

MINUTES OF MEETING
OF THE INDUSTRIAL COMMISSION OF ARIZONA
Telephonic Meeting
Held at 800 West Washington Street
Phoenix, Arizona 85007
Thursday, June 25, 2020 – 1:00 p.m.

Present: Dale L. Schultz	Chairman (Telephonic)
Joseph M. Hennelly, Jr.	Vice Chair (Telephonic)
Scott P. LeMarr	Commissioner (Telephonic)
Steven J. Krenzel	Commissioner (Telephonic)
James Ashley	Director (Telephonic)
Gaetano Testini	Chief Legal Counsel (Telephonic)
Jason M. Porter	Deputy Director (Telephonic)
Trevor Laky	Legislative Affairs Chief/Public Information Officer (Telephonic)
Charles Carpenter	Medical Resource Office Manager (Telephonic)
Renee Englen	Medical Resource Office (Telephonic)
Renee Pastor	Self Insurance (Telephonic)
Lisa Padgett	Labor Director (Telephonic)
Victoria Kamm	Labor Supervisor (Telephonic)
Jennifer Krainski	Labor Investigator (Telephonic)
Jessie Atencio	ADOSH Director (Telephonic)
John Acosta	Compliance Officer (Telephonic)
Anna Maria Stonerock	ADOSH Admin (Telephonic)
Kara Dimas	Commission Secretary (Telephonic)

Chairman Schultz convened the meeting at 1:00 p.m. Also in attendance on the telephone, confirmed by roll call were Teresa Watson (Court Reporter); Mark Klingensmith (Comfort Systems); Shawn Koval, Chris Braamse and Andrew Brought (D.H. Pace); Randy Cates and Justin Aldes (SeaCa Plastics); Christine Glover (Snell & Wilmer); Gale Vogler (CopperPoint); Greg Gilbert (Concentra); Brian Allen (Mitchell International); Brett Barratt (NCCI); and Sandy Shtab and Isabel Hernandez (Healthsystem).

Public Hearing regarding the 2020/2021 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 2020/2021 Arizona Physicians' and Pharmaceutical Fee Schedule and the recommendations for changes to the Fee Schedule.

Mr. Carpenter reviewed the six items in the staff proposal.

Mr. Ashley noted that over the last month, as of today's Commission meeting, one written comment was received and posted on the Medical Resource Office page from the Arizona Counties Insurance Pool.

The following attendee addressed the Commission during the Public Hearing: Greg Gilbert (Concentra).

At the conclusion of the testimony, Chairman Schultz noted that the record will remain open for written comments until the close of business on July 2, 2020. 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.

Approval of Minutes of June 11, 2020 Regular Meeting Minutes.

Commissioner Krenzel moved to approve the Minutes of the June 11, 2020 regular session meeting and Commissioner Hennelly seconded the motion. Chairman Schultz, Vice Chair Hennelly, Commissioner LeMarr and Commissioner Krenzel 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. 2CC19/20-0097 Jon Mark McDowell dba All Star Plumbing & Rooter aka All Star Rooter & Plumbing \$1,000
2. 2CSP19/20-0151 Rebound Gymnastics West LLC \$1,000
3. 2CNP19/20-0565 Let's Help Movers LLC \$10,000

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

1. Pinnacle West Capital Corporation

Chairman Schultz removed a.1. Jon Mark McDowell dba All Star Plumbing & Rooter aka All Star Rooter & Plumbing as they are in the process of obtaining insurance. Chairman Schultz also commended Pinnacle West Capital Corporation for their excellent safety record and low experience modification factor. Commissioner Krenzel requested a.3. Let's Help Movers LLC be moved to the regular agenda for an additional comment. Vice Chair Hennelly moved to approve the remaining items on the Consent Agenda and Commissioner Krenzel seconded the motion. Chairman Schultz, Vice Chair Hennelly, Commissioner LeMarr and Commissioner Krenzel voted in favor of the motion. The motion passed.

Approval of Proposed Civil Penalties Against Uninsured Employers.

2CNP19/20-0565 Let's Help Movers LLC \$10,000

Commissioner Krenzel noted there are not too many \$10,000 civil penalties requested and asked Mr. Testini to discuss the process in this matter.

Mr. Testini noted the \$10,000 penalty comes by way of being the third civil penalty assessed against Let's Help Movers LLC. The first was in May 30, 2019, the second was May 14, 2020. They had insurance canceled on February 19, 2020, and this is an employer who will obtain insurance and then drop it once they have complied. In this case, this is the third penalty and that is why it is the maximum of \$10,000.

Commissioner LeMarr moved to approve the \$10,000 civil penalty assessed against Let's Help Movers LLC for failure to provide workers' compensation insurance to protect their employees. Commissioner Krenzel seconded the motion. Chairman Schultz, Vice Chair Hennelly, Commissioner LeMarr and Commissioner Krenzel voted in favor of the motion. The motion passed.

Discussion and Action regarding Proposed Youth Employment Penalty.

CL-1819-0425	D'Mar Pizza, Corp. DBA Sardella's Pizza & Wings
CL-1819-0484	D'Mar Pizza, Corp. DBA Sardella's Pizza & Wings

Ms. Padgett summarized the Labor Department's investigation for two separate reports of injury involving for the same business and location, which included findings of various violations of A.R.S. § 23-232 (A)(8)(b). Ms. Padgett recommended that the Commission approve issuance of a Civil Penalty in the amount of \$1,000.00.

Chairman Schultz checked if anyone on the phone would like to comment. There were no comments.

Vice Chair Hennelly moved to approve issuance of a Civil Penalty in the amount of \$1,000.00 to D'Mar Pizza, Corp. DBA Sardella's Pizza & Wings. Commissioner LeMarr seconded the motion. Chairman Schultz, Vice Chair Hennelly, Commissioner LeMarr and Commissioner Krenzel voted in favor of the motion. The motion passed.

CL-1920-0001	Hei-Tek Automation, LLC
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Ms. Padgett summarized the Labor Department's investigation, which included findings of various violations of A.R.S. § 23-232(A)(4). Ms. Padgett recommended that the Commission approve issuance of a Civil Penalty in the amount of \$500.00.

Chairman Schultz checked if anyone on the phone would like to comment. There were no comments.

Commissioner Krenzel moved to approve issuance of a Civil Penalty in the amount of \$500.00 to Hei-Tek Automation, LLC. Commissioner LeMarr seconded the motion. Chairman Schultz, Vice Chair Hennelly, Commissioner LeMarr and Commissioner Krenzel voted in favor of the motion. The motion passed.

Chairman Schultz commented on the excellent work from Ms. Padgett and her team.

Discussion and Action of Arizona Division of Occupational Safety and Health Proposed Citations and Penalties.

Chairman Schultz discussed the purpose of and process for the Commission's consideration of ADOSH citations and proposed penalties.

equipment was operational, and it was not about the condition of the forklift, it was simply about the failure to use the appropriate additional tines to safely move the load.

Chairman Schultz checked if anyone on the phone would like to comment.

Mr. Braamse, the Corporate Safety Director for D.H. Pace, thanked the Commission for hearing this matter and inviting their participation in the proceedings. D.H. Pace takes the safety and health of their employees, customers and anyone impacted by their operations very seriously. This incident has deeply impacted the company and employees. In response to this incident D.H. Pace has taken a holistic approach and overhauled the forklift safety program because this incident really exposed that they had a safety gap. They immediately stopped all operations in the company pending each operator being retrained on forklift operations to include a practical evaluation internally done by a trainer within the company. All managers, field and warehouse employees signed a document indicating that they understand that they are not to operate any forklift unless they are properly trained and authorized by the company. They have updated and re-implemented their forklift program to include stronger language outlining specifically who in the company is responsible for ensuring that forklift operators are trained and authorized prior to operating a forklift. They have included a procedure that requires a spotter to be on the ground, in a safe location, any time off loading so the spotter and forklift operator can communicate. Also they have changed how they handle the dock levelers by making sure there are six foot long tines on the dock levelers and they are in the process of going through all other equipment and making sure that any manufacturers' instructions on safe handling is known and incorporated into training and handling procedures.

Chairman Schultz thanked Mr. Braamse for sharing and noted it is exactly the kind of response that the Commission appreciates. The Commission is focused on trying to make sure that employers create the safest environment possible for their employees.

Commissioner LeMarr moved to amend the proposed Citations with a 20% reduction for good faith, prompt abatement, changes in training and commitment to safety that the employer has demonstrated. The total penalty would be reduced from \$7,500 to \$6,000. Commissioner Krenznel seconded the motion. Chairman Schultz, Vice Chair Hennelly, Commissioner LeMarr and Commissioner Krenznel voted in favor of the motion. The motion passed.

SeaCa Plastic Packaging, LLC
13549 W Willow Ave
Surprise, AZ 85379

Fatality/Accident
Years in Business: 1
Empl. Covered by Inspection: 13

Site Location: 13549 W Willow Ave
Surprise, AZ 85379
Inspection No: I2479 -1464119
Inspection Date: 2/19/2020

SERIOUS – Citation 1 - Item 1 –

- a) 13549 W Willow Ave, Surprise, AZ 85374: Two employees operated a Genie brand aerial lift, model #Z-45/25J and serial #Z452516-56681, without receiving training. 29 CFR 1910.66(i)(1)(v)

Div. Proposal - \$3,000.00	Formula Amt. - \$3,000.00
TOTAL PENALTY - \$3,000.00	TOTAL FORMULA AMT. - \$3,000.00

Mr. Atencio discussed ADOSH's investigation, summarized the citation and proposed penalty, and reviewed the photographs.

Vice Chair Hennelly noted a typographical error to the years of operation and number of employees to be able to qualify for the size reduction of 40%.

Chairman Schultz and Mr. Atencio discussed that the citation is not related to the fatality, but rather the training citations are for two other employees and discussed the length of the project and whether the employee had operated the same lift for the same function before during the two weeks.

Chairman Schultz checked if anyone on the phone would like to comment.

Mr. Cates, the General Manager at SeaCa Plastics, noted SeaCa is a family owned company and this fatal accident has impacted the company and employees tremendously. He noted it is a brand new facility in Arizona and did not anticipate anything like this happening. For that they need to become a better company and hopefully what they will be on the other side of this. They have hired a person to focus more on safety and health of the employees, sent all of the maintenance employees through aerial lift training and certification. There was a seasoned maintenance crew with experience in prior jobs with aerial lifts and the urgency to get them certified was not the focus. In hindsight it should have been done differently. They have trained all of their employees now and hopefully with the right program in place this will never happen again because it has impacted them in a way they never really had envisioned.

Chairman Schultz thanked Mr. Cates for his honesty and commitment to safety.

Chairman Schultz offered Mr. Cates ADOSH consultation services to inspect and help build a program with no jeopardy of being fined as long and anything they find would be fixed when this issue is resolved.

Mr. Cates was aware of ADOSH consultation services and planned on using that service. He has used ADOSH consultation services before, and as bad as this process has been, ADOSH and everybody that came during the investigation has been very helpful.

Chairman Schultz thanked him for the comments and noted that Mr. Atencio works hard to make sure his teams take as much of a consultative approach as they can, the Commission's desire is to have Arizona be the safest state in the nation.

Commissioner Krenzel moved to approve the citation and proposed penalties as presented and Vice Chair Hennelly seconded the motion. Chairman Schultz, Vice Chair Hennelly, Commissioner LeMarr and Commissioner Krenzel voted in favor of the motion. The motion passed.

Comfort Systems USA "Southwest", Inc.
6875 W Galveston St
Chandler, AZ 85745

Referral
Years in Business: 47
Empl. Covered by Inspection: 4

Site Location: 2010 N Forbes Blvd Ste 103
Tucson, AZ 85745
Inspection No: B8319 -1456587
Inspection Date: 1/15/2020

SERIOUS – Citation 1 - Item 1a –

Mr. Ashley announced that on Monday the Labor Department will be rolling out the new IT Labor system replacing a multi decade old Voyager system. This will be a Salesforce based platform consistent with the Claims and ALJ systems with critical features to integrate submitted online forms and automatically populate into the new system, and will save 40% of the time for many tasks conducted by the investigators and support staff.

Chairman Schultz noted that was amazing news.

Mr. Ashley issued a directive for the Phoenix and Tucson buildings that masks should be worn in public areas by employees and visitors. This is consistent with the Governor's guidance for individuals to wear masks when they are unable to physically distance and when in public, and the importance of wearing cloth face coverings which is also consistent with the direction from the Arizona Department of Health Services.

Chairman Schultz thanked ADOSH for their contribution to Valleywise of N95 masks.

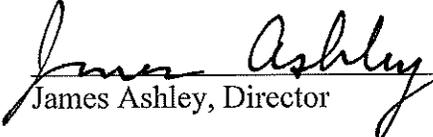
Ms. Dimas confirmed Commission meeting dates through August 2020. Commissioner LeMarr noted he would not be available on August 14 or 27.

Public Comment.

There was no public comment.

Commissioner Krenzel moved to adjourn and Vice Chair Hennelly seconded the motion. Chairman Schultz, Vice Chair Hennelly, Commissioner LeMarr and Commissioner Krenzel voted in favor of the motion and the meeting was adjourned at 2:40 p.m.

THE INDUSTRIAL COMMISSION OF ARIZONA

By  _____
James Ashley, Director

ATTEST:



Kara Dimas, Commission Secretary

INDUSTRIAL COMMISSION OF ARIZONA

PUBLIC HEARING

REPORTER'S TRANSCRIPT OF TELECONFERENCE PROCEEDINGS

Staff Proposal and Request for Public Comment Regarding
2020/2021 Arizona Physicians' and Pharmaceutical Fee Schedule

Industrial Commission of Arizona
Phoenix, Arizona
June 25, 2020
1:00 p.m.

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

Perfecta Reporting
(602) 421-3602

Prepared For:
INDUSTRIAL COMMISSION OF ARIZONA

1 REPORTER'S TRANSCRIPT OF TELECONFERENCE OPENING REMARKS
2 AND PUBLIC HEARING COMMENTS, 2020/2021 ARIZONA PHYSICIANS' AND
3 PHARMACEUTICAL FEE SCHEDULE PUBLIC HEARING, was reported by
4 Teresa A. Watson, Registered Merit Reporter and a Certified
5 Reporter in and for the State of Arizona.

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7 STAFF PARTICIPANTS:

8 Dale Schultz, Chairman
9 Joseph Hennelly, Vice Chair
10 Scott LeMarr, Commissioner
11 Steven Krenzel, Commissioner
12 James Ashley, Director
13 Gaetano Testini, Chief Counsel
14 Jason Porter, Deputy Director
15 Charles Carpenter, MRO Manager
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PUBLIC COMMENTS

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SPEAKER:

PAGE:

Greg Gilbert.....

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P R O C E E D I N G S

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3 CHAIRMAN SCHULTZ: Our first item of business
4 today is the public hearing regarding the Arizona Physicians'
5 and Pharmaceutical Fee Schedule, and let's start by reminding
6 everyone this public hearing is being held to give members of
7 the public and Commission stakeholders an opportunity to comment
8 on staff proposals regarding the 2020/2021 Arizona Physicians'
9 and Pharmaceutical Fee Schedule and to make additional
10 recommendations for changes to the Fee Schedule. The Staff
11 Proposal has been posted on the Commission's website for the
12 last month.

13 To help with background noise, your phones have
14 been put on mute. As I said, star six will get you off of mute.
15 If you wish to make a comment, announce yourself and who you are
16 representing.

17 Charles Carpenter, the Manager of the Medical
18 Resource Office, will provide a brief overview of the staff
19 proposal. Charles.

20 MR. CARPENTER: Good afternoon, Chairman,
21 Commissioners, Director Ashley, colleagues and guests. Thank
22 you for the time to present the Staff Proposal for the 2020/2021
23 Physicians' and Pharmaceutical Fee Schedule.

24 First, the staff recommends the updated service
25 codes, relative value units and reimbursement values as

1 presented in the Excel tables accompanying the published
2 proposal. The methodology used in computing reimbursement
3 values has not changed from previous years and is outlined
4 (audio interruption). Staff recommends maintaining the RBRVS
5 conversion factors used in the 2019/2020 Fee Schedule. The
6 proposed 2020/2021 Fee Schedule will continue to use CMS's
7 surgical global periods, assign RVUs to consultation services,
8 delineate codes that are unique to Arizona, and not incorporate
9 a geographical adjustment factor. The proposed Fee Schedule
10 codes were calculated using a stop loss cap to service codes
11 whose reimbursement values decreased by more than 25 percent and
12 a stop gain cap to any service codes whose reimbursement values
13 saw an increase of more than 17 and a half percent.

14 Second, the proposed Fee Schedule continues to
15 designate Medi-Span as the source to determine average wholesale
16 price and determine reimbursement values for pharmaceutical
17 products.

18 Third, changes are also proposed throughout the
19 2020/2021 Fee Schedule to clarify the definition and usage of
20 the terms "physician" and "healthcare provider." These changes
21 are intended to conform with the language used by CMS, which
22 defines physicians as those healthcare providers who can provide
23 evaluation and management services according to their scope of
24 practice and Arizona law.

25 Fourth, staff proposes several revisions to the

1 introduction section, including the addition of statutory
2 language to reinforce the timelines and expectations established
3 by Arizona Revised Statute 23-1062.01, the addition of a
4 requirement that payers provide proof of valid contracts when
5 contractual fees disputes with healthcare providers arise, and
6 the addition of clarification that a current invoice for
7 materials and supplies is one which is dated within one year of
8 use.

9 The addition of the language requiring the payers
10 to provide proof of valid contracts is intended to expedite
11 resolution of disputes where a payer contends that the provider
12 is bound to specific fees based on a contractual agreement with
13 the payers. The clarification of current invoice is intended to
14 prevent DME providers from billing for goods based on
15 non-current purchases orders which may not reflect actual costs
16 or values of the goods.

17 Fifth, staff proposes including of four HCPCS
18 codes that were adopted by the Commission in March 2020 in
19 response to the spread of COVID-19. Two of the codes are for
20 virtual check-ins by physicians, and they represent changes to
21 the Evaluation and Management section. The other two codes are
22 used for lab testing to detect a COVID-19 infection and are
23 found in the Pathology and Laboratory section.

24 Finally, staff proposes clarification to the
25 description of Arizona Service Code AZ099-005. This billing

1 code is used when healthcare providers spend additional time
2 completing workers' compensation insurance forms. During the
3 course of typical treatment, each respective healthcare provider
4 is expected to properly document their work according to the
5 laws governing their respective practices. Exams, re-exams,
6 evaluations and consultations are currently paid at a rate to
7 compensate the healthcare provider for their time to document
8 patient encounters. Arizona Service Code AZ099-005, however,
9 was intended to be used in cases when additional paperwork is
10 required either by the Commission, applicable payer, or third-
11 party administrator, not as a means of increasing revenue based
12 on standard medical documentation.

13 Staff recommends the clarified language presented
14 in the proposal to ensure that the code can only be used when an
15 additional form is either requested by a payer or required by
16 the Commission. The Medical Resource Office appreciates your
17 time considering this proposal, and I am happy to take any
18 questions from the Commission.

19 CHAIRMAN SCHULTZ: Thank you, Charles.

20 Do any of the commissioners have any questions
21 for Charles over the proposed changes to the Fee Schedule?

22 Hearing none, I will now welcome our friends on
23 the phone to present oral comments and recommendations regarding
24 the 2020/2021 Fee Schedule. The Fee Schedule's been posted on
25 our website for a month, and I don't show that we've had anyone

1 who has requested an opportunity to speak, and so I now would
2 like anyone who wishes to speak, please, just star six, unmute
3 yourself, and you can have up to five minutes to speak, to make
4 comments, to make recommendations.

5 At the beginning of your comment, for the record
6 and for the court reporter, please state your name, spell it and
7 state who you represent. At the conclusion of your comments,
8 the commissioners and staff may ask you questions.

9 In the interest of time, please do not repeat
10 what other speakers have stated. If you agree with what has
11 been said, simply state as such.

12 Although the public hearing will end when oral
13 comments have concluded, written comments will be accepted
14 through the close of business on Thursday, July 2nd, 2020. Once
15 the record is closed, the Medical Resource Office and Commission
16 will carefully consider all comments and available information
17 and data prior to taking formal action related to the Fee
18 Schedule. With that, I offer the opportunity for anyone who
19 wishes to make comments or recommendation, please do so now.
20 Remember, star six, unmute yourself.

21 Do we have anyone who wishes to make comments or
22 recommendations concerning the Fee Schedule?

23 DIRECTOR ASHLEY: Mr. Chairman.

24 CHAIRMAN SCHULTZ: Yes.

25 DIRECTOR ASHLEY: While we're waiting for anyone

1 on the line that would like to make a comment, I'd just like to
2 note that over the course of the public comment period, over the
3 course of the last month, we have just received one written
4 comment that is posted on our Medical Resource Office page, and
5 that is from the Arizona Counties Insurance Pool.

6 CHAIRMAN SCHULTZ: Thank you, James.

7 MR. GILBERT: Hi. This is Greg Gilbert. Can you
8 guys hear me?

9 CHAIRMAN SCHULTZ: Yes, Greg.

10 MR. GILBERT: Greg Gilbert with Concentra. I do
11 have a few comments and just a bit of history here that will
12 probably back up why I'm asking the question.

13 I was involved, gee whiz, going back to 2013 and
14 2014 with the original committee that was put together to look
15 at then we called ourselves the Arizona Fee Schedule Methodology
16 Committee that was put together to look at a change in the Fee
17 Schedule process for Arizona. And in fact, we developed a
18 letter that was dated January the 14th that was sent to the then
19 commissioner at the time that was giving recommendations that
20 ended up being really part of the original RFP process in the
21 original study that came out back in 2016, in April.

22 And as part of both the original letter that the
23 Fee Schedule Committee put together and even a discussion in
24 that original study that was proposed, there was discussions
25 about the use of a -- some type of inflationary increase factor

1 associated with the conversion factor and the annual increase.
2 So, in essence, annual update to the relative values, which we
3 have. Multiple conversion factors was the recommendation, which
4 was what we have, and then there was a discussion about each
5 year looking at an annual inflator, which is pretty much exactly
6 what happens with the Medicare process and many other states
7 that use this same basis.

8 And so inherently in our discussions, we had
9 several caveats, and one of them was looking at either like a
10 Medicare Economic Index, otherwise known as MEI, which a lot of
11 states today, work comp. states use today, or some other Arizona
12 inflationary that was decided.

13 And what I've noticed over the last couple years
14 of our updates here is it looks like everything is being
15 followed with the exception of looking at the conversion factor.
16 The reason why that was important is that, number one, it mimics
17 the process that happens in both with CMS and with other states,
18 but one of the ways we were able to get consensus on the
19 committee, especially from the medical community, was we were
20 going to have a fee schedule process that was updated annually,
21 and not every four years, and we were trying to mitigate large
22 swings in terms of either increases or decreases, which is what
23 we had seen prior to this change.

24 And so with that, we talked about the Medicare
25 Economic Index, which is typically 1 percent or less every year

1 in terms of an inflation factor applied to a conversion factor,
2 which we thought was reasonable given that, you know, most
3 physician practices see those type of increases each year just
4 at a minimum in terms of staff increases.

5 Well, I say all of that because when we did the
6 calculation of this year's Fee Schedule -- in the previous year
7 it was pretty much flat, which means there really wasn't any
8 material increase or decrease. When we calculated this year's
9 Fee Schedule, we came up with an actual decrease, about a 1
10 percent decrease in overall fees, and I bring that up just to
11 let you know the history of what we were thinking when we went
12 through this process of the update is that we wanted some type
13 of small inflationary factor to help medical providers manage
14 their yearly increases in their cost of doing business.

15 And so my long-winded commentary was to come up
16 with a question of is that something that is going to be
17 considered in the future in terms of these updates? And I would
18 ask that it be considered even this year of some type of
19 inflationary factor to be applied to the conversion factor,
20 along with the updated relative values.

21 And then the final thing is that we did notice
22 something a little strange, and I'm not sure -- we're going to
23 go back and double-check it, but you know, we have some
24 states -- well, we have lots of states that use the same
25 methodology that Arizona uses, and in those states we were

1 seeing slight increases based on the relative value changes from
2 2019 to 2020, plus a conversion factor change, and -- even
3 without a conversion factor change, we saw a general slight
4 increase in our codes, and none of the codes hit the cap on
5 either side.

6 And what we found with Arizona when we looked at
7 that was, instead of a 1 percent decrease, if you just compared
8 the relative value changes, which theoretically is what Arizona
9 did, unless I don't know something, which is my question, you
10 would have seen an actual about 1.44 percent increase in the
11 codes that we use as opposed to a decrease, and so our question
12 is, is did the Commission go in and look at individual codes and
13 change those? And again, I know I'm saying none of these codes
14 saw any mirror to the cap increase or decrease limits that you
15 have in terms of changes from last year relative values to this
16 year relative values. So if you have a stagnant conversion
17 factor, which means that has not changed, and the only thing
18 that changed was the relative value from 2019 to 2020, the
19 question is: What happened? And why are we seeing a decrease
20 versus an increase?

21 I'll shut up now and answer any questions if
22 there are any.

23 CHAIRMAN SCHULTZ: Thank you, Greg.

24 Do any of the commissioners have any questions
25 for Mr. Gilbert?

1 If not, I would like to at least briefly answer
2 some of your questions. So first is in terms of, let's say,
3 looking at individual codes. We do, but generally we only spend
4 time on things that appear to be outliers. I will also tell you
5 that overall, we look very carefully and do a significant
6 comparison with other medical payer systems to look at where
7 workers' compensation is relative to other payers, because the
8 Commission is very interested in not only keeping us
9 competitive, but as we've taken actions in the past to include
10 provisions for paperwork, which we knew -- which we've heard for
11 many, many years was a detriment to providers participating in
12 workers' compensation. So we very much do a comparison to what
13 other payers are paying, and then we also look very closely at
14 how our reimbursement compares to the reimbursement in other
15 states.

16 But most of all, Greg, you know, you have until
17 the 2nd to submit written comments, and I would very much
18 appreciate it if you would submit that information in -- you
19 know, in writing so that then we can take a look at it, because
20 I'll tell you, I'm terrible with taking notes. I probably
21 didn't get down correctly what your issues were and the amount.
22 So please submit it to us, because I will tell you that the
23 overriding desire of the Industrial Commission is to make
24 certain that providers are compensated fairly for the work
25 they're doing so that injured workers in the state of Arizona

1 can expect to be treated by the best and to not get short-
2 tripped as compared to other patients in the offices of our
3 providers.

4 So thank you very much for taking us down history
5 lane a bit, Greg, also. That was an interesting time, and we
6 did very much appreciate the work of the group in helping us to
7 determine how we would restructure the medical Fee Schedule.

8 So do any of the commissioners have any other
9 comments or questions of Mr. Gilbert?

10 James or Charles, any comments?

11 Otherwise, I'll ask for anyone else on the phone
12 who is interested in making comments or offer recommendation.
13 Please do star six. Star six, unmute yourself, announce
14 yourself, and let us hear what you have to say.

15 Okay. And once again, please remember that the
16 -- we will accept written comments through the close of business
17 on Thursday, July 2, 2020. Once the record is closed, we will
18 then carefully review in the Medical Review Office and the
19 Commission all of those comments and recommendations and
20 suggestions that are received. So please do file any written
21 comments you might have before that July -- close of business on
22 July 2nd. Thank you.

23 If no one else has any further input to offer,
24 I'd like to close this public hearing on the Arizona Physicians'
25 and Pharmaceutical Fee Schedule and move to the next item of

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business on our Commission agenda.

(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 15 pages constitute a full, true and correct transcript of said shorthand record; all done to the best of my skill and ability.

DATE at Phoenix, Arizona the 7th day of July 2020.

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