

MINUTES OF MEETING
OF THE INDUSTRIAL COMMISSION OF ARIZONA
Held at 800 West Washington Street
Conference Room 308
Phoenix, Arizona 85007
Monday, July 1, 2019 – 1:00 p.m.

Present:	Dale L. Schultz	Chairman
	Scott P. LeMarr	Commissioner (Telephonic)
	Steven J. Krenzel	Commissioner
	James Ashley	Director
	Jason M Porter	Deputy Director / General Counsel
	Gaetano Testini	Chief Legal Counsel
	Jacqueline Kurth	Medical Resource Manager
	Trevor Laky	Legislative Affairs Chief / Public Information Officer
	Renee Pastor	Self Insurance
	Yvonne Borunda	Legal Division
	Kara Dimas	Commission Secretary

Chairman Schultz convened the meeting at 1:00 p.m.

Public Hearing regarding the 2019-2020 Arizona Physicians' and Pharmaceutical Fee Schedule established under A.R.S. § 23-908(B).

Chairman Schultz welcomed interested parties to the public hearing and noted the public hearing gives stakeholders an opportunity to comment on staff proposals regarding the 2019/2020 Arizona Physicians' and Pharmaceutical Fee Schedule and the recommendations for changes to the Fee Schedule. He discussed that Senate Bill 1111 in 2018 led to a directive that the Industrial Commission study and address medications dispensed in settings that are not accessible to the general public in the Commission's fee schedule by reviewing information and data, consulting with physician, employee, business and industry stakeholders and holding at least one public hearing to determine whether to adopt additional reimbursement guidelines.

The following attendees addressed the Commission during the Public Hearing: Gale Vogler (CopperPoint); Representative Regina Cobb; Representative Aaron Lieberman; Representative Raquel Teran; Brian Carmichael (City of Surprise); Chris Garland (Integrion Group); Dawn Chambers (AZ School Alliance and ASIA); Susan Strickler (ACID); Russell D. Smoldon (Arizona Self-Insurers Association "ASIA"); Dr. Jeffery Scott (self); Brian Allen (Mitchell International); Tami Creegan (Summit); Todd Delano (ServRx); Chad Snow (Snow, Carpio & Weekley); Kathy Senseman (ServRx); Breck L. Rice (ServRx); Lisa Anna Bickford (Coventry/Aetna); Greg Gilbert (Concentra); Jeremy Merz (American Property Casualty Insurance Association); Beth Rau (Fry's Food Stores and ASIA); Dr. Sanjay Patel (self); Stephen Bokowsky, M.D. (pain medicine physician/Assistant Clinical Professor UofA College of Medicine); Deb Baker (Valley Schools); Jason Barraza (Cigna); and on the phone Bryan Conner (American Airlines); Christine Lawson (Willis Towers Watson); Patti Colwell (Southwest Airlines); and Charles Nort (Nevada Alternative Solutions).

At the conclusion of the testimony, Mr. Ashley noted that, as outlined in the June 3, 2019 Notice of Public Hearing, the record will remain open for public comment until the close of business

on July 8, 2019. Comments received by the Commission will be placed on the Commission's website, including the transcript from today.

A written transcript of the Public Hearing is attached hereto.

Chairman Schultz temporarily recessed the meeting at 3:05 p.m.

The meeting reconvened at 3:15 p.m. in the Auditorium. Also present for the Agenda portion of the meeting was Scot Butler (Undisclosed).

Approval of Minutes of June 6, 2019 Regular Meeting and June 13, 2019 Regular Meeting.

Commissioner Krenzle moved to approve the Minutes of the June 6, 2019 regular session meeting and Commissioner LeMarr seconded the motion. Chairman Schultz, Commissioner LeMarr and Commissioner Krenzle voted in favor of the motion. The motion passed.

Commissioner LeMarr moved to approve the Minutes of the June 13, 2019 regular session meeting and Commissioner Krenzle seconded the motion. Chairman Schultz, Commissioner LeMarr and Commissioner Krenzle voted in favor of the motion. The motion passed.

Consent Agenda:

All items following under this agenda item are consent matters and will be considered by a single motion with no discussion unless a Commissioner asks to remove an item on the consent agenda to be discussed and voted on separately. The Commission may move into Executive Session under A.R.S. § 38-431.03(A)(2) to discuss records exempt by law from public inspection. Legal action involving a final vote or decision shall not be taken in Executive Session. If such action is required, then it will be taken in General Session.

a. Approval of Proposed Civil Penalties Against Uninsured Employers.

1. 2C-18/19-0745 Flying Eagle Framing LLC
2. 2C-18/19-0744 Ignacio Ramirez dba Ramirez Auto Repair

b. Approval of Requests for Renewal of Self-Insurance Authority.

1. Arizona Municipal Risk Retention Pool
2. Banner Health
3. Central Arizona Water Conservation District dba Central Arizona Project
4. Chevron U.S.A., Inc.
5. Hyatt Corporation
6. Kiewit Corporation
7. Knight Transportation, Inc.
8. Learjet, Inc.
9. Purcell Tire & Rubber Company
10. Scottsdale Healthcare Hospitals dba HonorHealth
11. Young Electric Sign Company

Commissioner Krenzel moved to approve the items on the Consent Agenda and Commissioner LeMarr seconded the motion. Chairman Schultz, Commissioner LeMarr and Commissioner Krenzel voted in favor of the motion. The motion passed.

Announcements, Scheduling of Future Meetings and Retirement Resolutions.

Mr. Ashley noted he spoke with Doug Kalinowski, Directorate of Cooperative and State Programs with Federal OSHA. Mr. Kalinowski stated that the Federal Register regarding 29 CFR 1926, Subpart M will be updated soon to reflect Arizona's successful implementation of the standard.

Mr. Ashley discussed the upcoming stakeholder outreach plans to Florence in September and Douglas in October. Ms. Dimas confirmed Commission meeting dates through August 2019.

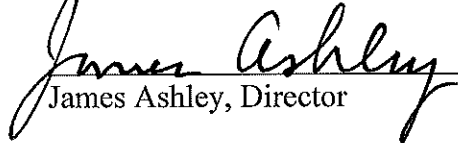
Public Comment.

There was no public comment.

Commissioner Krenzel moved to adjourn and Commissioner LeMarr seconded the motion. Chairman Schultz, Commissioner LeMarr and Commissioner Krenzel voted in favor of the motion and the meeting was adjourned at 3:22 p.m.

THE INDUSTRIAL COMMISSION OF ARIZONA

By


James Ashley, Director

ATTEST:


Kara Dimas, Commission Secretary

INDUSTRIAL COMMISSION OF ARIZONA

REPORTER'S TRANSCRIPT OF PROCEEDINGS

Staff Proposal and Request for Public Comment for 2019/2020

Arizona Physicians' and Pharmaceutical Fee Schedule

Industrial Commission of Arizona
800 West Washington Street
Auditorium
Phoenix, Arizona

July 1, 2019
1:00 p.m.

REPORTED BY:

TERESA A. WATSON, RMR
Certified Reporter
Certificate No. 50876

PREPARED FOR:
INDUSTRIAL COMMISSION OF ARIZONA

Perfecta Reporting
(602) 421-3602

1 REPORTER'S TRANSCRIPT OF OPENING REMARKS AND PUBLIC
2 HEARING COMMENTS, 2019/2020 ARIZONA PHYSICIANS' AND
3 PHARMACEUTICAL FEE SCHEDULE, was reported by TERESA A. WATSON,
4 Registered Merit Reporter and a Certified Reporter in and for
5 the State of Arizona.

6
7 PANEL MEMBERS:

8 Dale L. Schultz, Chairman
9 Steven J. Krenzel, Commissioner
10 James Ashley, Director
11 Jacqueline Kurth, Medical Resource Office
12 Jason Porter, Deputy Director
13 Gaetano Testini, Chief Legal Counsel
14 Scott LeMarr, Commissioner (by telephone)

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2
3 CHAIRMAN SCHULTZ: Okay. I'd like to call this
4 meeting of the Industrial Commission to order, and I'd like to
5 start with the Pledge of Allegiance, please.

6 (Pledge of Allegiance recited.)

7 CHAIRMAN SCHULTZ: And also that everyone has an
8 opportunity to know those here on the dais. I'm Dale Schultz,
9 and I'm Chairman of the Commission.

10 MR. ASHLEY: James Ashley, Director.

11 MR. KRENZEL: Steve Krenzel, Commissioner.

12 MS. KURTH: Jacqueline Kurth, Manager of the
13 Medical Resource Office.

14 MR. PORTER: Jason Porter, Deputy Director.

15 MR. TESTINI: Guy Testini, Chief Legal Counsel.

16 CHAIRMAN SCHULTZ: And on the phone -- if it's
17 all right with everyone, I'll just read the list. We have
18 another of our commissioners, Scott LaMarr.

19 We have Bryan Conner representing American
20 Airlines. We have Christine Lawson representing Willis Towers
21 Watson. We have Deborah Lefler from the Integrion Group. Jim
22 Gill, Southwest Risk. Allie Matthews, City of Tucson. Frances
23 Bracamonte, City of Tucson. Wendy Mueller, Mesa Unified School
24 District. Paul Murray, Bashas'. Raji Chadarevian, who is
25 representing the National Council on Compensation Insurance.

1 Sharon Hulbert from Zenith Insurance Company. Tom Coccia from
2 AHCS. James Gill from City of Scottsdale. Kristie Griffin from
3 Express Scripts.

4 Is there anyone else on the phone that I have
5 missed?

6 MS. COLWELL: Yes. This is Patti Colwell from
7 Southwest Airlines.

8 CHAIRMAN SCHULTZ: Thank you, Patti.

9 Okay. We are here today to discuss a very
10 important issue, and I would like to begin by setting the stage
11 as to why we are here. And I will tell you that we're not here
12 because this is something that the Industrial Commission decided
13 that it wanted to do. In fact, in 2018, Senate Bill 1111 was
14 introduced by Senator Karen Fann. The bill was introduced
15 proposed to create a new statute which would establish
16 reimbursement guidelines for medications dispensed in
17 closed-door pharmacy, not public pharmacy.

18 Although the Commission was not involved in SB
19 1111 stakeholder discussions, it was and is our understanding
20 that the stakeholder discussions resulted in an agreement to
21 remove the proposed statutory language and replace it with a
22 directive that the Industrial Commission study and address the
23 issue.

24 In addition to unambiguous statutory authority to
25 address the issue of medications dispensed in settings that are

1 not accessible to the general public, in the Commission's fee
2 schedule, the revised bill required the Commission to also
3 review information and data, consult with physician, employee,
4 business and industry stakeholders and to hold at least one
5 public hearing in considering whether to adopt additional
6 reimbursement guidelines.

7 The legislative directive did not include any
8 guidance or limitations apart from the above language. So we
9 got to work. We scheduled and held over 20 stakeholder meetings
10 with physicians. I see several of you that we met with
11 individually. Employee, business and industry leaders. We've
12 conducted a public hearing and received substantial written and
13 verbal input in August of 2018. Almost a year ago we started
14 working on this issue. Written comments and a transcript of the
15 hearing were promptly posted to the Medical Resource Office page
16 of the Commission's website. Very public.

17 As other states have been wrestling with
18 dispensing issues for many years, we studied what more than 20
19 other states have done and sought to understand the impact of
20 their reforms, and reviewed and studied all data and information
21 regarding the issue we could find. And you may recall, those of
22 you who were here at that August 2018 hearing, I specifically
23 asked for everyone to provide the Commission with additional
24 data, additional facts that would help us in determining what
25 our course of action would be.

1 In all of the information that we have reviewed,
2 we have come to the determination that there is abuse when it
3 comes to dispensing of medications, particularly in cases of
4 physician dispensing, and dispensing of repackaged compound or
5 non-traditional strength medications.

6 We also learned that it was our fee schedule that
7 was technically allowing the abuse. To illustrate the problem,
8 let me give you two examples. These examples are only intended
9 to highlight what we saw on a much larger scale.

10 So there are widely available generic and
11 over-the-counter medications that provide relief that we can --
12 that either patients on their own or physicians on their behalf
13 can direct those patients to obtain. Instead, what we find is
14 that physicians instead dispense much more expensive medications
15 that are prescription-only medications at a dramatically higher
16 cost than what was available over the counter or available in
17 pharmacies that are open to the general public.

18 Now, when you look at these -- these on an
19 individual basis, the amount per prescription is important, but
20 what astounded us at the Commission is when you look at that,
21 the amount of these medications that were prescribed over a
22 duration of treatment, the numbers become truly astounding and
23 astronomical, as in this particular example.

24 Another abuse that we found is looking at
25 individual medications. And this example is -- is actually just

1 the dealing with a medication that's an anti-nausea or anti-
2 vomiting medication that's very, very readily available through
3 any pharmacy, and what we found was that the average wholesale
4 acquisition cost.

5 And you can argue whether you buy in large lots
6 if it's lower or higher. But when you can buy a medication for,
7 in this case, at 19 cents, and the average wholesale price has
8 been -- has been manipulated to \$40 per pill -- this is \$40 for
9 each and every pill -- it just becomes -- so even if the
10 acquisition cost was not 19 cents. What if it was a dollar?
11 What if it's \$2? What if it was \$5? Still in comparison to the
12 prescribed and dispensed cost of \$40, it's unconscionable. And
13 when you look at that, once again, over the treatment period,
14 the dollars become just absolutely astounding.

15 This just reinforced the Commission's desire to
16 try and find some ways to establish reimbursement guidelines.
17 This is not about prohibiting the dispensing of medications by
18 physicians. It's not about controlling that, other than to make
19 sure that where we can, that the reimbursement guidelines
20 control the cost.

21 And why do we want to do that? This is why we
22 want to do that. Arizona is significantly above the national
23 average in our medical care cost for the treatment of industrial
24 injuries. That's true on a per-case basis, and it's true in the
25 aggregate.

1 Now, that by itself is not a significant issue.
2 What is of concern is that the costs are that much higher, but
3 the outcomes are not better. I think we would all agree that
4 if somehow spending more on medical costs reduced the amount
5 that is spent on indemnity, and actually, even more important
6 than that, if it returned people to work sooner, if it
7 relieved the burden of injuries from the families of these
8 injured workers, it would be well worth the investment of
9 additional dollars in medical care, but that is not the case.

10 In everything that we see in comparing our
11 medical costs, in our indemnity costs to others, guess what?
12 Our medical costs are higher. Our results are no different.
13 And in fact, when we compare our results to the national
14 compensation insurance statistics that are published on an
15 annual basis, our average cost per claim where there is
16 physician-dispensed medications is 30 to 70 percent higher
17 than costs where those medications or that -- the medications
18 are paying by the patient through a public pharmacy.

19 Now, once again, not any one of these issues is
20 that -- such that we felt like we needed to address that
21 individual issue. I want you all to understand that the
22 Commission tries to look at the entire system of providing
23 benefits, to look at not only that, yes, the cost to
24 employers, the cost of insurance, but we look to outcome.

25 This Commission is seriously focused on trying

1 to, number one, reduce the number of injuries in the state,
2 which has happened. We're in our fifth year of declining
3 injury rates. That's good. That's so many fewer, and we're
4 talking about thousands each year of Arizona families that are
5 not impacted by industrial injuries. This is key. This is
6 the root cause.

7 But we also looked at -- looked to the entire
8 system, and we looked for ways to find to improve the system, to
9 find things that aren't working, to find areas of abuse and see
10 if we cannot find ways to address those issues. And so who pays
11 when this stuff happens? Well, guess what? We all pay. And
12 how is it we all pay? Well, we have the direct payors.

13 The schools, who then have less money to spend on
14 what? What do we all want? We want better education. We want
15 higher teacher salaries. We want computers in every classroom.
16 We want the best available supplies and people teaching our
17 children, because guess what? That's our future. I'm really
18 old, you know. I'm facing my mortality every day. I want to
19 know that there's people who have been properly educated.
20 They're going to follow on behind, and one way we can do that is
21 to try and make sure that those education dollars are spent
22 wisely. They're not wasted on things that don't produce any
23 outcome.

24 Same thing, county, city, towns, the State of
25 Arizona, we have numerous examples of what this dispensing issue

1 has cost the State of Arizona. And guess who pays for that?
2 Once again, every one of us in this room, presuming that we're
3 all residents, end up paying higher taxes because of abuses in
4 this system.

5 We have our own particular issues at the
6 Industrial Commission, because we operate the Special Fund. And
7 what's the Special Fund do? It provides care for injured
8 workers where the employer has not provided workers'
9 compensation insurance for that injured worker. So we assume
10 that responsibility, and so this once again takes additional
11 dollars away from what the Special Fund can do in terms of
12 second injury claims and rehabilitation claims, that this abuse
13 is felt in many, many areas and every day. This is not just
14 about something that happens occasionally. It's about something
15 that's consistent.

16 And let's talk a little bit about then what's it
17 mean to the injured worker? As I said before, if we got better
18 outcomes, I would say it's worth the -- I'd consider it an
19 investment. It's worth the additional expenditures if, in fact,
20 it had a significantly better impact in terms of our treatment
21 of our injured workers. But guess what? That's not what's
22 happening. The average amount of lost claim time, lost time,
23 the time people are away from work is 64 days, if, in fact, they
24 -- that injured worker received their medication from a
25 pharmacy.

1 When that same -- well, I shouldn't say the same
2 injured worker, because they don't get it from the same place,
3 but other injured workers who receive physician-dispensed
4 medications, the average duration of disability was 85 days.
5 Think about that difference. Twenty days. Two-thirds of a
6 month difference in the duration of disability. And once again,
7 the cost impact is significantly higher, both for medical costs
8 and for indemnity costs, which, of course, result from the
9 duration of the disability.

10 I want to refer you to one of the studies.
11 It's just one of the many studies that the Commission has
12 reviewed in looking at this issue. And this is from the
13 American College of Occupational and Environmental Medicine from
14 2014. This was a peer-reviewed study. This isn't something
15 that came from one person or one state, and that's the kind of
16 thing we're looking for.

17 As I've said before in these public hearings,
18 it's important for us to hear stories. It's more important
19 for us to get data, and for that data to provide us with
20 information that can lead us to decisions, and this is the
21 kind of studies that we look to. And in this case, we found
22 that claims where physician-dispensed medications were
23 associated with a higher number of prescriptions, higher
24 pharmaceutical medical indemnity costs, and more lost time days
25 than claims where medications were dispensed by pharmacies. The

1 impact on the claim outcomes between pharmacy-dispensed and
2 physician-dispensed drugs was not explained by injury,
3 complexity, age, sex, or attorney involvement, but rather seems
4 to be an inherent attribute of physician practices that dispense
5 medication.

6 I don't know that you all know that my
7 background is in health care. That's how I spent my entire
8 career. In particular, I spent much of that career working
9 with evidence-based medicine, reviewing, reviewing before
10 making decisions. What is the evidence before you're going to
11 decide if you're going to change a way a patient is treated?
12 And giving credibility, the most credibility to those studies
13 that involve double-blinded studies, but also very -- we
14 looked very much to peer-reviewed studies, where, in fact, it
15 wasn't just somebody's opinion. It was data that resulted in
16 conclusions that were reviewed by a range of folks,
17 knowledgeable in the same area, and it was determined that, in
18 fact, there was value to the information in that report.
19 That's why we look to those kinds of studies for our
20 direction.

21 Now, over the course of our study, we have
22 received significant amount of feedback, and I just wanted to
23 share with you a little bit of what we have heard from the
24 community. And I call this myths and facts. Myth: "Insurance
25 companies are trying to go behind the backs of your elected

1 officials by getting the Industrial Commission to go along with
2 them."

3 Truth: The Legislature specifically directed
4 the Commission to consider dispensing issues in SB 1111 and
5 specifically authorized the Commission to do so in its fee
6 schedule. Insurance companies were no more involved in the
7 Commission's process than any other stakeholder.

8 And I was present in many of the stakeholder
9 meetings, and so I know how many we spent with insurance
10 companies, and I know how many we spent with physicians and
11 attorneys who treat or represent injured workers. And I will
12 tell you the Commission always tries to maintain a balance.
13 We want information from all sources, and we try and use that
14 information from different sources to achieve the best
15 outcome.

16 But we are focused on what's the best outcome
17 for the injured worker. We don't get a thing out of this.
18 Not one thing comes to the Industrial Commission from our
19 addressing these issues. It doesn't lower our operating
20 expense. It doesn't give us more control over anything. We're
21 doing this because we want to improve the system, pure and
22 simple. That's the bottom line.

23 We want people to not be injured, but if they
24 are, we want them to get the appropriate treatment at the right
25 time and to get back to work as quickly as possible. Because I

1 will tell you one thing the Commission does truly believe in and
2 support, and that's the governor's desire for Arizona to be the
3 safest place in the United States, to work, live and recreate,
4 and we are here to try and do what we can to foster that.

5 "The ICA is seeking to interfere with the
6 doctor-patient relationship and limit access to care." Need I
7 remind you all that Arizona is one of the very few states that
8 provides open access to care. Unlimited right to reopen cases.
9 We are as open as -- as any jurisdiction I have ever seen, and
10 with prior employers, I was involved in companies that work
11 coast to coast, and so I'm familiar with a lot of different
12 systems, and what we have is a very, very, very open system
13 here.

14 The proposed guidelines do not interfere with an
15 injured worker's ability to obtain necessary medications and do
16 not limit access to care. Patient access to physicians and
17 medications is unchanged with our proposed reimbursement
18 guidelines.

19 "The ICA's proposals will make it more difficult
20 to receive medication." Really? In addition to reputable
21 internet and mail order pharmacies, which by the way, I use mail
22 order pharmacy in addition to retail pharmacies for me and my
23 family virtually every day. There are over 1,200 retail
24 pharmacies in Arizona. Any of which can quickly and safely fill
25 a prescription. When I say "safely," I will tell you that there

1 are very, very, very, very strict regulations on pharmacies, and
2 in fact, pharmacists, I believe, do a very good job at not just
3 dispensing the medication that the prescription before them says
4 they are to dispense, but also to asking us all the questions
5 that are important. What other medications? What other
6 supplements are we taking? To look for potential drug/drug
7 interactions or adverse reactions and to inform you as the
8 patient or the family of what those potentially are. An
9 incredible safety net.

10 Moreover, physicians may be reimbursed for
11 dispensed medications for any duration when authorized by the
12 payor. So we're not trying to interfere with -- also with the
13 business relationship between the physician and the payors.
14 You're free to reach agreements in any manner that you want.

15 "The ICA's proposal is an outrageous secret
16 plan." Need I remind you once again, how secret can you be when
17 you post all this crap on the website, and you have meetings
18 with anybody who will stand still for five minutes and listen to
19 you? It's not secret. It's not ever intended to be secret, but
20 we -- we actually are just -- not only are we conscientious of,
21 but we adhere very strongly to public meeting rules. That's why
22 we're here today.

23 The Commission is about transparency in
24 everything that we do, in our rate setting, in our rules, our
25 regulations, and in what we do in terms of our reimbursement

1 guidelines under the fee schedule. No matter what the issue is
2 that we are addressing here, whether it was evidence-based
3 medicine, whether it was full and final settlements, whether it
4 was moving to an RBRVS to make our system more efficient for
5 physicians. We do all this in the open with as much input as we
6 can possibly obtain.

7 Next. "Requires your doctor to receive
8 pre-approval in writing from the insurance carrier for
9 medication." Pre-approval? We all know that's not true.
10 There's no requirement for any treatment or any dispensing of
11 any medication to get pre-approval. If there's ever any
12 issues, it's about being paid for. It's not about whether or
13 not you can perform the service. And so that's just
14 absolutely not true.

15 "The proposed guidelines require prescriptions to
16 be mail order." There's no -- there's nothing in there. If
17 you've read this, it doesn't require that. What it says is
18 guess what? You Can. You can use mail order services, and
19 these days, you know, with most of the mail order pharmacies,
20 two days. I don't care if you're at the bottom of the Grand
21 Canyon. You can get your prescriptions delivered to your
22 house directly. And so it doesn't require that. It offers it
23 as a way to efficiently obtain your medications.

24 So I have rambled on long enough, and so I just
25 felt like I had to get that off my chest, folks. This stuff is

1 very important to me. We as a Commission are trying really hard
2 to get all the information we can before we make any decision,
3 and that's what this is about. There have been no decisions
4 made. This is a public hearing. And what's the purpose of the
5 public hearing? It's to get additional input and information in
6 addition to our prior public hearing and our multitude of
7 meetings with various stakeholders. We want more.

8 This is an important decision that we have spent
9 over a year already studying, and we want to make sure and make
10 a decision, we make a good, solid, well-founded decision. And
11 so I'm now going to open the floor up for comments from
12 speakers. But I want you all to remember also that we expect
13 you to provide us with written comments, and once again, what we
14 most need is supporting data. If you have a position, give us
15 the information that supports that position. We're open to any
16 and all information, and we work hard at studying that
17 information.

18 Beyond that, if you have constructive ideas,
19 constructive ideas about how we can address this issue, we
20 would love to see what those ideas are. Understand we've
21 looked at the range of -- there's a half a dozen states that
22 have just decided to prohibit, entirely prohibit, physician
23 dispensing. We don't believe that's the answer. What we
24 believe is that we should look at it, take constructive ideas
25 and implement a set of reimbursement guidelines that will

1 improve our system overall. That's our intent.

2 And with that, I will open the floor. Now,
3 because we have just -- we have a stack here of quite a number
4 of folks who have indicated they want to address the
5 Commission, and we want to give everyone an opportunity to do
6 that. So I would ask a couple of things. We would like you
7 to try and limit your comments to three minutes. Based upon
8 the number of requests we have, we should be out of here
9 somewhere around nine o'clock tonight.

10 The other thing that I would very much like is
11 that if the person before you, whether directly before you or
12 just someone has already said what you want to say, please
13 just tell us you agree with them. But if you can add data to
14 support what they said, that's what we -- the additional
15 information that we want to hear. So please, if you could, if
16 you would keep your comments to three minutes. And the big
17 guy's going to be timing you, and so you don't want him to
18 have to come down into the audience.

19 MR. PORTER: He's the big guy.

20 CHAIRMAN SCHULTZ: And so please, if you will, if
21 you don't have anything new to add, just agree with whatever you
22 have heard before.

23 And now, we've had one request for a PowerPoint,
24 and so -- and by the way, we've also had an additional request
25 from two of our representatives, two of our legislators who

1 would like to address the group. So if you would indulge me, if
2 I could get that PowerPoint out of the way, and then we'll be
3 ready to roll into the comments.

4 MR. ASHLEY: Mr. Chairman, actually, in the
5 course of the meeting, a third representative joined us,
6 Representative Teran. If you would like to join the other two
7 representatives that are here, we can accommodate that as
8 well.

9 REPRESENTATIVE TERAN: That's fine.

10 CHAIRMAN SCHULTZ: All right. So Copperpoint.

11 MR. VOGLER: Good afternoon. Thanks again for
12 having us. We've presented some of this data previously.

13 CHAIRMAN SCHULTZ: Please, if you'd introduce
14 yourself and who you are representing today.

15 MR. VOGLER: My name is Gale Vogler. I'm
16 director of medical management at Copperpoint Insurance.

17 CHAIRMAN SCHULTZ: Thank you.

18 MR. VOGLER: We've presented much of this data
19 in the past in the last hearing. But firstly, I wanted to say
20 that we're in support of everything you guys are doing. All
21 of the slides you previously presented, we see that all too
22 often at Copperpoint in the majority of the work comp. cases
23 that we handle daily.

24 In Arizona, the practice of physician dispensing
25 is almost entirely concentrated among a few workers'

1 compensation providers, and the vast majority of injured workers
2 have their prescription drugs met without physician dispensing.
3 The small amounts -- I'm sorry -- the small number of medical
4 providers who are engaged in dispensing derive tremendous
5 profits at the expense of injured workers, their employers, and
6 the workers' compensation system as a whole.

7 Significantly, only three of those physician
8 dispensers that we are seeing were responsible for 89 percent
9 of all physician dispensing costs, which is illustrated right
10 here.

11 Physician dispensing is not more efficient and
12 convenient to an injured worker, especially after the first
13 fill. Physician-dispensed refills require another office
14 visit, typically during business hours, or on weekdays. By
15 contrast, retail pharmacies are available before and after
16 regular business hours.

17 The majority of Copperpoint injured workers
18 also reside in areas with access to multiple pharmacies within
19 a short distance. In fact, most had 50 or more pharmacies
20 within a 15-mile radius, while others had at least five
21 pharmacies in that range.

22 As you also have mentioned, there's also the
23 availability of mail order pharmacy services that allow for the
24 delivery of three months' supply of medications directly to that
25 injured worker's front door.

1 Sorry. And our number of pharmacies in our
2 prescription benefit management program is relative to the ones
3 you noted. You noted 1,200. We have 1,196 in our pharmacy
4 benefit program.

5 We have one good example. Illustrated by, in
6 comparison, the many that you show. In our opinion, physician
7 dispensing circumvents cost controls by avoiding negotiated
8 rates. Retail pharmacies are usually members of networks which
9 provide medication at a much lower cost than negotiated rates.
10 As a result, medications dispensed by physicians cost
11 substantially more than those obtained at most pharmacies.

12 Here's a situation right here. One example of
13 the cost difference between physician dispensed drugs and
14 network pharmacy dispensed drugs: Duloxetine. This is the same
15 basic prescription. You can see that prescription was \$177,000
16 through physician dispensing. That same prescription through a
17 retail pharmacy, and we provided GoodRX numbers, would have been
18 \$3,001. Just an average cost of a claim we're seeing. \$4,280
19 with physician dispensing. That same claim without physician
20 dispensing, \$2,370.

21 Another illustration for you. Average cost per
22 script, physician dispensed versus pharmacy dispensed, \$546 in
23 physician dispensing, \$221 through retail pharmacy.

24 Copperpoint would like to thank you for the
25 opportunity to comment. The proposal including the

1 recommendation on physician dispensing is thorough, well
2 researched and grounded in Arizona data. Most importantly,
3 the proposal, if implemented, will benefit the entire workers'
4 compensation system and the injured workers that it serves.
5 Copperpoint support. I respectfully request that the
6 Commission adopt the proposal as noted.

7 Okay. Thank you.

8 CHAIRMAN SCHULTZ: Thank you. And thank you
9 for staying close to your three minutes so I didn't have to
10 unleash them.

11 Commissioner Krenzel, any questions?

12 MR. KRENZEL: I just had actually one question on
13 the -- I'll mispronounce it -- the Duloxetine slide, the 30
14 milligrams. With that being in the 98 percent for private
15 dispensing or -- of physician dispensing 177,000, and I'm
16 rounding, and the chart pie chart, do you have the patient
17 numbers with that? I just wanted to make light on if it was a
18 skewed patient number count as opposed to how many --

19 MR. VOGLER: I would have to go back and get that
20 information if you like.

21 MR. KRENZEL: I would, please.

22 MR. VOGLER: Okay. I will provide that.

23 CHAIRMAN SCHULTZ: Any other questions?

24 MR. KRENZEL: We're good.

25 CHAIRMAN SCHULTZ: Okay. Thank you very much.

1 And now let's move to our legislators. Do you
2 guys flip the coin in terms of how you want to go, or what's
3 your pleasure?

4 REPRESENTATIVE TERAN: No. You go. I'm here to
5 listen and learn, mostly.

6 CHAIRMAN SCHULTZ: Thank you.

7 REPRESENTATIVE COBB: Good afternoon. I'm
8 Representative Cobb, District 5. Thank you for allowing us to
9 speak this afternoon. Welcome to my world, having nine
10 o'clock meetings.

11 CHAIRMAN SCHULTZ: Absolutely. By the way,
12 it's good to see you again. I haven't seen you since we --

13 REPRESENTATIVE COBB: I know it's been a while.
14 It's been a while.

15 So Director and Chairman and members, I come to
16 oppose this, and for a few reasons. It's readily apparent that
17 -- and we all wanted to get to with SB2011, was to get to a
18 point where we addressed the bad actors, and it -- it obviously
19 wasn't what the Legislature wanted, and it didn't pass. We did
20 throw it back to you guys, and you said, sir, yourself that it
21 was to study and address the issue and to address the fee
22 schedules.

23 Well, what I feel is what we've done here is it
24 didn't do that, and when the bill sponsor testified, she said in
25 her language, she said she wanted to address bad actors that

1 overprescribed them opioids. I think it circumvents the
2 legislative process. I think it has no place in the fee
3 schedule. I think it's a rule. And then, therefore, we're --
4 the Commission has circumvented the rules moratorium that the
5 governor placed in place.

6 You also mentioned that you did have stakeholder
7 meetings, and you said you had 20 stakeholder meetings. I'm not
8 sure if these were individuals or what they were, but not all
9 key stakeholders were included. Some were left out. The
10 Hospital Alliance was one of those that represent major urban
11 hospitals. Not all of them were aware or were even given a
12 heads up that this would be included on the fee schedule. The
13 Alliance have submitted comments. I know they have expressed
14 their frustration.

15 I addressed the director immediately once I
16 conferred with a couple of my legislators. And thank you,
17 Mr. Ashley. You were very responsive to that. But as soon
18 as I got done with that, immediately I had Copperpoint calling
19 me and insurance companies calling me. So the myth that you
20 said that the insurance companies had nothing to do with that, I
21 didn't talk to anybody but the Industrial Commission. And then
22 all of a sudden I had people calling me almost immediately
23 asking for meetings with me to address that, and those were the
24 same people that backed SB2011. And so I have issues with that,
25 also.

1 I've also been told that there's abuses of, like,
2 \$600 a day. I haven't seen any examples to verify that. They
3 also -- Copperpoint did bring in some of statistics that they
4 showed today. They showed 2018, 2019 what was billed, but they
5 didn't say what was paid. They showed the exact billing of one
6 year to the next year, but nothing -- they did not -- and I
7 requested that, and that hasn't been given to me yet.

8 I think we all want to address the fraud. I
9 think that we want to get to some answers, but putting a
10 blanket across all of these physicians, and I think there's 28,
11 29 physicians that do workman's comp., that I think there's about
12 three of them that are bad actors. I think putting a seven-day
13 limit, and that was another myth that you put on there, also,
14 that you said we -- there's a myth that we're not changing what
15 we do. It is changing. It's limiting it to seven days.

16 And there are some -- we're not talking about a
17 sprained ankle here. We're talking about somebody that may
18 have an amputation or someone that may have a severe head
19 injury, visit Barrow's Clinic.

20 Also, the evidence based that you addressed in
21 there was from Illinois from 2014. I wanted to see more recent
22 evidence based, and I'm not seeing that with what we saw up in
23 here. I think there are a lot of things that we need to do, but
24 this isn't in the way to address it.

25 Now, I've compared what the fee schedule is, the

1 proposed fee schedule language that you guys have to what SB2011
2 in there was. It's not verbatim, but it's darn close. As close
3 as I can see, it took 2011 and put it in this.

4 Again, I think we're circumventing the
5 Legislature, and I would ask that the Commission deny the
6 proposal, go back to the table. I did make some
7 recommendations. I -- there should be a maximum allowable fee
8 schedule. You can limit the over-the-counter medications.
9 You can limit how many times they do medications. There are
10 so many things that could be done that aren't done within this
11 proposal, and I think you need to go back and look at that all
12 over again, and include some of the stakeholders that were not
13 included, including the workman compensation doctors.

14 So I appreciate your time today. Thank you.
15 And I'll be open for any questions.

16 MR. ASHLEY: Mr. Chairman.

17 CHAIRMAN SCHULTZ: Yes.

18 MR. ASHLEY: There might be some others on the
19 panel that have other comments. First of all, I'd like to thank
20 you for being here.

21 REPRESENTATIVE COBB: You're welcome.

22 MR. ASHLEY: We've had a great opportunity that I
23 value in the last couple years to work together.

24 REPRESENTATIVE COBB: We have.

25 MR. ASHLEY: Members from JLBC, all the way to

1 our State Plan and Federal OSHA. As you know, it's so important
2 that we maintain the State Plan with Federal OSHA, because that
3 gives us Arizona jurisdiction and Arizona authority to localize,
4 control, and influence workplace safety, which we've been
5 working really hard at improving. I'd like to thank you for
6 that.

7 REPRESENTATIVE COBB: And I appreciate you doing
8 all the work you've done on that, too. Thank you.

9 MR. ASHLEY: Not to mention all of our time in
10 LD5 and working with businesses in Kingman and Honeywell
11 Aerospace, and working with Nucor Steel. Really encouraged by
12 the economic development up there at the airport in Kingman.

13 CHAIRMAN SCHULTZ: Kingman Regional Hospital.

14 MR. ASHLEY: And Kingman Regional Hospital as
15 well. I believe it was under construction on my first visit up
16 there. I think it may be finished almost.

17 REPRESENTATIVE COBB: Yeah. The second phase of
18 that. Yes.

19 MR. ASHLEY: Second.

20 REPRESENTATIVE COBB: Was under construction.

21 MR. ASHLEY: Good. Shows how much they need it.

22 REPRESENTATIVE COBB: Yeah.

23 MR. ASHLEY: I wanted to raise an issue regarding
24 the sponsor of the bill. But that leads to the intent of the
25 sponsor, what the sponsor experienced through this process and

1 what the sponsor feels right now about the bill. So I
2 actually -- I do have a statement from Senate President Karen
3 Fann that I'd like to read into the record.

4 I am pleased to write the Commission in support
5 of the staff proposal 2019-2020 Arizona Physicians and
6 Pharmaceutical Fee Schedule. As you know, I sponsored SB 1111,
7 workers' compensation opioids dispensed medications, which
8 required the Commission to modify the physician fee schedule to
9 set reimbursement guidelines for medications dispensed in
10 settings not accessible to the general public.

11 I was heartened to hear that the Commission
12 solicited input from a broad cross-section of the stakeholders,
13 including physicians and insurers in the employer community. It
14 was good to see that the process included a public hearing to
15 receive stakeholder input, and that the Commission hired an
16 independent consultant to review the issue and advise the
17 Commission. It is clear to me that you have utilized a
18 thoughtful and robust process to develop the staff
19 recommendations.

20 I believe the recommended staff proposal
21 regarding the dispensing of medications is consistent with the
22 intent of the legislation, both in terms of process and
23 substance. It appears that the Commission has embraced the
24 responsibility given to it by the Legislature. The proposed
25 guidelines will improve Arizona's work compensation system.

1 It was clear from the legislative testimony and
2 stakeholder meetings related to SB 1111 that physician
3 dispensing of medications can create unnecessary costs without
4 improving patient outcomes. Many of the stakeholder comments
5 during the public hearing process and the consultant's report
6 reflect this position.

7 The staff recommendation to prohibit the
8 reimbursement of unnecessary physician-dispensed pharmaceuticals
9 is an appropriate guideline. The fee schedule provides
10 reasonable exceptions to this limitation to ensure that patients
11 receive the pharmaceuticals they need, including at the initial
12 visit.

13 Thank you for considering my comments on the
14 implementation of SB 1111. I am happy to see that the
15 Commission has fully embraced the legislative initiated reforms
16 like evidence-based medicine and the reimbursement guidelines
17 related to physician-dispensed drugs. I look forward to our
18 continued work together to ensure that Arizona has the highest
19 quality workers' compensation system.

20 Sincerely, Senator Karen Fann.

21 Thank you.

22 REPRESENTATIVE COBB: Thank you.

23 Sir, just a comment on that letter. If I can,
24 Director, Chairman.

25 CHAIRMAN SCHULTZ: Certainly. Yes.

1 REPRESENTATIVE COBB: I -- I have all the respect
2 for President Fann, now President Fann, who was Senator Fann at
3 the time, and is still Senator Fann, but -- I have all the
4 respect in the world, but if it were my bill, I'd be happy with
5 this, too, because it's in there. And so with all due respect,
6 I feel like we're asking the bill's sponsor, are you happy with
7 these guidelines? Well, yes. They're my bill. But that's not
8 what we asked the Legislature. That's not what the Legislature
9 asked to do. It asked to go back to the Industrial Commission,
10 you create clear guidelines, not just saying that we're doing a
11 seven-day limit for everybody.

12 CHAIRMAN SCHULTZ: Thank you.

13 And by the way, just a point of clarification,
14 hospitals don't come under the medical fee schedule. So
15 that's why they weren't consulted. But once again, all of our
16 information is up on our websites, and their representatives
17 were free to engage us if, in fact, they thought it would have
18 any impact on that. Thank you.

19 REPRESENTATIVE COBB: But sir, the doctors do --
20 again, Mr. Chairman, the doctors that go into the hospitals are
21 in within this fee schedule, some of the workman comp. doctors.
22 So even though that they may not be the hospital themselves,
23 they work within the alliance.

24 CHAIRMAN SCHULTZ: All right.

25 REPRESENTATIVE COBB: Thank you.

1 MR. ASHLEY: Mr. Chairman, actually, one other
2 point. I just wanted to clarify, Representative, there was a
3 comment about the rule-making process, and from the day I was
4 appointed to the agency, I've worked to make sure that the
5 Industrial Commission has a strong and successful line of
6 communication with the governor's office. That didn't always
7 exist. And that has been true for every issue of prominence
8 impacting the Industrial Commission, and this issue has been no
9 different. From the time the bill passed the Legislature to the
10 time the governor signed the bill, we've been in close and
11 frequent contact with the governor's office, with our policy
12 advisor, and with members of senior staff. So they fully
13 understand and embrace what we're doing, and not only do they
14 fully understand it, they do fully support this proposal as
15 well.

16 REPRESENTATIVE COBB: Mr. Ashley, I just talked
17 to Christina Corieri a couple days ago, and she had no clue this
18 was happening, and she is the policy advisor.

19 MR. ASHLEY: Correct. And that was brought to
20 our attention, and we spoke to senior staff at the governor's
21 office, and they encourage you to speak with them again to
22 clarify their involvement with this process.

23 REPRESENTATIVE COBB: Okay. Thank you. Thank
24 you.

25 CHAIRMAN SCHULTZ: And we will take your ideas --

1 REPRESENTATIVE COBB: Thank you.

2 CHAIRMAN SCHULTZ: -- under advisement.

3 Great. Okay. This is Representative
4 Lieberman, correct?

5 REPRESENTATIVE LIEBERMAN: Correct.

6 Hello. I'm Representative Aaron Lieberman
7 representing Legislative District 28, which is Central to North
8 Phoenix and the Town of Paradise Valley.

9 I had a chance to visit with Director Ashley.
10 Thank you very much for your time on this, and Chairman Schultz,
11 thank you for giving us an opportunity to testify. Especially
12 thank you for letting us go first. Appreciate that.

13 I just want to say I feel strongly that there's a
14 role for physician dispensing, for doctors who specialize in
15 treating workers' comp. injuries. These are very complicated,
16 difficult cases, often involving permanent disability, and
17 having doctors' ongoing involvement with dispensing should be a
18 significant time saver for the patient, and hopefully lead to
19 better care as the doctor has a full understanding of the
20 patient's medical history.

21 Of course, if there's any doctor abusing the
22 system for financial gain, as alleged here, they should
23 absolutely be prosecuted to the fullest extent of the law, and I
24 would hope that the Industrial Commission would work to shut
25 that practice down as quickly as they possibly could.

1 But the clear directive coming from the
2 Legislature when this issue was dealt with was the reality is
3 there wasn't the support in the Legislature for the bill that
4 Senator Fann proposed. If so, we wouldn't have had this
5 hearing, because it would have passed. There was significant
6 opposition to this idea of doing exactly what's been put into
7 the fee schedule, and for that reason, the compromise goes,
8 well, let's have the Industrial Commission figure out who to
9 deal with these bad actors. The reality is that the -- and to
10 make sure that the Industrial Commission is relying on
11 evidence-based guidelines.

12 I want to commend you. I think you all have done
13 a terrific job, particularly with the implementation of the
14 official disability guidelines, to do exactly what the
15 Legislature, I think, intended, which is to say let's look at
16 evidence-based guidelines. As I understand it, you effectively
17 have two measures. The ODG works effectively as a formulary,
18 and then you can help set prices or correspond to the average
19 wholesale price limits.

20 For the life of me, I don't understand how you
21 can't deal with every single problem that's been presented there
22 as a challenge with those two tools. You can eliminate things
23 that you're willing to pay or not pay. You can eliminate, you
24 know, any one of those things that have appeared, and if there
25 is a big spread, as some of the insurance people presented to

1 us, between what the wholesalers, the pharmacy backup managers
2 are paying, and the average wholesale price, I believe you have
3 the tools to reduce that spread. You publish what those
4 guidelines are.

5 With those two tools in place, and of course,
6 the ODG has only been implemented since October, then as I
7 understand it, there's actually been a pretty dramatic
8 reduction in costs since then. A 19 percent drop in drug
9 utilization since October. 12 percent of that drop has been in
10 those N drugs. Those are not approved by the ODG.

11 The kind of pour of this for me is everybody
12 should be treated fairly, regardless of the setting for the
13 pharmacy and how it's being dispensed, and the State and -- but
14 you know, by you guys acting on behalf of the State should not
15 be picking winners or losers, especially when patients -- of
16 course, if they prefer to have their pharmacy filled -- their
17 prescription filled at the pharmacy, they can do that 100
18 percent of the time. They can always do that.

19 At its core, this policy seems to throw out the
20 baby with the bath water. For these patients -- and again, in
21 every slide that you show, they show different costs. Aside
22 from the Illinois study, which was obviously a different state
23 and five years ago, these are much more complicated patients.
24 You would expect to have different costs for the more
25 complicated, medically involved patients, and the reality is

1 there aren't that many doctors willing to treat these patients.

2 And for those doctors who are willing to take the
3 time and the care, to sit with our injured workers, many of whom
4 are facing a lifetime of disability, to provide that extra level
5 of attention and care, I'm okay with them doing that physician
6 dispensing instead of sending that same injured worker down to a
7 pharmacy nearby where they have to fill a prescription. Often
8 it will end up in conflict with what the doctor is writing, what
9 the prescription needs, and that's more involvement going back
10 and forth with the doctor.

11 In fact, many of our physicians who do this got
12 into this because they were sick and tired of dealing with --
13 having to go back and forth with the pharmacies and thought,
14 look, I can just deal with this myself. I'm the one writing
15 this prescription. I certainly have the guidance and training
16 to fill it.

17 So in the end of the day, I applaud the physician
18 -- I applaud the Commission for the work that you've done,
19 particularly with the official disability guidelines. Every
20 problem that I see can be responded by the tools that you have
21 currently available at your disposal, and I certainly would urge
22 everybody to be as aggressive as they could with anyone who's
23 taking advantage of that system by both pursuing those
24 individual cases, but most importantly, if you're finding things
25 that are out of whack, adjusting what is effectively the fee

1 schedule and the ODG act as the formulary. It seems to me like
2 you have ample tools to do that.

3 I'm happy to take any questions that you have.
4 Thank you.

5 CHAIRMAN SCHULTZ: Mr. Krenzel, questions?

6 I just have to tell you, I know your brother
7 from when he practiced at Good Sam.

8 REPRESENTATIVE LIEBERMAN: Yeah.

9 CHAIRMAN SCHULTZ: And it is uncanny how much
10 you look like him.

11 REPRESENTATIVE LIEBERMAN: I appreciate that.
12 Little different size, but I --

13 CHAIRMAN SCHULTZ: You're much more handsome.
14 Tell Larry I said that.

15 REPRESENTATIVE LIEBERMAN: I will. Yeah.
16 Exactly. And you know my father's been involved in this area,
17 although I'm representing myself and the Legislature in that
18 capacity.

19 CHAIRMAN SCHULTZ: I know. Thank you very much.

20 REPRESENTATIVE LIEBERMAN: Sure. Thank you.

21 CHAIRMAN SCHULTZ: Okay. Great.

22 REPRESENTATIVE LIEBERMAN: Thank you.

23 CHAIRMAN SCHULTZ: Any other comments?

24 MR. ASHLEY: Representative Raquel Teran.

25 CHAIRMAN SCHULTZ: Yes.

1 REPRESENTATIVE TERAN: Thank you, Chairman.
2 Thank you, members, Director. I just wanted on to go on record
3 that I strongly oppose this proposition. I already sent a
4 letter. It should be on record. So I just wanted to make sure
5 it was on record here.

6 CHAIRMAN SCHULTZ: Yes.

7 REPRESENTATIVE TERAN: Thank you.

8 CHAIRMAN SCHULTZ: Great. Okay. We have
9 before us a formidable stack, and so I'll just try to get
10 through these, once again, as quickly as I can.

11 Our first speaker is Brian Carmichael, who's the
12 risk manager for City of Surprise.

13 Mr. Carmichael, good to see you, sir.

14 MR. CARMICHAEL: Good to see you.

15 Brian Carmichael, Risk Manager, City of Surprise.
16 As such, I have responsibility for a self-administered workers'
17 compensation program, and I come today in support of the
18 proposal and applaud the Commission for your efforts in
19 evidence-based medicine and controlling costs.

20 One thing that I would add, although I don't have
21 any data, specific data to add, I would say that transparency is
22 a big deal. In Copperpoint's presentation, they talked about
23 comparison to GoodRX. These are public dollars that I am
24 responsible for as risk manager at the City of Surprise, dollars
25 that can be audited and are transparent on the website.

1 And we appreciate -- I appreciate, on behalf of
2 the City of Surprise and the citizens, the fact that you're
3 putting this cap on to control the costs for accountability.
4 If we were to be faced with some of these physician-dispensed
5 costs that we saw with Copperpoint and others have mentioned,
6 if that were to be published on the website, there's a
7 fiduciary responsibility that we have, and it would look very
8 bad. So I thank you for protecting the money of all us in the
9 state, and this proposal as presented appears to be favorable
10 for everyone.

11 Another thing that I would say is it was
12 somewhat implied in some of the prior testimony that the
13 injured worker would somehow not get that prescription. It's
14 not about not getting the prescription. It's writing that
15 prescription and where is it filled? So that's a particular
16 person. It's not -- if it's a life saving measure, it's going
17 to be dispensed, probably intravenously. So these are pills,
18 these are other medications that they'll get their stuff in the
19 appropriate manner.

20 So I thank you, and I'm in support of this.

21 CHAIRMAN SCHULTZ: Thank you. Questions for
22 Mr. Carmichael? None here. Thank you very much.

23 And our next speaker is Chris Garland.

24 MS. GARLAND: Good afternoon, Chairman, members,
25 Director. My name is Chris Garland, and I'm representing

1 Integrion Group. We're a small TPA based out of New Mexico.
2 And I don't have any figures to share with you. I don't have
3 any statistics. I just have a little story that I wanted to
4 tell.

5 We had an injured worker recently who was 70
6 years old with failed back syndrome treating with -- I was
7 going to mention names, but I decided not to -- with one of
8 the major physician dispensers in the room, for pain
9 management under his supportive care award. He was last
10 examined by this doctor on November 19th of '18, and serious
11 non-industrial health issues were noted.

12 He unfortunately passed away at the beginning
13 of January of 2019. Without seeing the patient, this doctor
14 continued sending packages of pain medication to his home on
15 January 26th of 2019, February 26th of 2019, March 26th of 2019,
16 and April 23rd of 2019, even after the patient missed his
17 February check-up appointment.

18 When the bills for all these medications were
19 received in mid May, we called this doctor's attention to the
20 gentleman's death before the May shipment of pain medication
21 went out. With lightning speed, this doctor sent us a check
22 reimbursing us for the repackaged medication that was auto
23 shipped to his deceased patient. But we wonder where those
24 medications that were sent out in January, February, March and
25 April ended up. And I've got the documentation, and I've got a

1 copy of the check reimbursing us. So it's all fact based.

2 And that's all I wanted to say, and I'm in
3 support of the Commission proposal.

4 CHAIRMAN SCHULTZ: Thank you. Any questions?

5 Okay. Next Dawn Chambers.

6 MS. CHAMBERS: Good afternoon. My name is Dawn
7 Chambers. I'm the claims operations manager for the Arizona
8 School Alliance For Workers' Compensation. The Alliance is a
9 self-insured workers' compensation pool that provides coverage
10 to 231 Arizona school districts, career and technical education
11 districts, and also community colleges.

12 The Alliance is in full support of the ICA's
13 proposal fee schedule changes related to physician dispensing
14 medications. Based on our many years as a workers' compensation
15 insurer, along with abundant research and data produced by
16 others, we believe that physician dispensing of medication in
17 closed-door pharmacy settings tends to lead to unnecessary and
18 unreasonable costs. The changes proposed by the ICA are
19 measured and are responsible checks of those tendencies.

20 The Alliance is a non-profit corporation owned by
21 its public entity members. Our individual members and their
22 representatives on the Alliance board are committed to
23 responsible stewardship of taxpayer dollars. The proposed
24 changes, if adopted, will help support that commitment. I
25 appreciate you allowing me to share the Alliance's views, and

1 thank you.

2 CHAIRMAN SCHULTZ: Thank you. Questions?

3 MR. KRENZEL: No questions.

4 CHAIRMAN SCHULTZ: Okay. Thank you, Dawn.

5 Susan Strickler.

6 Hi, Susan. Good to see you.

7 MS. STRICKLER: Good afternoon. Mr. Chairman,
8 Commissioners, my name is Susan Strickler, and I am the
9 workers' compensation claims manager for the Arizona Counties
10 Insurance Pool, or as we call them, ACIP. ACIP represents 12
11 of the rural counties in Arizona, and we cover about 10,000
12 county employees.

13 ACIP supports the Commission's recommendations,
14 and we'll be sending a letter, but I'd like to focus on two
15 things for today. First and foremost, we are in favor of the
16 definition of pharmacy as proposed by the Commission, because we
17 feel that commercially available pharmacy provide additional
18 safety and oversight for county employees.

19 Physicians must rely on the patient's memory and
20 honesty informing the provider about their medications,
21 supplements or over-the-counter medications they may be taking,
22 and since pharmacies and are now prevalent in grocery stores,
23 readily available in rural areas, it is likely the patient is
24 already using the commercial pharmacy for other medication
25 prescribed by them and their family.

1 The medications are usually through their group
2 health, Medicare or other disability, and therefore, their
3 pharmacy has a more robust history and record of the patient
4 to reduce any potential errors or possible drug interactions.
5 The requirement for prescription safety imposed by the Board
6 of Pharmacy for pharmacists are usually more stringent than
7 the requirement for physicians who dispense drugs from their
8 office.

9 Of the 2,000 -- excuse me -- of the 200
10 physicians who saw county employees this fiscal year, only six
11 dispensed medication from their office. These physicians only
12 see the employee for their workers' compensation claim, and they
13 are typically pain management or orthopedist physicians. They
14 are not primary care physicians. The medications dispensed were
15 only for pain management. So when county employees already used
16 pharmacy for other medication, since group health plans,
17 Medicare and AHCCCS actually prohibit the practice of dispensing
18 medication for non-special fee medication.

19 Workers' compensation insurance is the only area
20 that physician dispensing occurs on a regular basis. We are not
21 saying that the medications are not important and do not help
22 the patient, but we do feel that it is imperative for the safety
23 of the county employees that we adopt the policies already in
24 use by Medicare and private insurance and having commercially
25 available pharmacies monitor, inform and protect the patient

1 from possible prescription conflicts or errors.

2 Another area, I would just like to affirm with
3 everybody else, since our counties are rural, they don't
4 receive the tax revenue that maybe Maricopa or Pima County
5 does, and unlike private, self-insured companies, government
6 entities are including from direct medical care. So we are at
7 the mercy of these physicians and how they prescribe.

8 Ten percent of all medications written for
9 county employees were from six physicians, and yet these
10 prescriptions were 22 percent of the total pharmacy cost for
11 this fiscal year. So this also includes the adoption of the ODG
12 formulary. Medications received from a commercially available
13 pharmacy were typically 31 percent less, or an average of \$50
14 per medications. Had the medication gone through a commercially
15 available pharmacy this year, ACIP, the counties and county
16 taxpayers would have saved about 33 percent on prescription
17 costs for this fiscal year that just closed.

18 And with that, I support the recommendation. We
19 will be sending a letter.

20 CHAIRMAN SCHULTZ: Okay. Thank you. Any
21 questions?

22 MR. KRENZEL: No questions.

23 CHAIRMAN SCHULTZ: And thank you for providing
24 that additional data, truly. That will be in your written
25 comments?

1 MS. STRICKLER: Yes, it will be.

2 CHAIRMAN SCHULTZ: Thank you.

3 Russell Smoldon.

4 Cut this one to two minutes, Jason.

5 MR. SMOLDON: Thank you, Mr. Chairman, members
6 and staff. I'm Russell Smoldon representing the Arizona
7 Self-Insurers Association. The Self-Insurers Association
8 been -- was established in 1983 to provide professional
9 development and networking opportunities to self-insured
10 entities throughout the state, and to promote and protect the
11 rights of public and private sector employers to self-insure.

12 Our members employ more 300,000 workers in
13 Arizona. ASIA stands in support of this proposal, the 2019-2020
14 Arizona Physicians and Pharmaceutical Fee Schedule, and
15 specifically, the reimbursement guidelines related to
16 physician-dispensed medications and closed pharmacies.

17 Half of our membership is made up of public
18 sector members. The cities, towns, counties, school districts.
19 The other half is made up of private employers. Our private
20 employers are equally concerned about this practice in that they
21 are the largest taxpayers in the state of Arizona. And our
22 public sector folks are trying to maintain costs every chance
23 they get. So additional costs for schools and community
24 colleges, the cities, counties, are something that they are
25 desperately trying to avoid.

1 I -- a lot of the material that you covered,
2 Mr. Chairman, is in the notes that I have. I would just say
3 that nationally, medications dispensed by the physician or
4 through a closed pharmacy have found to be 60 to 300 percent
5 more than regular retail pharmacies. And in ASIA specific
6 public sector members, we've seen a medication cost ranging
7 from 9 percent to 228 percent more expensive than retail.

8 This trend has held true today. The cost to
9 the same insurer that we're -- we'll identify in the -- in our
10 written comments, the cost range from 30.47 percent to 92.15
11 percent are more expensive than 18 -- on 18 different types of
12 medications.

13 I just also have a lot more stuff I could read,
14 but I just want to clarify a couple things. Senate Bill 1111
15 was introduced in 2018 by President Fann. Then Senator Fann.
16 But the important thing to remember was at the same time, the
17 first month of the 2018 legislative session was inundated with
18 opioid discussion. We were passing a comprehensive legislation
19 that the governor's proposal bipartisan group passing opioid
20 legislation in order to get control on the opioid epidemic.

21 And I can tell you from personal experience. I
22 have a sister who passed two years ago from an overdose of
23 opioids. I can tell you that it was -- it's rampant. I
24 volunteer at a treatment facility. I work with addicts all the
25 time. So I know from personal experience what happens here.

1 I just want to reiterate a couple of things.
2 One, we were also dealing with a PTSD bill that had taken a lot
3 of our time, and when the ServRX folks and the others, doctors
4 came to us and said, hey, why don't we put this at the ICA and
5 have the ICA to do hearings. They suggested it to us. We'll
6 have them look through it. We think they're better -- better
7 able to look at this than the Legislature. We were inundated
8 with other issues, and we said, Okay. That's sounds like a
9 great idea to us. We had no idea what the outcome was going to
10 be. We put in our testimony, and we dealt with it in a public
11 manner, just like everybody else had the opportunity to. And I
12 think it's important to remember that this is only for workers'
13 compensation. This does not impact hospitals.

14 It doesn't impact outpatient pharmacies, and all
15 the other issues we were dealing with at the time, this seemed
16 like the best forum to get to the bottom of this, as opposed to
17 the hyperintensive kind of Legislature that we deal with where a
18 motion's get -- running rampant. And you guys have been able to
19 step back and look at the facts and present the facts and know
20 exactly what these costs are, and we very much appreciate what
21 you've done.

22 Not one of us has ever come to you and said this
23 is what we want you to do or that we want you to put this into
24 place, we want the statute put into place in the -- in the
25 rules. We didn't do that. At least nobody from my -- my group

1 did. And so I just want to make that very, very clear that's
2 where we are today, and we appreciate all your fine work, and we
3 support you.

4 CHAIRMAN SCHULTZ: Thank you. Questions for
5 Mr. Smoldon?

6 MR. KRENZEL: No.

7 MR. ASHLEY: No.

8 MR. PORTER: Actually, I have a question. Sorry.
9 My timer broke.

10 CHAIRMAN SCHULTZ: You broke it.

11 MR. SMOLDON: I couldn't believe I got in under
12 the wire.

13 MR. PORTER: I tried to do two minutes.

14 Having been involved in the stakeholder process
15 in the legislation, were there any -- there were comments made
16 earlier about legislative intent. Were there ever any votes by
17 anybody in the Legislature voting no on the original proposed
18 language, or was it just removed by a sponsor in response to
19 stakeholder discussions?

20 MR. SMOLDON: I don't believe -- did we have an
21 actual vote in committee?

22 AUDIENCE MEMBER: Yes.

23 MR. SMOLDON: I think we did have a vote in
24 committee.

25 AUDIENCE MEMBER: To get it out of committee, and

1 then we recommended on the floor, because of the agreement that
2 was made with Arizona Medical Association.

3 MR. SMOLDON: Association. Yeah. So there was
4 one vote before we changed it on the floor and put it into the
5 form that you have currently.

6 AUDIENCE MEMBER: Because it didn't have the
7 votes to get out of the committee with it as is. Because
8 remember, Representative Petersen, Senator Petersen, Senator
9 Meza --

10 MR. SMOLDON: Yeah.

11 AUDIENCE MEMBER: -- were not going to vote for
12 the bill as is.

13 MR. SMOLDON: Yeah.

14 MR. PORTER: Okay. Thank you.

15 CHAIRMAN SCHULTZ: Thank you.

16 MR. SMOLDON: Thank you.

17 CHAIRMAN SCHULTZ: Dr. Jeffrey Scott.

18 DR. SCOTT: Good afternoon. Thank you for
19 allowing me to speak. I had a prepared presentation here, but I
20 guess I'm just going to bypass that in the interest of time.
21 Some of the things I was going to say have been covered.

22 A couple comments about your slides. The first
23 thing is that the two drugs that you identified as problem
24 children are both N drugs in ODG. And my understanding of the
25 way the ODG formulary works is that if it's an N drug requires

1 prior authorization. So I know that I saw some HIPAA forms
2 showing billing, but it's at the carrier's prerogative to say
3 no. Those require prior authorization. That's the way the ODG
4 formulary is supposed to work. And those are the two examples
5 that you showed.

6 The second thing is unless you're really in the
7 trenches, you don't know how often pharmacies do say no or say
8 they can't get it approved. I've had a lot of direct
9 correspondence with pharmacies where they say, Please get this
10 authorized for us. We can't dispense it. And I could bring in
11 a stack of paper showing that from Walgreens and CVS.

12 As far as data, I don't know if you've seen the
13 NCCI study from the last month showing Arizona's cost per claim
14 with a patient with one prescription, and it does show that
15 there is a reduction in cost per claim with every patient that
16 has one prescription when comparing before the ODG reforms and
17 post ODG reforms. And this study looked at the first year of
18 ODG implementation as only '16 and '17. I know it's in the
19 study, too, that NCCI estimates a full 60 to 90 percent
20 reduction in drug usage for those states that use the ODG
21 formulary.

22 So I would encourage the Commission to seek out
23 more information as far as what's happening right now, now that
24 ODG applies to everything, all phases of all injuries, as far as
25 the reduction and the N drugs, the compounds, the off-dose

1 generic medications that have been labeled as problems.

2 One thing do I want to also mention, too, is --
3 and I have a couple of examples that I saw last week where
4 insurance companies are denying yes drugs. So these denials
5 came over a month after the patient received their medication,
6 and it was a yes drug, and there would have been no other way
7 for them to receive it if it hadn't been dispensed to them.

8 I already heard this comment, but the study with
9 regard to the cost of physician dispensing and the study from
10 2014 out of Illinois, I just think there needs to be a little
11 more investigation as far as what the impact here is in this
12 state, such as we've seen with the data posted last month with
13 regard to Arizona and the impact of ODG and the formulary.

14 And finally, I do want to make a comment with
15 regard to the patient that was discussed that had passed away.
16 That was my patient. We were notified about it. We refunded it
17 immediately, because we knew that was out of sort, and we paid
18 the cost for that medication. It was -- it was actually sent
19 back to us. So it was properly disposed. We -- as soon as we
20 heard about it, we rectified the situation immediately.

21 Any questions?

22 CHAIRMAN SCHULTZ: Thank you for your diligence
23 in that, by the way.

24 DR. SCOTT: Sure.

25 CHAIRMAN SCHULTZ: Thank you very much. Both the

1 refund, but also in the proper recovery and disposal of the
2 medications. That's a huge problem.

3 DR. SCOTT: And also, nothing controlled,
4 controlled substances. So fortunately I haven't heard a whole
5 lot of that today, but there really doesn't even have to do with
6 controlled substances, opioids, schedule IIs and IIIs and
7 things.

8 CHAIRMAN SCHULTZ: Okay. Thank you. Steve?

9 DR. SCOTT: I'm sorry.

10 MR. KRENZEL: I actually just have a
11 clarification question. I just have a clarification question,
12 and this might just -- if you were to dispense -- self-dispense
13 from the physician's office as opposed to -- I know you've
14 mentioned -- and I've been there before, too, with kind of the
15 retail pharmacies out there, and you've had a bunch of denials.
16 I guess the way it was stated, I would take it as in the
17 pharmacy's overriding your judgment, or is it the insurer who's
18 not --

19 DR. SCOTT: Well, the pharmacy won't dispense it
20 until they know it will get paid, which is different than the
21 way we operate.

22 MR. KRENZEL: Okay. I just wanted that on record
23 to clarify that.

24 DR. SCOTT: And it may not be the insurer. It
25 may be the pharmacy benefit manager. There may be

1 miscommunication. It's not always the insurance company's
2 fault.

3 MR. KRENZEL: Appreciate that.

4 DR. SCOTT: Sure.

5 CHAIRMAN SCHULTZ: Thank you, Dr. Scott.

6 Appreciate it.

7 Okay. Next speaker, Brian Allen.

8 MR. ALLEN: Thank you, Mr. Chairman, Director,
9 members of the Commission. My name is Brian Allen. I am the
10 vice president of Government Affairs for Mitchell International
11 in their Pharmacy Solutions Division. We are a work comp. PBM.
12 That's all we do. We don't do any pharmacy services outside of
13 the worker's comp. area.

14 This is an issue that I've worked on in a number
15 of states. This is -- it's like deja vu all over again. I hear
16 all the same arguments. I've heard all the same discussions.
17 I've heard all of the same, you know, impetus to move it from
18 the regulatory authority to the Legislature, back to the
19 regulatory authority, and it's -- this is not an uncommon
20 process that I've -- I've seen. I want to first of all tell you
21 that we are in support of the bill or the proposed rule as
22 drafted.

23 CHAIRMAN SCHULTZ: Reimbursement guideline.

24 MR. ALLEN: The reimbursement guideline, yes.

25 And we will be submitting written comments that

1 will be a lot more detailed than my testimony. You've stole a
2 lot of my thunder with the study that you've already
3 demonstrated, so I'm going to skip over the study part. But I
4 did want to address a couple things. There's been a lot talk
5 about getting rid of bad actors and how this really kind of
6 covers everybody, and that's true. It's really, really hard to
7 legislate against a bad actor in this environment when it's a --
8 it's a practice that a lot can do.

9 We contract already with a lot of the good
10 actors. So those good actors that we contract with will --
11 they'll -- dispensing physicians will be able to continue to
12 dispense medications under our contracted rates. We have no
13 problem with that. It fits all within the reimbursement
14 guidelines that you've established, and it's -- that's going to
15 aid those good actors. It will certainly control the bad
16 actors, which we support.

17 There haven't been a lot of discussion -- well,
18 there was, I think, also discussion about a Y drug being denied,
19 and that's very possible. If you look at the ODG guidelines,
20 the treatment guidelines, not every Y drug is right for every
21 injury, and if you follow the treatment guidelines, there may be
22 some Y drugs that just aren't appropriate that would get denied
23 at the pharmacy.

24 And I think the challenge that we've always had
25 with physician dispensing is -- it's kind of the old adage that

1 to a hammer, everything's a nail. A pharmacy has a much broader
2 inventory of medications that they can dispense. Physicians
3 typically have a small cadre of medications that are available
4 to them. And if you're a prescribing physician and you have a
5 financial incentive to provide -- prescribe drugs in your office
6 that you have, that you can make money on, are you always going
7 to be choosing the very best drug for your patient, or are you
8 going to be choosing the one that you can dispense to make money
9 on, or are you going to write a prescription that they can take
10 to the pharmacy? It's an ethical dilemma. I think most doctors
11 probably do okay with that and do the right thing. But there
12 are those bad actors that don't do that, and I think this is
13 where this proposed guideline gets to that problem as well.

14 I think the other thing that hasn't been talked a
15 lot about is in the guideline of compounds. There was a study
16 released by WCRI in 2018. They looked at the physician
17 dispensing reforms in Pennsylvania, and they found that by
18 simply limiting price, just the cost of the medications, the
19 reimbursement, those were not sustainable over time. But when
20 you limited the time the physician could dispense, it did have
21 an impact, and it did drive those costs down. But what they saw
22 was the shift of compounds. And so your rule addressed that
23 appropriately, and we want to thank you for that and show our
24 support for that as well.

25 But we will be submitting comments with more

1 detail, and if there's, of course, any questions that you have,
2 I'll be happy to answer them. Thank you.

3 CHAIRMAN SCHULTZ: Okay. Questions, Mr. Krenzel?

4 MR. KRENZEL: No questions. Thank you.

5 CHAIRMAN SCHULTZ: Thank you, Mr. Allen.

6 Next, Tami Creegan.

7 MS. CREEGAN: For the sake of time, I'm going to
8 second that we add.

9 CHAIRMAN SCHULTZ: Okay. Thank you very much.

10 Todd Delano.

11 Mr. Delano, good to see you again.

12 MR. DELANO: Thank you all for your time. Todd
13 Delano, Cofounder and CEO of ServRX.

14 ServRX is one of the country's largest billing
15 agents or processors of workers' comp. prescription claims in
16 the country. Today we're contracted with one in six pharmacies
17 in the country. That includes physician dispensing, but not
18 unique to physicians. In fact, many, many more of our contracts
19 are typical and/or traditional pharmacies that you guys know of
20 today.

21 We do business in all 50 states. We have billed
22 hundreds of millions of dollars and will continue to bill
23 hundreds of millions of dollars around the nation in workers'
24 comp. prescription claims. So this is an area that we take
25 serious. This is what we do, and this is all that we do. So we

1 are key stakeholders. We do keep track of what's going on
2 around the country. And then specifically, though, here in our
3 state, we're headquartered in Arizona. So we can be anywhere.
4 We choose to do business in this state as a corporation. We
5 enjoy the business climate of Arizona. We enjoy living here.
6 And so again, we're stakeholders as residents of Arizona
7 independent of this issue.

8 We were encouraged by the decision to bring this
9 to the ICA, meaning the bill that was sent back to be
10 reconsidered for a fee schedule recommendation. We feel that
11 we're uniquely positioned in the marketplace to be able to
12 consult. In fact, we think we are the most unique in the
13 country to be able to consult with how do we solve these
14 problems.

15 The disappointment came in that we were able to
16 have a stakeholder meeting, a private meeting, but we were not
17 able to share data with each other, and to me, a collaborative
18 approach with both sides.

19 I could come up and share slides that would
20 position physicians in a favorable light or insurance companies
21 in a favorable light, or make injured workers look like they're
22 the victim. That's not what this format's for. That's why
23 knowledgeable people get together in a true stakeholders meeting
24 where we say you have vested interest, but we're the concentric
25 circles with the problem you're trying to solve, and how can we

1 do it.

2 For example, the insurance, the -- Copperpoint
3 shared information that said six prescribers were the
4 predominant prescribers in this state that led to the expenses.
5 This is true. Number one, I'll say for every pharmacy we
6 represent, we represent one in 1,000 prescriptions. Several in
7 this state, grocery store chains, use us. It's 10 to 15 percent
8 of the 1 percent that's workers' comp. that come through the
9 doctor. Many of them are first fills. You cannot compare that
10 data to a paying physician who's treating chronically injured
11 patients.

12 So this is not the format or time to tease apart
13 that type of data, but what I will ask is that we should be able
14 to solve the problem if it's six or eight doctors.

15 We have a unique perspective in the marketplace.
16 We've created unique solutions. We've asked to be able to
17 attend a meeting with other stakeholders, and we've been denied
18 that process. So this is a frustration and disappointment for
19 me. We are in opposition to the fee schedule as it's written,
20 but we encourage fee schedule changes.

21 Arizona is in the bottom quarter of expenses as a
22 fee schedule. As a recommended fee schedule, we're doing a
23 great job. We should continue to do a better job. We're in
24 support of that. But we do oppose the legislation as written,
25 and we hope that we can get together with all stakeholders soon

1 and come up with solutions that benefit all the stakeholders.

2 Thank you for your time.

3 CHAIRMAN SCHULTZ: Any questions?

4 MR. KRENZEL: No, sir. Thank you.

5 MR. DELANO: Thank you.

6 CHAIRMAN SCHULTZ: I have one question.

7 MR. DELANO: Yes, sir.

8 CHAIRMAN SCHULTZ: You said you were denied a
9 meeting with the stakeholders?

10 MR. DELANO: So we were denied the opportunity to
11 get together in a room with multiple people from all sides.
12 That was the request from everyone I know on our side to say
13 let's get together with the ICA, with insurers, with pharmacies,
14 with doctors. Let's get some of the market leaders together.
15 Let's share data openly, and let's talk about what's real,
16 what's not, and how can we solve the problems, for which I'm in
17 favor of. You know, this is not -- I'm pro physician. I'm pro
18 patient. I'm pro insurance. I'm pro business. So we were not
19 afforded that opportunity, at least from what we've been told.
20 That's the frustration I have with the process.

21 CHAIRMAN SCHULTZ: We definitely would appreciate
22 any constructive solutions you have to offer as we are looking
23 for.

24 MR. DELANO: Well, my constructive solution -- I
25 do have one ask, and I would ask that you help us coordinate a

1 meeting with the key prescribers that were mentioned in the
2 slides, with the insurance companies, the key counties, with the
3 ICA. And I want that meeting to happen, and I want us to all
4 openly share and be pragmatic and be open and honest with each
5 other. I promise you we'll attend that meeting. I promise you
6 we'll be pragmatic, and we'll come up with solutions that will
7 save the State money and that will make sure insurance companies
8 are heard, we're heard, doctors are heard, and patients are
9 heard. And I look forward to that opportunity, and hopefully
10 you can help me -- help us set up that meeting. I thank you for
11 that.

12 CHAIRMAN SCHULTZ: Thank you. And would you give
13 me a call or drop me a note --

14 MR. DELANO: Yes.

15 CHAIRMAN SCHULTZ: -- please, after the meeting?

16 MR. DELANO: I promise to. Thank you.

17 CHAIRMAN SCHULTZ: Thank you.

18 Okay. Chad Snow. Mr. Snow, good to see you.

19 MR. SNOW: Chairman, members of the Commission,
20 Director, my name is Chad Snow. I'm an attorney in private
21 practice with the firm of Snow, Carpio & Weekley. Our firm
22 represents more injured workers than any other firm in the
23 state. I think I personally have represented more injured
24 workers in the last 20 years than anybody. So I'm uniquely
25 positioned to speak on behalf of the one thing we've never

1 talked about that hasn't come up in this meeting, and that's the
2 injured workers. I'm here to speak for them.

3 Chairman Schultz, you had a slide that had some
4 myths and some facts, and I want to go over our side of myth
5 versus fact. You made a statement that you're only doing what
6 the Legislature told you to do at the beginning, and that's
7 belied from multiple letters of legislators from both parties
8 who expressed shock and dismay at this action by the Commission.
9 They said that was not what was discussed. Some of the members
10 even of that committee.

11 Excuse me. You talked about physician dispensing
12 abuse. I think that one of the slides said there was abuse by
13 physicians dispensing medications and compounds. I talked to
14 every -- all of the nine attorneys in my firm, several other
15 attorneys in other firms, and not one of us has ever been told
16 by a carrier that this is an issue. And so whatever anecdotal
17 information you may have been given by insurance companies or
18 self-insureds, it's flat out false. We've never been informed,
19 as those who represent injured workers, that this is a problem.
20 So I believe that this is a solution in search of a problem that
21 could lead to a much bigger problem.

22 Those of us who represented workers back in the
23 '90s and the early 2000s remember how difficult it was to find
24 physicians to treat our clients, especially those with chronic
25 pain. Doctors just didn't want to get involved. It's a pain in

1 the butt to represent injured workers, and so until they were
2 able to dispense medications, doctors just didn't do it. And so
3 I think by driving some of these doctors out, which I believe is
4 the real intent of this, you're going to be reducing the ability
5 for injured workers -- limiting their access to care.

6 The other thing I want to address is the lack of
7 transparency here. You state that there were stakeholder
8 meetings, and I think you mentioned they included physicians,
9 employers and the insurance community. What's missing from
10 that? The injured workers, what this affects at the end of the
11 day.

12 Our firm and other firms representing injured
13 workers were never consulted or informed of these meetings. We
14 certainly would have attended. We would have put our input into
15 it. And we specifically requested a meeting, along with
16 Dr. Scott, with Jackie Kurth. We were denied that meeting.

17 MS. KURTH: Let me just add I've had coffee with
18 Dr. Scott. I've met with Dr. Scott and talked with him on the
19 phone, Chad, so...

20 MR. SNOW: Okay. Well, our meeting was denied.

21 And I want to just talk lastly about -- your one
22 slide had this thing that said a violation of trust. The
23 mission statement of the Industrial Commission is to oversee the
24 laws related to the protection of the life, health, safety and
25 welfare of the injured workers of the state.

1 I have seen nothing undertaken by this Commission
2 in the last four years which is aimed to benefit injured
3 workers. Every issue that you've championed lately is what is
4 brought to you by the insurance industry, and you've carried
5 their water without fail. I'm talking about ODG, full and final
6 settlements, the expansion of ODG, and now trying to attack the
7 doctors who treat our clients.

8 At one point a couple years ago -- I won't go
9 into that. That to me is the real violation of trust here.
10 There's not one thing that I can see that's been done to benefit
11 the injured workers, the very workers that this Commission
12 exists for. And to -- with that in mind, as the representative
13 of the attorneys that represent these injured workers, we
14 wholeheartedly oppose this. It will drastically limit their
15 access to care.

16 Lastly, I do want to say you made a mention that
17 injuries have gone down in Arizona over the last five years.
18 That's been going on for 20 years. So, you know, don't pat
19 yourselves too hard on the back for that. That's something
20 that's just been -- that -- because of technology and all other
21 things.

22 So that's all I have to say. We oppose this very
23 strongly for those reasons. Thank you.

24 CHAIRMAN SCHULTZ: Thank you. Any questions?

25 MR. KRENZEL: Actually, I do have a question for

1 you. I've heard a lot from a lot of stakeholders here.
2 Regardless the side you guys are on, and the one of the
3 arguments is we oppose this, what the ICA is doing, and look at
4 what we believe is the direction of the legislation. And I've
5 heard arguments that -- so I guess I would -- just curious if
6 anyone who has this -- this view would go on record as to say
7 that they wouldn't be opposed necessarily to the intent of what
8 the ICA is trying to do by protecting injured workers and
9 looking at the fee schedule, but they're more concerned with
10 language and intent of the legislation, translating to what we
11 are trying to translate this to.

12 I see -- I guess what I'm hearing is a lot of it
13 goes to you guys are doing something you're not supposed to be
14 doing based on the intent of the Legislature. And forgive me
15 for not knowing this, but has there been any proposed
16 legislation to correct that intent, that language, if they're
17 that sharp and appalled by what the ICA is attempting to do?

18 MS. SENSEMAN: I'll speak to that.

19 MR. KRENZEL: Thank you.

20 MS. SENSEMAN: Hi. My name is Kathy Senseman. I
21 represent ServRX, a number of doctors.

22 To that point, there wasn't legislation because
23 you didn't put your fee schedule out until the week after the
24 Legislature concluded. So usually this fee schedule comes out
25 in April, March, April, May-ish, and so we wanted to see what

1 that was going to be, and I made several calls to Mr. Ashley
2 saying, Where are we at in the process? And all we got was that
3 it was -- we're working on it. It's very complicated and, you
4 know, we don't have anything yet. But a week after the
5 legislative session concluded, your fee schedule came out with
6 language that was exact -- almost exactly identical to the
7 Senate Bill 1111 for 2018.

8 So we thought it was -- why would we run
9 legislation if we didn't know what it was doing to be? Our
10 intent from the time in 2018 when we negotiated with the Arizona
11 Medical Association with Senator Fann and others was to remove
12 that language, and because there was not the support. The
13 insurance industry had run similar bills like that in multiple
14 years. They had all been defeated. It was going to be defeated
15 in committee. Senator Fann agreed to remove that language, and
16 we all agreed that we would work on the bad actor situation.
17 That's what Senator Fann testified to. That's what we all
18 agreed to. That's what the Arizona Medical Association
19 submitted comments to back in August of 2018.

20 So at no point did anyone agree to doing Senate
21 Bill 1111 into your fee schedule. And so if that's being
22 insinuated, that is not the understanding of the stakeholders
23 that were part of that agreement. I was one of them. No -- at
24 no point would anyone ever make an agreement to take language
25 out of a bill only to say let's put it in a fee schedule. It

1 was to deal with bad actors. It was to deal with specifically
2 opioid overprescriptions. It was to deal with compounds, and it
3 was to deal with off dosages, where doctors would prescribe a
4 dosage that wasn't in the formulary and then be able to charge a
5 higher amount. Those were the three things we all thought we
6 were dealing with.

7 When we met with Chairman Schultz, that's what we
8 talked about in depth. We talked about PBMs and creating a
9 system within the fee schedule that would put doctors out of
10 business, and to force everyone into PBMs outside of the fee
11 schedule.

12 So we were confident, Mr. Schultz, when we left
13 your meeting that you understood our position and where we were
14 coming from, and Mr. Delano that spoke earlier offered the same
15 thing. Let's get together. Let's talk about this. We have
16 experience from around the country that we can bring to the
17 table. Let us know when you want to talk, and that never
18 happened.

19 So I can absolutely speak to legislative intent.
20 So that's why I think you keep hearing it, because at no point
21 did folks that were a part of that ever agree to putting
22 language from Senate Bill 1111 into your fee schedule. It was
23 to deal with bad actors.

24 So with that, I'll be happy to answer questions.

25 MR. ASHLEY: Mr. Chairman, there may be some

1 others that would like to maybe ask questions or make comments.
2 I just wanted to go over a couple of items.

3 And Kathy, I've enjoyed our conversations, and as
4 you know, I'm accessible when you reach out to me. If I don't
5 answer, I'm going to call you back.

6 MS. SENSEMAN: I appreciate it.

7 MR. ASHLEY: And I never want this to be an
8 agency that we'll say that we're not going to take a meeting,
9 and I don't believe that's occurred, to the best of my
10 knowledge.

11 MS. SENSEMAN: Mr. Ashley, I would say that we
12 did reach out to two commissioners who either didn't call us
13 back or said they couldn't meet with us and then denied meeting
14 with us. So we have made those attempts. Not you, Mr. Schultz.
15 We had made attempts to meet with commissioners, and those were
16 denied or unable to be made after they said they could.

17 MR. ASHLEY: Any one of our volunteer
18 commissioners can choose to meet with whoever they want. They
19 can choose whether it be through a schedule conflict or other
20 issues to not be able to take a meeting for whatever purpose.

21 MS. SENSEMAN: I'm a gubernatorial appointee. I
22 get it. I'm president of a board. I -- but you know, I know
23 that when there's something controversial, I like to make every
24 effort to meet with all sides before I consider an issue.

25 MR. ASHLEY: Correct. And again, our volunteer

1 commissioners can choose to take a meeting or if schedule
2 conflicts prohibit that they can choose not to.

3 There was -- there was a reference to those who
4 represent injured workers. Last summer some of the first groups
5 that we reached out to were folks that we knew might have
6 concerns about any changes to physician dispensing, and one of
7 the earliest meetings that I recall was with AALIW, the Arizona
8 Association of Lawyers For Injured Workers, and we have two
9 claimant attorneys available in that meeting.

10 And Mr. Snow, I'm sorry that you weren't notified
11 by the group about that meeting.

12 MR. SNOW: We're not members of that group.

13 MR. ASHLEY: And a separate request, again, you
14 know, we're there to accommodate those requests. We are there
15 to meet and have a dialogue, and I want to make sure that you
16 are aware of that, and we are willing to meet. And if there was
17 a miscommunication in the past that I'm not aware of, we're here
18 -- we're open for that.

19 And there was also -- there was a reference to
20 letters from legislators. We had three legislators here today,
21 and I really appreciate them coming here. I have great respect,
22 especially for Representative Cobb. I have a great deal of
23 respect for Representative Cobb and the work we've done, as you
24 heard earlier, with Representative Cobb.

25 There are legislators that we received letters in

1 opposition to this proposal. Those legislators are starting to
2 retract those letters, and that's why you don't see more here
3 today. As they learn more about this issue, those letters are
4 starting to be retracted, and I just wanted to make that point
5 for the record. But I also want to reiterate that we are here,
6 and we are open and transparent. Any request -- and I offered
7 to you four weeks ago today when we spoke, I said, I will set up
8 a call. I will set up a meeting. And I know the response
9 was --

10 MS. SENSEMAN: With whom, Mr. Ashley?

11 MR. ASHLEY: With our chairman. With our Medical
12 Resource Office. With our legal team to discuss this further.

13 MS. SENSEMAN: Mr. Ashley, I apologize, but I
14 don't recall that being an offer from you when we spoke.

15 MR. ASHLEY: It was an offer four weeks ago
16 today, and the response was -- that you gave me, We'll see you
17 on July 1st.

18 MS. SENSEMAN: I'm sorry, but that's not my
19 recollection of it. And I'll share with you that when we talk
20 about stakeholder process at the Legislature, we talk about
21 stakeholders being every one at the table, not just individual
22 meetings. We talk about -- again, as a gubernatorial appointee
23 and the president of a board that is controversial, I spend a
24 tremendous amount of time meeting with folks. And I appreciate
25 you, Mr. Schultz, for meeting with us when you did. But

1 stakeholders meetings, when we talk about that in the
2 legislative sense, and I would think that this board would
3 understand that, is that you are going to put people around the
4 table, and it's going to be uncomfortable, and it's going to be
5 difficult, and you're going to work through it.

6 Individual stakeholder meetings are just -- you
7 can't even call them stakeholder meetings. They're meetings. A
8 stakeholder meeting and a stakeholder process to get full input
9 is when you have everyone at the table talking and negotiating
10 and figuring out what it is. That did not happen in this
11 process, I'm sorry to say.

12 MR. ASHLEY: I appreciate that, and this room,
13 this is a fraction of the stakeholders that are impacted by this
14 issue. And holding select meetings where we pick and choose or
15 maybe some stakeholders pick and choose who represents their
16 issues, that still excludes folks, and that's why we had an
17 auditorium session last summer just like this, a crowd of almost
18 this size, and that's why we're here today, after the proposal's
19 been released, to continue to get feedback.

20 And the record stays open. The record does not
21 close today, folks. The record stays open for another week
22 until the close of business on Monday, July, 8th. And then all
23 of those comments that we received up to that day, including the
24 transcript if it's ready -- talking to the court reporter over
25 there -- we will have all of that posted online a week from

1 today.

2 MS. SENSEMAN: So Mr. Ashley, your assertion that
3 there's just too many people, and it's too difficult as to why
4 we didn't have a stakeholder meeting, because I don't -- I'm on
5 the board of someone that has over 550 schools that they -- we
6 regulate, and we routinely have stakeholder meetings with folks
7 that are in excess of that number and have a much more robust
8 process to take comments and to participate in that than what
9 happened here. And so all we're asking for is to have a truly
10 -- a truly open conversation with you guys about this, because I
11 think we all --

12 CHAIRMAN SCHULTZ: We need to move on. We still
13 have quite a stack here.

14 MS. SENSEMAN: No problem. Thank you.

15 CHAIRMAN SCHULTZ: Always good to see you again.
16 Breck Rice, please.

17 MR. RICE: In the interest of time, I'll pass.

18 CHAIRMAN SCHULTZ: Thank you. Good.
19 Brian Weekley.

20 MR. WEEKLEY: Chad Snow spoke for our firm, so I
21 will affirm.

22 CHAIRMAN SCHULTZ: Good to see you, Brian.

23 MR. WEEKLEY: Thank you.

24 CHAIRMAN SCHULTZ: Thank you.

25 Lisa Ann Bickford.

1 MS. BICKFORD: I'm with Coventry, and now I'll
2 just defer to my colleague, Brian. We're in support of the
3 measure.

4 CHAIRMAN SCHULTZ: Okay. Thank you. I had --

5 MR. PORTER: Mr. Chairman, I understand the City
6 of Avondale needs to leave. So accelerate those comments.

7 CHAIRMAN SCHULTZ: Okay. And who would that be?

8 MR. PORTER: I'm not sure. No. Never mind.

9 CHAIRMAN SCHULTZ: Okay. We're going to have to
10 help me with -- this. Sorry. Hold back.

11 MS. KURTH: It's Greg Gilbert.

12 CHAIRMAN SCHULTZ: Greg Gilbert.

13 MR. GILBERT: I didn't realize my scribble was
14 that bad. I apologize.

15 CHAIRMAN SCHULTZ: Back to --

16 MR. GILBERT: I apologize for that.

17 Mr. Chairman, Director, members of the ICA, thank
18 you for having me here, and thank you for also having a public
19 discussion on this topic.

20 I'm going to be very brief, because I'm going to
21 talk about a couple things in the existing proposal that have
22 not been discussed yet.

23 We're in support of the proposal as it stands
24 today. Two sections that we'd like to see reviewed. The first
25 one would be when this seven-day period for dispensing starts as

1 opposed to the date of injury. We'd like it to be the date of
2 first treatment. We've seen that done in other states. I think
3 it makes a lot more sense, because there's often delays with
4 patients from the time they get injured for treatment, and I
5 don't think your intent was to compress that seven-day period.

6 CHAIRMAN SCHULTZ: Thank you.

7 MR. GILBERT: Secondly, as a primary care
8 provider, we dispense medications in the front line. Oftentimes
9 we do that before the claim has been established or even
10 determined compensable, which means there's risk involved in
11 that dispensing. We've sent a lot of our bills through PBMs to
12 work with the insurance companies in that process.

13 But one thing that we noticed in the proposal was
14 the elimination of dispensing fee, and we ask that that not be
15 eliminated. Our acquisition cost in many cases would be higher
16 than the actual cost would be in the bill without the dispensing
17 fee, and therefore, we would not be able to dispense those
18 medications, which I don't think was your intent stated earlier
19 in your presentation. That's it. Thank you.

20 CHAIRMAN SCHULTZ: Okay. Thank you.

21 MR. GILBERT: Questions?

22 CHAIRMAN SCHULTZ: Questions? Okay. Thank you.

23 Okay. Jeremy Merz.

24 MR. MERZ: Good afternoon, Mr. Chair,
25 Commissioners. Jeremy Merz on behalf of the American Property

1 Casual Insurance Association. We have the largest P&C trade
2 association in the country. We represent 70 percent of the
3 workers' compensation insurance market.

4 We support the proposal that has been put forth
5 today. We thank you for the hard, thoughtful work. It was data
6 driven. We agree. We see this throughout the country. We've
7 seen different states tackle it in different ways.

8 With the lateness of the hour and heeding the
9 Chair's advice, I would associate my comments for the Arizona
10 Self-Insured Associated and Copperpoint about the data and the
11 problem. What we see here, though, is a thoughtful solution.
12 Right? There are built-in access to physician dispensing still.
13 We talked about first fill. We've talked about the ability for
14 those in remote access areas to still use this process. We've
15 talked about the exemption for the hospitals.

16 So we think there are thoughtful things built
17 into this. We appreciate the hard work, and in the interest of
18 time, again, I just say we very much support the proposal in
19 its entirety including the other piece of the proposal dealing
20 with the fee schedule on compounds. So thank you.

21 CHAIRMAN SCHULTZ: Thank you.

22 Beth Rau.

23 MS. RAU: Good afternoon, Mr. Chairman, Director
24 Ashley and commissioners. I appreciate the opportunity to see
25 you all again, to be here to say a few words about this. I'm

1 the safety risk manager for Fry's Food Stores. Been in that
2 role for 29 years. We fortunately have the blessing to be a
3 self-insured employer in the state of Arizona, because it truly
4 is a blessing.

5 Arizona has by far the best workers' comp. system
6 across the nation that Kroger actually resides in, and I hear
7 that often. And I really appreciate all the efforts that you
8 have taken on in the last four or five years. The improvements
9 have been fantastic.

10 One of the things you said today which really
11 strikes everything that I'm about is all of this has been going
12 on, but there were no better outcomes. So my focus is on
13 prevention, not having the associate injured. But when they do
14 get injured, for every reason, the best solution is to get them
15 back as quickly as possible and as close to 100 percent if not
16 100 percent.

17 That outcome -- I'm outcome driven, and the good
18 benefit that Fry's has is we have retail pharmacies, and we
19 guarantee first fill for our associates, even if they're in an
20 environment where it's late at night -- we do have 24-hour
21 pharmacies, but I'm not going to make someone drive across town.
22 I'm going to guarantee that first fill to make sure they get the
23 medications that they need.

24 Being able to direct medical care to our
25 pharmacies as well, we don't see the abuse and the situations

1 that others do, and I'm constantly asked how is it that you are
2 able to not have this happen? And it's because we can direct
3 care, and we direct care for pharmacies as well.

4 If you ask who's the most -- who's the most
5 trustworthy person in everyone's life, it's going to be your
6 pharmacist, and a lot of that is because they have one focus,
7 and that's to take care of their patient. The technology that
8 we've seen, the increases and improvements in technology really
9 helps the pharmacist determine the contraindications and really
10 helps prevent any kind of problem.

11 And I'll just tell you an injured worker
12 initially getting evaluated with pain and everything that's
13 happened, they're not going to remember everything they're
14 taking. Maybe the vitamins. Maybe something they just started
15 taking a week ago. So the problems that I've heard about and
16 listened to are real. And so I want you to know that Fry's
17 truly supports all of the work that you've done on the fee
18 schedule. We want to go on record as supporting that, and we're
19 also a member of ASIA, and I appreciate all of your work.

20 Any questions? Thank you.

21 CHAIRMAN SCHULTZ: Thank you. Perfect timing,
22 Beth.

23 Okay. Dr. Patel.

24 DR. PATEL: Sanjay Patel, M.D., and I know Jackie
25 really well, and to the Chairman and Commissioner, thank you for

1 allowing us to talk.

2 I just want to reiterate what Dr. Scott said, and
3 I don't want to spend much time, because I know it's getting
4 late in the day, and everybody's getting a little tired. But a
5 couple things.

6 You know, Jackie, when we had ODG guidelines
7 implemented, I was part of helping the Commission with that
8 process, trying to preach that message out to many doctors who
9 feared this process, and I thought we really had stakeholder
10 meetings at that time. We actually sat down with a variety of
11 different doctors, applicant, defense, insurance, insurers,
12 Industrial Commission. I thought we had good conversations,
13 albeit nervous conversations about what was going to happen.
14 And everybody was fearful, and it all turned out okay with all
15 these people in that room.

16 So I don't think -- I haven't seen that in this
17 process, at least myself. I've haven't had a meeting with
18 anybody. I have just heard hearsay in looking at your website,
19 which you are correct, it does announce and publish everything
20 that you guys talk about.

21 Just a couple of quick points. ODG does have a
22 formulary. There are yes/no drugs on that, and you know, these
23 examples you give, many of them are no drugs. So the carrier
24 has the absolute right and -- to be able to take those
25 medications and not pay that fee.

1 So with respect to that, I get many, many denials
2 every day regarding a medication I may prescribe. The only time
3 I'm allowed to take a no drug is to write a medical necessity.
4 So medical review, independent medical evaluator, ODG formulary,
5 all have impact on what we can and cannot prescribe. So just --
6 there is a level in this process to manage both the cost and
7 types of medications.

8 I've been in Arizona for seven years. I've never
9 -- never prescribed compounded-type medications. We had issues
10 with that where I came from in California, multiple issues. So
11 I've never done that, but it always ends up showing up in the --
12 in discussion.

13 And then second -- just one last thing.
14 Dr. Scott had mentioned this National Council For Compensation
15 Insurance. I read through this several times, and it really
16 shows pre- and pro-reform, again, drug tests -- drug costs.
17 \$1,216 pre-reform to current levels of close to \$1,000. So
18 there is improvement in these reforms, particularly ODG have
19 impacted costs, and I think it will continue to benefit costs as
20 they provide their evidence-based guidelines, which change
21 continually in terms of all aspects of medicine.

22 That's all I wanted to say.

23 CHAIRMAN SCHULTZ: Questions for Dr. Patel?

24 MR. KRENZEL: No, sir. Thank you.

25 CHAIRMAN SCHULTZ: Okay. Thank you.

1 Dr. Stephen Borowsky. Good afternoon, Doctor.

2 DR. BOROWSKY: Good afternoon. I'm Dr. Steve
3 Borowsky. I've been a pain medicine doctor for over 40 years.
4 Assistant clinical professor at the U of A Medical School. I've
5 been on the Governor's Opioid Committee. I have had a
6 significant workers' comp practice over the years on referral
7 only both from claimant's attorneys and defense attorneys, and
8 sometimes jointly. So I am very familiar with that practice.

9 In reviewing records, I was totally amazed when I
10 happened to come upon the in-house pharmacy issue where
11 medications were chosen, not out of the whole multitude of
12 available medications, but solely based on what was available in
13 the in-house pharmacy. And then I saw records that indicated
14 that they were going to start a trial of a new medication.
15 Again, it was a medication that was in the pharmacy, in-house,
16 and the trial involved a prescription for 180 pills with three
17 refills. Hardly a trial.

18 So the issue appears to be not an opioid issue,
19 but more of a license to steal. And so this becomes
20 significant, and certainly, obviously, I approve of this
21 proposal. When I bring this up to the medical students that I
22 work with and mention about the fact that \$12 prescriptions are
23 charged \$800 or more, they can't believe this is happening. So
24 hopefully, with their mindset, will understand this issue and
25 will be directed at a more reasonable approach.

1 This issue does not in any way limit access to care or
2 the ability to care in any fashion. It's strictly a matter of
3 cost, and I think you've shown that's the major issue.

4 CHAIRMAN SCHULTZ: Questions?

5 MR. KRENZEL: No, sir.

6 CHAIRMAN SCHULTZ: Thank you, Doctor.

7 Deb Baker.

8 MS. BAKER: Hello, lady and gentlemen. I'm Deb
9 Baker, Work Comp. Director at Valley Schools Workers'
10 Compensation Group. We're a self-insured group of school
11 districts.

12 And first I want to say that I agree with
13 everyone here who has spoken in support of the proposal. I'm
14 100 percent in support of it.

15 I have to tell you I'm a little shocked.
16 Everyone in this room is a professional, and I don't believe
17 that every speaker has conducted themselves professionally, and
18 I felt that at times all of you were under attack. I consider
19 that inappropriate.

20 And I -- just to rebut a few things, I have
21 called many applicant attorneys to tell them that their client
22 is getting 504 of oxycodone every 30 days. You attorneys don't
23 know that because you don't monitor your clients. You're
24 getting the medical reports.

25 AUDIENCE MEMBER: That's unprofessional. You're

1 wrong.

2 MR. SNOW: You're a self-insured. It doesn't
3 affect you anyway.

4 AUDIENCE MEMBER: Exactly.

5 MR. SNOW: Self-insureds can direct care.

6 MS. BAKER: No. I'm a public entity. I said I
7 handle school districts.

8 MR. SNOW: Self-insured.

9 MS. BAKER: I don't have -- public entity self-
10 insureds do not --

11 MR. SNOW: All the other self-insureds have
12 talked about it.

13 CHAIRMAN SCHULTZ: Let's move along.

14 MS. BAKER: Yes. I'm moving on.

15 I do want to emphasize as you stated so
16 eloquently in your presentation, Chairman, we're paying claims
17 with taxpayers' dollars. Education is so important. I don't
18 think anyone in this room is against better education, more
19 teachers, higher teacher salaries, smaller classrooms, and the
20 -- the money that we're spending on claims that we don't need to
21 spend could go to support the education of the next generation.

22 So that's all I have to say. Thank you.

23 CHAIRMAN SCHULTZ: Thank you. Questions?

24 MR. KRENZEL: No.

25 CHAIRMAN SCHULTZ: Okay. Jason Barraza.

1 MR. BARRAZA: Good afternoon. Mr. Chairman,
2 Commissioners. For the record, my name's Jason Barraza with
3 Veridus.

4 CHAIRMAN SCHULTZ: I'm sorry.

5 MR. BARRAZA: That's just fine. You were close
6 enough.

7 I'm appearing on behalf of myMatrix, which is an
8 Express Scripts company, which was recently purchased by Cigna.

9 I just want to thank you for this opportunity to
10 express our support for the proposed fee schedule. For the
11 Commission's benefit, as one of the largest pharmacy benefit
12 management companies in North America, providing PBM services to
13 thousands of client groups, including management care
14 organizations, insurance carriers, employers, third-party
15 administrators and public sector workers' compensation and
16 union-sponsored benefit plans, myMatrix takes a strategic
17 approach to workers' compensation to ensure safety for the
18 injured worker while aggressively controlling costs.

19 MyMatrix supports the proposal and appreciates
20 the opportunity to share that with the Commission today. We
21 believe that the current proposal provides reasonable limits on
22 reimbursement for repackaged and physician-dispensed
23 prescription drugs, and we appreciate the work of the Commission
24 on this issue.

25 At the Commission's direction, we will be

1 providing a more thorough written comment by the July 8th
2 deadline. And again, thank you for this opportunity to publicly
3 express our position. Thank you.

4 CHAIRMAN SCHULTZ: Okay. Questions?

5 MR. KRENZEL: No, sir.

6 CHAIRMAN SCHULTZ: Mr. Barraza, thank you.

7 Okay. We have no more speaker slips, so I'd like
8 to now open the phone lines if we could.

9 MR. PORTER: Not there.

10 CHAIRMAN SCHULTZ: There we go. Good. Okay.
11 Thank you.

12 Our first person on the phone who's indicated
13 they want to make a comment would be Brian Conner, representing
14 American Airlines.

15 MR. CONNER: Thank you, Commissioner,
16 Mr. Chairman, Board. As one of Arizona's largest (inaudible).

17 COURT REPORTER: I can get him.

18 MR. ASHLEY: Hey, Trevor, can we get the volume
19 up any louder than that?

20 CHAIRMAN SCHULTZ: Brian, can I ask you to start
21 over when we deal with the volume here so the court reporter can
22 get your comments, please?

23 MR. CONNER: Oh, sure. Absolutely.

24 CHAIRMAN SCHULTZ: Hang on just one minute while
25 we try to figure out how to increase your volume.

1 Okay. Would you try it again, Brian? And yell
2 at us, would you, please.

3 MR. CONNER: Okay. Is that better?

4 CHAIRMAN SCHULTZ: Yes.

5 MR. CONNER: Much better?

6 CHAIRMAN SCHULTZ: Yes.

7 MR. CONNER: Very good. Okay. Thank you very
8 much.

9 Again, as one of Arizona's largest private
10 employers, we have a significant stake in the policy followed by
11 the Industrial Commission of Arizona. Therefore, we would like
12 to communicate our support in the proposed changes to the fee
13 schedule, limiting the circumstances which providers may
14 dispense medication from their own office.

15 Safety is American Airlines' number one priority
16 and the power of our company. Any work-related injury is
17 paramount to American Airlines. When a work-related injury does
18 occur, our intense focus is to ensure our team members receive
19 prompt and adequate medical care. Our commitment to our team
20 member is unwavering in this respect, and we do not support any
21 changes that will undermine this commitment in any way
22 whatsoever.

23 With that said, we join concerns about the
24 changes coming from some providers who are dispensing medication
25 from their own offices. This often results in charges

1 significantly greater than what the medications cost as far as
2 the pharmacy available to the public. These mark-ups cannot be
3 justified on any rational, understandable basis. The only
4 beneficiary to this practice are the physicians who are bringing
5 in (inaudible), and this has to stop.

6 The proposed changes to the fee schedule are
7 consistent with what we've seen in other jurisdictions.
8 Remember, American Airlines has 135,000 employees, and we
9 operate workers' comp. in every state in the United States.

10 Under the proposal, physicians are allowed to
11 prescribe from their office under certain provisions, but not
12 indefinitely. Accident agreement between the provider and the
13 payor, the payor is not required to pay for medication that the
14 employee can easily obtain from the likes of Wal-Mart,
15 Walgreens, CVS and so forth. The only parties harmed by this
16 change are some providers. Employees, on the other hand, will
17 continue to receive the medication that their injury
18 legitimately deserves.

19 We applaud the Industrial Commission's efforts
20 and sincerely hope that you will treat any objections to those
21 changes with the appropriate (inaudible). Price gouging by a
22 few outliers is (inaudible). Thank you.

23 CHAIRMAN SCHULTZ: Thank you, Mr. Conner.

24 Any questions for Mr. Conner?

25 MR. KRENZEL: No.

1 CHAIRMAN SCHULTZ: Okay. Thank you.

2 Next we have Christine Lawson from Willis Towers
3 Watson.

4 MS. LAWSON: And I will support American
5 Airlines' position and the employer voting in favor of. Thank
6 you.

7 CHAIRMAN SCHULTZ: Okay. Thank you.

8 We have a significant list of others on the phone
9 that I read before. Does anyone who's on the phone wish to make
10 any additional comments? If so, would you say so now?

11 MS. COLWELL: Yes. This is Pat Colwell with
12 Southwest Airlines, and I thank you, Board, for the opportunity
13 to speak today, and I, too, would like to voice the same support
14 as American. We are public airlines, is the largest domestic
15 (inaudible) --

16 MR. TESTINI: We lost her.

17 CHAIRMAN SCHULTZ: You cut out, Pat.

18 MR. PORTER: Just invite her to submit a written
19 comment. Oh, she did. Okay.

20 CHAIRMAN SCHULTZ: Yeah. Okay. Good.

21 Anyone else on the phone who wishes to make a
22 comment?

23 MR. NORT: Chairman, members of the committee.

24 CHAIRMAN SCHULTZ: Yes.

25 MR. NORT: Can you hear me? Can you hear me? My

1 name is Charles Nort.

2 CHAIRMAN SCHULTZ: Yes.

3 MR. NORTON: Uh-huh. I'm president of Nevada
4 Alternative Solutions. We're a third-party administrator
5 throughout the tri-state area, Arizona, Nevada and Utah. I
6 support and commend the comments throughout on both sides today,
7 and it certainly was a robust meeting, and I wanted to -- can
8 you hear me, sir?

9 CHAIRMAN SCHULTZ: Yes.

10 MR. NORTON: And as such, having just gone
11 through a lengthy, although short in time, legislative session
12 in Nevada, I can tell you the biggest -- the biggest issues that
13 came forth were access to physicians and medication, and
14 improving that is -- I think, is exactly what you're doing
15 today, and I commend you for it.

16 CHAIRMAN SCHULTZ: Thank you.

17 MR. NORTON: Thank you.

18 CHAIRMAN SCHULTZ: Anyone else on the phone who
19 wishes to make a comment?

20 If not, James would you remind folks of the
21 process from here?

22 MR. ASHLEY: Yes. The record is open for another
23 full week. It's been open for the full month. Actually, it's
24 been open for about 13 months. But it's been open for the full
25 month since the actual proposal has been released, and it will

1 be open for another week until Monday, July 8th at close of
2 business, at which point all comments received, including the
3 transcript from today, will be posted online.

4 CHAIRMAN SCHULTZ: Okay. Thank you.

5 So now that we've had the fun part of our
6 meeting, the Commission does need to go through its regular
7 agenda, but for any of those of you who have already suffered
8 through an Industrial Commission meeting, you're free to go.
9 I'll give you a couple of minutes, but any of you who you want
10 to stay, we'd love to have you stay.

11 (End of public comments.)

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C E R T I F I C A T E

I HEREBY CERTIFY that the proceedings had upon the foregoing hearing are contained in the shorthand record made by me thereof, and that the foregoing 90 pages constitute a full, true and correct transcript of said shorthand record; all done to the best of my skill and ability.

DATED at Phoenix, Arizona this 8th day of July 2019.

Teresa A. Watson

Teresa A. Watson, RMR
Certified Court Reporter
Certificate No. 50876