

In The Matter Of:
PUBLIC EMPLOYEES' BENEFITS PROGRAM BOARD
LEGISLATIVE UPDATE MEETING

April 6, 2017

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208 N. Curry Street

Carson City, Nevada 89703

Original File 040617.txt

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1 PUBLIC EMPLOYEES' BENEFITS PROGRAM BOARD

2 TRANSCRIPT OF PROCEEDINGS

3 LEGISLATIVE UPDATE MEETING

4 THURSDAY, APRIL 6, 2017

5 CARSON CITY AND LAS VEGAS, NEVADA

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7
8 The Board: PATRICK CATES, Chairman
9 ANA ANDREWS, Member
10 LEAH LAMBORN, Member
11 TOM VERDUCCI, Member
12 CHRISTINE ZACK, Member
13 ROSALIE GARCIA, Member
14 CHRIS COCHRAN, Member

15 For the Board: DENNIS BELCOURT, Deputy
16 Attorney General

17 For Staff: DAMON HAYCOCK
18 Executive Officer
19 LAURA RICH
20 Operations Officer
21 CELESTENA GLOVER
22 Chief Financial Officer
23 NANCY SPINELLI
24 Quality Control Officer
25 KARI PEDROZA
Executive Assistant

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11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

I N D E X

AGENDA ITEM	PAGE
1 - Open meeting; roll call	3
2 - Public comment	4
3 - Approval of the March 9, 2017 Legislative Update teleconference meeting action minutes	4
4 - Discussion and possible action regarding 2017 Legislative Bills that may impact PEBP	5
5 - Public comment	91
6 - Adjournment	99

1
2
3
4
5
6
7
8
9
10
11
12
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14
15
16
17
18
19
20
21
22
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25

THURSDAY, APRIL 6, 2017, 10:00 A.M.

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CHAIRMAN CATES: This is the time and the place of the Public Employees Benefits Program, Agenda Item Number 1, roll call.

MS. PEDROZA: Ana Andrews.

MEMBER ANDREWS: Here.

MS. PEDROZA: Chris Cochran.

MEMBER COCHRAN: Here.

MS. PEDROZA: Rosalie Garcia. Rosalie.

MEMBER GARCIA: Can you hear me? Here.

MS. PEDROZA: Thank you, Rosalie.

Leah Lamborn.

MEMBER LAMBORN: Here.

MS. PEDROZA: Tom Verducci.

MEMBER VERDUCCI: Here.

MS. PEDROZA: Christine Zack.

MEMBER ZACK: Here.

MS. PEDROZA: Chair Cates.

CHAIRMAN CATES: Here.

MS. PEDROZA: And Members Bailey and Wells have been excused. We have a quorum.

CHAIRMAN CATES: Thank you.

All right. I'll move on to the next agenda item, public comment. We only really have one substantive agenda
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1 item in this meeting and that's to discuss legislation. For
2 the sake of time we will have the public comment at the
3 beginning of the meeting on Agenda Item Number 2 and then at
4 the conclusion of the meeting since we're really only
5 discussing one item. And that should give the public ample
6 time to express their opinions on anything on this agenda or
7 otherwise.

8 So, with that, I'll open up public comment. Is
9 there anybody in Carson City who would like to make public
10 comment? No? Okay. Well, seeing none -- Are you sure?
11 Last call.

12 UNIDENTIFIED SPEAKER: I'll wait until the end.

13 CHAIRMAN CATES: Okay. We'll close Agenda Item
14 Number 2 and we'll open Agenda Item Number 3, approval of the
15 March 9, 2017 legislative update teleconference meeting
16 action minutes.

17 MEMBER ANDREWS: Chairman, Ana Andrews for the
18 record. I have a correction on page two, board action,
19 Assembly Bill 139 should be Senate Bill 139.

20 CHAIRMAN CATES: Okay. Any other comments? Any
21 motion to approve?

22 MEMBER ANDREWS: So moved. Ana Andrews.

23 CHAIRMAN CATES: Approved with your correction?

24 MEMBER ANDREWS: Correction. Correct, yes.

25 CHAIRMAN CATES: Do we have a second on the
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1 motion?

2 MEMBER LAMBORN: Leah Lamborn. I'll second that.

3 CHAIRMAN CATES: We have a first and a second.

4 Any discussion on the motion? Hearing none, I'll call for a
5 vote. All in favor of approving the action minutes with the
6 one revision from Ana, please signify approval by saying aye.

7 (The vote was unanimously in favor of the motion)

8 CHAIRMAN CATES: Any opposed? I'm going to say
9 that was unanimous. I will point out the next time I call
10 for a vote we'll do a roll call vote just so we can be clear
11 on who's voting which way. It's a little difficult with the
12 phone.

13 Okay. So now we will close that item and move on
14 to Agenda Item 4, discussion and possible action regarding
15 2017 legislative bills that may impact the Public Employees'
16 Benefits Program. Damon.

17 MR. HAYCOCK: Thank you, Mr. Chairman. Damon
18 Haycock for the record. We have revised the format of the
19 bill tracking to hopefully be more easily read and address
20 some of the questions that were at the last two meetings.
21 You'll see that we have added a board position section and a
22 fiscal note section to the tables to help address any of the
23 questions and concerns. The fiscal note is -- or if there is
24 a fiscal note on the bill, it is the total amount. And if
25 you have specific questions as to how PEBP got to that level,
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1 we can answer those. Tina is here to go in to detail if need
2 be. But to ensure that we don't have voting on multiple
3 bills at once and that issue that happened last time, I'm
4 just going to take these one at a time, give you all an
5 update, and then see if the chair wants to, of course,
6 entertain a motion. And then we'll move through these pretty
7 quickly.

8 Please recognize that April 14th, a week from
9 tomorrow, is the last day that bills have to exist to get out
10 of the committee and be approved unless they are exempt. And
11 so hopefully we'll see what happens to some of these bills
12 and the amount of bills will be reduced.

13 There are some new bills that I will go over
14 since the last board meeting. But I'm going to take these
15 from the top. Starting on the first page, we're going to go
16 with Assembly Bill 249. This is the bill that discussed
17 12-month supply of the contraceptives, covering male
18 sterilization, and eliminating co-insurance requirements for
19 multi-source contraceptives.

20 There has been no real update to this bill.
21 There hasn't been an additional hearing or any work session.
22 However, this bill was approved for an eligibility for
23 exemption on April 3rd, which means that it is exempt from
24 the time requirements for this bill to continue to exist. So
25 I have no additional update. You guys were neutral on March

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1 23rd. You were previously opposed to this on March 9th. I
2 don't have any recommended change to this bill. If you would
3 like to, we can change the position. We do not have a fiscal
4 note because we're not quite sure exactly how this will
5 affect PEBP or if it will affect truly negatively.

6 And with that I'll turn it over to the chairman.

7 CHAIRMAN CATES: Thank you, Damon. Any
8 discussion on this bill? We currently have a neutral
9 position on this. So if there are any questions for Damon or
10 if anybody would like to discuss changing that position.

11 MEMBER VERDUCCI: Mr. Chair, Tom Verducci for the
12 record.

13 CHAIRMAN CATES: Go ahead.

14 MEMBER VERDUCCI: What I'm not clear on is what
15 the cost would be to PEBP on this. Would it be minimal or
16 massive? And if there was cost associated would this be an
17 unfunded liability that we would have to take in to
18 consideration in the future with increased premiums and
19 perhaps increased subsidies? Do we have any vision on this?

20 MR. HAYCOCK: For the record Damon Haycock.
21 Thank you, Tom, or Mr. Verducci. The fiscal note we feel is
22 going to be minimal, and the reason is that we currently
23 cover contraceptives at least for females at a hundred
24 percent anyway through the Affordable Care Act. There are
25 bills going through the legislature right now to continue to

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1 preserve portions of that Affordable Care Act if the federal
2 government does repeal it and replace it. The only concern,
3 like I said, is minimal, is the idea that we may have to on
4 this specific bill reissue 12 months supplies as members may
5 lose it or if we issue a 12-month supply and someone leaves
6 the plan, technically we never would have had to assume that
7 cost. But at this point we don't feel it's worth fighting.
8 It's not that big -- I don't want to say it's not that big a
9 deal because it's truly important to the members. But to
10 PEBP's finances we don't feel it's going to be impactful
11 enough to have to raise rates or increase subsidies.

12 MEMBER VERDUCCI: Okay, Damon, thank you very
13 much. Tom Verducci for the record. With the update here
14 that it's minimal, would there be any feeling in terms of the
15 board taking a no position based on how popular this bill is?
16 That's just an item for discussion.

17 CHAIRMAN CATES: For the record, this is Patrick.
18 I think neutral is sort of the -- If we take no position at
19 all then Damon has nothing to say on this bill. Whereas
20 neutral we're not taking a position either way and it gives
21 him some liberty to discuss it.

22 MEMBER VERDUCCI: Thank you very much,
23 Mr. Chairman. I'm very comfortable with our neutral
24 position. And with that I'll turn it over to the board for
25 further discussion.

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1 CHAIRMAN CATES: Thank you.

2 Any other discussion on this item? I don't hear
3 anything. I think we're moving on and keeping our neutral
4 position.

5 MR. HAYCOCK: Thank you, Mr. Chairman. On page
6 two you'll see Assembly Bill 331. This creates the Nevada
7 System of Community Colleges. It is a bill that really only
8 affects PEBP in the manner that part of the bill includes
9 increasing the PEBP board by one member to have a
10 representative of a new Nevada System of Community Colleges,
11 similar to the Nevada System of Higher Education. This was
12 heard on April 3rd by the Assembly Committee on Education.
13 It's interesting to note that if you go out to NELIS you'll
14 see there are multiple exhibits. Many folks are in
15 opposition to this bill. And ironically all four of the
16 community colleges are.

17 But we don't have any other update and we don't
18 recommend taking a position on this specific bill unless you
19 wish for me to go up there and speak on half of adding a
20 board member.

21 CHAIRMAN CATES: Any discussion on AB 331? It
22 sounds like no discussion on that one.

23 Let's move on to the next bill.

24 MR. HAYCOCK: On page three, you'll see AB 352,
25 this is a bill designed to assist those folks with
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1 metastatic -- I can say that word now. Metastatic -- Excuse
2 me. For preauthorization. I'm sorry. I mixed this bill up
3 with another one. I was so excited to say that word. This
4 bill has already been changed. There was a concept amendment
5 discussed by the sponsor. Initially it was designed that we
6 at PEBP would have to accept the decisions on
7 pre-authorizations or other pre-conditions of coverage from
8 another insurer. So if another insurance plan approved it,
9 the treatment of care, that once that person came to our plan
10 we would be forced to continue that treatment of care. And
11 even if we didn't even cover those benefits. And so by the
12 time I got a chance to go up there and talk, they had already
13 come up with a concept amendment to find a way to ensure that
14 basically they're frustrated, the sponsor is frustrated with
15 the length of time a pre-authorization takes, especially for
16 folks that have chronic conditions and need care. They need
17 mostly prescriptions.

18 And so I'm actually -- I've been invited to speak
19 at a round table this afternoon and we're going to talk about
20 some friendly amendments to this bill. My suggestion, and if
21 the board wishes for me to change, I will, I think instead of
22 mandating that we don't have the ability to do
23 pre-authorizations for chronic conditions, which is what the
24 crux of this bill is, that we put a time frame on how long
25 those pre-authorizations take. I reached out to both our

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1 utilization management company who does pre-authorizations
2 on the medical side and our third party administrator,
3 Express Scripts, on the pharmacy side. And I said, worst
4 case, what's the length of time it usually takes to get a
5 pre-authorization. And, of course, it's up to the provider
6 or the doctor to meet the requirements, fill out the forms,
7 and justify. But Express Scripts said in general it takes
8 about 24 hours. And our utilization management vendor,
9 Hometown Health, said it's about five days tops.

10 So I'm thinking about recommending maybe
11 something along the lines of a requirement for 30 days for
12 pre-authorization with a five-day or ten-day expedited
13 pre-authorization if it works for chronic conditions.
14 Similar to what you see in the Affordable Care Act, they have
15 appeals, they have a regular appeals process and an expedited
16 appeals process for those that have medical conditions that
17 need an answer immediately. And I think if we address the
18 time frame then we don't have to eliminate our ability to
19 apply these very important cost controls and patient safety
20 programs to our care for chronic disease.

21 But I would love to hear from the board to see
22 any other suggestions or if you have any concerns about
23 that -- that direction.

24 CHAIRMAN CATES: Thank you, Damon. I have a
25 question. If the bill were amended in the manner that you
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1 just described what would that do to the fiscal note? Would
2 that eliminate it?

3 MR. HAYCOCK: For the record, Damon Haycock.
4 Mr. Chairman, I believe that it would, because we continue to
5 do our pre-authorization and the time frame doesn't incur any
6 additional administrative burden on the processes that we
7 have today. So we would just ditch the fiscal note.

8 CHAIRMAN CATES: And has the sponsor of this bill
9 been receptive to that?

10 MR. HAYCOCK: For the record, Damon Haycock.
11 Mr. Chairman, the sponsor has been receptive to a lot of
12 different lobbyists right now and different agencies. I
13 think -- I'm not sure what the other agencies are going to
14 do. That's why we're having this meeting today, holding this
15 round table. He was very amenable to just making this only
16 prescription too and getting rid of any other additional care
17 or equipment or anything else. So I think he just really
18 wants to deal with the pre-authorization problem and I'm
19 hoping I can present him a solution that works for everybody
20 where we can continue to manage our plan. So I'm hopeful,
21 but I'll know more this afternoon.

22 CHAIRMAN CATES: Okay. Thank you. Any other
23 discussion on this bill?

24 MEMBER COCHRAN: Mr. Chair.

25 CHAIRMAN CATES: Go ahead.
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1 MEMBER COCHRAN: This is Chris Cochran. Just in
2 terms of the length of time and a little bit more
3 clarification on the pre-authorization process. So we're
4 assuming that someone who came in from another plan has, say,
5 a prescription or has a pre-existing condition and has
6 certain treatment protocols in place and wants to have those
7 maintained under the PEBP plan, would that require that
8 individual in order to deal with the pre-authorization giving
9 that person the time to get it done, would that require that
10 individual to have to go back to their provider or -- and if
11 that provider is not on our plan to go to a new provider in
12 order to get that pre-authorization?

13 And my reason for raising this question is
14 because if the -- if the provider of, say, a prescription
15 drug that the provider who wrote the prescription is not a
16 member of our plan, I worry that the pre-authorization may
17 take more time. And so if we're going to support that, I
18 think it needs to be thoroughly researched to make sure that,
19 you know, that pre-authorization can be done in the amount of
20 time. If they have to get another provider's opinion and
21 another -- a prescription from a plan provider, I'm concerned
22 that that pre-authorization would take longer.

23 MR. HAYCOCK: For the record, Damon Haycock.
24 Thank you, Dr. Cochran. That's a definite concern. Of
25 course we always want to be member-friendly here and we don't
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1 want them to have to jump through hoops to receive the care
2 they've already been approved for. We also don't want to
3 provide benefits that our plan just doesn't support like
4 investigational or experimental services.

5 We have -- We don't leave people out in the
6 lurch. I'll be honest with you. I can't remember a time
7 when I heard of any person saying that their
8 pre-authorization wasn't approved timely and that they had to
9 go without care. When we switched from Pharmacy Benefits
10 Managers Optum to Express Scripts, Express Scripts honored
11 the pre-authorizations from Optum from all of those providers
12 for all of those drugs and we were able to have continuum of
13 care for those members.

14 And so if it takes longer -- And I don't have a
15 problem with putting in, you know, how long -- that it can
16 take longer. The idea and the real concern was when the
17 senator who -- the assemblyman, excuse me, who sponsored this
18 bill sat up at the table and shared a personal story that he
19 had to wait more than 90 days for his pre-authorization and
20 had to -- I'm surprised he said this, really, on the record,
21 but had to use friends he knew out in the medical community
22 to help him get his prescriptions in the meantime before his
23 health insurance plan covered him.

24 These issues -- And a lot of the things that I'm
25 tackling at the legislature are issues of plans that really
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1 aren't PEBP. I mean, we run -- I don't way to say we run
2 better, but we don't have these types of issues. We're not
3 having a whole lot of balance billing issues. And we'll talk
4 about that later. But for this specific scenario, we always
5 side with the member and we always continue care.

6 And I personally am negotiating with out-of-state
7 networks right now to ensure that no matter what we do we
8 don't stop the care for somebody with chronic disease and
9 that they get the prescriptions and the treatment that they
10 need while we are deciding in the background if it's
11 appropriate cost-wise or if the provider is being difficult.

12 So I don't know if that answers your question,
13 Dr. Cochran, to the level that I hope it will. But the idea
14 of putting a 30-day limit or a ten-day limit is to hold us
15 accountable, not to make it for difficult for the member to
16 receive it. We just don't want to have it out there with no
17 time limit and then the sponsor of the bill says, well, this
18 is the problem I've been trying to solve.

19 MEMBER COCHRAN: Okay. I mean, I get that. I
20 guess one of the things that I think about is if a patient
21 has -- if one of our members has a -- is a new member, has a
22 prescription for a specific drug, and that prescription has,
23 say, when his current physician -- his or her current
24 physician prescribed the drug, gave them a prescription for,
25 say, one year. And within that one year, let's say three

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1 months the person changes plans and still has nine months of
2 that prescription left and they take that drug to the
3 pharmacy, they're just assuming the pharmacy is going to
4 refill the drug, which they likely will do. And then they
5 will ask them for their insurance information if it needs to
6 be updated.

7 And I think so where I get a little worried is
8 that it may not be a month. It may be two months or so
9 before somebody comes in and all of a sudden says we don't
10 have this member -- this physician is not a member of our
11 plan so we have to get pre-authorized. So I don't want it to
12 be -- In other words, I just want to make sure that we're
13 protecting our members for the sake of continuity that they
14 won't be able to not get a drug at least until this issue --
15 until their individual issue has been resolved.

16 This may be a minor thing. It may not happen on
17 occasion. But I can see situations where that's a
18 possibility.

19 MR. HAYCOCK: For the record, Damon Haycock.
20 Thank you, Dr. Cochran. I think the issue that you just
21 illustrated will exist or has the potential to exist whether
22 or not this bill moves forward. There are plans that have to
23 deal with changing providers, changing drugs, drugs that may
24 not be on formularies. And so I think we're handling that
25 problem very well today.

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1 I will let you know that as far as prescriptions
2 go that PEBP through our contracting has been provided the
3 ultimate authority over a drug when it's to be issued to an
4 individual. So if someone -- And this has happened. Someone
5 is at a pharmacy at 4:45 on Friday afternoon and can't get
6 their drugs, we can call somebody and get that drug released
7 so that they can have it while we figure out what we need to
8 do after that problem has surfaced.

9 And so we are very dedicated to take care of our
10 membership. We have built in safety nets to ensure that even
11 though we have certain processes to protect the plan that we
12 protect the membership first. And so we are here to help
13 them. And I think regardless of this bill we're still going
14 to do that service even if we put a smaller time frame on
15 ourselves. There's always exceptions. And if there's an
16 exception that's taking two months because we have to reach
17 out to another doctor who's being difficult, it's not like
18 we're going to stop treatment. We're not that type of health
19 plan.

20 So the only thing that we may do would be for
21 patient safety is if the clinical team at Express Scripts
22 determined that a prescription that a member was prescribed
23 is causing a problem with another prescription that they were
24 prescribed and there's a safety concern. And so outside of
25 those types of things, we pride ourselves on continuum of
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1 care and we will continue to do that regardless of this bill.

2 MEMBER COCHRAN: Okay. I'm just wondering if we
3 need to mention that the Express Scripts they said it takes
4 24 hours and the other provider says it takes five days, I'm
5 just more concerned that it might be a month that goes by
6 before someone -- before someone actually does refill a
7 prescription. So I'd like to make sure that we've got enough
8 time frame for them to get that pre-authorization if it's
9 necessary. So I'm not sure that 30 days is enough. I might
10 at least want to make it three months just for the sake of
11 safety so that the patient can be informed that we're going
12 to need to get another pre-authorization, you may need to get
13 another physician. But that's just my own personal opinion
14 on it.

15 CHAIRMAN CATES: Thank you, Doctor.

16 Any other comments on this bill?

17 MEMBER GARCIA: Yes. This is Rosalie Garcia.

18 CHAIRMAN CATES: Go ahead.

19 MEMBER GARCIA: In addition to Dr. Cochran, I
20 have the same concern that 30 days may not be enough. And my
21 question, Damon, is what if -- I know we don't want to play
22 on what-ifs, but that's kind of what we do -- is there
23 words -- wording in the bill that we could extend beyond the
24 30 days? For instance, if on the 29th day there is a safety
25 concern with regard to that prescription, what would happen

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1 then?

2 MR. HAYCOCK: So for the record, Damon Haycock.
3 Thank you, Ms. Garcia. I think I want to take a step back
4 and then I think by going through what I'm about to say it
5 will answer that question as well as Dr. Cochran's. First of
6 all, our pre-authorization program is managed by Hometown
7 Health through our -- on our medical side and by Express
8 Scripts on our pharmacy side. That pre-authorization process
9 doesn't start when a person hits the pharmacy and they're on
10 their last refill. That process starts when -- Express
11 Scripts knows that someone is coming due for their
12 pre-authorization. And often, I know at least with my
13 personal experience is with my own pharmacy, we're told you
14 only have two more refills left, you need a
15 pre-authorization, that there's communication that's sent out
16 to members to remind them that they need to renew this.

17 This 30 days isn't that if they don't get in 30
18 days they're out. The 30-day suggested time frame was how
19 long we could sit on having all of this information before we
20 issue it. So it's not to hold the participant accountable.
21 It's to hold ourselves accountable. Because I think the
22 concern at the legislature from the sponsor is that health
23 plans aren't efficient with pre-authorizations. It's not
24 that people don't need them or that doctors aren't asking for
25 them. But if a doctor needs more time or you have to

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1 coordinate between providers, that doesn't necessarily stop
2 the clock and say you can't issue that drug. We will
3 continue to provide, you know, services to our membership
4 even if we have a 30-day pre-authorization requirement. It's
5 just that we have to justify why we went beyond 30 days,
6 which would be my suggestion. And that can be anything from
7 provider difficulty to lack of appropriate records to lack of
8 access in to a provider where maybe the provider wants to
9 reassess the situation and see if this drug is actually
10 working and so they want more time.

11 But we're not trying to create a black and white
12 time frame. I just wanted to come up with something to still
13 allow us to have pre-authorization because the bill as
14 written today takes that away from us and says if someone has
15 a chronic condition we can't do pre-authorization if they
16 were already approved for something in the past and that can
17 be kind of scary.

18 And so I'm willing to go with whatever time frame
19 that we want but recognize that the time frame that the
20 assemblyman said personally at 90 days is the impetus of this
21 bill, and I think we would have to come up with something
22 shorter than that.

23 CHAIRMAN CATES: Any further comment on this
24 bill? We currently have a neutral position. Any desire to
25 change our position?

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1 MEMBER VERDUCCI: Tom Verducci for the record.

2 CHAIRMAN CATES: Go ahead, Tom.

3 MEMBER VERDUCCI: It would be my opinion that we
4 continue the neutral position, which will allow Damon the
5 ability to have some dialogue with the legislators.

6 CHAIRMAN CATES: Perfect. Thank you.

7 Okay, if there's no other comment, we'll move on
8 to the next bill.

9 MR. HAYCOCK: For the record, Damon Haycock. And
10 I want to make sure that I state this on the record.
11 Dr. Cochran, you and Ms. Garcia, I'm not dismissing anything
12 you said and your concerns will be brought up today. I'm
13 going to share with them that we talked about this bill here
14 today at our board meeting and that there was concerns about
15 the time frames for those situations that we just can't
16 imagine or we can't necessarily control. So I'm not showing
17 up there with my idea alone. I'm definitely going to share
18 your opinion. So I wanted to make sure that you guys know
19 that.

20 And moving on to page four, AB 381, that's not
21 being allowed to change tiers mid-year for a drug. So if you
22 have a drug that is currently on the preferred tier and then
23 all of a sudden a generic comes out and you want to move the
24 drug off of the preferred tier to the non-preferred tier so
25 you could realize savings with that generic, this bill

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1 prevents that from happening mid-year and makes it where it
2 has to happen at the end of a year or when a policy is
3 renewed. Previously the board took a position of neutrality.
4 We have a fiscal note on there. That's the -- reflects the
5 cost of brand drugs that we know are losing patent
6 protections by 2021. And so we get a report from Express
7 Scripts that says that they anticipate certain brand name
8 drugs will be off patent and generics will be available. We
9 don't know if that will occur mid-year or at the end of the
10 year. But at this time we have no future meetings scheduled
11 that we can see, and so I don't have another update for you.
12 If you guys want to remain neutral, I can continue to work
13 with the sponsors or the sponsor of this bill and be able to
14 testify our concern about this process mid-year.

15 CHAIRMAN CATES: Thank you, Damon. Okay. So
16 we're neutral on AB 381. Any discussion on this bill?
17 Hearing none, we'll move on.

18 MR. HAYCOCK: On page five is Assembly Bill 382.
19 This bill requires payments to be accepted for emergency
20 services for out-of-network hospitals and their physicians at
21 the greater of in-network negotiated rates or 125 percent of
22 Medicare. You guys previously took no position on this. We
23 have not been asked to develop a fiscal note. Although if we
24 were, we would actually develop a negative fiscal note
25 because this actually helps us, this helps PEBP. It ensures
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1 that we can take some of the exorbitant price gouging that
2 often gets balance billed to members who have emergencies.
3 And they run to the emergency room and they go to even an
4 in-network hospital and then an out-of-network physician is
5 on call, gets called in, and then charges the plan the
6 out-of-network rate and we pay usual and customary and the
7 rest gets balance billed to the participant as a surprise
8 bill.

9 So this is one of those bills in the legislature
10 that's trying to solve this problem. And we believe that if
11 you don't want to be for it necessarily but if you could take
12 a neutral position I would love to be able to go to the table
13 and say how much we feel this can help our plan and
14 controlling costs of out-of-network physicians and
15 out-of-network hospitals.

16 There is a hearing Monday on this. And, again, I
17 would like to, with your permission, be able to go address
18 PEBP -- how this affects PEBP in a positive manner at that
19 hearing.

20 CHAIRMAN CATES: Thank you, Damon. It sounds
21 like this is an important one for us to take a position on.
22 Any discussion on the bill?

23 MEMBER VERDUCCI: Tom Verducci for the record.

24 CHAIRMAN CATES: Go ahead.

25 MEMBER VERDUCCI: I believe that's a very
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1 reasonable request and I would be very supportive in taking a
2 neutral position to allow Damon the ability to go in and
3 testify on Monday.

4 CHAIRMAN CATES: Okay. Any other comments? Is
5 that a motion?

6 MEMBER VERDUCCI: Yes, sir, Mr. Chairman. Tom
7 Verducci for the record. I would like to suggest a motion on
8 AB 382 that the board take the neutral position.

9 CHAIRMAN CATES: Okay.

10 MEMBER GARCIA: Rosalie Garcia. Second.

11 CHAIRMAN CATES: Okay. We have a first and a
12 second to be neutral on AB 382. Any discussion on the
13 motion? Hearing none, I'll call for a roll call vote.

14 MS. PEDROZA: Ana Andrews.

15 MEMBER ANDREWS: Aye.

16 MS. PEDROZA: Chris Cochran.

17 MEMBER COCHRAN: Aye.

18 MS. PEDROZA: Leah Lamborn.

19 MEMBER LAMBORN: Aye.

20 MS. PEDROZA: Christine Zack.

21 MEMBER ZACK: Aye.

22 MS. PEDROZA: And the ayes have it.

23 CHAIRMAN CATES: Very good. Thank you.

24 MEMBER VERDUCCI: Tom Verducci for the record.

25 I'm also an aye.

CAPITOL REPORTERS (775) 882-5322

1 CHAIRMAN CATES: Okay. Thank you.

2 Okay. So now we're now neutral on that bill.

3 Let's move on to AB 408.

4 MR. HAYCOCK: Thank you, Mr. Chairman. Damon
5 Haycock, for the record. AB 408 is a bill that is attempting
6 to replicate many of the Affordable Care Act requirements
7 that the federal government has in place for the nation if it
8 is to be repealed and replaced. They're trying to save a lot
9 of those types of benefits, the allowing children to be on a
10 health insurance plan when they're adults up to the age of
11 26, that we cover maternity and newborn care, that we cover
12 preventive services at a hundred percent and so on and so on.

13 I have no real update. This bill is actually
14 going to be heard tomorrow. But right now you have a
15 position of neutral. And I'm not a hundred percent sure
16 after our last meeting what I could say. Normally I could go
17 up there and say we're in support, I'm testifying neutral.
18 We support the idea of this or I'm testifying neutral and we
19 have some concerns about this language. So if you want to
20 remain with the same neutrality, I can testify tomorrow and I
21 just need to know what you would like me to specifically talk
22 about.

23 CHAIRMAN CATES: Thank you, Damon.

24 Discussion on this bill? Go ahead, Ana.

25 MEMBER ANDREWS: Ana Andrews for the record. So,
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1 Damon, let's say that the Affordable Care Act and this bill
2 is passed here in Nevada, does that mean that we will have to
3 entertain a health plan that mirrors all of these
4 recommendations, meaning the board will have to discuss it at
5 whatever -- a certain given time to make sure to provide all
6 of these benefits.

7 MR. HAYCOCK: For the record, Damon Haycock.
8 That is correct. This would be a state mandated basically
9 essential health benefits. I will say that there are some
10 concerns right now from other health plans and lobbyists that
11 I've heard that one of the things they don't like about this
12 bill is that the determining factor of essential health
13 benefits would be the Department of Health and Human Services
14 and their director, whereas today even though CMS or the
15 Centers for Medicare and Medicaid Services determine
16 essential health benefits, they do it through CCIIO. And I
17 know I'm acronym crazy today. But that's the Centers for
18 Consumer Information Oversight. I forget what the other I
19 is. But basically it's an insurance group that is
20 determining enhanced benefits and not a health group. And so
21 I believe they're looking to present some amendments to this
22 bill -- I've heard talk of it -- where they shift that
23 responsibility away from the Department of Health and Human
24 Services and move it to the Division of Insurance.

25 But other than that, the rest of this looks to be
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1 very similar, if not completely what we do today.

2 And so if the board -- What this would do is it
3 would prevent the board from not providing these benefits in
4 the future, if that answers your question.

5 MEMBER ANDREWS: Ana Andrews for the record.

6 Yes, that does. And then I would support to stay neutral and
7 see what happens. Thank you.

8 CHAIRMAN CATES: Any further comments?

9 MEMBER COCHRAN: Mr. Chair.

10 CHAIRMAN CATES: Go ahead.

11 MEMBER COCHRAN: This is Chris Cochran. So I
12 want to be clear, this bill has not yet been assigned to a
13 committee; correct?

14 MR. HAYCOCK: For the record, Damon Haycock.
15 There's a hearing on it Friday. And, I'm sorry, I didn't
16 announce where it's actually going to be heard by. But let's
17 see real quick. It is going to be at the Assembly Health and
18 Human Services Committee this Friday at 12:30. So it's been
19 assigned.

20 MEMBER COCHRAN: Okay. All right. So that was
21 my concern. If it hadn't been assigned to a committee
22 typically that means if it doesn't make it to a committee
23 it's not going to be passed anyway. But I would just wanting
24 an update on that. Okay. Thank you.

25 CHAIRMAN CATES: Thank you. Any other comments
CAPITOL REPORTERS (775) 882-5322

1 on AB 408? Hearing none, it sounds like we're still neutral.

2 Move on to the next item. SB 80 is my bill. I
3 will just say that I am not seeking a hearing on this bill.
4 We talked about it before. There's no change on it. It's
5 been replaced by SB 502, which is at the end of this agenda
6 item that I'll talk about.

7 So we'll skip to SB 139.

8 MR. HAYCOCK: Thank you, Mr. Chairman. Damon
9 Haycock for the record. SB 139 is that incentivized process
10 for patient-centered medical homes. It was heard back on the
11 27th by the senate committee on health and human services and
12 they amended and did pass it. And with that amendment they
13 took out the requirement to provide incentives and allowed
14 the option to. And so basically we don't feel that this bill
15 has any negative impacts to PEBP as it currently stands. We
16 would like to continue to watch it. We would like you to
17 continue to be neutral on it in case they throw us a curve
18 ball. But at this point in time it's just appearing to
19 promote the utilization of and the development of
20 patient-centered medical homes, which I think, Dr. Cochran,
21 you and I had a conversation about the benefits, where we can
22 use our good models but not being required to incentivize
23 gives us the ability to continue to be good fiduciaries of
24 state funds.

25 And so I don't have an update to this unless you
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1 would all like to take a different position. But we had a
2 fiscal note in there when it was for mandatory incentives.
3 The actual amended, you know, when you go to NELIS and it
4 says as introduced and then it shows as amended, that amended
5 version hasn't been developed yet. I don't know why it
6 hasn't, to be honest. Once it does then I will be able to
7 readdress the fiscal note and most likely take it off. So if
8 there's any questions, I'll entertain them.

9 CHAIRMAN CATES: Any questions or comments on SB
10 139?

11 Hearing none, I guess we're staying neutral.
12 Move on to SB 233.

13 MR. HAYCOCK: Thank you, Mr. Chairman. Damon
14 Haycock for the record. SB 233 is a very similar bill to the
15 other contraceptive bill and it would require us to again
16 provide that 12-month supply of contraceptives, cover
17 voluntary male sterilization, and eliminate co-insurance
18 requirements for those multi-source contraceptives.

19 Additionally, this one has a requirement that we
20 cover hormone replacement therapy but eliminate the step
21 therapy and prior authorization. If you recall back in I
22 think at the last board meeting we had -- or the last
23 telephonic meeting we had folks from Hometown Health come up
24 and talk about some of the concerns of not having step
25 therapy or pre-authorization mostly for the abusive hormones
CAPITOL REPORTERS (775) 882-5322

1 like anabolic steroids where we want to control and ensure
2 they don't go out for patient safety and folks would be able
3 to potentially get these drugs through a prescription from a
4 friendly doctor and we would have no ability to stop them.

5 Interestingly enough, you guys were opposed to
6 this on March 9th. And we went back and looked at all the
7 motions and I didn't see that you guys fixed it to a neutral
8 position. Not to say that you needed to, but I thought at
9 the last meeting the idea was to go neutral on bills that we
10 didn't quite like so we could at least talk about them.

11 But we will definitely entertain -- You know, my
12 suggestion is to be neutral. If you're going to be neutral
13 on the first one, you might as well be neutral on the second.
14 I can still go up there and share the same concerns on Senate
15 Bill 233, but I haven't seen any updates for any new meetings
16 or anything else coming up. They did meet on it back in
17 early March but I haven't seen anything else since. I assume
18 this one may get a notice of exemption as well.

19 CHAIRMAN CATES: Okay. Thank you, Damon. So
20 we're currently opposed on SB 233. Any discussion?
21 Questions?

22 MEMBER VERDUCCI: Mr. Chair, Tom Verducci for the
23 record.

24 CHAIRMAN CATES: Go ahead.

25 MEMBER VERDUCCI: That was quite compelling
CAPITOL REPORTERS (775) 882-5322

1 testimony from Hometown Health and I think that's why we
2 decided to take an opposition to this bill. And, you know,
3 based on Damon putting forward the additional information
4 here and not a huge fiscal note, I would be very supportive
5 of taking a neutral position.

6 CHAIRMAN CATES: Okay. Is that in the form of a
7 motion?

8 MEMBER VERDUCCI: Yes, sir, Mr. Chair. I would
9 like to make a motion for SB 233 that we go from opposed to
10 neutral.

11 CHAIRMAN CATES: Okay. Very good. Do we have a
12 second?

13 MEMBER ANDREWS: Ana Andrews. Second.

14 CHAIRMAN CATES: Okay. We have a first and a
15 second to go neutral on SB 233. Any discussion on the
16 motion? Hearing none, we'll call for a roll call vote.

17 MS. PEDROZA: Chris Cochran.

18 MEMBER COCHRAN: Aye.

19 MS. PEDROZA: Rosalie Garcia.

20 MEMBER GARCIA: No.

21 MS. PEDROZA: Leah Lamborn.

22 MEMBER LAMBORN: No.

23 MS. PEDROZA: Christine Zack.

24 MEMBER ZACK: Aye.

25 MS. PEDROZA: Ana Andrews.

CAPITOL REPORTERS (775) 882-5322

1 MEMBER ANDREWS: Aye.

2 MS. PEDROZA: Tom Verducci.

3 MEMBER VERDUCCI: Aye.

4 MS. PEDROZA: And the ayes have it.

5 CHAIRMAN CATES: Okay. So we're now neutral on
6 SB 233.

7 Let's move on to SB 265.

8 MR. HAYCOCK: Thank you, Mr. Chairman. Damon
9 Haycock for the record. SB 265 requires posting of formulary
10 changes on diabetes no later than 30 days before open
11 enrollment and that if we received a manufacturer rebate that
12 we may have to share that rebate back to the participant.

13 I'm going to go in to a little more detail on
14 this because I had a long conversation with the sponsor. And
15 the intent and the language in this bill appear to show that
16 when a manufacturer increases the costs of insulin that if it
17 is increased past a certain threshold as announced in this
18 bill that the manufacturer is supposed to provide a rebate to
19 the person who got the insulin. And often as we do as PEBP
20 we will be an advocate for that member and we will ask on
21 their behalf. And so we were included in this bill so we
22 would have the same opportunity as any other health insurance
23 plan to go after basically the price-gouging practices of
24 manufacturers who raise the cost of insulin. It was not
25 designed and it will not be designed to force us to provide

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1 our normal manufacturer rebates back to participants.

2 And it's not that we don't want to share the cost
3 with them. We actually do. On our diabetes care management
4 program, we only charge \$25 a month for insulin, which is one
5 of the lowest in any health plans that I've talked to ever.
6 And we have not increased that for years. And we as a plan
7 absorb the remainder of that. So when insulin is running at
8 \$400 a month, we're paying 375 and the participant is paying
9 \$25. And so we get rebates back through our pharmacy
10 benefits manager and we're able to use those rebates to
11 offset that cost that the plan takes. And so we feel very
12 proud of our low co-pay diabetes insulin process through our
13 program that we offer to anybody that wants to participate
14 that has type one or type two diabetes.

15 So we feel at this point or I do after talking
16 with the sponsor that this isn't going to impact us
17 financially and that she is also developing an amendment
18 right now with other lobbyists and other interested parties
19 and she's vowed to ensure that PEBP gets to keep all of our
20 rebates. And so I will continue to work with her.

21 You guys have taken no position on this bill.
22 However, I was able to have this conversation off line. And
23 I think that if you want to take a neutral position I can go
24 up to the table and talk or I can keep trying to work behind
25 the scenes. It is up to the board.

CAPITOL REPORTERS (775) 882-5322

1 CHAIRMAN CATES: Thank you, Damon. So we have no
2 position on this bill currently. Any discussion on this
3 bill?

4 MEMBER LAMBORN: This is Leah Lamborn. Can you
5 walk me through the fiscal note on here, please? So is
6 this -- We have a fiscal note saying that there will be a
7 loss in three days.

8 MR. HAYCOCK: For the record, Damon Haycock.
9 Yeah, when we initially responded to this bill, we developed
10 a fiscal note concerned that we may have to lose our pharmacy
11 rebates. And so this is actually a little low. We got
12 information from Express Scripts that we get somewhere in the
13 vicinity of I think it was \$800,000 in rebates just on
14 diabetes for the first half of the year. So this is a little
15 low.

16 But after discussing with the sponsor and
17 rereading exactly where the rebates they're trying to push
18 back to the participants our normal manufacturer rebates are
19 not applicable. And so I'm waiting to see what the amendment
20 looks like to this bill because they're changing some other
21 portions of it. And if they specifically do what they told
22 me they were going to do, we can pull the fiscal note. And
23 I'm going to have Tena add a few things to that. Thank you.

24 MS. GLOVER: This is Celestena Glover for the
25 record. So I just wanted to clarify on what Damon just said.
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1 The fiscal note is an assumption that we have a reduction in
2 revenues because that's where our rebates go. They're not an
3 offset to expenditures. It's truly a reduction in revenues.

4 MR. HAYCOCK: So, for the record, Damon Haycock.
5 Thank you, Tena. Maybe that was the question Leah really
6 asked, why is there parenthesis around these dollars. So I
7 apologize if I went long-winded.

8 MEMBER LAMBORN: No. That's okay. Thank you.

9 CHAIRMAN CATES: Any more discussion on this
10 bill? We have no position currently. Are you looking for us
11 to be neutral on this?

12 MR. HAYCOCK: For the record, Damon Haycock. I
13 think it would be give me a little more leeway as this
14 continues to move forward. I think it's important that the
15 board's feelings or thoughts on all of these bills that
16 affect PEBP be discussed openly and publically. And I think
17 at this point -- I think PEBP wants to keep our rebates but
18 PEBP can get behind posting formulary changes. We do anyway.
19 And if it turns out that a member is getting gouged and we
20 want to go back to a manufacturer and try to get back some of
21 that money for them, then I think we should. And those are
22 the folks that aren't on our diabetes care management program
23 because the way that the rebates would be refunded to the
24 participant is if the participant paid a deductible or
25 co-insurance, whereas our current program you just pay the
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1 co-pay and you don't have to pay that. But if folks aren't
2 on our program they do. So this would give them an avenue to
3 recoup some of the high costs of insulin. And I'm not
4 against that process. Or we can assist the member do it
5 themselves. And I think having the member do it themselves
6 is what the health plan lobbyists have presented to the
7 sponsor. They want to kind of get out of the
8 manufacturer/member relationship, similar to patient
9 assistant programs, where the member gets a patient
10 assistance card and then they pay for it at the pharmacy and
11 then they get their drugs and the plan doesn't get involved
12 in that relationship.

13 And so, you know, at this point we can go along
14 with no position. Neutrality would give me an ability to
15 especially answer an amendment that comes out quick and
16 another hearing that comes out quick before we can talk. But
17 I'll find a way either way, sir.

18 CHAIRMAN CATES: Okay. Thank you.

19 MEMBER VERDUCCI: On the fiscal note and giving
20 Damon the --

21 CHAIRMAN CATES: Hey, Tom, we're losing you.

22 MEMBER VERDUCCI: Let me try this again. Can you
23 hear me okay?

24 CHAIRMAN CATES: Yeah, that sounds a little
25 better.

CAPITOL REPORTERS (775) 882-5322

1 MEMBER VERDUCCI: Okay. I do apologize. If for
2 some reason the call drops, I will call right back on. But I
3 would like to make a motion that we take a neutral position
4 on the fiscal note and also allow Damon the ability to be
5 able to testify on this bill.

6 CHAIRMAN CATES: Okay. So that's a motion to be
7 neutral on SB 265. Do we have a second to the motion?

8 MEMBER GARCIA: Rosalie Garcia. Second.

9 CHAIRMAN CATES: All right. We have a motion and
10 a second. Any discussion on the motion? Hearing none, I'll
11 call for a roll call vote.

12 MS. PEDROZA: Ana Andrews.

13 MEMBER ANDREWS: Aye.

14 MS. PEDROZA: Chris Cochran.

15 MEMBER COCHRAN: Aye.

16 MS. PEDROZA: Leah Lamborn.

17 MEMBER LAMBORN: Aye.

18 MS. PEDROZA: Christine Zack.

19 MEMBER ZACK: Aye.

20 MS. PEDROZA: Tom Verducci.

21 MEMBER VERDUCCI: Aye.

22 MS. PEDROZA: And Rosalie Garcia.

23 MEMBER GARCIA: Aye.

24 MS. PEDROZA: It's unanimous.

25 CHAIRMAN CATES: Motion carries.
 CAPITOL REPORTERS (775) 882-5322

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SB 366.

MR. HAYCOCK: So we're going to go to SB 289 first. Damon Haycock for the record. This requires that -- This bill requires health plans and PEBP to reimburse out-of-network physicians at an 80th percentile of a database of billed charges. We have a pretty sizeable fiscal note on here because we pay significantly less than the 80th percentile when we reimburse out-of-network physicians.

This was heard on April 3rd and you had given me a neutral position. I went up and testified. This is one of those bills that I was ready to testify and five minutes before the amendment dropped and it changed some of the bill. But it was more of a conceptual amendment and it actually described the specifics for the database to be used. The fair health database. And it also shifted some of the requirements from the department -- Excuse me -- from the commissioner of insurance over to the Department of Health and Human Services.

But as it applies to PEBP, this right here would basically guarantee that out-of-network physicians get paid better than what we're paying them today and they get paid way better than what we're paying in-network.

And so I had a long conversation with the sponsor the other day and he asked for, you know, so give me an alternative. Because his concern is that someone goes to,
CAPITOL REPORTERS (775) 882-5322

1 you know, the hospital, and there again, like I mentioned
2 earlier, an out-of-network physician is called in unbeknownst
3 to the member, provides services, and then sends a bill to
4 the insurance plan. The insurance plan, us, PEBP, pays usual
5 and customary, and then the remainder of that bill gets sent
6 to the member as a balance bill, as a surprise bill. And
7 that member would then have to, you know, do some pretty
8 negative things to try to pay that bill. There has been
9 stories outside of PEBP, not within, where people have had to
10 do medical bankruptcy and people have had to ask friends and
11 family for money, take out loans, max out credits cards, what
12 have you.

13 And so the intent of this bill by the sponsor is
14 to eliminate balanced billing, but it also directly increases
15 out-of-network physician reimbursements. And so we -- I went
16 and spoke with him. And my alternative that we -- I've
17 pitched to him so far is instead of using the fair health
18 80th percentile for billed charges, which, by the way, folks,
19 physicians can bill whatever they want. We actually pay them
20 what we pay them, but they can continue to increase bill
21 charges knowing they're not going to get them.

22 So the billed charge is an unfair starting point
23 that we do it off of Medicare, that we do a Medicare plus
24 model. And we ran our entire physician network through a
25 Medicare model a while ago to see what level would be

CAPITOL REPORTERS (775) 882-5322

1 appropriate at what percentage of Medicare and then we
2 separated it out based on the four rating areas determined by
3 the Division of Insurance from the individual marketplace
4 because we all know it costs more to receive care in rural
5 Nevada than it does in southern Nevada or in northern Nevada
6 than it does in southern Nevada. So we didn't want to
7 incentive folks in more competitive cheaper locations to pay
8 receive more than they already are while paying people
9 drastically less out in the rurals or out in northern Nevada.

10 So we separated it out in to four rating areas
11 that are aligned with the Division of Insurance. I spoke
12 with them yesterday and they were not against this process.
13 And we sent over a suggested percentage to the sponsor. I'm
14 waiting to hear back on what his thoughts are.

15 But there's a lot of plans out there right now
16 fighting this because basically it guarantees a higher
17 percentage. And to give you an example, a physician on our
18 plan today that I won't name names is on our network. And if
19 we were to have -- we took the last five of his claims, basic
20 office visits, okay, we're talking new patient office visits.
21 I think there was as electrocardiogram code in there and a
22 new office visit for a new patient, and if we were to have
23 paid that person at the 80th percentile, we would have paid
24 him 372 percent more.

25 So we have an issue with this bill. We're
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1 talking with the sponsors. I'm hoping that we can come to
2 something a little better and that if he just wants to outlaw
3 balanced billing that we just do that. But I sent that off
4 to him yesterday and I think we should still remain neutral.
5 The fiscal notes stand until they change it. And I would
6 like to be able to continue to testify with major concerns to
7 this bill on behalf of the PEBP board.

8 CHAIRMAN CATES: Thank you, Damon.

9 Any discussion on SB 289?

10 MEMBER LAMBORN: This is Leah Lamborn. And I'm
11 just trying to remember why we went neutral with this bill
12 with so many concerns and such a large fiscal impact.

13 MR. HAYCOCK: For the record, Damon Haycock.
14 Ms. Lamborn, I think, if I remember correctly, there was some
15 discussion about should we go for bills or should you, excuse
16 me, as the board go for bills, go against bills, remain
17 neutral. There were some comments made by Director Wells
18 where he had stated that, you know, his information with the
19 governor's office is that directors of agencies needed to
20 always be neutral. They couldn't be for or against. And so
21 I don't know if it's a political reason. But every time I go
22 to the table in a neutral position even when I know we want
23 to be against it, I'm sitting next to Medicaid or I'm sitting
24 next to DHHS but they're coming up at the same point. And I
25 don't know if it's just how things have always been done, but
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1 I have no problems going up there in opposition to this bill.
2 I've already testified for the board in neutral per the last
3 board meeting.

4 MEMBER LAMBORN: Leah Lamborn.

5 CHAIRMAN CATES: Go ahead.

6 MEMBER LAMBORN: I just want to make a motion
7 that we change our neutral position to opposed for SB -- I
8 just lost it. Sorry. For the bill we were just discussing.

9 CHAIRMAN CATES: SB 289. So your motion is to go
10 opposed on SB 289. Do we have a second on the motion?

11 MEMBER GARCIA: Rosalie Garcia. Second.

12 CHAIRMAN CATES: Okay. We have a motion and a
13 second. Any discussion on the motion?

14 MEMBER ZACK: This is Christine Zack for the
15 record. May I proceed?

16 CHAIRMAN CATES: Yes.

17 MEMBER ZACK: But I thought that even if we
18 maintained a neutral position that Damon could still say we
19 were neutral by demonstrating how we were opposed without
20 putting him in an awkward position. I thought that was the
21 point of doing that this way as neutral. Isn't that what you
22 just said, Damon?

23 MR. HAYCOCK: For the record, Damon Haycock.
24 That is correct. I haven't seen another state agency come up
25 to the table in a for or against unless it's their own bill.

CAPITOL REPORTERS (775) 882-5322

1 And then they're actually for it with a sponsor if they got a
2 legislator to announce it. It's just not usually done that
3 agencies come out against bills even though there could be
4 significant cost. Because at the end of the day agencies are
5 funded by the state or by federal funds or some mix -- or
6 fees or some mix of all three. And if the legislature really
7 wants something to happen, it happens. And then fees go up,
8 rates go up, or they generate more general fund for us.

9 So I think traditionally at the legislature
10 agencies don't take a super strong position because we are
11 stewards of public funds, right. I mean, if the legislature
12 wants it and they pass a law, who are we to say no? So I'm
13 putting a lot of assumptions in there and hopefully I don't
14 get in trouble for it. But I think that's the reason why we
15 all come up to the table in the neutral position. But we
16 come up pretty hard with some facts and figures. There's no
17 doubt in anyone's mind how we feel about these bills.

18 MEMBER ZACK: Okay. Well, I'm going to vote to
19 remain neutral then and against the motion. Thank you,
20 again.

21 MEMBER LAMBORN: So this is Leah Lamborn again.
22 I'm sorry. I see that SB 233 we were opposed and then
23 there's another bill that we were in support of. So I guess
24 I'm just confused again about the process. Because I know
25 we've gone back and forth a lot on these issues.

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1 CHAIRMAN CATES: For the record, Patrick Cates.
2 Just my comment is that what Damon described is generally
3 accurate. The governor's office doesn't want agencies to
4 take positions on bills. Just kind of state the facts. And
5 you can state the facts if there's negative impacts and still
6 be neutral. However, the board does have some authority to
7 weigh in on legislation and I think the board needs to take
8 whatever position they feel is best. I personally think
9 speaking from a neutral position gives you a lot of
10 flexibility. But that's my personal opinion. I think the
11 board is bound by their own conscience and how they want to
12 pursue positions on these bills.

13 MEMBER VERDUCCI: Tom Verducci for the record. I
14 think that a neutral position would be the appropriate one.

15 CHAIRMAN CATES: Thank you. Any other discussion
16 on the motion?

17 MEMBER COCHRAN: Mr. Chair, this is Chris
18 Cochran. I was just thinking, and maybe this is a question
19 for Damon since we're having discussion right now, could this
20 conceivably knowing that some positions are going to get paid
21 if this were to pass at a higher rate cause more of our
22 members to go out of network?

23 MR. HAYCOCK: For the record, Damon Haycock.
24 Dr. Cochran, that's an excellent question. What our biggest
25 concern is that physicians will leave our network to be paid

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1 higher and that's the crux of the fiscal note is we actually
2 presented the lower amount of the ratio of physicians so we
3 anticipated if 25 percent left that it would be about a 13
4 million to 13.5 million dollar note and that we have some
5 significant concerns. Not only on the cost to our plan but
6 the destabilization of the marketplace across Nevada. It
7 basically nullifies the need to have networks when an
8 out-of-network you get paid better and there's no penalty for
9 doing so.

10 So we have some concerns. I've spoken at length
11 with a sponsor. We'll continue to speak at length. I don't
12 know if every other lobbyist is going to come out as hard as
13 we want to and they have so far and we'll see what changes
14 happen to this bill. But hopefully what we sent over is
15 appropriate.

16 And, yeah, you know, our members may -- You know,
17 to be honest with you, Dr. Cochran, members may want to go
18 out of network as well. The issue though is even though they
19 go out of network because they have a favorite doctor that's
20 not in the network, they still have to have their accumulator
21 separate, so their out-of-pocket maximum is separate, their
22 deductibles are separate. So it doesn't really help as far
23 as trying to pay down in to that point where you're paying
24 co-insurance and then eventually paying nothing. So they
25 have to make a conscious decision to have two sets of

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1 basically accumulators. I think it more incentivizes the
2 doctors to not negotiate contracts with networks.

3 MEMBER COCHRAN: And I get that. I mean, because
4 I know it's still going to cost a significant, you know, 50
5 percent right to the member if they go out of network. But I
6 guess one of the things that I would be thinking about on the
7 provider side, if they go -- if they leave the network
8 because they can get paid more by going out of network,
9 that's not going to necessarily help them keep their
10 patients. Because if they leave the network and the patients
11 know they got to pay for 50 percent of that and that
12 reimbursement could actually go up if they're having to pay
13 them more, then that 50 percent could actually, you know --
14 50 percent of, you know, a hundred dollars now becomes 50
15 percent of \$200. You know, the patient may not necessarily
16 go with the physician if they're not in the network. So it
17 could potentially create a problem for us to have the
18 providers within our network.

19 But I -- So I'm probably going to remain neutral
20 on this as well. But I -- But I do share those concerns and
21 I would encourage you in any testimony that you, you know,
22 just make it clear on what some of the potential
23 ramifications are. Many of the legislators may not really
24 understand this from a payor perspective. And I'm sure that
25 the other payors in -- licensed insurers in Nevada are going

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1 to be making those kinds of patients to the -- statements to
2 the committee.

3 CHAIRMAN CATES: Okay. Thank you, Doctor.

4 MEMBER GARCIA: Mr. Chair, this is Rosalie
5 Garcia.

6 CHAIRMAN CATES: Go ahead.

7 MEMBER GARCIA: I just wanted to say that I
8 understand the whole reasoning behind wanting to go forward
9 with a neutral standing. But although PEBP is an agency, the
10 board is a voice for the participants within that agency.
11 And as a board I feel it very important that we voice our
12 recommendation. And that's why I would prefer that we take a
13 stronger stand on this particular bill. That's all I have.

14 CHAIRMAN CATES: Okay. Thank you.

15 MEMBER LAMBORN: Mr. Chair. This is Leah
16 Lamborn. I just have one more statement. Rosalie, I
17 wholeheartedly agree with that. I think that we should be
18 neutral on -- a neutral position on as many as possible, but
19 every now and then we're going to have something that we need
20 to take a stronger stance on. Using that sparingly, but I do
21 feel that this is a very -- I have a lot of concerns with
22 this bill for all the reasons Dr. Cochran had just mentioned
23 and some. So my motion to change from a neutral to opposed
24 position on this bill stands.

25 CHAIRMAN CATES: Okay. Thank you. Any further
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1 discussion on the motion? Hearing none, we'll have a roll
2 call vote. All of those in favor of SB 289 of changing our
3 position to opposed. That's the motion. Go ahead.

4 MS. PEDROZA: Ana Andrews.

5 MEMBER ANDREWS: Nay.

6 MS. PEDROZA: Chris Cochran.

7 MEMBER COCHRAN: Well, Leah and Rosalie changed
8 my mind, so I'm going to vote -- If I'm voting for, I'm
9 saying we're taking the -- we're opposing the bill; correct?

10 CHAIRMAN CATES: Correct.

11 MEMBER COCHRAN: Clear. All right. So I'm going
12 to say aye.

13 MS. PEDROZA: Tom Verducci.

14 MEMBER VERDUCCI: Nay.

15 MS. PEDROZA: Christine Zack.

16 MEMBER ZACK: Nay.

17 MS. PEDROZA: Leah Lamborn.

18 MEMBER LAMBORN: Aye.

19 MS. PEDROZA: Rosalie Garcia. Rosalie Garcia.

20 MEMBER GARCIA: One more time. Aye.

21 MS. PEDROZA: All right. We heard you that time.
22 And Chair Cates.

23 CHAIRMAN CATES: Oh, I have to break the tie? I
24 didn't think I was going to make a decision on this one.

25 Aye. I broke my own rule. I work for the governor and I
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1 voted to oppose a bill. Okay. Thank you.

2 Next bill.

3 MR. HAYCOCK: Page 12, SB 366. Again, Damon
4 Haycock for the record. This bill would require PEBP
5 contracts to -- Excuse me -- PEBP contracts with other fully
6 insured products that we have to give us the reporting
7 requirements that we have often not received. That's
8 reporting requirements due to utilization, claims, what have
9 you. Previously you all voted in support because you thought
10 transparency or at least you stated transparency and
11 reporting is always a good thing. And I took that message, I
12 took it yesterday, and sat up there in the in-support
13 position, even though about a minute and a half before the
14 hearing started, the sponsor changed the bill and eliminated
15 PEBP from it.

16 So we were for it. We stated we liked the idea.
17 But they decided that the sponsor amended our section out of
18 it. Really what they were trying to concentrate on more so
19 than the reporting to PEBP was getting some information and
20 data on Medicaid. What they wanted to ensure with this bill
21 is that they wanted to be able to rank employers across the
22 state on how many of their employees are enrolled in Medicaid
23 to determine if the state is subsidizing employers' health
24 care through use of Medicaid. So that was really the intent
25 of this bill.

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1 I had talked with the sponsor of this bill before
2 she amended it. And she said she was going to amend it and
3 she thought she was going to take us out. And I said, you
4 know, my board really liked this bill. This is the only bill
5 that we came out for in our meetings that I have a statutory
6 requirement to report on the program utilization and
7 financial status of the program to the legislature, to the
8 interim retirement benefits committee, to the board, to the
9 director of the governor's office and -- on finance. And
10 this would ensure that I always have that information and she
11 still amended it out.

12 So I would suggest we at this point, you know,
13 you're in support but now that the sponsor is amending it,
14 that you either take a neutral or no position because it no
15 longer affects PEBP.

16 CHAIRMAN CATES: Okay. Thank you, Damon. Maybe
17 we should be opposed for taking us out of it. Any discussion
18 on SB 366? Go ahead.

19 MEMBER ANDREWS: Ana Andrews for the record.
20 Mr. Chair, I would make a motion that we change our position
21 to neutral to bill -- Senate Bill 366, since PEBP has been
22 removed from the bill.

23 CHAIRMAN CATES: Okay. We have a motion. Is
24 there a second to the motion?

25 MEMBER ZACK: Mr. Chair. Christine Zack for the
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1 record. I'll second the motion.

2 CHAIRMAN CATES: Okay. We have a motion and a
3 second to change our position to neutral on SB 366. Any
4 discussion on the motion? Hearing none, we'll do a roll call
5 vote.

6 MS. PEDROZA: Chris Cochran.

7 MEMBER COCHRAN: Aye.

8 MS. PEDROZA: Rosalie Garcia.

9 MEMBER GARCIA: Aye.

10 MS. PEDROZA: Leah Lamborn.

11 MEMBER LAMBORN: Aye.

12 MS. PEDROZA: Tom Verducci.

13 MEMBER VERDUCCI: Aye.

14 MS. PEDROZA: Ana Andrews.

15 MEMBER ANDREWS: Aye.

16 CHAIRMAN CATES: And Christine Zack.

17 MEMBER ZACK: Aye.

18 MS. PEDROZA: Unanimous.

19 CHAIRMAN CATES: Okay. Motion carries.

20 Next bill.

21 MR. HAYCOCK: For the record, Damon Haycock. On
22 page 13, Senate Bill 394, this is the senate side of the
23 Affordable Care Act information, again, requiring insurers
24 offer coverage, not discriminate, provide all the same types
25 of services. This is the senate version of that Assembly
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1 Bill that we talked about earlier.

2 It was heard on the 5th by the senate committee
3 on health and human services. There was a proposed
4 amendment. But it basically added data reporting for HMO
5 plans for Medicaid managed care organization. So nothing
6 that really affects PEBP. We believe we already support the
7 provisions of this bill. We don't see any additional impact.
8 You guys actually didn't take a position on this bill at the
9 last meeting. You can if you want take a neutral position.
10 I will continue to watch this bill anyway. But it may be
11 beneficial for us to be able to have that leeway and
12 flexibility to go up to the table if somebody throws a curve
13 ball and does something that will affect PEBP.

14 And with that, I'll take any questions.

15 CHAIRMAN CATES: Any discussion on SB 39 four?

16 MEMBER COCHRAN: Mr. Chair, this is Chris
17 Cochran.

18 CHAIRMAN CATES: Go ahead.

19 MEMBER COCHRAN: It shows here the bill status
20 that it was heard yesterday. Do we know any progress on
21 that? I mean, so is it worth it for us to do it? Do we know
22 is there going to be any more discussion on this or was a
23 vote taken?

24 MR. HAYCOCK: For the record, Damon Haycock.

25 This was up late last evening. And I was looking at it again
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1 this morning. I don't believe a vote was taken. It was just
2 the initial hearing. My assumption is there will be a
3 working session on this probably next week along with every
4 other bill in the legislature and then they'll hash it out
5 there.

6 MEMBER COCHRAN: Okay. All right. Thanks.

7 CHAIRMAN CATES: Any other comments? We
8 currently have no position on this bill.

9 MEMBER VERDUCCI: Mr. Chairman, Tom Verducci.

10 CHAIRMAN CATES: Go ahead.

11 MEMBER VERDUCCI: Yes. It would appear to me
12 that we should be taking a neutral stance on this bill just
13 in case it does come up for discussion to allow Damon the
14 ability to testify. And I think I would like to make a
15 motion for SB 394 that we do take a neutral stance.

16 CHAIRMAN CATES: Okay. We have a motion. Do we
17 have a second to the motion?

18 MEMBER GARCIA: Rosalie Garcia. Second.

19 CHAIRMAN CATES: Okay. We have a motion and a
20 second to take a neutral position on SB 394. Any discussion
21 on the motion?

22 MEMBER COCHRAN: This is Chris Cochran again.
23 Sorry to belabor this, but -- So let's assume that on this
24 bill unless we feel like we don't really have any --
25 necessarily have any feel in the game at this point, if Damon

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1 was to testify, what would you testify on particularly,
2 Damon?

3 MR. HAYCOCK: For the record, Damon Haycock.
4 Good question, Dr. Cochran. Honestly at this point I
5 probably wouldn't go to the table. I would watch it, monitor
6 it, and see what other proposed amendments are and then maybe
7 talk with the sponsor off line. If the bill remains as it is
8 introduced I don't think there's too much of an issue for us.
9 I don't think there's any issue for us. But this way if they
10 present, you know, that last second amendment again. If for
11 whatever reason it passes through the senate and moves over
12 or goes to the floor of the senate for final vote, then if I
13 don't have a position from the board I really shouldn't be
14 going up to the table. And so I think the neutrality just
15 gives me that flexibility to be light on my feet.

16 But at this point this one and the other Assembly
17 Bill on the Affordable Care Act stuff, I won't go to the
18 table because I don't think we don't need to, unless you all
19 want me to.

20 MEMBER COCHRAN: Okay. Thank you.

21 CHAIRMAN CATES: Any further discussion on the
22 motion? Hearing none, we'll take a roll call vote.

23 MS. PEDROZA: Ana Andrews.

24 MEMBER ANDREWS: Aye.

25 MS. PEDROZA: Chris Cochran.
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1 MEMBER COCHRAN: No.

2 MS. PEDROZA: Leah Lamborn.

3 MEMBER LAMBORN: Aye.

4 MS. PEDROZA: Christine Zack.

5 MEMBER ZACK: Aye.

6 MS. PEDROZA: Tom Verducci.

7 MEMBER VERDUCCI: Aye.

8 MS. PEDROZA: And Rosalie Garcia.

9 MEMBER GARCIA: Aye.

10 MS. PEDROZA: The motion passes.

11 CHAIRMAN CATES: Okay. The motion carries.

12 Next bill.

13 MR. HAYCOCK: On page 14, this is Senate Bill

14 404. This is a bill that disregards step therapy for the

15 metastatic cancer -- There we go. I get to say the word

16 right -- for folks that are basically in their last stages of

17 cancer treatment. The concern of the sponsor is that these

18 members or these patients would have to go through these

19 hoops to jump through to receive the type of drugs that they

20 need when the doctor prescribes it for them and they don't

21 want to have to go through your typical step therapy or

22 pre-authorization process.

23 It was heard Wednesday at the senate commerce and

24 labor committee. There was a clarifying concept amendment,

25 which, interestingly enough, was looking at exempting local
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1 employers and not PEBP and the State. I don't know if they
2 basically got to the sponsor before we could.

3 But, you know, this bill, the health plan came
4 out really hard in opposition against it for all the reasons
5 that we talked about the impact to PEBP. And it's not that
6 we want to harm patients and members by providing step
7 therapy or any other pre-authorization process. It's that we
8 truly want to ensure that our members are getting exactly
9 what they need. And let's not forget that doctors are people
10 too. Doctors are not 100 percent accurate all the time every
11 day for their entire careers. And so we have these certain
12 things in place to ensure that we take care of the patient
13 and protect the plan.

14 There was some other issues with, you know, the
15 effective date because they wanted this to come out July 1st.
16 I think it was the Association of Health Insurance Plans,
17 they just came out and said there's no way for plans to fix
18 this in time. So there's some definite issues. I would
19 assume there will be an amendment, but people are coming out
20 hard against this.

21 You guys have taken no position. But we're
22 continuing to work with sponsors on it as well as our
23 pharmacy benefits manager is talking to the sponsor as well.
24 So I can take any questions or if you would like to take a
25 position right now. You've taken none.

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1 And this -- This really -- Another big issue --
2 And I'm sorry, I glossed over it earlier. A doctor could
3 write a prescription for something that's experimental or
4 investigational. Our plan prohibits that and it prohibits
5 that for patient safety. And so, just because there's, you
6 know, something new out on the market place doesn't mean that
7 it's going to truly assist somebody at the stage four of
8 cancer. And so, again, we just want to make sure that we
9 take care of the membership and that these programs aren't
10 designed to make their lives difficult while they seek
11 treatment designed to protect them.

12 And so my recommendation is that we take a
13 neutral position and that if it's heard again I can get up
14 there and talk about it.

15 CHAIRMAN CATES: Okay. Thank you, Damon.

16 Any discussion on SB 404?

17 MEMBER VERDUCCI: Tom Verducci for the record.
18 You know, I do believe that if experimental drugs are
19 prohibited by PEBP that definitely Damon should have the
20 ability of getting up and expressing that fact. So I would
21 be in support of taking a neutral position on SB 404.

22 CHAIRMAN CATES: Is that a motion?

23 MEMBER VERDUCCI: Yes, sir, Mr. Chair. I would
24 like to make that a motion that we do take a neutral position
25 on SB 404. Tom Verducci for the record.

 CAPITOL REPORTERS (775) 882-5322

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CHAIRMAN CATES: Thank you, sir.

Do we have a second to the motion?

MEMBER ZACK: Mr. Chair, Christine Zack for the record. I'll second the motion.

CHAIRMAN CATES: Okay. So we have a first and a second on the motion to take a neutral position on SB 404. Any discussion on the motion?

MEMBER GARCIA: Mr. Chair, this is Rosalie Garcia.

CHAIRMAN CATES: Go ahead.

MEMBER GARCIA: My question to Damon is are you aware of PEBP ever considering allowing an experimental drug? Have we ever done that? And would there be a situation where we might?

MR. HAYCOCK: So for the record, Damon Haycock. It's not to my knowledge that we've ever done anything experimental or investigational. We do offer the opportunity in certain circumstances for genetic testing as kind of a pre-authorization for certain types of treatment. But our plan has prohibited this as far as I know since we were with the CDHP. I can't really speak about before then. But looking over at my staff, who has been here for 15 years, she can't remember either any time that we've authorized that type of treatment.

This doesn't prevent doctors from writing
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1 dispense as written for certain types of drugs that are on
2 our formulary that meet the requirements. So it's not like
3 we're tying the hands of the providers. It's that we're just
4 ensuring that everything kind of goes the way it's going now.

5 And from a PEBP standpoint, if it's not broken,
6 what are we trying to fix; right? Is this solution looking
7 for a problem for PEBP? And I don't think we've had any
8 issues where folks with stage four cancer are not getting the
9 treatment that they need to try to combat the disease and
10 recover.

11 So to my knowledge I haven't seen any appeals. I
12 haven't seen any issues. I haven't had anyone calling me up
13 saying I'm a horrible human being because, you know, their
14 dependant or their spouse or someone passed away because I
15 didn't, you know, provide them the drug their doctor
16 prescribed. So I don't know if this is an attempt again to
17 wrangle in some other health plan practices. But as far as
18 PEBP is concerned, I don't believe that we are the culprit
19 that would have been the catalyst to this bill.

20 MEMBER GARCIA: Okay. Thank you. I just wanted
21 to make sure that we wouldn't be ever contradicting
22 ourselves. I appreciate it.

23 MEMBER LAMBORN: Mr. Chair, this is Leah Lamborn.
24 I have a question for Damon.

25 CHAIRMAN CATES: Go ahead.
CAPITOL REPORTERS (775) 882-5322

1 MEMBER LAMBORN: Damon, so even though you
2 haven't approved anything that you can recall, you do have a
3 process in place that would allow, like, an administrative
4 override on a case by case for experimental or different kind
5 of drugs that plan may cover; is that correct?

6 MR. HAYCOCK: For the record, Damon Haycock. I
7 want to say yes and no. And I'll try to answer it
8 succinctly. Yes, we have the ability to contact at least
9 with our pharmacy benefits manager and say we'd like a
10 certain thing covered. But we traditionally don't go against
11 the master document plan that you all approved unless it's
12 some really special case. And I haven't come across one of
13 those yet, so I can't speak from experience. But do we have
14 the ability to pick up the phone and say, you know, we want
15 this member to have this treatment? Yes. Is it something
16 that we do? Very few and far between. And I haven't seen it
17 done on investigational or experimental services yet.

18 CHAIRMAN CATES: Any further comment on the
19 motion, or discussion, I should say, on the motion? Hearing
20 none, I'll call for roll call vote on taking a neutral
21 position on SB 404.

22 MS. PEDROZA: Ana Andrews.

23 MEMBER ANDREWS: Aye.

24 MS. PEDROZA: Chris Cochran.

25 MEMBER COCHRAN: Aye.

CAPITOL REPORTERS (775) 882-5322

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MS. PEDROZA: Rosalie Garcia.

MEMBER GARCIA: Aye.

MS. PEDROZA: Leah Lamborn.

MEMBER LAMBORN: Aye.

MS. PEDROZA: Tom Verducci.

MEMBER VERDUCCI: Aye.

MS. PEDROZA: And Christine Zack.

MEMBER ZACK: Aye.

CHAIRMAN CATES: The motion carries.

MR. HAYCOCK: Damon Haycock for the record.

We're at the home stretch, two last bills, two of my favorites.

On page 15, Senate Bill 436. This came out after the board had met and deliberated on the other bills that have been presented. This one is new, as well as SB 502 we'll talk about afterwards.

This bill requires health plans to offer at a minimum 25 percent of their policies with a pharmacy co-pay process. And it also requires that you cannot put all of the types of pharmacy drugs in to one specific tier. The most expensive tier is what they were trying to intend with this bill.

So what does that do to PEBP? In conversations with the attorney general's office and in our own interpretations of the bill, we can't claim our health

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1 maintenance organization plans as our policies because we
2 didn't design them. And so even though those policies have
3 pharmacy co-pays, PEBP's one singular self-insured consumer
4 driven health plan is not. And in order for us to make it a
5 co-pay, we would have to get rid of our health savings
6 account option, which 30,000 members have access to of the
7 40,000 folks that are on this plan. And so we feel that if
8 we were required to turn our plan in to a co-pay plan for
9 pharmacy that it would nullify the HSA and then people
10 wouldn't want to participate in this plan. So we would have
11 to change our plan back to a standard PPO plan, which we had
12 back in 2010.

13 And that sizeable fiscal note, thanks to
14 Ms. Glover over here, she took the cost of that plan and
15 trended them forward. And, yes, it is significant. We're
16 talking in the 40 million -- 40th millions of dollars. And
17 it's sizeable.

18 I spoke with the sponsor. And their whole intent
19 is they don't like that members have to pay more for their --
20 they don't like members having to pay a deductible or
21 co-insurance for these high cost specialty drugs and instead
22 they want to basically shift it to the plan, assuming that
23 that would motivate us to contract better with pharmacy
24 manufacturers, which couldn't be further from the truth.

25 And so in this instance I was terrified that this
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1 bill would only be heard once. And it was heard on April
2 3rd. And I know you all didn't give me a position. So I
3 came up to the table and I said the board has not provided me
4 a motion, however, this is what it does to PEBP. And I was
5 able to at least discuss what I've just shared with you here
6 today.

7 As far as PEBP is concerned, this is a CDHP
8 killer and it is a PEBP killer. And we have major concerns
9 with this bill. And it basically resets our ability to be as
10 successful as we have for the last six years running our
11 program. And so if there's a bill that I could illustrate
12 that I would want us to be so against that it goes away, this
13 is the bill that I would be against. And with that I'll take
14 questions.

15 CHAIRMAN CATES: Thank you, Damon.

16 Questions from the board?

17 MEMBER VERDUCCI: Tom Verducci for the record.
18 This seems just, you know, like Damon said, a PEBP killer.
19 This looks this would turn upside-down our CDHP plan and we
20 would be forced to put in a PPO plan and it's got a huge
21 impact of the 40-plus million dollar range for a year without
22 any way of funding it. It's going to result in higher costs
23 for both the employer and the employee. And I just don't see
24 how that benefits our membership.

25 CHAIRMAN CATES: Thank you. I would agree.
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1 Any other comments?

2 MEMBER ZACK: Mr. Chair, Christine Zack for the
3 record.

4 Damon, I just want to be clear, you're asking us
5 or your preference is that we oppose it and not take a
6 neutral position?

7 MR. HAYCOCK: For the record, Damon Haycock.
8 Either position will work. I'll still continue to go up to
9 the table per your instructions and beat on this bill with
10 everything I have. We can be opposed. We can be neutral.
11 But this one is bad. And this one is not going to help any
12 health plan and ultimately any member. It will be a
13 temporary relief for prescription costs and then health plan
14 rates are going to explode. And so we are -- I have been
15 working with the sponsors sponsored by -- I can't remember if
16 it's a non-profit. But it was not sponsored by a specific
17 legislator at the table at the time that I testified. And I
18 sent over a request that they just cut PEBP out of this, that
19 we need to be removed. And they said they're looking at
20 developing an amendment to either exempt high deductible
21 health plans or even exempt PEBP.

22 So I have some hope that we are going to be okay
23 in this. But I think we need to be strong, either strong
24 neutral or opposed. And I have no problems going up to the
25 table on either of those positions.

CAPITOL REPORTERS (775) 882-5322

1 CHAIRMAN CATES: Further discussion?

2 MEMBER ANDREWS: Ana Andrews for the record.

3 MEMBER COCHRAN: Mr. Chair.

4 CHAIRMAN CATES: Hang on. Let's let Ana go
5 first.

6 MEMBER ANDREWS: Mr. Chair and members of the
7 board, what I wanted to say is that even if we give Damon
8 direction to go neutral, he still has the ability to submit
9 the fiscal bills and make all the arguments that he can about
10 PEBP. And the fact that there might be an amendment to
11 exempt PEBP I also think is helpful. So I would be willing
12 to move to be neutral on this bill. Thank you.

13 CHAIRMAN CATES: Go ahead, Dr. Cochran.

14 MEMBER COCHRAN: Thank you. Yeah. I guess what
15 I'm looking at here is, you know, we've had a lot of
16 discussion over the last few years about whether or not PEBP
17 should be offering a lower -- what we would refer to as a
18 lower deductible plan as opposed to just the high deductible
19 plan and the HMO plan. And that under those circumstances
20 the assumption would be that if the state -- if the state
21 passed this plan, this bill, that the cost of the plan would
22 increase significantly, that those costs -- Are we assuming
23 or do we know that those costs would be passed along to, say,
24 our members in the form of higher premiums?

25 Because I guess what I'm wondering is if the
 CAPITOL REPORTERS (775) 882-5322

1 state in this condition would have to say, well, listen, if
2 we're going to do this in order to make these plans
3 affordable for our employees, we're going to have to
4 contribute -- we're going to have to fund PEBP at a higher
5 rate than we currently fund them. So, you know, putting them
6 all back in their court if this were to pass.

7 At the same time, the other concern that I would
8 have just from an equity perspective is that if there is an
9 amendment that excludes PEBP -- So what we're saying is --
10 What the legislation would be saying is, well, all the
11 private plans, all the private businesses that have these
12 plans, you have to do this, but the State does not, which I
13 think would be the death of the plan -- the death of the bill
14 anyway because I think that people would look at that and
15 say, you know, I'm not -- I can't support this because, you
16 know, if it's not good enough -- if it's -- if it's good
17 enough for the private sector, it should be good enough for
18 the public sector.

19 So in any event, you know, my recommendation
20 would be I do think Damon needs to take a position on this.
21 But I guess where I'm coming from is we don't really know the
22 details in terms of if this would mean, well, the State would
23 have to come back and pony up more money so that members
24 could have an affordable lower tier plan. So I would support
25 taking a neutral position for the ability to comment, but I'm

CAPITOL REPORTERS (775) 882-5322

1 not necessarily sure I'm ready to go a no or yes on this
2 particular bill.

3 CHAIRMAN CATES: Okay. Thank you.

4 Any other discussion on this bill? Or a motion?
5 I'm sorry. Did Tom make a motion to oppose?

6 MEMBER VERDUCCI: No. Tom Verducci for the
7 record. I didn't want to be so aggressive on my motions.
8 But I'm going to take a motion that we do take a neutral
9 position. This does have a huge impact on PEBP. And Damon
10 needs to get out there and make our concerns known to the law
11 makers. So my motion for SB 436 is to take a neutral
12 position.

13 CHAIRMAN CATES: Okay. Do we have a second to
14 the motion?

15 MEMBER ANDREWS: Ana Andrews. Second.

16 CHAIRMAN CATES: Okay. So we have a motion and a
17 second to take a neutral position on SB 436. Any discussion
18 on the motion? Hearing none, we'll do a roll call vote.

19 MS. PEDROZA: Chris Cochran.

20 MEMBER COCHRAN: Aye.

21 MS. PEDROZA: Rosalie Garcia.

22 MEMBER GARCIA: Aye.

23 MS. PEDROZA: Leah Lamborn. Leah Lamborn.

24 MEMBER LAMBORN: Aye.

25 MS. PEDROZA: Christine Zack.
CAPITOL REPORTERS (775) 882-5322

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MEMBER ZACK: Aye.

MS. PEDROZA: Tom Verducci.

MEMBER VERDUCCI: Aye.

MS. PEDROZA: And Ana Andrews.

MEMBER ANDREWS: Aye.

CHAIRMAN CATES: Motion carries.

MS. PEDROZA: Motion carries.

CHAIRMAN CATES: Okay. Next bill, SB 502.

MR. HAYCOCK: For the record, Damon Haycock.

I'll tee it up and hand it back to the Chair since it's his bill. But basically this is the revised language in a new bill format that started from SB 80 and now it's SB 502 that we again transition to the Department of Administration, that the PEBP board would transition from governing to advisory. And, however, this version of the bill reduces the total number of board members from ten to seven. It eliminates the continuing education requirements not only for the board but also for myself and that I would report to directly to and serve at the pleasure of Chair Cates as the director of the Department of the Administration. What this does is it doesn't make us in to one division, which was SB 80. With deferred comp, it keeps us separate, reporting as separate programs.

And with that, I'll turn it over to the Chair.

CHAIRMAN CATES: Thank you, Damon. So I'll kind
CAPITOL REPORTERS (775) 882-5322

1 of go through the provisions of the bill. So SB 502 it says
2 it's sponsored by the governor's office of finance. It
3 actually is my bill. It's a fiscal bill. SB 80 was a
4 Department of Administration bill. But because this came out
5 as a fiscal bill, all fiscal bills come from the governor's
6 office of finance. But just make no mistake, I'm the sponsor
7 of this bill.

8 I'll just briefly go through the provisions.
9 It's a lengthy bill, but I'll just kind of point out where
10 some important pieces of it. The first few sections of the
11 bill really deal with Department of Administration staff, NRS
12 232, and basically calls out the Public Employees Benefit
13 Program and the Public Employees Deferred Compensation
14 Program as being part of the department and it has
15 cross-references for that. That runs through the first four
16 sections.

17 And then we get to section five, which is NRS
18 233B, which is Administrative Procedures Act. And this deals
19 with agencies passing regulations. And it changes a
20 reference to the board of PEBP and changes that to the
21 executive officer of PEBP. So with the board being advisory
22 it would be the executive officer that would promulgate
23 regulations rather than the board.

24 And then the next really several sections deal in
25 various places and statutes. Section six deals with the

CAPITOL REPORTERS (775) 882-5322

1 Interim Retirement and Benefits Committee of the legislature
2 and it makes recommendations to PEBP. Again, it changes the
3 reference from board to executive officer.

4 I won't go through all of these because they're
5 for the most part references to other sections. I should
6 have marked this up better.

7 Section seven, NRS 377, deals with cooperative
8 agreements among political subdivisions of the state, state
9 and local government. And, again, it's changing the
10 reference from board to executive officers as the authority
11 that can enter in to those agreements.

12 So section eight starts the revisions to NRS 287,
13 which is public employees -- programs for public employees.
14 Defines executive officer, gives two definitions. One is the
15 executive officer of -- I'm sorry. This section defines
16 executive officer of the Public Employees Benefit Program
17 and then provides another definition for deferred
18 compensation programs. So they're both referred to as
19 executive officers. Unlike the old bill it doesn't put an
20 administrator in charge of both programs. It just keeps them
21 separate with one executive officer for each.

22 The rest of the bill really goes through the
23 duties of the program, which generally refers to the board.
24 That's changed to executive officer.

25 If you get to section 14 that's where it changes
CAPITOL REPORTERS (775) 882-5322

1 the PEBP board to advisory. 14, 15. And then it does change
2 the composition of the board. Currently there's ten members
3 of the board. This would change it to seven. It basically
4 would add a Nevada System of Higher Education representative
5 so there would be two. It would reduce one of the retiree
6 members. It would reduce one of the state members.
7 Eliminates local government. And has -- And reduces the one
8 member that has a background in risk management, portfolio
9 investment strategies for employee benefits program.

10 So that means that the board as constituted under
11 this law would have two NSHE representatives, one north and
12 south, one retiree, one state employee, one state manager,
13 one director of finance or designee, and one person with a
14 background in risk management investment for employee benefit
15 programs. And, like I said, the local government rep was
16 eliminated.

17 I would point out that for the Nevada System of
18 Higher Education that would substantially increase their
19 representation on the board proportionally. For the
20 ten-member board the representation is about ten percent of
21 the board. With these changes, that would boost set-up to 29
22 percent. I know that we have had some people that are
23 members of NSHE or from NSHE that have spoken out against
24 this bill. And I think that's something they should really
25 take in to consideration because that was not in the original

CAPITOL REPORTERS (775) 882-5322

1 version of SB 80. It would really give NSHE a stronger voice
2 on this board.

3 Moving on to -- So if we go to section 16, it
4 talks about duties of the board, how they transact business,
5 and it talks about discussion matters related to personnel.
6 That's been stricken. When they have discussions about
7 investments, legal counsel, these are kind of the closed-door
8 meetings that they have, it states that that is with the
9 executive officer, not without the executive officer.

10 And, again, there's some illumination of
11 reference to HR-type duties, evaluating the executive
12 officer.

13 And item or subparagraph seven under section 16
14 clearly spells out, it says the advisory board shall advise
15 the executive officer concerning the administration of the
16 program, including without limitation, the adoption and
17 implementation of policies concerning the program. So the
18 board would continue to have a prominent role in defining the
19 program, its benefits. And instead of it being
20 authoritative, it would be making recommendations to the
21 executive officer.

22 So moving on to section 18, it removes a lot of
23 language that talks about who the board will employ, because
24 that would then become just part of the department.

25 So going to Section 20, it removes the references
CAPITOL REPORTERS (775) 882-5322

1 to the quality control officer. That was one of the main
2 things that I was interested in achieving with this bill is
3 not have the employees of this program or deferred comp be
4 reporting directly to the board, be evaluated by the board
5 and need board consent to handle personnel matters. These
6 are things that in my opinion are properly handled by
7 administrative authorities and not public bodies. I think
8 it's very awkward when public bodies try to deal with human
9 resource issues.

10 I can just tell you philosophically, I think in
11 the case of a county commission, a city council, where you
12 have elected officials that have broad powers over broad
13 program, I think it's appropriate to have an executive
14 director or somebody that reports directly to that board. I
15 see that as being very limited circumstances. Perhaps, if
16 you have something where a specific industry is being
17 regulated and that board is constituted with people that have
18 expertise in that industry, it may make sense for the
19 executive officer to report to that board.

20 However, in the case of the Public Employees'
21 Benefits Program, it really is part of the total compensation
22 package that the employer is offering to employees. And I
23 just do not think that rises to the level that an appointed
24 board with a fairly narrow focus should be handling HR
25 matters and day-to-day running of a program.

CAPITOL REPORTERS (775) 882-5322

1 And most of this is just cross-reference,
2 anywhere else in the statutes where it mentions the PEBP
3 program. I won't go through all of that.

4 The ability to contract. It's referred to as
5 executive officer and not the board. Same with accounting,
6 expenses. There's a whole bunch of statutes that just
7 address the kind of day-to-day functioning of the program.
8 Which, you know, it can say in the statute that the board is
9 responsible for that. But really the executive officer and
10 the employees of the program are really doing most of those
11 day-to-day operational things anyway without day-to-day
12 direction from the board. So even when it says in the
13 statute is the board's authorities is probably in fact not
14 how they function on a daily basis.

15 So let me -- Again, I don't want to go through
16 every single section because it's a big bill. So let me
17 point out -- So section 38, that starts the discussion of
18 deferred comp. That's their section of NRS 287. Again, same
19 thing. It makes the committee advisory. It does not make
20 any changes to the composition of the committee at all. And
21 it goes through a lot of the same exercises about how the
22 duties of the program rather than being referred to as the
23 duties of the committee refer to as the duties of the
24 executive officer.

25 They do some rearranging of language and some of
 CAPITOL REPORTERS (775) 882-5322

1 the things that LCB legal always does to try to tidy up
2 legislation.

3 And then last but not least, section 47 deals
4 with purchasing, NRS 333. That section really removes all of
5 the language particular to PEBP from NRS 333. So it had
6 language in there how the executive officer could observe the
7 activities of the committee when they're doing RFP processes.
8 Strikes that. And then there is language in here that allows
9 the Public Employees' Benefits Program to essentially
10 disregard the recommendations of purchasing. Really brings
11 that -- the activities of the program in to full compliance
12 with NRS 333.

13 And that really was one of my big issues in
14 regard to this board that got us on this track in doing this
15 bill was the actions of the board last year during the HMO
16 RFP that talked about this before. The board I think was far
17 too involved in that RFP process and they disregarded their
18 own rules that they established for that process. They
19 disregarded the scores of the technical committee. They
20 disregarded their own scores. They disregarded what they
21 said they would use as their criteria, set that all aside and
22 attempted to award to another vendor against the advice of
23 the state personnel, state purchasing administrator, against
24 the advice of the executive officer.

25 Thankfully that process all took so long that it
CAPITOL REPORTERS (775) 882-5322

1 became logistically impossible to award that contract in that
2 manner. But had it been awarded, it would have resulted in
3 substantial cost increase to the members of the program.

4 I think that's a very irregular way for a public
5 body to function. I do not think public bodies should be
6 heavily involved in the procurement process. So that was one
7 of the big important things I wanted to achieve in this bill.

8 And then again just to point out the continuing
9 education requirements for board members is eliminated. That
10 was, I think, more of a discussion in terms of budget
11 initiatives is that this is not going to be a governing board
12 and only advisory doesn't need the continuing education. And
13 we had a lot of discussions about how most boards and
14 commissions don't have continuing education requirements in
15 statute. It doesn't mean continuing education isn't valuable
16 or important. But just having the requirement in the statute
17 seemed a little irregular compared to most boards and
18 commissions. So that's why that is removed.

19 So those are all the provisions of the bill.
20 Just to make sure I hit all of my points here. So the
21 justification for this, as I've said before, this is part of
22 a broader initiative on behalf of the governor for board and
23 commission reform. We have other areas of state government
24 where they're doing similar types of things, bringing boards
25 under agencies for better oversight. It ensures consistency

CAPITOL REPORTERS (775) 882-5322

1 and compliance with state financial and HR administration.

2 Let's see. I talked about my philosophical
3 issues with the governing board.

4 Oh, so a governing board for a state employee
5 health insurance program if you look at all the states, this
6 model that we have here is a minority of states. Most states
7 either don't have a governing board where it's integrated
8 with a larger agency like a human resources agency. And part
9 of our goal, what we're trying to achieve here is be able to
10 have a collective effort to develop the total compensation
11 package that the state offers to employees and by extension
12 to retirees. Because it's part of that contract that we make
13 that attracts people to come and work for the state, how we
14 treat our current employees and our retirees. Very important
15 to the state as an employer.

16 There is an inherent conflict between the public
17 body being a decision maker in that process and the
18 governor's budget, which is confidential under NRS 353.205.
19 So the board will make decisions, definitive decisions, about
20 the plan, about the benefits that are to be offered. And
21 that becomes authoritative. There's no ability to have a
22 discussion, a broader discussion, about the other elements of
23 the total compensation package. Because those elements are
24 strictly confidential per law. So I think it would serve
25 both current employees and retirees better if the advisory

CAPITOL REPORTERS (775) 882-5322

1 board or an advisory board that can make recommendations on
2 plan design, but those final decisions are part of the
3 overall governor's budgetary process so that one action of
4 the board doesn't cancel out an intended action of the
5 governor's office, which has happened before. And it just
6 makes it very difficult to present a good total compensation
7 package.

8 The other issue that I brought up before is that
9 the true fiduciary responsibility for this plan is with the
10 employer. It's called the Public Employees Benefit Program,
11 but it's really the benefits that the employer is offering.
12 Ultimately that's where the fiduciary responsibility lies.
13 It lies with the governor with consent from the Nevada
14 legislature. And that's one additional reason why this
15 should not be a governing board that can make final decisions
16 for the plan.

17 Advisory does not mean it would have no
18 authority. It would not diminish public input to the
19 process. We would still have these meetings. We would still
20 consider the same type of items that we consider today. It
21 just wouldn't be a final decision. It would be advice and
22 consent to the executive officer, allowing to receive public
23 input. And that input must be considered as part of the
24 program administration and design.

25 I can give you an example. The Public Works
CAPITOL REPORTERS (775) 882-5322

1 Board. I'm a member of the Public Works Board. The Public
2 Works Board once upon a time was a governing board and
3 actually supervised the administrator of the Public Works
4 Division. When they did some reorganization government, that
5 was changed. They're now advisory. I sit on that board. We
6 approved about 250 million dollars of CIP projects. And that
7 was a recommendation to the governor of what he should
8 include in his CIP plan. That recommendation was accepted,
9 stock, lock, and barrel, and there were very few minor
10 changes that were made to that recommendation based on
11 whether or not there was additional funding available. There
12 was some tweaks to some projects because an agency wanted it.
13 But by in large it was taken lock, stock, and barrel and the
14 governor's office was very happy to have the recommendation
15 of the board.

16 So I think it would be difficult for the
17 administration to deviate substantially from what even an
18 advisory board has recommended. That's going to carry a lot
19 of weight. And any deviation from that is going to require
20 the executive officer to come back and explain why, how we
21 got to that -- how we got to that point. And that again is
22 going to be reviewed by the legislature in the budgeting
23 process of. And if the administration deviated from what was
24 recommended by the board, that would have to be at the top of
25 the discussion and explanation to the legislature.

CAPITOL REPORTERS (775) 882-5322

1 So that's the bill as we have it. Those are all
2 of my reasons and justifications. With that, we'll open it
3 up to any discussion. Go ahead.

4 MR. HAYCOCK: For the record, Damon Haycock.
5 There's a hearing scheduled for this bill at the Senate
6 Committee of Government Affairs Monday at 1:00 p.m. And
7 that's the only thing that I wanted to add.

8 CHAIRMAN CATES: Thank you. And I hope a made a
9 good compelling argument so somebody will motion to support
10 the bill. But I realize it puts everybody in an odd spot.
11 So you do what your conscience tells you. But I'm happy to
12 have a discussion about it. Is that a motion, Tom?

13 MEMBER GARCIA: Mr. Chair.

14 CHAIRMAN CATES: Go ahead.

15 MEMBER GARCIA: Oh, wait. We're not at
16 discussion yet.

17 CHAIRMAN CATES: No, no, we're in discussion,
18 Rosalie. Go ahead. I joked about Tom making a motion.

19 MEMBER GARCIA: Oh, I get it. All right. Well,
20 there are components of this bill that I do like. But I do
21 oppose the particular line where the board becomes advisory.

22 CHAIRMAN CATES: Okay.

23 MEMBER GARCIA: So, therefore, I would oppose the
24 bill as presented. I do understand that the issue that was a
25 catalyst for this bill are those surrounding the processing

CAPITOL REPORTERS (775) 882-5322

1 of the most recent HMO RFP. And that's where, you know, the
2 Chair is most concerned.

3 But I do disagree with the Chair's summary of
4 events surrounding those issues. I believe that at the time
5 with the new executive officer and the new purchasing
6 director, it's possible that the board misunderstood. But I
7 believe that overall the board's direction was not
8 misunderstood. The whole -- And I agree, the whole HMO RFP
9 process was very dissatisfactory or unsatisfactory.

10 Because the health plan coverage is so very
11 important to all of our members, I believe that should this
12 bill not go through, there are concerns that the bill wants
13 to address that can be addressed within our own internal
14 policies and procedures which would not necessitate the
15 elimination of the board as it currently stands.

16 So I would be opposed for the bill, again, as
17 presented. That's it.

18 CHAIRMAN CATES: Okay. Thank you. I appreciate
19 your comment.

20 MEMBER ZACK: Mr. Chair. Christine Zack for the
21 record.

22 CHAIRMAN CATES: Go ahead.

23 MEMBER ZACK: It's with my sincere apologies that
24 I ask that I be excused for the rest of the meeting. I had
25 indicated I was only available in the morning because my
CAPITOL REPORTERS (775) 882-5322

1 husband is graduating from the Las Vegas City Fire Academy
2 and I need to head downtown. So I am very, very sorry. Is
3 it possible for me to be excused at this point?

4 CHAIRMAN CATES: It is possible for you to be
5 excused. That's a pretty good reason.

6 MEMBER ZACK: I can't move it and I can't miss
7 it. So I'm very, very sorry, but I have to jump off the
8 call.

9 CHAIRMAN CATES: All right. Thank you. You are
10 excused.

11 MEMBER ZACK: Thank you so much for
12 understanding.

13 CHAIRMAN CATES: We still have a quorum. Let's
14 take a pause for a minute to make sure we still have a
15 quorum.

16 MR. HAYCOCK: For the record, this is Damon
17 Haycock. Chris Cochran, are you still with us or did you
18 have to -- Like you would tell me if you took off. But are
19 you still there, Chris?

20 CHAIRMAN CATES: So did we just lose our quorum?

21 MEMBER COCHRAN: I'm still here.

22 MR. HAYCOCK: You're still here, okay.

23 CHAIRMAN CATES: We're almost done, folks.

24 MR. HAYCOCK: Yeah, let's get a motion before we
25 lose our quorum.

CAPITOL REPORTERS (775) 882-5322

1 CHAIRMAN CATES: Any other comments, motions? No
2 motion.

3 MEMBER LAMBORN: Mr. Chair, Leah Lamborn.

4 CHAIRMAN CATES: Go ahead.

5 MEMBER LAMBORN: Thank you. I have to agree with
6 Rosalie again. There is a lot of things in this bill that I
7 could support. I do believe that the board should not be
8 part of the day-to-day operations and the RFP and I
9 understand the issues that surrounded that and certainly
10 should not be involved in personnel.

11 But I have concerns too about moving it from a
12 governing board to an advisory board. You had made a comment
13 that that means that the board wouldn't have authority. But
14 I would have to disagree with that because I'm not quite sure
15 what kind of authority the board would have in an advisory
16 role making recommendations.

17 CHAIRMAN CATES: Yeah, understood. This is
18 Patrick. My thought is that it's the power of persuasion.
19 It's not the final say. But I think the administration are
20 obligated to take those recommendations very seriously and
21 would have to explain themselves if I didn't follow them.
22 But I understand your concern.

23 MEMBER COCHRAN: Mr. Chair, this is Chris
24 Cochran. I agree with both the previous comments in addition
25 to reducing the board membership from ten to seven. It may
 CAPITOL REPORTERS (775) 882-5322

1 sound like it's great for NSHE, but it's not necessarily
2 great overall in terms of losing some valuable contributions
3 that we would have on the board for the purposes of decision
4 making.

5 I'm more concerned that this is kind of like,
6 well, we're going to throw the baby out with the bath water
7 rather than taking specific areas within the policies that
8 the board -- that could be amended and changed. Particularly
9 on procurement potentially.

10 Also on matters of, you know, quality control
11 officer, you know, I think that as long as you have a board
12 the board needs to be the group that hires the executive
13 officer. But after that, you know, my impression that you
14 hire that person then it's essentially running the
15 organization, you don't need to micromanage.

16 I would -- I'm more concerned from the standpoint
17 of losing more voice around the state in terms of what's
18 being on it. And while we are looking at doing this as part
19 of -- I mean, I understand from a bird's eye view why one
20 might look at doing this, why is this board necessary. But I
21 do think this is -- I think if you go back in history as to
22 why the board was created that that one issue alone justifies
23 the need for the board and, you know, compared to potentially
24 an issue that arose one year, one month, and then deciding to
25 eliminate the board. And I suspect it's primarily for that

CAPITOL REPORTERS (775) 882-5322

1 one issue. So I cannot support this bill. And I'll just
2 leave it at that.

3 CHAIRMAN CATES: Okay. Thank you, sir.

4 Any other comments?

5 MEMBER VERDUCCI: Tom Verducci for the record. I
6 know on some of the other bills we took a neutral position.
7 I'm just wondering if we went neutral on this would it help
8 Damon if there was any language changes to be able to testify
9 to the law makers? That's a question to Damon.

10 MR. HAYCOCK: For the record, Damon Haycock.
11 Thank you, Mr. Verducci. To be candid, I don't really want
12 to go to the table on this bill. And it's a bill that's a
13 being presented by the board chair. So even if there was
14 concerns, I would rather talk with the board chair off line
15 than do it on line at the table. And I would suggest that
16 each board member that has a concern reach out to Patrick
17 directly because in the end, we're all supposed to be moving
18 on in the same direction as the same team.

19 And so with that, I'm not looking for a position
20 on this bill. And I'm hoping not to be put in that position
21 to go to the table and take a position on this bill. But I
22 will do as instructed as my job requires and make the best of
23 it.

24 MEMBER GARCIA: Mr. Chair.

25 CHAIRMAN CATES: Go ahead.

CAPITOL REPORTERS (775) 882-5322

1 MEMBER GARCIA: This is Rosalie Garcia.
2 Unfortunately because we are in an awkward position and Damon
3 is in an awkward position where he would not necessarily be
4 able to express the board's concerns on this particular bill,
5 I move that we oppose SB 502 as it's presented.

6 CHAIRMAN CATES: Okay. We have a motion. Do we
7 have a second?

8 MEMBER COCHRAN: This is Chris Cochran. I'll
9 second that motion.

10 CHAIRMAN CATES: Okay. So we have a motion and a
11 second to take a position of opposed for SB 502. Any
12 discussion on the motion?

13 MEMBER LAMBORN: This is Leah Lamborn. I have a
14 question. So what position does that put Damon in at this
15 point? Because I agree, that's a bad position for Damon to
16 be in. Will he have to testify at all on this bill if we
17 oppose? I guess he would, would he not?

18 MR. HAYCOCK: For the record, Damon Haycock.
19 Whatever position you provide me, I will go to the table and
20 discuss it, unless you provide me no position. That's the
21 requirement I am supposed to discuss the board's position on
22 any legislation that affects PEBP. And if I have to go to
23 the table if you are for, against, or neutral to this bill.

24 MEMBER COCHRAN: Mr. Chair, I have a follow-up on
25 that --

CAPITOL REPORTERS (775) 882-5322

1 CHAIRMAN CATES: Go ahead.

2 MEMBER COCHRAN: -- in regards to Damon's
3 position on this. I mean, I think that all that would be
4 required from Damon on whatever action the board takes would
5 be to say the board voted in this particular fashion.
6 They're not going to ask him if he agrees. They may. But, I
7 mean, they're not telling them that we are saying that you
8 have to agree with us or not agree with us. All he would
9 have to do is say the board took the position and opposition
10 to this. And you could even report the vote. Because I'm
11 assuming that not everybody would be voting in favor or
12 voting against. But I think leaving it at that.

13 MR. HAYCOCK: For the record, Damon Haycock.
14 Thank you, Dr. Cochran, for that statement. However, if they
15 ask me one simple question, I'm going to have a very
16 difficult time answering it, and that is why did the board
17 vote to oppose this bill. And then I will have to tap dance
18 around that answer or share word for word everything that's
19 been said today or something in between. And so it's just
20 something to keep in mind.

21 I will do my duty as I am appointed by you all as
22 your executive officer and I will share your voices and
23 concerns on this bill and any other bill. It's not going to
24 be pleasant. But that's -- if I don't like my job, I can
25 quit, right. So I think that's the answer there. But I
CAPITOL REPORTERS (775) 882-5322

1 don't think I'm going to be able to get up to the table at
2 this bill and say the board has given me the position of X
3 and then not ask any questions.

4 MEMBER GARCIA: This is Rosalie Garcia.

5 CHAIRMAN CATES: I'm not sure who was talking
6 there.

7 MEMBER COCHRAN: I guess the only follow-up I
8 would have to that is, you know, I mean, if we need to
9 provide a supporting reason, you know, for the reasons cited
10 that we -- that the board believes that many of the items
11 addressed in this bill are items that should be considered
12 and should be, you know -- but the main thing is the -- we,
13 at least I, I won't say we. Whatever action the board takes.
14 Because we may be outvoted anyway. And, after all, we don't
15 have a full board membership participating in this
16 discussion. So whether we vote in favor or vote against,
17 keep in mind that there may have been enough board members
18 out there who aren't participating in this who might sway the
19 vote one way or the other.

20 But, you know, there are many proponents of the
21 bill that we support. But the one we do not support is the
22 elimination of the board as a voting -- as a voting group,
23 you know, and that's -- that's the -- that would be the main
24 issue that I would present from why we voted against it.

25 CHAIRMAN CATES: Okay.
CAPITOL REPORTERS (775) 882-5322

1 MEMBER GARCIA: This is Rosalie Garcia. And,
2 again, I absolutely concur with Dr. Cochran's statement just
3 now.

4 My main concern is that we take a position as a
5 board and have our reasons known. If we take no position or
6 even in have a neutral position, it says to me that we don't
7 care. And that is why I made the recommendation for the
8 motion. Thank you.

9 CHAIRMAN CATES: Okay. Thank you. Go ahead,
10 Ana.

11 MEMBER ANDREWS: Mr. Chair, Ana Andrews for the
12 record. I was a member of the committee that had to review
13 the policies and procedures for PEBP a couple of years ago.
14 And I would -- I don't have them with me and I could not
15 assess them right now. But my recollection is that the way
16 the policies and procedures are aligned, it states that the
17 executive officer reports to the board.

18 And I recall when we made the vote in public
19 session to hire Damon, I agree that we may be putting Damon
20 in a bad position to go and oppose this bill on behalf of the
21 board since he reports to the board as it stands right now.

22 I have a couple of suggestions, if I may, as to
23 how this could be handled. One of them would be for the
24 individual board members to show up at a hearing that's
25 taking place on Monday at 1:00 p.m. and voice their own

CAPITOL REPORTERS (775) 882-5322

1 position on the bill because you can testify from Vegas and
2 you can testify from Carson City as well.

3 The other suggestion I have is -- Well, no.
4 Never mind. I don't have a second suggestion. Thank you.

5 CHAIRMAN CATES: Any further discussion on the
6 motion? Hearing none I'll call for a vote. All of those --
7 I'll call for a vote on the motion to oppose SB 502. We'll
8 take a roll call vote.

9 MS. PEDROZA: Ana Andrews.

10 MEMBER ANDREWS: Nay.

11 MS. PEDROZA: Leah Lamborn.

12 MEMBER LAMBORN: Aye.

13 MS. PEDROZA: Tom Verducci.

14 MEMBER VERDUCCI: Aye.

15 MS. PEDROZA: Rosalie Garcia.

16 MEMBER GARCIA: Aye.

17 MS. PEDROZA: Chris Cochran.

18 MEMBER COCHRAN: Aye.

19 MR. HAYCOCK: Could you have Tom Verducci redo
20 his? We couldn't hear him.

21 MS. PEDROZA: Tom Verducci, could you please
22 restate your vote.

23 MEMBER VERDUCCI: Yes. Aye.

24 CHAIRMAN CATES: Okay. Motion carries. Okay.

25 So that is all of that agenda item. Close Agenda Item 4.

CAPITOL REPORTERS (775) 882-5322

1 Move to Agenda Item Number 5, public comments.

2 MEMBER COCHRAN: Mr. Chair.

3 CHAIRMAN CATES: I'm sorry. Go ahead.

4 MEMBER COCHRAN: I'm sorry to interrupt. Since I
5 really am late for my 12:00 o'clock appointment, does public
6 comment require me to be in attendance?

7 CHAIRMAN CATES: No. No, it doesn't.

8 MEMBER COCHRAN: Do you need a quorum to keep
9 public comment? I don't think you do; right?

10 CHAIRMAN CATES: No. No. It looks like we're
11 okay.

12 MEMBER COCHRAN: All right. Great. Thank you.
13 I appreciate your indulgence on this. Thank you.

14 CHAIRMAN CATES: Thank you, sir.

15 MS. MALONEY: Good afternoon. I think it's
16 afternoon. Good afternoon to the board. Priscilla Maloney
17 with AFSCME retirees. Just real briefly because I actually
18 do have to get back over to the building.

19 We will be opposing Senate Bill 502 on Monday. I
20 will not take the board's time to go in to that. I think
21 that a lot of what has been expressed though by the board
22 members themselves has been the main thrust of our concerns
23 and also would like to put on the record I'm not suggesting
24 AFSCME retirees, I'm not suggesting that. This process that
25 you're in right now taking a position on this bill that could

CAPITOL REPORTERS (775) 882-5322

1 eliminate all or some of whether it's staff position or board
2 position, yes, it does in our -- to my eyes it gives an
3 appearance of a conflict right there. And I don't know what
4 the answer is, given the structure of PEBP. You've got to
5 have a board decision on all of these pieces of legislation.

6 And by the way, PEBP is not the only health care
7 trust on that issue. I'm daily in meetings with tons of
8 different groups that have health care trusts that are
9 graveling with their positions on these same health care
10 bills, just as an aside, so you know you're not alone. And I
11 tried and suggested to them that they never forget about PEBP
12 when they're making these discussions.

13 But getting back to this situation that puts poor
14 Mr. Haycock in this unenviable position, he needs a raise.
15 But, yeah, the situation you're in is very challenging. And
16 so -- But I have faith that this board will vote their
17 conscience and do what they need to do on Monday. And you'll
18 hear more about our position. But I think you be probably
19 have an idea of what -- because it's in alignment with what
20 I'm hearing from the board this morning. Okay, afternoon
21 now. So thank you. Back to the building. Thank you.

22 CHAIRMAN CATES: Thank you.

23 MS. LAIRD: Thank you, Mr. Chair. My name is
24 Terri Laird. I'm the executive director of the Retired
25 Public Employees of Nevada, RPEN.

CAPITOL REPORTERS (775) 882-5322

1 For some of the same reasons as Priscilla just
2 mentioned, RPEN has been opposed to Senate Bill 80. We will
3 also be opposed to Senate Bill 502 for the same reasons.

4 One of the reasons that came up during this, the
5 restructuring of Senate Bill 80 to 502, the fact that we're
6 losing a retiree rep on the board. We fought really hard as
7 an organization a few years ago to get that second retiree
8 voice on the board. So we're very disheartened to hear about
9 that. So that's just another reason why we would be opposed
10 to Senate Bill 502, in addition to everything that was said
11 here today as well.

12 Because we've been around for a long time. We're
13 in our 40th year. So we've watched the organization go
14 through the many things that it's gone through. And, again,
15 some of the reasons mentioned by the board, some of the
16 concerns by the board today are concerns that we have as
17 well. So thank you very much.

18 CHAIRMAN CATES: Thank you.

19 MS. LEAR BOWEN: Good afternoon. My name and
20 words for the record, P-e-g-g-y L-e-a-r B-o-w-e-n. And
21 having sat through all the situations, all the incidents, I
22 want to congratulate this board for rising and not falling
23 their previous scoring, their previous voting, or anything
24 else involved in the previous RFP regarding the HMO process.

25 What was discovered in the last meeting, and they
 CAPITOL REPORTERS (775) 882-5322

1 call me the Jimminy Cricket or the conscious of the
2 legislature. I'm also sort of the memory tracker here. What
3 took place in that meeting was a revelation(sic) that the
4 applications were not scored or voted on in a fair and likely
5 manner based on what different applicants were told they
6 could put in to the RFP.

7 And basically what happened is you had a two tier
8 application, Hometown Health, one tier, and the rest of the
9 applicants in another tier, and constantly, if you review the
10 written record of that meeting, you will discover those who
11 were offering to participate in that RFP to offer their
12 product for consideration by PEBP that the offers were given
13 in a different way to everyone except Hometown Health.

14 And they were allowed to -- The bottom line is
15 that the RFP's were flawed. And this board had the courage,
16 the intestinal fortitude, to go and even though -- and there
17 were participants, including Mr. Wells, on the record about
18 what you should do and shouldn't do based on new information
19 presented that day as to what happened with the applications
20 and once they -- the other applicants found they could give
21 other information, they gave this board other information.

22 And based upon that, committees that were meant
23 to be hold, including I believe it was Ms. Andrews -- I could
24 be incorrect. I might have the wrong person. But the board
25 that met with Mr. Wells and crew making that group decision

CAPITOL REPORTERS (775) 882-5322

1 and those scoring points never met as a whole. They just
2 determined it wasn't possible to bring the other person up to
3 date.

4 And I don't care who made that decision or why.
5 Whatever. The important thing is this board making
6 themselves look on paper or wherever as not doing their job
7 did their job with so much courage that established that they
8 told on the record that they were tired of being held
9 hostage. And I think I'm remembering almost as a quote,
10 being held hostage by Hometown Health of either you go along
11 with what we're doing or we will not allow you to use our
12 doctors in the south and they'll be closed to you and other
13 points of that effect. This board acted with great courage.
14 And if you weren't present at the actual meeting, you might
15 not be aware of that. But lots of conversations took place.
16 Unfortunately people who are just getting the sound bites
17 wouldn't have known that.

18 I had one other issue. And I apologize for
19 speaking longer. But the main issue I came to talk to you
20 about today was something that Nancy Spillini(sic) said
21 during our last meeting in a quick coverage of what other
22 changes had taken place with the plan. And I went back and
23 checked as far as I could and I found no board vote or -- I
24 don't know about discussion because I missed one because I
25 was given -- it arrived the afternoon -- When I got my mail
 CAPITOL REPORTERS (775) 882-5322

1 in the evening of the 9th, it told me that there was a
2 meeting today of the 9th, and my thing hadn't been mailed
3 until the 7th. Whatever. It doesn't matter.

4 What I heard said was pertaining to mammograms,
5 in our proceeding what's going to go on in the future. And
6 what I heard was this, that the board in its benefit at a
7 hundred percent would cover 2-D mammograms and that if we had
8 three-dimensional mammograms that there would be a cost to
9 the participant for that mammogram.

10 And I compared that to being given chicken soup
11 to deal with pneumonia rather than penicillin. If we are
12 advanced technologically for our mammograms, our round
13 objects compared to other round objects, then we should be
14 able to use the advanced technology for our mammograms and
15 not at an additional cost to us.

16 What transpires right now -- And the Affordable
17 Care Act needed tweaking but we never got to that point -- is
18 the first mammogram is on, excuse the term, on the house, but
19 if you're told you need more diagnostic testing then it's on
20 you to pay for it. And a lot of people where I go and have
21 my mammograms done said, Peggy, see what you can do about if
22 there's follow-up recommended by the doctor that there's some
23 sort of help for people to be able to afford that follow-up
24 help and not just be left with, well, we found some lumps or
25 whatever they found. That was important for me to follow up
CAPITOL REPORTERS (775) 882-5322

1 on. But things got changed and the topic got changed. And
2 so I am concerned about the differential.

3 If there were other round things and you had
4 two-dimensional capabilities or three-dimensional
5 capabilities, I think the round things -- the other round
6 things would get the capabilities, no questions asked, and no
7 additional cost to the participant. And so I'm concerned
8 about that. And just have it on the record and have it out
9 there.

10 And because there are other parts of the plan
11 that were run over and this one just happened to catch my
12 ear, I want to know what changes in the plan took place that
13 maybe the board was not given a great deal of conversation
14 about and that maybe they aren't on the record as having
15 taken a vote according to those changes. Because I don't --
16 I'm not going to make any assumptions. I don't know how you
17 would have voted. But I got a real strong feeling that when
18 it came to two-dimensional and three-dimensional mammograms
19 that the vote would be maybe for what I've already said. So
20 be it. I've made that point and I appreciate your time and
21 energy and effort on this. And I would be happy -- I know in
22 public comments that you might not be able to have discussion
23 or whatever rules you want to follow.

24 The only other things I would suggest, Mr. Chair,
25 that according to any rule of thumb that if one has a bill

CAPITOL REPORTERS (775) 882-5322

1 that one simply step down to the table to discuss the bill as
2 a presenter rather than as chair of the board. And then that
3 makes it easier for the board to be able to act and make it
4 less uncomfortable for the remarks, because they like you.
5 They like you, Patrick. And to be able to separate the
6 business from personal feelings so it's just business when
7 they take a vote to approve or disapprove or whatever. And
8 it's good for you inasmuch as it gives you that presenter
9 time.

10 And I apologize for the length of time. Just a
11 suggestion. And thank you for all your hard work and thank
12 you for all that you do.

13 And please one more because it had to do with
14 something you discussed today that's really important about
15 the drugs and the drug gouging and things like that. The
16 bill did not pertain -- If you read the bill very carefully,
17 that said already FDA approved. It wasn't experimental
18 drugs. The bill itself does not address the experimental
19 drugs. It's addressing the drugs that are approved by the
20 standards that they're approved and that they're very
21 expensive. And that came up at the hearing. And I know
22 because I was present at the hearing. And it pertained to,
23 just so it's on the record, as what bill we're talking about.

24 Anyway, you know what you talked about pertaining
25 to the bills and a lot of conversation had to do with
CAPITOL REPORTERS (775) 882-5322

1 experimental drugs. And I'm here to tell you that came up in
2 the meeting itself and people were informed by the maker of
3 the motion that this wasn't about experimental drugs. It was
4 about already approved drugs and even old drugs that have a
5 great deal of expense to them. So you might want to relook
6 at that for your next gathering for conversation.

7 CHAIRMAN CATES: Okay.

8 MS. LEAR BOWEN: Thank you very much. And I
9 apologize for overtime. And I thank you very much for
10 allowing me to do that. And have a good Easter.

11 CHAIRMAN CATES: Thank you.

12 Any other public comment? Seeing none, we'll
13 close Agenda Item Number 5 and go to Agenda Item Number 6.
14 Meeting adjourned.

15 (Hearing concluded at 12:25 p.m.)

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CAPITOL REPORTERS (775) 882-5322

1 STATE OF NEVADA)
2 CARSON CITY)ss.
3)

4 I, CHRISTY Y. JOYCE, Official Court Reporter for
5 the State of Nevada, Public Employees' Benefits Program
6 Board, do hereby certify:

7 That on Thursday, the 6th day of April, 2017, I was
8 present at PEBP offices, 901 S. Stewart Street, Carson City,
9 Nevada, for the purpose of reporting in verbatim stenotype
10 notes the within-entitled meeting;

11 That the foregoing transcript, consisting of pages
12 1 through 99, inclusive, includes a full, true and correct
13 transcription of my stenotype notes of said public meeting.

14
15 Dated at Reno, Nevada, this 20th day of April,
16 2017.

17
18
19 _____
20 CHRISTY Y. JOYCE, CCR
21 Nevada CCR #625

22
23
24
25 CAPITOL REPORTERS (775) 882-5322

	achieving (1) 73:2	adoption (1) 72:16	Agenda (14) 3:4,24,25;4:3,6,13, 14;5:14;28:5;90:25, 25;91:1;99:13,13	amending (1) 50:13
\$	acronym (1) 26:17	adults (1) 25:10	aggressive (1) 67:7	amendment (15) 10:4,13;28:12; 33:17;34:19;36:15; 38:12,13;52:4;54:10; 55:24;56:19;64:20; 65:10;66:9
\$200 (1) 46:15	across (3) 45:6;49:21;60:12	advanced (2) 96:12,14	ago (3) 39:25;89:13;93:7	amendments (3) 10:20;26:21;54:6
\$25 (2) 33:4,9	Act (10) 7:24;8:1;11:14; 25:6;26:1;51:23; 54:17;69:18;96:17; 98:3	advice (3) 75:22,24;78:21	agree (9) 47:17;63:25;81:8; 83:5,24;86:15;87:8, 8;89:19	among (1) 70:8
\$400 (1) 33:8	acted (1) 95:13	advise (1) 72:14	agreements (2) 70:8,11	amount (4) 5:24;6:12;13:19; 45:2
\$800,000 (1) 34:13	action (8) 4:16,18;5:5,14; 78:3,4;87:4;88:13	advisory (14) 68:14;69:21;71:1; 72:14;74:19;76:12; 77:25;78:1,17;79:5, 18;80:21;83:12,15	agrees (1) 87:6	ample (1) 4:5
A	actions (1) 75:15	advocate (1) 32:20	ahead (26) 7:13;12:25;18:18; 21:2;23:24;25:24; 27:10;30:24;42:5; 47:6;48:3;50:18; 52:18;53:10;58:10; 59:25;65:13;80:3,14, 18;81:22;83:4;85:25; 87:1;89:9;91:3	Ana (23) 3:6;4:17,22;5:6; 24:14;25:24,25;27:5; 31:13,25;37:12;48:4; 50:19;51:14;54:23; 60:22;65:2,4;67:15; 68:4;89:10,11;90:9
AB (9) 9:21,24;21:20; 22:16;24:8,12;25:3, 5;28:1	activities (2) 75:7,11	Affairs (1) 80:6	aligned (2) 40:11;89:16	anabolic (1) 30:1
ability (17) 10:22;11:18;21:5; 24:2;28:23;30:4; 36:14;37:4;53:14; 57:20;60:8,14;63:9; 65:8;66:25;74:4; 77:21	actual (2) 29:3;95:14	affect (4) 7:5,5;35:16;52:13	alignment (1) 92:19	Andrews (41) 3:6,7,4:17,17,22, 22,24;24:14,15; 25:25,25;27:5,5; 31:13,13,25;32:1; 37:12,13;48:4,5; 50:19,19;51:14,15; 54:23,24;60:22,23; 65:2,2,6;67:15,15; 68:4,5;89:11,11;90:9, 10;94:23
able (23) 14:12;16:14;22:13; 23:12,17;29:6;30:2; 33:10,22;37:5;41:6; 49:21;52:11;63:5; 77:9;85:8;86:4;88:1; 96:14,23;97:22;98:3, 5	actually (19) 10:18;18:6;20:9; 22:24,25;25:13; 27:16;33:3;34:11; 38:13;39:19;43:1; 45:1;46:12,13;52:8; 69:3;79:3;91:17	affects (5) 9:8;23:18;50:15; 52:6;86:22	allow (7) 20:13;21:4;24:2; 37:4;53:13;60:3; 95:11	announce (2) 27:16;43:2
absolutely (1) 89:2	add (3) 34:23;71:4;80:7	afford (1) 96:23	allowed (3) 21:21;28:13;94:14	announced (1) 32:17
absorb (1) 33:7	added (2) 5:21;52:4	Affordable (10) 7:24;8:1;11:14; 25:6;26:1;51:23; 54:17;66:3,24;96:16	allowing (4) 25:9;58:12;78:22; 99:10	anticipate (1) 22:7
abusive (1) 29:25	adding (1) 9:19	AFSCME (2) 91:17,24	allows (1) 75:8	anticipated (1) 45:3
Academy (1) 82:1	addition (3) 18:19;83:24;93:10	afternoon (9) 10:19;12:21;17:5; 91:15,16,16;92:20; 93:19;95:25	almost (2) 82:23;95:9	apologies (1) 81:23
accept (1) 10:6	additional (10) 6:21,25;12:6,16; 31:3;52:7;78:14; 79:11;96:15;97:7	afterwards (1) 61:16	alone (3) 21:17;84:22;92:10	apologize (5) 35:7;37:1;95:18; 98:10;99:9
accepted (2) 22:19;79:8	Additionally (1) 29:19	again (27) 23:16;29:15;36:22; 39:1;43:20,21,24; 49:3;51:23;52:25; 53:22;54:10;57:8,13; 59:16;68:13;70:2,9; 72:10;74:15,18;76:8; 79:21;81:16;83:6; 89:2;93:14	along (5) 11:11;36:13;53:3; 65:23;95:10	appeals (4) 11:15,15,16;59:11
access (2) 20:8;62:6	address (7) 5:19,22;11:17; 23:17;74:7;81:13; 98:18	against (20) 36:4;40:12;41:16, 20,23;42:25;43:3,19; 56:4,20;60:10;63:12, 13;71:23;75:22,23; 86:23;87:12;88:16, 24	Although (2) 22:23;47:9	appear (2) 32:15;53:11
according (2) 97:15,25	addressed (2) 81:13;88:11	age (1) 25:10	always (9) 13:25;15:4,5; 17:15;41:20,25; 49:11;50:10;75:1	appearance (1) 92:3
account (1) 62:6	addressing (1) 98:19	agencies (9) 12:12,13;41:19; 43:3,4,10;44:3; 69:19;76:25	amenable (1) 12:15	appearing (1) 28:18
accountable (3) 15:15;19:20,21	adjourned (1) 99:14	agency (6) 42:24;47:9,10; 77:8,8;79:12	amend (1) 50:2	applicable (1) 34:19
accounting (1) 74:5	Administration (10) 68:13,20;69:4,11; 72:15;77:1;78:24; 79:17,23;83:19		amended (9) 11:25;28:12;29:3, 4,4;49:17;50:2,11; 84:8	applicant (3) 94:5,9,20
accumulator (1) 45:20	administrative (4) 12:6;60:3;69:18; 73:7			application (1)
accumulators (1) 46:1	administrator (4) 11:2;70:20;75:23; 79:3			
accurate (2) 44:3;56:10				
achieve (2) 76:7;77:9				

94:8 applications (2) 94:4,19 applies (1) 38:19 apply (1) 11:19 appointed (2) 73:23;87:21 appointment (1) 91:5 appreciate (4) 59:22;81:18;91:13; 97:20 appropriate (6) 15:11;20:7;40:1; 44:14;45:15;73:13 approval (2) 4:14;5:6 approve (2) 4:21;98:7 Approved (14) 4:23;6:10,22;10:8; 14:2,8;20:16;60:2, 11;79:6;98:17,19,20; 99:4 approving (1) 5:5 APRIL (6) 3:1;6:8,23;9:12; 38:9;63:1 areas (4) 40:2,10;76:23;84:7 argument (1) 80:9 arguments (1) 65:9 arose (1) 84:24 around (4) 35:6;84:17;87:18; 93:12 arrived (1) 95:25 aside (2) 75:21;92:10 Assembly (8) 4:19;6:16;9:6,12; 22:18;27:17;51:25; 54:16 assemblyman (2) 14:17;20:20 assess (1) 89:15 assigned (3) 27:12,19,21 assist (3) 9:25;36:4;57:7 assistance (1) 36:10 assistant (1) 36:9 associated (1)	7:16 Association (1) 56:16 assume (4) 8:6;30:17;53:23; 56:19 assuming (5) 13:4;16:3;62:22; 65:22;87:11 assumption (3) 35:1;53:2;65:20 assumptions (2) 43:13;97:16 attempt (1) 59:16 attempted (1) 75:22 attempting (1) 25:5 attendance (1) 91:6 attorney (1) 61:24 attracts (1) 77:13 authoritative (2) 72:20;77:21 authorities (2) 73:7;74:13 authority (6) 17:3;44:6;70:10; 78:18;83:13,15 authorization (1) 29:21 authorized (1) 58:23 available (3) 22:8;79:11;81:25 avenue (1) 36:2 award (2) 75:22;76:1 awarded (1) 76:2 aware (2) 58:12;95:15 away (4) 20:14;26:23;59:14; 63:12 awkward (4) 42:20;73:8;86:2,3 aye (48) 5:6;24:15,17,19,21, 25;31:18,24;32:1,3; 37:13,15,17,19,21, 23;48:12,18,20,25; 51:7,9,11,13,15,17; 54:24;55:3,5,7,9; 60:23,25;61:2,4,6,8; 67:20,22,24;68:1,3,5; 90:12,14,16,18,23 eyes (2) 24:22;32:4	B baby (1) 84:6 back (26) 13:10;19:3;28:10; 29:21;30:6,16;32:12; 33:1,9;34:18;35:20, 20;37:2;40:14;43:25; 62:11,12;66:6,23; 68:10;79:20;84:21; 91:18;92:13,21; 95:22 background (3) 15:10;71:8,14 bad (3) 64:11;86:15;89:20 Bailey (1) 3:21 balance (4) 15:3;23:2,7;39:6 balanced (2) 39:14;41:3 ball (2) 28:18;52:13 bankruptcy (1) 39:10 barrel (2) 79:9,13 based (7) 8:15;31:3;40:2; 79:10;94:5,18,22 basic (1) 40:19 basically (18) 10:14;26:8,19; 28:14;32:23;38:20; 40:16;45:7;46:1; 52:4;55:16;56:2; 62:22;63:9;68:11; 69:12;71:3;94:7 basis (1) 74:14 bath (1) 84:6 beat (1) 64:9 became (1) 76:1 become (1) 72:24 becomes (3) 46:14;77:21;80:21 beginning (1) 4:3 behalf (4) 32:21;41:7;76:22; 89:20 behind (3) 33:24;35:18;47:8 belabor (1) 53:23	believes (1) 88:10 beneficial (1) 52:11 Benefit (5) 69:12;70:16;71:14; 78:10;96:6 Benefits (25) 3:4;5:16;10:11; 14:3,9;25:9;26:6,9, 13,16,20;27:3;28:21; 33:10;50:8;56:23; 60:9;63:24;70:1; 71:9;72:19;73:21; 75:9;77:20;78:11 best (2) 44:8;85:22 better (10) 15:2;36:25;38:21, 22;41:2;45:8;62:23; 70:6;76:25;77:25 beyond (2) 18:23;20:5 big (6) 8:8,8;57:1;74:16; 75:13;76:7 biggest (1) 44:24 Bill (196) 4:19,19;5:19,24; 6:16,16,20,22,24;7:2, 8;8:4,15,19;9:6,7,8, 15,18,23,25;10:2,4, 20,24;11:25;12:8,23; 14:18;15:17;16:22; 17:13;18:1,16,23; 20:13,21,24;21:8,13, 25;22:13,16,18,19; 23:8,22;25:2,5,13,24; 26:1,12,22;27:12; 28:2,3,14;29:14,15; 30:15;31:2;32:15,18, 21;33:21;34:2,3,9,20; 35:10;37:5;38:4,12; 39:3,5,6,6,8,13,19,20; 40:25;41:7,11;42:1,8, 25;43:23;45:14; 47:13,22,24;48:9; 49:1,2,4,14,20,25; 50:1,4,4,21,21,22; 51:20,22;52:1,7,8,10, 19;53:4,8,12,24;54:7, 17;55:12,13,14;56:3; 59:19;61:13,17,22, 25;63:1,9,11,13;64:9; 65:12,21;66:13;67:2, 4;68:8,11,12,15;69:1, 3,3,4,5,7,9,11;70:19, 22;71:24;73:2;74:16; 75:15;76:7,19;80:1,5, 10,20,24,25;81:12, 12,16;83:6;85:1,12, 12,20,21;86:4,16,23;	87:17,23,23;88:2,11, 21;89:20;90:1;91:19, 25;93:2,3,5,10;97:25; 98:1,16,16,18,23 billed (5) 23:2,7;38:6;39:18, 22 billing (3) 15:3;39:14;41:3 bills (25) 5:15;6:3,9,11,12, 13;7:25;23:9;30:9; 35:15;38:11;41:15, 16,16;43:3,17;44:4, 12;61:11,14;65:9; 69:5;85:6;92:10; 98:25 bird's (1) 84:19 bit (1) 13:2 bites (1) 95:16 black (1) 20:11 board (142) 4:18;5:21;6:14; 8:15,24;9:9,20; 10:21;11:21;21:14; 22:3;24:8;26:4;27:2, 3;29:22;33:25;41:7, 16;42:2,3;44:6,7,11; 47:10,11;50:4,8; 54:13;61:14;63:3,16; 65:7;68:14,16,17; 69:20,21,23;70:3,10, 23;71:1,2,3,10,19,20, 21;72:2,4,14,18,23; 73:4,4,5,14,17,19,24; 74:5,8,12;75:14,15, 16;76:9,11,22;77:3,4, 7,19;78:1,1,4,15; 79:1,1,2,2,5,15,18,24; 80:21;81:6,15;83:7, 12,12,13,15,25;84:3, 8,11,12,20,22,23,25; 85:13,14,16;87:4,5,9, 16;88:2,10,13,15,17, 22;89:5,17,21,21,24; 91:16,21;92:1,5,16, 20;93:6,8,15,16,22; 94:15,21,24;95:5,13, 23;96:6;97:13;98:2,3 boards (3) 76:13,17,24 board's (6) 35:15;74:13;81:7; 86:4,21;91:20 bodies (3) 73:7,8;76:5 body (2) 76:5;77:17 boost (1)
---	---	---	---	---

71:21 both (6) 10:25;63:23;70:18, 20;77:25;83:24 bottom (1) 94:14 bound (1) 44:11 BOWEN (2) 93:19;99:8 B-o-w-e-n (1) 93:20 brand (2) 22:5,7 break (1) 48:23 briefly (2) 69:8;91:17 bring (1) 95:2 bringing (1) 76:24 brings (1) 75:10 broad (2) 73:12,12 broader (2) 76:22;77:22 broke (1) 48:25 broken (1) 59:5 brought (2) 21:12;78:8 budget (2) 76:10;77:18 budgetary (1) 78:3 budgeting (1) 79:22 building (2) 91:18;92:21 built (1) 17:10 bunch (1) 74:6 burden (1) 12:6 business (3) 72:4;98:6,6 businesses (1) 66:11	23:5;39:2;78:10 calling (1) 59:12 calls (1) 69:12 came (13) 10:9;13:4;50:5; 56:3,17;61:13;63:3; 69:4;93:4;95:19; 97:18;98:21;99:1 Can (54) 3:11;5:10;6:1;7:3; 10:1;12:19,20;13:19; 14:15;16:17;17:6,7; 18:11;20:6,16;22:11, 12;23:1,13;25:20; 28:21;30:14;33:23, 24;34:4,22;35:18; 36:4,13,16,22;39:19, 20;41:1,44:5;46:8; 52:9;56:24;57:13; 60:2;64:10,10;65:9; 70:11;73:10;74:8; 78:1,15,25;81:13; 87:24;90:1,2;96:21 cancel (1) 78:4 cancer (4) 55:15,17;57:8;59:8 candid (1) 85:11 capabilities (3) 97:4,5,6 card (1) 36:10 cards (1) 39:11 Care (33) 7:24;8:1;10:9,10, 16;11:14,20;12:16; 14:1,9,13;15:5,8; 17:9;18:1;25:6,11; 26:1;33:3;35:22; 40:4;49:24;51:23; 52:5;54:17;56:12; 57:9;89:7;92:6,8,9; 95:4;96:17 careers (1) 56:11 carefully (1) 98:16 carries (7) 37:25;51:19;55:11; 61:9;68:6,7;90:24 carry (1) 79:18 Carson (2) 4:9;90:2 case (8) 11:4;28:17;53:13; 60:4,4,12;73:11,20 catalyst (2) 59:19;80:25	catch (1) 97:11 CATES (131) 3:3,19,20,23;4:13, 20,23,25;5:3,8;7:7, 13;8:17;9:1,21; 11:24;12:8,22,25; 18:15,18;20:23;21:2, 6;22:15;23:20,24; 24:4,9,11,23;25:1,23; 27:8,10,25;29:9; 30:19,24;31:6,11,14; 32:5;34:1;35:9; 36:18,21,24;37:6,9, 25;41:8;42:5,9,12,16; 44:1,1,15;47:3,6,14, 25;48:10,22,23; 50:16,23;51:2,16,19; 52:15,18;53:7,10,16, 19;54:21;55:11; 57:15,22;58:1,5,10; 59:25;60:18;61:9; 63:15,25;65:1,4,13; 67:3,13,16;68:6,8,19, 25;80:8,14,17,22; 81:18,22;82:4,9,13, 20,23;83:1,4,17;85:3, 25;86:6,10;87:1; 88:5,25;89:9;90:5, 24;91:3,7,10,14; 92:22;93:18;99:7,11 cause (1) 44:21 causing (1) 17:23 CCIO (1) 26:16 CDHP (3) 58:21;63:7,19 Celestena (1) 34:24 Centers (2) 26:15,17 certain (10) 13:6;17:11;22:7; 26:5;32:17;56:11; 58:18,19;59:1;60:10 certainly (1) 83:9 Chair (38) 3:19;6:5;7:11; 12:24;27:9;30:22; 31:8;44:17;47:4,15; 48:22;50:20,25; 52:16;57:23;58:3,8; 59:23;64:2;65:3,6; 68:10,19,24;80:13; 81:2,20;83:3,23; 85:13,14,24;86:24; 89:11;91:2;92:23; 97:24;98:2 CHAIRMAN (140) 3:3,20,23;4:13,17,	20,23,25;5:3,8,17; 7:6,7,13;8:17,23;9:1, 5,21;11:24;12:4,8,11, 22,25;18:15,18; 20:23;21:2,6;22:15; 23:20,24;24:4,6,9,11, 23;25:1,4,23;27:8,10, 25;28:8;29:9,13; 30:19,24;31:6,11,14; 32:5,8;34:1;35:9; 36:18,21,24;37:6,9, 25;41:8;42:5,9,12,16; 44:1,15;47:3,6,14,25; 48:10,23;50:16,23; 51:2,16,19;52:15,18; 53:7,9,10,16,19; 54:21;55:11;57:15, 22;58:1,5,10;59:25; 60:18;61:9;63:15,25; 65:1,4,13;67:3,13,16; 68:6,8,25;80:8,14,17, 22;81:18,22;82:4,9, 13,20,23;83:1,4,17; 85:3,25;86:6,10; 87:1;88:5,25;89:9; 90:5,24;91:3,7,10,14; 92:22;93:18;99:7,11 Chair's (1) 81:3 challenging (1) 92:15 chance (1) 10:12 change (14) 7:2,3;10:21;20:25; 21:21;28:4;41:5; 42:7;47:23;50:20; 51:3;62:11;71:1,3 changed (9) 10:4;38:12;48:7; 49:14;70:24;79:5; 84:8;97:1,1 changes (15) 16:1;32:10;35:18; 45:13;69:19,20;70:2, 25;71:21;74:20; 79:10;85:8;95:22; 97:12,15 changing (6) 7:10;16:23,23; 34:20;48:2;70:9 charge (3) 33:4;39:22;70:20 charges (4) 23:5;38:6;39:18,21 cheaper (1) 40:7 checked (1) 95:23 chicken (1) 96:10 children (1) 25:9	Chris (19) 3:8;13:1;24:16; 27:11;31:17;37:14; 44:17;48:6;51:6; 52:16;53:22;54:25; 60:24;67:19;82:17, 19;83:23;86:8;90:17 Christine (14) 3:17;24:20;31:23; 37:18;42:14;48:15; 50:25;51:16;55:4; 58:3;61:7;64:2; 67:25;81:20 chronic (6) 10:16,23;11:13,20; 15:8;20:15 CIP (2) 79:6,8 circumstances (3) 58:18;65:19;73:15 cited (1) 88:9 City (4) 4:9;73:11;82:1; 90:2 claim (1) 61:25 claims (2) 40:19;49:8 clarification (1) 13:3 clarify (1) 34:25 clarifying (1) 55:24 clear (6) 5:10;7:14;27:12; 46:22;48:11;64:4 clearly (1) 72:14 clinical (1) 17:21 clock (1) 20:2 close (4) 4:13;5:13;90:25; 99:13 closed (1) 95:12 closed-door (1) 72:7 CMS (1) 26:14 Cochran (67) 3:8,9;12:24;13:1,1, 24;15:13,19;16:20; 18:2,19;21:11;24:16, 17;27:9,11,11,20; 28:20;31:17,18; 37:14,15;44:17,18, 24;45:17;46:3;47:22; 48:6,7,11;51:6,7; 52:16,17,19;53:6,22,
C				
call (26) 3:5;4:11;5:4,9,10; 17:6;23:5;24:13,13; 31:16,16;37:2,2,11, 11;48:2;51:4;54:22; 60:20,20;67:18;82:8; 90:6,7,8;94:1 called (3)				

<p>22;54:4,20,25;55:1; 60:24,25;65:3,13,14; 67:19,20;82:17,21; 83:23,24;86:8,8,24; 87:2,14;88:7;90:17, 18;91:2,4,8,12 Cochran's (2) 19:5;89:2 code (1) 40:21 co-insurance (5) 6:18;29:17;35:25; 45:24;62:21 collective (1) 77:10 Colleges (3) 9:7,10,16 combat (1) 59:9 comfortable (1) 8:23 coming (5) 19:11;30:16;41:24; 56:19;66:21 comment (14) 3:25;4:2,8,10; 20:23;21:7,44:2; 60:18;66:25;81:19; 83:12;91:6,9;99:12 comments (14) 4:20;18:16;24:4; 27:8,25;29:9;41:17; 53:7;64:1;83:1,24; 85:4;91:1;97:22 commerce (1) 55:23 commission (2) 73:11;76:23 commissioner (1) 38:17 commissions (2) 76:14,18 committee (19) 6:10;9:12;27:13, 18,21,22;28:11;47:2; 50:8;52:2;55:24; 70:1;74:19,20,23; 75:7,19;80:6;89:12 committees (1) 94:22 communication (1) 19:15 Community (4) 9:7,10,16;14:21 comp (3) 68:22;73:3;74:18 company (1) 11:1 compared (4) 76:17;84:23;96:10, 13 compelling (2) 30:25;80:9</p>	<p>Compensation (6) 69:13;70:18;73:21; 77:10,23;78:6 competitive (1) 40:7 completely (1) 27:1 compliance (2) 75:11;77:1 components (1) 80:20 composition (2) 71:2;74:20 conceivably (1) 44:20 concentrate (1) 49:18 concept (3) 10:4,13;55:24 conceptual (1) 38:13 concern (16) 8:2;13:24;14:16; 17:24;18:20,25; 19:22;22:14;27:21; 38:25;44:25;55:17; 66:7;83:22;85:16; 89:4 concerned (10) 13:21;18:5;34:10; 59:18;63:7;81:2; 84:5,16;97:2,7 concerning (2) 72:15,17 concerns (24) 5:23;11:22;21:12, 14;25:19;26:10; 29:24;30:14;41:6,12; 45:5,10;46:20;47:21; 63:8;67:10;81:12; 83:11;85:14;86:4; 87:23;91:22;93:16, 16 concluded (1) 99:15 conclusion (1) 4:4 concur (1) 89:2 condition (3) 13:5;20:15;66:1 conditions (4) 10:16,23;11:13,16 confidential (2) 77:18,24 conflict (2) 77:16;92:3 confused (1) 43:24 congratulate (1) 93:22 conscience (3) 44:11;80:11;92:17</p>	<p>conscious (2) 45:25;94:1 consent (3) 73:5;78:13,22 consider (2) 78:20,20 consideration (3) 7:18;71:25;94:12 considered (2) 78:23;88:11 considering (1) 58:12 consistency (1) 76:25 constantly (1) 94:9 constituted (2) 71:10;73:17 Consumer (2) 26:18;62:3 contact (1) 60:8 continue (20) 6:24;7:25;10:10; 12:4,20;15:5;18:1; 20:3;21:4;22:12; 28:16,17,23;33:20; 39:20;41:6;45:11; 52:10;64:8;72:18 continues (1) 35:14 continuing (6) 56:22;68:17;76:8, 12,14,15 continuity (1) 16:13 continuum (2) 14:12;17:25 contraceptive (1) 29:15 contraceptives (5) 6:17,19;7:23; 29:16,18 contract (4) 62:23;74:4;76:1; 77:12 contracting (1) 17:2 contracts (3) 46:2;49:5,5 contradicting (1) 59:21 contribute (1) 66:4 contributions (1) 84:2 control (4) 21:16;30:1;73:1; 84:10 controlling (1) 23:14 controls (1) 11:19</p>	<p>conversation (7) 28:21;32:14;33:22; 38:23;97:13;98:25; 99:6 conversations (2) 61:23;95:15 cooperative (1) 70:7 coordinate (1) 20:1 co-pay (5) 33:12;36:1;61:18; 62:5,8 co-pays (1) 62:3 correction (3) 4:18,23,24 correctly (1) 41:14 cost (18) 7:15,16;8:7;11:19; 22:5;32:24;33:2,11; 43:4;45:5;46:4; 62:14,21;65:21;76:3; 96:8,15;97:7 costs (8) 23:14;32:16;36:3; 40:4;63:22;64:13; 65:22,23 cost-wise (1) 15:11 council (1) 73:11 counsel (1) 72:7 county (1) 73:11 couple (2) 89:13,22 courage (3) 94:15;95:7,13 course (3) 6:5;11:5;13:25 court (1) 66:6 cover (8) 7:23;10:11;25:11, 11;29:16,20;60:5; 96:7 coverage (4) 10:7;51:24;81:10; 95:21 covered (2) 14:23;60:10 covering (1) 6:17 crazy (1) 26:17 create (2) 20:11;46:17 created (1) 84:22 creates (1)</p>	<p>9:6 credits (1) 39:11 crew (1) 94:25 Cricket (1) 94:1 criteria (1) 75:21 cross-reference (1) 74:1 cross-references (1) 69:15 crux (2) 10:24;45:1 culprit (1) 59:18 current (5) 15:23,23;35:25; 77:14,25 currently (12) 7:8,22;20:24; 21:22;28:15;30:20; 34:2;35:10;53:8; 66:5;71:2;81:15 curve (2) 28:17;52:12 customary (2) 23:6;39:5 cut (1) 64:18</p>
D				
<p>daily (2) 74:14;92:7 Damon (83) 5:16,17;7:7,9,20; 8:12,19;11:24;12:3, 10;13:23;16:19; 18:21;19:2;21:4,9; 22:15;23:20;24:2; 25:4,23;26:1,7; 27:14;28:8;29:13; 30:19;31:3;32:8; 34:1,8,25;35:4,12; 36:20;37:4;38:3; 41:8,13;42:18,22,23; 44:2,19,23;49:3; 50:16;51:21;52:24; 53:13,25;54:2,3; 57:15,19;58:11,15; 59:24;60:1,6;61:10; 63:15,18;64:4,7; 65:7;66:20;67:9; 68:9,25;80:4;82:16; 85:8,9,10;86:2,14,15, 18;87:4,13;89:19,19 Damon's (1) 87:2 dance (1) 87:17 data (2)</p>				

49:20;52:4 database (3) 38:5,14,15 date (2) 56:15;95:3 day (6) 6:9;18:24;38:24; 43:4;56:11;94:19 days (13) 11:9,11;14:19; 18:4,9,20,24;19:17, 18:20,5,20;32:10; 34:7 day-to-day (5) 73:25;74:7,11,11; 83:8 deal (10) 8:9;12:18;13:8; 16:23;69:11,24;73:8; 96:11;97:13;99:5 deals (4) 69:18,25;70:7;75:3 death (2) 66:13,13 decided (2) 31:2;49:17 deciding (2) 15:10;84:24 decision (8) 45:25;48:24;77:17; 78:21;84:3;92:5; 94:25;95:4 decisions (5) 10:6;77:19,19; 78:2,15 dedicated (1) 17:9 deductible (5) 35:24;62:20;64:20; 65:18,18 deductibles (1) 45:22 deferred (5) 68:22;69:13;70:17; 73:3;74:18 Defines (2) 70:14,15 defining (1) 72:18 definite (2) 13:24;56:18 definitely (3) 21:17;30:11;57:19 definition (1) 70:17 definitions (1) 70:14 definitive (1) 77:19 deliberated (1) 61:14 demonstrating (1) 42:19	Department (10) 26:13,23;38:16,17; 68:13,20;69:4,11,14; 72:24 dependant (1) 59:14 described (3) 12:1;38:14;44:2 design (3) 62:2;78:2,24 designed (6) 9:25;10:5;32:25, 25;57:10,11 designee (1) 71:13 desire (1) 20:24 destabilization (1) 45:6 detail (2) 6:1;32:13 details (1) 66:22 determine (2) 26:15;49:23 determined (3) 17:22;40:2;95:2 determining (2) 26:12,20 develop (3) 22:23,24;77:10 developed (2) 29:5;34:9 developing (2) 33:17;64:20 development (1) 28:19 deviate (1) 79:17 deviated (1) 79:23 deviation (1) 79:19 DHHS (1) 41:24 diabetes (6) 32:10;33:3,12,14; 34:14;35:22 diagnostic (1) 96:19 dialogue (1) 21:5 different (7) 12:12,12;29:1; 60:4;92:8;94:5,13 differential (1) 97:2 difficult (8) 5:11;15:11,15; 17:17;57:10;78:6; 79:16;87:16 difficulty (1) 20:7	diminish (1) 78:18 direction (5) 11:23;65:8;74:12; 81:7;85:18 directly (5) 39:14;68:18;73:4, 14;85:17 director (8) 26:14;41:17;50:9; 68:19;71:13;73:14; 81:6;92:24 directors (1) 41:19 disagree (2) 81:3;83:14 disapprove (1) 98:7 discover (1) 94:10 discovered (1) 93:25 discriminate (1) 51:24 discuss (8) 4:1;7:10;8:21; 26:4;63:5;86:20,21; 98:1 discussed (4) 6:16;10:5;35:16; 98:14 discussing (3) 4:5;34:16;42:8 discussion (53) 5:4,14;7:8;8:16,25; 9:2,21,22;12:23; 22:16;23:22;24:12; 25:24;30:20;31:15; 34:2;35:9;37:10; 41:9,15;42:13;44:15, 19;48:1;50:17;51:4; 52:15,22;53:13,20; 54:21;57:16;58:7; 60:19;65:1,16;67:4, 17;72:5;74:17;76:10; 77:22,22;79:25;80:3, 12,16,17;86:12; 88:16;90:5;95:24; 97:22 discussions (3) 72:6;76:13;92:12 disease (3) 11:20;15:8;59:9 disheartened (1) 93:8 dismissing (1) 21:11 dispense (1) 59:1 disregard (1) 75:10 disregarded (4) 75:17,19,20,20	disregards (1) 55:14 dissatisfactory (1) 81:9 ditch (1) 12:7 Division (5) 26:24;40:3,11; 68:21;79:4 doctor (11) 11:6;17:17;18:15; 19:25;30:4;45:19; 47:3;55:20;57:2; 59:15;96:22 doctors (6) 19:24;46:2;56:9, 10;58:25;95:12 document (1) 60:11 dollar (2) 45:4;63:21 dollars (4) 35:6;46:14;62:16; 79:6 done (9) 13:9,19;41:25; 43:2;58:13,16;60:17; 82:23;96:21 doubt (1) 43:17 down (2) 45:23;98:1 downtown (1) 82:2 Dr (14) 13:24;15:13;16:20; 18:19;19:5;21:11; 28:20;44:24;45:17; 47:22;54:4;65:13; 87:14;89:2 drastically (1) 40:9 driven (1) 62:4 dropped (1) 38:12 drops (1) 37:2 drug (16) 13:15;15:22,24; 16:2,4,14;17:3,6; 20:2,9;21:21,22,24; 58:12;59:15;98:15 drugs (22) 14:12;16:23,23; 17:6;22:5,8;30:3; 36:11;55:19;57:18; 59:1;60:5;61:20; 62:21;98:15,18,19, 19;99:1,3,4,4 due (2) 19:11;49:8 during (3)	75:15;93:4;95:21 duties (6) 70:23;72:4,11; 74:22,23,23 duty (1) 87:21
E				
			ear (1) 97:12 earlier (3) 39:2;52:1;57:2 early (1) 30:17 easier (1) 98:3 easily (1) 5:19 Easter (1) 99:10 Education (9) 9:11,12;68:17; 71:4,18;76:9,12,14, 15 effect (1) 95:13 effective (1) 56:15 efficient (1) 19:23 effort (2) 77:10;97:21 eight (1) 70:12 either (10) 8:20;36:17;50:14; 58:23;64:8,20,23,25; 77:7;95:10 elected (1) 73:12 electrocardiogram (1) 40:21 elements (2) 77:22,23 eligibility (1) 6:22 eliminate (7) 11:18;12:2;29:17, 20;39:14;84:25;92:1 eliminated (3) 49:14;71:16;76:9 eliminates (2) 68:16;71:7 eliminating (1) 6:18 elimination (2) 81:15;88:22 else (5) 12:17;30:16,17; 74:2;93:24 emergencies (1) 23:2	

emergency (2) 22:19;23:3	75:9;84:14	exemption (2) 6:23;30:18	73:24	50:7;77:1
employ (1) 72:23	established (2) 75:18;95:7	exercises (1) 74:21	faith (1) 92:16	financially (1) 33:17
employee (5) 63:23;71:9,12,14; 77:4	evaluated (1) 73:4	exhibits (1) 9:14	falling (1) 93:22	find (2) 10:13;36:17
Employees (16) 3:4;49:22;66:3; 69:12,13;70:13,13, 16;73:3,22;74:10; 77:11,14,25;78:10; 92:25	evaluating (1) 72:11	exist (4) 6:9,24;16:21,21	family (1) 39:11	Fire (1) 82:1
Employees' (3) 5:15;73:20;75:9	even (23) 10:11,11;17:10,14; 20:4;23:3;26:14; 41:22;42:17;43:3; 45:18;49:13;60:1; 62:2;64:21;65:7; 74:12;79:17;85:13; 87:10;89:6;94:16; 99:4	exorbitant (1) 23:1	far (10) 17:1;39:17;45:13, 22;58:20;59:17; 60:16;63:7;75:16; 95:23	first (14) 5:3;6:15;17:12; 19:5;24:11;30:13; 31:14;34:14;38:3; 58:5;65:5;69:10,15; 96:18
employer (5) 63:23;73:22;77:15; 78:10,11	evening (2) 52:25;96:1	expense (1) 99:5	fashion (1) 87:5	fiscal (29) 5:22,23,24;7:3,21; 12:1,7;22:4,23,24; 29:2,7;31:4;34:5,6, 10,22;35:1;36:19; 37:4;38:6;41:5,12; 45:1;62:13;65:9; 69:3,5,5
employers (2) 49:21;56:1	event (1) 66:19	expenses (1) 74:6	favor (5) 5:5,7;48:2;87:11; 88:16	five (6) 11:9;18:4;22:18; 38:11;40:19;69:17
employers' (1) 49:23	event (1) 81:4	expensive (2) 61:21;98:21	favorite (1) 45:19	five-day (1) 11:12
encourage (1) 46:21	events (1) 81:4	experience (2) 19:13;60:13	favorites (1) 61:12	fix (2) 56:17;59:6
encourage (1) 46:21	eventually (1) 45:24	experimental (11) 14:4;57:3,18; 58:12,17;60:4,17; 98:17,18;99:1,3	FDA (1) 98:17	fixed (1) 30:7
end (6) 4:12;22:2,9;28:5; 43:4;85:17	everybody (3) 12:19;80:10;87:11	expertise (1) 73:18	federal (3) 8:1;25:7;43:5	flawed (1) 94:15
energy (1) 97:21	everyone (1) 94:13	explain (2) 79:20;83:21	feel (14) 7:21;8:7,10;23:13; 28:14;33:11,15; 43:17;44:8;47:11,21; 53:24,25;62:7	flexibility (3) 44:10;52:12;54:15
enhanced (1) 26:20	exactly (3) 7:4;34:17;56:8	explanation (1) 79:25	feeling (2) 8:14;97:17	floor (1) 54:12
enough (10) 8:11;18:7,9,20; 30:5;55:25;66:16,17, 17;88:17	example (2) 40:17;78:25	explode (1) 64:14	feelings (2) 35:15;98:6	focus (1) 73:24
enrolled (1) 49:22	excellent (1) 44:24	express (12) 4:6;11:3,7;14:10, 10;17:21;18:3;19:7, 10;22:6;34:12;86:4	fees (2) 43:6,7	folks (13) 9:14,25;10:16; 29:23;30:2;35:22; 36:1;39:18;40:7; 55:16;59:8;62:7; 82:23
enrollment (1) 32:11	except (1) 94:13	expressed (1) 91:21	feet (1) 54:15	follow (3) 83:21;96:25;97:23
ensure (10) 6:2;10:13;15:7; 17:10;30:1;33:19; 49:20;50:10;56:8,12	exception (1) 17:16	expressing (1) 57:20	females (1) 7:23	follow-up (4) 86:24;88:7;96:22, 23
ensures (2) 22:25;76:25	exceptions (1) 17:15	extend (1) 18:23	few (6) 34:23;60:16;65:16; 69:10;79:9;93:7	force (1) 32:25
ensuring (1) 59:4	Excuse (6) 10:1;14:17;38:16; 41:15;49:5;96:18	extension (1) 77:11	fiduciaries (1) 28:23	forced (2) 10:10;63:20
enter (1) 70:11	excused (5) 3:22;81:24;82:3,5, 10	eye (1) 84:19	fiduciary (2) 78:9,12	forget (3) 26:18;56:9;92:11
entertain (4) 6:6;26:3;29:8; 30:11	executive (29) 69:21,22;70:3,10, 14,15,16,19,21,24; 72:9,9,11,15,21; 73:13,19;74:5,9,24; 75:6,24;78:22;79:20; 81:5;84:12;87:22; 89:17;92:24	eyes (1) 92:2	fighting (2) 8:7;40:16	form (2) 31:6;65:24
entire (2) 39:24;56:11	exempt (5) 6:10,23;64:20,21; 65:11	fact (4) 57:20;65:10;74:13; 93:5	figure (1) 17:7	format (2) 5:18;68:12
equipment (1) 12:17	exempting (1) 55:25	factor (1) 26:12	figures (1) 43:16	forms (1) 11:6
equity (1) 66:8		facts (3) 43:16;44:4,5	fill (1) 11:6	formularies (1) 16:24
especially (2) 10:15;36:15		fair (3) 38:15;39:17;94:4	final (5) 54:12;78:2,15,21; 83:19	
essential (3) 26:9,12,16		fairly (1)	finance (4) 50:9;69:2,6;71:13	
essentially (2)			finances (1) 8:10	
			financial (2)	
		F		

formulary (3) 32:9;35:18;59:2	10;31:19,20;37:8,8, 22,23;42:11,11;47:4, 5,7;48:19,19,20;51:8, 9;53:18,18;55:8,9; 58:8,9,11;59:20;61:1, 2;67:21,22;80:13,15, 19,23;85:24;86:1,1; 88:4,4;89:1,1;90:15, 16	government (8) 8:2;25:7;70:9;71:7, 15;76:23;79:4;80:6	happy (3) 79:14;80:11;97:21	held (2) 95:8,10
forth (1) 43:25		governor (4) 48:25;76:22;78:13; 79:7	hard (6) 43:16;45:12;56:4, 20;93:6;98:11	help (10) 5:22;14:22;17:12; 23:13;45:22;46:9; 64:11;85:7;96:23,24
fortitude (1) 94:16		governor's (9) 41:19;44:3;50:9; 69:2,5;77:18;78:3,5; 79:14	harm (1) 56:6	helpful (1) 65:11
forward (5) 16:22;31:3;35:14; 47:8;62:15	gathering (1) 99:6	graduating (1) 82:1	hash (1) 53:4	helps (2) 22:25,25
fought (1) 93:6	gave (2) 15:24;94:21	graveling (1) 92:9	HAYCOCK (78) 5:17,18;7:20,20; 9:5,24;12:3,3,10,10; 13:23,23;16:19,19; 19:2,2;21:9,9;22:18; 25:4,5;26:7,7;27:14, 14;28:8,9;29:13,14; 32:8,9;34:8,8;35:4,4, 12,12;38:2,3;41:13, 13;42:23,23;44:23, 23;49:3,4;51:21,21; 52:24,24;54:3,3; 55:13;58:15,15;60:6, 6;61:10,10;64:7,7; 68:9,9;80:4,4;82:16, 17,22,24;85:10,10; 86:18,18;87:13,13; 90:19;92:14	Hey (1) 36:21
found (4) 94:20;95:23;96:24, 25	general (2) 11:7;43:8	great (6) 84:1,2;91:12; 95:13;97:13;99:5		high (4) 36:3;62:21;64:20; 65:18
four (8) 9:15;21:20;40:2, 10;52:15;57:7;59:8; 69:15	generally (2) 44:2;70:23	greater (1) 22:21		Higher (9) 9:11;40:16;44:21; 45:1;63:22;65:24; 66:4;71:4,18
frame (9) 10:24;11:18;12:5; 17:14;18:8;19:18; 20:12,18,19	general's (1) 61:24	group (5) 26:19,20;84:12; 88:22;94:25		hire (2) 84:14;89:19
frames (1) 21:15	generate (1) 43:8	groups (1) 92:8		hires (1) 84:12
Friday (3) 17:5;27:15,18	generic (2) 21:23,25	guarantee (1) 38:20		history (1) 84:21
friendly (2) 10:20;30:4	generics (1) 22:8	guarantees (1) 40:16		hit (1) 76:20
friends (2) 14:21;39:10	genetic (1) 58:18	guess (9) 15:20;29:11;43:23; 46:6;65:14,25;66:21; 86:17;88:7	head (1) 82:2	hits (1) 19:9
frustrated (2) 10:14,14	gets (6) 23:2,5,7;33:19; 36:9;39:5	guys (9) 6:25;21:18;22:12, 22;30:5,7;33:21; 52:8;56:21	Health (45) 11:9;14:23;17:18; 19:7,22;25:10;26:3,9, 10,12,13,16,20,23; 27:17;28:11;29:23; 31:1;32:22;33:5; 36:6;38:4,15,17; 39:17;49:23;52:3; 56:3,16;59:17;61:17, 25;62:4,5;64:12,13, 21;77:5;81:10;92:6, 8,9;94:8,13;95:10	HMO (6) 52:4;65:19;75:15; 81:1,8;93:24
full (2) 75:11;88:15	given (8) 26:5;38:9;88:2; 92:4;94:12;95:25; 96:10;97:13			hold (4) 15:14;19:20,21; 94:23
fully (1) 49:5	gives (7) 8:20;28:23;44:9; 54:15;70:14;92:2; 98:8	H		holding (1) 12:14
function (2) 74:14;76:5	giving (2) 13:8;36:19	half (3) 9:19;34:14;49:13		home (1) 61:11
functioning (1) 74:7	glossed (1) 57:2	hand (1) 68:10		homes (2) 28:10,20
fund (3) 43:8;66:4,5	GLOVER (3) 34:24,24;62:14	handle (1) 73:5	hear (8) 3:11;9:2;11:21; 36:23;40:14;90:20; 92:18;93:8	Hometown (7) 11:9;19:6;29:23; 31:1;94:8,13;95:10
funded (1) 43:5	goal (1) 77:9	handled (2) 73:6;89:23	heard (17) 9:12;14:7;25:14; 26:11,22;27:16; 28:10;38:9;48:21; 52:2,20;55:23;57:13; 63:1,1;96:4,6	honest (3) 14:6;29:6;45:17
funding (2) 63:22;79:11	goes (7) 18:5;38:25;54:12; 59:4;63:12;70:22; 74:21	handling (2) 16:24;73:24		Honestly (1) 54:4
funds (3) 28:24;43:5,11	good (17) 24:23;28:22,23; 31:11;49:11;54:4; 66:16,16,17;78:6; 80:9;82:5;91:15,16; 93:19;98:8;99:10	hands (1) 59:3		honored (1) 14:10
further (9) 8:25;20:23;27:8; 47:25;54:21;60:18; 62:24;65:1,90:5	gouged (1) 35:19	Hang (1) 65:4		hoops (2) 14:1;55:19
future (4) 7:18;22:10;27:4; 96:5	gouging (2) 23:1;98:15	happen (5) 16:16;18:25;22:2; 43:7;45:14		hope (3) 15:13;64:22;80:8
G	governing (8) 68:14;76:11;77:3, 4,7;78:15;79:2;83:12	happened (6) 6:3;17:4;78:5;94:7, 19;97:11		hopeful (1) 12:20
game (1) 53:25		happening (1) 22:1		hopefully (4) 5:19;6:11;43:13; 45:14
Garcia (50) 3:10,11;18:17,17, 19;19:3;21:11;24:10,		happens (3) 6:11;27:7;43:7	heavily (1) 76:6	hoping (3) 12:19;41:1;85:20

<p>hormones (1) 29:25</p> <p>horrible (1) 59:13</p> <p>hospital (2) 23:4;39:1</p> <p>hospitals (2) 22:20;23:15</p> <p>hostage (2) 95:9,10</p> <p>hours (2) 11:8;18:4</p> <p>house (1) 96:18</p> <p>HR (2) 73:24;77:1</p> <p>HR-type (1) 72:11</p> <p>HSA (1) 62:9</p> <p>huge (3) 31:4;63:20;67:9</p> <p>Human (9) 26:13,23;27:18; 28:11;38:18;52:3; 59:13;73:8;77:8</p> <p>hundred (5) 7:23;25:12,15; 46:14;96:7</p> <p>husband (1) 82:1</p>	<p>95:5;96:25;98:14</p> <p>impossible (1) 76:1</p> <p>impression (1) 84:13</p> <p>inasmuch (1) 98:8</p> <p>incentive (1) 40:7</p> <p>incentives (2) 28:13;29:2</p> <p>incentivize (1) 28:22</p> <p>incentivized (1) 28:9</p> <p>incentivizes (1) 46:1</p> <p>incidents (1) 93:21</p> <p>include (1) 79:8</p> <p>included (1) 32:21</p> <p>includes (1) 9:8</p> <p>including (3) 72:16;94:17,23</p> <p>incorrect (1) 94:24</p> <p>increase (5) 8:11;39:20;65:22; 71:18;76:3</p> <p>increased (4) 7:18,19;32:17;33:6</p> <p>increases (2) 32:16;39:14</p> <p>increasing (1) 9:9</p> <p>incur (1) 12:5</p> <p>indicated (1) 81:25</p> <p>individual (6) 13:8,10;16:15; 17:4;40:3;89:24</p> <p>indulgence (1) 91:13</p> <p>industry (2) 73:16,18</p> <p>information (12) 16:5;19:19;26:18; 31:3;34:12;41:18; 49:19;50:10;51:23; 94:18,21,21</p> <p>informed (2) 18:11;99:2</p> <p>inherent (1) 77:16</p> <p>initial (1) 53:2</p> <p>Initially (2) 10:5;34:9</p> <p>initiative (1)</p>	<p>76:22</p> <p>initiatives (1) 76:11</p> <p>in-network (3) 22:21;23:4;38:22</p> <p>input (3) 78:18,23,23</p> <p>instance (2) 18:24;62:25</p> <p>instead (4) 10:21;39:17;62:21; 72:19</p> <p>instructed (1) 85:22</p> <p>instructions (1) 64:9</p> <p>insulin (7) 32:16,19,24;33:4,7, 12;36:3</p> <p>in-support (1) 49:12</p> <p>insurance (14) 10:8;14:23;16:5; 25:10;26:19,24; 32:22;38:17;39:4,4; 40:3,11;56:16;77:5</p> <p>insured (1) 49:6</p> <p>insurer (1) 10:8</p> <p>insurers (2) 46:25;51:23</p> <p>integrated (1) 77:7</p> <p>intend (1) 61:21</p> <p>intended (1) 78:4</p> <p>intent (4) 32:15;39:13;49:24; 62:18</p> <p>interested (2) 33:18;73:2</p> <p>interesting (1) 9:13</p> <p>Interestingly (2) 30:5;55:25</p> <p>interim (2) 50:8;70:1</p> <p>internal (1) 81:13</p> <p>interpretations (1) 61:25</p> <p>interrupt (1) 91:4</p> <p>intestinal (1) 94:16</p> <p>introduced (2) 29:4;54:8</p> <p>investigational (4) 14:4;57:4;58:17; 60:17</p> <p>investment (2)</p>	<p>71:9,14</p> <p>investments (1) 72:7</p> <p>invited (1) 10:18</p> <p>involved (5) 36:11;75:17;76:6; 83:10;93:24</p> <p>ironically (1) 9:15</p> <p>irregular (2) 76:4,17</p> <p>issue (21) 6:3;8:5;16:14,15, 20;19:20;20:2;40:25; 45:18;54:8,9;57:1; 78:8;80:24;84:22,24; 85:1;88:24;92:7; 95:18,19</p> <p>issued (1) 17:3</p> <p>issues (14) 14:24,25;15:2,3; 43:25;56:14,18;59:8, 12;73:9;75:13;77:3; 81:4;83:9</p> <p>Item (19) 3:4,24;4:1,3,5,13, 14;5:13,14;8:16;9:2; 28:2,6;72:13;90:25, 25;91:1;99:13,13</p> <p>items (3) 78:20;88:10,11</p>	<p>keeps (2) 68:22;70:20</p> <p>killer (3) 63:8,8,18</p> <p>kind (13) 18:22;20:17;36:7; 44:4;58:18;59:4; 60:4;68:25;69:9; 72:7;74:7;83:15;84:5</p> <p>kinds (1) 47:1</p> <p>knew (1) 14:21</p> <p>knowing (2) 39:21;44:20</p> <p>knowledge (2) 58:16;59:11</p> <p>known (3) 67:10;89:5;95:17</p> <p>knows (1) 19:11</p>
I				
<p>idea (8) 8:3;14:16;15:13; 21:17;25:18;30:9; 49:16;92:19</p> <p>illumination (1) 72:10</p> <p>illustrate (1) 63:11</p> <p>illustrated (1) 16:21</p> <p>imagine (1) 21:16</p> <p>immediately (1) 11:17</p> <p>impact (7) 5:15;33:16;41:12; 52:7;56:5;63:21;67:9</p> <p>impactful (1) 8:10</p> <p>impacts (2) 28:15;44:5</p> <p>impetus (1) 20:20</p> <p>implementation (1) 72:17</p> <p>important (13) 8:9;11:19;23:21; 35:14;47:11;69:10; 76:7,16;77:14;81:11;</p>	<p>increased (4) 7:18,19;32:17;33:6</p> <p>increases (2) 32:16;39:14</p> <p>increasing (1) 9:9</p> <p>incur (1) 12:5</p> <p>indicated (1) 81:25</p> <p>individual (6) 13:8,10;16:15; 17:4;40:3;89:24</p> <p>indulgence (1) 91:13</p> <p>industry (2) 73:16,18</p> <p>information (12) 16:5;19:19;26:18; 31:3;34:12;41:18; 49:19;50:10;51:23; 94:18,21,21</p> <p>informed (2) 18:11;99:2</p> <p>inherent (1) 77:16</p> <p>initial (1) 53:2</p> <p>Initially (2) 10:5;34:9</p> <p>initiative (1)</p>	<p>intend (1) 61:21</p> <p>intended (1) 78:4</p> <p>intent (4) 32:15;39:13;49:24; 62:18</p> <p>interested (2) 33:18;73:2</p> <p>interesting (1) 9:13</p> <p>Interestingly (2) 30:5;55:25</p> <p>interim (2) 50:8;70:1</p> <p>internal (1) 81:13</p> <p>interpretations (1) 61:25</p> <p>interrupt (1) 91:4</p> <p>intestinal (1) 94:16</p> <p>introduced (2) 29:4;54:8</p> <p>investigational (4) 14:4;57:4;58:17; 60:17</p> <p>investment (2)</p>	<p style="text-align: center;">J</p> <p>Jimminy (1) 94:1</p> <p>job (4) 85:22;87:24;95:6,7</p> <p>joked (1) 80:18</p> <p>July (1) 56:15</p> <p>jump (3) 14:1;55:19;82:7</p> <p>justification (1) 76:21</p> <p>justifications (1) 80:2</p> <p>justifies (1) 84:22</p> <p>justify (2) 11:7;20:5</p>	<p style="text-align: center;">L</p> <p>labor (1) 55:24</p> <p>lack (2) 20:7,7</p> <p>LAIRD (2) 92:23,24</p> <p>Lamborn (44) 3:13,14;5:2,2; 24:18,19;31:21,22; 34:4,4;35:8;37:16, 17;41:10,10,14;42:4, 4,6;43:21,21;47:15, 16;48:17,18;51:10, 11;55:2,3;59:23,23; 60:1;61:3,4;67:23,23, 24;83:3,3,5;86:13,13; 90:11,12</p> <p>language (9) 25:19;32:15;68:11; 72:23;74:25;75:5,6, 8;85:8</p> <p>large (2) 41:12;79:13</p> <p>larger (1) 77:8</p> <p>Las (1) 82:1</p> <p>Last (23) 4:11;5:20;6:3,9,14; 19:10;25:16;29:22, 22;30:9;40:19;42:2; 52:9,25;54:10;55:16; 61:11;63:10;65:16; 75:3,15;93:25;95:21</p> <p>late (2) 52:25;91:5</p> <p>later (2) 15:4;32:10</p> <p>law (5)</p>
K				
			<p>keep (7) 33:19,24;35:17; 46:9;87:20;88:17; 91:8</p> <p>keeping (1) 9:3</p>	

<p>43:12;67:10;71:11; 77:24;85:9 LCB (1) 75:1 Leah (22) 3:13;5:2;24:18; 31:21;34:4;35:5; 37:16;41:10;42:4; 43:21;47:15;48:7,17; 51:10;55:2;59:23; 61:3;67:23,23;83:3; 86:13;90:11 LEAR (2) 93:19;99:8 L-e-a-r (1) 93:20 least (10) 7:23;16:14;18:10; 19:12;30:10;49:10; 60:8;63:5;75:3;88:13 leave (5) 14:5;44:25;46:7, 10;85:2 leaves (1) 8:5 leaving (1) 87:12 leeway (2) 35:13;52:11 left (4) 16:2;19:14;45:3; 96:24 legal (2) 72:7;75:1 legislation (6) 4:1;44:7;66:10; 75:2;86:22;92:5 legislative (2) 4:15;5:15 legislator (2) 43:2;64:17 legislators (2) 21:5;46:23 legislature (14) 7:25;14:25;19:22; 23:9;43:6,9,11;50:7; 53:4;70:1;78:14; 79:22,25;94:2 length (6) 10:15;11:4;13:2; 45:10,11;98:10 lengthy (1) 69:9 less (3) 38:7;40:9;98:4 level (4) 5:25;15:13;39:25; 73:23 liability (1) 7:17 liberty (1) 8:21 licensed (1)</p>	<p>46:25 lies (2) 78:12,13 light (1) 54:15 liked (2) 49:16;50:4 likely (3) 16:4;29:7;94:4 limit (3) 15:14,14,17 limitation (1) 72:16 limited (1) 73:15 line (6) 33:22;54:7;80:21; 85:14,15;94:14 lines (1) 11:11 listen (1) 66:1 little (10) 5:11;13:2;16:7; 32:13;34:11,14; 35:13;36:24;41:2; 76:17 lives (1) 57:10 loans (1) 39:11 lobbyist (1) 45:12 lobbyists (4) 12:12;26:10;33:18; 36:6 local (4) 55:25;70:9;71:7,15 locations (1) 40:7 lock (2) 79:9,13 logistically (1) 76:1 long (8) 10:24;14:15;19:19; 32:14;38:23;75:25; 84:11;93:12 longer (5) 13:22;14:14,16; 50:15;95:19 long-winded (1) 35:7 look (4) 66:14;77:5;84:20; 95:6 looked (1) 30:6 looking (10) 26:21;35:10;52:25; 55:25;58:22;59:6; 64:19;65:15;84:18; 85:19</p>	<p>looks (4) 26:25;34:20;63:19; 91:10 lose (4) 8:5;34:10;82:20,25 losing (5) 22:5;36:21;84:2, 17;93:6 loss (1) 34:7 lost (1) 42:8 lot (18) 12:11;14:24;15:3; 25:8;40:15;43:13,25; 44:9;47:21;65:15; 72:22;74:21;76:13; 79:18;83:6;91:21; 96:20;98:25 lots (1) 95:15 love (2) 11:21;23:12 low (3) 33:12;34:11,15 lower (4) 45:2;65:17,18; 66:24 lowest (1) 33:5 lumps (1) 96:24 lurch (1) 14:6</p>	<p>male (2) 6:17;29:17 MALONEY (2) 91:15,16 mammogram (2) 96:9,18 mammograms (7) 96:4,7,8,12,14,21; 97:18 manage (1) 12:20 managed (2) 19:6;52:5 management (6) 11:1,8;33:3;35:22; 71:8,14 manager (4) 33:10;56:23;60:9; 71:12 Managers (1) 14:10 mandated (1) 26:8 mandating (1) 10:22 mandatory (1) 29:2 manner (5) 9:8;11:25;23:18; 76:2;94:5 manufacturer (6) 32:11,16,18;33:1; 34:18;35:20 manufacturer/member (1) 36:8 manufacturers (2) 32:24;62:24 Many (9) 9:14;25:6;41:12; 46:23;47:18;49:22; 88:10,20;93:14 March (5) 4:15;6:25;7:1;30:6, 17 marked (1) 70:6 market (1) 57:6 marketplace (2) 40:3;45:6 massive (1) 7:16 master (1) 60:11 maternity (1) 25:11 matter (2) 15:7;96:3 matters (4) 72:5;73:5,25;84:10 max (1) 39:11 maximum (1)</p>	<p>45:21 may (29) 5:15;8:3,4;13:16; 16:8,8,16,16,23; 17:20;18:12,20; 30:18;32:12;34:10; 42:15;45:16,17; 46:15,23;52:10;60:5; 73:18;83:25;87:6; 88:14,17;89:19,22 maybe (9) 11:10;20:8;35:5; 44:18;50:16;54:6; 97:13,14,19 mean (14) 15:1,19;26:2; 43:11;46:3;52:21; 57:6;66:22;76:15; 78:17;84:19;87:3,7; 88:8 meaning (1) 26:4 means (4) 6:23;27:22;71:10; 83:13 meant (1) 94:22 meantime (1) 14:22 Medicaid (6) 26:15;41:23;49:20, 22,24;52:5 medical (7) 11:2,16;14:21; 19:7;28:10,20;39:10 Medicare (6) 22:22;26:15;39:23, 23,25;40:1 meet (3) 11:6;30:16;59:2 meeting (22) 4:1,3,4,15;6:14; 12:14;21:14;25:16; 29:22,23;30:9;42:3; 52:9;81:24;93:25; 94:3,10;95:14,21; 96:2;99:2,14 meetings (7) 5:20;22:10;30:15; 50:5;72:8;78:19;92:7 MEMBER (186) 3:7,9,11,14,16,18; 4:17,22,24;5:2;7:11, 14;8:12,22;9:9,20; 12:24;13:1,16;15:5, 15,19,21;16:10,10; 17:22;18:2,17,19; 21:1,3;23:23,25;24:6, 10,15,17,19,21,24; 25:25;27:5,9,11,20; 30:22,25;31:8,13,18, 20,22,24;32:1,3,20; 34:4;35:8,19;36:4,5,</p>
M				
		<p>mail (1) 95:25 mailed (1) 96:2 main (5) 73:1;88:12;89:4; 91:22;95:19 maine (1) 88:23 maintained (2) 13:7;42:18 maintenance (1) 62:1 major (2) 41:6;63:8 maker (2) 77:17;99:2 makers (2) 67:11;85:9 makes (5) 22:1;70:2;74:19; 78:6;98:3 making (9) 12:15;47:1;72:20; 80:18;83:16;84:4; 92:12;94:25;95:5</p>		

<p>9,19,22;37:1,8,13,15, 17,19,21,23;39:3,6,7, 41:10;42:4,6,11,14, 17;43:18,21;44:13, 17;46:3,5;47:4,7,15; 48:5,7,11,14,16,18, 20;50:19,25;51:7,9, 11,13,15,17;52:16, 19;53:6,9,11,18,22; 54:20,24;55:1,3,5,7, 9;57:17,23;58:3,8,11; 59:20,23;60:1,15,23, 25;61:2,4,6,8;63:17; 64:2,12;65:2,3,6,14; 67:6,15,20,22,24; 68:1,3,5;71:8;79:1; 80:13,15,19,23; 81:20,23;82:6,11,21; 83:3,5,23;85:5,16,24; 86:1,8,13,24;87:2; 88:4,7;89:1,11,12; 90:10,12,14,16,18, 23;91:2,4,8,12</p> <p>member-friendly (1) 13:25</p> <p>Members (31) 3:21;8:4,9;14:13; 15:21;16:13;19:16; 23:2;44:22;45:16,17; 55:18;56:6,8;62:6,19, 20;65:6,24;66:23; 68:16;71:2,6,6,23; 76:3,9;81:11;88:17; 89:24;91:22</p> <p>membership (7) 17:10,12;20:3; 57:9;63:24;83:25; 88:15</p> <p>memory (1) 94:2</p> <p>mention (1) 18:3</p> <p>mentioned (4) 39:1;47:22;93:2,15</p> <p>mentions (1) 74:2</p> <p>message (1) 49:11</p> <p>met (3) 61:14;94:25;95:1</p> <p>Metastatic (3) 10:1,1;55:15</p> <p>micromanage (1) 84:15</p> <p>mid-year (4) 21:21;22:1,9,14</p> <p>might (11) 18:5,9;30:13; 58:14;65:10;84:20; 88:18;94:24;95:14; 97:22;99:5</p> <p>million (5) 45:4,4;62:16;</p>	<p>63:21;79:6</p> <p>millions (1) 62:16</p> <p>mind (5) 43:17;48:8;87:20; 88:17;90:4</p> <p>minimal (4) 7:15,22;8:3,14</p> <p>minimum (1) 61:18</p> <p>minor (2) 16:16;79:9</p> <p>minority (1) 77:6</p> <p>minute (2) 49:13;82:14</p> <p>minutes (3) 4:16;5:5;38:11</p> <p>mirrors (1) 26:3</p> <p>miss (1) 82:6</p> <p>missed (1) 95:24</p> <p>mistake (1) 69:6</p> <p>misunderstood (2) 81:6,8</p> <p>mix (2) 43:5,6</p> <p>mixed (1) 10:2</p> <p>model (3) 39:24,25;77:6</p> <p>models (1) 28:22</p> <p>Monday (6) 23:16;24:3;80:6; 89:25;91:19;92:17</p> <p>money (3) 35:21;39:11;66:23</p> <p>monitor (1) 54:5</p> <p>month (5) 16:8;18:5;33:4,8; 84:24</p> <p>months (6) 8:4;16:1,1,8;17:16; 18:10</p> <p>more (35) 5:19;12:21;13:2, 17;14:19;18:5;19:14, 25;20:10;32:13;35:9, 13;38:13;40:4,7,8,24; 43:8;44:21;46:1,8, 13;47:16;48:20; 49:18;52:22;62:19; 66:23;76:10;84:5,16, 17;92:18;96:19; 98:13</p> <p>morning (3) 53:1;81:25;92:20</p> <p>most (10)</p>	<p>29:7;61:20;70:5; 74:1,10;76:13,17; 77:6;81:1,2</p> <p>mostly (2) 10:17;29:25</p> <p>motion (75) 4:21;5:1,4,7;6:6; 24:5,7,13;31:7,9,16; 37:3,6,7,9,10,25; 42:6,9,10,12,13; 43:19;44:16;47:23; 48:1,3;50:20,23,24; 51:1,2,4,19;53:15,16, 17,19,21;54:22; 55:10,11;57:22,24; 58:2,4,6,7;60:19,19; 61:9;63:4;67:4,5,8, 11,14,16,18;68:6,7; 80:9,12,18;82:24; 83:2;86:6,9,10,12; 89:8;90:6,7,24;99:3</p> <p>motions (3) 30:7;67:7;83:1</p> <p>motivate (1) 62:23</p> <p>move (17) 3:24;5:13;6:6; 9:23;21:7,23;22:17; 25:3;26:24;28:2; 29:12;32:7;35:14; 65:12;82:6;86:5;91:1</p> <p>moved (1) 4:22</p> <p>moves (2) 16:22;54:11</p> <p>moving (6) 9:3;21:20;72:3,22; 83:11;85:17</p> <p>much (9) 8:13,22;23:13; 54:8;82:11;93:17; 95:7;99:8,9</p> <p>multiple (2) 6:2;9:14</p> <p>multi-source (2) 6:19;29:18</p> <p>must (1) 78:23</p> <p>myself (1) 68:18</p>	<p>25:7</p> <p>Nay (4) 48:5,14,16;90:10</p> <p>necessarily (9) 20:1;21:16;23:11; 46:9,15;53:25;67:1; 84:1;86:3</p> <p>necessary (2) 18:9;84:20</p> <p>necessitate (1) 81:14</p> <p>need (30) 6:1;10:16,16; 11:17;15:10;17:7; 18:3,12,12;19:14,16, 24;25:21;45:7;47:19; 54:18;55:20;56:9; 59:9;64:19,23;73:5; 76:12;82:2;84:15,23; 88:8;91:8;92:17; 96:19</p> <p>needed (3) 30:8;41:19;96:17</p> <p>needs (8) 13:18;16:5;19:25; 44:7;66:20;67:10; 84:12;92:14</p> <p>negative (4) 22:24;28:15;39:8; 44:5</p> <p>negatively (1) 7:5</p> <p>negotiate (1) 46:2</p> <p>negotiated (1) 22:21</p> <p>negotiating (1) 15:6</p> <p>NELIS (2) 9:13;29:3</p> <p>nets (1) 17:10</p> <p>network (13) 39:24;40:18;44:22, 25;45:18,19,20;46:5, 7,8,10,16,18</p> <p>networks (3) 15:7;45:7;46:2</p> <p>neutral (81) 6:25;7:8;8:18,20, 23;9:3;20:24;21:4; 22:12,16;23:12;24:2, 8,12;25:2,15,17,18; 27:6;28:1,17;29:11; 30:7,9,12,12,13;31:5, 10,15;32:5;33:23; 35:11;37:3,7;38:10; 41:4,11,17,20,22; 42:2,7,18,19,21; 43:15,19;44:6,9,14; 46:19;47:9,18,18,23; 50:14,21;51:3;52:9; 53:12,15,20;57:13,</p>	<p>21,24;58:6;60:20; 64:6,10,24;65:8,12; 66:25;67:8,11,17; 85:6,7;86:23;89:6</p> <p>neutrality (4) 22:3;25:20;36:14; 54:14</p> <p>Nevada (15) 9:6,10,11;26:2; 40:5,5,5,6,9;45:6; 46:25;71:4,17;78:13; 92:25</p> <p>new (14) 6:13;9:10;13:11; 15:21;30:15;40:20, 22,22;57:6;61:15; 68:11;81:5,5;94:18</p> <p>newborn (1) 25:11</p> <p>next (14) 3:24;5:9;9:23; 21:8;28:2;41:23,24; 49:2;51:20;53:3; 55:12;68:8;69:24; 99:6</p> <p>nine (1) 16:1</p> <p>none (16) 4:10;5:4;22:17; 24:13;28:1;29:11; 31:16;37:10;48:1; 51:4;54:22;56:25; 60:20;67:18;90:6; 99:12</p> <p>non-preferred (1) 21:24</p> <p>non-profit (1) 64:16</p> <p>normal (2) 33:1;34:18</p> <p>Normally (1) 25:16</p> <p>north (1) 71:11</p> <p>northern (2) 40:5,9</p> <p>note (25) 5:22,23,24;7:4,21; 9:13;12:1,7;22:4,23, 24;29:2,7;31:4;34:5, 6,10,22;35:1;36:19; 37:4;38:6;45:1,4; 62:13</p> <p>notes (1) 41:5</p> <p>notice (1) 30:18</p> <p>NRS (9) 69:11,17;70:7,12; 74:18;75:4,5,12; 77:18</p> <p>NSHE (5) 71:11,23,23;72:1;</p>
		N		
		<p>name (4) 22:7;40:18;92:23; 93:19</p> <p>names (1) 40:18</p> <p>Nancy (1) 95:20</p> <p>narrow (1) 73:24</p> <p>nation (1)</p>		

<p>84:1 nullifies (1) 45:7 nullify (1) 62:9 Number (8) 3:4;4:3,14,14; 68:16;91:1;99:13,13</p>	<p>6:3;10:9;29:6; 63:1;79:2;94:20 one (66) 3:25;4:5;5:6;6:4; 9:9,22;10:3;15:20,21, 25,25;23:9,21;26:11; 29:19;30:13,18;33:4, 14;38:10;44:14;46:6; 47:16;48:20,24; 54:16;60:12;61:15, 20;62:3;64:11,11; 68:21;70:14,21;71:5, 6,7,11,12,12,12,13, 13;73:1;75:13;76:6; 78:3,14;84:19,22,24, 24;85:1;87:15;88:19, 21;89:23;93:4;94:8; 95:18,24;97:11,25; 98:1,13 only (18) 3:25;4:4;8:2;9:7; 12:15;17:20;19:14; 33:4;45:5;50:4;63:1; 68:17;76:12;80:7; 81:25;88:7;92:6; 97:24 oOo- (1) 3:2 open (4) 4:8,14;32:10;80:2 openly (1) 35:16 operational (1) 74:11 operations (1) 83:8 opinion (6) 13:20;18:13;21:3, 18;44:10;73:6 opinions (1) 4:6 opportunity (2) 32:22;58:17 oppose (10) 49:1;64:5;67:5; 80:21,23;86:5,17; 87:17;89:20;90:7 opposed (20) 5:8;7:1;30:5,20; 31:9;42:7,10,19; 43:22;47:23;48:3; 50:17;64:10,24; 65:18;81:16;86:11; 93:2,3,9 opposing (2) 48:9;91:19 opposition (5) 9:15;31:2;42:1; 56:4;87:9 option (2) 28:14;62:6 Optum (2) 14:10,11</p>	<p>order (4) 13:8,12;62:4;66:2 organization (5) 52:5;62:1;84:15; 93:7,13 original (1) 71:25 otherwise (1) 4:7 ourselves (4) 17:15,25;19:21; 59:22 out (60) 5:9;6:9;9:13; 10:25;11:6;14:5,21; 15:16;17:7,17;19:15, 18;21:23;28:13;30:2; 35:19;36:7,15,16; 39:11,11;40:2,9,9,10, 15;43:3;44:22;45:12, 18,19;46:5,8;49:17; 50:3,5,11,17;53:4; 56:4,15,17,19;57:6; 61:13;64:18;67:10; 69:4,9,12;71:17,23; 72:14;74:17;76:8; 78:4;84:6;85:16; 88:18;97:8 outlaw (1) 41:2 out-of-network (11) 22:20;23:4,6,14, 15;38:5,8,20;39:2,15; 45:8 out-of-pocket (1) 45:21 out-of-state (1) 15:6 outside (2) 17:24;39:9 outvoted (1) 88:14 over (17) 6:13;7:6;8:24; 17:3;38:17;40:13; 45:14;54:11;57:2; 58:22;62:14;64:18; 65:16;68:24;73:12; 91:18;97:11 overall (3) 78:3;81:7;84:2 override (1) 60:4 Oversight (2) 26:18;76:25 overtime (1) 99:9 own (10) 18:13;19:13;42:25; 44:11;48:25;61:24; 75:18,20;81:13; 89:25</p>	<p>P</p> <p>package (4) 73:22;77:11,23; 78:7 page (10) 4:18;6:15;9:5,24; 21:20;22:18;49:3; 51:22;55:13;61:13 paid (9) 35:24;38:20,21; 40:23,23;44:20,25; 45:8;46:8 paper (1) 95:6 parenthesis (1) 35:6 part (12) 9:8;69:14;70:5; 72:24;73:21;76:21; 77:8,12;78:2,23; 83:8;84:18 participant (8) 19:20;23:7;32:12; 33:8;35:24,24;96:9; 97:7 participants (4) 33:1;34:18;47:10; 94:17 participate (3) 33:13;62:10;94:11 participating (2) 88:15,18 particular (6) 47:13;67:2;75:5; 80:21;86:4;87:5 particularly (2) 54:1;84:8 parties (1) 33:18 parts (1) 97:10 party (1) 11:2 pass (4) 28:12;43:12;44:21; 66:6 passed (5) 26:2;27:23;59:14; 65:21,23 passes (2) 54:11;55:10 passing (1) 69:19 past (2) 20:16;32:17 patent (2) 22:5,8 patient (12) 11:19;15:20;17:21; 18:11;30:2;36:8,9; 40:20,22;46:15;</p>	<p>56:12;57:5 patient-centered (2) 28:10,20 patients (5) 46:10,10;47:1; 55:18;56:6 Patrick (5) 8:17;44:1;83:18; 85:16;98:5 pause (1) 82:14 pay (15) 23:6;35:25;36:1, 10;38:7;39:8,19,20; 40:7;45:23;46:11,12; 62:19,20;96:20 paying (7) 33:8,8;38:21,22; 40:8;45:23,24 payments (1) 22:19 payor (1) 46:24 payors (1) 46:25 pays (1) 39:4 PEBP (65) 5:25;7:5,15;9:8,9; 10:6;13:7;15:1;17:2; 22:25;23:18,18; 28:15;32:19;33:19; 35:16,17,18;38:4,19; 39:4,9;41:7;47:9; 49:4,5,15,19;50:15, 21;52:6,13;56:1,5; 57:19;58:12;59:5,7, 18;61:23;63:4,7,8,18; 64:18,21;65:10,11, 16;66:4,9;67:9; 68:14;69:20,21;70:2; 71:1;74:2;75:5; 86:22;89:13;92:4,6, 11;94:12 PEBP's (2) 8:10;62:3 PEDROZA (66) 3:6,8,10,12,15,17, 19,21;24:14,16,18, 20,22;31:17,19,21, 23,25;32:2,4;37:12, 14,16,18,20,22,24; 48:4,6,13,15,17,19, 21;51:6,8,10,12,14, 18;54:23,25;55:2,4,6, 8,10;60:22,24;61:1,3, 5,7;67:19,21,23,25; 68:2,4,7;90:9,11,13, 15,17,21 Peggy (1) 96:21 P-e-g-g-y (1) 93:20</p>
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penalty (1) 45:8	15:23,24;16:10; 18:13;23:4;39:2,15, 24;40:17;46:16	74:17;76:8;79:21; 82:3;86:15;96:17; 97:20	powers (1) 73:12	25:12
penicillin (1) 96:11	physicians (8) 22:20;23:14;38:5, 8,20;39:19;44:25; 45:2	points (3) 76:20;95:1,13	PPO (2) 62:11;63:20	prevents (1) 22:1
people (16) 14:5;19:24;39:9, 10;40:8;56:9,19; 62:9;66:14;71:22; 73:17;77:13;95:16; 96:20,23;99:2	pick (1) 60:14	policies (8) 61:18;62:1,2; 72:17;81:14;84:7; 89:13,16	practices (2) 32:23;59:17	previous (4) 83:24;93:23,23,24
per (3) 42:2;64:9;77:24	pieces (2) 69:10;92:5	policy (1) 22:2	preauthorization (1) 10:2	previously (4) 7:1;22:3,22;49:9
percent (16) 7:24;22:21;25:12, 15;40:24;45:3;46:5, 11,13,14,15;56:10; 61:18;71:20,22;96:7	pitched (1) 39:17	political (2) 41:21;70:8	pre-authorization (27) 10:15;11:5,12,13; 12:5,18;13:3,8,12,16, 19,22;14:8,19;18:8, 12;19:6,8,12,15;20:4, 13,15;29:25;55:22; 56:7;58:19	price (1) 23:1
percentage (3) 40:1,13,17	place (11) 3:3;13:6;25:7; 56:12;57:6;60:3; 89:25;94:3;95:15,22; 97:12	pony (1) 66:23	pre-authorizations (6) 10:7,23,25;11:1; 14:11;19:23	price-gouging (1) 32:23
percentile (4) 38:5,8;39:18;40:23	places (1) 69:25	poor (1) 92:13	pre-authorized (1) 16:11	pride (1) 17:25
Perfect (1) 21:6	plan (63) 8:6;10:8,9;12:20; 13:4,7,11,16,21;14:3, 23;16:11;17:11,19; 23:5,13;25:10;26:3; 32:23;33:6,11;36:6, 11;39:4,4;40:18; 45:5;56:3,13;57:4; 58:20;59:17;60:5,11; 62:4,7,8,8,10,11,11, 14,22;63:19,20; 64:12,13;65:18,19, 19,21,21;66:13,24; 77:20;78:2,9,16; 79:8;81:10;95:22; 97:10,12	popular (1) 8:15	pre-conditions (1) 10:7	primarily (1) 84:25
perhaps (2) 7:19;73:15	plans (17) 14:25;16:1,22; 19:23;26:10;33:5; 38:4;40:15;52:5; 56:16,17;61:17;62:1; 64:21;66:2,11,12	portfolio (1) 71:8	pre-existing (1) 13:5	prior (1) 29:21
permission (1) 23:17	play (1) 18:21	portions (2) 8:1;34:21	prefer (1) 47:12	Priscilla (2) 91:16;93:1
person (11) 10:9;13:9;14:7; 16:1;19:9;32:19; 40:23;71:13;84:14; 94:24;95:2	pleasant (1) 87:24	position (91) 5:21;7:3,9,10;8:15, 18,20,24;9:4,18; 20:24,25;21:4;22:3, 22;23:12,21;24:2,8; 25:15;29:1;30:8; 31:5;33:21,23;34:2; 35:10;36:14;37:3; 38:10;41:22;42:7,18, 20;43:10,15;44:8,9, 14;47:18,24;48:3; 49:13;50:14,20;51:3; 52:8,9;53:8,20; 54:13;56:21,25; 57:13,21,24;58:6; 60:21;63:2;64:6,8; 66:20,25;67:9,12,17; 85:6,19,20,21;86:2,3, 11,14,15,19,20,21; 87:3,9;88:2;89:4,5,6, 20;90:1;91:25;92:1, 2,14,18	preference (1) 64:5	private (3) 66:11,11,17
personal (5) 14:18;18:13;19:13; 44:10;98:6	please (5) 5:6;6:8;34:5; 90:21;98:13	positions (5) 44:4,12,20;64:25; 92:9	preferred (2) 21:22,24	probably (5) 46:19;53:3;54:5; 74:13;92:18
personally (3) 15:6;20:20;44:8	pleasure (1) 68:19	positive (1) 23:18	premiums (2) 7:18;65:24	problem (9) 12:18;14:15;15:18; 16:25;17:8,23;23:10; 46:17;59:7
personnel (4) 72:5;73:5;75:23; 83:10	plus (1) 39:23	possibility (1) 16:18	prescribed (4) 15:24;17:22,24; 59:16	problems (2) 42:1;64:24
perspective (2) 46:24;66:8	pm (3) 80:6;89:25;99:15	possible (6) 5:14;47:18;81:6; 82:3,4;95:2	prescribes (1) 55:20	Procedures (4) 69:18;81:14;89:13, 16
persuasion (1) 83:18	pneumonia (1) 96:11	posting (2) 32:9;35:18	prescription (16) 12:16;13:5,14,15, 21;15:22,22,24;16:2; 17:22,23;18:7,25; 30:3;57:3;64:13	proceed (1) 42:15
pertain (1) 98:16	point (23) 5:9;8:7;28:18; 33:15;35:17;36:13; 39:22;41:24;42:21; 45:23;50:12;53:25; 54:4,16;69:9;71:17;	potentially (4) 30:3;46:17;84:9,23	pre-conditions (1) 10:7	proceeding (1) 96:5
pertained (1) 98:22		power (1) 83:18	prefer (1) 47:12	process (26) 11:15,16;13:3; 19:8,10;22:14;28:9; 33:12;36:4;40:12; 43:24;55:22;56:7; 60:3;61:19;75:17,18, 25;76:6;77:17;78:3, 19;79:23;81:9;91:24; 93:24
pertaining (2) 96:4;98:24			preference (1) 64:5	processes (3) 12:6;17:11;75:7
pharmacy (18) 11:3;14:9;16:3,3; 17:5;19:8,9,13;33:9; 34:10;36:10;56:23; 60:9;61:18,20;62:3,9, 23			preferred (2) 21:22,24	processing (1) 80:25
philosophical (1) 77:2			premiums (2) 7:18;65:24	procurement (2) 76:6;84:9
philosophically (1) 73:10			prescribed (4) 15:24;17:22,24; 59:16	product (1) 94:12
phone (2) 5:12;60:14			prescribes (1) 55:20	products (1) 49:6
physician (10)			prescription (16) 12:16;13:5,14,15, 21;15:22,22,24;16:2; 17:22,23;18:7,25; 30:3;57:3;64:13	Program (33) 3:4;5:16;19:6;33:4, 13;35:22,25;36:2; 50:6,7;63:11;69:13, 14;70:16,23;71:9; 72:16,17,19;73:3,13, 21,25;74:3,7,10,22;

75:9,11;76:3;77:5; 78:10,24 programs (8) 11:20;36:9;57:9; 68:23;70:13,18,20; 71:15 progress (1) 52:20 prohibited (2) 57:19;58:20 prohibits (2) 57:4,4 projects (2) 79:6,12 prominent (1) 72:18 promote (1) 28:19 promulgate (1) 69:22 properly (1) 73:6 proponents (1) 88:20 proportionally (1) 71:19 proposed (2) 52:3;54:6 protect (4) 17:11,12;56:13; 57:11 protecting (1) 16:13 protections (1) 22:6 protocols (1) 13:6 proud (1) 33:12 provide (12) 14:3;20:3;26:5; 28:13;29:16;32:18, 25:51;24:59;15; 86:19,20;88:9 provided (2) 17:2;63:3 provider (13) 11:5;13:10,11,11, 14,15,21;15:11;18:4; 20:7,8,8;46:7 providers (5) 14:11;16:23;20:1; 46:18;59:3 provider's (1) 13:20 provides (2) 39:3;70:17 providing (2) 27:3;56:6 provisions (4) 52:7;69:1,8;76:19 Public (35) 3:4,25;4:2,5,8,9;	5:15;43:11;66:18; 69:12,13;70:13,13, 16;73:7,8,20;75:9; 76:4,5;77:16;78:10, 18,22,25;79:1,1,3; 89:18;91:1,5,9; 92:25;97:22;99:12 publically (1) 35:16 pull (1) 34:22 purchasing (4) 75:4,10,23;81:5 purposes (1) 84:3 pursue (1) 44:12 push (1) 34:17 put (9) 10:24;17:14;61:19; 63:20;70:19;85:20; 86:14;91:23;94:6 puts (2) 80:10;92:13 putting (7) 14:15;15:14;31:3; 42:20;43:13;66:5; 89:19	rate (3) 23:6;44:21;66:5 rates (4) 8:11;22:21;43:8; 64:14 rather (6) 69:23;74:22;84:7; 85:14;96:11;98:2 rating (2) 40:2,10 ratio (1) 45:2 reach (2) 17:16;85:16 reached (1) 10:25 read (2) 5:19;98:16 readdress (1) 29:7 ready (2) 38:11;67:1 real (6) 6:20;14:16;25:13; 27:17;91:17;97:17 realize (2) 21:25;80:10 really (37) 3:25;4:4;9:7; 12:17;14:20,25;35:5; 43:6;45:22;46:23; 49:18,24;50:4;52:6; 53:24;54:13;56:4; 57:1;58:21;60:12; 66:21;69:11,24; 70:22;71:24;72:1; 73:21;74:9,10;75:4, 10,13;78:11;85:11; 91:5;93:6;98:14 rearranging (1) 74:25 reason (10) 7:22;13:13;37:2; 41:21;43:14;54:11; 78:14;82:5;88:9;93:6 reasonable (1) 24:1 reasoning (1) 47:8 reasons (9) 47:22;56:4;80:2; 88:9;89:5;93:1,3,4,15 reassess (1) 20:9 rebate (3) 32:11,12,18 rebates (11) 33:1,9,10,20;34:11, 13,17,18;35:2,17,23 recall (3) 29:21;60:2;89:18 receive (6) 14:1;15:16;40:4,8;	55:19;78:22 received (2) 32:11;49:7 recent (1) 81:1 receptive (2) 12:9,11 recognize (2) 6:8;20:19 recollection (1) 89:15 recommend (1) 9:18 recommendation (8) 47:12;57:12;66:19; 79:7,8,10,14;89:7 recommendations (7) 26:4;70:2;72:20; 75:10;78:1;83:16,20 recommended (4) 7:2;79:18,24;96:22 recommending (1) 11:10 record (72) 4:18;5:18;7:12,20; 8:13,17;12:3,10; 13:23;14:20;16:19; 19:2;21:1,9,10; 23:23;24:7,24;25:5, 25;26:7;27:5,14; 28:9;29:14;30:23; 32:9;34:8,25;35:4, 12;38:3;41:13;42:15, 23;44:1,13,23;49:4; 50:19;51:1,21;52:24; 54:3;57:17,25;58:4, 15;60:6;61:10;63:17; 64:3,7;65:2;67:7; 68:9;80:4;81:21; 82:16;85:5,10;86:18; 87:13;89:12;91:23; 93:20;94:10,17;95:8; 97:8,14;98:23 records (1) 20:7 recoup (1) 36:3 recover (1) 59:10 redo (1) 90:19 reduce (2) 71:5,6 reduced (1) 6:12 reduces (2) 68:15;71:7 reducing (1) 83:25 reduction (2) 35:1,3 refer (2) 65:17;74:23	reference (4) 69:20;70:3,10; 72:11 references (2) 70:5;72:25 referred (3) 70:18;74:4,22 refers (1) 70:23 refill (3) 16:4;18:6;19:10 refills (1) 19:14 reflects (1) 22:4 reform (1) 76:23 refunded (1) 35:23 regard (2) 18:25;75:14 regarding (2) 5:14;93:24 regardless (2) 17:13;18:1 regards (1) 87:2 regular (1) 11:15 regulated (1) 73:17 regulations (2) 69:19,23 reimburse (2) 38:4,8 reimbursement (1) 46:12 reimbursements (1) 39:15 reissue (1) 8:4 related (1) 72:5 relationship (2) 36:8,12 released (1) 17:6 relevationsic (1) 94:3 relief (1) 64:13 relook (1) 99:5 remain (6) 22:12;25:20;41:4, 16;43:19;46:19 remainder (2) 33:7;39:5 remains (1) 54:7 remarks (1) 98:4 remember (5)
	Q			
	quality (2) 73:1;84:10 quick (4) 27:17;36:15,16; 95:21 quickly (1) 6:7 quit (1) 87:25 quite (4) 7:4;30:10,25;83:14 quorum (6) 3:22;82:13,15,20, 25;91:8 quote (1) 95:9			
	R			
	raise (3) 8:11;32:24;92:14 raising (1) 13:13 ramifications (1) 46:23 ran (1) 39:24 range (1) 63:21 rank (1) 49:21	reach (2) 17:16;85:16 reached (1) 10:25 read (2) 5:19;98:16 readdress (1) 29:7 ready (2) 38:11;67:1 real (6) 6:20;14:16;25:13; 27:17;91:17;97:17 realize (2) 21:25;80:10 really (37) 3:25;4:4;9:7; 12:17;14:20,25;35:5; 43:6;45:22;46:23; 49:18,24;50:4;52:6; 53:24;54:13;56:4; 57:1;58:21;60:12; 66:21;69:11,24; 70:22;71:24;72:1; 73:21;74:9,10;75:4, 10,13;78:11;85:11; 91:5;93:6;98:14 rearranging (1) 74:25 reason (10) 7:22;13:13;37:2; 41:21;43:14;54:11; 78:14;82:5;88:9;93:6 reasonable (1) 24:1 reasoning (1) 47:8 reasons (9) 47:22;56:4;80:2; 88:9;89:5;93:1,3,4,15 reassess (1) 20:9 rebate (3) 32:11,12,18 rebates (11) 33:1,9,10,20;34:11, 13,17,18;35:2,17,23 recall (3) 29:21;60:2;89:18 receive (6) 14:1;15:16;40:4,8;	55:19;78:22 received (2) 32:11;49:7 recent (1) 81:1 receptive (2) 12:9,11 recognize (2) 6:8;20:19 recollection (1) 89:15 recommend (1) 9:18 recommendation (8) 47:12;57:12;66:19; 79:7,8,10,14;89:7 recommendations (7) 26:4;70:2;72:20; 75:10;78:1;83:16,20 recommended (4) 7:2;79:18,24;96:22 recommending (1) 11:10 record (72) 4:18;5:18;7:12,20; 8:13,17;12:3,10; 13:23;14:20;16:19; 19:2;21:1,9,10; 23:23;24:7,24;25:5, 25;26:7;27:5,14; 28:9;29:14;30:23; 32:9;34:8,25;35:4, 12;38:3;41:13;42:15, 23;44:1,13,23;49:4; 50:19;51:1,21;52:24; 54:3;57:17,25;58:4, 15;60:6;61:10;63:17; 64:3,7;65:2;67:7; 68:9;80:4;81:21; 82:16;85:5,10;86:18; 87:13;89:12;91:23; 93:20;94:10,17;95:8; 97:8,14;98:23 records (1) 20:7 recoup (1) 36:3 recover (1) 59:10 redo (1) 90:19 reduce (2) 71:5,6 reduced (1) 6:12 reduces (2) 68:15;71:7 reducing (1) 83:25 reduction (2) 35:1,3 refer (2) 65:17;74:23	reference (4) 69:20;70:3,10; 72:11 references (2) 70:5;72:25 referred (3) 70:18;74:4,22 refers (1) 70:23 refill (3) 16:4;18:6;19:10 refills (1) 19:14 reflects (1) 22:4 reform (1) 76:23 refunded (1) 35:23 regard (2) 18:25;75:14 regarding (2) 5:14;93:24 regardless (2) 17:13;18:1 regards (1) 87:2 regular (1) 11:15 regulated (1) 73:17 regulations (2) 69:19,23 reimburse (2) 38:4,8 reimbursement (1) 46:12 reimbursements (1) 39:15 reissue (1) 8:4 related (1) 72:5 relationship (2) 36:8,12 released (1) 17:6 relevationsic (1) 94:3 relief (1) 64:13 relook (1) 99:5 remain (6) 22:12;25:20;41:4, 16;43:19;46:19 remainder (2) 33:7;39:5 remains (1) 54:7 remarks (1) 98:4 remember (5)

<p>14:6;41:11,14; 58:23;64:15 remembering (1) 95:9 remind (1) 19:16 removed (3) 50:22;64:19;76:18 removes (3) 72:22,25;75:4 renew (1) 19:16 renewed (1) 22:3 reorganization (1) 79:4 rep (2) 71:15;93:6 repeal (1) 8:2 repealed (1) 25:8 replace (1) 8:2 replaced (2) 25:8;28:5 replacement (1) 29:20 replicate (1) 25:6 report (5) 22:6;50:6;68:18; 73:19;87:10 reporting (7) 49:6,8,11,19;52:4; 68:22;73:4 reports (3) 73:14;89:17,21 representation (2) 71:19,20 representative (2) 9:10;71:4 representatives (1) 71:11 request (2) 24:1;64:18 require (6) 13:7,9;29:15;49:4; 79:19;91:6 required (3) 28:22;62:8;87:4 requirement (7) 11:11;20:4;28:13; 29:19;50:6;76:16; 86:21 requirements (12) 6:18,24;11:6;25:6; 29:18;38:16;49:7,8; 59:2;68:17;76:9,14 requires (7) 22:19;32:9;38:3,4; 61:17,19;85:22 requiring (1)</p>	<p>51:23 rereading (1) 34:17 researched (1) 13:18 resets (1) 63:9 resolved (1) 16:15 resource (1) 73:9 resources (1) 77:8 responded (1) 34:9 responsibility (3) 26:23;78:9,12 responsible (1) 74:9 rest (5) 23:7;26:25;70:22; 81:24;94:8 restate (1) 90:22 restructuring (1) 93:5 result (1) 63:22 resulted (1) 76:2 Retired (1) 92:24 retiree (4) 71:5,12;93:6,7 retirees (5) 77:12,14,25;91:17, 24 retirement (2) 50:8;70:1 revenues (2) 35:2,3 review (2) 89:12;94:9 reviewed (1) 79:22 revised (2) 5:18;68:11 revision (1) 5:6 revisions (1) 70:12 RFP (9) 75:7,16,17;81:1,8; 83:8;93:24;94:6,11 RFP's (1) 94:15 rid (2) 12:16;62:5 right (31) 3:24;7:25;12:12; 15:7;25:14;26:10; 27:20;33:18;37:2,9; 38:19;40:15;43:11;</p>	<p>44:19;46:5;48:11,21; 53:6;55:16;56:25; 59:6;80:19;82:9; 87:25;89:15,21;91:9, 12,25;92:3;96:16 rises (1) 73:23 rising (1) 93:22 risk (2) 71:8,14 role (2) 72:18;83:16 roll (11) 3:5;5:10;24:13; 31:16;37:11;48:1; 51:4;54:22;60:20; 67:18;90:8 room (1) 23:3 Rosalie (26) 3:10,10,12;18:17; 24:10;31:19;37:8,22; 42:11;47:4,16;48:7, 19,19;51:8;53:18; 55:8;58:8;61:1; 67:21;80:18;83:6; 86:1;88:4;89:1;90:15 round (7) 10:19;12:15;96:12, 13;97:3,5,5 RPEN (2) 92:25;93:2 rule (2) 48:25;97:25 rules (2) 75:18;97:23 run (4) 15:1,1;23:3;97:11 running (4) 33:7;63:10;73:25; 84:14 runs (1) 69:15 rural (1) 40:4 rurals (1) 40:9</p>	<p>14:18;49:12;93:21 save (1) 25:8 savings (2) 21:25;62:5 saying (8) 5:6;14:7;34:6; 48:9;59:13;66:9,10; 87:7 SB (46) 28:2,5,7,9;29:9,12, 14;30:20;31:9,15; 32:6,7,9;37:7;38:1,2; 41:9;42:7,9,10; 43:22;48:2;49:3; 50:18;51:3;52:15; 53:15,20;57:16,21, 25;58:6;60:21;61:15; 67:11,17;68:8,12,12, 21;69:1,3;72:1;86:5, 11;90:7 scary (1) 20:17 scenario (1) 15:4 scenes (1) 33:25 scheduled (2) 22:10;80:5 scored (1) 94:4 scores (2) 75:19,20 scoring (2) 93:23;95:1 Scripts (10) 11:3,7;14:10,10; 17:21;18:3;19:8,11; 22:7;34:12 second (33) 4:25;5:2,3;24:10, 12;30:13;31:12,13, 15;37:7,8,10;42:10, 11,13;50:24;51:1,3; 53:17,18,20;54:10; 58:2,4,6;67:13,15,17; 86:7,9,11;90:4;93:7 section (18) 5:21,22;49:17; 69:17,25;70:7,12,15, 25;72:3,13,22,25; 74:16,17,18;75:3,4 sections (4) 69:10,16,24;70:5 sector (2) 66:17,18 seeing (2) 4:10;99:12 seek (1) 57:10 seeking (1) 28:3 seemed (1)</p>	<p>76:17 seems (1) 63:18 self-insured (1) 62:3 Senate (19) 4:19;28:11;30:14; 50:21;51:22,22,25; 52:2;54:11,12;55:13, 23;61:13;80:5;91:19; 93:2,3,5,10 senator (1) 14:17 sends (1) 39:3 sense (1) 73:18 sent (6) 19:15;39:5;40:13; 41:3;45:14;64:18 separate (7) 45:21,21,22;68:22, 22;70:21;98:5 separated (2) 40:2,10 seriously (1) 83:20 serve (2) 68:19;77:24 service (1) 17:14 services (14) 14:4;20:3;22:20; 25:12;26:13,15,24; 27:18;28:11;38:18; 39:3;51:25;52:3; 60:17 session (3) 6:21;53:3;89:19 set (1) 75:21 sets (1) 45:25 set-up (1) 71:21 seven (5) 68:16;70:7;71:3; 72:13;83:25 several (1) 69:24 shall (1) 72:14 share (8) 21:13,17;30:14; 32:12;33:2;46:20; 87:18,22 shared (2) 14:18;63:5 shift (2) 26:22;62:22 shifted (1) 38:15 shorter (1)</p>
		S		
		<p>safety (8) 11:19;17:10,21,24; 18:11,24;30:2;57:5 sake (3) 4:2;16:13;18:10 same (16) 18:20;25:20;30:14; 32:22;41:24;51:24; 66:7;74:5,18,21; 78:20;85:18,18;92:9; 93:1,3 sat (3)</p>		

<p>20:22 show (2) 32:15;89:24 showing (1) 21:16 shows (2) 29:4;52:19 side (7) 11:2,3;15:5;19:7,8; 46:7;51:22 significant (4) 43:4;45:5;46:4; 62:15 significantly (2) 38:7;65:22 signify (1) 5:6 similar (6) 9:11;11:14;27:1; 29:14;36:8;76:24 simple (1) 87:15 simply (1) 98:1 sincere (1) 81:23 single (1) 74:16 singular (1) 62:3 sit (2) 19:19;79:5 sitting (2) 41:23,23 situation (4) 20:9;58:13;92:13, 15 situations (3) 16:17;21:15;93:21 six (2) 63:10;69:25 sizeable (3) 38:6;62:13,17 skip (1) 28:7 smaller (1) 17:14 solution (2) 12:19;59:6 solve (2) 15:18;23:10 somebody (7) 15:8;16:9;17:6; 52:12;57:7;73:14; 80:9 someone (10) 8:5;13:4;17:4,4; 18:6,6;19:11;20:14; 38:25;59:14 somewhere (1) 34:12 sorry (12) 10:2;27:15;42:8;</p>	<p>43:22;53:23;57:2; 67:5;70:15;82:2,7; 91:3,4 sort (3) 8:18;94:2;96:23 sound (2) 84:1;95:16 sounds (4) 9:22;23:20;28:1; 36:24 soup (1) 96:10 south (2) 71:12;95:12 southern (2) 40:5,6 sparingly (1) 47:20 speak (5) 9:19;10:18;45:11; 58:21;60:13 SPEAKER (1) 4:12 speaking (2) 44:9;95:19 special (1) 60:12 specialty (1) 62:21 specific (9) 5:25;8:4;9:18;15:4, 22;61:20;64:16; 73:16;84:7 specifically (2) 25:21;34:21 specifics (1) 38:14 spells (1) 72:14 Spillinisic (1) 95:20 spoke (3) 39:16;40:11;62:18 spoken (2) 45:10;71:23 sponsor (26) 10:5,14;12:8,11; 15:17;19:22;22:13; 32:14;33:16;34:16; 36:7;38:23;39:13; 40:13;43:1;45:11; 49:14,17;50:1,13; 54:7;55:17;56:2,23; 62:18;69:6 sponsored (4) 14:17;64:15,16; 69:2 sponsors (4) 22:13;41:1;56:22; 64:15 spot (1) 80:10 spouse (1)</p>	<p>59:14 staff (3) 58:22;69:11;92:1 stage (2) 57:7;59:8 stages (1) 55:16 stance (3) 47:20;53:12,15 stand (2) 41:5;47:13 standard (1) 62:11 standards (1) 98:20 standing (1) 47:9 standpoint (2) 59:5;84:16 stands (4) 28:15;47:24;81:15; 89:21 start (1) 19:9 started (2) 49:14;68:12 Starting (2) 6:15;39:22 starts (3) 19:10;70:12;74:17 state (29) 21:10;26:8;28:24; 42:24;43:5;44:4,5; 49:22,23;56:1;65:20, 20;66:1,12,22;70:8,8; 71:6,12,12;75:23,23; 76:23;77:1,4,11,13, 15;84:17 stated (3) 41:18;49:10,16 statement (3) 47:16;87:14;89:2 statements (1) 47:1 states (5) 72:8;77:5,6,6; 89:16 status (2) 50:7;52:19 statute (4) 74:8,13;76:15,16 statutes (3) 69:25;74:2,6 statutory (1) 50:5 stay (1) 27:6 staying (1) 29:11 step (7) 19:3;29:20,24; 55:14,21;56:6;98:1 sterilization (2)</p>	<p>6:18;29:17 steroids (1) 30:1 stewards (1) 43:11 still (21) 16:1;17:13;20:12; 28:1;30:14;41:4; 42:18;44:5;45:20; 46:4;50:11;64:8; 65:8;78:19,19;82:13, 14,17,19,21,22 stock (2) 79:9,13 stop (4) 15:8;17:18;20:1; 30:4 stories (1) 39:9 story (1) 14:18 strategies (1) 71:9 stretch (1) 61:11 stricken (1) 72:6 strictly (1) 77:24 Strikes (1) 75:8 strong (4) 43:10;64:23,23; 97:17 stronger (3) 47:13,20;72:1 structure (1) 92:4 stuff (1) 54:17 subdivisions (1) 70:8 submit (1) 65:8 subparagraph (1) 72:13 subsidies (2) 7:19;8:11 subsidizing (1) 49:23 substantial (1) 76:3 substantially (2) 71:18;79:17 substantive (1) 3:25 successful (1) 63:10 succinctly (1) 60:8 sudden (2) 16:9;21:23 suggest (4)</p>	<p>24:7;50:12;85:15; 97:24 suggested (3) 19:18;40:13;92:11 suggesting (2) 91:23,24 suggestion (6) 10:20;20:6;30:12; 90:3,4;98:11 suggestions (2) 11:22;89:22 summary (1) 81:3 super (1) 43:10 supervised (1) 79:3 supplies (1) 8:4 supply (3) 6:17;8:5;29:16 support (17) 13:17;14:3;25:17, 18;27:6;43:23;49:9; 50:13;52:6;57:21; 66:15,24;80:9;83:7; 85:1;88:21,21 supporting (1) 88:9 supportive (2) 24:1;31:4 supported (3) 32:18;85:17;86:21 sure (19) 4:10;7:4;12:13; 13:18;16:12;18:7,9; 21:10,18;25:15;26:5; 46:24;57:8;59:21; 67:1;76:20;82:14; 83:14;88:5 surfaced (1) 17:8 surprise (2) 23:7;39:6 surprised (1) 14:20 surrounded (1) 83:9 surrounding (2) 80:25;81:4 suspect (1) 84:25 sway (1) 88:18 switched (1) 14:9 System (5) 9:7,10,11;71:4,17</p>
T				
table (23) 10:19;12:15;14:18;				

<p>23:12;33:24;41:22; 42:25;43:15;52:12; 54:5,14,18;63:3;64:9, 17,25;85:12,15,21; 86:19,23;88:1;98:1</p> <p>tables (1) 5:22</p> <p>tackling (1) 14:25</p> <p>talk (15) 10:12,19;15:3; 25:21;26:22;28:6; 29:24;30:10;33:24; 36:16;54:7;57:14; 61:16;85:14;95:19</p> <p>talked (9) 21:13;28:4;33:5; 50:1;52:1;56:5; 75:16;77:2;98:24</p> <p>talking (7) 33:15;40:20;41:1; 56:23;62:16;88:5; 98:23</p> <p>talks (3) 72:4,5,23</p> <p>tap (1) 87:17</p> <p>team (2) 17:21;85:18</p> <p>technical (1) 75:19</p> <p>technically (1) 8:6</p> <p>technologically (1) 96:12</p> <p>technology (1) 96:14</p> <p>tee (1) 68:10</p> <p>teleconference (1) 4:15</p> <p>telephonic (1) 29:23</p> <p>telling (1) 87:7</p> <p>tells (1) 80:11</p> <p>temporary (1) 64:13</p> <p>ten (4) 68:16;71:2,20; 83:25</p> <p>Tena (2) 34:23;35:5</p> <p>ten-day (2) 11:12;15:14</p> <p>ten-member (1) 71:20</p> <p>term (1) 96:18</p> <p>terms (6) 8:14;13:2;66:22; 76:10;84:2,17</p>	<p>Terri (1) 92:24</p> <p>terrified (1) 62:25</p> <p>testified (3) 38:10;42:2;64:17</p> <p>testify (13) 22:14;24:3;25:20; 37:5;38:11;41:6; 53:14;54:1,1;85:8; 86:16;90:1,2</p> <p>testifying (2) 25:17,18</p> <p>testimony (2) 31:1;46:21</p> <p>testing (2) 58:18;96:19</p> <p>Thankfully (1) 75:25</p> <p>Thanks (2) 53:6;62:13</p> <p>therapy (6) 29:20,21,25;55:14, 21;56:7</p> <p>therefore (1) 80:23</p> <p>thinking (3) 11:10;44:18;46:6</p> <p>third (1) 11:2</p> <p>thoroughly (1) 13:18</p> <p>though (10) 17:11;26:14;43:3; 45:18,18;49:13;60:1; 62:2;91:21;94:16</p> <p>thought (6) 30:8;42:17,20; 49:9;50:3;83:18</p> <p>thoughts (2) 35:15;40:14</p> <p>three (5) 9:24;15:25;18:10; 34:7;43:6</p> <p>three-dimensional (3) 96:8;97:4,18</p> <p>threshold (1) 32:17</p> <p>throw (2) 28:17;84:6</p> <p>throws (1) 52:12</p> <p>thrust (1) 91:22</p> <p>thumb (1) 97:25</p> <p>THURSDAY (1) 3:1</p> <p>tidy (1) 75:1</p> <p>tie (1) 48:23</p> <p>tier (9)</p>	<p>21:22,24,24;61:20, 21;66:24;94:7,8,9</p> <p>tiers (1) 21:21</p> <p>timely (1) 14:8</p> <p>Tina (1) 6:1</p> <p>tired (1) 95:8</p> <p>today (19) 12:7,14;16:25; 20:14;21:12,14; 26:14,17;27:1;38:21; 40:18;63:6;78:20; 87:19;93:11,16; 95:20;96:2;98:14</p> <p>told (6) 19:13;34:21;94:5; 95:8;96:1,19</p> <p>Tom (31) 3:15;7:11,21;8:13; 21:1,2;23:23;24:6, 24;30:22;32:2;36:21; 37:20;44:13;48:13; 51:12;53:9;55:6; 57:17,25;61:5;63:17; 67:5,6;68:2;80:12, 18;85:5;90:13,19,21</p> <p>tomorrow (3) 6:9;25:14,20</p> <p>tons (1) 92:7</p> <p>took (14) 22:3,22;28:13; 40:19;49:11,12; 62:14;75:25;82:18; 85:6;87:9;94:3; 95:15;97:12</p> <p>top (2) 6:15;79:24</p> <p>topic (1) 97:1</p> <p>tops (1) 11:9</p> <p>total (6) 5:24;68:15;73:21; 77:10,23;78:6</p> <p>track (1) 75:14</p> <p>tracker (1) 94:2</p> <p>tracking (1) 5:19</p> <p>traditionally (2) 43:9;60:10</p> <p>transact (1) 72:4</p> <p>transition (2) 68:13,14</p> <p>transparency (2) 49:10,10</p> <p>transpires (1)</p>	<p>96:16</p> <p>treat (1) 77:14</p> <p>treatment (11) 10:9,10;13:6;15:9; 17:18;55:17;57:11; 58:19,24;59:9;60:15</p> <p>trended (1) 62:15</p> <p>tried (1) 92:11</p> <p>trouble (1) 43:14</p> <p>true (1) 78:9</p> <p>truly (5) 7:5;8:9;35:3;56:8; 57:7</p> <p>trust (1) 92:7</p> <p>trusts (1) 92:8</p> <p>truth (1) 62:24</p> <p>try (7) 35:20;36:22;39:8; 59:9;60:7;73:8;75:1</p> <p>trying (12) 15:18;20:11;23:10; 25:8;33:24;34:17; 41:11;45:23;49:18; 59:6;61:21;77:9</p> <p>turn (5) 7:6;8:24;62:8; 63:19;68:24</p> <p>turns (1) 35:19</p> <p>tweaking (1) 96:17</p> <p>tweaks (1) 79:12</p> <p>two (14) 4:18;5:20;9:6; 16:8;17:16;19:14; 33:14;45:25;61:11, 11;70:14;71:5,11; 94:7</p> <p>two-dimensional (2) 97:4,18</p> <p>tying (1) 59:3</p> <p>type (6) 17:18;33:14,14; 55:19;58:24;78:20</p> <p>types (8) 15:2;17:25;25:9; 51:24;58:19;59:1; 61:20;76:24</p> <p>typical (1) 55:21</p> <p>typically (1) 27:22</p>	<p>U</p> <p>ultimate (1) 17:3</p> <p>ultimately (2) 64:12;78:12</p> <p>unanimous (3) 5:9;37:24;51:18</p> <p>unanimously (1) 5:7</p> <p>unbeknownst (1) 39:2</p> <p>uncomfortable (1) 98:4</p> <p>under (6) 13:7;65:19;71:10; 72:13;76:25;77:18</p> <p>understood (1) 83:17</p> <p>unenviable (1) 92:14</p> <p>unfair (1) 39:22</p> <p>Unfortunately (2) 86:2;95:16</p> <p>unfunded (1) 7:17</p> <p>UNIDENTIFIED (1) 4:12</p> <p>unless (8) 6:10;9:18;28:25; 42:25;53:24;54:18; 60:11;86:20</p> <p>Unlike (1) 70:19</p> <p>unsatisfactory (1) 81:9</p> <p>up (52) 4:8;9:19;10:2,12, 13;11:5;14:18;20:12, 21;21:12,17;25:10, 17;29:23;30:14,16; 33:24,25;38:10; 41:24;42:1,24;43:7,8, 15,16;46:12;49:12; 52:12,25;53:13; 54:14;57:13,20; 59:12;60:14;63:3; 64:8,24;66:23;68:10; 70:6;75:1;78:8;80:3; 88:1;89:24;93:4; 95:2;96:25;98:21; 99:1</p> <p>update (10) 4:15;6:5,20,25; 8:13;9:17;22:11; 25:13;27:24;28:25</p> <p>updated (1) 16:6</p> <p>updates (1) 30:15</p> <p>upon (2)</p>
--	---	--	---	---

79:2;94:22 upside-down (1) 63:19 use (7) 14:21;28:22;33:10; 49:24;75:21;95:11; 96:14 used (1) 38:14 using (2) 39:17;47:20 usual (2) 23:6;39:4 usually (2) 11:4;43:2 utilization (5) 11:1,8;28:19;49:8; 50:6	5:5,7,10,10;24:13; 31:16;37:11;43:18; 48:2,8;51:5;52:23; 53:1;54:12,22;60:20; 67:18;87:10,17; 88:16,16,19;89:18; 90:6,7,8,22;92:16; 95:23;97:15,19;98:7 voted (6) 49:1,9;87:5;88:24; 94:4;97:17 voting (8) 5:11;6:2;48:8; 87:11,12;88:22,22; 93:23 vowed (1) 33:19	95:6 white (1) 20:11 whole (7) 15:3;47:8;62:18; 74:6;81:8,8;95:1 wholeheartedly (1) 47:17 who's (2) 5:11;17:17 willing (2) 20:18;65:11 wish (1) 9:19 wishes (1) 10:21 within (6) 15:25;39:9;46:18; 47:10;81:13;84:7 without (6) 14:9;42:19;63:21; 72:9,16;74:11 wondering (3) 18:2;65:25;85:7 word (5) 10:1,3;55:15; 87:18,18 wording (1) 18:23 words (3) 16:12;18:23;93:20 work (9) 6:21;22:12;33:20, 24;48:25;56:22;64:8; 77:13;98:11 working (3) 20:10;53:3;64:15 works (6) 11:13;12:19;78:25; 79:1,2,3 worried (1) 16:7 worry (1) 13:16 worst (1) 11:3 worth (2) 8:7;52:21 wrangle (1) 59:17 write (1) 57:3 writing (1) 58:25 written (3) 20:14;59:1;94:10 wrong (1) 94:24 wrote (1) 13:15	year (9) 15:25,25;22:2,10; 34:14;63:21;75:15; 84:24;93:13 years (6) 33:6;58:22;63:10; 65:16;89:13;93:7 yesterday (4) 40:12;41:4;49:12; 52:20	56:15
V	W	Y	Z	2
valuable (2) 76:15;84:2 various (1) 69:25 Vegas (2) 82:1;90:1 vendor (2) 11:8;75:22 Verducci (61) 3:15,16;7:11,11,14, 21;8:12,13,22;21:1,1, 3;23:23,23,25;24:6,7, 24,24;30:22,22,25; 31:8;32:2,3;36:19, 22;37:1,20,21;44:13, 13;48:13,14;51:12, 13;53:9,9,11;55:6,7; 57:17,17,23,25;61:5, 6;63:17,17;67:6,6; 68:2,3;85:5,5,11; 90:13,14,19,21,23 version (4) 29:5;51:25;68:15; 72:1 vicinity (1) 34:13 view (1) 84:19 vision (1) 7:19 visit (1) 40:22 visits (2) 40:20,20 voice (6) 47:10,11;72:1; 84:17;89:25;93:8 voices (1) 87:22 voluntary (1) 29:17 vote (32)	wait (3) 4:12;14:19;80:15 waiting (2) 34:19;40:14 walk (1) 34:5 wants (10) 6:5;12:18;13:6; 20:8;33:13;35:17; 41:2;43:7,12;81:12 watch (3) 28:16;52:10;54:5 watched (1) 93:13 water (1) 84:6 way (19) 5:11;8:20;10:13; 15:1;35:23;36:17,17; 38:22;39:18;42:21; 54:9;56:17;59:4; 63:22;76:4;88:19; 89:15;92:6;94:13 Wednesday (1) 55:23 week (2) 6:8;53:3 weigh (1) 44:7 weight (1) 79:19 Wells (4) 3:21;41:17;94:17, 25 weren't (1) 95:14 what-ifs (1) 18:22 what's (3) 11:4;84:17;96:5 Whereas (3) 8:19;26:14;35:25 wherever (1)	without (6) 14:9;42:19;63:21; 72:9,16;74:11 wondering (3) 18:2;65:25;85:7 word (5) 10:1,3;55:15; 87:18,18 wording (1) 18:23 words (3) 16:12;18:23;93:20 work (9) 6:21;22:12;33:20, 24;48:25;56:22;64:8; 77:13;98:11 working (3) 20:10;53:3;64:15 works (6) 11:13;12:19;78:25; 79:1,2,3 worried (1) 16:7 worry (1) 13:16 worst (1) 11:3 worth (2) 8:7;52:21 wrangle (1) 59:17 write (1) 57:3 writing (1) 58:25 written (3) 20:14;59:1;94:10 wrong (1) 94:24 wrote (1) 13:15	Zack (33) 3:17,18;24:20,21; 31:23,24;37:18,19; 42:14,14,17;43:18; 48:15,16;50:25,25; 51:16,17;55:4,5;58:3, 3;61:7,8;64:2,2; 67:25;68:1;81:20,20, 23;82:6,11	2 (2) 4:3,14 20 (1) 72:25 2010 (1) 62:12 2017 (3) 3:1;4:15;5:15 2021 (1) 22:6 232 (1) 69:12 233 (8) 29:12,14;30:15,20; 31:9,15;32:6;43:22 233B (1) 69:18 23rd (1) 7:1 24 (2) 11:8;18:4 249 (1) 6:16 25 (2) 45:3;61:18 250 (1) 79:6 26 (1) 25:11 265 (3) 32:7,9;37:7 27th (1) 28:11 287 (2) 70:12;74:18 289 (5) 38:2;41:9;42:9,10; 48:2 29 (1) 71:21 29th (1) 18:24 2-D (1) 96:7
			1	3
			1 (1) 3:5 1:00 (2) 80:6;89:25 10:00 (1) 3:1 100 (1) 56:10 12 (2) 8:4;49:3 12:00 (1) 91:5 12:25 (1) 99:15 12:30 (1) 27:18 125 (1) 22:21 12-month (3) 6:17;8:5;29:16 13 (2) 45:3;51:22 13.5 (1) 45:4 139 (5) 4:19,19;28:7,9; 29:10 14 (3) 55:13;70:25;71:1 14th (1) 6:8 15 (3) 58:22;61:13;71:1 16 (2) 72:3,13 18 (1) 72:22 1st (1)	3 (1) 4:14 30 (8) 11:11;18:9,20,24; 19:17,17;20:5;32:10 30,000 (1) 62:6 30-day (3) 15:14;19:18;20:4 331 (2) 9:6,21 333 (3)

**PUBLIC EMPLOYEES' BENEFITS PROGRAM BOARD
LEGISLATIVE UPDATE MEETING**

April 6, 2017

75:4,5,12 352 (1) 9:24 353.205 (1) 77:18 366 (5) 38:1;49:3;50:18, 21;51:3 372 (1) 40:24 375 (1) 33:8 377 (1) 70:7 38 (1) 74:17 381 (2) 21:20;22:16 382 (3) 22:18;24:8,12 39 (1) 52:15 394 (3) 51:22;53:15,20 3rd (4) 6:23;9:12;38:9; 63:2	52:2			
	6			
	6 (2) 3:1;99:13			
	7			
	7th (1) 96:3			
	8			
	80 (7) 28:2;68:12,21; 69:3;72:1;93:2,5 80th (4) 38:5,7;39:18;40:23			
	9			
	9 (1) 4:15 90 (2) 14:19;20:20 9th (4) 7:1;30:6;96:1,2			
4				
4 (2) 5:14;90:25 4:45 (1) 17:5 40 (1) 62:16 40,000 (1) 62:7 404 (6) 55:14;57:16,21,25; 58:6;60:21 408 (3) 25:3,5;28:1 40-plus (1) 63:21 40th (2) 62:16;93:13 436 (3) 61:13;67:11,17 47 (1) 75:3				
5				
5 (2) 91:1;99:13 50 (5) 46:4,11,13,14,14 502 (12) 28:5;61:15;68:8, 12;69:1;86:5,11; 90:7;91:19;93:3,5,10 5th (1)				