

**NEW MEXICO INSURANCE NOMINATING COMMITTEE
MEETING AGENDA
SATURDAY, NOVEMBER 16, 2019
10:00 A.M.
New Mexico Bar Association
5121 Masthead NE, Albuquerque, New Mexico**

1. CALL TO ORDER

Chair Denish called the meeting to order at approximately 9:00 a.m.

A. Introductions

Each member of the Committee introduced herself/himself. Staff members and other attendees also introduced themselves as follows:

Members Present

Diane Denish, Chair
Randall Perkins, Vice Chair
Allegra Carpenter
Jennifer Ford
Benny Hodges
David Hunton
Geoffrey Romero
Patricia Greene Williams
Scott Yurcic

Members Absent

Staff Present

Melissa Martínez, Board Administrator

Others Present

Bryan E. Brock, OSI General Counsel
Marah deMeule, Assistant Attorney General
Carl Boaz, Stenographer

Chair Denish asked those present to sign in and those wanting to speak on that list.

B. Approval of the Agenda

MOTION: Member Romero moved, seconded by Member Perkins, to approve the agenda as published.

VOTE: The motion was approved on a unanimous (8-0) voice vote with Members Carpenter, Ford, Hunton, Perkins, Romero, Williams, Hodges

and Yurcic voting in favor and none voting against.

C. Approval of Minutes

- Regular Meeting Minutes of November 4, 2019

Chair Denish requested two changes: 1) She said she grew up in the independent insurance agency in Hobbs, not Taos; 2) on page 12, "Cole" (as in Russell Cole) should be corrected to "Toal."

Member Ford requested a change on page 12 where Joel Fierro is a New Mexico resident.

MOTION: Member Romero moved, seconded by Member Perkins, to approve the minutes of November 4, 2019 as amended.

VOTE: The motion was approved on a unanimous (8-0) voice vote with Members Carpenter, Ford, Hunton, Perkins, Romero, Williams, Hodges and Yurcic voting in favor and none voting against.

2. INTERVIEWS

Chair Denish thanked the applicants for applying and for responding to the written questions and helping this Committee understand your philosophy. She asked each one to come to the microphone and introduce yourself.

A. Roberta Baca

Ms. Baca thanked the Committee for the interview and introduced herself. She has been in public service for 20 years and a practicing attorney for 19 years. She graduated at NMSU and got her law degree at the Law School at St. Mary's in San Antonio Texas. She said she has read every word of the insurance Code and was excited to answer any of the Committee's questions.

Chair Denish, having read through her answers, appreciated her approach to the office. She asked Ms. Baca to say more in the area of fraud investigation.

Ms. Baca indicated that fraud among insurance agents is higher per capita in New Mexico than anywhere else in the country. The Superintendent of Insurance should work with other agencies on it and she would promulgate rules. It is better when people know the rules; rules for companies and for consumers. She thought the Office of the Superintendent of Insurance is not adequately staffed to deal with issues, including fraud, in a timely fashion. She would like to present a strategic plan to the Legislature

for approval to hire more staff and funding for their salaries. The rules and regulations are not well balanced, and a committee should figure out how we could balance it better. She also would improve IPRA responses and be more transparent.

In response to questions, Ms. Baca described her experience working in the agency as the Criminal Division Director. She commented that the Patient Compensation Fund was dear to her heart. If she became the Superintendent, she would put a transition team in place for effective ways to work with the Legislature and request additional divisions.

B. Laura Causer

Ms. Causer shared her background. She grew up in insurance industry throughout the country and, after many years, retired and switched to real estate and learning the intricacies of operating that business. She was not sure she knew enough about insurance to do the job of Superintendent but has learned underwriting functions and how to process claims. finance, a little with P&C, short-term disability and long-term care. Not all was on her resume, but she has had a lot of diverse experience applicable to insurance and was open to other possibilities.

The Committee members questioned her about being out of touch with the situation in New Mexico. They asked what her priorities would be in this position. She replied that marketing the work of the OSI was important, prosecution of fraud, and urging more insurance companies to offer policies in New Mexico, especially health insurance, to stimulate more competition. She said she was a quick study for areas where she had no knowledge or experience and had no suggestions for legislative action.

The Committee took a short break at 10:16 and reconvened at 10:23 a.m.

C. Robert Doucette

Mr. Robert Doucette shared his background which included 20 years of service in the U.S. Army where he learned how to lead and how to follow. He identified several factors he felt were necessary for Department success. His work with NAIC was important for the Superintendent role.

In response to the Committee's questions, he said his plan would be to have monthly meetings with staff, weekly meetings with senior staff and yearly training, recognizing the employees who have done well. The Department needs to be transparent and to ensure there are good products and good competition in the market in New Mexico. He believed the statute on insolvency was clear and needed to be followed.

D. Joel Fierro

Mr. Fierro shared his background and noted that it was obvious he has had no experience with the State. All of his experience was with companies. He described all of

his insurance experience and roles in managing employees and said he was employed presently in Nevada.

The Committee questioned him about how much he knew about insurance in New Mexico and he described how he had studied it for ten days and understood there are four providers of health insurance with an exchange, work on Medicaid expansion coverage, and eight different bureaus in the Department. He did not have policy initiatives to advocate at the Legislature and has never testified at the legislature. He saw the role of the Superintendent to include consumer protections and educating consumers to make the best choices from products available.

The Committee recessed for lunch at 11:25 a.m. and reconvened at 12:42 p.m.

E. Justin Goodman

Mr. Goodman introduced himself and shared his background which included teaching insurance law for the last three years and currently economic justice as a visiting professor at UNM. He has been practicing insurance for the last ten years. He has served on the Medical Review Commission for the past four years.

The Committee asked about his management of people and how he would deal with the new HB 89 changes in regulations and he responded with his experience and would make sure the new requirements were followed.

He proposed, as Superintendent, to establish open communication immediately, prepare benchmarks for the Department, have individual meetings with Department heads to assess those benchmarks, and work to ensure the regulations are followed.

He mentioned some proposed legislation he was working on. He was not in favor on lowering rates to the point of limiting competition. He was very supportive of ACA and felt public awareness was very important for continued success.

F. Denise Hall

Ms. Hall shared her background, raising in Albuquerque and practicing law for 23 years. She worked for the government and was also in private practice including 14 years as Counsel for Allstate Insurance where she managed an entire staff (as many as 20 employees and 5 attorneys) and started two offices from the ground up.

She responded to questions and said she has had no legislative experience in New Mexico but has worked with the Governor in prosecution work. If chosen as Superintendent, she would begin assessing priorities based on the annual report and legislation that needs to be proposed. She would look at budget and get feedback from employees, focusing on the major issues on accessibility to healthcare and affordability

for low-income people. The ACA is something people know about but don't know how to access it.

G. R. Foster Seaton

Mr. Seaton read his prepared statement on his views and his experience. He said the OSI needs more credentials and professional staff, especially another actuary and also an accountant. His experience included many years' experience managing, budgeting, management, and several positions included managing employees. He thought the present Superintendent has been too accessible but too often it was not with the consumers. He briefly described his actuarial experience with OSI. At present, he felt Life and Health are subject to review; Property and Casualty are subject to abuse. He was never directly involved in IPRA, but understood the law demands some things to be public and others to be private and that must be obeyed.

When asked about proposing rulemaking, he did not want to get into the details, but he would follow the rulemaking hearing requirements.

Mr. Seaton was critical of the lack of financial statements for OSI and noted that anyone wishing to have a copy, must go to the office to get any information.

H. Russell Toal

Mr. Toal shared his life experiences and his relevant work regarding insurance. He was asked to be staff person for a center on Medicaid and Medicare issues. He helped passage of legislation that was controversial and listed several of them including a statutory definition on when a person was dead, a nursing home bill of rights and a second state for Medicaid waiver. He became the youngest Medicaid Director in the country and with his efforted, ensured stability and sufficient funding. The fastest child health growth in the country happened under his watch and he got federal dollars for indigent health care. He left, on good terms with the Governor eight years later. During his tenure, he managed a department of over 500 staff and introduced a bill for 3rd party payments. He brought many medical dollars in and worked with the legislature on many different things.

He left and went to Emory University to develop a statewide network program that covered hospitals, physicians and negotiated that network to insurers and eventually won a fight with the largest insurance company. He became the state administrator of the largest health plan. He was running Medicaid, employees' health care and the University Health Plan for three years and then managed the tobacco settlement and the Governor was asked to put together a statewide cancer network in Georgia. There are no federally recognized tribes in Georgia.

He used the power of state government to make every hospital raise their cancer treatment level so that consumers did not have to drive elsewhere. And he spread it out rather than just in Atlanta. He developed two public health programs in the state

focused on service, helping county health departments and creating a safety net for providers to branch out. He did that for quite a few years. He was president of the Georgia Health Association. Then came to New Mexico and went to work for the Medicaid Agency here. He came in as Deputy Director and did that for three years and started a new program as an enterprise state health system. This was the most effective way to draw in more federal dollars.

When he took the job, he saw that they were not making data available to other folks. it is public information that does not identify the persons.

He left and tried retirement and four weeks later, his wife asked him when he was going to go back to work. He became excited with the new Governor when she started running. He was pleased with her stand on health care and pleased to go to work at the Department of Human Services as Deputy Director with David Grace. We have done some incredible stuff in a short time. The Department is in good hands with Mr. Grace and moving forward with good initiatives.

His style of management was to hire an advocate from the Center on Law and Poverty, who is doing a great job. The project is funded with \$213 million dollars and brought in additional resources and has the right management in place.

But this job intrigued him because of the potential of the job.

He has worked for many agencies and it frustrated him that OSI is a silo not working with any other departments. The expertise of other agencies is needed. People don't know about OSI. At dinner last night with some small businesspeople who are struggling with health insurance coverage that has a \$75,000 deductible. She was shocked to know about OSI that might have an interest in their plight.

Mr. Toal commended the Superintendent for updating the computer system and determining what that system could do for people. There are all kinds of analytic opportunities they have not taken advantage of, including NAIC. Consumers in this state need to know about OSI and what the office can do. It needs mobile messaging for taking complaints. There is some reason why that has not happened. He has worked with legislatures and has a strong relationship with DFA, LFC and the Governor's office to build up its abilities.

He was excited about this. Through his entire career, He attributed his success to: 1) being open to others and shared with them what we were doing. 2) correct it when we have made mistakes. He brought over \$300,000 new dollars into New Mexico on Medicare.

The second factor and more importantly, was that he has always believed in building strong teams - not "yes people" - but people who are willing to tell the truth by giving honest feedback. Obviously, there are very capable people in OSI, but he questioned if they are given the power to do their jobs. He would hope to do that. He had learned,

over the years, that an agency that runs for a long time needs a person from the outside needs to evaluate things and make suggestions for improvements. And then build a team for a vibrant Office of Insurance.

Chair Denish thanked him for that background. She knew that many people come here for retirement and asked how he came.

Mr. Toal said he did not come here for retirement. He had been coming here for many years. The smartest attorney he'd met is a woman who went to UNM and grew up here. Her parents retired to Santa Fe and when he started coming here. He fell in love at my first visit, so we have come many times and planned to move here for a long time.

He described himself as a Medicaid addict and find it the most incredible positive program to help people, mostly children. So he admired Governor Martinez for extending Medicaid because she recognized the incredible need and had a family member who needed help. So he was honored to be invited here.

Chair Denish noted he mentioned Income Support and asked if he was aware of the new program on education and if he would see any way for OSI to be involved.

Mr. Toal said he was very aware of it and has shared information with Early Childhood and they have mutual interests. He did think there is a role for the Superintendent in it, just to come to the table.

Member Perkins asked, given the demography of our state with very rural communities, how he would balance affordability, accessibility, poverty and exiting doctors.

Mr. Toal replied that inside Human Services, there are scholarships and support and developing residency programs in rural areas, not just for MD's but also for NPs, PAs, in a huge spin off benefit for that. Research has shown that physicians like to be near academia and other things like matching retention programs. Medicaid will double plus our program. On the physician side, we brought them to at least 90% of Medicare level. All of those things are needed. Affordability is also what you are buying - a projectible low cost of preventive health services that does not put an insurance company at risk. So we need to look at that and not just a premium. How to expand that should be aggressively pursued.

Member Ford asked about his priorities.

Mr. Toal said the first is visibility. It is a mystery to most people. As part of the assessment, I would try to install a culture that we are open in our business and engage outsiders as we make those decisions. An agency with only one actuary is incomprehensible. We can get that expertise from the outside.

Member Hunton asked how his experience and commitment would relate to P&C

insurance portion of this agency.

Mr. Toal admitted he would have a learning curve, but Medicaid covers a huge range of services and eligibility standards and a huge computer system. I know everyone who works on that project and have always been a nuts and bolts guy and would expect to keep doing that. P&C it is an essential need and we need to make sure we have providers of the service.

Member Hunton pointed out that unlike Georgia, New Mexico providers don't need to be here.

Mr. Toal agreed and said the chief chore is to be a recruiter.

Member Romero said, from the consumer advocacy side, we all want stability and for insurers to make a fair profit and to be fairly treated. We need a level playing field, so everyone knows and commits to play by the same rules. How would you tackle that issue?

Mr. Toal agreed with that. Regulations don't always have clarity on what is needed, and we should invite public comment on such regulations. He said it would not occur to him that the agency would not be responsive to attorneys representing consumers.

Member Carpenter asked what the topic of his thesis was.

Mr. Toal said it was on hospital malpractice. He found only one case across the country that held the hospital responsible for not liking a physician. It is not just hospitals, but if he was in charge of a managed care company, he should be responsible there, too.

Member Carpenter said Mr. Toal knows the culture he wanted but asked about moving into the middle of this agency could be quite difficult and asked if he had any experience with that.

Mr. Toal said he did and described how he did it in Georgia to get an expanded Medicaid bill passed.

Member Yurcic asked if he had any thoughts about how to attack the very high uninsured drivers and underinsured in New Mexico.

Mr. Toal noted that it is not as simple as raising requirements. It would take some serious time to deal with it. When he began researching OSI, he was boggled by that statistic. It is time for a new approach and needs to be in sync with insured and law enforcement and to find out what other states have done on the issue.

Mr. Toal said he was helping to build a statewide information exchange and to foster the change that is needed and to seek some federal funding for it. There is a serious

problem with the current statute and that needs to be addressed and to figure out how to bring down the costs.

Thirdly, although not a legislative matter, the Superintendent has to be part of the presentation. There is a presentation at LFC next week and he would like to be there as a consumer.

There were no other questions of Mr. Toal at 3:15 pm.

3. PUBLIC COMMENT

Mr. Paul Ombaillo, with a nonprofit working on accessing and affordability since 1995. He was also on the Board of the New Mexico Health Insurance Exchange - the marketplace platform to make some changes to the health insurance system and hopefully create opportunities for a very active Superintendent selection. He thanked the Committee for that. He commented regarding the health insurance side of the Superintendent of Insurance, that the most important thing is that next Superintendent will be a champion for consumers when they get stuck in the appeal process, even though not under OSI resources. And to identify problematic patterns as you seek one.

Another would be someone who puts the consumer at the center for the problems New Mexicans are going through and that any regulation consider the consumers in the legislation. A Superintendent needs to have ears to the ground for national issues and also very important is making OSI something New Mexicans are familiar with. Think creatively about new branding of the agency. Finally, a Superintendent is needed who will bring together stakeholders for solutions.

For the last two years, we have gotten complaints about substandard insurance flooding the market. OSI really tries to engage the issue and make sure all are working together, and it is a problem with the responsibilities of OSI, so you need someone strong in working with legislators with resources to do the job. We have a Governor who is committed to active care and contraception protection, and pharmaceutical purchasing. That opportunity is there, and we need a Superintendent who is ready to implement those laws wherever called upon. The Governor's Office recently hired a public relations person for enhanced awareness, streamlining enrollment and other benefits. The Superintendent must make it a competitive marketplace. He was not here to endorse a specific applicant. But he urged the Committee to consider a consumer champion who would build strong relationships with the Legislature, provide focus and one who thinks big on how to improve health care in New Mexico. Please choose someone who is strong.

Mark Epstein, President of True Health New Mexico and on the Board of Albuquerque Medical Association, said he has been involved with legislative, hand-in-hand with OSI and promulgating bills, one of which passed last session. We lead the nation for consumer advocacy. In hearing candidates, he was going to ask the

Committee to focus more on healthcare insurance. For an agency as small as OSI and the kind of action on the playing field, there is only one referee. We know consumers move out when the game is not played fairly. He hoped the Committee would take that into consideration with strong referees. The stakes are pretty high for health care today. Looking into the future is excellence in reduction of costs and that needs a strong Superintendent to lead the work - to find out how to get our money's worth on health care. So hope he hoped the Committee will choose one who is able to withstand any resistance to that. Many agencies are working hard for that transparency and need not only the will but the technology to do it. Thanks for your dedication to this effort.

4. EXECUTIVE SESSION: SECTION 10-15-1(H)(2) NMSA 1978
-- Discuss Candidates

MOTION: Member Yurcic moved, seconded by Member Perkins, to move into closed Executive Session as allowed by NMSA 1987 §10-15-1(H)(2) to consider the candidates for the Superintendent of Insurance position.

VOTE: The motion was approved on the following roll call vote:

For: Member Carpenter, Member Ford, Member Hunton, Member Perkins, Member Romero, Member Williams, Member Hodges and Member Yurcic.

Against: None.

The Committee entered executive session at 3:30 p.m. The executive session ended at 4:00 p.m.

5. RECONVENE AND APPOINT SUPERINTENDENT OF INSURANCE

Chair Denish announced to the public that during the executive session, no actions were taken, and the only matters discussed were the qualifications of the candidates.

MOTION: Member Perkins moved, seconded by Member Romero, to appoint Mr. Russell Toal as Superintendent of Insurance for the State of New Mexico.

VOTE: The motion was approved on the following roll call vote:

For: Member Denish, Member Carpenter, Member Ford, Member Hunton, Member Perkins, Member Romero, Member Williams, Member Hodges and Member Yurcic.

Against: None.

Mr. Toal accepted the appointment and said he looked forward to the opportunity and challenge of this appointment.

6. START DATE AND SALARY FOR SUPERINTENDENT OF INSURANCE

Ms. Martinez clarified that the current superintendent will retire on December 31, 2019 and Mr. Toal will begin on January 1, 2020.

Ms. deMeule said the Superintendent's salary is subject to legislative appropriation and shall be no lower than a Secretary compensation and no higher than the Secretaries, so \$156,000 is set for the Secretaries and to be the salary of the Superintendent.

7. CALENDAR NEXT MEETING

Chair Denish recommended having the next meeting early to consider the legislative agenda and other matters of concern.

Ms. Martinez said the legislative session starts on January 21.

After a brief discussion, the Committee agreed to meet next on Wednesday, January 17, 2020 at 10:00 a.m.

Ms. Martinez agreed to try for the Gaming Control Board again in Albuquerque, but the location is TBD until confirmed.

8. ADJOURNMENT

Upon motion by Member Romero and second by Member Perkins the meeting of the Nominating Committee was adjourned at 4:07 p.m.

Approved by:

Committee on January 17, 2020.