ALSO PRESENT</p> <p>10 MS. DEBBIE LUERA, Integrion Administrator</p> <p>11 debbiel@integriongroup.com</p> <p>12 Also Present: MS. ANNIE JUNG, GUEST</p> <p>13 MR. JEFF HAISLEY, GUEST, (VIA ZOOM)</p> <p>14</p> <p>15 I N D E X</p> <p>16 REPORTER'S CERTIFICATE 31</p> <p>17 (No exhibits were marked.)</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>
4	<p>1 CHAIRMAN RITCHIE: So thank you, everyone,</p> <p>2 for attending, and especially a shout out to the</p> <p>3 Superintendent for attending. Thank you very much.</p> <p>4 Let's start with the agenda. We'll start</p> <p>5 with the Board roll call, please.</p> <p>6 MS. LUERA: Chairman Ritchie.</p> <p>7 CHAIRMAN RITCHIE: Here.</p> <p>8 MS. LUERA: Vice Chair Love.</p> <p>9 VICE CHAIR LOVE: Here.</p> <p>10 MS. LUERA: Mr. Vargas.</p> <p>11 Mr. Clark.</p> <p>12 MR. CLARK: Present.</p> <p>13 MS. LUERA: Mr. Dekleva.</p> <p>14 Mr. Autio.</p> <p>15 MR. AUTIO: Here.</p> <p>16 MS. LUERA: Mr. Martinez.</p> <p>17 MR. MARTINEZ: Here.</p> <p>18 MS. LUERA: Ms. Stevens.</p> <p>19 Mr. Spitzer.</p> <p>20 CHAIRMAN RITCHIE: Thank you. And thank</p> <p>21 you for all the guests that are attending as well.</p> <p>22 So next, we'll get the agenda up and see if</p> <p>23 anyone has anything to add to the agenda or just</p> <p>24 approval of the agenda. There we go. Thank you.</p> <p>25 So does anyone have anything to add to the</p>
5	<p>1 agenda?</p> <p>2 Okay. Then I'll call for someone to move</p> <p>3 to approve the agenda</p> <p>4 MR. CLARK: So moved. And this is Troy</p> <p>5 Clark.</p> <p>6 MR. AUTIO: Second. This is Nick Autio.</p> <p>7 CHAIRMAN RITCHIE: Hearing no objection to</p> <p>8 that, then the agenda is approved.</p> <p>9 Now, Approval of Meeting Minutes. The</p> <p>10 minutes from the meeting of October 26 were posted on</p> <p>11 the PCF website under the OSI. Is there any comments</p> <p>12 on that, additions, subtractions?</p> <p>13 VICE CHAIR LOVE: I just have to be clear</p> <p>14 that I haven't actually read them.</p> <p>15 COURT REPORTER: I'm sorry. Could you say</p> <p>16 that again, please?</p> <p>17 VICE CHAIR LOVE: Pardon?</p> <p>18 COURT REPORTER: I couldn't hear you.</p> <p>19 VICE CHAIR LOVE: I'm sorry. I was saying</p> <p>20 that I did not go on the website and look them up to</p> <p>21 read them, so I have not reviewed the minutes. I</p> <p>22 assume it is just a transcript of the meeting?</p> <p>23 CHAIRMAN RITCHIE: Yes.</p> <p>24 MS. LOVE: But I can't say one way or</p> <p>25 another whether I approve. Sorry.</p>

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1 MR. AUTIO: This is Nick Autio. I'm in the
 2 same boat as Ms. Love.
 3 MR. CLARK: I will confess I did not read
 4 the transcript.
 5 CHAIRMAN RITCHIE: Okay. Then I guess
 6 there won't be any approval of any minutes because no
 7 one has read them.
 8 MR. WARD: I think what we should do,
 9 Debbie, is delay the available minutes for the next
 10 meeting so there's an approval of those.
 11 MS. LUERA: Okay.
 12 CHAIRMAN RITCHIE: Thank you. None of us
 13 reached out to the website, obviously.
 14 Okay. Then we'll go right into the
 15 meeting. This meeting was called so we could discuss
 16 the Advisory Board Report to the Legislature. In the
 17 past, we have done this with a separate subcommittee
 18 to draft this around this time. It's due the first
 19 day of the Legislature.
 20 And so we already have a meeting set up to
 21 discuss the report once it is drafted, and then we
 22 have done editing at that meeting in the past, and
 23 then I'll approve that to be submitted.
 24 So really, we -- Vince, we do have a quorum
 25 actually, or no? We have five.

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1 MR. WARD: Yeah, we have a quorum, so I
 2 think that we can move forward with selecting the
 3 subcommittee members.
 4 CHAIRMAN RITCHIE: Right. Okay. Because I
 5 think that's where we start is selecting who is going
 6 to draft that report, and then any comments people
 7 want to make going into it. But in the past, we have
 8 based it on what's already been submitted in our
 9 report to the Superintendent, and what has been
 10 brought up in testimony from the actuaries, et
 11 cetera.
 12 And so I'll start by asking for volunteers
 13 for people to be on that subcommittee.
 14 MR. CLARK: This is Troy Clark. I move
 15 Nick Autio volunteers.
 16 MR. AUTIO: I will happily volunteer.
 17 MS. LOVE: I'm happy to -- this is Kathy
 18 Love. I'm happy to volunteer to help with one
 19 comment, and that is that I feel strongly that the
 20 statute needs to be followed with regard to what it
 21 is that's to be reported to the Legislature. And the
 22 statute says that we're to prepare an annual report
 23 to the Legislature on the operations and financial
 24 condition of the fund.
 25 I'm happy to do a report that reports on

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1 the operations and financial condition, but if there
 2 is a -- if there is, you know, a majority of people
 3 who want to include recommendations that are
 4 political in nature, which I think there is a
 5 separate form for, then I would propose to submit
 6 sort of a dissenting or a minority letter to the
 7 Legislature. I'm just going to be up front about
 8 where I'm coming from on this.
 9 But I think that as long as we're all in
 10 agreement that we stick with what the requirement
 11 from the Legislature is, and we report on the current
 12 financial condition and the operations of the fund,
 13 then we should be able to work together and come to a
 14 reasonable report like we have in the last two years.
 15 MR. CLARK: Mr. Chair, this is Troy Clark.
 16 Just for clarification and, Ms. Love, on that, when
 17 we talk about operations, that is -- I think there
 18 are some things that are very clearly political
 19 positions. There are some things that are
 20 operational impacts that can be taken as political
 21 positions. Let's just say, you know, the criteria of
 22 part of the reports in previous years have included
 23 comments about causes or suggestions for
 24 improvements. Are those things you're considering
 25 political? Because we've included those in the past,

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1 I think, as a fiduciary responsibility of the PCF, if
 2 there are things that can be changed as we -- the big
 3 thing we can change is outflows of money.
 4 VICE CHAIR LOVE: Is what?
 5 MR. CLARK: Outflows of money to the PCF.
 6 And that, I think, is our -- so just for asking for
 7 clarification, I think there's -- I'm not looking to
 8 make a political statement, but I think we do need to
 9 add an obligation to the Legislature to inform them
 10 of here are things that would alter the operations or
 11 improve the operations of the PCF fund.
 12 VICE CHAIR LOVE: Well, I think --
 13 MR. CLARK: It could be taken as political,
 14 but it's -- and some of them are political -- well,
 15 everything can be political in nature. Some are
 16 political, but I think there -- and I think there are
 17 some that are outside of the operational component,
 18 but then there are some things that are clearly
 19 within the operations that affect the PCF budget.
 20 MS. LOVE: Yeah. I think your point is
 21 well taken. This is Kathy love. Your point is well
 22 taken that the devil can be in the detail, and I
 23 think the last two years we have done a pretty good
 24 job of dancing, you know, a fair mind. There have
 25 been conversations inserted in the sum of the

10	<p>1 discussion.</p> <p>2 Well, for example, there's been testimony</p> <p>3 of an intervenor from Southwest Gastroenterology who</p> <p>4 made some pretty clear pitches for changes to the</p> <p>5 Medical Malpractice Act. That's the main thing that</p> <p>6 I think would be inappropriate to insert into this</p> <p>7 report to the Legislature.</p> <p>8 MR. AUTIO: And I guess it comes down to</p> <p>9 how we view the word "operation"; right? I view -- I</p> <p>10 think I have a different view of that, which I'm sure</p> <p>11 you're not surprised. But I think when we are</p> <p>12 advising as the advisory board on the operation, it</p> <p>13 encompasses a law, including outflows of money. And</p> <p>14 maybe it is that, you know, depending on where things</p> <p>15 go during the discussion if we have a majority or</p> <p>16 minority report, I don't know if we can talk to Vince</p> <p>17 about that to see if he thinks that would be</p> <p>18 appropriate.</p> <p>19 MS. LOVE: Okay. Well, so I've stated my</p> <p>20 position. I'd say we go forward and formulate the</p> <p>21 committee, see if we get into a situation where we</p> <p>22 have dispute about the issues that need to be in</p> <p>23 there, and then we can adjust, if we need to. We'll</p> <p>24 have enough people on the committee that even if we</p> <p>25 split off, we'll have enough to get this</p>	12	<p>1 there's -- it's not always been here are the results</p> <p>2 of just the past.</p> <p>3 We talk about the operations of what are</p> <p>4 causes and what are impacts. And I will concur that</p> <p>5 I think we worked really good. I think I was in that</p> <p>6 group the first year, and I got too busy last year,</p> <p>7 and Mike Dekleva took my spot, and I think it was</p> <p>8 great that he allowed me to do that, and I'll do that</p> <p>9 same thing again this year. And I do think there was</p> <p>10 some discussion on it, and I think that's appropriate</p> <p>11 to say, you know, here are the things that are</p> <p>12 helping it really impact.</p> <p>13 CHAIRMAN RITCHIE: And I concur with all</p> <p>14 that, and I think that's a good idea. I think,</p> <p>15 though, that we are looking forward as a fiduciary</p> <p>16 responsibility of this committee, we need to look</p> <p>17 forward at the financial stability of the act and of</p> <p>18 the fund graph of the PCF. And so, you know, that</p> <p>19 may be looking at operations in the future and how</p> <p>20 those might be changed or not.</p> <p>21 MR. CLARK: We had a discussion about the</p> <p>22 outpatient healthcare facilities and our uncertainty</p> <p>23 as we made our recommendation to the Superintendent.</p> <p>24 I think we need to be clear in there making our</p> <p>25 recommendation what things ought to happen there as</p>
11	<p>1 accomplished.</p> <p>2 CHAIRMAN RITCHIE: And so the committee</p> <p>3 needs to be less than a quorum so that it doesn't</p> <p>4 fall in the Open Meetings Act. So we're looking at</p> <p>5 four or less members for the subcommittee. So we</p> <p>6 have two then. And so --</p> <p>7 MS. LOVE: Should we include the other two</p> <p>8 lawyers?</p> <p>9 MR. AUTIO: I mean, I'm fine volunteering</p> <p>10 them. I mean, Mike Dekleva has been on it.</p> <p>11 MS. LOVE: Yeah, he has.</p> <p>12 MR. AUTIO: Correct.</p> <p>13 VICE CHAIR LOVE: And Ray has.</p> <p>14 CHAIRMAN RITCHIE: And Ray has been on it.</p> <p>15 VICE CHAIR LOVE: And everybody has worked</p> <p>16 well together.</p> <p>17 CHAIRMAN RITCHIE: Right.</p> <p>18 MR. CLARK: I think their job in the past</p> <p>19 was -- Troy Clark again. And I guess I'd bring it</p> <p>20 up, and I'd have to go find it. And I just remember</p> <p>21 in the first year, we worked together to wordsmith</p> <p>22 some things, but there were some comments in about</p> <p>23 the causes of hospitals causing things that have</p> <p>24 proven to not be accurate and correct that I push</p> <p>25 backed on. I think that's where -- I think</p>	13	<p>1 well.</p> <p>2 CHAIRMAN RITCHIE: Right. And there is</p> <p>3 testimony from the actuary to base some of that on,</p> <p>4 if we bring it up, to base some of the comments that</p> <p>5 might go into the report.</p> <p>6 So, therefore, that subcommittee would be</p> <p>7 Mr. Autio, Ms. Love, Mr. Dekleva, and Mr. Vargas;</p> <p>8 okay?</p> <p>9 MR. AUTIO: Sounds good.</p> <p>10 CHAIRMAN RITCHIE: Great.</p> <p>11 Any other -- I am open to any other</p> <p>12 discussion, if we want to at this point. But,</p> <p>13 obviously, that subcommittee is going to discuss it.</p> <p>14 But, you know, if you want to talk, we've got a</p> <p>15 little bit of time here because this isn't going to</p> <p>16 take long. But, I mean, is there any more discussion</p> <p>17 we want to have on this point on it, or just go to</p> <p>18 the subcommittee on that?</p> <p>19 MR. AUTIO: I have one thing that --</p> <p>20 hopefully, this is a group. Maybe someone had a</p> <p>21 different understanding than I did, though. When I</p> <p>22 went back, and I was looking at the report, I came</p> <p>23 across -- you know, so in the prior report, so the</p> <p>24 year that was looking at the PCF's health up until</p> <p>25 2021, it had estimated that there was a \$203.7</p>

<p style="text-align: right;">14</p> <p>1 million in unpaid claims. That number for 2022 is 2 the report we're looking at jumped to 266.8 million, 3 which was a \$63 million increase in unpaids. Does 4 anyone remember? I was trying to think back. Did we 5 address that with the actuary as to why -- why we saw 6 that massive \$63 million increase in unpaids in one 7 year? Did we address that? 8 MS. LOVE: I wouldn't represent this with 9 complete certainty, but my understanding is that it 10 had to do with the difference in actuaries who did 11 the analyses. As I recall, Mr. Walling testified 12 that he had -- that there was some disparity between 13 the two companies and their analyses. And also, my 14 understanding is that because the hospital claims are 15 just beginning to mature, it's been hard to figure 16 out what the expected reserves need to be for 17 hospitals. And so that's sort of developing and 18 becoming clear. 19 MR. CLARK: I would add that I can't say 20 that I completely can speak for Mr. Walling, but I 21 pushed back on the hospital piece to understand. And 22 in the hospital category in the current year, if you 23 remember, he uses three different methods to come to 24 this conclusion, and one of those methods is based 25 upon the actual surcharges collected. And because we</p>	<p style="text-align: right;">16</p> <p>1 years ago. So just something we should think about 2 and try and to the extent we can accurately do it. 3 MS. LOVE: We need to answer that question. 4 MR. AUTIO: Yeah, because, I mean, it's -- 5 you know, when I started tracking this world, you 6 know, around age B-75, I feel like the deficit was 7 about somewhere in the \$90 million mark, and right 8 now, it's at 98.4 after the most recent infusion. 9 MS. LOVE: Right. And to be clear, the -- 10 if you look at the number of claims and the severity 11 of claims, the severity of claims has slightly gone 12 up, but not drastically. 13 MR. CLARK: Yeah. 14 VICE CHAIR LOVE: And it certainly has gone 15 up to measure it with cost of living, increased 16 earnings, cost of medical care. And so I agree that 17 when I say we have to be able to answer that 18 question, the question I'm referring to, we have to 19 be able to explain to the Legislature what is a 20 reasonable estimate for the deficit, and why is it 21 not going away yet. But I think we have the 22 information to explain it. I don't think we can ever 23 give a hard-and-fast number because there are so many 24 different variables and different levels of 25 confidence, but we can give a sense for it and why</p>
<p style="text-align: right;">15</p> <p>1 imposed the additional PCF deficit recovery piece on 2 the hospitals, the amount of surcharges that were 3 collected in the current year went up. And I pushed 4 back drastically and said, so you were indirectly 5 causing the hole to get bigger by -- because we have 6 no better way to estimate. And his answer was, I 7 have no better way to estimate than that. 8 So his expectation was that as that year 9 one bucket becomes year two, and you could use the 10 other methods, it might balance itself out. But 11 that's only a part of it. There were other things 12 that he described. I think some of it is what 13 Ms. Love has alluded to. I think there's -- not 14 allude, stated, and what the other component was an 15 increase in the amounts being paid out. 16 MR. AUTIO: Okay. No, that's helped. I 17 think it's something we just need to flush out 18 because that number, when you just look at it, of 19 course, that drives the deficit. And to the extent 20 that it's the will of the Board to ask for additional 21 funds, that will be for a later decision. 22 But, you know, it's like I could see the 23 legislature looking at this and saying we put in 24 \$77.5 million over the last two years, and the 25 deficit is virtually unchanged from where it was two</p>	<p style="text-align: right;">17</p> <p>1 this is happening. 2 MR. AUTIO: Just food for thought. We just 3 need to flush it out because the numbers standing 4 alone without context are -- the numbers aren't good 5 either way, but those numbers are shocking. So we 6 can flush that out during the report. 7 MS. LOVE: Yeah. 8 MR. CLARK: Yeah, I agree. I feel an 9 obligation to always make this comment with realtime 10 actuarial estimates that it is an estimate. And I 11 agree with almost everything Ms. Love said other than 12 one clarification that the difference in confidence 13 levels doesn't change what your estimate is -- what 14 the actual number is. All it does is change. It 15 doesn't make you more right or more -- it actually 16 changes, of all the possibilities, where you're 17 putting your peg in the hole, and that they're -- if 18 you move to a 75th percent confidence level, it 19 doesn't mean you're more confident than the 50th 20 percent. It just means 75 percent of the outcomes 21 will be a lower number than what you picked, and 25 22 percent of them will be higher. It doesn't change 23 what all the possible outcomes there are. 24 MR. AUTIO: That was my one comment or 25 question, I guess.</p>

18	<p>1 CHAIRMAN RITCHIE: Okay. Any other 2 comments from the Board? 3 Hearing none, any new business to the 4 Board? 5 Wow. Then really, let's discuss next 6 year's meeting schedule. The next meeting, when is 7 that again? 8 MS. LUERA: I knew you were going to ask me 9 that. 10 CHAIRMAN RITCHIE: Yeah. I mean, I can 11 find it on my phone. 12 MS. LOVE: January 8 at 9:00 a.m. Well, 13 and we should circulate the draft with a clear notice 14 that nobody's to discuss this, that everybody ought 15 to be able to read it and think it out. 16 CHAIRMAN RITCHIE: Right, at least a couple 17 days before or something, but then -- 18 VICE CHAIR LOVE: Uh-huh. 19 CHAIRMAN RITCHIE: -- be aware you can't 20 discuss it among yourselves. So avoid a quorum, a 21 rolling quorum. 22 Vince, do you have any comments on that? 23 MR. WARD: Yeah, I think that we've done it 24 really well in the past. I think the importance is 25 for the individual members that were on the</p>	20	<p>1 MR. CLARK: Clarification. As I recall, we 2 draft the report, we submit it to Legislative Council 3 Service, but we don't actually go testify and 4 present, do we? 5 CHAIRMAN RITCHIE: We haven't, no. 6 VICE CHAIR LOVE: No, we do not. It's an 7 informational item. 8 MS. LOVE: So it looks like we met January 9 13, and then we met in April. I think we waited 10 until after the Legislature was over, and that was on 11 April 13. Oh, yeah. You have it right there. 12 CHAIRMAN RITCHIE: Yes. 13 MS. LOVE: April, July. 14 CHAIRMAN RITCHIE: Different members of the 15 Board had questions on some of these things. They 16 were changing. Now we're kind of getting a little 17 bit more into a status quo, I think, but we had 18 questions about batch claims, excess 19 loss/reinsurance, which now has gone away. And then 20 there was a report on PCF status because, I believe, 21 that that would be available to us at that time for 22 2023? 23 MS. LUERA: Okay. 24 CHAIRMAN RITCHIE: Okay. So I think there 25 is reason perhaps to meet because we have been</p>
19	<p>1 committee, if you are talking to other members of the 2 committee to sort of arrive at decisions ahead of 3 time and not give (inaudible) of the rolling quorum. 4 So I think it's important to allow the Board members 5 to work and to report back. My recollection is we 6 had a really productive meeting where you're able to 7 edit the report during the course of the meeting. So 8 I would just ask that everybody abide by that. 9 CHAIRMAN RITCHIE: Okay. Thank you, yeah, 10 for that timely reminder. 11 Then really, that is the drop-dead meeting. 12 We have to get that report ready so that it can go in 13 the next week to the Legislature. Then after that, 14 this last year we met after that. Did we meet before 15 the actuarial study, or did we not actually not meet 16 again until -- it seems like we met before that time. 17 MS. LUERA: There was a meeting in March. 18 VICE CHAIR LOVE: We met a lot last year. 19 CHAIRMAN RITCHIE: Yeah, we did, a fair 20 amount. 21 MR. CLARK: That was a meeting for March. 22 CHAIRMAN RITCHIE: Yeah. And I was trying 23 to think what it was for, really. 24 MS. LUERA: I could pull up the agenda, if 25 that would help.</p>	21	<p>1 working all on 2022 data. So if we want to see the 2 2023 data before the actuary study, that would be the 3 opportunity to do that and go over that. 4 MR. CLARK: So is that the -- Mr. Chair, 5 this is Troy Clark again. 6 Is that the meeting, because you just 7 happened to bring up the batch -- the reassurance for 8 the batch claims? And I know while we are not 9 purchasing the batch claims, part of our 10 recommendation to the Superintendent was to eliminate 11 the batch claim surcharge. I don't know what else to 12 call it. And that was part of our report. However, 13 she elected not to do that. 14 Is this the meeting where we would discuss 15 that again and bring that back up? Is that brought 16 back up? I guess I feel like it is a 17 misunderstanding on my part or on the 18 Superintendent's part of what that is because it sure 19 seems like it's double-counting, double-dipping 20 things or -- see, I don't know what the process is 21 here. Should I just be reaching out to the 22 Superintendent and have a discussion on our own, or 23 is that something we discuss when it differs from 24 what we have made a recommendation on? 25 MS. LOVE: I'm not sure what you're asking</p>

<p style="text-align: right;">22</p> <p>1 about the batch claim surcharge.</p> <p>2 MR. CLARK: So we made a decision about</p> <p>3 not -- I think the decision was to not renew an</p> <p>4 insurance policy.</p> <p>5 MS. LOVE: Right.</p> <p>6 MR. CLARK: But I think the calculations</p> <p>7 that we went through, when we made our</p> <p>8 recommendations on the rates -- and I brought this</p> <p>9 up -- one of the line items in both the provider and</p> <p>10 in the hospital was an additional add-on -- I want to</p> <p>11 say it's 3 percent or 4 percent -- additional for</p> <p>12 batch claims to which my response was that should be</p> <p>13 removed, that the statute prohibits batch claims on</p> <p>14 the provider side.</p> <p>15 But on the hospital side, there really is</p> <p>16 no such thing as a batch claim because it's included</p> <p>17 in the runway. If you have six or seven claims</p> <p>18 that's in your runway and your estimate, so there's</p> <p>19 no need to double-dip on that. So we had made the</p> <p>20 recommendation on the rate that we proposed adjusting</p> <p>21 that out. So that's the piece I'm talking about.</p> <p>22 MS. LOVE: Well, so mainly we should have a</p> <p>23 meeting in April at which we identify those issues</p> <p>24 that we would like to review.</p> <p>25 MR. CLARK: As long as that's all right.</p>	<p style="text-align: right;">24</p> <p>1 doesn't understand it. I'm not an actuary.</p> <p>2 CHAIRMAN RITCHIE: And perhaps an</p> <p>3 invitation to Superintendent Kane to, you know,</p> <p>4 discuss any changes like that and present it, or you</p> <p>5 know, just speak to the Board about what's going on</p> <p>6 and what she thinks, you know, is coming up in the</p> <p>7 future, and with the next actuarial study, what we'll</p> <p>8 need to pay attention to.</p> <p>9 SUPERINTENDENT KANE: I'll have to confess.</p> <p>10 I'm not going to be able to forget the actuary.</p> <p>11 CHAIRMAN RITCHIE: Thank you.</p> <p>12 SUPERINTENDENT KANE: Should we -- I'm</p> <p>13 certainly available for discussion in April of any of</p> <p>14 the things that you would like to raise ahead of</p> <p>15 time. If there's something I don't have, I can go</p> <p>16 and get the information to have an intelligent</p> <p>17 exchange.</p> <p>18 CHAIRMAN RITCHIE: Thank you very much. I</p> <p>19 mean, we're going to do a little more formal perhaps</p> <p>20 invitation that I know you're on Superintendent Kane.</p> <p>21 And, you know, I just -- we haven't heard a whole</p> <p>22 bunch from you because you're just starting out and</p> <p>23 all that, and we really wanted to work closely with</p> <p>24 you like we did with the last Superintendent. And I</p> <p>25 think it would be great to hear from you and have a</p>
<p style="text-align: right;">23</p> <p>1 Is that the right forum for it or not?</p> <p>2 MS. LOVE: Yes. And if the</p> <p>3 Superintendent --</p> <p>4 MR. CLARK: I know she's online, but --</p> <p>5 VICE CHAIR LOVE: Yeah. And if the</p> <p>6 Superintendent Kane thinks it's not appropriate for</p> <p>7 this Board, then she can let us know that, too. But</p> <p>8 I can't imagine that they wouldn't be happy to</p> <p>9 present whatever information that we weren't aware</p> <p>10 about.</p> <p>11 MR. AUTIO: I mean, I see us all being on</p> <p>12 the same page.</p> <p>13 MS. LOVE: Yes. So let's have an April</p> <p>14 meeting, and whatever issues people want to kick out</p> <p>15 there as a possibility to Debbie to present on, we</p> <p>16 can request that, and she can, you know, bring in the</p> <p>17 information or not.</p> <p>18 MR. CLARK: In my mind, the reason I'm</p> <p>19 asking if that's the appropriate forum is because</p> <p>20 that would be before Integrion and OSI gives the</p> <p>21 instructions for the actuaries.</p> <p>22 VICE CHAIR LOVE: Right. I'd rather run</p> <p>23 the report so we don't have to come behind and go,</p> <p>24 well, let's back this out again. Let's at least get</p> <p>25 the same understanding. Maybe I'm the one who</p>	<p style="text-align: right;">25</p> <p>1 chance for us to have a dialogue. And that would be</p> <p>2 a nice, sort of quiet time of the year to do it, I</p> <p>3 think.</p> <p>4 SUPERINTENDENT KANE: It would be after</p> <p>5 session, so I appreciate it.</p> <p>6 CHAIRMAN RITCHIE: Yes.</p> <p>7 And so then the next deadline for the</p> <p>8 actuary study is -- has that been established?</p> <p>9 MS. LUERA: It has not.</p> <p>10 CHAIRMAN RITCHIE: Okay.</p> <p>11 MS. LUERA: I believe it was July 30 this</p> <p>12 past year, so we would be looking at a similar time</p> <p>13 frame. They were just a few days past deadline this</p> <p>14 year, so we could just enforce them again. It's</p> <p>15 really critical that we have it by the deadline, or</p> <p>16 we can ask them to back it up.</p> <p>17 CHAIRMAN RITCHIE: Yeah. It seems like it</p> <p>18 may have even supposed to have been July 15, and it</p> <p>19 slipped to July 30 or something. So, I mean, the</p> <p>20 more time, the better.</p> <p>21 MS. LOVE: And did it work, Debbie, in</p> <p>22 terms of your office and being able to get them all</p> <p>23 of the data and information that they needed? Was</p> <p>24 that timing okay?</p> <p>25 MS. LUERA: The timing was good. It was a</p>

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1 partnership between OSI and Integriion getting them
2 all the data that they needed. So, yes, I think it
3 was fit. They had everything they needed, I think,
4 on time, very timely. There was just some additional
5 pieces to the scope this year that maybe took a
6 little longer.

7 VICE CHAIR LOVE: Right.

8 CHAIRMAN RITCHIE: The best we can request
9 is the Board to do it as soon as possible, hopefully
10 somewhere in that January -- or July 15 to July 30
11 range so that we have time to, you know, put together
12 our reviews and the actuary's report, you know,
13 verbal report and our ability to have a
14 question/answer session so we're not constrained
15 then.

16 MS. LUERA: Okay.

17 MS. LOVE: Yeah. Maybe a September time
18 period for the hearing?

19 CHAIRMAN RITCHIE: Right.

20 MS. LOVE: It will be a little less
21 crunched.

22 MS. LUERA: Yes. And that date will need
23 to be set, I believe, in March. So that's usually up
24 to OSI to set that date. But, obviously, there will
25 be some input from the Board making sure that there's

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1 availability with the Board members.

2 MR. CLARK: You said March. Did you mean
3 our April meeting or it will be March unless --

4 MS. LUERA: No. It will be March outside
5 the meeting. There's a deadline in the rules for
6 having the date set for the rate hearing, which I
7 believe is in March.

8 VICE CHAIR LOVE: I mean, I guess we're
9 kind of -- this is Kathy love. Sorry.

10 We're kind of making assumptions here
11 because we have served as the hearing officer for the
12 last several years as a Board, but the Superintendent
13 isn't required to do it that way. The Superintendent
14 could choose to hire one hearing officer and have a
15 hearing. And I don't even think that we're required
16 to have a hearing every year. I think it's every
17 other; is that right? I mean, I think it's prudent
18 to do so because of the state of the fund right now.
19 But we'll just proceed as if we're going to continue
20 to be the hearing officer, but, you know, I recognize
21 that we're kind of making an assumption here.

22 CHAIRMAN RITCHIE: Yeah. I think that's
23 all we can do is go on our past --

24 VICE CHAIR LOVE: Yeah.

25 CHAIRMAN RITCHIE: -- what we have done.

28

1 It's been working. But, yes, just so people can be
2 aware of it so we don't get behind.

3 MS. LOVE: Yes.

4 MS. LUERA: Okay.

5 CHAIRMAN RITCHIE: I think that that's
6 then -- and this is just -- we don't have exact
7 dates. This is just in general. This is what we're
8 thinking of then. So a meeting in April, and we'll
9 need to send out a poll, whatever, to decide when
10 that is after the session. And in July we'll get --
11 and in March, the decision will be made actually
12 before that meeting on when the hearing can be, and
13 the deadline for the actuary study; right?

14 MS. LUERA: So we can give the actuary a
15 deadline --

16 CHAIRMAN RITCHIE: Okay.

17 MS. LUERA: -- before we know when the
18 hearing is going to be just to make sure there's
19 enough time for the Board to review and prepare for
20 the hearing.

21 CHAIRMAN RITCHIE: All right. So, yes, we
22 could work with OSI, I guess, but I'm thinking July
23 15 because they were a little late this last year.

24 MS. LUERA: Okay. I'll make sure they know
25 that.

29

1 MR. WARD: Hey, Kathy, I just wanted to
2 address an issue that I think the rule, the advisory
3 board is the hearing officer, but the Board itself
4 could designate a lesser number of members.

5 VICE CHAIR LOVE: Is that right? Is that
6 what the statute says, that we are the hearing
7 officers?

8 MR. WARD: In regulation, at 13-21-5, it
9 states, The Superintendent's initial order shall
10 designate the advisory board as a hearing officer,
11 which I completely forgot, too. But that's what it
12 says.

13 MS. LOVE: Okay. They used to hire like
14 one person to preside over it. Sounds good.

15 CHAIRMAN RITCHIE: Does anyone think we
16 need to set or try to discuss any more meetings next
17 year? Ms. Love has already made her opinion known.

18 MS. LOVE: I think we're pretty efficient.

19 CHAIRMAN RITCHIE: Yes. So I concur, but I
20 just want to give everyone a chance.

21 Then there wasn't anything else on the
22 agenda, was there?

23 MS. LUERA: I don't think so.

24 MR. WARD: Maybe Other Comments?

25 CHAIRMAN RITCHIE: Yeah. I mean, we're

1 done with all the Board stuff. The only other thing
2 would be Public Comment. So then, yes, any Public
3 Comment to this?

4 Well, then I think that in 45 minutes,
5 actually less because we got started late, we are
6 done. Thank you very much, everyone, for attending
7 this and moving it through quickly. And we will join
8 again on January 8, but the subcommittee will be
9 working in the meantime on our report.

10 MS. LOVE: Sounds good.

11 CHAIRMAN RITCHIE: All right. That's it.
12 Thank you.
13 (The hearing adjourned at 2:13 p.m.)

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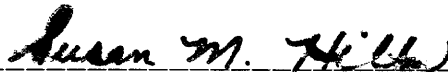
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