



FOR IMMEDIATE RELEASE

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**NM Superintendent of Insurance, as Custodian of the Patient's Compensation Fund,
Issues 2022 Rates**

Santa Fe, NM – The Patient's Compensation Fund ("PCF"), which was established by the New Mexico Medical Malpractice Act of 1976 ("MMA"), provides an excess layer of professional liability coverage for its member healthcare providers, including independent providers, hospitals and outpatient health care facilities. The Legislature adopted sweeping amendments to the MMA in the 2021 Regular Session through its passage of House Bill 75, entitled *Clarifying and Modernizing the Medical Malpractice Act* ("HB 75"). Among other things, HB 75 requires PCF member healthcare providers to eliminate a projected \$66.8 million PCF deficit within five years, increases caps on damages that must be paid on behalf of those providers that commit medical malpractice, requires the PCF to engage the services of an independent third-party administrator and to conduct an annual actuarial study of the fund. The legislation also directed the OSI to establish a PCF Advisory Board to advise the PCF Custodian regarding data accumulation and rate setting. The Advisory Board was put in place this past July.

On October 20, 2021, the PCF Advisory Board conducted a public hearing on the 2022 rates and took evidence from Milliman, Inc., a nationally recognized actuarial firm that analyzed loss, expense and claims data from prior years and developed a report that recommended surcharge rates and deficit reduction assessments for the upcoming plan year. Based on that hearing, the PCF Advisory Board recommended a rate increase of 19.7 percent over 2021 rates for independent providers and a rate increase of 3.6 percent over 2021 rates and the implementation of deficit reduction assessments for hospitals and outpatient health care facilities.

Superintendent Russell Toal, in his capacity as Custodian of the PCF, felt that level of rate increase on independent providers was too high. *"I am very grateful for the difficult and thoughtful work of the PCF Advisory Board to address a challenging situation, but adopting the Board's recommendation would likely result in decreased provider participation in the PCF and, potentially, a decrease in the number of providers who deliver services to New Mexicans,"* said Toal. *"The Legislature and the Governor, in an effort to reduce independent provider's costs, reduce the PCF deficit, and retain independent providers in the state, have indicated their willingness to appropriate approximately \$30 million in the upcoming legislative session to eliminate the deficit costs attributable to prior multiple high-dollar claims and past failures to raise surcharge rates when recommended."*

Based on the anticipated appropriation, Toal ordered a rate increase for independent providers of 12.2 percent over 2021 rates and a one year deferral of their recommended deficit reduction assessments. *"I express great appreciation to the Legislature and the Governor for their assistance in reducing the deficit amounts that were not the fault of currently enrolled independent providers,"* said Toal in his order. Toal also recommended *"that all parties address all the unintended consequences of HB 75 in the next full legislative session in early 2023."*

The new PCF rates go into effect January 1, 2022. The actuarial report and other documents related to the public hearing are available on the PCF website at <https://pcf.osi.state.nm.us/index.php/reports-and-records/>