

Patient's Compensation Fund
Advisory Board Meeting

Moderated by William Ritchie
Thursday, October 23, 2025
3:02 p.m.

Office of Superintendent of Insurance
6200 Uptown Boulevard Northeast, Fourth Floor
Albuquerque, NM 87110

Reported by: Ryan Auten

JOB NO: 7642840

A P P E A R A N C E S

List of Attendees:

William Ritchie, Board Chair

Kathleen J. Love, Board Vice Chair

Roman Martinez, Board Member

Troy Clark, Board Member

Nick Autio, JD, Board Member

Michael Dekleva, Board Member (by videoconference)

Vincent Ward, Board Member (by videoconference)

Alice Kane, Superintendent of Insurance

Christian Myers, Chief Actuary, OSI

Stephen Thies, OSI General Counsel

Frances Gallegos, OSI Law Clerk

Debbie Luera, Integrion

Jennifer Fetherolf, Integrion (by videoconference)

Joseph Chavez, OSI (by videoconference)

Placido Gonzales, OSI (by videoconference)

Ray Vargas, Board Member (by videoconference)

Annie Jung, NM Medical Society

Sahar Hassanin, OSI Economist

Melissa Robertson, OSI, Bureau Chief (by
videoconference)

Chris DeWald, Integrion (by videoconference)

Andrea Maloney's Note Taker (by videoconference)

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P R O C E E D I N G S

CHAIRMAN RITCHIE: All right. So I think we can start, then. I think we have enough people. So it's call to order. We'll start with the roll call.

William Ritchie. Present.
Mr. Vargas?

MR. VARGAS: I'm here.

CHAIRMAN RITCHIE: Ms. Love?

MS. LOVE: Here.

CHAIRMAN RITCHIE: Mr. Clark?

MR. CLARK: Here.

CHAIRMAN RITCHIE: Mr. Dekleva?

MR. DEKLEVA: I'm here.

CHAIRMAN RITCHIE: Mr. Autio?

MR. AUTIO: I am here.

CHAIRMAN RITCHIE: Mr. Martinez?

MR. MARTINEZ: Here.

CHAIRMAN RITCHIE: Ms. Maloney?
Andrea, there?

MS. GALLEGOS: I think she's there.

MR. CLARK: Her note taker. Yeah, I saw her.

CHAIRMAN RITCHIE: Oh, okay. So I guess not. Not present. All right.

1 And Vince, you are here.

2 MR. WARD: I'm here.

3 CHAIRMAN RITCHIE: Thank you. All
4 right.

5 UNIDENTIFIED SPEAKER #1: Dr. Andrea's
6 right in the middle.

7 MS. GALLEGOS: She looks like she's --
8 can she speak?

9 MR. CLARK: Is she here or she just
10 have a --

11 CHAIRMAN RITCHIE: I mean, I don't have
12 a last name. Is -- is that her?

13 MS. GALLEGOS: She says, "Andrea's note
14 taker." I would assume it's just a note taker.

15 CHAIRMAN RITCHIE: Right. So we -- we
16 have a quorum, I believe.

17 So, then, let's call, is there approval
18 of the agenda?

19 MS. KANE: Can you put the agenda up,
20 please?

21 CHAIRMAN RITCHIE: There we go. Thank
22 you.

23 Okay, everyone have a chance to read
24 the agenda? Do we have a motion to approve it?

25 MR. CLARK: This is Troy, and I'll make

1 a motion to approve the agenda as presented.

2 MR. AUTIO: This is Nick Autio. I'll
3 second.

4 CHAIRMAN RITCHIE: Thank you very much.
5 Seeing no objections, the agenda is approved.

6 Next, I have a motion to approve the
7 minutes. It did go out electronically. Is there a
8 motion?

9 MR. AUTIO: This is Nick Autio. I'll
10 make a motion to approve the minutes.

11 CHAIRMAN RITCHIE: Do I have a second?

12 MR. VARGAS: This is Ray. I'll second.

13 CHAIRMAN RITCHIE: Thank you.

14 Any objections to that? Seeing none,
15 we will approve, then, the minutes.

16 So, item number 2 on the agenda,
17 discussion regarding evidence presented during the
18 surcharge rate hearing. We have three people on -- on
19 the committee, all present, that -- that were in that
20 discussion.

21 Do any of you wish to present to the
22 committee a discussion on that? Nick? Mike? Ray?

23 MR. VARGAS: I was -- I was going to
24 volunteer Nick since he drafted it this year.

25 MR. AUTIO: Yeah. So, no. This is

1 Nick Autio. Happy to go through. I think the --
2 Vince sent out the draft proposed findings,
3 conclusions, and recommendations, either yesterday or
4 today, so I hope everyone on the board has had an
5 opportunity to review what we've placed in this draft
6 report.

7 I want to thank Mr. Vargas and
8 Mr. Dekleva for assisting with it. We've really just
9 distilled down the -- the primary findings that
10 were -- were discussed during the evidentiary hearing,
11 and when Mr. Walling presented the actuarial findings
12 related to the PCF's current status.

13 You can find on -- on page 2. So -- so
14 page 1 and into page 2 just goes through, kind of,
15 the -- the statutory foundation for what we're doing
16 here, the board role, and what we have to look at, as
17 a board, in considering surcharges.

18 And then on page 2 of the proposed --
19 of this draft findings, we -- we looked at the deficit
20 that currently -- or that exists as of
21 December 31st of 2024. At that -- at that time,
22 according to the actuary and the evidence heard by the
23 board, the PCF's fund balance was approximately
24 \$308.3 million.

25 And losses to be paid for all claims

1 occurring prior to December 31st of 2024, were
2 approximately 342.6 million, which would result in
3 a -- a fund deficit of 34.3 million, which is
4 approximately 11.1 percent of the current fund
5 balance.

6 Going through the report, the -- this
7 draft -- the draft findings, Pinnacle has assigned a
8 hundred percent of that \$34.3 million deficit to the
9 hospitals and concluded that the independent
10 physicians and surgeons portion of the deficit has
11 been paid off.

12 At the bottom of page 2 and moving on
13 to page 3 and to the top of -- of page 4, we discuss
14 future risk and the -- the findings that the actuary
15 discussed during the -- the evidentiary hearing we had
16 on this.

17 First, the -- the actuary looked at the
18 CPI increases that are applicable to the independent
19 physicians and surgeons, and concluded that there
20 should be an adjust -- an adjustment of 2.8 percent --
21 or 2.8 percent, which is the CPI, which results in an
22 increase of the per occurrence limit that is
23 applicable, from \$883,404 to \$908,779, which widens
24 the PCF's overall exposure layer from \$633,404 to
25 \$658,779.

1 And to address that, the actuaries,
2 you'll see at the top of page 3, it suggested a -- an
3 increase of 2.1 percent to cover that additional
4 exposure that's a result of the CPI increases. Now
5 that the CPI adjustments for the independently owned
6 outpatient healthcare facilities are adjusted on a
7 three-year average for urban consumers.

8 And based on that average, the CPI
9 adjustment for this year, according to the actuary, is
10 4.19 percent, which increases the PCF's exposure layer
11 from \$556,239 to \$600,495. And the actuary has
12 suggested an overall -- for the independent
13 surgeons -- independent physicians and surgeons, the
14 actuary suggested an overall rate impact of -- of an
15 increase of 16 percent.

16 And that's an -- at an expected level.
17 If you're at a 75 percent confidence level, though,
18 that would be a 25.6 percent increase. And to bring
19 it to the -- the board's attention historically as
20 part of this, of these findings and recommendations,
21 we haven't gone into depth regarding loss ratios, but
22 one thing that the actuary did explain regarding that
23 16 point -- that 16 percent increase was the
24 unexpected losses from physicians and surgeons.

25 And we saw that, I -- I believe, it was

1 in the 2018, 2019 timeframe, we have some loss ratios
2 that -- that are showing loss ratios that are north of
3 150 percent, which is -- is partially driving that
4 16 percent suggested increase.

5 In -- in paragraph 19 on page 3, you'll
6 see that we -- as we, you know, historically has been
7 done in pursuant to insurance industry standards, the
8 way that entities that are qualified under the Act are
9 assessed surcharges is -- is to increase premiums paid
10 by individual insured providers by an additional
11 10 percent to provide coverage for that entity under
12 which the insured's providers practice.

13 And -- and that's what we're suggesting
14 here, which is what we've suggested historically.
15 When it comes to the hospitals and to account for the
16 \$34.3 million deficit that has been allocated to the
17 hospitals by the actuary, there's a suggested increase
18 of 25.7 percent on an expected value basis or a --
19 which would be a 36.1 percent at a 75 percent
20 confidence level. So that's for the hospitals.

21 And then in paragraph 21, the board
22 will see suggested surcharge rates for independent
23 outpatient healthcare facilities. And -- and you'll
24 see here that we've simply copied and pasted, really
25 screenshot, a table that was provided by the actuary

1 regarding those suggested rates.

2 And as we discussed during our prior
3 meeting, and to -- to really avoid having an
4 additional board meeting, the -- the subcommittee that
5 drafted this -- these -- these proposed findings and
6 recommendations did not reach any conclusions
7 regarding increases that -- that should be put in
8 place.

9 We're going to leave it to the board to
10 discuss today, and you'll see those blanks that are on
11 page 4 of -- of the draft report. Now, note that
12 under subsection D, we did include the table for
13 independently owned outpatient healthcare facilities,
14 but that, of course, does not have to be adopted by
15 the board and is up for discussion today.

16 Happy to answer any questions regarding
17 the work that the subcommittee's done, and hopefully
18 we can discuss some of these findings with the board
19 today. So, thank you.

20 CHAIRMAN RITCHIE: Thank you.

21 Go ahead, Troy.

22 MR. CLARK: Mr. Chair.

23 For the reporter, Troy Clark.

24 Thank you to the subcommittee for all
25 the work. And I apologize I was not able to be in

1 attendance at the actual hearing. I did dial in and
2 listen as well as I could. However, I don't see
3 anything in the report yet, at this point, that
4 addresses an issue that was raised, I guess, at two
5 meetings prior.

6 And that being that by statute to the
7 PCF only has obligation to pay claims or make payments
8 through December 31st of 2026, and that no payments
9 are made -- be made beyond that, in which case, that
10 is not the basis on which the actuary calculated all
11 of the numbers that are included in here.

12 They're included with the assumption
13 that both the hospitals and the doctors would continue
14 in the PCF. And so, the future obligations being
15 stated at 346 -- or 342.6 million include an
16 assumption that payments have to be made after
17 December 31st of 2026.

18 I don't think we have the information
19 to calculate what those -- that estimate of the
20 payments would be from the actuary. Again, I was not
21 at the meeting, but I also don't think he has the
22 ability to make those estimates.

23 But I think we need to make some
24 comment, under the facts, that these are estimates
25 made by the actuary, assuming that payments would be

1 continued to be made post December 31, 2026, on behalf
2 of the hospital, for these numbers to have any
3 accuracy.

4 Otherwise, it could result in the need
5 for, actually, a whole discussion about massive or
6 large-size rebates back to the hospitals, if payments
7 are not. And I know I've talked with the
8 superintendent and I think there is a thought or an
9 intent that those payments would consider, but that's
10 not what the statute currently says.

11 MR. MYERS: Can I address that,
12 actually, the statute, I -- I think since we last met,
13 I did go back and review the statute, it does say no
14 payment will be made after that date for injuries or
15 deaths that occur after that date.

16 So if -- because the hospitals have
17 been paying into the fund and they'll pay through the
18 end of 2026, if there's a malpractice event on
19 December 30, 2026, it gets reported in 2028, and it's
20 paid in 2035. Obviously, I'm making up these numbers.
21 That money still would come out of the PCF, and that
22 is contemplated in the actuarial analysis.

23 MR. AUTIO: So -- so this is Nick
24 Autio, and -- and the language you've referenced
25 regarding injury, just, is not in that section of the

1 statute, that 41-5-6(K) specifically reads "Beginning
2 January 1st of 2027, amounts due from a judgment or
3 settlement against a hospital or hospital-controlled
4 outpatient healthcare facility shall not be paid from
5 the fund."

6 So it does not distinguish between an
7 injury occurring before January 1, 2027, or after
8 January 1, 2027, which is the issue that -- that I
9 believe Troy is raising.

10 MR. CLARK: It -- it is. And why I
11 like that interpretation I love. I mean, that's what
12 I think the hope is. I'm -- I'm saying that I think
13 we need to at least clarify, in our recommendation as
14 a board, that, that is the assumption that these
15 numbers are based upon.

16 CHAIRMAN RITCHIE: And from the SOI,
17 from the OSI.

18 UNIDENTIFIED SPEAKER #2: I think it's
19 in, like, the HB 75.

20 MS. KANE: I -- I guess, I'm confused.
21 (C)? Are we talking about (C)? It's 41-5-7(C).

22 MR. AUTIO: I'm specifically referring
23 to 41-5-6(K).

24 MS. KANE: Okay, so maybe there's a --
25 there's a -- a discrepancy.

1 MS. LOVE: I think he's looking at the
2 statute that was passed. You have to look at the
3 statute that's on the books, like, go to Lexis or
4 something.

5 MR. AUTIO: Not the bill.

6 MS. LOVE: Yeah.

7 MS. KANE: What are you looking at?

8 MR. MYERS: Which one is statutory?

9 MR. AUTIO: 41-5-6(K). Last sentence.

10 MS. KANE: What's 41-5-7? Do you have
11 a 41-5-7?

12 MR. AUTIO: There is a 41-5-7 of the
13 Act, but I -- I think the controlling language is the
14 limitation of recovery that's in 41-5-6.

15 MS. KANE: And there seems to be a
16 discrepancy because when you look at -- at 41-5-6 --
17 7(C), it says "Beginning on January 1, 2027, any
18 amounts due from a judgment or settlement against a
19 hospital or outpatient healthcare facility shall -- it
20 shall not be paid from the fund if the injury or death
21 occurred after December 31, 2026." So there seems to
22 be an inconsistency.

23 MR. AUTIO: I don't -- let me pull it
24 up on Westlaw, but I think that's old language. Are
25 you looking at the current version?

1 MR. MYERS: Yes.

2 MR. CLARK: Mr. Chair, if I could just
3 interject, my recommendation is that we make a comment
4 in the letter stating that this is the assumption it's
5 based upon. If there is a argument, or a debate, or
6 even a conflict within the law, as it's written, I
7 think we would at least be covered to say, this is the
8 assumption it's based upon.

9 Whether that's accurate or not, that
10 can be debated another time. I don't know how
11 Mr. Vargas and Ms. Love feel about that.

12 MS. KANE: Maybe I misunderstood when I
13 read the -- and Christian, you're going to have to
14 find it for me in here.

15 I thought that the actuary looked at
16 the assumption that the -- or at least his
17 understanding of when he made this was that there was
18 more under the (C).

19 MR. CLARK: Yes.

20 MS. KANE: That there -- there would be
21 no payments for occurrences that occurred after
22 December 31. And it -- he basically said, I guess, in
23 the questioning I thought he said, "well, we could be
24 off 50 million one way or another. I think his
25 assumption was more under what I just said versus what

1 you --

2 MR. CLARK: I -- I agree that, I think,
3 that's the assumption that -- which -- with which the
4 calculations are made.

5 MR. AUTIO: Correct.

6 MR. CLARK: I don't believe that it --
7 I believe there is a potential for that not to be
8 accurate if the interpretation is what it reads in
9 (K), where it says "There are no payments to be made
10 after December 31st." In which case, these numbers
11 would not be accurate, and I don't think there's a way
12 to calculate.

13 So that was my suggestion to say, let's
14 make a statement in there that says, "Here's the basis
15 and the assumption under which these numbers are
16 calculated; however, it's not possible to calculate
17 the other estimate." I -- I'm fairly certain the
18 actuary would say, "I can't guess the timing of when
19 you're going to write a check."

20 MS. KANE: Right.

21 MR. CLARK: So there's no way to make
22 that estimate.

23 MR. AUTIO: And -- and, I mean,
24 here's -- here's my concern. So 41-5-7(C) is
25 stating -- it -- it is clarifying that "Beginning

1 January 1, 2027, amounts due from settlement or a
2 judgment against the hospital or outpatient health --
3 healthcare facility shall not be paid from the fund if
4 the injury or death occurred after December 31, 2026."

5 Okay. So, you know, any injury, death
6 that occurs after that date can't be paid from the
7 fund. But then, it does not affirmatively state that
8 an injury or death that occurred before that date can
9 be drawn from the fund. And then in 41-5-6(K), it
10 says that, that cannot happen.

11 MS. KANE: So I think there's -- I
12 think the actuary went on the (C) concept.

13 MR. CLARK: That is correct.

14 MS. KANE: And then we have to -- and I
15 think Troy's correct, that we should make it clear
16 that there's -- I don't know what phrase you want to
17 use, but there's a problem.

18 MR. CLARK: Yeah.

19 MS. KANE: I totally agree.

20 MR. CLARK: I'm just looking for the
21 recognition of that --

22 MS. KANE: Totally agree.

23 MR. CLARK: -- that situation, not a
24 resolution. I don't think any of us have what the
25 resolution is, but that -- that issue --

1 MS. KANE: Needs to be --

2 MR. CLARK: -- could create a huge
3 difference in these numbers, all the way from a
4 surcharge to a massive refund.

5 CHAIRMAN RITCHIE: Yes.

6 MR. CLARK: On the other, that -- I
7 don't think we, as a board, have the knowledge, nor
8 did the actuary provide us with the knowledge to be
9 able to make a recommendation to you, based upon that.

10 CHAIRMAN RITCHIE: So then from --
11 entertain first, from the committee, did -- does
12 someone have some specific language to put into this
13 letter to say what --

14 MR. VARGAS: I was just going to ask
15 Mr. Clark if he did.

16 MR. CLARK: You think I've gotten two
17 more steps ahead of where I'm at there, right.

18 MR. VARGAS: Well, I appreciate you
19 raising it. It shows you thought about it, but
20 apparently I -- I was getting ahead of you.

21 MR. AUTIO: So, why I -- you know,
22 just -- just to open that conversation, I mean, I
23 think it would make sense to -- and -- and if everyone
24 has the report in front of them, if we look at page 2,
25 paragraph 11, which discusses estimated losses to be

1 paid for all claims prior to December 31, 2024.

2 If we add a -- either add a sentence or
3 drop a footnote there, which cites the language from
4 41-5-6(K) directly and -- and brings up the point
5 that, you know, the -- the estimated losses at
6 three-- 342.6 million is founded on the assumption
7 that losses, either settlements or judgements
8 associated with a hospital, will continue to be paid
9 from the fund, which based on the language in
10 41-5-6(K) might not be the case.

11 I don't know how much further than that
12 we can go, other than flagging the issue, based on,
13 you know, where we're at in the evidence we've
14 received from the actuary.

15 MR. CLARK: And I think that was all I
16 was suggesting. Simply, maybe, a sentence there that
17 says this estimate -- and I think that's the right
18 place to put it, now that you bring it up, Nick, is
19 after the 342.6 million in sentence 11.

20 Add one more sentence that says, "These
21 estimates are based upon the assumption that claims
22 will continue to be paid out," or awards or
23 settlements, whatever the proper -- appropriate word
24 is, "for injuries occurring prior to January 1 of
25 2027."

1 However, there is a potential from --
2 and make the reference, maybe, in a footnote to the
3 statute that this may not be the case and amounts are
4 not available to be able to estimate what that would
5 be a bit, calculated differently and something to that
6 effect.

7 CHAIRMAN RITCHIE: Vince -- Vince, can
8 you -- can you remind me, we want to have this, all
9 this, set to go in so we don't have to have another
10 meeting. So then, we need to have the exact statement
11 to put in there done right now. Correct? So that we
12 can enter any blanks, the numbers in the blanks, and
13 then this will be ready to go in. Correct?

14 MR. WARD: I mean, we need to have a
15 logical connection to the evidence that has been
16 presented so far.

17 CHAIRMAN RITCHIE: Right.

18 MR. WARD: That's the key, right? I
19 think that you all are allowed to draw reasonable
20 inferences from that evidence.

21 CHAIRMAN RITCHIE: Okay.

22 MR. WARD: And I think that, you know,
23 you guys just need to make a determination and -- and
24 you guys are smart, whether -- whether you can
25 actually make that reasonable inference and then I

1 think you'll fine.

2 CHAIRMAN RITCHIE: And if we have that,
3 again, in the language of this now and fill in the
4 blanks that we will not have to meet again or vote
5 again on this. We can submit this as it is.

6 MR. WARD: Well, are you asking if we
7 were to ask for an additional -- if -- some
8 clarification? Is that what you're asking?

9 CHAIRMAN RITCHIE: I'm just asking if
10 we --

11 MS. LOVE: I -- I think the question
12 is, can we just all agree on the language and have
13 somebody type it in right now and then approve it.
14 After we've done that, as long as we read it into the
15 record what we're adding to the draft.

16 CHAIRMAN RITCHIE: Correct.

17 MS. LOVE: Is that right?

18 CHAIRMAN RITCHIE: Correct.

19 MR. WARD: I'm okay with that.

20 CHAIRMAN RITCHIE: Okay. So --

21 MR. VARGAS: And I've got some
22 suggested language. It's sort of a -- a take on what
23 Troy said, and that is: "These estimates are based
24 upon the assumption that claims will continue to be
25 paid out before the date for injuries occurring before

1 that date, but claims that were made after that day."
2 Because that's really what we're talking about, right?
3 The injury occurred before the date, but the claim
4 arises after the date.

5 MR. CLARK: Yes. The key to the date
6 in -- in the assumption is the date of the injury, not
7 the date of the claim nor the payment. I think part
8 of the issue with the statute is questioning,
9 actually, the date of the payment.

10 You could go through the entire case
11 and settle it or get an award, and if the check's not
12 written until January 2nd, (K) would suggest that
13 that's not allowed, even if the injury happened and
14 occurred prior to that.

15 MS. KANE: I think if you look at (C),
16 you'll get the language you probably want.

17 CHAIRMAN RITCHIE: Do we have a means
18 to project this?

19 MR. DEKLEVA: Hey, guys, this is Mike
20 Dekleva and I just wanted to chime in and say I -- I
21 agree with what we're doing and I -- I think what
22 we're really trying to describe is that it's an
23 occurrence-based, you know, payment system, which I
24 think, Ray, you -- I think you were on the right track
25 in how you were articulating it. That -- those are

1 my -- my comments.

2 MR. AUTIO: And -- and this is
3 Nick Autio. Just for -- for clarification, I mean,
4 if -- if the way we're commenting on this is -- is
5 that this is a true occurrence-based policy, if you
6 will. I still think that runs into 41-5-6(K).

7 Because if it is an occurrence-based
8 policy, then all of those claims for hospitals that --
9 that took place when -- when the claim arises from an
10 injury that took place before January 1, 2027, would
11 be paid from the fund, if we're interpreting this as a
12 strict occurrence policy and that -- that runs
13 headlong into subsection K, which states the opposite.

14 MS. KANE: Yes.

15 MR. VARGAS: Well, and I think the
16 actuary essentially admitted that his assumptions were
17 that it was a true occurrence policy in that there
18 would be claims that would arise after
19 January 1, 2027, for incidents that occurred prior to
20 that day.

21 And so, maybe what we need to say is,
22 this data assumes that claims will arise after
23 January, or claims will be paid, or -- or "The PCF
24 will pay for claims that arise after January 21, '27,
25 for injuries that occurred prior to January 1, 2027."

1 MS. KANE: "Injury or death," they say
2 here. I think if you track mostly the language in (C)
3 that says -- it says, let's see, "If the injury or
4 death occurred." Let's see. "It'll be paid if the
5 injury or death occurred before January 1, 2027." The
6 occurrence is -- which is the occurrence, the injury
7 or death occurred before January 1, 2027.

8 CHAIRMAN RITCHIE: Just like an
9 occurrence policy.

10 MS. KANE: And that was -- that was the
11 basis in which the actuary presented his findings, and
12 then I think you can clearly say this could be a
13 contradiction to the language in paragraph whatever,
14 in (K).

15 MR. CLARK: Which could have
16 drastically different results.

17 MS. KANE: Yeah. And -- and could
18 result --

19 CHAIRMAN RITCHIE: Could result in
20 different actuarial results.

21 MS. KANE: Which means everything
22 that's in here may not work.

23 MR. AUTIO: So let me all -- all if --
24 if the board's all right with it, I'll -- I'll draft
25 some language. I've got it pulled up here, I'll draft

1 some language. In -- in a second, I can read it out.
2 And, you guys, can continue and then I'll read it out
3 and we can, you know, tweak it, as needed.

4 CHAIRMAN RITCHIE: Is there any
5 objection to that? All right, let's -- let's do that.
6 I had a -- I had a quick question to -- to fill in
7 the -- the time here. On -- on the -- on the -- the
8 screenshots, you know, it says that, on the top, the
9 indicated rate at 600,000 excess 500,000 limit, but
10 that 500,000 limit per 17 is now 500 and -- or 649 --
11 \$600,495; correct? Isn't that the -- that limit? I
12 think that's what it says.

13 MS. LUERA: Yes, it was underlying 500
14 for independent outpatient healthcare facilities.

15 CHAIRMAN RITCHIE: Right. So it's 500
16 is the under -- and then, now the total is now instead
17 of 1,000,500 plus 500, the total is now --

18 MS. LUERA: 1.1 --

19 CHAIRMAN RITCHIE: 1.1 --

20 MS. LUERA: -- 495.

21 CHAIRMAN RITCHIE: Right. Okay. So
22 that's clear enough there, but that -- yeah, the total
23 is the 1.1. Okay.

24 Any -- any other comments from anyone
25 on -- on reading these or if anyone wants to comment

1 on the proposed increases? The percentage from the
2 actuary.

3 MR. AUTIO: This is Nick Autio.

4 Oh, sorry. Go ahead, whoever's online.

5 MR. VARGAS: No, no, go ahead, Nick.
6 Go ahead, Nick.

7 MR. AUTIO: I -- you know, I'll offer a
8 comment on that. I -- I think it's troubling and
9 unfortunate that the independent physicians and
10 surgeons, you know, that there's been a -- a proposed
11 increase of 16 percent, which will be added on top of,
12 you know, what has been, you know, approximately
13 10 percent increases over the last several years.

14 And that's after the superintendent,
15 exercising her judgment, has -- has set those
16 surcharge rate increases. So it's unfortunate, but at
17 the same time I think it's positive that the
18 independent physicians and surgeons no longer have a
19 deficit. And I think it's important that we try and
20 maintain that position for the patients that are meant
21 to benefit from this fund.

22 So, you know, and then also we need to
23 keep in mind that -- that there was the finding by the
24 actuary that, you know, the loss history for
25 physicians and -- and surgeons during the 2007 to

1 2000 -- 2017 to 2018 period was -- was bad.

2 It was far worse than expected. And
3 the loss ratios are -- are not good during that time
4 period, which is one thing that -- that led to the
5 suggestion of -- of increasing the independent
6 physicians and surgeons surcharges by 16 percent.

7 So, although, I don't like it and I --
8 I think that throughout the history of this board,
9 we've tried and balanced -- tried to balance the
10 interest of both paying down the deficit, now
11 maintaining no deficit, while also keeping physicians
12 participating in the fund. You know, we've tried to
13 strike that balance.

14 I do have some concern that raising
15 surcharges to 16 percent could lead certain physicians
16 to seek a million dollar -- million -- \$3 million
17 policy outside of the fund. But, in my mind, the need
18 to, you know, keep the deficit down, to keep the
19 deficit eliminated for independent physicians should
20 take precedence.

21 So I -- when -- when the chair is ready
22 for a motion, I will be making a motion to -- to
23 suggest and recommend to the superintendent that we
24 increase surcharges by the suggested 16 percent by the
25 actuary for independent physicians and surgeons.

1 CHAIRMAN RITCHIE: Ray, did you have a
2 comment?

3 MR. VARGAS: It was very much along
4 those lines. I was just going to suggest that, you
5 know, we -- we go with the expected rate that the --
6 is recommended by the actuary.

7 CHAIRMAN RITCHIE: As clarification to
8 the committee drafting this, the 2.1 percent increase
9 is encompassed within that 16 percent or is that
10 additional?

11 MS. KANE: It's within.

12 MR. MYERS: It is within.

13 MS. KANE: We'll ask my actuary.

14 MR. MYERS: Yes. Yes. That's the
15 cover increase.

16 CHAIRMAN RITCHIE: Okay. Just making
17 sure that's the total.

18 MR. MYERS: Yep. It is.

19 CHAIRMAN RITCHIE: Okay. So it is.

20 MR. CLARK: Mr. Chair, to buy more time
21 while Nick is typing, I would also say on the hospital
22 piece, I -- I think that along the same way that Ray
23 has talked about, we should go with the expected level
24 on the hospitals. That's 25.7 percent increase.

25 I do think we ought to -- in the

1 number 22, when we say, should be increased by 22.7
2 or -- I'm sorry, 25.7 percent. Again, some other
3 clause reflecting back to what Nick is just typing,
4 subject to the disclaimer made in bullet point
5 number 11.

6 CHAIRMAN RITCHIE: Okay. Reiterate
7 that disclaimer.

8 MR. CLARK: Yeah.

9 CHAIRMAN RITCHIE: All right.

10 MR. VARGAS: Since we're reiterating
11 what we are recommending, it would be along with that
12 subject, which would not be recommending that if that
13 changes, but we don't know what those other numbers
14 would be.

15 MR. MYERS: And I-- I also just wanted
16 to clarify, there's a point 19 in the summary, talks
17 about the entity surcharge and a 10 percent, that
18 there's no change associated with that. It -- it
19 looks -- it, kind of, reads like there's an additional
20 10 percent increase, but the entity surcharge has been
21 10 percent.

22 I think in the report Rob talks about,
23 there's no change to the class plan and there's no
24 change to the -- in -- to surcharge. So I just wanted
25 to be clear that that 10 percent isn't anything new.

1 CHAIRMAN RITCHIE: Right. Yeah, that's
2 been the same the whole time, so I think everyone's
3 okay with that.

4 Anyone online have any comments?

5 MS. LOVE: This is Kathy Love.

6 CHAIRMAN RITCHIE: Yes.

7 MS. LOVE: The only -- the only thing I
8 think is worth keeping in mind, along the lines of
9 what Nick just said, is that, of course, we're still
10 doing catch up. The -- the large reason for the
11 increase is catch up for many years of a lack of
12 increases. And so, to the extent that it gives
13 independent physicians any sort of comfort, I think
14 might level out.

15 MS. KANE: I can't understand. She's
16 breaking up.

17 CHAIRMAN RITCHIE: Well, I -- I think
18 time will certainly tell on that. Basically, you're
19 saying that -- that you still feel that some of that
20 pricing increase is making up for lower rates, set
21 earlier to try to -- to moderate the -- the increases.
22 Is that right, Kathy?

23 MS. LOVE: Yes, and that's what our
24 actuary has -- has said each year.

25 MR. MYERS: What did the actuary say

1 each year? Sorry, just breaking up. I couldn't hear
2 it.

3 CHAIRMAN RITCHIE: By cutting the rates
4 by -- by saying a rate of 10 percent instead of
5 14 percent.

6 MR. MYERS: I see.

7 CHAIRMAN RITCHIE: To -- to make it a
8 little easier, you know, poisoned apple to chew, that
9 we're still catching up then and that's why this rate
10 went up so much, that it's still catching up a little
11 bit for those underpricing in the -- in the past.

12 MR. MYERS: I think last year we took
13 the full amount though. We have caught up for the
14 independent physicians.

15 CHAIRMAN RITCHIE: So -- so did -- did
16 we?

17 MR. MYERS: We did, yeah. I think it
18 was, like -- but you're right, in the past we have
19 done that.

20 MS. LOVE: What's going on in the room?

21 CHAIRMAN RITCHIE: Yeah, sorry.

22 MS. LOVE: But I was just going to add,
23 yes, we have caught up because of the state infusions,
24 the -- the government infusions that paid off the
25 deficit.

1 CHAIRMAN RITCHIE: Right. And I
2 believe the -- the superintendent's decision last year
3 was exactly what we recommended.

4 MR. CLARK: That's correct.

5 CHAIRMAN RITCHIE: Correct. Yeah.

6 MS. LOVE: Last year. Yeah.

7 CHAIRMAN RITCHIE: Yeah. So --

8 MS. KANE: So we're caught up.

9 CHAIRMAN RITCHIE: We -- both ways.

10 MS. KANE: Yes.

11 CHAIRMAN RITCHIE: For future and for
12 past.

13 MS. KANE: And as -- as Kathy says, you
14 know, the -- the infusions from the legislature helped
15 that catch up.

16 CHAIRMAN RITCHIE: Right.

17 MS. KANE: Which was their intent.

18 CHAIRMAN RITCHIE: Absolutely. Okay.

19 Any other -- any other comments? Any
20 other members of the committee or both committees?

21 All right, how you doing, Nick?

22 MR. AUTIO: So everyone I -- I'll
23 read -- I'll read the language, open to thoughts,
24 but -- so, and this would be -- I've added this
25 language as new language to the end of paragraph 11 on

1 page 2 of the draft.

2 So after the period that exists there,
3 we would say: "Pinnacle's estimate of loss is
4 occurring prior to December 31, 2024, is based on the
5 assumption that amounts due from a judgment or
6 settlement against the hospital or outpatient
7 healthcare facility shall not be paid from the fund if
8 the injury or death occurs after December 31, 2026,
9 which is consistent with the NMSA 1978 41-5-7(C). It
10 should be noted --"

11 So -- so that's the first sentence.
12 And then I would propose, just so we're, kind of,
13 giving people a -- a full picture of where we're at,
14 but also within the bounds of the evidence we
15 received.

16 We should add another sentence that
17 reads: "It should be noted; however, that under NMSA
18 1978 section 41-5-6(K), beginning January 1 of 2027,
19 amounts due from a judgment or settlement against the
20 hospital or outpatient -- or against the hospital or a
21 hospital-controlled outpatient healthcare facility,
22 shall not be paid from the fund, which could have a
23 significant impact on surcharge rate increases
24 proposed by the actuary and recommended by the
25 advisory board."

1 And -- and leave it at that with -- I
2 mean, I -- I don't think we -- we have the evidence to
3 reach any conclusion, but -- but I -- I think we can
4 rely on the statutory language that exists, and -- and
5 make that comment, but open to folks, you know,
6 thoughts on that.

7 MS. KANE: I think it's --

8 MR. CLARK: Mr. Chair, this is Troy.
9 I'm comfortable with that language. I think you
10 included the references, so there's no need for a
11 footnote. Put it all in there, but I think that
12 accomplishes what I was hoping to add.

13 CHAIRMAN RITCHIE: Do you want this to
14 be added under 22 or not?

15 MR. CLARK: And then add the reference
16 back under 22 -- when we -- 22(b), when we say "PCF
17 surcharge for hospitals should be increased by
18 25.7 percent, subject to the disclaimer made in
19 paragraph 11."

20 CHAIRMAN RITCHIE: Did everyone hear
21 that online?

22 MS. LOVE: I -- I'm going to -- I --
23 I'm really sorry, but I'm slow. I'm going to need
24 somebody to read the final language again.

25 MR. AUTIO: No, happy to do so. I'm --

1 I'm not an auditory person either. All right, you
2 ready?

3 Everyone ready? So -- so once again,
4 adding this to the end of what's in paragraph 11,
5 currently. So it would read: "Pinnacle's estimate of
6 losses occurring prior to December 31, 2024, is based
7 on the assumption that amounts due from a judgment or
8 settlement against a hospital or outpatient healthcare
9 facility shall not be paid from the fund if the injury
10 or death occurs after December 31, 2026, which is
11 consistent with NMSA 1978 41-5-7(C)."

12 "It should be noted; however, that
13 under NMSA 1978, section 41-5-6(K), beginning
14 January 1, 2027, amounts due from a judgment or
15 settlement against the hospital or hospital-controlled
16 outpatient healthcare facility shall not be paid from
17 the fund, which could have a significant impact on the
18 surcharge rate increases proposed by the actuary and
19 recommended by the advisory board."

20 MR. VARGAS: Well, my first note is, in
21 the first sentence you said, "December 31, 2024." I
22 think you meant 2026?

23 MR. CLARK: No, I -- I got this -- I
24 questioned the same thing, right. But I think he's
25 making reference to -- correct me if I'm wrong, Nick,

1 in the initial sentence of 11, the actuary is basing
2 his losses based on all claims occurring prior to
3 December 31, 2024.

4 So he's just restating what the actuary
5 is basing his numbers on already and saying -- then
6 going into the details that what is in question is
7 incidences that occurred after December 31, 2026. Is
8 that correct?

9 MR. AUTIO: Yeah. And -- and really
10 the point being the only losses we can deal with now
11 and that we have evidence on are losses that are --
12 occurred prior to December 31, 2024.

13 So that's why I -- I continue that
14 language, Ray.

15 MR. VARGAS: Okay. I guess, it's just
16 a little confusing to me because we're not teeing it
17 up as there -- he's assuming that there will continue
18 to be losses up until December 31, 2026. Right?

19 That's the assumption he's making, but
20 he's making that assumption as of December 31, 2024.
21 The way it reads now kind of confuses that.

22 MR. AUTIO: I see what you're saying
23 and I think we could deal with that. I mean, whatever
24 the board thinks, but we could, just, delete that and
25 it could read "Pinnacle's estimate of losses is based

1 on the assumption --" and delete "occurring prior to
2 December 31, 2024."

3 Would that work, Ray?

4 MR. VARGAS: I think it would. I think
5 it would.

6 CHAIRMAN RITCHIE: Unless -- estimates
7 surcharge -- charges not losses.

8 MR. MYERS: It's the indicated
9 surcharges assume that it's -- we're going to pay for
10 malpractice events that occur prior to 12/31/26,
11 regardless of when the claim is reported or the claim
12 is settled.

13 MR. AUTIO: But -- but this is focused
14 on losses, not surcharges. This -- this sentence,
15 it's not dealing with -- with surcharges, it's dealing
16 with Pinnacle's estimate of losses.

17 MR. MYERS: Yeah, but that doesn't --

18 MS. KANE: But it flows through to the
19 surcharges is what he's trying to say.

20 MR. MYERS: Yes, the date of the
21 losses --

22 MS. KANE: That assumption is the basis
23 for the surcharge recommendation.

24 MR. MYERS: I just don't think the
25 evaluation date of the losses underlying the actuarial

1 report really matters. The -- the point is that the
2 surcharges we're recommending assume that it's going
3 to be adequate to cover hospital malpractice events
4 through the end of 2026, regardless of when they're
5 paid.

6 MR. AUTIO: And -- and that would be
7 true if we didn't have 41-5-6(K) in the Act.

8 MS. KANE: But that's what you're
9 saying in the second sentence. So he's trying to say
10 the report -- the report recommends surcharges and
11 it's based on the -- that his concept, it's not
12 written in the statute, it's an occurrence policy.
13 And the occurrence, you know, are up to the -- what is
14 it, injury or death, up until December of --
15 12/31/2026.

16 That's all he's trying to say. Not
17 going back into the report where some of the factors
18 that -- that Rob used in coming up with that
19 recommendation.

20 MR. AUTIO: So -- and -- and if the
21 board's receptive to that idea, we should move it
22 'cause this entire paragraph deals with estimated
23 losses, not recommended surcharges. So if the board
24 wants to take that approach, we should move this to
25 the future risk section somewhere. Or we could leave

1 it there; it's just out of place.

2 CHAIRMAN RITCHIE: I mean, that
3 paragraph 411 is -- is talking about the deficit,
4 whereas we're discussing future risk.

5 MR. VARGAS: You could put it at the
6 end of paragraph 20.

7 CHAIRMAN RITCHIE: Yeah.

8 MS. LOVE: I have a question related
9 to -- that is not specific to the language. Can I
10 just ask, I think at -- at one of our meetings we
11 talked about whether or not the superintendent has the
12 authority to refund money to hospitals for overpayment
13 of surcharges.

14 And there's another part of the
15 statute, I can't remember what section it's in, but
16 that requires that the deficit be paid off before
17 hospitals exit the fund. So is it possible that when
18 we're setting these surcharges right now, that some
19 point during the year next year and we're assessing
20 what the deficit is, if the deficit exceeds -- or
21 the -- if the surcharges exceed the deficit, then the
22 hospitals just simply get that money back?

23 MS. KANE: My point, Kathy, I think at
24 this point what we're dealing with, 'cause that's
25 going to be a much longer conversation. I think this

1 point we're trying to meet the deadline for the
2 surcharges and follow the recommendations of the
3 actuary. If they're off, I think we have a whole
4 other conversation, but I don't think we're going to
5 solve it right here, today.

6 MR. CLARK: And Kathy, I think --

7 MS. LOVE: Right. But I think the
8 reason why I was raising that is because I was
9 wondering if the -- whether this is even an issue that
10 we need to deal with right now. If the superintendent
11 has that authority, then this is something that we can
12 kick the can on until we can see what the actual
13 numbers look like next year.

14 MS. KANE: We're not going to decide
15 whether the superintendent has the authority in this
16 meeting. The superintendent's going to have to go
17 back and -- to solve this.

18 MS. LOVE: No, I wondered if your
19 office had already done that research since you
20 anticipated --

21 MS. KANE: No, we have not. The
22 superintendent is relying right now, we're doing a
23 step by step that at least I looked at the report, I
24 looked at the hearing, my understanding is this is
25 what the actuary was trying to do. It was an

1 occurrence, kind of, analysis, which is a traditional
2 actuarial approach. He didn't go beyond that.

3 And -- and I -- I think -- I think you
4 raised a very good point. There seems to be an
5 inconsistency in the statute when you put two -- these
6 two pieces together. I think that highlights it for
7 the legislature in case we have to go do a legislative
8 fix. But, at this point, I don't -- I can't figure
9 all that out. I, sort of, a little bit, like Troy, it
10 may be Armageddon, if it's something else.

11 MR. CLARK: And that -- that was my
12 intent was to help to preserve the right, because I
13 don't think we do know. I, quite frankly, as I read
14 it, my perspective is there's conflict that's going to
15 have to be resolved by what the intent is.

16 MR. AUTIO: Kathy, does that -- I don't
17 want to cut you off, Kathy, if you have another
18 question or follow up.

19 MS. LOVE: Yeah, no, I just -- this --
20 this issue came up a couple meetings ago. I just
21 wanted to simply know if we had an answer yet. It
22 sounds like the answer's no.

23 MR. AUTIO: Okay.

24 MS. KANE: It sounds like we don't have
25 an answer yet. Correct.

1 It's not no to the conclusion. It's,
2 we don't have an answer yet.

3 MR. AUTIO: Okay. So pursuant to -- to
4 Christian's comment and then Ray's suggestion, which
5 seems like a good one. I've moved the language from
6 paragraph -- the proposed language from the end of
7 paragraph 11 to the end of paragraph 21. Adding it on
8 after the sentence and the -- it would now read, and
9 I'm going to read it now.

10 MR. CLARK: Twenty-one or twenty?

11 MR. AUTIO: Oh, 20. I'm sorry. That's
12 where it's at. I just misspoke. It -- it's at the
13 end of 20.

14 "Pinnacle's estimate of surcharges is
15 based on the assumption that amounts due from a
16 judgment or settlement against the hospital or
17 outpatient healthcare facility shall not be paid from
18 the fund if the injury or death occurs after
19 December 31, 2026, which is consistent with NMSA 1978
20 Section 41-5-7(C)."

21 "It should be noted; however, that
22 under NMSA 1978 section 41-5-6(K), beginning
23 January 1, 2027, amounts due from a judgment or
24 settlement against the hospital or hospital controlled
25 outpatient healthcare facility shall not be paid from

1 the fund, which could have a significant impact on the
2 surcharge rate increases proposed by the actuary and
3 recommended by the advisory board."

4 Is everyone comfortable with that?

5 MR. VARGAS: I guess the only word that
6 troubles me a little bit is the "significant impact,"
7 'cause we really don't know. I think it's more
8 accurate to say, "It could have an impact."

9 MR. AUTIO: I'm fine with that if
10 everyone's good with that?

11 "Which could have an impact."

12 So I've made that change, unless
13 someone has an objection to that.

14 CHAIRMAN RITCHIE: Any objection?

15 MR. AUTIO: I don't think.

16 CHAIRMAN RITCHIE: Okay. All right.
17 Hearing no objection. So, that's -- I think we need
18 to vote on this. Let's -- let's vote on incorporating
19 this new sentence -- sentences and putting it where
20 you find --

21 MR. AUTIO: So it -- it will be put at
22 the end of paragraph 20.

23 CHAIRMAN RITCHIE: Twenty. Yep.

24 Page 3.

25 MR. AUTIO: Yeah. On page 3.

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1 CHAIRMAN RITCHIE: Page 3 and
2 paragraph 20, which speaks to the actual recommended
3 increase in the percent surcharge for the hospitals.
4 All right. Go through our roll call, then.

5 Mr. Vargas, how do you vote?

6 MR. VARGAS: Yes.

7 CHAIRMAN RITCHIE: Ms. Love?

8 MS. LOVE: Yes.

9 CHAIRMAN RITCHIE: Mr. Clark?

10 MS. LOVE: Yes.

11 CHAIRMAN RITCHIE: Mr. Dekleva?

12 MR. DEKLEVA: Yes.

13 CHAIRMAN RITCHIE: Mr. Autio?

14 MR. AUTIO: Yes.

15 CHAIRMAN RITCHIE: Chairman says,
16 "yes."

17 Mr. Martinez?

18 MR. MARTINEZ: Yes.

19 CHAIRMAN RITCHIE: Did we --

20 Ms. Maloney is not here. Okay. The -- the yeses have
21 it. So we will add that, then, to the report. Do we
22 need to discuss the two blanks in the report, just to
23 vote on filling those blanks with the recommended
24 surcharges for the independent physicians and the
25 hospitals. So we go to --

1 MR. VARGAS: I think we just need
2 Mr. Autio to make a -- a motion.

3 CHAIRMAN RITCHIE: Right. We go to
4 page 4 under paragraph 22.

5 Mr. Autio, a motion. Go ahead.

6 MR. AUTIO: So -- so, and -- and it's
7 going to be, kind of, a lengthy motion, but I -- I'll
8 make a motion to approve the following changes to the
9 draft report. The first is under subsection A on
10 page 4 in the blank space, and subsection A adding
11 16 percent, which would then read "PCF surcharges for
12 independent providers should be increased by
13 16 percent."

14 Under -- and then, I'd also propose
15 that we revise subparagraph B on page 4 to read "PCF
16 surcharges for hospitals should be increased by
17 25.7 percent, subject to the disclaimer set forth in
18 paragraph 21."

19 MS. KANE: Twenty?

20 MR. AUTIO: Twenty.

21 MS. KANE: You seem to like 21, isn't
22 it? Are you -- depending on the numbers today.

23 MR. AUTIO: Got that number in my head
24 for some reason.

25 With that correction from the

1 superintendent, that would be my motion.

2 CHAIRMAN RITCHIE: And the motion to
3 include leaving C, D and E as they stand there.

4 MR. CLARK: This is Troy. I'll second
5 that motion.

6 CHAIRMAN RITCHIE: Okay, it's moved and
7 seconded. Let's go through the roll again.

8 MS. LUERA: Can I add one comment?

9 CHAIRMAN RITCHIE: Yes.

10 MS. LUERA: I'm sorry. For hospitals
11 you need to break out the recommended surcharge
12 increase for just the basic surcharge increase and
13 then the -- the deficit.

14 MR. MYERS: I was going to ask about
15 that.

16 MS. LUERA: That has to be broken into
17 two cases.

18 CHAIRMAN RITCHIE: That has to be
19 separate recommendations.

20 MS. LUERA: Because that's how it's
21 calculated.

22 CHAIRMAN RITCHIE: Okay.

23 MS. KANE: Christian, what are they?

24 MR. MYERS: It's, kind of, going off
25 the memory there.

1 CHAIRMAN RITCHIE: It's 2.25.

2 MS. KANE: You've had a good
3 experience. They had a very good --

4 CHAIRMAN RITCHIE: It's -- it's two --
5 it's 2.6 on the --

6 MS. KANE: Yeah. And 22.5.

7 MR. MYERS: Yes.

8 MR. VARGAS: You know what, I don't
9 think that math -- I don't -- I think we had -- he had
10 proposed 25.7 and that's what he has in the report.
11 But I don't think that adds up to 25.7.

12 MR. CLARK: The two are not additive.

13 CHAIRMAN RITCHIE: Yes. Mr. Clark has
14 reminded us of that in the past.

15 MR. VARGAS: It is a 25.1 total.

16 MR. CLARK: Ray, the two are not
17 additive. It is --

18 MS. KANE: No, it isn't.

19 MR. CLARK: By the time you multiply
20 it, that's how you get to the 25.7.

21 MR. AUTIO: I got -- I -- I would also
22 refer the board to Exhibit 6, page 1 of the Pinnacle
23 report, which it does set forth that the indicated
24 rate change without risk margin is 2.6 percent. And
25 then, the indicated rate change with deficit surcharge

1 with no risk margin is -- oh, I'm -- I'm sorry, let's
2 start again.

3 The indicated rate change without risk
4 margins, 2.6 percent, and then, the deficit surcharge
5 as a percent of the surcharge is 22.5 percent. And
6 the surcharge and the -- the actuary did reach that
7 final number of 25.7. And all of that's in Exhibit 6.
8 So is -- is the board comfortable with the -- the 2.6
9 and then 22.5 percent?

10 CHAIRMAN RITCHIE: Yes.

11 MR. AUTIO: Okay.

12 CHAIRMAN RITCHIE: But listed as
13 2.6 percent for rate and 22.5 percent for deficit
14 reduction. We need to specify that.

15 Official copy here.

16 MR. AUTIO: So that would -- with those
17 changes, subparagraph B on page 4 would read: "PCF
18 surcharges for hospitals should be increased by 2.5 --
19 2.6 percent for surcharge rates," and, well, for a
20 surcharge -- "2.6 percent for a surcharge rate
21 increase and a 22.5 percent increase for deficit
22 surcharges, subject to the claimer -- disclaimer set
23 forth in paragraph 20."

24 MR. CLARK: Would it be better to say,
25 "a base surcharge rate increase"? The 2.6 -- just

1 essentially call the other a deficit. It was called a
2 base rate, true rate.

3 MR. AUTIO: All right. Subparagraph B
4 would then read: "PCF surcharges for hospitals should
5 be increased by 2.6 percent for a base surcharge rate
6 increase and a 22.5 percent increase for deficit
7 surcharges, subject to the disclaimer set forth in
8 paragraph 20."

9 Does that address everyone's concerns?

10 MR. CLARK: Is that your amended
11 motion?

12 MR. AUTIO: That is my amended, very
13 complicated motion.

14 MR. CLARK: I'll amend it. Call that
15 my second on that amended motion.

16 CHAIRMAN RITCHIE: You'll amend your
17 second.

18 MR. CLARK: All right.

19 CHAIRMAN RITCHIE: So, and just -- just
20 comment, Ms. Love and I will be signing this and so
21 we'll be proofreading it, at that point, before this
22 gets sent in 'cause we both have to sign it.

23 So, okay, let's run down the roll then
24 for voting on this -- the -- the motion in front of
25 us.

1 Mr. Vargas?
2 MR. VARGAS: Yes.
3 CHAIRMAN RITCHIE: Ms. Love?
4 MS. LOVE: Approved.
5 CHAIRMAN RITCHIE: Ms. Clark.? Mr.
6 Clark?
7 MR. CLARK: Yes.
8 CHAIRMAN RITCHIE: Mr. Dekleva?
9 MR. DEKLEVA: Agree.
10 CHAIRMAN RITCHIE: Ms. -- Mr. Autio?
11 Backwards.
12 MS. KANE: The author.
13 MR. AUTIO: Yes.
14 CHAIRMAN RITCHIE: Too much going back.
15 Mister -- Dr. Ritchie, Chairman, states, "yes."
16 Mr. Martinez?
17 MR. MARTINEZ: Yes.
18 CHAIRMAN RITCHIE: Okay. So that
19 passes, that is then our letter, which will --
20 Ms. Love and I will be signing once we have that
21 finalized in print.
22 So next item on the agenda is the
23 advisory board's recommendation decision. Well,
24 sorry, that -- that's number 3. So that's it.
25 Although we added on then within the packet there's

1 the PCF TPA update.

2 MS. KANE: Yes, that should be -- those
3 slides should be available. I mean, we have printed
4 copies.

5 CHAIRMAN RITCHIE: There it is.

6 So yes. So we'll be discussing that.

7 MS. KANE: I think I will. Thanks,
8 sir.

9 CHAIRMAN RITCHIE: Thank you.

10 MS. KANE: Would you permit me to?

11 CHAIRMAN RITCHIE: Please. Thank you.

12 MS. KANE: Well, so you want to turn
13 the page and the Integrion, let's -- we all know that
14 the contract for this expires on 12/31/2025, and
15 there's a required RFP process.

16 So let's go back to the statutory
17 requirements. The 2021 amendment of the Medical
18 Malpractice Act requires the superintendent to
19 contract with a qualified licensed third party
20 administrator to administer and operate the fund. And
21 the selection of the TPA should be in consultation
22 with the PCF advisory board.

23 The current state, Integrion through a
24 formal request for proposal, undertook administration
25 and operation of the PCF in 2022 for a four year term,

1 they were the only TPA to respond. Integrion has made
2 a final decision and notified OSI on 7/14 that it
3 would not participate in the required RFP process for
4 2026. Just for your information, the annual Integrion
5 TPA fee for 2025 is 1.6 million.

6 As required by the contract, Integrion
7 has agreed to assist after December 31 in the
8 transition. And we'll nail that down with more
9 details as we get closer. Some background, OSI
10 engaged Deloitte to conduct an operations audit in
11 2025, partly in anticipation that Integrion may not
12 renew the TPA contract 'cause there were some
13 rumblings.

14 The audit provided detailed information
15 about the TPA operations to assist OSI in developing a
16 scope of services for an up -- the upcoming RFP. In
17 addition, the audit confirmed that Integrion has
18 administered the PCF fund adequately.

19 I -- I would -- I would say that the
20 oversight by OSI was not as detailed and will be
21 different going forward when there's a new TPA. You
22 would've seen a lot more if we did.

23 Okay. The RFP update: the scope of
24 work has been developed in coordination with Deloitte,
25 subject to what they saw during this -- the audit, the

1 RFP was initially published on -- in August --
2 August 22nd with the response due on 9/11.

3 The RFP was republished on 9/19 with
4 responses due on 10/9. There were no responses to
5 either of the RFPs. The current situation: since the
6 RFP process was terminated with no responses, the OSI
7 is permitted to negotiate with interested parties. I
8 think this is under the -- for the procurement code --

9 There are four parties that have
10 approached OSI and expressed an interest in exploring
11 the TPA opportunity: TriStar, Gallagher Bassett, MCI,
12 and the Public Consulting Group doing business as PCG
13 Health. OSI will negotiate and answer questions with
14 interested parties and keep the PCF advisory board
15 informed.

16 No final decision will be made without
17 the superintendent, me, consulting with the PCF
18 advisory board. That's all being said. How would we
19 like this consultation process to go forward so you
20 feel you're adequately consulted and informed, since
21 we've never done this before?

22 CHAIRMAN RITCHIE: Exactly.

23 MS. KANE: Do you want a subcommittee
24 that we talk to? Do you want reports? Do you want to
25 think about it and get back to me?

1 MR. AUTIO: This is Nick Autio. I
2 guess, is there a timeline? I know it's probably,
3 kind of, fluid in terms of the process now that no RFP
4 response was -- but is there a timeline in place?

5 MS. KANE: Well, let's go back to
6 December 31, Integrion's gone. So we have to have
7 some place --

8 MR. AUTIO: I don't mean the -- the
9 deadline. I mean a timeline to -- to figure out.

10 MS. KANE: Well, we're just getting the
11 phone calls from these people so I don't have it all
12 set out. Someone can say as we talk to them, "I'm
13 out." Someone can say, "I'm very interested." So
14 this is going to be somewhat iterative, unfortunately.

15 I wish I could give you a better
16 project, you know, set up. But should we -- how would
17 you like me to keep you informed and have you have
18 input as the consultation process? I think should --

19 CHAIRMAN RITCHIE: Yeah, I mean, I
20 think that the timeline is fluid, so we can't even
21 discuss that, except we know the deadline. It's more,
22 just, how and should it be the whole committee or a --
23 a subcommittee. Subcommittee has worked well for --
24 for, you know, coming up with our -- our response to
25 the -- to the legislature.

1 Oh, does anyone have any thoughts on
2 it?

3 MR. CLARK: This is Troy. I -- I was
4 going to say the same thing. I think the
5 subcommittee's worked for drafting. I think it's more
6 respectful of all of our times to rely on a few to
7 deal with the nuances. I do think we're going to, as
8 much as we try to minimize the meetings, we'll have to
9 meet again as a board when a final decision's --

10 CHAIRMAN RITCHIE: I think so.

11 MR. CLARK: Well, when a final
12 decision's ready to be made to be shared in
13 consultation with the board, that would have to be the
14 whole board, but then, you could have people that are
15 in touch with the superintendent throughout the
16 process.

17 CHAIRMAN RITCHIE: So, I mean, I --
18 I'll volunteer to be on -- on the committee -- the
19 subcommittee. Does anyone have an objection to a
20 subcommittee, first off? Any members of the board?
21 Okay, so --

22 MS. LOVE: I -- I guess I have a
23 question for the superintendent. How -- is there --
24 is there something that we can be helpful to you with?
25 Because the -- I mean, I think the idea behind the

1 board consulting with the superintendent is to ensure
2 that we're looking at many options and making a
3 reasonable choice.

4 But I don't think we have to
5 micromanage what the superintendent is doing to meet
6 the obligations of the statute. And so, the question
7 I would ask is, how can we help you?

8 MS. KANE: This is why -- that's really
9 why this is up for discussion. I really think that I
10 should be -- this is my feeling. So it feels like a
11 consultation process. But again, I -- you know, I've
12 never in my past or there's nothing set up.

13 But -- but I think -- my thought would
14 be to give whoever's on the committee a weekly update
15 on where we are, and have you -- you know, and tell --
16 tell you what we're seeing, why we like them, why we
17 don't, why someone maybe decided they were going to
18 withdraw 'cause they didn't like what they were going
19 to do.

20 I mean, I -- I think a weekly update,
21 and then when we get close to we -- you know, we think
22 this looks like the best option and this is where we
23 are. Again, you would've been hearing about it and
24 we -- with the subcommittee, we'd say, "What do you
25 think? Do you think this is ready to go to the board

1 for, you know, full presentation?" And we all
2 understand the timeline, you know, that time is of the
3 essence here.

4 How does that sound, Kathy?

5 MS. LOVE: Sounds great.

6 MR. CLARK: In light of Ms. Love's
7 comments, are there -- you've got a wide variety of
8 people on this advisory board with different
9 perspectives and backgrounds. Are there certain skill
10 sets or individual -- I'll just say individuals from
11 their perspectives and skill sets that you would like
12 to have on that committee, so it's helpful to you,
13 like Ms. Love is suggesting?

14 MS. KANE: I guess -- I guess I'd ask a
15 question. Who -- who -- well, I think having the
16 chairman is a good idea, but who feels that they've
17 dealt enough -- more with the PCF that they'd like to,
18 you know, and when Integrion that, they feel they have
19 some insights because I -- I, you know, again, I'm
20 sort of new to, not -- not new, but, you know, so
21 the -- I think if someone would like to volunteer
22 along with the chair and say why they think they have,
23 you know, insights, I think that's a great idea.

24 CHAIRMAN RITCHIE: Yeah, that sounds
25 very reasonable. Do -- do we have any volunteers?

1 MR. CLARK: I'm willing to, I've been
2 involved from the beginning of the PCF. I think that
3 several of us have -- the processing. I -- I'm
4 willing to be considered.

5 CHAIRMAN RITCHIE: Okay.

6 MS. KANE: So do -- we have a doctor
7 and we have a hospital. I think we need another type
8 of representation.

9 MS. LOVE: I -- I deal with the PCF
10 regularly in my practice. I'm happy to help, but I'm
11 also happy to defer to another lawyer in the room.

12 CHAIRMAN RITCHIE: I don't see why
13 rushing --

14 MS. KANE: Any other lawyers or is
15 Kathy -- has Kathy self-designated and is --

16 MR. CLARK: Ray, Kathy's looking for a
17 friend right now.

18 MS. LOVE: I mean, it's fine either
19 way.

20 MR. VARGAS: Sorry, guys. I'm -- I'm a
21 little overcommitted right now.

22 MS. KANE: I think, Kathy, you're on
23 your own.

24 CHAIRMAN RITCHIE: Yeah.

25 MS. KANE: No, you got no support to

1 get out of this one.

2 Okay. I think we have a subcommittee
3 and -- and we'll -- we'll talk about, you know, maybe
4 we'll have a first, you know, let me get more
5 information about these companies just to, you know,
6 have a first meeting. I'm going to try to keep them
7 short.

8 Half an hour would be the most
9 unless -- unless it demands more, and send you
10 information ahead if there's background information,
11 to keep it -- and I'm -- I talk too fast. I'm from
12 New York, I apologize. But that's usually the way my
13 meetings go. And -- and I really look -- look forward
14 to your input so we can say, with the spirit of the
15 statute, we've -- we've really conferred.

16 MR. CLARK: I just -- confirm, just to
17 make sure, I'm presuming these can all be done by
18 phone or video. We -- we don't need to meet in person
19 as a subcommittee.

20 MS. KANE: You don't want to come to my
21 office, Troy?

22 MR. CLARK: I -- I do, but I -- I may
23 not be in town to do that.

24 MS. KANE: The answer's, "yes," of
25 course. The Zoom -- Zoom is fine. You know, maybe --

1 fine. We -- let's see if it works. I think it should
2 work.

3 CHAIRMAN RITCHIE: This tight a time
4 period.

5 MS. KANE: We have no choices
6 discussed. Yeah.

7 CHAIRMAN RITCHIE: Yeah, no doubt.

8 MS. KANE: But I am trying to really
9 keep you informed and I also want your input, you
10 know, 'cause I would like us to look like we're a
11 united group.

12 CHAIRMAN RITCHIE: We appreciate that.

13 MS. KANE: To sort of prove to everyone
14 we can work together. Okay.

15 CHAIRMAN RITCHIE: So any other
16 comments from the committee or board on any of that?
17 Okay. Any other -- I did not get all of the agenda.
18 I guess the three, but I think that's all that's on
19 the agenda. Right?

20 MS. KANE: That was all that was on the
21 agenda.

22 CHAIRMAN RITCHIE: So any -- any new
23 business, any members of the board?

24 MS. KANE: Can I -- can I just make one
25 comment because I did -- I did go through this -- the

1 hearing notes and whatever and I -- I'm sorry I wasn't
2 able to be here, but I think sometimes you do better
3 without me. But -- but I wanted to say something,
4 'cause Rob -- Rob is -- refers to the, what is it,
5 Wisconsin --

6 MR. MYERS: Yes.

7 MS. KANE: -- Board, a lot. If the
8 world were different, I -- I think that's very
9 appropriate. However, that's a Board of Governors,
10 when I go look it up, that's -- that's a Board of
11 Governors, not an advisory board. It also has people
12 with different backgrounds, like insurance people.

13 They're running this like an insurance
14 company, which frankly I had a conversation with our
15 auditors about how we really present financials and do
16 things, and we run this a little differently, so.

17 And I think some of the information you
18 certainly should have as an advisory board, but I
19 don't think quarterly meetings on an investment
20 performance is the same for an advisory board as it
21 would be for a governing board.

22 So until it -- or if the statute
23 changes where we really run this like an insurance
24 company, which is where I'm more comfortable, with my
25 background, but that's not the way this thing is

1 set -- this has been set up in the past.

2 So I think it's -- and I really am
3 going to look and see more things that they've done
4 over there in Wisconsin, especially on the investment
5 side, which we've been looking at and talking to Rob
6 about. It's -- it's an apple and an orange, but
7 certainly a good thing to look as an analog. That's
8 my only point.

9 CHAIRMAN RITCHIE: Okay.

10 MS. KANE: Okay.

11 CHAIRMAN RITCHIE: I don't think
12 there's many comments from the board one way or the
13 other on that. I think we're flexible.

14 MS. KANE: Okay.

15 CHAIRMAN RITCHIE: Absolutely.

16 Okay. Any other comments? All right,
17 then. Oh, next meeting.

18 MR. AUTIO: Not -- not to, I mean, I do
19 not want to delay this, but there was an agenda item
20 to discuss the preparation of the -- the legislative
21 report, I believe.

22 MS. KANE: Where did that go?

23 CHAIRMAN RITCHIE: Number 4 down there.

24 MS. KANE: Oops, we've missed that. We
25 got too excited.

1 CHAIRMAN RITCHIE: I knew I saw
2 something. One of the matters the board next -- next
3 meeting day. So -- so we do, we have the preparation
4 to report to go to the legislature, which we have
5 until obviously the -- the start of the session. So
6 in the past we've done that, I think, right after the
7 first of the year.

8 MR. AUTIO: We've -- I -- based on my
9 recollection, we've had a subcommittee that prepares a
10 report and then we discuss it as a board, is -- is
11 what I recall.

12 CHAIRMAN RITCHIE: Right. So it's
13 prepared before, and I think we usually have a meeting
14 in -- before the session, early January, it seems
15 like.

16 MR. AUTIO: Very much like we did here
17 today. Yeah.

18 CHAIRMAN RITCHIE: Right.

19 MR. WARD: We -- we've done it both
20 ways. We've had a meeting, then the report, then
21 another meeting; and then we've done it with a
22 subcommittee, then a meeting. And I think it depends
23 on how complicated you think the report will be.

24 MR. AUTIO: I -- I would propose to the
25 board, I think it's worked well. You know, I -- I

1 don't know if Kathy's volunteering, but I'd volunteer
2 again. I think we've -- we've developed a good
3 process to prepare that report, and I think, as a
4 subcommittee, we could do that again, and then, you
5 know, get it to the -- the board as a whole before and
6 discuss it at the meeting. But that's just my
7 suggestion.

8 MS. LOVE: I agree. I propose fourth
9 verse, same as the first.

10 MR. CLARK: This is Troy. My thought
11 is the timing ought to allow for, hopefully, the
12 inclusion of a report on the superintendent's
13 selection of a TPA for the PCF. Because that's going
14 to have, I would think, that has to be part of the
15 report.

16 So the subcommittee could be working
17 ahead of time on that, but leaving a spot for it. But
18 before we meet as a board, the other subcommittee,
19 Kathy's going to be on every subcommittee, it sounds
20 like.

21 We'll need to be meeting with the
22 superintendent and obviously, you know, both have a
23 timeframe. One is December 31st. One is January
24 20th, as I recall. But at some point I --

25 MS. KANE: Could -- if you can combine

1 them, that could be great. But if they could be too
2 early for the report, I -- I don't know.

3 CHAIRMAN RITCHIE: Yeah, I -- I think
4 the next meeting would be for the board to meet;
5 subcommittee sets up their own meeting to -- to come
6 up with a report. So do we want to then look sometime
7 before January 20 to tentatively look at one, which
8 decision has to be made for the third party by one
9 January?

10 MS. KANE: Yeah. So we should be
11 having a meeting on -- on a final recommendation, we
12 hope, for TPA, which we desperately need. It's
13 some -- before -- before the year end. I would -- I'm
14 hoping we think before early December, the latest. I
15 don't know if we can even pick a date yet, if you guys
16 could be more fluid on that one. But you need --

17 CHAIRMAN RITCHIE: For the
18 subcommittee, right.

19 MS. KANE: Oh, the subcommittee, yeah.

20 CHAIRMAN RITCHIE: Yeah.

21 MS. KANE: And then the full board.

22 CHAIRMAN RITCHIE: But the full board.
23 Oh, that's right. We've got to have two meetings. We
24 have the board meeting for the third party and the
25 board meeting for the report, so.

1 MR. CLARK: Combine them both into one.
2 MS. KANE: Is there -- is there a way
3 that --
4 CHAIRMAN RITCHIE: Or combine them into
5 one.
6 MS. KANE: But -- but that's pushing
7 the drafters of the report --
8 CHAIRMAN RITCHIE: Right. Can the
9 subcommittee draft the report by that, maybe second
10 week of December? I think might work.
11 MS. LOVE: Sure.
12 MS. KANE: Yeah, and I --
13 MR. AUTIO: Yeah, that's -- that will
14 be fine.
15 CHAIRMAN RITCHIE: Okay. So --
16 MS. KANE: So we shoot for a date in
17 the second week of December?
18 CHAIRMAN RITCHIE: The -- I mean,
19 Thursday afternoons I'm always in favor of, but -- and
20 is there any that second week, 8th through 12th. Are
21 there any times, dates that the board cannot make it?
22 People cannot do? Or is that wrong?
23 MS. KANE: I -- I think I need you
24 early in the week because I'm supposed to be at an
25 NAIC meeting.

1 MR. CLARK: I couldn't, I cannot, 12th
2 or the 11th.
3 CHAIRMAN RITCHIE: Monday? Tuesday?
4 MS. KANE: And so, he's in the same
5 point.
6 CHAIRMAN RITCHIE: So, yeah.
7 MS. LOVE: I can do the 8th.
8 CHAIRMAN RITCHIE: Monday, the 8th?
9 MS. LOVE: Yes.
10 MR. CLARK: I can do Monday, the 8th.
11 MS. KANE: It starts on the 8th.
12 MR. AUTIO: That works for me.
13 MS. KANE: Wait a second. Let me look.
14 I -- I have to appear before the --
15 MR. VARGAS: That works for me too.
16 MS. KANE: For the accreditation, guys.
17 Let me just check.
18 CHAIRMAN RITCHIE: Okay. Anyone online
19 cannot make Monday, the 8th? All right.
20 Mike Dekleva, you good?
21 Who haven't heard from?
22 MR. VARGAS: Do we have a time?
23 CHAIRMAN RITCHIE: Not yet.
24 MR. CLARK: The superintendent's
25 checking.

1 MS. KANE: December 8th through the
2 11th. Shoot.

3 UNIDENTIFIED SPEAKER #3: The whole
4 week?

5 MS. KANE: Well, I -- I think, in the
6 middle I can do. I think that the F committee is
7 usually either that Sunday or that Monday. That I
8 always have to go to. So maybe the 9th -- the 10th.
9 Can anyone do the 10th?

10 CHAIRMAN RITCHIE: Wednesday, the 10th?

11 MS. KANE: I could do the 12th. You
12 can't -- who can't do the 12th? Now it looks like --

13 CHAIRMAN RITCHIE: There were some
14 people who couldn't do 11th and 12th.

15 MS. KANE: Okay, so the 10th?

16 MR. VARGAS: I can do the 10th.

17 MR. CLARK: I can do an afternoon on
18 the 10th.

19 MR. AUTIO: I could do late. I have a
20 mediation, but I could do late afternoon, like,
21 three o'clock again or -- yeah, three.

22 CHAIRMAN RITCHIE: You would be
23 prepared to stay late?

24 MS. LOVE: That's fine.

25 CHAIRMAN RITCHIE: 10th. Wednesday,

1 the 10th.

2 CHAIRMAN RITCHIE: Mike?

3 Okay. All right. So, I guess,
4 Wednesday afternoon, the 10th, three o'clock?

5 MS. KANE: Three o'clock. And this is
6 when we hope --

7 CHAIRMAN RITCHIE: To get everything.

8 MS. KANE: To -- to get everything, the
9 report and the recommendation for the TPA? Can the
10 drafters --

11 CHAIRMAN RITCHIE: It seems like the
12 report should be doable. Hopefully the TPAs, too.

13 MS. KANE: Well, maybe, it's the report
14 and we'll have a section for the --

15 CHAIRMAN RITCHIE: We'll -- we'll have
16 time on the agenda for, hopefully, discussion of the
17 TPA. Hopefully we can nail down the final --

18 MS. KANE: Which we can insert the
19 something. And to say we agreed or whatever.

20 CHAIRMAN RITCHIE: Right.

21 MS. KANE: Okay, great.

22 CHAIRMAN RITCHIE: So when we fill
23 agenda --

24 MS. KANE: It'll be a blank space for
25 the TPA report.

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CHAIRMAN RITCHIE: Yeah.

MS. KANE: Recommendation.

CHAIRMAN RITCHIE: Vince, did you --
did you get all that?

MR. WARD: Yes.

MS. LOVE: Can I make a motion to
adjourn?

MR. AUTIO: Please do, Kathy.

CHAIRMAN RITCHIE: We will adjourn. We
can handle the rest in the interim. Thank you,
everyone. Thanks for coming or participating anyway.

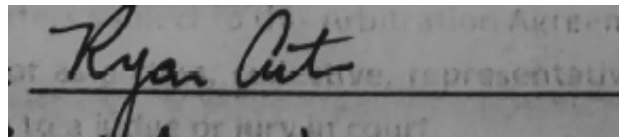
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4:20 p.m.)

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CERTIFICATE

I, RYAN AUTEN, 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.

November 6, 2025

A rectangular box containing a handwritten signature in dark ink. The signature appears to read "Ryan Auten" and is written over a horizontal line. The background of the box is a light gray, textured surface.

RYAN AUTEN
Notary Public in and for the
State of New Mexico

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CERTIFICATE OF TRANSCRIBER

I, DAYNA RAULIUK, do hereby certify that this transcript was prepared from the digital audio recording of the foregoing proceeding, that said transcript is a true and accurate record of the proceedings 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.

November 6, 2025



DAYNA RAULIUK

[1 - 36.1]

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