

RISK MANAGEMENT ADVISORY BOARD

April 20, 2023
Via Microsoft Teams

1. CALL TO ORDER

The meeting of the Risk Management Advisory Board called to order at 2:09 p.m. Teresa Costantinidis, Chair. The meeting was held via Microsoft Teams.

ROLL CALL

Roll call indicated the presence of a quorum as follows:

Members Present:

Teresa Ann Costantinidis, CFO of UNM
Jennifer Catechis, Superintendent of Insurance
Cecilia Mavrommatis, Department of Finance and Administration
Michael Byrd, Insurance Agent
Raul Burciaga LFC Director

Members Absent:

Carla Martinez for Raul Torrez-Office of the Attorney General
Rennette Apodaca, Designee for CFO of Albuquerque Public Schools
Quinn Lopez, Attorney
Anita Schwing

Others Present:

Robert Doucette, Jr.-Secretary-GSD
Jacob Maule-Acting General Counsel
Diana Barela
Simon Miller, Department of Finance and Administration
Theresa Griego
Markita Sanchez
Rod Crawley

A Quorum was present.

2. APPROVAL OF THE AGENDA

Approved.

3. APPROVAL OF DECEMBER 15, 2022 MEETING MINUTES

Approved.

4. CERTIFICATE OF COVERAGE FY24

Rod Crawley, Bureau Chief introduced himself to the Board and discussed the Certificate of Coverage for FY24 that included the Letter of Administration and Liability Certificate of Coverage with no modifications. Only the Headers have been updated.

Mr. Crawley then discussed the Property Certificate for FY24, which had its header updated. Heavy equipment is now being leased instead of bought, and the leases are being reviewed.

Mr. Crawley then discussed the changes to employee property used to enhance job performance. He noted that as there was abuse by employees, employee property is now limited to that required for the job.

Mr. Crawley discussed the added exclusion for storage tanks and indicated the transfer of risk now lies with outside third party.

Finally, Mr. Crawley discussed the Auto Physical Damage (APD) total losses and stated that they were using comparable pricing due to the volatility of the current market. They will be using comps for vehicles instead of entities such as JD Powers.

Chair Costantinidis then reminded the Board that their purpose was to review the content of Certificates of Coverage.

Mr. Lopez stated they are on the right track. The best advice is to bring the members along and keep them informed.

5. 2023 LEGISLATIVE RECAP

GSD Secretary Robert Doucette discussed his employment background and discussed Senate Bill 16, which created the Health Care Authority Department, which will benefit all Divisions. Secretary Doucette noted that the creation of this Department will transfer power from Health and Human Services to the Health Care Authority. The Health Care Authority will allow for better benefits and buying power.

Secretary Doucette then indicated that the first meeting for the Authority was today, and they will meet every two weeks. He then discussed the benefits of the new Authority, including any contracts transferred to the Authority, as well as hiring matters and other duties of the Authority.

A comment was made by Mr. Burciaga concerning Section 16 regarding transfers and provisions, and he suggested the Board members review Section 16, as the proposed statutory changes will be made in the future as to the transition itself.

Board Chair Theresa Costantinidis then commented on the transition, and wondered if the transition of benefits from GSD to the Authority would also include the transfers of liability to the Authority and deficit. Secretary Doucette affirmed this.

Chair Costantinidis then discussed the statutory obligation for the Board, and asked for clarification that they would still in an advisory capacity when it came to insurance and new policies, as per statute.

Secretary Doucette affirmed this statement and indicated that they are aware of the deficits and are working with the Authority will continue.

6. WORKERS COMPENSATION BUREAU

Theresa Griego, Workers Compensation Bureau Chief, discussed her employment history, and introduced herself. She then discussed the Bureau's duties, including the oversight of workers compensation claims and benefits.

Ms. Griego indicated that there were 21,922 full-time employees that had different claims at various reported times. There are currently 1101 combined med/indemnity open claims.

Ms. Griego indicated that all claims are now filed via securely with the online portal. Medical benefits are paid for reasonable, necessary and causally work-related injuries. These are lifetime with no deductibles. She also stated that benefits for injuries are paid at 66 and 2/3% of the average weekly wage, and at 500-700 weeks.

Manual processing continues for non-mapped bill payments, and bulk paid pharmacy claims, as well as litigation. Users get quarterly releases on the PCIS Claims Vision RMIS system, as well as IT interface functionality.

There are temporary employees working on WCA and Section 111 Medicare issues reporting to Centers for Medicare services.

Genex is the medical bill reviewer resulting in significant savings utilizing PPOS and maximum allowable fee schedule.

There are currently eight adjusters and four support staff. Litigation files are assigned to a contract counsel; however, many claims remain in-house. Severe claims are assigned to Medical Case Management to obtain maximum medical improvement and subsequently, claim closure.

Insurance premiums are based on a five-year loss history and subject to laws and regulations.

Board Chair Costantinidis asked about the claim volume and stated that she would like to see claim volumes in real time and asked for an update on volume at subsequent meetings.

7. PROPERTY AND CASUALTY BUREAU

Rod Crawley spoke to the Board concerning the Property and Casualty Bureau and stated that the Bureau was created under Statute 41-4-23 and Section 13-5-1.

Mr. Crawley stated that everyone is treated with equity even though the Bureau is responsible for a large group of claimants. He then stated that the Bureau is now almost at 100% paperless.

Mr. Crawley addressed the consistent application of the certificates of coverage and stated that he has trainees review the certificates to see if they can locate any discrepancies in the certificates, to ensure accuracy. There are currently five multi-line staff adjusters and one Business Operations specialist working on claims.

The Bureau also works through outside vendors including AIG to expedite catastrophic claims. In addition, the Bureau educates the agencies on insurance processes, to ensure accuracy and adequate coverage.

Starting with FY24, advertising through RFPs are ongoing with regard to outside independent insurance adjusters, as all current contracts expire June 30, 2023. Currently there are only two active insurance adjusters working for the entire state, which is causing a backlog.

Mr. Crawley stated that as of April 12, 2023, there are currently 1486 claims submissions. The claims submissions previously were approximately 1000 claims submissions. There are 2866 open claims files, to date. Five years ago the average daily claims count was 1200-1400 open claims.

There has been a significant increase in civil rights complaints, now at 1021 open claims. He speculates that some of this may be attributed to HB4, passed last year.

There are currently 1249 General Liability claims files, and 86 Open Property claims files. The Bureau is nearing settlement concerning the PHI helicopter crash at UNM in 2014 for damages and subrogated against PHI. RMD will receive approximately \$400,000.00 in reimbursement from the subrogation. PHI will continue to pursue the helicopter manufacturer for damages.

8. LEGAL BUREAU

Jacob Maule, Legal Bureau Chief discussed the co-sponsoring of the annual CLE seminar, and partnered with the Defense Lawyers Association. He discussed the possibility of mini-seminars throughout the year, as case law develops, to counsel throughout the State.

The Legal Bureau is currently advertising for contract legal services. These contracts are four-year contracts and went out for advertising on April 7, 2023, and contracts will be awarded May 7, 2023. The Bureau has increased the rates to correspond to industry standards. Paperless amendments are being introduced. Six firms over the last year have closed or merged with other firms. 850 claims are in active litigation, and there are 45 cases per month being filed with the Courts. Many of the claims are being filed by out-of-state firms. In addition, prior to 2019, New Mexico Department of Corrections were handling claims in-house, and they are now referring cases to us. Numerous cases are being filed by pro-se inmates.

Chair Costantinidis asked how the surrounding states influenced the overall number of claims.

Jacob Maule stated that New Mexico does not have the same protections the other states have and this allows out of state attorneys to open offices in New Mexico, and this allows the in-state attorneys to bring in the out of state attorneys pro-hac vice, and this allows for more cases filed in the State of New Mexico. On a positive note, the total number of claims have decreased.

Currently we have 25 contract firms that can take on a variety of cases. The Bureau is being cautious with regard to expenditures, in order to make it through the end of the fiscal year.

Civil Rights and Medical Malpractice cases are driving the increase. Potholes around the State are driving up the auto claims to include a high number of catalytic converters, and subsequent claims. Approximately 60 State vehicles have had their catalytic converters stolen, at an average replacement cost of \$1435.00 each. There are some fraudulent claims that have come in, as well.

Jacob Maule stated that the public liability fund is nearly exhausted. Approximately 28 million had been allocated. To date, \$27,804,137 has been expended. \$10,000,000 has been requested and is expected to be released, to finish the fiscal year.

The Bureau has lost one attorney, and he has been replaced. A Paralegal position has also been advertised due to one retirement.

Chair Costantinidis asked where the \$10,000,000 is coming from. Markita Sanchez answered it's coming from the public liability fund. The Chair then reiterated that all policies and regulations of Risk Management are to be reviewed by the Board. The Chair then asked if there was anything the Board could do to reduce the tort claims coming in, with regard to regulations and/or policies, to line up with other States. Jacob Maule answered that the changes would have to be within the Tort Claims Act, and the maintenance of the building waiver.

Jacob Maule then discussed the improper release of an inmate by NMCD, who then committed murder in an adjacent county. The Criminal Court Judge found that the inmate had been improperly released early, which fell under the operation and maintenance of a building waiver, and thus NMCD was liable. This now encompasses anything that can be attached to the operation of a building.

Chair Costantinidis then asked Secretary Doucette if the Board holds the power to suggest changes, if they can then do so. Secretary Doucette stated definitely.

It was then noted that Charlene Urban and Mary Jo Lujan, both with RMD, have retired. The Chair then thanked them for their service, on behalf of the Board.

9. PUBLIC COMMENTS


None.

10. NEXT MEETING—September 28, 2023.

11. ADJOURN

With all business concluded at 3:00 p.m., the meeting was adjourned.

Signed and approved:



Teresa Costantinidis, Chair

RISK MANAGEMENT ADVISORY BOARD

October 19, 2023
Via Microsoft Teams

1. CALL TO ORDER

The meeting of the Risk Management Advisory Board called to order at 2:14 p.m. Teresa Costantinidis, Chair. The meeting was held via Microsoft Teams.

ROLL CALL

Roll call indicated the presence of a quorum as follows:

Members Present:

Teresa Ann Costantinidis, CFO of UNM
Alice Kane, Superintendent of Insurance
Cecilia Mavrommatis, Department of Finance and Administration
Rennette Apodaca, Designee for CFO of Albuquerque Public Schools
Carla Smith for Raul Torrez-Office of the Attorney General

Members Absent:

Michael Byrd, Insurance Agent
Raul Burciaga LFC Director
Carla Martinez for Raul Torrez-Office of the Attorney General
Quinn Lopez, Attorney
Anita Schwing

Others Present:

Robert Doucette, Jr.-Secretary-GSD
Jennifer Catechis-Deputy Secretary-GSD
Jacob Maule-Acting General Counsel
Markita Sanchez-GSD
Gerardo Ruelas-GSD
Joseph Simon, Department of Finance and Administration
Senator Pat Woods
Rick May-Policy Director for House Republican Leadership
Brad Matthews-GSD
Sharon Alexander

A Quorum was present.

2. APPROVAL OF THE AGENDA

Approved.

3. APPROVAL OF APRIL 20, 2023, MEETING MINUTES

Approved.

4. THE ROLE OF THE RISK MANAGEMENT ADVISORY BOARD

5. UPDATE FROM CABINET SECRETARY ROBERT DOUCETTE JR.

Robert Doucette Jr was confirmed last March. Last month they had the LFC interim hearings. Article in the Albuquerque Journal last Sunday and he would like to discuss three points from that article. LFC asked the Department to review the Risk Management Bureau. The last time a review happened was in 2005. Working with the LFC and DFA it was a good report. They pointed out some things that the last few years that we haven't given the elected officials anything paid over \$1,000. That is true, that hasn't happened in the last 3 years. Those reports will be done by December. GSD hired Jeanette Chavez as the Risk Management Director. She worked for the City of Albuquerque and has extensive experience. The article mentioned the Sunshine Portal and GSD not adding to it, there is not a law that states that the Department must add to the portal. The governor wants us to add to the portal. Secretary Ortiz wrote a memo stating that on the 1st and 15th, it should be updated. In the past the Department had directions to not put any children or vulnerable adults on the portal. The Department is having internal discussions on how to go about that while being transparent. The other big point of the interim hearing was health benefits and the fact that GSD is \$134 million in the hole. The Department will let the Chair of the Senate Finance and the Chair of the House of Representative at the beginning of the session what exactly that is. The Department increased all state employees by 10% on their health care benefits as of July 1, 2023. The Legislative Public Bodies will be raised by 10% also. For the session other than health care benefits, it does not seem GSD is not pushing any legislation. Nor does the Department know of anything on the Governor's call at the moment, however that could change. If that does change the Department will let the Committee know.

6. QUESTIONS TO THE CABINET SECRETARY:

Carla Smith: I know that the governor wants to have Sun Portal out and be transparent. What if people don't want to be on this portal?

Cabinet Secretary: All this information is IPRAable by law. Anyone can ask for this information; we will give that information. We're talking about anything we pay out because of a lawsuit or settlement.

Carla Smith: What if people don't want their employer known for safety reasons?

Teresa Costantinidis: The spirit of the IPRA law in NM is that public records are public, and the public has a right to seek them. If there are safety concerns, then legal review can happen as to whether releasing would be done.

Cabinet Secretary: If a judge seals a record, we cannot put it in on the Sunshine Portal.

Carla Smith: So, the employee needs to legally go through a judge to seal the records?

Jacob Maule: This is public monies being paid and publicly accessible. They would also be reported to the Legislature in our annual report. That is anything over \$1,000, and that is statutorily required for us to do. If someone has received these monies, they would need to go to court and have a judge grant them some type of protection order to seal those records.

Apodaca: Did the State receive any federal funds to help with the 134 million?

Markita: I believe we received a couple of appropriations during that time. One was ARPA and the other was not. It was about \$25 million in total.

Rick May-What was the role of this advisory group in looking at that shortfall and whether the advisory group made any recommendation or suggestion of how that shortfall could be addressed or how it could have been avoided in the first place?

Markita: I do recall in FY 19 we were 2 million short, and we were watching it slowly go into the negative. Our request for increases was not taken into consideration at that time. In FY 22 that is when the Covid invoices started to hit extremely fast, and we were trying to process the payments. We worked with DFA to get those payments made through SHARE so as not drop coverage or leaving anyone in limbo without coverage. We did all we could. I know we were talking about different strategies when John Ortiz and Randall Cherry were involved but nothing was ever pursued. We are still working on long-term plans, it's essential that we increase premium rate contributions every single year. I think that the 10% from state employees and 10% from LPB's will help.

Cabinet Secretary: There were two proposals last year, before I became Cabinet Secretary. One that came from the Governor's office to fill the 90 million hole and the other one that was accepted for HB2. That gave the Department a certain dollar amount and told us that we needed to go to LPBS for that fiscal year FY23. As Cabinet Secretary, I will make sure the committee has the two proposals and my thoughts on each of them.

Rick May: The problem is that the time that elapsed when there was a shortfall and the Governor's office lack of concern over that shortfall. There is also the concern that since there insufficient dollars coming into the fund from employee earned employee contributions, dollars were outflowing from the fund in which there was really not a cash balance any longer. Who gave the approval or the authorization to utilize money out of the state treasury without official appropriation. Taking money out of the treasury without proper appropriation is not only inappropriate but also illegal. How did the shortfall occur? How did the money come about to be available in order to pay payments when there was no cash in the fund to pay?

Teresa: The meeting of the Advisory Board there are minutes and a record. While it was still under the purview of RMD, the Advisory Board did ask for updates as to what was happening. The role

of the Advisory Board is not to make decisions but to provide advice. I don't have the minutes in front of me, but I recall that the advice was to do something either a premium increase or something in order to address that shortfall.

Rick May: Part of the concern is the lack of understanding and the provisions of HB2. The members I represent never understood for whatever reason, that a provision in HB2 meant that local governments and other employers are going to be forced to pay \$32 million and the end of the fiscal year. Why did they stick this bill at the end of the fiscal year. They had no idea what they were approving. This is a very big issue for my members and should not be downplayed as an accounting error or as an accounting problem to them. This is a real policy question.

7. JENNIFER CATECHIS-HEALTH BENEFIT TRANSITION

In the 2023 legislative session the legislature created the Healthcare Authority of the Healthcare Department. This will move several healthcare benefits organizations into one entity. The Department has been working weekly with the HCA to make that transition as smooth as possible. Providing them with information on the infrastructure that our EBB has, including functions of the staff and operating budgets. We are working with them to determine how we get as clean of a budget for them to start the new fiscal year. We've included them in the RFP process and taken into consideration some of the things that they want including vendors, employees and the processes that go along with that.

The IBAC RFP should be published today by statute. RMD has to be part of that RFP but the healthcare authority does not. However, when the transition happens it will be subject to that standard.

Questions:

Teresa: Is this considered an RMD contract, or would it be with the new entity?

Jennifer: With the IBAC statute the RFP goes out and it is entered as RMD contract as the statute states that APS, Nimsia, Risk Management and Retiree Health are all part of IBAC. Once the RFP is out there and proposals all are received then it is up to each individual IBAC to determine whether they enter into contracts and accept proposals.

Teresa: As a reminder, the statute gives the powers and duties of the RMAB to review all profession service and consulting contracts. This sounds like a professional services contract. If this is a professional service contract, then before it gets finalized it needs to be shared with the members of the Advisory Board.

8. BUREAU CHIEF PRESENTATION: GERARDO RUELAS AND MARKITA SANCHEZ – FINANCIAL BUREAU

PowerPoint presentation:

State Unemployment Estimated Cash Balance as of 06/30/23.

Ending balance FY22 column 13,073,000.00. Remember all this was happening during Covid.

We didn't invoice anybody for unemployment claims because the ARPA money covered those. You will see very little revenue coming in at the top part of the presentation. The fund was healthy enough to pay for all the claims that were reconciled with the DWS. The fund ending balance for 2023 will be 8 million 455.3. Starting out for fiscal year 24 our projection shows a growth to 13 million as we can start invoicing entities again. These numbers are all pending in our audit and have not been approved yet. I worked closely with ASD to get the most accurate numbers. You will see at the bottom of the 2023 column, and you will see outstanding liabilities. These will be booked in our audit for 4 million 664 which will leave the fund in a positive balance of \$3,000790.00. State unemployment consists of state agencies and public schools.

LFB Unemployment Estimated Cash Balance as of 06/30/23.

The fund balance is positive at the end of 22 and it remains positive at the end of 23. After outstanding liabilities, the projection will be 1.6 million. These are just projections as it depends on the unemployment rate and being able to invoice and getting back to normal after Covid.

Public Property Fund Estimated Cash Balance as of 06/30/23.

This fund is fairly healthy with a ending balance of FY22 with a little 16 million. The unaudited estimation of FY23 is 15 million. The outstanding liabilities is 8 million which would leave the estimated fund balance at 6.9 million. Property claims get settled rather quickly. So the projected fund balance for FY24 is 16 million but there aren't any outstanding liabilities to change that number.

Public Liability Fund Estimated Cash Balance as of 06/30/23.

Public Liability FY22 the end fund balance is 53.4 million. FY23 estimated ending cash balance is 43.2 million. The outstanding liabilities are large for this fund because of the case load that is pending at 99.2 million which would leave this fund -49 million. This fund gets looked at closely because of the caseload. We are working with an actuary to implement some solvency.

Questions:

Teresa: Can you explain a little bit more about what kind of activity would give you more solvency?

Markita: As for solvency we implement a small percentage increase to premiums going forward for the next 5 years until we see that we raise that percentage to at least 50%. We have never been fully funded for all of these outstanding liabilities; we just try to maintain to pay the claims.

Teresa: Worse case scenario is that we would pay out the \$92 million but from what I understand that we only expect to pay half of that. So, we going is increase the premiums to generate a little more but we will never expect to pay 100% of the total?

Markita: Correct.

Worker’s Compensation Fund Estimated Cash Balance as of 06/30/23.

Worker’s Comp FY22 ending balance is 38.7 million. FY23 ending balance is a little over 40 million. Worker's Comp is for life so you will see high outstanding liabilities. Which makes it harder to project for this fund. We are hitting our target, but you’ll see it slowly decline.

Cabinet Secretary: The Worker’s Comp Administration is currently working on a contract to hire a TPA and a PBM. Currently, we do the work in house. We are going to go out for a RFP to see if it might be better to send it to a third party or keep it in house.

Theresa: Could you spell out the acronyms TPA and PBM?

Markita: TPA is a third-party administrator and PBM is pharmaceutical benefits manager.

FY24 Health Benefits

This is an estimate that has not been audited yet and each month going forward this is a 5-year average after October and our estimated FY24 ending balance would be 145,203,000. This fund gets monitored closely and it looks like the premium increases are helping a little bit. The Department is working with HCAD and their plans to figure out how they will get in front of it. We are also hoping that we can work with DFA and LFC to get it resolved before it rolls over to HCAD.

To help answer Mr. May’s question when we were executing this the fund was not going negative quickly. It was at negative 5 million and the Department thought we could manage 5 million, However, Covid hit, and we did not have 55 million in a contingency fund. The major goal of the Department was to not breach contracts and drop benefits. Health Benefits is an expense that is ongoing and recurring and should be funded that way. All of the funds have taken a huge hit because of Covid.

9. JACOB MAULE RISK MANAGEMENT:

Sharp increase since the beginning of the pandemic, double the number of claims that were received prior to March 2020. Since March of 2020, we have seen an average of 30 new litigated files per month, with an average of 2400 claims and litigated files. Those numbers do not seem to be slowing down. Today, the caseload sits around 3,000 total claims and litigated files. Previously out of 2400 files we would have 350-400 files that were litigated. Currently, with 3,000 plus files we have over 1,000 that are litigated files.

New Mexico Civil Rights Act is the largest settlement that we have engaged with. That case resolved at \$8million right before the end of the fiscal year. With this Act it does not seem that the number of claims and severity will go down. With the New Mexico Civil Rights Act the amount of recovery is increased for cost of living. Currently, the total cap has increased by \$300,000 and those numbers will increase.

Teresa: When we do a deep dive into the Legal Bureau in March we would love to see how those numbers compare to prior years.

Rick Mays: Could I ask Teresa a couple of questions of how those discussions with DFA were conducted about how the cash was provided to make up for a shortfall? Is it something that GSD initiated or someone from the Governors office initiated?

Markita: I take my guidance straight from DFA.

Rick Mays: So who approached who about that fact there a cash shortfall in the fund and in order to not cut off benefits? Who gave the approval to provide cash out of the state treasury?

Teresa: The Risk Management Advisory Board was not at all involved in any of those kinds of activities or discussions. You will want to follow up with the division to find out how the process actually worked. The kind of report you saw today is the type of report that was presented to the board in the past as a year end. When I first started in 2019/2020 there was a positive balance. All of this happened pretty quickly and during a pandemic. Those type of questions needs to be followed up with the Division.

Rick Mays: Madam Chair, just so you're aware, Representative Chatfield and Senator Woods has sent a letter to the Secretary asking those questions of both DFA and GSD and to the state. We have not received a response to either of those letters.

Teresa: That is something the Division needs to follow up on. Do we have any other questions for the presentation on the Finance Bureau?

Question: I had a quick question about the health benefits sheet at the end of the packet. I'm wondering about the \$133 million number on here repeated, did you say that included IBNR?

Markita: Yes

Question: Is this inclusive of anything that was received of the special appropriations?

Markita: Yes

10. BOARD DISCUSSION ITEMS:

None

11. PUBLIC COMMENTS

Jacob Maule: In the March Advisory Board meeting we engaged the new legal services RFP to contract with new law firms throughout the state. That was executed and we have new contracts with several firms throughout the state. We are getting ready to go and do another RFP for legal services. We received fewer responses than in past years, given the number of cases we have received. We are going to advertise more widely than done previously.

Teresa: I think that's wise. These are things I love to hear about so that we can monitor that. We did realize that legal needed help to clear out cases.

Jacob: Two things that are changing for this new RFP to try to entice more firms is increasing the total compensation we are offering. The top number will be \$225 per hour and the administrative changes.

Teresa: We do have the role of the Board to review consulting contracts. We don't look at them all the time. Does the Board want to review? No. Any other issues or topics for the good of the group?

Pat Woods: Thank you for the opportunity to sit in on the meeting today. What I find startling is how poor reserves we have in the funds. We know as we escalate the demand on the risk funds, we are going to have to increase those reserves. Do you as advisors bring forth a request to increase those reserves amounts for these funds or is that out of your purview?

Teresa: The Advisory Board would weigh into the Division and say to them "these seem low you should request additional funding"

Pat Woods: If you saw this problem, would be part of your responsibility to speak up about the problem?

Teresa: Absolutely.

Pat Woods: The reserves are really low on many of these funds.

12. NEXT MEETING—November 16, 2023.

Alternative Dispute Resolution Team and Loss Control

13. ADJOURN

With all business concluded at 3:07 p.m., the meeting was adjourned.

Signed and approved:



Teresa Constantinidis, Chair

RISK MANAGEMENT ADVISORY BOARD

**November 16, 2023
Via Microsoft Teams**

1. CALL TO ORDER

The meeting of the Risk Management Advisory Board called to order at 2:01 p.m. Teresa Costantinidis, Chair. The meeting was held via Microsoft Teams.

ROLL CALL

Roll call indicated the presence of a quorum as follows:

Members Present:

Teresa Ann Costantinidis, CFO of UNM
Carla Smith for Raul Torrez-Office of the Attorney General
Anita Tellez-for the Office of the Superintendent of Insurance
Cecilia Mavrommatis, Department of Finance and Administration
Rennette Apodaca, Designee for CFO of Albuquerque Public Schools
Raul Burciaga-Director of Legislative Finance
Michael Byrd-Insurance Agent
Anita Schwing-CFO of Local Public Body

Members Absent:

Quinn Lopez, Attorney

Others Present:

Robert Doucette, Jr.-Secretary-GSD
Jennifer Catechis-Deputy Secretary-GSD
Jeannette Chavez-RMD Director
Jacob Maule-Acting General Counsel
Markita Sanchez-GSD
Kimberly Ulibarri-GSD
Joseph Simon, Department of Finance and Administration
Sharon Alexander-Meeting Facilitator
Grace Philips-General Counsel for NM Counties

A Quorum was present.

2. APPROVAL OF THE AGENDA

Approved.

3. APPROVAL OF OCTOBER 19, 2023, MEETING MINUTES

Approved.

4. THE ROLE OF THE RISK MANAGEMENT ADVISORY BOARD

5. WELCOME TO RMD THE NEW DIRECTOR JEANNETTE CHAVEZ AND INTERIM LEGISLATIVE UPDATE FROM CABINET SECRETARY ROBERT DOUCETTE JR.

Jeannette Chavez has been with RMD for about 3 weeks. First time we have had a Risk Management Director for quite a while. We are still looking to hire a General Counsel; Jacob Maule has been doing two jobs. He has been filling the shoes of interim General Counsel and head of the Risk Management as Chief Legal Counsel. We are hoping that this will take a little bit of the workload off of him. We took our time to hire, we did not want to hire someone to hire someone. Since the last meeting we've been in the papers fourteen times or so.

The general update on the Sunshine portal is that on November 3rd we updated 30 plus cases that were not posted at the time. These cases were mostly of children and adults with diminished capacities. RMD will be doing a deep dive audit to make sure we haven't missed any cases; this will go back to all the way to January 18. We posted the IPRA link on the Sunshine Portal to make it easier for the public to request any documents from the department that they can't find on the portal.

Update on the Legislative Finance Committee: We asked the committee for \$160 million, which is what we know for a fact is the shortfall for FY 23 budget. There wasn't a lot of push back since we have been talking about the shortfall for a while. We are still working on numbers to see if we will be asking for 210 million in January or 150 million for our budget in January. On July 1st we implemented a 10% increase for all state employees for their healthcare benefits. Last week we met with the Local Public Bodies explaining that they will need to pay 10% more also. It was asked why 10%, as explained to them that is the maximum amount allowed to raise it. The concern with HB2 was that we did not give them enough time for LPB to pay as much as the state employees. We are working weekly if not daily with Secretary Armijo, transferring to this new entity. Jennifer will get more into that when she gives her update. In our committee we asked for a little over 2.5 million, that is what we are short in the life insurance portion of our benefits. Currently, the State pays 100% of that benefit.

I want to thank you for the last meeting we had and to steer the meeting back to what the meeting should have been about. I appreciate the Board and Madam Chair for doing that.

6. QUESTIONS TO THE CABINET SECRETARY:

Teresa: I wanted to ask the number that you mentioned in the beginning that you asked for, the \$160 million is that number entirely related to health benefits or is that a grand total for all of the accounts. One of the issues that was raised in the last meeting was that the Advisory Board should

be looking at all of the different bureau accounts to make sure that there is sufficient balances in all of them.

Secretary: It's for health benefits, we are short around \$69 million for that fund. The bills for most health benefits do not come in for 3 or 4 months after claims are made. We are projecting by FY24 there is going to be another +-80 million dollars that will be short for the health benefits. Our goal is that when this new entity for health benefits starts with a zero balance, we do not want them to have to go back and try to make up for a shortfall.

Rennette Apodaca: Does RMD have an actuary who helps you with projections or do you work with anybody for that?

Secretary: Yes, we do. Am I happy with it? The honest answer is no. The RFP will go out again in a year. Joey Simons from LFC has been very helpful to us in this process also. This is the first time in my career that the LFC and DFA representative has worked very well with the Department. This has been a team effort to get where we need to get it.

Rennette Apodaca: How often does the Department meet with them as far as like with projections or changes in the market?

Markita: Currently for Workers Compensation, Public Property and Public Liability we have an actuary named Aon Insurance West, they have been our actuary for quite some time. We transitioned to a new system during Covid, which has been difficult getting back on track and getting our information the way that we used to have it. The actuary does not work on the health benefits fund, as it is a trust fund. Meaning, it's premiums in and costs out. There are no investments, we do get interest on the balances from the bank. The only thing that goes into that fund is the premium contributions and anything that is legislatively appropriated.

Rennette Apodaca: Here at Albuquerque Public Schools, we are self-insured. We have an actuary that we meet with quarterly for our medical, dental and vision. They help us with trend analysis, looking at trends with our claims, trends with the market and prescription costs. We have found it very helpful to us.

Markita: We have also have a consultant for health benefits, and they do the same thing for us. The difficult part is that we didn't raise the rates.

7. JENNIFER CATECHIS-HEALTH BENEFIT TRANSITION

The transition to the Health Care Authority is going well. We do speak daily if not several times a week with them. We are starting to have preparatory meetings in anticipation for the Authorities first LFC budget presentation. They are coming up with a general communication plan and working on branding organizational charts. They have started working on the languages to change to make sure that things don't drop through the crack as they set up for full lift off on July 1, 2024. We have kept them in loop of the IBAC RFP process, since the RMD, Employee Benefits Bureau is statutorily required to participate in. We have kept them abreast of what is going on so that they will be able to take over health benefits starting next fiscal year. They have been a fabulous team to work with. They are inquisitive, kind, intelligent and well thought out

and well versed in a lot of areas. It is going well and I don't see the meeting or collaboration slowing down anytime soon.

8. QUESTIONS FOR JENNIFER CATECHIS

None

9. RISK MANAGEMENT ADVISORY BOARD HAS NARROW FOCUS-TERESA CONSTANTUNUDUS

The RMD Advisory Board has pretty narrow charge. Our role is to provide advice to the Risk Management Department on aspects of insurance, contracts, any negotiations, any new rule making, certificate of coverage. The Board weighs in on any new certificates that come in. However, we are advisory. We do not have approval authority. To that note, we want to keep tabs on the basic functions of each Bureau. In each quarterly meeting we will focus on a function of a particular Bureau. Today we have the Alternative Dispute Resolution and Loss Control and the functions within RMD.

10. BUREAU CHIEF PRESENTATION: KIMBERLY ULIBARRI- ALTERNATIVE DISPUTE RESOLUTION AND LOSS CONTROL

My name is Kimberly Ulibarri and I think I am about a month into the position so please bear with me. If you ask me the hard questions, hopefully I will get the answers and be able to learn. I was hired in October 2023 after the retirement of a long-term director. Coming into the Organization has been very exciting. We think this is an exciting time for the Alternative Dispute Resolution Bureau and Loss Prevention Bureau, which are being merged in some respects. We are still waiting for clarification and finalization on that. Today, I prepared a short PowerPoint presentation with some of the ideas that we have for the Bureau.

PowerPoint presentation: Slide 1: Hopefully today we are going to ride you through calmness and not chaos today. Coming back from the pandemic was difficult for some employees. A lot of people are back in person at the office as of this year and we are really looking at some changes that need to be made.

Slide 2: Our team is Markita Sanchez, our Deputy Director and Jeannette Chaves our director. We have Stephanie Ortega who is a program coordinator. Abril Trujillo who is a ADR program coordinator and Matthew Montoya who joined this program this year in loss prevention.

I will just ask a quick question, and no one needs to answer but how many of you remember your first days at school, when you were starting kindergarten or first grade? I know I do, and I hated it. We are never taught going into school that these whole relationships carry you throughout your career. We are not prepared to go into the workforce and build relationships with the people around you.

Slide 3: The agenda today is observations coming into the new program. The vision, development, planning, resources and hopefully staying on course so that we can see some changes within the ADR Bureau.

Slide 4: Observation. Part of the observation in my first few weeks here was really trying to connect the dots and see how we fit into the bigger scheme of the General Services Department. The money that is expended from the Agency for loss prevention pieces and workforce complaints. How do we try to control that? This has been a hard task because a lot of people concentrate on the mediation part of the program, which is a good piece but nonetheless a piece of the program. Loss prevention is also another piece of the program, and we need to wrap our heads around that so we can understand how that all works. We will look at new ideas, development, planning, timelines, training on all levels, implementation, deliverables to lower risk, evaluation, and resources.

Slide 5: Wha does this mean in the GSD world? What is the ADR and Loss Prevention Bureau's connection to expenditures for risk management? We are really going to concentrate on training and restructuring, how do we do business in these two bureaus?

Slide 6: Markita will talk about some of the losses the agency faces and how we can maybe help in that area. Markita:

Looking at the graph which includes all lines of coverage. You are not just looking at any one line. When you look at some of these agencies and the total amounts that they are paying on claims is astonishing really. What we really want to look at is what is going on in these agencies. What are they facing, what are they facing on a day-to-day basis. What kind of training do they need? How can we help them get through this? How can we help them identify these problems? Focus on training, and getting people in their organizations, like loss prevention contacts, coordinators and ADR coordinators. Getting these people involved knowing how to identify risk and training others on how to identify risk and keep those costs down.

Slide 7: These are some numbers for the FY23 for mediations and trainings. You will see that we are a very small piece of the agency. The goal is to really expand the program and turn this program into a program-based program. Having 2 program-based programs. We have a couple of contracts that are already out there. Not much spent on those contracts for communication skills and training. We had 21 mediations scheduled, 19 of those completed, 2 cancelled. 54 mediation inquires and some trainings throughout the year, which targeted 1572 attendees. That is a small sliver of state employees that the Bureau reached last year. The classified service personnel system consists of approximately 18,000 state employees from approximately 68 agencies. That is just a drop in the bucket for state employees. So, what does this mean?

Slide 8: What is the vision for these bureaus?

Slide 9: We are under construction right now. The ADR and Loss Prevention bureaus are totally under construction. We are keeping things that are already in place like trainings that have already been scheduled. We are also looking at some other ways of making that house a little bit

bigger and making a bigger impact within the Agency. We need to look at some of the things that are timely right now. Coming out of Covid there is a change in the workplace. Employees are back to work full time, old issues that were unresolved prior to the pandemic. As well as new issues that have arisen since then. Employees were displaced and new co-workers may have taken over. New faces in the office and old faces may just be gone. We recently had an LFC program evaluation and the rising claims that have come into the agency. So how do we reinvent? How do we adjust? How do we avoid the point of no return? What is within our realm? What does the ADR Bureau and the Loss Prevention Bureau have?

Slide 10: What is our goal and are we ready for the long haul? I'll tell you right now, I am ready for the long haul. I have an 8-page project plan to help us get there. Moving ADR forward and long-term projects. I have talked to Jeannette and Markita about what we really need to imagine and reinvent communication internally. ADR coordinators should be placed in every agency to really deal with some of the issues that employees are facing. We also have contractors that we use for mediation and facilitation. We do have mediators, coordinators and facilitators in a lot of these agencies. However, we see that there isn't a connection between them and the employees. They should be your first contact in an agency when you are facing some type of situation in your agency. We are going to start working on connecting the mediators and coordinators together, so they have a greater base within their agency. We need to hone in on how we train them and how we connect them. On November 30th we are going to launch quarterly meetings with all the ADR coordinators and with all the mediators. We want to connect them in ways they have never been connected before. We should never get a case that comes to mediation, we should get a case that somebody sees within their agency. I want to call them Johnny on the Spot, they can quickly know what is going on in their area and help them move forward to resolve a situation or get them support. That is going to take a lot of training within the agencies, a lot of recruitment and having those hard conversations as to are these really the people we want to see in the role if we haven't seen results? We want to create a broader base of coordinators within our agencies, we also want to review our contracts with our contractors. Are we really getting what we need from them? Are we getting the deliverables? Are we getting the measures? Are we getting reports back on how their training is affecting people? We want to keep what's in place right now because we don't want to leave people wondering what's next. We want to start training from the top up to the bottom down and that will take a long time. We want to revisit old inquiries to remarket. We need to create new marketing strategies. We are the People's Bureau; we are the bureau for State employees. Do they know that? How do we get them to know that? How do we bring it to them? We need a robust data collection system. Right now, things are being housed in different areas and it is difficult to capture that data. We want to capture all the data not just for mediation or requests. We need to capture everything that comes out of the Bureau. Rebranding as we merge the two bureaus together, what does that look like? We need to help them understand what the Bureau does and what loss prevention means. How do we help them and how do we get your agency to look at those things. Giving the power to talk to your agency about that.

Slide 11: Short-Term Projects-Open house late winter in February 2024. We put a halt to the symposium for now and training mediators so we can get those groups together. Having state employees to our agency and have them connect and understand what their role is and what is offered to them as a state employee. We want them to mingle, ask questions and be curious about us. We want to create scenarios at this open house to show the kind of things that are challenging in the workplace.

Slide 12: As for Loss Prevention, we want to train people and help them understand how they can prevent loss in their agency. We want to focus on mitigation money that's available to agencies. Most agencies don't know what is available to them. We want to make sure that they are aware of some of the resources and help them utilize them. We are going to start one on one calls with ADR coordinators so that we can check in and understand if there is anything we can do to support them. Yesterday, we had a call come in from somewhere in the state that was having some sort of issue with training. I said let's make a call to them. Let's make a personal connection. The feedback was that "wow, in 22 years we've never had a call, we really appreciate that". This is a big task.

Slide 13: I came in with my eyes wide open and I have a vision. This will take a lot of resources. Building a program equipped with adequate staffing that is focused on program development. Program development is not easy. There are steps we need to take; we need to look at the intricacies. We need good program people that understand program development and how to implement it. We need more coordinators. We also need a data analyst. We need a robust way to capture data from the very minute of those stale inquires to the larger projects. We want a staff that will cover regions of the state. We need to be thinking of areas outside Santa Fe, Las Cruces and Albuquerque, to those rural areas. These employees should be able to get the same resources and materials all state employees get. We want to train the current staff. It's hard to shift course when you're comfortable with what's being done and how it's being done. We want to enhance what knowledge they have. We want to start to give them different ways of looking how to do the program. We need money for quality marketing and campaign materials. We need to review the legislation and prepare concise directions for all agencies. We want to contract with entities that can provide high level training in Restorative Justice and other resolution models. Restorative Justice really looks at an entire group of people. When we get a mediation referral those are not the only people affected by the situation. You are going to have the person that hears the gossiping outside and how it affects them. Maybe they don't come out of their office, maybe they don't want to come to work because they don't want to deal with that. Restorative Justice looks at the broader picture. We will start some training in December for that. We want to work in a proactive way and not a reactive way.

Slide 14: Timeline-it's not going to happen overnight. Projects take a long time to get up and running. We need some time to get our feet wet and that's FY24 but will cutting it close. We need to do some intense training, our open house and conducting our one on ones. We need to develop a baseline year in FY25. We need to know where we are at. We want to know what we want to capture and then in FY26 we'll have a second year of data and full implementation on

both sides of the program. Then in FY28 we get to go back and see where we are at and adapt, find out what we need to change and where we really need to look at to make changes to keep the implementation schedule.

Slide 15: “The way to get started is to quit talking and begin doing” Walt Disney. We’ve already started doing it. There are things we have started doing as of October 2023. The Bureau is screening mediation requests to assure all stakeholders are involved. Quarterly meetings with ADR coordinators and mediators that will begin November 30, 2023. Loss prevention quarterly meetings that will begin in December of 2023. One on one calls to begin with mediators and coordinators in December of 2023. Stale inquiry calls begin late October 2023, to reignite awareness of the process. Training in restorative justice model will take place December 1, 2023. The reviews of statutes and NMAC have already begun along with making plans for rulemaking process for ADR. I welcome any questions now.

11. QUESTIONS ON THE PRESENTATION:

Raul Burciaga: I have a question on I think slide number 6, I can’t tell where a number or bar falls on the chart. It looks like it falls between two agencies. More to the point, is there some assessment being done or going to be done on those high-cost outliers that are over \$500,000 or \$600,000? Some of them seem to come from UNM, NMSU or and I can’t tell if it’s the Governors office or NERD, DOT or Corrections. I’m wondering if some focused review on those would prove helpful. Will you be targeting the high-end losses that we are looking at?

Jeannette Chavez: I can answer that. I will also have Jacob Maule help with the answer. We are well aware of the different divisions and agencies that have high loss runs. There are extenuating circumstances for some of the large losses. We will do what we can to access it and look at the trends. It is hard to figure out what will happen in the future, but we have had some very bad exposures out of these agencies that may or may not have been preventable, but we have to deal with them at this point.

Jacob Maule: We are looking at you know, different types of rulemaking that we can engage in on the risk management side as to how we can tackle some of these high losses, some of them considered shock losses for the year. Depending on different circumstances we are looking at providing tools for us to be able to utilize when we are having these kinds of losses from specific agencies.

Teresa: I have a question, maybe it is more of a comment. So as I was listening to the presentation and I also really appreciated it, I love the enthusiasm behind it and the strategic approach to trying to be effective. I hadn’t known about the combination of ADR with some loss prevention. I saw the need for a data collection and data analyst, but with the sum of total paid we need to be measuring right away and determining whether all of the training, all of the contents, contacts, those kinds of things are actually being effective. Both input of the numbers but also the output of the program. If the outputs are the number of cases, size of the cases, or the size of the departments.

Kimberly: We are already doing that. Any call that is being made right now, any communication, we are starting to capture that. We don't have it in a system, but we are capturing it. It is still in the old system, if we made a call, what date the call was made, what did it result in. We are doing this on every level to start to capture the data. We won't be just recording training and mediation; it's going to be anything else we do so we can build up that base of information. And I do want to address the gentleman's question with these high-risk agencies, that's another goal is really placing in these high-risk agencies more than one coordinator. We would look at these high-risk agencies to place 5, 6 or 7 coordinators to make a bigger impact on these agencies. We are looking at expanding so that more employees know who we are.

Teresa: With the data you prove that it is effective. I think you need that data to prove the effectiveness of the program.

12. BOARD DISCUSSION ITEMS:

None

13. PUBLIC COMMENTS

None

14. NEXT MEETING—March 28, 2024.

Property and Casualty (PAC), Legal, Workers' Compensation

15. ADJOURN

With all business concluded at 2:48 p.m., the meeting was adjourned.

Signed and approved:



Teresa Costantinidis, Chair