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Patient's Compensation Fund Advisory Board Meeting

Moderated by Dr. William Ritchie, Chairman

Tuesday, April 9, 2024

3:03 p.m.

Office of Superintendent of Insurance

Conference Room

6200 Uptown Boulevard, NE, Suite 400

Albuquerque, NM 87110

Reported by: James Cogswell

JOB NO.: 6631625

A P P E A R A N C E S

List of Attendees:

Jennifer Romero, Law Clerk/Committee Administrator,
Office of Superintendent of Insurance

Alice T. Kane, Superintendent of Insurance

Colin Baillio, Deputy Superintendent of Insurance

Stephen Thies, General Counsel, Office of
Superintendent of Insurance

Cass Brulotte (via videoconference), Office of
Superintendent of Insurance

Jacqueline Ortiz (via videoconference), Office of
Superintendent of Insurance

Dr. William Ritchie, Chairman PCF Advisory Board

Kathleen J. Love, Vice Chair PCF Advisory Board

Troy Clark, Member PCF Advisory Board

Nick Autio, Member PCF Advisory Board

Mike Dekleva (via videoconference), Member PCF
Advisory Board

Alfonso B. Martinez, Jr., Member PCF Advisory Board

Ellen Stevens (via videoconference), Member PCF
Advisory Board

Carmela Starace (via videoconference), Member PCF
Advisory Board

Debbie Luera, Integrion Group

Adam Douma, Integrion Group

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A P P E A R A N C E S (Cont'd)

List of Attendees:

Barry Berenberg, Integrion Group, Counsel for
OSI/Superintendent

Vince Ward, Counsel to the PCF Advisory Board

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P R O C E E D I N G S

CHAIRMAN RITCHIE: Okay. Let's call the meeting to order, please, then.

And per our agenda, let's have a roll call of members, please.

MS. ROMERO: Okay.

Chairman Ritchie.

CHAIRMAN RITCHIE: Here.

MS. ROMERO: Vice Chair Love.

VICE CHAIR LOVE: Here.

MS. ROMERO: Mr. Clark.

MR. CLARK: Here.

MS. ROMERO: Mr. Autio.

MR. AUTIO: Here.

MS. ROMERO: Mr. Dekleva.

MR. DEKLEVA: Here.

MS. ROMERO: Mr. Martinez.

MR. MARTINEZ: Here.

MS. ROMERO: Ms. Stevens.

MS. STEVENS: Here.

MS. ROMERO: Mr. Vargas [ph].

VICE CHAIR LOVE: He is sick.

MS. ROMERO: And we have a new board member as of this meeting, Ms. Starace.

VICE CHAIR LOVE: Yes, Starace.

1 MS. ROMERO: Starace. Okay.

2 VICE CHAIR LOVE: Although I'll let her
3 correct me, because --

4 MS. STARACE: I'm present. No, that's
5 the way to say it.

6 VICE CHAIR LOVE: Yeah. I know
7 sometimes you make it easier for people.

8 MS. STARACE: I do. I do. I used to
9 say Starface -- I mean Starace. But then a judge
10 called me Scarface, so Starace is great.

11 VICE CHAIR LOVE: Yeah.

12 Welcome, Carmela.

13 MS. STARACE: Thank you.

14 CHAIRMAN RITCHIE: Thank you, yes, and
15 welcome. Welcome as the new member. We appreciate
16 it.

17 And I'm glad everyone could make it,
18 except those who are ill.

19 So next order of business is the
20 approval of the agenda. Has everyone got to see the
21 agenda electronically on here, or via paper? Any
22 objections to the agenda? Or additions.

23 VICE CHAIR LOVE: Not really an
24 objection, but I'd like to note what we discussed with
25 counsel for the Board, the Chair and I discussed,

1 based on a conversation that I had with the
2 Superintendent, which is that we think it would be
3 appropriate to punt number 5, which is this new report
4 from Pinnacle, to a day when everyone has had an
5 opportunity to really absorb it, and when we can have
6 Mr. Walling present to answer questions, and when
7 we've had a little bit more notice to both us and the
8 public for this.

9 And so I think everybody is in
10 agreement on that, so I would ask that we, move that
11 we take agenda item number 5 and defer it to the next
12 meeting.

13 CHAIRMAN RITCHIE: Is there any
14 discussion?

15 What I would propose, then, is to
16 change item number 5 to setting a date for a meeting
17 to go over that report, since the next -- the only
18 other date we have is for the hearing of the --
19 Integrion's -- not Integrion's.

20 VICE CHAIR LOVE: The surcharge rate
21 setting hearing.

22 CHAIRMAN RITCHIE: Pinnacle's rate --
23 the rate setting -- not the hearing. It's to discuss
24 the report for the hearing.

25 VICE CHAIR LOVE: Okay.

1 CHAIRMAN RITCHIE: A hearing to discuss
2 the report. And so, I think we would need to go over
3 this prior to that, just because it'd be too long, I
4 think.

5 VICE CHAIR LOVE: Probably.

6 CHAIRMAN RITCHIE: Is there any
7 discussion on doing that? So we would need to set
8 another hearing. Now, that hearing, or that date of
9 that hearing is when, to discuss Pinnacle?

10 MS. LUERA: It's in the presentation.

11 CHAIRMAN RITCHIE: Okay. Well, we can
12 discuss it when we come to agenda 5.

13 MS. LUERA: Okay.

14 VICE CHAIR LOVE: So agree with your
15 suggestion on number 5.

16 CHAIRMAN RITCHIE: Yeah.

17 Any further discussion? Anyone have an
18 objection to that?

19 Okay. Then let's continue on, then, to
20 the approval of the minutes. Are there any additions
21 or subtractions to the minutes? Any discussion?

22 MR. CLARK: Motion to approve.

23 MR. AUTIO: Second.

24 CHAIRMAN RITCHIE: Okay.

25 Barring any objection, then the minutes

1 will be approved by consensus.

2 Then we'll proceed on to the report on
3 the PCF status, so please take it away.

4 MS. LUERA: Okay.

5 Jenn, can we pull up, either the
6 PowerPoint or the PDF of the presentation?

7 MS. ROMERO: Yes.

8 MS. LUERA: Okay. So the report on PCF
9 status, most of the data I'm going to present today is
10 based on year-end 2023 information. I did get the
11 first quarter 2024 report out, like six o'clock last
12 night, so I tried to put a few things in that I
13 thought would be important to the Board.

14 So as far as participating carriers, we
15 had 11 carriers in 2023. That's down one carrier from
16 the prior year. NCMIC, which is -- I'm sorry, there's
17 lot of acronyms in med-mal -- that is the mutual
18 company that writes chiropractors. They had had a
19 handful of chiropractors participating. It's slowly
20 dwindled over the past couple of years. So their last
21 participant left last year -- I'm sorry, at the end of
22 2022. So we're down one carrier.

23 ProSelect, which is the Coverys family
24 of companies, had the largest share of surcharge at
25 just shy of 33 million. They write every hospital

1 that participates in the PCF, other than Presbyterian.
2 So that's why you see their surcharge numbers so high.

3 AEIX is the other large writer of
4 hospitals. They write Presbyterian.

5 And then we move to the companies that
6 are writing the independent and individual providers
7 and groups. The Doctors Company had 8.3 million in
8 surcharges. And then Medical Protective had
9 3.8 million. So they're, bar far, the largest
10 carrier, two carriers, in the state. MagMutual is
11 growing a little bit as well, but I think they saw,
12 maybe a bit of a decrease this year, if I remember
13 correctly.

14 And then you have a handful of other
15 carriers who are, you know, writing smaller groups, or
16 groups that are part of a multistate entity that has
17 exposure in New Mexico, so they are going to have
18 smaller surcharge numbers. But the total surcharges
19 collected, based on the portal data, is 74.7 million
20 for 2023.

21 Yes, sir.

22 MR. CLARK: Just a comment, or I guess
23 a question. I assume, under the ProSelect, you've
24 consolidated all of the Coverys writers.

25 MS. LUERA: Yes.

1 MR. CLARK: Because Coverys is pulling
2 out of the marketplace for anyone who they take on
3 full risk for, that doesn't have shared risk.

4 MS. LUERA: Right.

5 MR. CLARK: So I don't know which
6 portion of that 32, 33 million, that breaks out to,
7 but just for awareness, as you were talking about
8 people who were coming and going, Coverys is pulling
9 out on the hospitals --

10 MS. LUERA: So this is all Coverys
11 fund. So the other hospitals that don't participate
12 in the fund aren't included in these numbers.

13 So I could go look at the NAIC market
14 share report and see what their total surcharge was.
15 That would be an interesting number to look at for
16 sure.

17 So yes, Coverys was writing under a
18 couple different companies, but last year they
19 consolidated all of their hospitals under their
20 ProSelect company.

21 Any other questions on the surcharges
22 and the carriers?

23 MR. AUTIO: Yes. Who was the carrier
24 that left, do you know the name of the carrier that
25 left?

1 MS. LUERA: NCMIC is the National --

2 MR. AUTIO: Oh, it was that one. I
3 didn't know if it was a specific chiropractor.

4 MS. LUERA: Yeah, it's National
5 Chiropractors Mutual.

6 MR. AUTIO: Okay. And they were just
7 insuring chiropractors?

8 MS. LUERA: Yes, that's all they do.
9 Okay. If we could jump to the next
10 page.

11 Okay. So this just drills down a
12 little bit more on PCF participants. So we had
13 16 hospitals and outpatient health care facilities;
14 362 groups, and 5,313 individual providers.

15 So when we break out the individual
16 providers into their two buckets, which is the
17 independent providers and then the agents, or the
18 hospital employed providers, you can see that agents
19 make up 20.9 million of that 37.8, and then the
20 independent physicians make up 16.9 million.

21 So the numbers are somewhat even, but
22 because the hospital employed physicians have to pay
23 the deficit reduction surcharge on top of their basic
24 surcharges, that's a good bit of why their surcharge
25 amounts are higher.

1 And then we have 1.5 million attributed
2 to entities. So to get an entity surcharge, you take
3 10 percent of all the physicians -- or sorry, all the
4 providers, who work for that practice. So that number
5 comes out to 1.5 million for 2023.

6 Any questions on this?

7 Okay, we'll go to the next one, please.

8 Okay. So this is a breakout of
9 hospital surcharges. And last year, all 16 renewed --
10 or sorry, for this year, all 16 renewed. Last year we
11 had -- Gerald Champion was out for about a year, and
12 then they rejoined last year after they were
13 purchased. So they are back in and they have stayed
14 for this year.

15 So this is, sort of brand-new,
16 hot-off-the-presses data. We had 35.5 million in
17 surcharge for 2023. And that number jumped to
18 54.1 million for 2024. Again, it's due to the deficit
19 reduction on top of the rate increase for hospitals.
20 That's what's accounting for such a large jump there.

21 So I broke it out by facility. This is
22 how the data is submitted in the portal, so you can
23 see the surcharges by hospital. If they had a really,
24 really big jump, they probably also had some
25 additional exposure. They've grown, you know, more

1 admissions, more beds, more births, things of that
2 nature.

3 So that's the data on hospitals. Any
4 questions?

5 MR. AUTIO: Like with the Las Cruces
6 Medical Center, is that the case with them? I mean,
7 that's a huge jump from a million to --

8 MS. LUERA: Yes. Yes. They added --
9 yeah, their exposure did increase this year. I can go
10 back and --

11 MR. AUTIO: No, no, I just --

12 MS. LUERA: Yeah.

13 CHAIRMAN RITCHIE: And the same thing
14 with Presbyterian.

15 MS. LUERA: And the same thing with
16 Presbyterian.

17 CHAIRMAN RITCHIE: Right. Almost
18 double. I know they didn't add a bunch of hospitals.

19 MS. LUERA: Right.

20 SUPERINTENDENT KANE: They tried.

21 MS. STEVENS: Excuse me. The slides
22 are not advancing. We're only seeing the main
23 description slide online.

24 VICE CHAIR LOVE: Thanks for telling
25 us. We'll figure something out.

1 SUPERINTENDENT KANE: So do you know
2 why they both jumped so much?

3 MS. ROMERO: Is that better?

4 MS. LUERA: I'd have to go back and
5 look at the rates --

6 MS. STEVENS: I can see it now.

7 MS. ROMERO: Okay. Great.

8 Are we ready for the next slide?

9 MS. LUERA: Yes.

10 VICE CHAIR LOVE: And you're going to
11 send all these slides to everybody?

12 MS. LUERA: Yes.

13 VICE CHAIR LOVE: So we don't need to
14 go back through the ones that we just went through.

15 SUPERINTENDENT KANE: And answer some
16 of the questions that we raised?

17 MS. LUERA: Yes. Yeah.

18 Okay. So this slide shows the largest
19 group entities based on entity surcharge paid in to
20 the PCF. So you can see the top three in the state
21 are Southwest Medical Associates, New Mexico Ortho,
22 and Womens Specialists.

23 I included on here, anyone who had over
24 \$25,000 in surcharge. But a lot of the entity
25 surcharge is, you know, the very small practices, even

1 the one and two doc provider shops that, you know,
2 they want coverage for the entity.

3 And so we have 362 entities, and of
4 course, this is just a portion of the surcharges, but
5 it is a good percentage. But lots of smaller groups
6 as well.

7 Any questions on the entities?

8 Okay. We can move forward.

9 This was just a count or a breakdown of
10 the 5,313 QHPs. So 3,371 were MDs or DOs. We had
11 622 PAs, just over a thousand nurse practitioners, and
12 just over 300 CRNAs, that make up that total amount of
13 providers.

14 And this is just -- I'll be happy to
15 provide a more in-depth 20224 breakout at a future
16 meeting. Like I said, I just got the data too late
17 yesterday to put the whole presentation together.

18 But the preliminary numbers, you know,
19 just about everybody renews on January 1, so the bulk
20 of the surcharges are coming in, in the first quarter.
21 So as of March 31st, the portal shows we have
22 collected or are in the process of collecting
23 114.5 million. So that's a 53 percent increase year
24 over year.

25 Again, a lot of that is the deficit

1 reduction surcharges that are getting paid in. So
2 there's 54 million in hospitals, about 58 million in
3 individuals, and 2.4 million -- that's a good increase
4 -- in entity surcharge, as well. If you remember, the
5 prior year was 1.5, so that's a pretty good jump.

6 I think there are a lot of providers
7 who have multiple entity names who have realized it's
8 a safer bet to pay that surcharge for each of the
9 entity names, rather than risk not having that bridge
10 if a claim were to come in.

11 And then breaking down the individual
12 provider surcharges, we have 43.4 million in agent or
13 hospital employed providers and 14.4 million in
14 independent.

15 As far as the provider counts, the data
16 shows 4,810 individual providers. So that's a
17 decrease of about 500 providers. And so I want to
18 take a deep look at that and see who was in before,
19 who's left, where those 500 went.

20 MR. CLARK: And that's compared to the
21 5300 of the current year, I assume, by the 500
22 deficit, which means it's both employed and
23 independent?

24 MS. LUERA: Yes. Yes. It's
25 aggregated, so --

1 CHAIRMAN RITCHIE: So that's not
2 independents switching to employed?

3 MR. CLARK: Exactly.

4 MS. LUERA: No. It's a decrease in the
5 total number.

6 CHAIRMAN RITCHIE: Total number.

7 MS. LUERA: Um-hmm.

8 Okay. So that is the overview of the
9 providers and the surcharges.

10 I'd like to introduce Adam Douma. Adam
11 is Integrion's new controller, and he has a couple
12 slides to go through showing the PCF financials.

13 MR. CLARK: Mr. Chair, if I could ask
14 one question before we move on to that one.

15 CHAIRMAN RITCHIE: Yes, please.

16 MR. CLARK: I know you just got this
17 data. When you send out the slides and the answer of
18 questions, if you could look at what the cost was per
19 provider for '23 to '24. Because, one, there's an
20 increase, but we have 500 less providers.

21 MS. LUERA: Sure.

22 MR. CLARK: So I think you've got a
23 pretty sizable increase on the providers as well.

24 MS. LUERA: Yes.

25 MR. MARTINEZ: I do have one question

1 also. When we're looking at the nurse practitioner
2 numbers, I would like to see if there's a breakdown
3 into, if any of those are independent nurse
4 practitioners, independent group, versus employed.

5 MS. LUERA: I know the lion's share is
6 employed. I think there are, maybe a handful. But I
7 am comfortable saying at least 90 percent are hospital
8 employed. I'll get those numbers for you.

9 MR. MARTINEZ: Thank you.

10 MS. LUERA: Any other questions or
11 requests for --

12 MR. CLARK: Do any of the FQHCs
13 participate in the PCF fund?

14 MS. LUERA: I'm sorry?

15 MR. CLARK: The FQHCs, the federally
16 qualified health centers. I don't think they're
17 covered by state tort claims, are they?

18 MR. AUTIO: They're under federal --

19 CHAIRMAN RITCHIE: They're federal tort
20 claims.

21 MS. LUERA: Federal tort claims,
22 um-hmm.

23 MR. CLARK: They're federal tort
24 claims. Okay.

25 CHAIRMAN RITCHIE: Federal Tort Claims

1 Act.

2 MS. LUERA: Okay. Anything else?

3 All right, we're ready, Adam.

4 You can go to the next slide.

5 MR. DOUMA: Okay. I've just got a
6 brief update here of our financial results so far into
7 2024.

8 First, we have our balance sheet as of
9 February 2024, and the preceding four fiscal years.

10 In 2023, the PCF received a general
11 fund appropriation of \$47.9 million, making up a large
12 chunk of the increase in cash, from 110.6 million in
13 2022, to 192 million in 2023. The \$225.3 million cash
14 balance for 2024, does not contain any appropriations,
15 but is composed primarily of doctor surcharges.

16 Long-term claims, long-term
17 liabilities, claim liabilities, increased \$40 million,
18 to \$260.3 million, in 2023. And this amount has yet
19 to be updated by the OSI for 2024. Deferred revenue
20 and other payables make up the remaining liabilities.

21 As you can see on the deficit chart,
22 the deficit remained steady from 2022 to 2023. But
23 this is also largely due to the appropriations
24 received during these time periods. Without
25 appropriations, the deficit would be well over

1 \$100 million as of 2023. We will have to wait to see
2 if the deficit remains steady for 2024.

3 SUPERINTENDENT KANE: And what was the
4 total appropriation?

5 MR. DOUMA: The most recent
6 appropriations, 47.9 million, for 2023.

7 SUPERINTENDENT KANE: And before that?

8 MR. DOUMA: I believe that was
9 40 million, for 2022.

10 SUPERINTENDENT KANE: Thank you.

11 MR. DOUMA: Next slide, please.

12 As of fiscal year-end 2023, we saw fund
13 payouts of 43.4 million, and actuarial adjustments
14 estimated, an additional 66.3 million, bringing the
15 total fund payouts to 109.7 million, for 2023, an
16 increase of 60.8 million over 2022.

17 So far for fiscal year 2024, fund
18 payouts are 26.6 million, without additional actuarial
19 adjustments. Funds paid without actuarial adjustments
20 have been consistent the past few years, but as you
21 can see in the expense comparison chart below, the
22 actuarial adjustments tend to be unpredictable.

23 Other expenses are made up primarily of
24 reporting and recording costs, as well as insurance
25 premiums. Insurance premiums have not been determined

1 up to this point for 2024.

2 Contractual expenses are attorney and
3 professional services. Then you have your
4 intra-agency transfers and personnel expenses.

5 That's all I've got.

6 MS. LUERA: Any questions on
7 financials?

8 VICE CHAIR LOVE: Well, I guess I would
9 like to know, for the liabilities, the payouts, can we
10 see a breakdown between independent providers and the
11 hospitals? Would that be doable?

12 MS. LUERA: Um-hmm.

13 SUPERINTENDENT KANE: And I assume
14 Pinnacle is going to explain the actuarial
15 adjustments?

16 MR. CLARK: Yeah.

17 MS. LUERA: I'm sorry?

18 MR. CLARK: Yes.

19 SUPERINTENDENT KANE: I assume Pinnacle
20 is going to --

21 MS. LUERA: That was from last year's
22 study.

23 SUPERINTENDENT KANE: So that's already
24 on the --

25 MR. CLARK: So that's just their change

1 in estimate of outstanding exposure.

2 MS. LUERA: Right, from last year's
3 actuarial study.

4 MR. CLARK: So that's why it's not
5 realized yet.

6 MS. LUERA: Yes.

7 I have that data for 2023. It wasn't
8 on the agenda, so I didn't include it in the
9 presentation.

10 VICE CHAIR LOVE: Understood. Yeah.
11 No problem.

12 Another question that I have, and I
13 don't know if this is the appropriate time, but I'm
14 wondering if you have an accounting of the patients
15 who have expectation of future medicals.

16 Are there -- I know some judges, like
17 in the case that I -- I only have one patient who is
18 receiving future meds. In that case, we had an
19 evidentiary hearing and the court decided an amount
20 that had to be set aside for future meds, and I've
21 never seen an accounting that shows how that money is
22 being earmarked and kept safe for that patient.

23 And I'd like to know, for all the
24 patients, have you done -- either do you have orders
25 from the court about how much has to be set aside for

1 those future meds, or have you done estimates, or do
2 you have some sense from the settlements about how
3 much needs to be protected for those patients? I've
4 never seen that on a ledger.

5 MS. LUERA: Right.

6 VICE CHAIR LOVE: I don't know if it's
7 something that you guys do, but it seems like
8 something that ought to be done to protect their
9 interests.

10 MS. LUERA: Yeah, so Integrion doesn't
11 keep all of the financials, it's sort of a joint
12 project between OSI and Integrion. So I will have to
13 check with the CFO at OSI and --

14 SUPERINTENDENT KANE: Barry, do you
15 have any sense?

16 MR. BERENBERG: No, I don't.

17 MS. LUERA: I think your settlement was
18 the only one that --

19 VICE CHAIR LOVE: Where there was an
20 amount?

21 MS. LUERA: Where there was an amount
22 that had to be earmarked.

23 VICE CHAIR LOVE: Yeah.

24 So how do you do that? How do you -- I
25 mean, I wonder how that can be done, to make sure

1 that, you know, there's an estimate of what is to be
2 expected that needs to be protected for that person.

3 SUPERINTENDENT KANE: The medical part
4 of the lump sum --

5 VICE CHAIR LOVE: Yeah. I mean, you
6 might have somebody who will have very low future
7 meds, but you might have somebody who is going to have
8 to have, like serious care for the rest of their
9 lives, and that could be millions of dollars that
10 needs to be, you know, protected for them.

11 MS. LUERA: Right.

12 SUPERINTENDENT KANE: Yeah.

13 CHAIRMAN RITCHIE: It almost runs like
14 work comp claims. I mean, a work comp claim, you
15 know, unless you sign away your rights, you know, it
16 stays open forever. And so the carrier puts aside --

17 SUPERINTENDENT KANE: It's a two-fold
18 situation. If they do it as a lump sum that's set
19 apart it's not like a work comp claim.

20 CHAIRMAN RITCHIE: Right, right.

21 SUPERINTENDENT KANE: I think we have
22 about six, I saw somewhere it's six patients that are
23 staying with the PCF to have their medical claims.

24 VICE CHAIR LOVE: Um-hmm.

25 SUPERINTENDENT KANE: I don't know the

1 other figures, but let's see if we can find out.

2 MS. LUERA: So I actually checked
3 earlier, there are 18 -- Jennifer, does that sound
4 right -- there are 18 claims.

5 SUPERINTENDENT KANE: Yes.

6 MS. LUERA: So once a claim settles in
7 our system, we change it from a malpractice claim to a
8 future medical claim, just so we can track them, and
9 track the amounts. And so there's 18 of those now.
10 Some of them haven't incurred any medical costs yet,
11 but certainly they will.

12 I do know that that is something that
13 the actuaries look at and there is -- I don't know if
14 I'm using the right term -- but like a line item, in
15 the actuarial study. Somewhere among all those
16 numbers, that is an estimate of what the future
17 medical liability is.

18 SUPERINTENDENT KANE: But they always
19 write in their report that this is one of the
20 wildcards.

21 VICE CHAIR LOVE: Yeah.

22 It just seems to me like, in terms of
23 the fiduciary responsibility of the agency, there's
24 got to be some kind of an accounting, an expectation
25 to make sure that that money is protected.

1 SUPERINTENDENT KANE: Yeah, I think
2 we've looked at the ones that stay in the system, but
3 I think we haven't been looking -- I don't know what
4 we've been doing with the lump sums.

5 VICE CHAIR LOVE: Well, what do you
6 mean in term of the lump sums?

7 SUPERINTENDENT KANE: Because the lump
8 sums have -- I don't know if you're -- if they stay in
9 the system, we track it.

10 VICE CHAIR LOVE: Okay.

11 SUPERINTENDENT KANE: But if there's a
12 lump sum, and part of it is for future medical --
13 which I think was probably going on in your court
14 case?

15 VICE CHAIR LOVE: No.

16 SUPERINTENDENT KANE: No.

17 VICE CHAIR LOVE: Uh-uh. No. No.

18 In our case, years ago, we went before
19 the court and had an evidentiary hearing on what
20 amount of money the OSI was required to set aside.

21 SUPERINTENDENT KANE: So the PC action
22 is set aside actuarily for this --

23 VICE CHAIR LOVE: Yeah, for the future
24 meds for that patient in particular. I can't remember
25 if it was 5 or 8 million.

1 SUPERINTENDENT KANE: I think the
2 actuaries probably have a number for that.

3 But if it goes in the lump sums, I
4 don't know.

5 VICE CHAIR LOVE: Yeah, if it goes in
6 the lump sum, it's irrelevant.

7 SUPERINTENDENT KANE: Yeah.

8 MR. CLARK: It's paid out so you don't
9 need to reserve.

10 VICE CHAIR LOVE: It's already paid and
11 it needs to be --

12 SUPERINTENDENT KANE: You and I had
13 this conversation. I'm not sure it's totally
14 irrelevant

15 VICE CHAIR LOVE: No, this is
16 different. This is a different conversation.

17 SUPERINTENDENT KANE: Right.

18 VICE CHAIR LOVE: I'm talking about --

19 SUPERINTENDENT KANE: No, I get it.

20 VICE CHAIR LOVE: Well, it's different
21 than the conversation we had yesterday.

22 SUPERINTENDENT KANE: Yes, I
23 understand.

24 VICE CHAIR LOVE: Yeah.

25 SUPERINTENDENT KANE: Okay.

1 CHAIRMAN RITCHIE: Do we have an idea,
2 or rather, I think we should have an idea of how many
3 cases do withdraw from the PCF in a lump sum and how
4 many continue on for lifetime claims. Do we have a
5 percentage of how many of those there are, or what's
6 the breakdown?

7 SUPERINTENDENT KANE: Barry, do you
8 know? We should find out.

9 MR. BERENBERG: Since I've been on, the
10 policy of OSI has been to pay as incurred rather than
11 as a lump sum.

12 SUPERINTENDENT KANE: Right.

13 MS. LUERA: Right.

14 MR. BERENBERG: And I think there is
15 one case where the court has ordered a lump sum --

16 VICE CHAIR LOVE: In other words, the
17 policy of the PCF -- for how many years now?

18 MR. BERENBERG: See, I started in early
19 '22.

20 VICE CHAIR LOVE: So since 2022, is,
21 they will not negotiate around lump sum payouts. What
22 used to happen, is that we would, in some cases,
23 negotiate a settlement, but included a total lump sum,
24 gave everybody, in my view, certainty around what was
25 going to happen with the amount.

1 There would be negotiations and then
2 the settlement would be paid. It would include past
3 meds, all the damages, and the future meds, and the
4 OSI was done with that patient.

5 Some patients agree to settle and have
6 their future meds paid out as they're incurred. So my
7 client --

8 MS. LUERA: Stay on the PCF.

9 VICE CHAIR LOVE: -- if she needs to
10 have her heart transplant, will come to the OSI and
11 say, will you pay this bill, and then they'll send a
12 check to the provider.

13 So there's two ways that this has
14 always been done, and since 2022, the PCF has had a
15 policy against negotiating those future lump sum
16 payouts.

17 MR. BERENBERG: And just to make it
18 clear, I don't know if it started in 2022. That's
19 when I started.

20 VICE CHAIR LOVE: Got it.

21 MR. BERENBERG: That was the policy
22 when I came on.

23 VICE CHAIR LOVE: Got it.

24 CHAIRMAN RITCHIE: So most claims will
25 be for lifetime medical and not paid out in lump sum

1 time. They will continue on for lifetime.

2 VICE CHAIR LOVE: Right now, because --
3 right. Right now --

4 CHAIRMAN RITCHIE: As it goes down.

5 VICE CHAIR LOVE: Right. Because they
6 won't agree to it.

7 CHAIRMAN RITCHIE: Okay.

8 VICE CHAIR LOVE: Right.

9 CHAIRMAN RITCHIE: All right.

10 MS. LUERA: Any other questions?

11 The next agenda item is a report on
12 experience rating plan for hospitals and outpatient
13 facilities.

14 I don't have any -- there's no slides
15 for that one, Jenn.

16 MS. ROMERO: Okay.

17 MS. LUERA: I don't have an update.

18 Last year, when we discussed it, we thought that since
19 the hospitals are going to be out in a few years, it
20 didn't make sense to build a rating methodology to
21 experience rate those types of facilities.

22 So if that's something the Board would
23 like to revisit, great, but that's the extent of the
24 update I have on that.

25 VICE CHAIR LOVE: I need to think that

1 through.

2 MR. CLARK: I don't think there's any
3 discussion on the hospital side. I don't know about
4 the outpatient facilities, about revisiting this at
5 this point. As I recall from the discussion long ago,
6 it was -- I don't want to use the term shell game, but
7 I'll use the term shell game. It wasn't a significant
8 reduction, it was just a shifting over time or amongst
9 parties.

10 So we've not had any discussions, to my
11 knowledge, of looking to reinstitute the experience
12 rating piece. And part of that is, as long as we're
13 exiting the PCF, we would not want to. If we can stay
14 in the PCF, then it may change.

15 MS. LUERA: Okay. I think we can move
16 ahead.

17 SUPERINTENDENT KANE: Colin, do you
18 want to --

19 MR. BAILLIO: Sure.

20 Hi everybody, Colin Baillio, Deputy
21 Superintendent.

22 I had been asked to provide an update
23 on the legislative session and bills and
24 appropriations that had an impact on the PCF.

25 There were four bills that were

1 introduced that would have an impact on the PCF. None
2 of those bills passed, but to give you a little
3 summary on those.

4 House Bill 107 and Senate Bill 53 were
5 identical bills that would change the limitation of
6 recovery for hospitals and hospital-controlled
7 outpatient facilities to \$1 million starting in 2025.
8 Those bills weren't germane to the budget and this was
9 a budget session, and so they didn't proceed to
10 hearing.

11 House Bill 234 would appropriate
12 \$70 million to OSI for a medical malpractice premium
13 assistance program. This bill didn't receive any
14 hearings. It was very similar to one that was
15 introduced in the previous session.

16 And then House Bill 304, as amended,
17 would appropriate funds to provide surcharge relief to
18 hospitals in the PCF, as well as publicly-owned
19 hospitals that purchase medical malpractice insurance,
20 but would restrict those funds to hospitals not --
21 sorry -- funds to those hospitals that aren't owned by
22 out-of-state corporations and legal entities. This
23 did pass one committee, but it didn't go any further.

24 None of these bills ultimately passed.
25 However, where there was more activity, was around

1 legislative appropriations. Payments for the patient
2 compensation settlements and court-ordered payments
3 continue to be funded at the level from the last
4 fiscal year. And then any amounts exceeding that
5 appropriation will be approved through the budget
6 adjustment request process. This is how it's been
7 done in the past as well.

8 There was a \$2.29 million appropriation
9 to the PCF for contractual services for fiscal year
10 2025.

11 And then there was a special
12 appropriation of \$35.9 million. That was approved to
13 reduce the PCF deficit attributable to independent
14 doctors and facilities.

15 And then a special appropriation of
16 8.1 million that was approved to reduce surcharges for
17 rural hospitals to promote the availability of health
18 care in rural areas.

19 MR. CLARK: Mr. Chair, one quick
20 question.

21 On the 2.9 million, is that to offset
22 some of our administrative fees or is that for a
23 separate project within OSI; do we know what that 2.9
24 is?

25 MR. BAILLIO: I think it's basically

1 for the Integrion contract. I'm not sure if there
2 were other amounts built into that budget, but I think
3 that's the main one.

4 SUPERINTENDENT KANE: I think we had
5 put some money in for the portal.

6 MR. BAILLIO: And there may have been
7 some for that as well.

8 SUPERINTENDENT KANE: I can get back to
9 you with more details.

10 MR. CLARK: Just curious. Because I
11 think right now the Integrion contract comes out of
12 the surcharge revenue, so it's an administrative
13 expense, right, so this would help offset some of
14 that.

15 MR. BAILLIO: And I would have to go
16 back and double check, I can look at HB2, but I think
17 that that was in the category where it gets charged to
18 PCF.

19 MR. CLARK: Well, thank you for getting
20 that.

21 MR. BAILLIO: And that's all I have to
22 report.

23 CHAIRMAN RITCHIE: So number 5, then,
24 we're going to go to time to have a meeting coming up
25 to discuss Pinnacle's response to the annual report to

1 the legislature.

2 Our next meeting, that hearing meeting
3 for the Pinnacle report, is when?

4 MS. LUERA: Jenn, can you go to the
5 next slide? I think the date is on there.

6 Okay. So the hearing is September 5th.

7 CHAIRMAN RITCHIE: Okay.

8 MS. LUERA: Generally, we receive the
9 draft actuarial study around mid-July. OSI takes a
10 look at it and we usually have one or two
11 back-and-forths with Pinnacle if there are other
12 things we want them to model or look at.

13 And so, we would expect that would take
14 a couple of weeks, so it seems like, you know,
15 sometime in August, they should be ready to present
16 the data first to the PCF Advisory Board in advance of
17 the September 5th hearing.

18 CHAIRMAN RITCHIE: That's much
19 appreciated.

20 You know, obviously we want to do it
21 before then. We're just going to go over this
22 response from Pinnacle about the report. It shouldn't
23 be that long, but I still don't want to wrap it, I
24 don't think, into that hearing.

25 And so probably pretty soon, May or

1 June, I would think, should we send out --

2 VICE CHAIR LOVE: Don't we usually have
3 another meeting before the actual hearing?

4 MS. LUERA: Yes.

5 VICE CHAIR LOVE: And what are the
6 things that we usually have to discuss?

7 MS. LUERA: The biggest thing is Rob
8 Walling presents the study to the Board, so the Board
9 has an opportunity to ask questions in advance of the
10 hearing, so everybody feels well prepared for the
11 hearing.

12 MR. CLARK: Which is usually in August,
13 isn't it?

14 CHAIRMAN RITCHIE: Now squeezing that
15 in between the July 15 and the September 5, was always
16 the problem. So, I mean, we could do it at that time.
17 I mean, we have a little more time.

18 VICE CHAIR LOVE: Yeah, I mean, there's
19 -- I don't know. I think I'd be fine with that.

20 CHAIRMAN RITCHIE: I don't know if we
21 need another hearing. This is a pretty limited topic.

22 VICE CHAIR LOVE: I know, we've got a
23 lot of meetings.

24 CHAIRMAN RITCHIE: Right. We need
25 another meeting.

1 SUPERINTENDENT KANE: The good news is
2 Rob would be there in person anyway.

3 VICE CHAIR LOVE: Exactly.

4 CHAIRMAN RITCHIE: Correct.

5 SUPERINTENDENT KANE: So we have him
6 come out once.

7 VICE CHAIR LOVE: Yeah, good point.

8 CHAIRMAN RITCHIE: Yeah, so I don't
9 know if we need another meeting.

10 MS. LUERA: Well, he didn't -- sorry.

11 He didn't come in person to present the
12 actuarial study --

13 SUPERINTENDENT KANE: Yeah, but I'm
14 going to ask him to come.

15 MS. LUERA: Okay.

16 VICE CHAIR LOVE: Or at least on Zoom.

17 SUPERINTENDENT KANE: Yeah, really.

18 VICE CHAIR LOVE: I mean, at least so
19 that he's at the meeting and able to answer questions
20 for it. Yeah, either way is fine.

21 CHAIRMAN RITCHIE: Okay. So then I
22 guess we need to plan that meeting.

23 VICE CHAIR LOVE: Yeah.

24 CHAIRMAN RITCHIE: Somewhere between
25 July 15 and September 5.

1 UNIDENTIFIED SPEAKER: How about July
2 19th?

3 CHAIRMAN RITCHIE: Hold on.

4 MS. LUERA: Well, remember, we need a
5 couple of weeks for, internally, to review the study.

6 CHAIRMAN RITCHIE: Yeah. It was always
7 in August.

8 SUPERINTENDENT KANE: She's looking for
9 the first or second week in August, I think, right?

10 CHAIRMAN RITCHIE: Right.

11 VICE CHAIR LOVE: Okay.

12 MS. LUERA: Yeah. I think we're in
13 August.

14 CHAIRMAN RITCHIE: I think that's when
15 it's done and we've had to do it.

16 VICE CHAIR LOVE: August 1st? August
17 2nd?

18 CHAIRMAN RITCHIE: Thursday, Friday,
19 August 1, 2. What do you think --

20 SUPERINTENDENT KANE: Monday, Tuesday,
21 whatever.

22 CHAIRMAN RITCHIE: Is that far enough
23 out?

24 That's Thursday, Friday.

25 Is that far enough, do you think, to

1 have --

2 SUPERINTENDENT KANE: Well, this is my
3 first round. I think so.

4 CHAIRMAN RITCHIE: Right.

5 What about you, do you think that's
6 enough time?

7 MS. LUERA: I think so, yeah. We can
8 fast-track the internal conversations with Pinnacle.

9 CHAIRMAN RITCHIE: And I can do the
10 afternoon of Thursday or Friday, 1 or 2, at this
11 point.

12 MR. CLARK: I'd ask for it to be the
13 2nd. I'm out on the road visiting hospitals that
14 week.

15 VICE CHAIR LOVE: The afternoon of the
16 2nd?

17 MR. CLARK: Putting it back on Friday
18 would be easier than taking a chunk out of the --

19 SUPERINTENDENT KANE: So Friday
20 afternoon, the first week in August, first week of
21 August?

22 VICE CHAIR LOVE: Um-hmm.

23 CHAIRMAN RITCHIE: First couple days of
24 August.

25 SUPERINTENDENT KANE: Yeah.

1 VICE CHAIR LOVE: August 2nd in the
2 afternoon.

3 CHAIRMAN RITCHIE: August 2nd in the
4 afternoon?

5 VICE CHAIR LOVE: Yeah.

6 SUPERINTENDENT KANE: Right.

7 CHAIRMAN RITCHIE: Okay.

8 MS. LUERA: Okay. We'll get that
9 scheduled. We'll get a placeholder on everybody's
10 calendar.

11 VICE CHAIR LOVE: We're going to put it
12 on the calendar before you discover conflicts.

13 CHAIRMAN RITCHIE: Plenty of time to
14 have a bigger board room, another place.

15 SUPERINTENDENT KANE: Colin. Another
16 place or you've got to get that conference room and
17 table ready.

18 MR. BAILLIO: If it's not ready by then
19 we have big problems.

20 SUPERINTENDENT KANE: We'll beg for
21 space.

22 MR. CLARK: You can always use my place
23 as a fallback.

24 SUPERINTENDENT KANE: Where are you?

25 MR. CLARK: You know where the Marriott

1 Pyramid is as you come down into town --

2 SUPERINTENDENT KANE: Vaguely, I do.

3 MS. LUERA: About five minutes from our
4 building.

5 SUPERINTENDENT KANE: Okay. You're
6 sort of by the balloon festival.

7 MR. CLARK: Yeah. We're actually right
8 up against the freeway.

9 SUPERINTENDENT KANE: Okay.
10 We will have a place.

11 CHAIRMAN RITCHIE: Yes, we'll have a
12 place.

13 MS. LUERA: We can always use our
14 conference room as well. We just, you know, were
15 looking to have a neutral location.

16 CHAIRMAN RITCHIE: Right. Well, yeah,
17 I think either one, yeah, I think your place would be
18 just as neutral.

19 MS. LUERA: Sure.

20 CHAIRMAN RITCHIE: Okay. We'll work
21 that out.

22 MS. LUERA: Location TBD, how about
23 that?

24 CHAIRMAN RITCHIE: Exactly, TBD.

25 SUPERINTENDENT KANE: My goal is to

1 have everybody neutral and have us all working the
2 same day.

3 CHAIRMAN RITCHIE: Well, exactly.
4 Exactly.

5 VICE CHAIR LOVE: Well, I mean, you
6 know, in fairness, I just think it was -- I think just
7 the appearance, for somebody who doesn't do the kind
8 of work that we do, it just was a little intimidating
9 to go to the Hospital Association. I should have
10 thought of that, but I didn't, so --

11 SUPERINTENDENT KANE: Take turns.

12 VICE CHAIR LOVE: Yeah, it was tough
13 for him, and so, you know, I understand it, and I just
14 think it's good that we're sensitive to that now.

15 MR. MARTINEZ: Yeah, if we rotate we
16 could do my backyard. I have a pool and --

17 CHAIRMAN RITCHIE: That's a good time
18 of year.

19 SUPERINTENDENT KANE: That's good for
20 the August 2nd, Friday afternoon meeting. Margaritas,
21 we'll all get a lot done.

22 MR. MARTINEZ: I have WiFi.

23 CHAIRMAN RITCHIE: Okay. Any other
24 discussion on that?

25 So to-be-determined location. And time

1 will be, again, the early afternoon, because it may go
2 a little long, so we'll do that.

3 MS. LUERA: Okay.

4 CHAIRMAN RITCHIE: Then number 6,
5 discuss rate hearing schedule. That's it.

6 MS. LUERA: That's it right there.

7 CHAIRMAN RITCHIE: Yep, that's it.

8 You know, I think we did pretty well
9 this year, get everything out. So we tried to kind of
10 mirror that again this coming year, keep trying to
11 make sure we front-end load it so we've got time at
12 the end. So unless anyone has any objection, we'll
13 just stay with the schedule we came up with at the
14 last meeting.

15 MR. CLARK: If we could just check the
16 invite that was sent out. I believe it was sent out
17 showing a 9 a.m. start, not at 1 p.m.

18 MS. LUERA: Okay, I'll check that.

19 VICE CHAIR LOVE: I think that was
20 corrected.

21 MS. ROMERO: Yeah, I did update it.

22 VICE CHAIR LOVE: Maybe you just didn't
23 accept the update to it. I noticed that and Jenn
24 sent --

25 MS. ROMERO: It's 1 p.m., yeah, she

1 asked me to revise it, and I did.

2 CHAIRMAN RITCHIE: So 1 p.m. -- let me
3 see. September 5th, and 1 p.m.?

4 MR. CLARK: Before today?

5 VICE CHAIR LOVE: Yeah, like a month
6 ago or something.

7 CHAIRMAN RITCHIE: September 5th, I've
8 got hearing at 1 p.m., yeah.

9 All right. Then, really, the next item
10 on the agenda is just open for public comment here, or
11 any other business, new business, old business, of the
12 committee.

13 Does anyone have anything to add or
14 comment on?

15 MR. CLARK: Is there anyone online that
16 does?

17 CHAIRMAN RITCHIE: Yes, what about
18 online then?

19 MS. STARACE: This is Carmela. I just
20 wanted to say, really good first meeting for me, and
21 everything everyone said made a lot of sense. So I
22 appreciate it and I'm looking forward to joining
23 y'all.

24 MR. CLARK: Glad to have you here.

25 CHAIRMAN RITCHIE: Yes. Welcome.

1 Thank you.

2 So then we'll get Ms. Love out on time
3 today, and we'll adjourn for now and we will meet and
4 get out the meeting invite shortly.

5 (Whereupon, the meeting concluded at
6 3:48 p.m.)

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CERTIFICATE

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



JAMES COGSWELL

April 23, 2024

Notary Public in and for the
State of New Mexico

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April 23, 2024



CHERYL MCKINNEY

[1 - accounting]

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[superintendent - typewriting]

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