

## INSURANCE NOMINATING COMMITTEE

MEETING AGENDA  
THURSDAY, JULY 20, 2017  
10:30 A.M.

State Capitol Building, Room 321  
409 Old Santa Fe Trail, Santa Fe, New Mexico

### 1. CALL TO ORDER - Thomas Taylor, Vice-Chairman

A regular meeting of the Insurance Nominating Committee was called to order on the above date at approximately 10:30 a.m. by Mr. Thomas Taylor, Vice-Chairman, at the State Capitol Building, Room 321, Santa Fe, New Mexico.

Introductions indicated the presence of a quorum as follows:

#### Members Present

Thomas Taylor Vice-Chairman  
Michael Hawkes  
Bill Kinyon  
Angela Romero  
Scott Yurcic

#### Members Absent

Zach Cook  
Tim Jennings  
Lisa Farrell Luján

#### Staff Present

John G. Franchini, Superintendent of Insurance  
Mark Marcus, Civil Division Chief  
Melissa Martínez, General Counsel's Office  
Vicente Vargas, Deputy Superintendent  
Tricia Warwick, Office of the Superintendent  
Alan Sealey, Actuary

#### Others Present

John Grubestic, NM Attorney General's Office  
Dick Mason, Health Action New Mexico  
R. E. Thompson, Chair Candidate  
Eduardo Budnauro, Chair Candidate  
Isaac Lancaster,  
Elaine Heckler,  
Dawn Brown

**A. Introduction of Committee Members and Staff**

Members of the OSI Staff introduced themselves.

**B. Approval of the Agenda**

Member Kinyon moved to approve the agenda as published. Member Romero seconded the motion and it passed by unanimous voice vote.

**C. Approval of Minutes - April 20, 2017**

Member Hawkes asked for a correction on page 6, fifth paragraph where the sentence should read, "Member Hawkes asked if the increase to \$332.5 million was a result of picking up what had been lacking from the previous two years."

Member Hawkes moved to approve the Minutes of April 20, 2017 as amended. Member Romero seconded the motion, which passed by unanimous voice vote.

**2. SUPERINTENDENT'S UPDATE – Superintendent Franchini**

**Agency Bureau Updates**

Supt. Franchini provided the Agency Bureau updates, which are highlighted as follows:

- A State-based NEIC computerized operational system was implemented. New Mexico is the 42<sup>nd</sup> state to convert to the National computer-based system.
- The back-office software solution SPS system started on July 10, 2017 and the old Legacy system was shut down June 30 and licensing was accepted on July 17, 2017.
- The SPS system eliminates 5 screens that had to be coordinated. Money is now sent by wire transfer directly to the NEIC office and transferred to OSI and eliminates half of the problems in the office and allows staff to spend more time with citizens.
- The new system aligns New Mexico with most of the nation, streamlines 64 different license types to 5, updates communication options and provides consistent renewal periods each year.
- The website has a new license lookup and users can view their license status, expirations, appointments, company information and Continuing Education courses and providers.
- A single ID and password is used to complete license, administration and education provider functions. The old system had 3 classifications that were not integrated.
- The report generator allows users access to lists and more in-depth information.

Member Yurcic asked about converting state licensing numbers to National Producer Numbers (NPN).

Supt. Franchini explained the use of the single ID number is an evolutionary process and conversion

would happen next year, if not sooner.

### **Health Policy and Consumer Education Bureau (HPCEB)**

- HB313 did not pass last year. The Bill addressed out-of-network emergency care and out-of-network care accessed unknowingly at in-network facilities. The bill created a process for carriers and providers for the resolution of disputes on payments for surprise bills through an arbitration process. Carriers would be required to disclose information about services/procedures in advance of service.
- OSI was asked by providers, advocates and insurance companies for guidance in creating a standardized reimbursement rate. PPO policies have more freedom than HMOs out of state and the PPO policy holders/members wanted to correct the issue of surprise billing.
- OSI will hold an Additional Stakeholder Input meeting July 27 for carriers, providers, advocates, agents, brokers and policymakers to discuss reimbursement rates.
- A Surprise Billing Survey sent out indicated the following preliminary results:
  - ...48% reported receiving a medical bill that paid less than they thought or not at all.
  - ...Of those reporting a surprise bill, 21% received the bill from a doctor they did not expect; 10% received bills from multiple providers; 12% were charged the out-of-network rate in what they believed to be in-network.
  - ...66 % said they took action to resolve the billing issue and of the 31% who did not, 44% thought it would not make any difference.
  - ...48% of respondents who referenced their health insurance plan documents for information found them not to be helpful.
  - ...30% of respondents with billing issues said they were resolved but not to their satisfaction and for 25%, the problem was not resolved at all.
  - ...23% reported online provider directories were difficult to use; 73% assume doctors at an in-network hospital are in-network; 96% thought patients should be notified if doctors/technicians performing procedures at the hospital are out-of-network.

Vice-Chair Taylor asked if OSI has a direct relationship to fix the out-of-network problem.

Supt. Franchini explained OSI works with the insurance and medical industries to develop a solution and New Mexico has a better track record than most states.

Member Hawkes asked if the OSI has a liaison who meets with in-network/out-of-network providers and insurance health plan providers to document and resolve issues.

Supt. Franchini said OSI has been thrust into the role of mediator, but the out-of-state corporations do not want a contract. Charges for the same procedure by the same doctor can vary greatly depending on whether in-network or out-of-network.

Member Yurcic said part of the problem is i.e., a surgeon refers his patient to another doctor and the patient in good faith acts on that referral and the referral is to an out-of-network provider. He asked if legislation would standardize the contracts.

Supt. Franchini thought legislation would demand transparency and public awareness before a person gets into out-of-network. People do not want to be out-of-network and the medical and insurance community needs to drive that openness and transparency.

Member Yurcic pointed out that the consumer is still the victim and is in the middle of treatment before they realize they are out-of-network.

Supt. Franchini said OSI is trying to find a fair and transparent way to do this and transparency alone will help. They are moving forward with the issue because so many people and the industries favored the bill and were upset when the bill did not pass.

### **Insurance Enforcement Division**

Supt. Franchini reported there are now 4 different bureaus: Investigation; Insurance Fraud; Consumer Assistance and Managed Healthcare.

- The Managed Health Care and the Life and Health Bureau have been put together because they share HIPAA regulations that are different than the civil and criminal laws.
- The Auto Theft Task Force was started this year because the 2016 National Insurance Crime Bureau rated Albuquerque #1 in the nation for auto theft per capita. The task force is multi-jurisdictional, which has never been done before and meetings are quarterly. In addition, they work with Partners at the Second Judicial District Attorney's Office.
- A joint press conference in July will announce the joint venture and plans to combat the crime. Their goal is to raise awareness of the impact of auto theft on automobile insurance rates and increase prosecutions. Community outreach in 2017/2018 includes schools.
- The Bureau has 84 cases; 22 insurance fraud, 9 indictments and 4 cases going to the Grand Jury.

### **Premium Tax Audit Update**

Supt. Franchini explained that he knew there was a problem and requested an audit in 2013 and the request was updated to include a legal review. The audit was completed in 2015, but was a legal review and not an audit and used information from an aging software system. The audit highlighted areas of concern and called attention to how premium taxes are calculated and collected.

OSI was told there were \$193 million of uncollected taxes from 5 healthcare companies with possibly another \$400 million uncollected from other types of insurance. An RFP was sent out for an independent auditor because of that and is currently in progress and should be completed by September 30, 2017. The members should know the amounts owed by the next meeting. A review and outline of how to collect the premium taxes and the information on the statutes will all be on the website.

Vice-Chair Taylor suggested moving to the selection of Chair before quorum was lost.

### **3. COMMITTEE CHAIR SELECTION – Vice Chairman Thomas Taylor**

## **A. Requirements for the Chair position**

Vice-Chair Taylor explained the purpose of the Committee is the selection of a Superintendent of Insurance and the OSI is charged with the selection of a Chairperson by state statute. This is not a state paid position and does not fall under the same rules and regulations or call for confidential conversations and a closed session.

The position of Chair requires the person be a former superintendent of insurance or have extensive experience. Today the Committee will conduct conversations with candidates that will be transcribed and provided to Committee members, who can then re-organize and make a selection. The Committee has received the resumes of the candidates.

## **B. Introduction of Candidates**

## **C. Presentation by Candidates and interviews**

Mr. Eduardo Budnauro came forward. He said his background is primarily in executive training and overseeing the organizational design for insurance. He became involved in insurance while doing business consulting in the U.S., Canada and South America. He is currently with AAA with a focus on life and personal auto and home insurance.

He found the issues of insurance fascinating and a challenge and thought it time to contribute.

Vice-Chair Taylor explained that the Committee is unusual in that they have no oversight apart from insurance. Their only task is to come up with an apolitical way to select a Superintendent of Insurance. The legislation set a high standard for the Superintendent position, which has several responsibilities at OSI. The concept is for the Chair to be versed in all of those to help with the process of the selection.

Mr. Budnauro said he understood. He had a good idea of the challenges the Superintendent faces having been on the front line of both the consumer and the business side.

Member Yurcic asked if Mr. Budnauro has dealt with the Superintendent's Office during his tenure.

Mr. Budnauro replied he has. He is required by his office to write up the circumstances and provide the contractual policy provisions when the office receives a consumer complaint. The office also has their own General Counsel and first and foremost must be able to answer questions.

Member Yurcic asked if his experience was mostly through resolution.

Mr. Budnauro said it was, through individuals in the office. He was fortunate that the Santa Fe office has not had any real issues and only gets two or three a year.

Member Yurcic asked if Mr. Budnauro had family members in insurance.

Mr. Budnauro replied he did not.

Vice-Chair Taylor thanked Mr. Budnauro.

It was noted that the next candidate, James Pendergrass was not present.

Mr. R.E. Thompson was invited to come forward.

Mr. Thompson shared that his father was in insurance long ago and he became involved in insurance defense work representing a lot of insurance companies. He was elected to the New Mexico State Senate for two terms and served on the Senate State Finance Judiciary Committee and heard insurance issues.

President Carter appointed him the State Attorney for New Mexico. He is with Modrall Sperling Law Firm where he has been for 35 years doing insurance work for various companies. He briefly described his other experience in the insurance industry and indicated that he was also a lobbyist for 30 years for the legislature.

Member Yurcic asked why he wanted to be in the Committee Chair position.

Mr. Thompson replied he has made a lot of connections with the Department of Insurance over the years and has been interested in who will become superintendent. This is an opportunity to help shape the industry in the future.

Member Yurcic asked if he had interacted with the Superintendent's Office and if so, in what way.

Mr. Thompson replied that he has, including doing rate work for the Superintendent's Office/

Member Kinyon acknowledged Mr. Thompson's extensive background.

Vice-Chair Taylor thanked Mr. Thompson for sharing his background and experience.

#### **D. Selection of Chairperson by motion**

Vice-Chair Taylor said the Committee could make the appointment by a motion or take time to think about the selection.

**Member Kinyon moved to accept R. E. Thompson for the position of Chair of the Nominating Committee of the Office of the Superintendent of Insurance. Member Hawkes seconded the motion, which passed by unanimous voice vote.**

Vice-Chair Taylor congratulated Mr. Thompson. He asked if the new chairman would like to take his

position and continue the meeting.

Mr. Thompson thanked the Committee and yielded to Vice-Chair Taylor to continue as chair.

Vice-Chair Taylor asked Supt. Franchini to continue his report.

### **Technology Revisions**

Supt. Franchini continued with an update on Technology Revisions:

- The Health Insurance Rate Review website is a standalone site and can be difficult to navigate. The site provides details on health insurance plans, rate requests, the proposed summary of benefits and a platform for public comment.
- The site will be revised and incorporated into the OSI rate site to increase transparency, allowing consumers to transition from rate review to any of the OSI sites.
- The provider directory tool will allow consumers to search health insurance provider networks on the exchange and serves as an added resource when comparison shopping networks.

*Member Romero left the meeting at 11:35 a.m. A quorum was maintained with the addition of the new chair.*

- Companies asked to transfer information to the OSI site to have all the information in one place. Google maps technology will provide users the ability to search for a particular provider, look up zip codes and receive maps and driving instructions even on their phone. A demonstration of the technology should be available by the next meeting.
- New Mexico will adopt the Health Plan Comparison Tool which has been used successfully in many states, to be as similar as possible to other state programs.

### **Year-end Overview and Preparing for Next Year**

Supt. Franchini said he had asked for an in-depth audit because there were 7 findings the previous year and the State Auditor agreed. The audit cost \$80,000 and there were 31 findings which he sees as a way to make the agency better and to better protect the public.

Management responses have been implemented and 20 findings have been completed and 7 are in progress. In 4 findings, the OSI and the auditor are working on differences in interpretation of statute.

Supt. Franchini cautioned the Committee not to be upset if the 31 findings are shown as not completed, because the auditors must allow a year.

Several status meetings were conducted to ensure the findings were addressed and the agency has a new handbook approved by SPO.

- The internal protocols have been implemented and documented and a preemptive conference is scheduled for late July. Work is being done on communications and streamlining the processes,

incorporating tracking, subscription databases and analytics.

- Social media presence to Facebook will be increased per public request.
- A Crisis Management Team has been set up and a Public Affairs Officer and there will be an increase in proactive statements to be more consistent and timely with media responses.

Member Yurcic was happy they were not reinventing the wheel regarding comparison tools and using something tried-and-true in other places. He asked about the reports from the health insurance carriers that requested rates from 25 – 85 percent.

Supt. Franchini explained the 85% rate was done by New Mexico Health Connection and was not well thought out. The basis was that subsidies and tax credits would be eliminated but that was not the case. It is being reviewed and the rates will run between 6 and 20 percent. He reminded members that New Mexico is 3<sup>rd</sup> most reasonable in exchange costs behind Utah and Arizona. Companies have found they can make a profit in rural areas and have expanded services.

He added that OSI is cognizant of the uncertainty and financial crises in the insurance industry and are working to ensure that companies in the State are profitable.

Mr. Thompson asked why New Mexico has had such success.

Supt. Franchini explained the Lovelace brothers made a deal with the Air Force in the 1950's and started with an HMO and that was so successful it spread across the State. So, New Mexico has had a managed health care system since the 1950s.

#### **4. BUSINESS FROM THE FLOOR**

The representative from the State Auditor's Office clarified that the audit was required by law and was standard. There were 31 findings in which OSI is encouraged to follow up with corrective actions. Putting that into perspective, other than the Public Education Department, this was the highest number of findings of any agency statewide. As previously stated, any progress before June 30 would not be reflected until the next audit.

He stressed the importance of having a roadmap to cross findings off the list and encouraged the Committee to follow up and ensure that happens.

Secondly, the Premium Tax Audit is ongoing. The State Auditor got involved because the process had not moved forward after the initial audit, which basically had been a health checkup to look at whether the processes worked or not. There were definitely some underpayments of premium taxes.

They are now looking at specific companies and what they owe. The audit is due September 30, 2017 and will cover about 90% of the health market. The State will have not only the calculation that can be used for assessment, but tools to ensure the formulas, etc. are correct, moving forward.

Lastly, the State requested that OSI call any extraordinary dividend payments until the audit is completed. Although the risk ratios may be okay, the State feels it judicious and appropriate not to pay out millions of dollars to parent companies until the audit is settled.

Chair Thompson asked if all of that would be sent in the State's report.

The auditor replied they will provide that when the Premium Tax Audit has been completed and they will continue to keep the Committee informed.

Vice-Chair Taylor asked what the legal obligation on dividends is regarding time to occur.

The State Auditor explained that the State was not saying they were paid out improperly or in violation, but considering the status of the audit, just asked OSI to put payments on hold. In terms of OSI approving the extraordinary dividends, it is a discretionary act and he is not aware of any timeline associated with that.

#### **5. CALENDAR NEXT MEETING – Vice Chairman Thomas Taylor**

There was no meeting set at this time.

#### **6. ADJOURNMENT**

The Committee adjourned at 12:07 p.m.