

NEW MEXICO INSURANCE NOMINATING COMMITTEE

VIRTUAL REGULAR OPEN MEETING

January 28, 2021

MEMBERS PRESENT:

DIANE DENISH, Chair
ALLEGRA CARPENTER, Member
JENNIFER FORD, Member
GEOFFREY ROMERO, Member
SCOTT YURCIC, Member
DAVID HUNTON, Member

MEMBERS ABSENT:

BENNY HODGES

STAFF PRESENT:

MELISSA GUTIERREZ, Board Administrator

OTHERS PRESENT:

RUSSELL TOAL, Superintendent of Insurance
KARLA J. SOLORIA, Assistant Attorney General

TRANSCRIBED BY:

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1 TRANSCRIPT OF PROCEEDINGS

2 CHAIRWOMAN DENISH: (Off audio)

3 appreciated his perspectives, and so I -- but I did
4 want the committee to know that. We just got it
5 yesterday. And so anybody that knows Randy and
6 wants to thank him for the time he spent on that,
7 that would be great.

13 MS. CARPENTER: Oh, my name is Allegra
14 Carpenter, and I'm one of the governor-appointed
15 consumer representatives on this committee.

16 CHAIRWOMAN DENISH: Mr. Romero.

17 MR. ROMERO: Yes. I'm Geoff Romero. I'm
18 also one of the governor's appointed
19 representatives on the committee.

20 CHAIRWOMAN DENISH: Patty Williams.

21 MS. WILLIAMS: Patty Williams, also
22 appointed by the governor.

23 CHAIRWOMAN DENISH: Jennifer Ford.

24 MS. FORD: Good morning. I'm Jennifer
25 Ford, and I'm consumer member appointed by the

1 speaker, a legislative appointee.

2 CHAIRWOMAN DENISH: And I don't know
3 who's on. Scott?

4 MR. YURCIC: Yeah, this is Scott Yurcic.

5 I'm from Las Cruces. I'm a legislative appointee.

6 CHAIRWOMAN DENISH: And David.

7 MR. HUNTON: Yes. This is David Hunton,
8 from Portales. And I'm a legislative appointee.

9 CHAIRWOMAN DENISH: Thank you, David.

10 And thank you all for being on by
11 telephone. I know everybody has things that
12 they're -- they're doing.

13 We have two members who could not
14 attend today, Benny Hodges and -- well, just Benny
15 now, right? Is Benny the only one who couldn't be
16 here today?

17 MS. GUTIERREZ: That's correct, Madam
18 Chair.

19 CHAIRWOMAN DENISH: Okay. So thank you
20 all for getting on this morning. And the first
21 item on our agenda is the approval of the agenda.
22 Are there any additions or corrections or questions
23 about the agenda prior to approval? If not, I'll
24 entertain a motion to approve the agenda.

25 MR. ROMERO: So moved.

1 CHAIRWOMAN DENISH: Is there a second?
2 MR. YURCIC: Second.
3 CHAIRWOMAN DENISH: All in favor, please
4 say aye.

5 ALL MEMBERS: Aye.

6 (6-0 vote. Motion approved.)

7 CHAIRWOMAN DENISH: Item C, under the
8 call to order is the approval of the minutes.
9 Having read through them, I was just saying that
10 they record every single word that you utter. So
11 does anybody have any additions or corrections or
12 maybe things they wish they hadn't said?

13 If not, I'll entertain a motion to
14 approve the meetings [sic] from the August 13,
15 2020, meeting.

16 MR. ROMERO: So moved.

17 CHAIRWOMAN DENISH: Is there a second?

18 MS. CARPENTER: Second.

19 MR. HUNTON: Second.

20 CHAIRWOMAN DENISH: There's a motion and
21 a second. All in favor, say aye.

22 ALL MEMBERS: Aye.

23 CHAIRWOMAN DENISH: Opposed?

24 (6-0 vote. Motion approved.)

25 CHAIRWOMAN DENISH: The next thing is the

1 adoption of the Open Meetings Act, which we do
2 every year annually in the January meeting. And
3 I'm going to let our counsel from the -- or
4 Melissa, do you want to take us through that, or
5 will the counsel from the AG's office want to just
6 make any comments about that?

7 MS. GUTIERREZ: The attorney should make
8 the comments.

9 MS. SOLORIA: Hi. Good morning,
10 Committee Members. My name is Karla Soloria. I'm
11 counsel with the attorney general's office. I'm
12 just covering for Ms. Marah deMeule this morning.

13 Yeah, so the Open Meetings Act
14 requires each public body to adopt annually what
15 they consider is reasonable notice of meetings and
16 how that -- those meetings will be noticed and
17 published. So that is embodied in the OMA
18 resolution.

19 I believe, per Marah, there are no
20 substantive changes to your resolution from last
21 year, so it is really just a vote to approve as
22 written.

23 CHAIRWOMAN DENISH: If there are any
24 questions -- I think everybody received the one
25 that had the correct dates in it. Are there any

1 questions about the Open Meetings resolution?

2 If not, I would entertain a motion to
3 approve the -- for the annual approval of the Open
4 Meetings resolution.

5 MR. YURCIC: I'll move.

6 MR. ROMERO: Second.

7 CHAIRWOMAN DENISH: There's a motion and
8 a second. All in favor, say aye.

9 ALL MEMBERS: Aye.

10 CHAIRWOMAN DENISH: Opposed?

11 (6-0 vote. Motion approved.)

12 CHAIRWOMAN DENISH: Item 3 on our
13 agenda -- motion passes.

14 Item 3 on our agenda is the
15 superintendent's annual compensation, which we are
16 required to approve every year. That -- that
17 compensation has not changed and is set by the
18 governor. Is that correct? Or by statute? By the
19 governor?

20 MS. GUTIERREZ: It is set by statute in
21 this nominating committee, and it can be no less or
22 no more than the highest paid secretary. And
23 currently, they're all at the rate of 156.

24 CHAIRWOMAN DENISH: All right. Are there
25 any questions about that? If not, would someone

1 make a motion to approve the superintendent's
2 annual compensation.

3 MR. ROMERO: So moved.

4 UNIDENTIFIED FEMALE: Second.

5 CHAIRWOMAN DENISH: There's a motion and
6 a second. All in favor, say aye.

7 ALL MEMBERS: Aye.

8 CHAIRWOMAN DENISH: Opposed?

9 That motion passes.

10 (6-0 vote. Motion approved.)

11 CHAIRWOMAN DENISH: So the core of the
12 meeting --

13 SUPERINTENDENT TOAL: Thank you all.

14 CHAIRWOMAN DENISH: -- just the
15 superintendent's update, we'll move along to that.
16 The superintendent wants to -- I can't see him on
17 my screen just now, but -- okay. There he is.
18 Good morning, Superintendent. I hope you're in
19 good health today. And you are muted.

20 SUPERINTENDENT TOAL: I'm definitely in
21 better -- I'm definitely in -- can you hear me or
22 not?

23 MR. ROMERO: Yes.

24 CHAIRWOMAN DENISH: Sort of.

25 SUPERINTENDENT TOAL: Well, I am

1 definitely in better health than I was when you and
2 I talked last; that's for sure.

3 For those who don't know, I managed
4 to get the COVID infection at the very beginning of
5 the month. The first two weeks were really kind of
6 unmitigated hell. Although thankfully, I didn't
7 have to be hospitalized and I did not have the
8 symptoms some people do, with the loss of taste or
9 smell. But it wasn't fun, and I appreciated very
10 much the Chair's willingness to reschedule this
11 meeting, where I'm in much better health than I was
12 at the middle or beginning of the month.

13 Madam Chair, I did want to note that
14 I share your regret about the loss of Mr. Perkins.
15 And he also was the vice chair of the board. And I
16 confess, I don't know what the policy is in terms
17 of selecting a new vice chair, whether that has to
18 be done by the board or by the governor. But I did
19 want to note that for the record, officially, we
20 don't have a vice chair right now.

21 CHAIRWOMAN DENISH: I don't know exactly
22 the procedure, just having read that this morning.
23 But was -- Randy was appointee by the governor; is
24 that correct?

25 SUPERINTENDENT TOAL: Yes.

1 MS. GUTIERREZ: That is correct.

2 CHAIRWOMAN DENISH: Yes. And so I was --
3 my plan was to call the chief of staff and talk to
4 him about how they wanted to proceed with a new
5 appointment --

6 SUPERINTENDENT TOAL: That works.

7 CHAIRWOMAN DENISH: -- and just get the
8 spot -- get the spot filled.

9 SUPERINTENDENT TOAL: Okay.

10 CHAIRWOMAN DENISH: In the meantime, you
11 know, we could elect -- we could decide at our next
12 meeting, you know, then we can say who can be our
13 vice chair at the next meeting. It's not on this
14 agenda, so we can do that at our next meeting.

15 SUPERINTENDENT TOAL: That makes sense.

16 Thank you.

17 Well, let me give you a brief update
18 on these matters that are in the agenda here.

19 First, we continue to have a lot of
20 activity and actions on our part related to COVID.
21 And we try to share those official documents
22 with -- with this committee. So you've seen the
23 most recent thing, which is ensuring that no one
24 gets charged for receipt of a vaccine.

25

1 We also are getting ready to issue a
2 clarification on our earlier bulletin about making
3 sure that no one can be charged for COVID testing
4 or treatment. And we're going to do another
5 clarification on coverage of tele-health.

6 For reasons we don't fully
7 understand, it has gotten out to at least some
8 folks that with the start of the new year, we're no
9 longer covering tele-health tele-medicine. This is
10 obviously incorrect.

11 They particularly seems to focus
12 around coverage of behavioral health, which we
13 think was triggered by a -- what's the right
14 word? -- imprudent decision by one insurance
15 carrier. We've contacted them directly, but we're
16 going to do a general clarification saying, "Look,
17 the New Mexico Statutes, thankfully, require parity
18 between physical and behavioral health. And that
19 if you're offering tele-medicine to physicians, you
20 have to do the same thing for behavioral health
21 providers, and that the co-pays essentially cannot
22 be disparate." So we will share that clarification
23 with you very soon.

24 We've had a few incidents of people
25 getting charged for the vaccine. At least so far

1 when we contact the provider or the carrier,
2 they've reversed the charges. So I'm very grateful
3 that we elected earlier, in 2020, to set up our
4 COVID hotline, because it continues to really be a
5 resource for consumers. And I think we'll see that
6 continue.

7 On the federal level, in case you
8 haven't seen or heard it, the president, new
9 president, has said that he is going to continue
10 the public health emergency at least through all of
11 this calendar year, which is good news in terms of
12 these prohibitions on charges.

13 But I would note parenthetically,
14 it's really good news for the state Medicaid
15 program, which gets a much higher match during a
16 public health emergency. So this is going to
17 relieve some of the financial pressures that the
18 state Medicaid was facing come April or July. So
19 we know that higher match rate will continue and
20 help the state's budget situation through 2021.

21 It also means that people who came on
22 to the Medicaid program cannot be discharged or
23 released from the Medicaid program until the public
24 health emergency is over. And there are tens of
25 thousands of those individuals. So they will

1 continue to receive Medicaid coverage through their
2 current calendar year.

3 We've had a few inquiries from
4 businesses asking if they're insurers are going to
5 continue to provide COVID coverage, and, of course,
6 we're assuring them that -- that they will.

7 Although, the extent to which a self-insured
8 employer covers these things is a little bit
9 different than a commercially available insurance.

10 Does anybody have any questions about
11 the COVID matters or our actions related to COVID?

12 MS. WILLIAMS: Yes, secretary, I have a
13 question. I would like clarification about your
14 statement, because I'm unfamiliar, that there's no
15 cost for treatment of COVID. Does that include --

16 SUPERINTENDENT TOAL: For (inaudible).

17 MS. WILLIAMS: -- hospitalizations?

18 SUPERINTENDENT TOAL: Well, there's --
19 there's no charge to the individual.

20 MS. WILLIAMS: Okay.

21 SUPERINTENDENT TOAL: So the hospital
22 will bill the insurer.

23 MS. WILLIAMS: Okay.

24 SUPERINTENDENT TOAL: But there's no cost
25 at all to the patient.

1 MS. WILLIAMS: Thank you.

2 CHAIRWOMAN DENISH: And, Ms. Williams,
3 that also applies for COVID testing and receipt of
4 the vaccine.

5 MS. WILLIAMS: Thank you.

6 SUPERINTENDENT TOAL: Good question.

7 CHAIRWOMAN DENISH: Any other questions
8 from anybody? Okay.

9 SUPERINTENDENT TOAL: So the next topic
10 is the legislative session, which you all know
11 began last Tuesday. It is a strange session in the
12 sense that it's all virtual. And so the normal
13 conversations that we might have with individual
14 legislators and, frankly, the ability to present
15 and ask questions in front of committees has really
16 been limited. But it is what it is, and we all
17 understand the reasons for it. The house and the
18 senate in a vote adopted rules encouraging virtual
19 meetings, and so obviously we're adhering to that.

20 And so I'll start first by talking
21 about the bills that -- that our agency is directly
22 involved with, and first is the governor's House
23 Bill 122, the so-called health care affordability
24 bill.

25

12 We only had a slight uptick in
13 enrollment through the health exchange this year,
14 and even -- and that was true, even though, as you
15 all know, we were able to negotiate with the payers
16 for lower premiums. But the out-of-pocket costs
17 are still high. And the studies tell us, not just
18 here but in other states, that premium cost still
19 is a major barrier.

20 So the affordability fund will be
21 used to subsidize and reduce, if you will, the
22 out-of-pocket costs, including premiums, for people
23 who purchase insurance on the exchange. This
24 hopefully results in a significant number of
25 individuals who are currently uninsured getting

1 coverage, and it also would assist small businesses
2 in finding more accessible -- cost-accessible
3 health insurance.

4 Our estimate is that roughly 23,000
5 additional people would get coverage with these
6 reduced premiums. And we think this actual
7 cost-increase impact, if any, would be really
8 minimal.

9 So that bill will be heard in
10 Representative Armstrong, Debbie Armstrong of
11 Albuquerque, in her committee, early next week,
12 Monday or Wednesday. She is, of course, the prime
13 sponsor on the bill. Now, we hope there will be
14 many other sponsors. And then assuming we're able
15 to secure passage in the house, it will go to the
16 senate.

17 We've done a fiscal analysis on the
18 bill. And, Melissa, let's go ahead and send that
19 analysis to all the members of the nominating
20 committee.

21 Does anybody have any questions about
22 that bill?

23 The governor's office did a press
24 release on it earlier this week. I don't know if
25 any of you saw that. We can share that release

1 with you also.

2 We have two agency bills. Now, one
3 is to update our filing fees and licensing fees so
4 that we're in line with the surrounding states. We
5 really have not had any adjustment in these fees
6 since 2014. I think I had mentioned to you
7 previously that all state agencies were asked to
8 either reduce their budgets or find ways for
9 generating new review to the general fund.

10 So this bill is designed to generate
11 roughly \$9 million in new moneys that would go
12 directly to the general fund. None of these moneys
13 would be retained by us. And I'm hopeful that is
14 the reason that in the LFC and governor's budget
15 recommendations, they matched dollar for dollar on
16 our budget request. So I'm very pleased about
17 that. And I know that they're very hopeful that
18 that bill will secure passage in this 60-day
19 session. The bill should be formally introduced
20 early next week.

21 The second bill is a code
22 modernization bill that's in legislative council
23 right now. We had a sponsor, but it can't really
24 be announced until the bill is introduced. There
25 is nothing controversial, in my knowledge, to my

1 knowledge, in that bill. It really just eliminates
2 some of the existing inconsistencies, including
3 such things as (inaudible) referring to us as the
4 department of the public regulatory commission.
5 We'll clear up those kinds of things that changes
6 the data on the audit and a few other things that
7 are eternally in conflict in the existing insurance
8 code.

9 So we shared this bill with the
10 industry reps, didn't get any kind of push back, so
11 I'm hopeful they won't come out of the woodwork and
12 surprise us with opposition to this. There really
13 is, as I said, nothing that should be an issue of
14 contention.

15 Now, there of course are other bills
16 that impact us. There are -- there's already been
17 one bill introduced on the Medical Malpractice Act
18 by Representative Daymon Ely, who is highly
19 respected and influential in the legislature. It's
20 House Bill 75, and it should be heard in committee
21 in the next week or so.

22 This is a bill that would remove
23 hospitals from the PCF, the patient compensation
24 fund. You know, we have said in our reports and in
25 our direct conversations with Representative Ely,

1 we think this is a matter of legislative
2 policymaking. We are not going to in any way
3 oppose the bill. We have asked for one amendment,
4 and that is simply to make the removal of hospitals
5 effective January 1. Because many of these
6 hospitals already have policies in place. They are
7 scheduled to pay an increased assessment into the
8 patient compensation fund this April, which we
9 desperately need to help with the deficit
10 situation. And this will give them time to make
11 other arraignments.

12 But that's our only concern about the
13 bill, which I have discussed with Representative
14 Ely. And he is discussing that with the Trial
15 Lawyers Association. I hope they will be
16 supportive of that one minor change.

17 There's another bill being
18 introduced. I have not seen it yet. It's sort of
19 a combination effort by the hospital association
20 and the medical society. Again, since I can't see
21 it, I can't speak to it in detail, but they tell me
22 that it tracks many of the recommendation that were
23 in the Medical Malpractice Act report that we
24 issued.

25

1 Again, they have asked us if we would
2 come support that bill. And our position is, these
3 are legislative policy decisions, not agency
4 decisions. And so we're not going to either oppose
5 or support, but, you know, when it gets introduced.

6 There are a few other bills that we
7 are tracking. Melissa, as usual, does an awesome
8 job of staying on top of that for us. Many of
9 these bills have a tangential impact on us because
10 they -- they apply to all state employees or all
11 state agencies and things of that nature.

19 Let me stop there and see if there
20 are questions about the items that I've covered
21 with respect to the session so far.

22 CHAIRWOMAN DENISH: Are there questions?

23 MR. ROMERO: Madam Chair -- I'm sorry.

24 Yes, Madam Chair, this is Geoff Romero. May I ask
25 a question?

1 CHAIRWOMAN DENISH: Sure.

2 MR. ROMERO: Thank you.

3 Superintendent, thank you for your
4 work. I wanted to ask you about House Bill 75, and
5 particularly, the request for the delay for the
6 effective date to January 1st. Is the request for
7 that delay strictly a budgetary concern for the
8 department?

9 SUPERINTENDENT TOAL: It's a budgetary
10 and it's a practical concern. The way we drafted
11 the amendment, that if a hospital had a -- is in
12 the PCF and they have malpractice insurance, when
13 their contract for that insurance expires, they
14 would not be able to renew.

15 So if, for example, upon -- they
16 would not be able to renew beyond January 1. So
17 it's a -- a hospital -- a hospital system has
18 insurance in place that was placed last year, and
19 they -- their contract expired in May, they would,
20 A, have to pay us the increased assessment come
21 April to stay in the fund, and then, if they renew
22 in May, they could only renew through the month of
23 December. Does that answer your question?

24 MR. ROMERO: It does, in part. I'm
25 trying to balance the interests that I'm thinking

1 about. The -- have the hospitals indicated an
2 inability to cover losses if the act were to go
3 into effect immediately? And what I'm thinking
4 about is the tiered levels of coverage that many of
5 the corporate hospitals have.

6 SUPERINTENDENT TOAL: Right. Well, if
7 they act immediately, I mean, it takes effect
8 immediately, or in, say, May or June or July 1, you
9 know, obviously, we would have to kick them out of
10 the patient compensation fund at that time. And,
11 in theory, we would have to refund them money for
12 that period of time for which they previously
13 purchased coverage.

14 MR. ROMERO: Do you have an idea as to
15 the cost of refunding?

16 SUPERINTENDENT TOAL: No. It would
17 depend on the -- on the amount of contracts. So
18 I've asked our staff to look at that to give me the
19 effective date. And I can share that once I get
20 it. I do not have it today.

21 MR. ROMERO: Very good. I appreciate the
22 time.

23 SUPERINTENDENT TOAL: That's a good
24 question.

25 MS. CARPENTER: I have a short question.

1 I have a short question, Geoff. I -- I thought
2 your -- this is Allegra Carpenter. Geoff, your
3 questions were great.

4 I actually have a question about one
5 of the two bills you said that were agency bills.
6 Is there a way for us to see this code
7 modernization bill, since it doesn't have a HB
8 number yet, or an SB number?

9 SUPERINTENDENT TOAL: Sure.

10 MS. CARPENTER: Could that --

11 SUPERINTENDENT TOAL: Sure.

12 MS. CARPENTER: -- be uploaded?

13 SUPERINTENDENT TOAL: Sure. Once -- you
14 know, I expect it to get introduced formally either
15 tomorrow or early next week. And I'm happy to send
16 it out to the committee.

17 MS. CARPENTER: Great. And, in fact, it
18 might be nice for the committee to be able to see
19 both bills. I mean, I know we can easily get on,
20 since we have -- do we have a number for the
21 license fee bill?

22 SUPERINTENDENT TOAL: Fees bill, no, we
23 don't yet.

24 MS. CARPENTER: Okay. So
25 just (inaudible) see the bills.

1 CHAIRWOMAN DENISH: Yeah, I was thinking
2 the same thing, Allegra. I think if you could send
3 us the agency bills and even some of the bills that
4 you're tracking that are of interest to the agency,
5 if you could send that out to the committee, just
6 in case they're interested in looking at those
7 bills.

8 SUPERINTENDENT TOAL: Sure.

9 CHAIRWOMAN DENISH: I'd appreciate it.

10 SUPERINTENDENT TOAL: Sure. Happy to do
11 so. Happy to do so.

12 Now, as I mentioned, we can also
13 share with you our fiscal impact report on these
14 bills, if you would like to see those, as well. I
15 see several people nodding, so we will do so.

16 MS. WILLIAMS: Yes, please.

17 SUPERINTENDENT TOAL: We will do so.

18 Okay. Anything else related to
19 legislative matters?

20 Okay. Moving on to Item 3. First I
21 want to say that we are very pleased that the
22 governor's office and the state personnel office,
23 you know, have really granted us exceptions in
24 terms of filling positions. You know, we were
25 woefully understaffed when I arrived. And then, of

1 course, the governor, for understandable reasons,
2 put a freeze on hiring for all state agencies.

3 But since we don't get any general
4 fund from the legislature, we only use fee income,
5 we were -- have been given an exception. And so
6 we've been able to dramatically increase our staff.
7 And I'm particularly pleased about three new
8 employees who are on this call that I want to
9 introduce to you.

10 First, I think you're aware that
11 Robert Doucette, the individual who had been a
12 deputy superintendent for not quite six years, has
13 moved on, took a position as the deputy county
14 manager for Sandoval County. His commute is now 12
15 minutes as opposed to his hour drive up here. It
16 also keeps him in the state retirement system and
17 pays him more money. So, you know, there were a
18 lot of good reasons for him to make this change.
19 We regret the loss. He made many contributions.

20 But I'm very excited that we were
21 able to quickly hire someone who is very capable,
22 who knows the state backwards and forward, who has
23 actually worked in the old insurance department
24 when it was under the PRC, and that is Jennifer
25 Catechis.

1 Jennifer most recently was hiring --
2 was hiring -- was running a consulting firm to help
3 not profit agencies get through the COVID decline
4 in revenues and grants. But you probably all know
5 her because she was, for many years, the state
6 director for now Senator Ben Ray Lujan, who has
7 been very supportive of us as a congressional rep
8 from New Mexico and continues to be supportive of
9 us in his new role as senator.

10 So, Jennifer, are you -- I'm hoping
11 you are on the line. I can't see you, but that
12 doesn't mean you're not on.

13 MS. CATECHIS: I did make it on the line.
14 Thank you for that introduction. I'm really
15 excited to be here. I'm diving deep for the first
16 two and a half weeks, getting to know names, the
17 reorganization, as it is, which is an exciting
18 reorganization. It actually makes a lot more sense
19 than it once did 12 years ago, when I was here
20 last. And so I'm really excited to see how that
21 has changed, get to know staff and just kind of get
22 my feet in deep and -- and start moving forward.

23 So if you need anything, you have any
24 questions, you want to know anything more, please,
25 please, please reach out. Feel free to -- to call

1 me day or night. I'm always available. So I'm
2 glad to be here.

3 SUPERINTENDENT TOAL: I'm particularly
4 delighted, that since she's working for a
5 Congressman, she's used to taking the blame for all
6 mistakes and errors.

21 So we are anxiously waiting to hear
22 the formal decision of the NAIC, the National
23 Association of Insurance Commissioners. But we are
24 very hopeful that, based on the review that
25 Jennifer and we went through, it appears we will

1 get our five-year accreditation again. But that is
2 not final. Obviously, we'll let you know when we
3 find out what the final decision is.

4 I fully expect them to come back in a
5 year or two, because, quite honestly, we have so
6 many new staff, particularly in examinations, that
7 they want to make sure our staff are learning the
8 ropes. But I am confident that with Jennifer's
9 guidance and direction, we will pass that
10 re-review.

11 So very pleased to have her here.
12 We've received a lot of compliments on the hire,
13 and I think it's long past time that there would be
14 a female and a Latina deputy superintendent.

15 That means there's only one more step
16 to go, Jennifer.

17 Any questions for Jennifer?

18 Okay. The other two individuals I
19 want to introduce tie back to the reorganization
20 that we did this summer. First is Angelica Anaya
21 Allen, who we stole from the Workers' Comp. She's
22 clearly on a work release program that we're
23 delighted about.

24 She is our new director for consumer
25 services, which I know from this committee, from

1 the first time I interviewed with you, that having
2 a consumer focus is something that was equally
3 important to you as to me. And so we have
4 organized to provide that focus.

5 We're doing more outreach, we're
6 providing more information. And, frankly, we're
7 also being more aggressive about consumer concerns
8 and consumer complaints, as opposed to simply
9 forwarding on a complaint to the insurance company
10 and saying, "Good luck," which was the previous
11 pattern.

12 Angelica's got incredible
13 credentials: Attorney, Harvard grad, was director
14 of the Senior Citizens Law Project.

15 Angelica, if you're on the line, I'm
16 turning this over to you.

17 But we're delighted to have her on
18 board.

19 MS. ALLEN: Well, thank you,
20 Superintendent.

21 And, you know, I really would credit
22 the superintendent's leadership on this, as well.
23 Because I think refocusing the agency to really
24 hold the industry accountable is something that
25 he's really taken a lead on and I think has been

1 incredibly helpful and impactful for the
2 communities that we serve.

3 I'm really looking forward to
4 continuing to push our consumer-oriented bureaus
5 towards continuing to increase and meet outreach
6 goals set by the legislative finance council.

7 In the several years, unfortunately,
8 outreach efforts actually were almost nonexistent,
9 and, you know, the legislative goals that were set
10 for those efforts actually were not even being met
11 at a 10 percent level.

12 But we are looking forward to meeting
13 those goals 100 percent this year. And I think
14 that that's also being reflected in the
15 communication we're getting. We've already had
16 consumers calling our COVID help line, saying that
17 they did hear about the help line through some of
18 our specific outreach efforts.

19 So I'm looking forward to working
20 with the agency. I think it's a great opportunity
21 and I really appreciate the opportunity to meet all
22 of you. If anyone has any issues, concerns or
23 constituents that need assistance, please send them
24 our way. Thank you.

25 SUPERINTENDENT TOAL: Angelica is really

1 a huge asset. She's a believer, as I am, in
2 accountability, so some of the staff are making the
3 adjustment, being held accountable for what they do
4 and how they do it, which is sort of new for some
5 of these folks.

14 It's also a challenge that our other
15 new exec has experienced here. This, though, is
16 round 2 for Julie Weinberg. In a classic case of
17 New Mexico is a small world, when I first came to
18 work in 2014 for the state Medicaid agency, Julie
19 Weinberg was the very able, very capable director
20 of the Medicaid division inside HSD, and it was
21 because of her reputation and my interest in
22 working with her that I went to work there. Julie
23 has lots of experience there.

24 And then she went to work for -- in
25 the private insurance world with several different

1 companies, which is a great background for us. And
2 we were fortunate to bring her on in August, like
3 Angelica, as our director of life and health
4 matters. And she has already made a huge impact on
5 the agency. We've had several new hires. Even
6 though the hiring continues to be a challenge. And
7 she's brought some real energy to the whole life
8 and health unit. So I'm very pleased to have Julie
9 on board.

10 Julie, if you're there, if you'll
11 show us who you are and make a few remarks, we
12 would appreciate it.

13 MS. WEINBERG: Thank you, Superintendent.
14 Really, the real reason that I asked you to join me
15 at the Medicaid agency is because you make me
16 laugh, so that was very important, and as well
17 as -- your experience was good, but it was the
18 humor that -- that caught my attention.

19 I'm really thrilled to be working for
20 the superintendent and for the office of the
21 superintendent. It's sort of a culmination for me
22 of all my experience in Medicaid, in claims
23 processing and understanding what goes on behind
24 the scenes in the health plan. So I'm very excited
25 to be part of regulating health plans.

1 We're really focusing on assuring
2 that our health -- the health insurance is
3 available to New Mexicans through the marketplace
4 and the commercial lines is affordable, accessible;
5 that what they say to the consumer is what they do.

6 We recently -- it was in process when
7 I arrived, but recently promulgated and put into
8 effect rules on these limited benefit plans, where,
9 you know, it's accident and accidental life
10 insurance and other kind of very narrow insurance.
11 We've really been working to be sure that when
12 the -- when consumers purchase those kinds of
13 policies, that the policies are reliable and are
14 clear in what they cover and that they're priced
15 fairly.

16 So we're working a lot on improving
17 our regulations so that they are clear, that
18 they're not repetitive of the statute but enforce
19 that helps support -- enforcement of the statute.
20 And so we've been very busy with writing rules and
21 getting them through the promulgation process,
22 so...

23 And we do have a great team. We just
24 hired two really great people who do -- a health
25 economist and a data analyst, highly, well trained.

1 We were really lucky to get them. And as the
2 superintendent said, we are running up against
3 trying to find a couple of other really good people
4 to fill our -- our positions.

5 But overall, it's -- it's a great
6 pleasure to be here and it's wonderful to be
7 working on behalf of New Mexicans who need to
8 access health insurance and who are also in the
9 insurance market for other health and life
10 products. So thanks.

11 SUPERINTENDENT TOAL: And Julie gets much
12 of the credit for the fact that we had lower
13 premiums on the health insurance exchange this
14 year. She knows that business. She made sure our
15 staff stayed on track, she asked all the right
16 questions, and we obviously got a very good
17 outcome.

18 MS. WEINBERG: We're looking forward, as
19 well, Superintendent, to pursuing some more
20 strategies to ensure that those health -- those
21 products continue to be affordable for this
22 coming -- for the next plan year, which we're
23 already talking about. We're already a year ahead,
24 so I don't know what year it is.

25 SUPERINTENDENT TOAL: Thank you, Julie.

10 So we have -- you know, we get a lot
11 of that in 2020, not only on limited benefits
12 (inaudible) such as contraceptive services. And
13 we're -- have issued some draft rules on prior
14 approval, so getting ready to do rules on provider
15 grievances and credentialing-related matters.
16 We're going to do rules on long-term care. We have
17 a very ambitious agenda for this year, as well.

18 But I think it's really important we
19 emphasize getting these rules out. And thanks to
20 folks like Angelica, we're making sure those rules
21 have a consumer bent in them. So I think that's
22 important, and I hope you'll be pleased with what
23 you see coming out of the office.

1 CHAIRWOMAN DENISH: I don't have any
2 questions. I just want to welcome everybody.

3 And I'm really pleased to see you
4 being able to fill out your team with such a
5 quality group of women, helping you to do the
6 things that -- you know, to be consumer oriented,
7 as well as fair to good companies and getting rid
8 of the bad actors. So just really appreciate the
9 quality of people you're bringing to the department
10 and look forward to all the good things you're
11 doing in the department, to all of you. But thank
12 you for introducing us to those new people.

13 MS. CARPENTER: Chair, I have one
14 comment.

15 I also wanted to welcome you both.
16 And -- well, all three of you, actually.

17 And I would -- as one of the consumer
18 appointees on this committee, I would very much
19 appreciate, and I know Russ Toal's office is
20 already doing this, but any outreach to the other
21 members of the committee when rules are being
22 drafted or formulated so that we can also help --
23 assist the department in getting outreach to
24 consumer groups that may be impacted, so that we
25 can ensure as much participation in that process as

1 possible.

2 SUPERINTENDENT TOAL: That's a good --

3 CHAIRWOMAN DENISH: We'll -- we'll --

4 SUPERINTENDENT TOAL: -- suggestion. We
5 will do so.

6 CHAIRWOMAN DENISH: Yes.

7 SUPERINTENDENT TOAL: You know, one thing
8 I forgot to mention about Angelica, she also has
9 experience working in the AG's office. So her --
10 one of the things that we're working on is how we
11 can build that relationship and make sure that we
12 do things in partnership when we see scams, when we
13 see ripoff plans and things like that.

14 Okay. Other agency actions, there
15 are -- some of those relate to the rulemaking I
16 just spoke about. We're also trying to play an
17 active role in the National Association of
18 Insurance Commissioners that are on items directly
19 related to our business and our concerns.

20 One of the primary ones is on
21 long-term care insurance. As you're probably all
22 aware, these companies come in for -- this is not
23 an actuary term -- outrageous and crazy rate
24 increases; request of increases of, like, 90 and
25 112, or in one case, you know, an annual increase

1 on 64 percent on premiums.

2 And we've been saying no to all of
3 these things, but as you might imagine, that
4 industry has a lot of clout on the national level,
5 and they are saying, "Well, if we don't get these
6 rate increases, you know, we're putting our
7 financial stability at risk and we may not be able
8 to continue to offer."

16 But they are raising objections to
17 states like New Mexico that doesn't go along with
18 these preposterous rate increases. And they're
19 say, "Well, we resent having to subsidize this
20 long-term care insurance so that people in
21 New Mexico can get lower rates."

22 Now, I'm very happy to have those
23 other states subsidize those increases because
24 there are virtually no New Mexicans who are afford
25 these price increases.

1 So that's an example of the kinds of
2 things that we're actively involved in. Another is
3 revamping one of the systems that NAIC supplies to
4 all states. And this is the one that all the
5 insurance companies file through. And our ability
6 to get data out of that system or to run any kind
7 of customized report doesn't exist today.

8 So we've been pushing, helping to
9 lead the charge to revamp that system so that you
10 and we, and frankly, New Mexico consumers can get
11 better and more timely information.

1 how we all interact with the health insurance
2 exchange. It should give us much more flexibility,
3 certainly more flexibility than we've had under the
4 previous federal administration.

5 But the other thing I'm pleased about
6 is that HSD and we join forces to encourage, I'll
7 use that word, New Mexico Health Insurance Exchange
8 to change their entire approach on outreach
9 advertising. They're actually changing their PR
10 firm to be one that's more community based. And we
11 think that is really important because we don't see
12 any evidence that their previous approach resulted
13 in greater enrollment, despite the fact that we
14 still have an estimated 85- to 100,000 New Mexicans
15 that are uninsured.

16 So we've got to find a way, and to
17 Allegra's point, we have to be far more community
18 based than we've been in the past, or they have to
19 be more community based than they've been in the
20 past.

21 So those are the kinds of things we
22 also spend time on. And there are other
23 opportunities to do more of that coming up. Like
24 all of you, we'll be just beyond happy when we've
25 got COVID under control, when we get back out in

1 the community to do the kind of community meetings
2 that need to be done.

3 I'm happy to answer any questions you
4 may have on -- on these or any other matters.

5 CHAIRWOMAN DENISH: Are there questions
6 of the superintendent before we go to the public
7 comment section?

8 Does that complete your report,
9 Mr. Superintendent?

10 SUPERINTENDENT TOAL: Yes. Again, I just
11 want to make reference to the annual report we sent
12 to all of you. If you have any questions on that
13 or have any recommended changes for the future,
14 please let us know.

15 Early next month, you will see the
16 revamp to our website that should be infinitely
17 easier for consumers and you and everyone else to
18 use. We've made improvements this year, but you're
19 going to see a major revamp in the month of
20 February, thankfully.

21 CHAIRWOMAN DENISH: Allegra, did you have
22 a question?

23 MS. CARPENTER: Yes, I did. When we
24 receive the legislation that the agency has put
25 forward and is tracking along with the agency's

1 (inaudible), are we doing fiscal impacts on all the
2 legislation you're tracking or just your agency
3 bills?

4 SUPERINTENDENT TOAL: Whatever you would
5 like to see.

6 MS. CARPENTER: Well, I'm just -- I
7 didn't know. But then I assume that we could come
8 back to you to request information on how those
9 fiscal impacts --

10 SUPERINTENDENT TOAL: Yeah, sure.

11 MS. CARPENTER: -- (inaudible) if -- if
12 it's not clear from the report.

13 SUPERINTENDENT TOAL: Absolutely. And
14 your best contact for that is Melissa.

15 MS. CARPENTER: Okay.

16 SUPERINTENDENT TOAL: Because all the
17 (inaudible) and the bill analyses, thankfully, go
18 through Melissa.

19 MS. CARPENTER: Fabulous.

20 SUPERINTENDENT TOAL: Who I want to note,
21 for the record, is the most underpaid employee we
22 have inside the OSI. And we've tried to do
23 something about that, but we keep butting our heads
24 (inaudible).

25 MS. CARPENTER: Well, I have no doubt she

1 deserves that. Let us know if we can help at all.

2 SUPERINTENDENT TOAL: Thank you.

3 CHAIRWOMAN DENISH: Thank you. Any other
4 questions?

5 MR. YURCIC: Madam Chair, this is Scott
6 Yurcic. If I could ask a couple questions.

7 CHAIRWOMAN DENISH: I can't hear you very
8 well, Scott, but go ahead.

9 SUPERINTENDENT TOAL: Here comes Scott.

10 MR. YURCIC: Yes. You referenced that
11 you -- you had mentioned premium taxes, and I
12 noticed in your report that there's been a
13 substantial decrease year over year in premium tax
14 and surtax. I'm sure COVID has something to do
15 with that, but are we seeing a number of carriers
16 moving out of the state? Is that an indication of
17 that?

18 SUPERINTENDENT TOAL: No. The prime
19 reason you're seeing that on our data, in our
20 reports, is because January 1 of last year, the
21 responsibility for collecting premium taxes was
22 shifted to TRD, the tax and revenue department.

23 So the actual amount of premium taxes
24 collected by the state have not gone down, it's
25 just that we don't have a role in the collection of

1 those tax, anymore.

2 MR. YURCIC: And that affects your bottom
3 line because you operate on revenue collected,
4 correct?

5 SUPERINTENDENT TOAL: That's true. But
6 the revenue that we collected from other sources,
7 such as licensing fees and all the rest of that,
8 have been more than enough to cover our costs.

9 You know, in all the years I've been
10 in government, which is decades, I've never had the
11 situation that we have this year, where the --
12 where a governor's request for the agency and the
13 legislative budget or finance office's requests for
14 the agency are absolutely identical to what our
15 request was.

16 So we're -- we're in good stead with
17 the -- with the budget folks across the street.
18 And in large part, I think it's because they're
19 delighted at having an agency that is now
20 responsive, which was not the case previously.

21 MR. YURCIC: All right. And if I may,
22 one other just clarification, if you would.

23 SUPERINTENDENT TOAL: Sure.

24 MR. YURCIC: You'd mentioned that the
25 patient's compensation fund, while it appears to be

1 funded fairly consistently, is operating at a
2 deficit. Who --

3 SUPERINTENDENT TOAL: It is.

4 MR. YURCIC: Who makes up that deficit?

5 SUPERINTENDENT TOAL: That's a good
6 question. Right now, we are -- the reason there's
7 a deficit on the books is because we do estimated
8 payouts. Right now, we're able to continue to meet
9 our obligations, but if we were to realize all the
10 anticipated or projected losses, we'd be in serious
11 trouble. And either the people who are in the
12 fund, the providers who are in the fund, or the
13 legislature, would have to ante up some money.

14 Now, I did mention, I think, Scott,
15 that we are going to have increased assessments on
16 both positions, and particularly hospitals, coming
17 up April 1. So we're looking forward to collecting
18 that money.

19 MR. YURCIC: In January 1, the hospitals
20 will be opting out. Will you not be losing that
21 money in a year from now?

22 SUPERINTENDENT TOAL: We won't be
23 collecting the additional money, but we'll also be
24 reducing the PCF exposure, of course, because those
25 hospitals will no longer be covered by the PCF.

1 MR. YURCIC: Understood. Thank you.

2 SUPERINTENDENT TOAL: You bet. Good
3 questions.

4 CHAIRWOMAN DENISH: Superintendent, I
5 have a question. I saw that True Health is being
6 purchased by another company. Does the --

7 SUPERINTENDENT TOAL: Yes.

8 CHAIRWOMAN DENISH: -- superintendent
9 office have responsibility to review that purchase
10 or any -- is there any responsibility there?

11 SUPERINTENDENT TOAL: Yes, we do have a
12 responsibility. We'll be holding a public hearing
13 on it, as well. We've already had one meeting.
14 We'll have another one next week with the True
15 Health, as well as the new company, which is called
16 Bright Health, and based out of the Midwest
17 somewhere. I apologize. I don't remember.

18 But one of the other things that I
19 should have mentioned, Madam Chair, in terms of
20 other agencies, we really have been consumed by the
21 situation with the New Mexico Health Connections,
22 which essentially's insolvent, went out of business
23 December 31.

24 Yesterday, we filed a petition in
25 court for receivership and appointment of a deputy

1 receiver to handle the remaining assets.

2 I mean, fortunately, we stepped in
3 and did a seizure order and took responsibility for
4 all those assets, which were in another entity's
5 hands. So we have that. As I mentioned, we hope
6 to get a receiver appointed.

7 I'm afraid that the providers who
8 have claims against New Mexico Health Connections
9 in all likelihood are going to have to take some
10 kind of haircut. I understand that's a term that
11 you attorneys are familiar with. We don't know to
12 extent of that yet; in part, because we don't
13 control who might be filing claims in the court.

14 We do know what the existing
15 outstanding balance is and amounts owed are. And
16 we have an estimate as to what that will mean to
17 providers. But, again, we don't control in any way
18 the claims that may be made in receivership.

19 We have asked the Court to give
20 priority to the individual and hospital providers,
21 starting with the individual providers who are
22 least able to bear a delay in payment. But we'll
23 have to see what the Court does and their reaction
24 to our petition.

25 CHAIRWOMAN DENISH: Okay. That was my

1 follow-up question. So thank you very much for
2 that.

3 Are there other questions?

4 SUPERINTENDENT TOAL: In the case of --
5 Madam Chair, in the case of the acquisition of True
6 Health, we have been given assurance that there are
7 going to be no operational changes. The existing
8 True Health team will stay in place. Their network
9 will stay in place. Essentially, the change only
10 is in the ownership and the board.

11 CHAIRWOMAN DENISH: Thank you.

12 Other questions for the
13 superintendent from the board or the committee?

14 Are there members of the public on
15 that have raised their hand to ask a question? Is
16 there anybody from the public? I don't see --
17 Melissa, do you see anybody that's...

18 MS. GUTIERREZ: I do not.

19 CHAIRWOMAN DENISH: Okay. No other
20 public comment. Any other items or questions from
21 the committee?

22 SUPERINTENDENT TOAL: Madam Chair, do you
23 want to schedule a follow-up meeting in April or
24 May, after the session?

25 CHAIRWOMAN DENISH: Yeah, I think that

1 was the next item on the agenda, is the calendar of
2 the next meeting. And so what I'd like to ask the
3 committee, with permission of the committee, is to
4 work with the staff and the superintendent to find
5 a date (inaudible) session where we can have a
6 review of legislative successes or things that
7 happened.

8 And I just want to say that I
9 think -- I'm very glad, Mr. Superintendent, that
10 you're on the road to recovery. It sounds like you
11 still have a few challenges from COVID-19, which is
12 a reminder to all of us why we're meeting in this
13 fashion, which is not to be taken lightly.

14 So I do appreciate you talking us
15 through all of these issues, even though I know
16 that you're -- you've been trying to get
17 100 percent. And --

18 SUPERINTENDENT TOAL: Thank you.

19 CHAIRWOMAN DENISH: -- so I appreciate
20 that.

21 But if that's okay with the
22 committee, we'll -- we'll pick some options for
23 follow-up dates to meet later in the spring.

24 SUPERINTENDENT TOAL: As you know better
25 than anybody, Madam Chair, you know, the governor

1 has 30 days to take action on bills. So I think we
2 would be looking at late April or early May.

3 CHAIRWOMAN DENISH: Hopefully, we might
4 be getting close to meeting in person later in the
5 year when everybody's vaccinated and all kinds of
6 good things are happening.

7 If there is no further business, I
8 entertain a motion -- oh, Allegra.

9 MS. CARPENTER: I'm so sorry, I should
10 have asked this question earlier. Would it be okay
11 to go back and ask a question related to the
12 legislative items, just a short one?

13 CHAIRWOMAN DENISH: Go ahead.

14 MS. CARPENTER: Superintendent Toal, when
15 you say that the agency isn't taking any position
16 on the Medical Malpractice Act initiatives, no one
17 from the agency will be coming to testify as to any
18 of those?

19 SUPERINTENDENT TOAL: No. I -- if the
20 chair wants us -- the committee chair wants us
21 there to answer questions, we have a responsibility
22 to do that. But as we said in our report and I've
23 said to anybody who will listen, these really are
24 legislative policy matters, and so we're there just
25 to answer questions.

1 MS. CARPENTER: Would only be if the
2 committee chair invited you?

3 SUPERINTENDENT TOAL: Yes, normally.

4 CHAIRWOMAN DENISH: So you're an
5 invited -- are you an invited expert sometimes?

6 SUPERINTENDENT TOAL: Invited, not
7 indicted, thank God.

8 CHAIRWOMAN DENISH: I've seen expert
9 lists before on different things, so "expert" is a
10 term that's used loosely, most of the time.

11 SUPERINTENDENT TOAL: I do, except for,
12 as you know, Madam Chair, the one that actually
13 goes to the floor, sponsors are allowed to have
14 experts listed. Now, I would not expect to be
15 listed as an expert when the malpractice bills go
16 to the floor. But in terms of committee work, we
17 are frequently expected to be there just to answer
18 questions.

19 And I'll give you another example of
20 that. There's a bill that has to do with -- that
21 we're tracking that has to do with the amount of
22 copays for podiatric services. Again, this is not
23 a matter that we have an opinion on professionally.
24 We are expected to be there to ask [sic] questions
25 if they are put to us. So we're going -- we don't

1 support or oppose the bill, but we answer
2 questions.

3 Now, in the case of House Bill 122,
4 which is an affordability fund bill, we will be
5 there as experts and testifying on behalf of the
6 bill.

7 CHAIRWOMAN DENISH: All right. With
8 that, if there are no other questions or comments,
9 thank you again, everybody for being on, thank you
10 to all the staff. Thank you Melissa for keeping us
11 all on track with our Zoom things and everything.
12 And if there's -- is there a motion to adjourn?

13 MR. ROMERO: So moved.

14 MS. CARPENTER: Second.

15 CHAIRWOMAN DENISH: There's a motion and
16 a second. With no further business, the meeting is
17 adjourned. Thank you, everybody, very much.

18 SUPERINTENDENT TOAL: Thank you, all,
19 very much.

20 MR. ROMERO: Thank you all.

21 (Proceedings adjourned.)

22

23

24

25

1 NEW MEXICO INSURANCE NOMINATING COMMITTEE

2 VIDEO CONFERENCE HEARING

3 January 28, 2021

4

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