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SILVER STATE HEALTH INSURANCE EXCHANGE
BOARD MEETING
THURSDAY, NOVEMBER 10, 2016, 1:30 P.M.

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MS. KORBULIC: Looks like all systems a go,
Russ?

MR. RUSSELL COOK: Yeah, I think so. This is
Russell. I may have to make some adjustments to the mic
levels as we go, but it looks like we're getting audio
feed just fine, that that's up.

MS. KORBULIC: Okay. Hello, Dr. Jameson.

DR. JAMESON: Then, today about our Board
training -- I apologize. My phone hacked. And I was a
little trying to get everything, make sure I didn't have
a virus or something. So I actually ran out without my
computer, because they're repairing things. So I'll
borrow my neighbor's agenda.

And I would like to call the order the meeting,
the meeting to order and welcome everyone.

And do you want to take roll call?

MS. KORBULIC: Yes, absolutely.

DR. JAMESON: Is that necessary today, now?

MS. KORBULIC: Yes, it is. And I will.

DR. JAMESON: Okay.

1 MS. KORBULIC: All right. Dr. Jameson?
2 DR. JAMESON: Present.
3 MS. KORBULIC: Valerie Clark?
4 MS. CLARK: Present.
5 MS. KORBULIC: Lavonne Lewis?
6 MR. BELCOURT: She didn't hear.
7 MS. KORBULIC: I can see you, can't hear you.
8 MS. LEWIS: Present.
9 MS. KORBULIC: There we are. Okay. Angie
10 Wilson?
11 MS. WILSON: Present.
12 MS. KORBULIC: Jonathan Johnson?
13 I guess, you... Jonathan, I can see you. Can
14 you say present into the mic for us?
15 Hm. I'm sorry. We're having technical issues.
16 I'm going to mark you as here. I can see you.
17 Jose Melendrez, I believe, is joining us by
18 phone. And I don't think he can chime in to say present
19 right now.
20 Dr. Cook?
21 MR. COOK: Present.
22 MS. KORBULIC: Betsy Aiello?
23 MS. AIELLO: Present.
24 MS. KORBULIC: Commissioner Richardson?
25 COMMISSIONER RICHARDSON: Here.

1 MS. KORBULIC: And Debi Reynolds?

2 Not here.

3 Okay. Madam Chair, we have a quorum, and we
4 can begin our meeting.

5 DR. JAMESON: Excellent. We have no -- I have
6 no announcements today.

7 And I would just like to jump right in with
8 public comments from the north. Were there, was there
9 anyone there with public comments today?

10 MS. KORBULIC: There are none.

11 DR. JAMESON: Anyone here in the south with
12 public comments?

13 None at this time.

14 So I would like to take a moment now to approve
15 the minutes from the October 13 Board meeting. Do we
16 have a motion from a member of our Board --

17 MS. CLARK: Valerie Clark.

18 DR. JAMESON: -- for approval of the October 13
19 Board minutes?

20 MS. CLARK: Valerie Clark. Madam Chair,
21 Valerie Clark.

22 DR. JAMESON: Thank you, Valerie. Thank you,
23 Valerie.

24 And a second?

25 MR. JOHNSON: Jonathan Johnson. Second.

1 MS. CLARK: Okay. The hard part.

2 MS. KORBULIC: Got that, yeah.

3 DR. JAMESON: If there's no discussion on
4 the -- is there any, any discussion?

5 MS. LEWIS: Madam Chairman, I just have a
6 question.

7 DR. JAMESON: Yes.

8 MS. LEWIS: In terms of the members present
9 that are identified on the minutes, it doesn't appear
10 that everybody is identified there, unless I'm missing
11 something. They only have three members present on the
12 minutes.

13 MS. KORBULIC: I believe, if you look below the
14 Henderson, you'll see that the Carson City --

15 MS. LEWIS: Ah.

16 MS. KORBULIC: -- members were represented.

17 MS. LEWIS: I'm sorry.

18 MS. KORBULIC: Okay.

19 MS. LEWIS: I'm not reading well.

20 DR. JAMESON: Very organized. We get it.

21 MS. LEWIS: Very organized, yes. Sorry about
22 that.

23 DR. JAMESON: Thank you for -- at least, we can
24 tell you read them.

25 And everybody in favor of passing, please say

1 "aye."

2 (Board members said "aye.")

3 DR. JAMESON: Anyone opposed?

4 And the minutes are passed.

5 So, now for the excitement of today. We have
6 several new members over the last year of our Silver
7 State Exchange. And it is time for us to give everyone
8 a review on the appropriate open meeting laws.

9 And I remember when Dennis Belcourt gave me
10 this in prior times, and he's excellent. So we'll let
11 Dennis go ahead and give his presentation.

12 Dennis, now, if people have any questions,
13 would you prefer for them to raise their hand and
14 interrupt as you go or just wait till the end?

15 MR. BELCOURT: However. Dennis Belcourt, for
16 the record. Madam Chair, however you wish to proceed.
17 I don't mind interruptions. But if you'd rather wait
18 till the end. It's your choice.

19 DR. JAMESON: I actually do prefer that, as we
20 go along, if there are questions, while they're fresh in
21 your mind, to go ahead and ask. If it turns out it's
22 really making it go long, we can ask questions to be
23 held till the end.

24 MR. BELCOURT: Very well, thank you.

25 DR. JAMESON: Thank you, Dennis.

1 MR. BELCOURT: Shall I proceed, then?

2 Dennis --

3 DR. JAMESON: Please.

4 MR. BELCOURT: Dennis Belcourt, Deputy Attorney
5 General. And I'm -- as the Chair mentioned, I had the
6 opportunity to present to her when she first started,
7 and it was a one-to-one presentation. Which often, I
8 don't often do it that way. It's usually to a group.

9 The open meeting law, just to kind of -- I mean
10 it's obviously about open government, about transparency
11 in government. I chose, I usually choose the penalties
12 to discuss first, and remedies, because those grab the
13 interest.

14 And one of the -- probably the most frequent
15 result of an actual violation is the action is void. If
16 there's an action taken in violation, is void, it has no
17 legal effect. There is a 90 -- 60-day window for a
18 court challenge to cause it to be voided. And so it
19 could conceivably be not void after 60 days. I've never
20 seen it actually get to that point.

21 But that's the most common issue. But there
22 are possible fines. There's even a criminal penalty of
23 a misdemeanor. I just actually -- coincidentally, this
24 morning, our office open meeting law chief gave a
25 presentation on this. So, you know, he mentioned today

1 that has -- that there have actually been no misdemeanor
2 prosecutions for open meeting law violations. I think,
3 it would be probably the extreme violation that would
4 result in that, because, you know, it's obviously the
5 extreme penalty.

6 So that's kind of -- I mean you all have the
7 slides in your book.

8 And there is an alternative of a do-over.
9 Which sometimes you don't know you've violated the open
10 meeting law until afterwards, after a meeting occurs.
11 And then you come back and do a new meeting to take care
12 of that. And you can do that. And when you do that,
13 you have to notice it as a do-over. There's four
14 corrective actions, special designation on your agenda
15 when you do that.

16 I had one agency that they didn't now that the
17 item wasn't being properly posted. And it was -- you
18 know, you feel embarrassed. You hate for that to
19 happen. But it's -- we're human beings, and sometimes
20 that happens. The Board simply came back and went over
21 those four agenda items, the action items that were on
22 their previous meeting, and redid them.

23 And when you do that, of course, it can't be
24 just a perfunctory redoing. It has to be as though it's
25 the first time, because you want to re-create, you know,

1 the matter, you know, for the benefit of the public and
2 who are wanting to hear what's going on. It has to be a
3 debate, a real debate. You can't just, you know, go
4 through the motions, so to speak.

5 So it only has, a corrective action only has
6 perspective effect. In other words, if between the
7 violation and the do-over some things are done, those
8 aren't -- those have no effect. And some things are
9 done based on the action that was taken. Those actions
10 don't affect. But once the do-over is done, it's done.
11 The action is effective from then on.

12 Some background on the open meeting law. It's
13 found in NRS Chapter 241, for those who might be
14 interested in looking up on the Internet or at your law
15 library perhaps. But it's pretty easy to get on the
16 Internet. And it's pretty short. It's not, not that.
17 And maybe -- there's a lot of detail in there, but it's
18 something that -- you know, I'm not a lay person, so I'm
19 not sure how easy it is, as a layperson, to read. But
20 it's a good thing to do perhaps.

21 Also, related to that, you have some judicial
22 opinions. Matters concerning open meeting law have made
23 it to the Nevada Supreme Court. And so there is some
24 interpretation of the law that is helpful to
25 understanding the law itself.

1 And you also have our office's open meeting law
2 manual, which is also on our website. And we have
3 opinions, open meeting law opinions that you can find on
4 the website, too. Those are, basically, people have
5 a -- well, I mean they usually concern a controversy,
6 somebody violated the open meeting law or was alleged to
7 have violated the open meeting law, and our office got
8 involved, an opinion was written, and it gets put on the
9 Internet.

10 I've kind of got into the -- a little bit about
11 what happens with open meeting law complaints. I gave
12 you a slide in there that details the number of them.

13 And, you know, I haven't -- I've only had to
14 write one response to an open meeting law complaint in
15 my tenure of about 11 years with the office. So it's --
16 fortunately, I haven't had to delve too much into
17 dealing with complaints. And that one was, fortunately,
18 the agency was upheld.

19 But they do happen, and they do result in some
20 violations. And as we all know -- I mean perhaps you've
21 been paying attention to the news, with the Washoe
22 County School District -- they can be of serious
23 consequence to -- well, I mean it did disrupt the board,
24 I believe. You know, there's been a lot of changes
25 since then, since those several open meeting law

1 complaints concerning the Washoe County School District
2 board.

3 The intent behind the open meeting law, the
4 next slide -- that's, I guess, slide six -- is to -- you
5 know, just that the legislative business be done in
6 public, I mean the Legislature's determination that
7 public bodies do business in public. It doesn't concern
8 the Legislature itself, because they are not subject to
9 the open meeting law. But they dictate that these
10 boards, that boards do business in public. There are
11 exceptions, of course, we'll go into.

12 On the next slide, I go into some of the facets
13 of what constitutes -- well, when is the open meeting
14 law invoked? When does it come into place? Of course,
15 it comes into place when there's a meeting of a public
16 body. You have a quorum. The purpose is to deliberate
17 or take action, and take action.

18 A public body, I mean clearly the Exchange
19 Board is a public body. And, you know, to make things
20 absolutely clear, the Legislature put in your statute
21 that this body, the Exchange Board's subject to the open
22 meeting law. So there's no question that it applies to
23 this Board.

24 But as those of you who have been observing or
25 around the Board for a number of years, at one point

1 there were many subcommittees, it seemed, and they were
2 meeting all the time. Those are also, by the Exchange
3 Board statute, subject to the open meeting law. And
4 they -- even though they don't -- they just make
5 recommendations, in most instances, or they did do that
6 when they were active, and they are nevertheless -- it
7 doesn't really matter that if you have authority to take
8 action binding on somebody outside the Board. It just
9 matters that you are a public body. And they're deemed
10 to be.

11 And, also, you can have a -- like an ad hoc
12 subcommittee, that maybe you're not even knowing you're
13 creating a subcommittee. I mean the issue sometimes
14 comes up. Well, you know, the chair may say I want
15 so-and-so and so-and-so to look into this. Well, if
16 they're doing it together, they're probably a
17 subcommittee. And then they have to comply with the
18 open meeting law. If the board delegates to one
19 individual to take action, that doesn't create a
20 subcommittee.

21 And so that comes up often in the context of
22 recruitment, I mean recruitment of a director or officer
23 of a public body. You want to get as many people
24 involved, but you've got to avoid creating a
25 subcommittee unless you want to have that subcommittee

1 do everything in public.

2 So some definitions of what constitutes, or
3 what are key terms in the open meeting law. The meeting
4 is a gathering of members of a --

5 DR. JAMESON: Excuse me.

6 MR. BELCOURT: Yes.

7 DR. JAMESON: I just had a quick question --

8 MR. BELCOURT: Oh, sure.

9 DR. JAMESON: -- on the subcommittees. I
10 think, so, in other words, even two people, then, would
11 constitute a subcommittee?

12 MR. BELCOURT: That's correct.

13 DR. JAMESON: And require open law?

14 MR. BELCOURT: Open meeting law compliance
15 would be required, yes. If they're chosen by the
16 Exchange Board, yes, they -- and there are two people
17 said, well, so-and-so and so-and-so.

18 And, I think, even if designated by the chair
19 in a meeting, that would -- you know, I certainly would
20 want a consultation, recommend a consultation with me
21 before you do any such action. But, yes. That's it.

22 DR. JAMESON: Thank you.

23 MR. BELCOURT: So a meeting is a gathering of
24 members. And it can, it can be by -- as we know, by
25 electronic communication.

1 You also have a -- you know, have to have a
2 quorum for there to be a violation. But you can have
3 what's called a serial quorum or a walking quorum where
4 you have Board or Exchange business discussed among two
5 Board members who turn around and talk to two more.
6 Then you have a quorum by serial communication. So
7 that's to be avoided.

8 Don't be -- I mean it's a specific intent
9 violation. So you have to have done it with the
10 specific intent to violate the law. But I wouldn't
11 even, you know, consider that. You know, and I would --
12 if you're thinking about it, then you've probably got
13 specific intent.

14 So. Let's see. So other definitions.
15 Deliberate, on the next page, page four, it's -- that
16 was defined, it was first defined in case law. The
17 Nevada Supreme Court defined it in borrowing from a
18 California decision. And then the Legislature saw fit
19 to include it, probably at the recommendation of our
20 office. Because our office, every -- every session has
21 an open meeting law bill. I think, virtually every
22 session, they have recommendations to the Legislature
23 concerning the open meeting law.

24 Let me mention this. I should have mentioned
25 this early. But our office -- not only do I advise you

1 on this, but our office is responsible for enforcement
2 of the open meeting law, decides complaints, reviews and
3 decides complaints.

4 I don't complain about my clients to our
5 office. You know, somebody else would. My job is to
6 advise this Board of the open meeting law, not to make
7 complaints about this Board. But somebody else would.
8 I mean usually, typically, members of the public would
9 do that. But it could be, I suppose it could be a Board
10 member, but.

11 But our office does enforce it. Somebody other
12 than me would enforce it. And usually there, there's --
13 actually, the A.G.'s Office has subpoena authority to,
14 you know, get records, emails from Board members and,
15 you know. And so if they think you've been
16 communicating, if the enforcement person thinks a Board
17 member has been communicating by email, they may
18 subpoena those emails.

19 And, you know, one of the points of concern is
20 if you're using your personal email, that may, you know,
21 still be subject to subpoena, notwithstanding the fact
22 that it's your personal email.

23 Some agencies give email numbers, or email
24 addresses to their members so that they use one email
25 for their agency business or board business and another

1 email or other emails for their personal business. And,
2 I think, that's something to consider, if you want to
3 make sure you've compartmentalized your public or any
4 discussions you may have.

5 But, I guess, if -- you know, if someone's, you
6 know, intent on violating the open meeting law, they
7 might not be that persnickety about, you know,
8 segregating their communications anyway.

9 But it's a recommendation, I think, just for
10 general purposes. Just as a side point, public records
11 issues could be implicated, too. So if we get a public
12 records request. Which, you know, I don't, I haven't
13 seen any for Board members, communications with this
14 Board. But I had another board where there was a
15 possible issue.

16 And it's good to have the separate email
17 account if you can, you know, if you can work that out.
18 But, you know, it's not absolutely necessary.

19 That was a bit of an aside.

20 Now, the public -- the Exchange Board must
21 conduct its meetings in public. There's an exception, a
22 couple of exceptions to that. And we call them
23 nonmeetings. Which, you know, it sounds like 1984
24 speak, you know, nonmeeting, or have un -- having a
25 nonwalk to the nonoffice today to have a nonmeeting.

1 But it is, it's just a -- maybe the easiest
2 way, you know. We're getting used to that at our
3 office, to communicate.

4 But it's, basically, the first type of
5 nonmeeting is as a social gathering. Which boards don't
6 just get together at board meetings. Sometimes they get
7 together at trainings.

8 And I have one board, that they get continuing
9 education in the area. And so they will be at a
10 meeting, say, in Florida or somewhere else, and there'll
11 be a quorum, there could be a quorum there. I don't
12 think they usually, that board, they have that many
13 people to make a quorum at that. But it could happen.

14 And, or you could actually just go out to lunch
15 on a break from the meeting. And what you should do is
16 not deliberate or take action. You can -- if you happen
17 to, you know, refer to board business, you just have to
18 avoid, you have to avoid deliberation and taking action.

19 Which I should go back to definition of
20 deliberate, which is to examine, weigh and reflect upon
21 reasons for or against an action. That includes,
22 without limitation, collective discussion and the
23 collective acquisition or exchange of facts preliminary
24 to the ultimate decision.

25 But perhaps random, you know, discussions about

1 what happened at a board meeting, when you constitute
2 deliberation, but, so, in a social context, they
3 wouldn't be a violation to do that.

4 And, of course, you can't act on anything in
5 your social nonmeeting.

6 The next meeting isn't attorney nonmeeting,
7 which, you know, to be distinguished from the social
8 nonmeeting, because maybe who wants to socialize with
9 attorneys. Just, you know.

10 But the attorney nonmeeting is a gathering to
11 receive information from the attorney relating to -- you
12 know, to possible litigation. And it's litigation
13 concerning over which the Board has some authority or
14 some -- so that was, of course, very important for this
15 Board a couple of years ago. We did have numerous
16 nonmeetings when there's a prospect of litigation. But
17 it's been quiet. And we're happy with now. Right?

18 But, anyway, you can deliberate in a nonmeeting
19 with the attorney about the matter. And that,
20 typically, when you're involved in litigation, there's
21 all phases of litigation following a complaint, or
22 answering a complaint, doing discovery, you know,
23 settlement discussions. Any one of those could
24 conceivably be a point of discussion for a board.

25 And sometimes -- you can't act, so you can't

1 really get board approval, except by going to a public
2 meeting. So when you're talking about settlements, it's
3 always, you know, a little bit -- you know, how do you
4 get input from the board without acting.

5 So that's an area where a nonmeeting's
6 critical, of course, because usually you don't discuss
7 settlement issues in public. It kind of undermines the
8 process.

9 So moving on to kind of a -- one aspect of the
10 nonmeetings, of course, is you don't have to follow any
11 part of the open meeting law. You don't have to record
12 the meetings. I mean when -- I think, I have some slide
13 later where we discuss that. But when you're in a
14 public, as we now, we have to audio record or transcribe
15 board meetings. And we also have to take minutes and
16 have, you know, obviously, a public comment. But a
17 nonmeeting, you don't have to have any of that.

18 So the other exceptions to open meeting law, we
19 have nonmeetings, and then you have what you'd call the
20 closed meetings.

21 There's some other exceptions that are found in
22 the open meeting law. And then, of course, there's --
23 you know, you can possibly find exceptions elsewhere. I
24 think, in fact, at this discussion this morning the
25 attorney was mentioning, by regulation, a public body

1 exempted this. It was setting up these sub -- I think,
2 in the Clark County School District reorganization, they
3 set up these subentities, and those were, by regulation,
4 exempted from the open meeting law.

5 But if you're excepted, I mean if you're
6 excepted from the open meeting law as a closed meeting,
7 you're only excepted to the extent, or, for that matter,
8 as a nonmeeting, only extent provided in statute, to
9 the -- any extent not specified in statute, you have to
10 do an open meeting law open meeting to conduct those,
11 that aspect of it.

12 So just as, you know, I mentioned, with the
13 attorney, if you want to get the settlement approved, or
14 you want to get a decision approved by the board, a vote
15 of the board on that litigation, you still have to go to
16 an open meeting to do that.

17 Usually, you know, the final settlement is what
18 gets approved by the board in an open meeting law,
19 because that's where you're deciding, you know, to send
20 the matter on for whatever resolution it needs to go
21 from the board.

22 Closed meetings. Let's see. A public body,
23 there's some items that are allowed to be closed and
24 others that are specifically not allowed to be closed.

25 An example would be, you know, you can close a

1 meeting for a -- say, if your statute provides, or under
2 the general statute, for a personnel matter to the
3 extent, you know, you're -- for example, you are
4 considering a -- you know, individual characteristics of
5 the person, their mental health and/or their capability,
6 competency, you can have a closed meeting for that.

7 There's specific statutes that set forth that
8 you -- when you have a closed meeting.

9 And then others, for example, as this Board
10 well knows, when you're picking your Executive Director,
11 that has to be all done in open meeting. You can't
12 close any of that. So that's by statute.

13 Now, moving on to agendas, there's one issue
14 that -- I mean the Board members here may or may not,
15 you know, be privy to all the processes of drawing up an
16 agenda.

17 Just as kind of background, typically, I get to
18 see the agenda before, I think, typically, before it
19 goes to the -- or at the same time it goes to the Chair.
20 And we look it over, I look it over from the standpoint
21 is it clear and complete from the -- and does it have
22 all the components that are set forth in the law for an
23 agenda. You know, it has to have -- and has it been
24 noticed in the timely fashion. Those are the kinds of
25 things I look at. I'm just looking for open meeting law

1 compliance.

2 You know, it's not always clear from the agenda
3 whether it's clear and complete. Sometimes -- ideally,
4 you want to have the supporting materials. But we don't
5 always have that. We don't have that luxury. So
6 sometimes it's a matter of discussing with the agency,
7 well, what's going on here, to make sure that it's --
8 the agenda's clear and complete.

9 So most of the language requires -- most
10 requirements of the agenda are in one section of the
11 open meeting law. And, frankly, I can't read it on my
12 little slide. I'll see if I can --

13 DR. JAMESON: Could I interrupt one moment?

14 MR. BELCOURT: Oh, sure.

15 DR. JAMESON: I did understand, and I'm not
16 sure, because I didn't hear it in roll call, that our
17 other Board member, Jose Melendrez, is actually on the
18 call, but he called in on a line which is listen-only,
19 so he couldn't check in.

20 I was wondering, is there actually a line in
21 which he's able to call in and speak up if he wants to
22 ask questions?

23 MS. KORBULIC: Yes, there is. And we are about
24 to connect it. We didn't want to interrupt, because it
25 will cause a mic issue real quick. So he --

1 DR. JAMESON: Oh, okay. Will it be --

2 MS. KORBULIC: So he has notified me that he's

3 listening in right now.

4 DR. JAMESON: Yes.

5 MS. KORBULIC: And we're thinking that we could

6 potentially do that after.

7 DR. JAMESON: So we have him added to roll

8 call, and then, when we're done --

9 MS. KORBULIC: Yes.

10 DR. JAMESON: -- we can ask him if he has

11 questions?

12 MS. KORBULIC: Yes.

13 DR. JAMESON: Thank you.

14 (Automated voice: Welcome to AT&T's

15 teleconference service. Please enter your access code

16 followed by the pound sign.)

17 MR. BELCOURT: Is he in?

18 MS. KORBULIC: He's on the other line, so he'll

19 probably have to call.

20 (Automated voice: Your access code was not

21 recognized. Please reenter your access code followed by

22 the pound sign.)

23 MS. KORBULIC: Sorry, Dennis.

24 MR. BELCOURT: No problem.

25 (Automated voice: Your access code was not

1 recognized. Please reenter your access code followed by
2 the found sign.)

3 MS. KORBULIC: This is just a great time.

4 MR. RUSSELL COOK: Sorry about this. When we
5 had the technical problems earlier, it reset the voice
6 call connection as well.

7 (Automated voice: We're sorry. Your access
8 code was not recognized. Press zero to speak with a) --

9 (System noises.)

10 MS. KORBULIC: Oh, no.

11 MR. RUSSELL COOK: I'm very sorry about that.
12 Give me just one more moment.

13 (Ringing. System noises.)

14 (Automated voice: Welcome to AT&T's
15 teleconference service. Please enter your access code
16 followed by the pound sign.)

17 MS. KORBULIC: This is why I didn't want to do
18 that.

19 MR. BELCOURT: Could I get some slides there.

20 (Automated voice: Your access code was not
21 recognized. Please reenter your access code followed by
22 the pound sign. Your access code was not recognized.
23 Please reenter your access code followed by the pound
24 sign.)

25 MS. KORBULIC: Okay. We're going to

1 (indistinct), because he's sending me a message saying
2 that he'll just call in on another number, and we'll
3 send it. It'll actually be fine.

4 MR. RUSSELL COOK: Okay. Very sorry.

5 MS. KORBULIC: He said he will text me if he
6 has a question. Which I don't know if that's okay with
7 open meeting law.

8 DR. JAMESON: So much for trying to do that.

9 MR. BELCOURT: I would just let him know who to
10 call (indistinct).

11 DR. JAMESON: We'll just move on.

12 And, Dennis, I apologize for the interruptions.
13 Please move on. Thank you.

14 MS. KORBULIC: I will call him on his cell
15 phone.

16 (Ringing.)

17 MR. MELENDREZ: Hello.

18 MS. KORBULIC: Hi, Jose. We're putting you on
19 speaker on my cell phone here.

20 Okay. Okay. He's here.

21 MR. BELCOURT: Thank you very much.

22 MR. MELENDREZ: I'm on the line, everybody.
23 Sorry about that.

24 MR. BELCOURT: Thank you, Jose.

25 That's a perfect digital, digital moment.

1 Because one of the recent amendments of the open meeting
2 law was to, as actually I'll further elucidate on what,
3 when it comes to the properly, you know -- proper
4 meeting when you're -- you know, not a serial meeting,
5 but a proper (indistinct). And one requirement is that
6 each and every member of the body has to be able to
7 communicate and hear.

8 You know, it sounds simple, but that's -- they
9 spelled that out in the law. Which, you know, I don't
10 think it really needed to be. I think it was kind of
11 understood. But somebody saw it as necessary.

12 But, anyway, I'm getting to the agendas. And
13 one of the -- I kind of -- I don't know what happened to
14 some of my slides here. Oh, there, I'm looking down the
15 road.

16 Anyway, one of the -- the requirement for the
17 agenda is that it be clear and complete, that it be
18 noticed and in a timely fashion three, three working
19 days before, for the Board meeting, nine, 9:00 a.m.,
20 before 9:00 a.m., three working days.

21 So that's -- sometimes they forget about those
22 holidays, those pesky holidays that make it, you know --
23 all of a sudden, you realize, oh, I'm out of time, I ran
24 out of time yesterday because there was a holiday. So
25 it's three working days, and that excludes weekends and

1 holidays.

2 Probably the most -- I think that what keeps me
3 awake at night sometimes is having a clear and complete
4 agenda, making sure that you've spelled out the agenda
5 in a way that communicates to the public, a reasonable
6 person among the public, you know, what's going to be on
7 the agenda, so they can know whether to come, show up,
8 and, you know, is it important to them.

9 But if you don't spell it out clearly, you
10 know, then they might not show up, and they might be
11 unhappy about it. And they might complain.

12 Well, what happens -- I mean there's been
13 examples of this. It's not totally an academic notion.
14 I'll give you an example. If you remember a few years
15 ago when there -- I'd say about five years ago. I
16 think, it was Reno city council had before it, or one of
17 the Reno bodies had on their agenda something about
18 refinancing some obligations.

19 Well, it turns out it was about the ballpark
20 there, which was a matter of, you know, much public
21 issue, but. And the fact that it didn't mention, you
22 know, the Aces ballpark, you know, didn't clue people in
23 on it. And then, therefore, people, especially people
24 from the press, who were trying to follow the story of
25 what are we going to do with the ballpark, didn't know

1 about it, and so they complained.

2 That's where it comes in. Yeah, you may be
3 describing the transaction that's going to happen, but
4 you're leaving out something that's pretty important to
5 the public. And it can be a judgment call. But I mean
6 the judgment is based on, you know, press interest,
7 prior public interest, or prior board interest in the
8 topic. If the board's constantly discussing something,
9 and it's coming up again, it's obviously -- it's a
10 matter of interest that justifies further description in
11 the -- I mean a reasonable amount of description of
12 what's going to be talked about.

13 So that's, that's what I look at.

14 And another thing about, even if it's not an
15 action item, you can have an open meeting law issue. If
16 it's merely a discussion item, if you take the
17 discussion item and run away from it and go into new
18 areas and/or, you know, go into areas that weren't
19 really alerted to the public in the agenda, then you can
20 have a violation.

21 And this happened with the case of Sandoval
22 vs. Board of Regents. The Board of Regents, there's
23 a -- there's several cases involving them, I think, back
24 in the early thousands. But in this case, they were
25 talking about safety concerns at the UNLV campus and

1 went off on police issues. And they got it to -- they
2 strayed off of the agenda.

3 And so what the Nevada Supreme Court said is,
4 basically, you do not exceed the scope of a clear and --
5 clearly and completely stated agenda topic. Even if
6 something's on its face a clear topic, if you go beyond
7 it, you know, you've violated the open meeting law.

8 You know, discussion items typically aren't
9 going to head to litigation unless the discussion was
10 really important to somebody. But it can still happen.

11 One of the new requirements for the -- I think,
12 it was just 2015. A new requirement for the open
13 meeting law is that if you're going to take
14 administrative action regarding a person, then you have
15 to put their name on the agenda, that person's name on
16 the agenda. It used to be just administrative action
17 against a person that that was regarding.

18 And the purpose of this was, well, it was
19 administrative action. And it's not defined. It's
20 typically -- I think, a board just about -- you know,
21 board action on a contract employment selection, that's
22 all administrative action. Or a licensee, you know, if
23 the board happens to license people. Or if it -- you
24 know, those are the kinds of things that I would call
25 administrative action.

1 And it's -- this arose from the selection
2 process. I mean it -- if some agencies, you know,
3 picked -- I think, it was an employment issue that
4 probably caused this change in the legislation to be
5 initiated, that they were picking somebody, and, you
6 know, somebody said, "Well, why wasn't that on the
7 agenda?" and they took it on the Legislature and said it
8 should be.

9 The interesting thing is I -- the one complaint
10 I told you about I had to answer occurred before this
11 happened, and it was on the very issue. So,
12 fortunately, the failure to put the person's name on the
13 agenda occurred before the law changed, so my client
14 hadn't violated a law. Certainly, if the law had
15 changed, I would not have -- you know, I would have
16 advised them not to, to take action regarding that
17 person without putting their name on the agenda.

18 And the awkward thing is sometimes you don't --
19 in certain circumstances, you may not even know who's
20 going to be the subject of the action. I mean most
21 instances, you will. But in some cases, you might have
22 to do a two-step process, depending on the circumstance,
23 in terms of like an emergency or an interim appointment
24 of somebody to do something.

25 One of the requirements on the agenda, of

1 course, is --

2 DR. JAMESON: Is it --

3 MS. KORBULIC: M-hm (affirmative).

4 DR. JAMESON: Is it acceptable, when sometimes
5 it's a certain person in a certain position with a
6 certain title, to put things instead of specific names,
7 that it's that particular head of an organization or its
8 representative?

9 MR. BELCOURT: If it's about a person, it's
10 going to be the person's name. If it's about an entity,
11 it's going to be the entity's name. So, I think, you --
12 I think, there's kind of, there's some provisions of the
13 open meeting law. The term person, as you all may know,
14 can sometimes mean a corporation, in the law. It's the
15 way the laws sometimes read. Sometimes it doesn't,
16 depending on the context.

17 In this context, I say probably, if it's a
18 corporation, you would put the name of the corporation.
19 But you have to put a name on there, however, you know,
20 however uncomfortable that might -- one might be, and
21 depending on the context, you put the name on, on there
22 according to the law.

23 But, again, if an issue comes up, you know, I'm
24 available to the Board to -- you know, to look at
25 whatever, and to Heather, of course, and the staff to

1 what's involved.

2 As you know, you must put "for possible action"
3 on a -- if you're going to take action on something.
4 And the action should be reasonably spelled out in the
5 agenda item. So just putting "for possible action" may
6 not be enough to do what you want to do, if you need to,
7 might need to be clear on what that action is. If not,
8 it might just be the matter of, you know, receiving a
9 report. And I mean if you wanted to take action on some
10 recommendation in the report, that recommendation would
11 need to be on the agenda.

12 So there are a few instances where, turning to
13 the notice issue of the -- you know, you've got an
14 agenda all put together or put together mostly. And you
15 look at it, and one of the items concerns, you know, say
16 a discipline action or an action regarding character,
17 misconduct, professional competence. Those items have
18 special notice requirements.

19 And this Board typically doesn't deal with
20 those too much, so I won't spend a lot of time on them.
21 I mean I haven't dealt with them actually in my
22 experience with the Board.

23 But there is a lengthier notice process,
24 individualized, that must be given. So if something is
25 going to come up with regard to them, to somebody that

1 would -- where you're going to talk about their
2 character, and, you know, it's somehow relevant to this
3 Board's jurisdiction, then you have to think about
4 giving notice earlier than the three-day requirement.
5 It becomes a five working day requirement to the notice,
6 the personal notice, or 21 by registered mail or
7 certified mail.

8 So the other aspect, one other aspect of
9 getting a board meeting together is making materials
10 available to the public.

11 There's a requirement that -- well, there's one
12 requirement, is that if people -- people can request to
13 be -- to have materials made available to them before
14 the meeting. And if they put in a request, those
15 meetings have to be made available to them the same time
16 they're given out to the Board members. So if the Board
17 members get it, it has to be available to the person who
18 requested, you know, the non-Board member or person who
19 requested that the meeting materials be available.

20 Now, it doesn't mean that you have to send them
21 a copy. It's online. You can, you know -- that may be
22 a way to get it to them. Or they could come into the
23 office and look at it. That's a possible option. So
24 you don't necessarily have to send out a whole packet to
25 everybody who requests it. Some, I have worked with

1 some boards who took that extra step of sending the
2 paperwork to the requester.

3 And there are cases where -- I know of one case
4 involving the Wildlife Commission where they had to
5 reschedule a meeting because the board materials were
6 given out to the public, requesters; however, it was --
7 somebody -- there were double-sided pages, and somebody
8 ran it through the copier without taking that into
9 account. So you had -- you know, every other page was
10 copied and sent out. And so, unfortunately, a very
11 important issue had to be delayed.

12 Well, and the fact it was very important, I
13 think, certainly motivated extra care in the hearing
14 today of the open meeting law.

15 But, anyway, something like that can stand in
16 the way of action in certain circumstances. So even --
17 you know, I know that the deputy in our office who
18 caught that and made sure it got -- it was done right,
19 that they, you know, came back for another meeting.
20 And, you know, he had a very -- you know, I think, that
21 was a very good, good concern on his part.

22 As I mentioned, meetings have to be recorded.
23 You know, if -- sometimes recordings fail. And so a
24 technological failure may be excused in certain
25 instances.

1 But I've been in meetings where the -- you
2 know, we had the technology set up to work, and it
3 didn't work. And so we just -- somebody had an iPad.
4 We just pulled it out, and we ran the iPad to record the
5 meeting. And that did the trick.

6 Then you have to make recordings available to
7 requesters as well.

8 Okay. The final topic, but, by all means, you
9 know be there's a lot more to cover and if you have
10 other issues to talk about, is public comment. And the
11 public --

12 DR. JAMESON: Dennis?

13 MR. BELCOURT: Yes.

14 DR. JAMESON: I'm sorry. I had a question on
15 the individual.

16 MR. BELCOURT: M-hm (affirmative), yes.

17 DR. JAMESON: So we talked about nonmeetings
18 where you might get together and talk about some issues.

19 MR. BELCOURT: M-hm (affirmative).

20 DR. JAMESON: And even hear law, legal advice
21 or --

22 MR. BELCOURT: Right.

23 DR. JAMESON: Okay. In nonmeetings, then, you
24 would not, if you were talking about an individual
25 character or issues, for nonmeetings, does that person

1 have to be invited?

2 MR. BELCOURT: No. Yeah, well --

3 DR. JAMESON: That was no?

4 MR. BELCOURT: No, I don't believe there would
5 be any, I can't perceive any circumstances in which
6 you'd have that person there. It's really about
7 litigation. And so that person, if they're -- well, I
8 mean, no, they wouldn't have to be there. There's no --
9 it's a nonmeeting. It's not subject to the rules. And
10 so I don't --

11 DR. JAMESON: But there --

12 MR. BELCOURT: -- anticipate there would be
13 any, any reason.

14 DR. JAMESON: And then, if you're having a
15 meeting, and you're talking about an individual, and
16 you're saying they need to have the five-day notice --

17 MR. BELCOURT: That's what --

18 DR. JAMESON: -- you'd bring that up at an open
19 meeting?

20 MR. BELCOURT: Right.

21 DR. JAMESON: Is that only if you're taking
22 action?

23 MR. BELCOURT: No. It's -- it would, it would
24 just be if their character was a topic of discussion.
25 You may not take action. And the law doesn't limit it

1 to action items.

2 DR. JAMESON: And then, if they don't show up,
3 are you still allowed to discuss it if they don't show
4 up?

5 MR. BELCOURT: Certainly, you are. There's
6 also provisions. If this happens, I mean they're --
7 they can request. I mean, if you're going to agendize
8 it, you'd probably -- you know, you could agendize it
9 for possible closure. And you'd also -- they'd have an
10 opportunity to -- actually, you can have a -- make the
11 request that it be opened up. But you can have the
12 closed meeting to discuss that. And you would put that
13 on the agenda that would be closed pursuant to -- or may
14 be closed pursuant to the statute of -- I think, it's
15 030.

16 And the typical way to do that, you would
17 agendize it for possible closure, with a statute
18 reference. With any exception, you reference a statute
19 whereby closure is permitted. And you make a --
20 somebody makes a motion. And the board members vote to
21 close it.

22 But the person, in that instance, may elect
23 a -- or request that it be kept open.

24 And there's a little bit of a due process in
25 those, in those proceedings, because they can request to

1 have -- they can have a representative, an attorney or
2 just a friend, come with them and help them out. They
3 can put on evidence. So if you ever have to do that
4 meeting, there's a bit of a due process conferred in the
5 open meeting law to that.

6 I had to do this for another client. And, you
7 know, it's always -- it was -- you know, you do, you
8 still -- even though -- the difference between a
9 nonmeeting and a closed meeting for that type of action
10 is that you are still recording. You have a tape
11 recorder on, or you have the court reporter transcribing
12 what's going on in the closed meeting. So there is a
13 record for -- of it. But that would be confidential,
14 you know, except under -- you know, under specific
15 circumstances. It is a confidential document or record.

16 So, I think, you know, we haven't had to deal
17 with any of these issues. But if it comes up, there is
18 a -- we would have to take care of and make sure. You
19 know, there's a lot of steps, a lot of moving parts
20 involved.

21 So --

22 DR. JAMESON: When our air conditioner goes on,
23 it's hard to hear you. So if you could speak up just a
24 little more. Thank you.

25 MR. BELCOURT: Oh, certainly. I'll try to

1 speak at the level appropriate. I don't know if the
2 microphone adjusts. So, can you hear me okay?

3 It's quite warm down there today?

4 DR. JAMESON: We can hear you now.

5 MR. BELCOURT: Okay.

6 So the final topic that I put on my slide show
7 was public comment. And I only put one slide. It's a
8 very important topic, however. And you can go, I can go
9 at length on this.

10 But the agendizing of a public comment, you
11 have -- as you do with this Board, you have it at the
12 beginning of the agenda, before any action item. And
13 you can have a nonaction item between, you know,
14 beginning the meeting and the public comment, but you
15 can't have an action item. And then have another public
16 comment session before the close of the meeting.

17 So that's one way to do it. Another way to do
18 it is to -- you have a public comment with each action
19 item, and then have another public comment to allow for
20 any other comment you're on and nonaction item matters.

21 Public comment can -- I mean you can limit it
22 in certain specific ways. For example, you can limit it
23 in terms, I mean in terms of board jurisdiction or
24 agency jurisdiction. I mean if somebody wants to come
25 and talk about the Cubs, I mean you might let them talk

1 about the Cubs, but you don't have to.

2 You can also limit as to time. And that's, you
3 know, it's going to be the chair's control. I mean some
4 people -- I mean you put on the agenda that, you know,
5 we're probably going to limit it to three minutes. But
6 the chair doesn't -- and some chairs don't always stick
7 to the -- that amount, they allow people to go on
8 longer. As long as you don't cut them short on that,
9 you're probably okay.

10 You can't, you know, be selective in terms of
11 viewpoint. You can't say, "Well, you can talk, we can
12 have some people talk about this." I mean other than
13 relevance to the agency jurisdiction, you can't say,
14 "Well, we're going to hear five pros and three cons on
15 this particular matter, and no more." I mean you can't
16 discriminate based on viewpoint.

17 Actually, I mean you can discriminate -- you
18 can't discriminate, but you can -- if there's a lot of
19 repetition, you can, or you can, I think, gently, you
20 know, move, get people to move on, and all that.

21 But, I think, it's -- the ultimate control you
22 have is if somebody's willfully disruptive of a meeting,
23 you can, I think that's where you can clearly, you know,
24 say "Thank you very much, we need to move on." And if
25 they don't, you know, they can actually even be removed

1 from the meeting based on that.

2 So the -- there's, you know, yeah, if
3 somebody's making repetitions or caustic accounts, that
4 those can certainly be stopped, limited, stopped.

5 Fortunately, we're -- you know, I'm glad to
6 have clients where we don't have those kind of issues
7 ever come up. So.

8 But the -- that's covering a good part of the
9 open meeting law. There's, you know, certainly a lot
10 more that can be discussed. And, you know, I'm always
11 available for -- well, I'm available now for questions.
12 Or at any other time, you can, you know, call me. Or if
13 you have questions about things, you know, that's my
14 job.

15 And I'll thank you.

16 MS. KORBULIC: Thank you.

17 DR. JAMESON: Thank you so much. That was a
18 very good review of what is important.

19 If you were just to summarize, is there any
20 particular thing you have greatest concerns that we
21 would heed as we move forward, that you feel may
22 sometimes in the past be where Board members might
23 unconsciously step out of protocol?

24 MR. BELCOURT: You know, I think, I haven't
25 heard anything, you know. I'm -- when I hear stuff, you

1 know, I -- I'm listening when you guys talk. I don't --
2 you know, I'm not multitasking when you're -- during the
3 Board meeting. I'm listening to what's going on.

4 And if there were a problem, I'm -- you know, I
5 do, you know, consider, I think it through and consider
6 it, you know. And my mind's -- reels spin in my mind
7 maybe slower than had I was younger. But I am
8 listening. And I would be interrupting if I saw
9 something as a problem.

10 I do want to mention something to clear up a
11 point that you can't do that maybe you thought you could
12 do. And that is there can be discussion of public
13 comment. It just can't go to deliberation or action.

14 So, you know. And so, I think, and it's
15 specifically in the statute. So that's maybe a bit of a
16 misunderstanding. I might not have made clear. But
17 that's not a violation, to not discuss. I mean you can
18 refrain from discussing. But if you should so choose,
19 or Board members should so choose to want to discuss a
20 matter that was mentioned by -- in public comment,
21 that's permissible.

22 DR. JAMESON: That is very interesting. I
23 think, some of us had the impression that we were
24 allowed to listen to the public comment but not comment
25 or respond to public comment.

1 So you're saying that it would be appropriate,
2 after a public comment, to ask if the Board members had
3 any comments or discussion regarding the public comments
4 made, but that, of course, nobody can take any actions,;
5 and, of course, does the action include a response, or
6 is that -- if you give a response to somebody, is that
7 considered simply discussion, first off?

8 MR. BELCOURT: I think, that would, that would
9 be considered discussion, I mean a response. I mean
10 I -- you know, I guess, the -- it's really, it's not an
11 open meeting law violation to discuss. And it's within
12 your discretion. And I would leave it at that, because.
13 So you can, you can do it, and it's a judgment call
14 whether you want to, you know.

15 I mean I remember we were having a -- you know,
16 weekly meetings. And there was a lot of public comment.
17 And there was responses to concerns, but they -- at
18 times. But, you know, I -- so the question is, you
19 know, how much do you want to get into a matter, or do
20 you take it off-line and hand it off to staff to handle.

21 That's always, that's your decision whether you
22 want to deal with something on the record or not. But
23 you can discuss public comment.

24 DR. JAMESON: And so it would include, then, if
25 you wanted, that if someone asked in public comment as a

1 question --

2 MR. BELCOURT: M-hm (affirmative).

3 DR. JAMESON: -- and the Board members did not
4 now it, it would be within appropriate actions to ask
5 staff members if they have that information --

6 MR. BELCOURT: I --

7 DR. JAMESON: -- with them?

8 MR. BELCOURT: I've seen, I've been in meetings
9 where that's done. And I see that as appropriate.

10 DR. JAMESON: Thank you. Very good.

11 MS. WILSON: Dennis, Angie Wilson, for the
12 record. I just have a quick question.

13 DR. JAMESON: Yes.

14 MS. WILSON: And that question is in regards to
15 discussion in the meeting. So if we had an instant
16 happen, like I'm just going to use an example that
17 popped up since the agenda, which is the most recent
18 presidential election and the potential impact to the
19 Affordable Care Act, you know, it has a direct impact
20 here to us in our state, do -- are we able to, at some
21 point, do we talk about that can, or does that have to
22 become an agenda item for another meeting?

23 I'm just curious, as an example in this case,
24 where it would be something that came up, that came in
25 between the time the agenda was approved and where we

1 are today.

2 MR. BELCOURT: I think -- Dennis Belcourt,
3 again, for the record.

4 That is something of, you know, such public
5 concern, that my recommendation would be to agendize
6 that for a future meeting. I mean you could talk about
7 it in the context of shall we have an agenda item for a
8 future meeting. And what's that agenda item? It's to
9 discuss a recent event.

10 So that's certainly, discussing an agenda item
11 is certainly appropriate, or what will be on the agenda.
12 You have a specific agenda item in the back, right, for
13 future meetings. So, I think that that's already
14 agendized anyway.

15 So, I think, you know, something of such
16 significant concern, I would, you know, say I would lean
17 heavily in favor of saying agendize it for a future
18 meeting.

19 MS. WILSON: Okay. Thank you.

20 DR. JAMESON: Thank you, Dennis.

21 And I have to admit, I thought some public
22 comments might arrive today regarding that question, in
23 which case that would have been, I think, well,
24 absolutely the right thing, being such an intense topic,
25 to agendize that in the future.

1 So it now brings ourself, all of us, to the
2 Executive Director's report and open enrollment.

3 Heather, thank you.

4 MS. KORBULIC: Thank you, Madam Chair.

5 For the record, Heather Korbulic, Executive
6 Director of the Silver State Health Insurance Exchange.
7 And it just so happened that I added to my Executive
8 Director report some information about the changes that
9 happened on Tuesday.

10 Hopefully, that's acceptable, Dennis?

11 MR. BELCOURT: Just --

12 MS. KORBULIC: I'll keep it brief, believe me.

13 Okay. So. And so I figure I would go into
14 that a little bit before I get into my other comments.

15 And I just want to preface it that the
16 landscape is unfolding, and there isn't a lot of
17 clarity. And so the Exchange is working primarily on
18 focusing our mission and our goals to increase the
19 number of insured Nevadans across our state,
20 specifically during this time of open enrollment, but
21 want to recognize that the presidential election has
22 implications on the future of the Affordable Care Act.

23 The president-elect has not released any
24 definitive plans to repeal or replace the ACA. So it's
25 definitely difficult for us to determine what the ACA

1 and the Exchange will look like moving forward.

2 When we look through our bill, our previous
3 bills to repeal the ACA, which were recently passed but
4 then vetoed by the President, we can see that most of
5 those plans include a two-year transitional period
6 whereby a plan to replace will be developed and
7 implemented.

8 Our vice president-elect, Mike Pence, has been
9 quoted as saying that he -- we will create a transition
10 period for those receiving subsidies to ensure that
11 Americans don't face disruption or other hardships in
12 their coverage.

13 Most of the policy experts that I've been
14 frantically reading for the last 40, well, 36 some
15 hours, believe that there's going to be a place for
16 states in maintaining control of their markets and any
17 subsidies which will be administered.

18 Many of those policy experts are optimistic
19 that the key provisions in the ACA will survive. That
20 includes the mandate allowing the people to remain on
21 their parents' insurance until they turn 26 and the
22 prohibition against any consumers with preexisting
23 health conditions.

24 The Exchange is working and will continue to
25 work with federal and state lawmakers over the next

1 several weeks, months and years, as the future of the
2 Affordable Health Care and health insurance is
3 reexamined.

4 Healthcare.gov has reported today and yesterday
5 that over a hundred thousand people have selected plans,
6 and they've been -- or excuse me, that a hundred
7 thousand plan selections have been made on
8 healthcare.gov. And this exceeds the total for last
9 year's enrollment at this period, this time period.

10 It's now more important than ever for our
11 Exchange to have a successful open enrollment to
12 demonstrate the value of the work that we do.

13 The ACA is still the law of the land, and it's
14 important for consumers that are -- to know that they
15 are still facing penalties if they choose not to be
16 covered.

17 It's more importantly, or it's more important
18 to me that Nevada consumers recognize, or are able to
19 access the coverage, because they need to safeguard
20 their families. And so it is the Exchange's job to
21 remain focused on that goal.

22 With that being said, I'll move into some of
23 the more formalized comments that I had submitted
24 earlier, before we knew the election results.

25 As you know, last week, Tuesday, November 1st,

1 the Exchange was geared up and ready for open
2 enrollment. We rolled out a comprehensive and robust
3 marketing and advertising outreach campaign with a theme
4 of "It's Time to Get Connected."

5 Our television ads are beginning to air today.
6 Wait. Yesterday, excuse me, on Wednesday. And our
7 Communications Officer, Janel Davis, and I have been
8 extremely busy, yesterday even more so, talking about
9 our efforts for open enrollment, and been generating
10 quite a bit of attention with the assistance of our
11 advertising partner, Penna Powers, and our public
12 relations company, FFW.

13 I included a website, and I'd sent that out
14 previously to a section of our website that is in the
15 news. So you can keep track of all of our media that
16 goes on air or is on radio or even in print. And Patty
17 Halabuk with Penna Powers will give us a little bit more
18 details about that after I'm done.

19 So aside from being really interested in the
20 open enrollment activities, the statewide media has also
21 been very interested in premium increases. The Exchange
22 notes that the national average for the premium
23 increases across the country is 25 percent. In Nevada,
24 our increase is 11.93 percent, which is well below the
25 national average.

1 It's also really important for us to note and
2 is underpublicized by the media that there is an
3 increase in subsidy assistance for the 80 some percent
4 that we estimate receive APTC or CSR on Exchange. And
5 so that should help offset the cost of increases to
6 premiums.

7 Part of our messaging includes encouraging
8 Nevada consumers always to shop the marketplace to
9 ensure that they find a plan that works for their
10 specific and health and financial needs.

11 Plans have changed. And Glenn Shippey will be
12 providing us with a little oversight on what those plans
13 look like for this plan year 2017 in a little bit.

14 The Exchange is also beginning to work, or to
15 receive weekly updates from the Centers for Medicare and
16 Medicaid, who are going to publicly release enrollment
17 numbers, hopefully early next week. Those numbers will
18 not include auto reenrollments, those passive
19 reenrollments where consumers are not shopping the
20 marketplace and then being automatically reenrolled into
21 a new or similar or same plan. Those will not be
22 counted on our enrollment numbers until early December
23 when CMS starts to process those.

24 We have seen kind of intermittent issues with
25 healthcare.gov. They have been having latency -- which

1 I had to look up; it means delay -- issues. Most of
2 these issues are related to login and account changes.
3 Consumers are being put into "waiting rooms" while
4 they're experiencing delays. November 1st and 2nd,
5 those delays did result in some significant wait times
6 of upward of 45 minutes.

7 We do pay very close attention to the
8 maintenance and outage notices. And as of 20 -- well,
9 two hours ago, I hadn't seen any issues happening today.
10 So they appear to have been resolved.

11 Our call center staff are also kept well
12 informed of any issues with healthcare.gov.

13 The November 1st kickoff event was -- in the
14 north and the south were successful. We had quite a bit
15 of media attention. They had promoted the fact that
16 open enrollment has begun. We've submitted some
17 additional press releases on the same topic of open
18 enrollment that will be issued.

19 Next week?

20 MS. DAVIS: M-hm (affirmative).

21 MS. KORBULIC: Yes, early next week. So we can
22 continue to generate interest and education on that
23 topic.

24 We have been, we're continuing to attend
25 community outreach events all across the state. We've

1 recently joined the Hispanic Business Chamber as well as
2 the Latin Chamber of Commerce, the Las Vegas Metro
3 Chamber of Commerce, and all this in order to have more
4 exposure at future events and to collaborate with other
5 stakeholders.

6 The Exchange, I'm happy to announce the
7 Exchange has hired the gentleman sitting next to me,
8 Ryan High, as our new Chief Operations Officer. It's
9 extremely relieving for me to have some assistance. And
10 he jumped right into the frying pan the first week of
11 open enrollment, and then all sorts of interesting new
12 changes in our landscape.

13 So I'm happy to have Ryan.

14 Ryan has a Bachelor's degree in English and a
15 Juris Doctor degree in law. He's currently a candidate
16 for Business Intelligence Analysis Certification with
17 the University of San Diego. Ryan's also worked for the
18 Secretary of State's Office from 20 -- or 2018 -- excuse
19 me; wow -- two thousand -- I'm thinking about budget --
20 2008 to 2014, where he is was the Deputy Secretary of
21 State of Operations, and he oversaw \$12 million in
22 expenses, \$164 million in revenue. In the Secretary of
23 State's Office, he managed the IT department and
24 negotiated and approved professional services, IT,
25 intergovernmental and cross-agency contracts.

1 Ryan's spent the past several years as a
2 Strategic Initiatives Manager for the City of Reno in
3 the City Manager's Office. He's developed departmental
4 and cross-departmental initiatives with strategic
5 priorities by collaborating with all of the city
6 departments. He's identified performance metrics for
7 the city's annual budget book and has managed portions
8 of the City Manager's Office operations.

9 Like I said earlier, I'm extremely excited to
10 have him but also enthusiastic that he is a good fit
11 with our culture and our staff here at the Exchange.

12 UNIDENTIFIED WOMAN: Welcome.

13 UNIDENTIFIED MAN: Welcome.

14 MR. HIGH: Thank you.

15 MS. KORBULIC: Ryan and I got to spend some
16 time in Las Vegas last week for our open enrollment
17 kickoff event and got -- I got to get right in there
18 with the media and start this whole face of the Exchange
19 business, which was fun and interesting and hasn't
20 stopped since.

21 And not only were we able to see the excitement
22 that surrounds open enrollment, but we were also, thanks
23 to our Board member Jose Melendrez, able to meet with
24 some leadership of the Latin Chamber of Commerce, the
25 Coalition for the Office of Minority Health, and then

1 representatives of the University of Nevada, Las Vegas,
2 School of Community Health Sciences.

3 I felt like it was a very productive trip, and
4 there are several new partnership potential and
5 opportunities for the Exchange.

6 I'm getting close here to being done.

7 The Exchange continues to await the finalized
8 Notice of Benefits and Payment Parameters for 2018. I
9 harass CMS about this daily. I want to see it just as
10 badly as everyone else. This is a document that's going
11 to establish the user fee for healthcare.gov for 2018,
12 which would allow for the continued access to
13 healthcare.gov application, eligibility, enrollment, and
14 customer service center.

15 We anticipate that it's going to be finalized
16 and realized prior to January 2017 when the new
17 presidential administration is taking over.

18 Finally, the Exchange has been working with the
19 Nevada Division of Insurance to coordinate an
20 On-Exchange Advisory Committee where we will be
21 requesting feedback from both on-Exchange carriers and
22 off-Exchange carriers who potentially are interested in
23 selling on-Exchange, to determine courses that, or
24 opportunities moving forward to establish a more vibrant
25 and stable marketplace. I'm hoping to begin those

1 conversations sometime in early December.

2 Before I hand it off to Patty, I'd be open and
3 willing to answer any questions that the Board might
4 have.

5 MS. LEWIS: I have a couple.

6 DR. JAMESON: Lavonne.

7 MR. MELENDREZ: This is Jose.

8 MS. KORBULIC: Hold on, Jose. Lavonne is
9 asking a question.

10 MS. LEWIS: Thank you for such a wonderful
11 report. And I would just like to make available to you,
12 the next time you are in the Las Vegas area, the
13 opportunity to also meet with the Las Vegas Urban
14 Chamber of Commerce and the Las Vegas Urban League, so
15 that you could look to see whether or not partnership
16 could be established with those organizations.

17 MS. KORBULIC: That's great. Thank you. And I
18 will have Ryan reach out to you. I know he's scheduling
19 a trip in November. So thank you.

20 DR. JAMESON: Heather, thank you for that
21 report. And thank you for the little prelude, which we
22 were all -- I think, was one of the big questions we all
23 came here today with, was we're wondering how the new
24 leadership going forward is going to affect the ACA.

25 And, of course, nobody really has those

1 answers, but we thought you might have something. And
2 indeed your research and review of the past actions of
3 Congress and sharing with us what they tried to do and
4 how it might roll out, and that regardless of what
5 happens, it would probably take at least two years.
6 And, also, keep in -- to protect and keep access of the
7 health care to our clients.

8 And, of course, we will hope some of the other
9 things you mentioned, that it will maintain some of the
10 really important parts of the Affordable Care Act.

11 I really want to ask a question, but first
12 congratulate Ryan High and welcome him to joining our
13 team.

14 It's great to have you with us, especially
15 because you could tell how happy you have made Heather.

16 MR. HIGH: Thank you.

17 DR. JAMESON: When, Heather, you mentioned that
18 there was that latency or delay, I was just wondering if
19 you had any quote that was regards to the large number
20 at early enrollment or if it was more IT issues.

21 MS. KORBULIC: Yes, I do have a smidge bit of
22 an inkling on where that's coming from. The
23 healthcare.gov team implemented some new changes this
24 year to the platform. And, I think, potentially, those
25 changes caused disruption that they hadn't anticipated.

1 And so they are working out the kinks of the new pieces
2 of healthcare.gov.

3 DR. JAMESON: And it sounds like, as you said,
4 they've already started working that out.

5 And I just want to thank and congratulate all
6 of your staff and yourself, as you are now new in this
7 executive position, for the very successful open
8 enrollment kickoff this year in Las Vegas.

9 I wanted to ask a little bit about the --
10 finally, the Exchange working with the Nevada Division
11 of Insurance to coordinate an On-Exchange Advisory
12 Committee. And I remember, if I'm recalling correctly,
13 that we had talked about that in the past being
14 developed.

15 MS. KORBULIC: M-hm (affirmative).

16 DR. JAMESON: I didn't know if it had actually
17 met yet or when the future meetings might be.

18 And, also, when we talk about changes that are
19 going on and in the air, if, of course, part of this,
20 even apart from what just recently happened with the
21 leadership in our nation, but we had a concern with some
22 local state changes for the rules about certain
23 insurance companies applying for our state Medicaid and
24 whether or not they would have to take on or offer
25 products for our Exchange, and some of this has changed.

1 And I hope, because, of course, the concerns
2 across the country are that Medicare user dropping their
3 participation with the Exchange.

4 So I'm hoping that this committee can be a
5 place of conversation and bring or can maintain current
6 partners and bring new partners on, especially because
7 of my concern about them no longer being required, going
8 forward, if they're on Medicaid, if they're receiving
9 Medicaid, to participate with us, whether, you know,
10 they will.

11 And I would love your thoughts on this
12 regarding the on-site advisory committee. And I would
13 be very happy if you want to weigh in and put that on a
14 future agenda, just want to earmark it.

15 MS. KORBULIC: That sounds good. And I will
16 just share that I'm meeting with the Medicaid
17 administrator next week to discuss those contracts. And
18 so far, I'm feeling very encouraged about the potential
19 for working with current and potentially new carriers
20 moving forward. So.

21 And then, Madam Chair, Jose's on the phone, and
22 he has a question. I'm going to try and put it up and
23 see if you can.

24 Go ahead, Jose.

25 DR. JAMESON: Jose, Mr. Melendrez, please

1 proceed with your question.

2 MR. MELENDREZ: (Indistinct.)

3 MS. KORBULIC: Oh, sorry. I'm on speaker.

4 Just a second.

5 Go ahead, Jose.

6 MR. MELENDREZ: Okay. Sorry. I just wanted to
7 comment. I wanted to thank Heather and Ryan for making
8 the time that they did to meet with the different folks,
9 the School of Health Sciences and some of the folks on
10 the new minority health coalition, as well as in the
11 Latin Chamber. It was a -- those were a series of
12 really good meetings. I think, we had some really great
13 conversations about some opportunities that Heather
14 reported.

15 And so I just wanted to say thank you for
16 making that time and (indistinct). Not only did it open
17 to Latin communication, but also got a -- I think, some
18 different folks thinking about the possibilities of how
19 they can partner with the Exchange for future
20 opportunities.

21 And, you know, given what potential is coming
22 our way, I think, those partnerships are going to be
23 critical. I had a meeting this morning with some of our
24 legislators. And, you know, I put this on their radar
25 that if things do change on the federal level, then what

1 does that mean at the local level, what can we do as a
2 state to put all of these folks who have taken and had
3 the opportunity to register and have insurance, you
4 know, what that can mean for us on the state level. So.

5 But I just wanted to thank Heather, because, I
6 think, we've started, opened up a process for
7 partnerships that are going to be critical as we move
8 forward in the next year with the new president and all
9 that.

10 MS. KORBULIC: Thank you.

11 DR. JAMESON: Thank you, Jose.

12 At this point, I think, talking as we just did
13 a little bit about the qualified health plans, it's a
14 perfect segue into our next item on the agenda, the
15 overview of the 2017 Exchange qualified health plans
16 presented by the Division of Insurance.

17 Oh, I'm sorry. Valerie, please.

18 MS. CLARK: Thank you, Madam. Thank you, Madam
19 Chair. Valerie Clark, for the record.

20 I just wanted to clarify that one statement I
21 just heard you make about Medicaid, the Medicaid
22 providers, that they did announce the additional two
23 Medicaid providers. But I was curious about the
24 statement about having a health plan on the marketplace
25 as well. What is the status of that?

1 MS. AIELLO: So this is Betsy Aiello, Deputy
2 Administrator.

3 And with our prior -- we reprocure our plans
4 every four years. And with our prior reprocurement,
5 when the Exchange was just coming up, in our scope of --
6 that we release for procurement, it was required that
7 anybody that applied for the Medicaid product had to put
8 a product on the Exchange.

9 That requirement was removed with this last
10 reprocurement. And the reprocurement gave some
11 additional weighting and points, but it was not a
12 mandatory that they had a product on the Exchange.

13 There are some plans in the country that do
14 Medicaid only. And so, with the fact that our
15 population has extremely exploded, too, and we have
16 almost 500,000 in our managed care products now, over
17 six, about 680 in the Medicaid program, all together,
18 the concern was that it might limit some of the
19 procurement.

20 So it moved from a mandate to a benefit in
21 getting the awards.

22 MS. CLARK: Thank you so much.

23 MS. WILSON: Just another question. Madam
24 Chair, Angie Wilson, for the record.

25 I just wanted to say great report. And I

1 know -- you know, just to welcome both Ryan and Heather.
2 It's nice to be here.

3 One thing I did want to say was that I'll
4 continue to be a resource for you in regards to our
5 American Indian/Alaska Native patients. You know, we
6 have had calls yesterday, Alltrax calls, with the
7 National Congress of American Indians, the National
8 Indian Health Board. And, of course, we work closely
9 with CMS Region 9 and CMS on the national level with the
10 Tribal Technical Advisory Work Group on specific issues,
11 dealing not only with looking at it from a Medicaid side
12 of view, but we're looking at the Exchange on the
13 federal and state-based level.

14 So we are keeping an eye on how many American
15 Indians are accessing care through the Exchange.

16 MS. KORBULIC: M-hm (affirmative).

17 MS. WILSON: One of the barriers that we are
18 aware of, and will continue to work through, is an
19 avenue for tribal sponsorship through the Health
20 Exchange.

21 So I just wanted to let you know that I'll
22 continue to be a resource and be able to assist in
23 working with you guys on identifying what those barriers
24 are in the tribal communities as we move forward.

25 MS. KORBULIC: Thank you.

1 DR. JAMESON: Thank you.

2 And now our report for the qualified health
3 plans by the Insurance Division.

4 MR. SHIPPEY: Make sure everyone can hear me.
5 Is the microphone working down south?

6 DR. JAMESON: We hear you very well. Thank
7 you.

8 MR. SHIPPEY: Well, Dr. Jameson and members of
9 the Board, we appreciate -- well, first, for the record,
10 my name is Glenn Shippey with the Division of Insurance.

11 And we appreciate this opportunity to explain
12 some of the changes that will be occurring in 2017, with
13 an emphasis on-Exchange. But, also, it's important for
14 you and members of the public to understand some of the
15 changes that are occurring off of the Exchange. And
16 we've sign some significant changes there.

17 I thought I would first, though, give, for some
18 of the newer people, just a little bit of a history
19 lesson, starting with 2013, just to give you an idea
20 what the individual health insurance market looked like
21 back then.

22 It was dominated, it was a competitive market
23 dominated by PPO carriers. Those are preferred prior
24 organization carriers that had broad national networks.
25 We had just under a hundred thousand Nevadans that were

1 in the individual market in 2013. And that's before, of
2 course, the significant ACA mandates were enacted,
3 including subsidized Exchange plans becoming effective
4 1-1-14.

5 So out of the 96,150 total members, over 90,000
6 of those are on PPO plans. Those plans were not as rich
7 in terms of benefits. They didn't have as much managed
8 care. So there wasn't, again, much of an HMO presence.

9 In 2014, which will be the next slide, that, of
10 course, the big change is we had qualified health plan
11 subsidies available for individuals that purchased
12 through the Xerox system Nevada Health Link.

13 And we had four carriers that made plans
14 available on that system in 2014. All four of those
15 carriers were HMOs. So we saw an increase in HMO
16 membership in 2014, almost entirely due to the presence
17 of those four carriers on-Exchange with subsidies
18 available.

19 The total market did increase up to 117,745 in
20 2014. The Exchange membership was, you know, somewhat
21 depressed. As we know, we had some IT challenges and as
22 did other states in the FFM that year.

23 And I also want to point out something that --
24 and I should, should go back to 2013. The loss ratio in
25 2013 was just under 80 percent. In an incurred loss

1 ratio, what that is, is generally that's the -- for
2 every premium dollar collected, that's the percentage of
3 that premium dollar that goes to paying claims. And so
4 just under 80 percent in 2013 before the ACA ramped up
5 in the full effect.

6 In 2014, the loss ratio was just over 92
7 percent. So there, you know, the loss experience was
8 less favorable in 2014.

9 The distribution plans, we still had a strong
10 PPO membership in 2014. And as we move into 2015, you
11 know, we did add an additional carrier on the Exchange.
12 For the first time, PPO qualified health plans were
13 available. That was through Time Insurance Company. So
14 Time Insurance Company joined the Nevada Health Co-Op,
15 Health Plan of Nevada, Prominence and, also, Anthem's
16 HMO company, HMO Colorado.

17 We still had, you know, a very competitive
18 market in 2015. And we saw -- this is when we really
19 started to see an increase in membership on-Exchange,
20 particularly in subsidized qualified health plans. The
21 membership on-Exchange almost equaled the membership
22 off-Exchange in 2015.

23 And something I want to, you know, point out,
24 that the loss ratio in 2015, the incurred loss ratio,
25 was almost 99 percent. And that experience in 2015 is

1 the basis for the rates that are approved for 2017.

2 Because of the timing of filings that's really
3 driven by the FFM, so CMS, carriers had to submit to us
4 in early May. And what carriers had available to them
5 in early May was 2015 experience.

6 You know, based on that 2015 experience, the
7 request, the average request from carriers for 2017,
8 based on that experience -- I'm going to jump ahead a
9 little bit there -- was almost 15 percent. And our
10 office approved an average marketwide of 10.7 percent,
11 and which is much less than what was the average change
12 nationwide, which, as Heather pointed out earlier, was
13 about 25 percent, and we've heard in the news increases
14 statewide that are substantially higher than that for
15 people going into '17.

16 The uninsured rate, which prior to 2014, by a
17 lot of different measures was in excess of 22 percent,
18 was reduced based on the census, American Community
19 Survey, results in 2014 to 15.7 percent. And then our
20 latest measure, using the census AC as data for Nevada,
21 is that for 2015 it was reduced to 12.3 percent. We
22 don't have a measure for 2016 yet, because we haven't
23 completed that year and we're still collecting that
24 data.

25 Moving to 2016, we did lose two carriers on the

1 Exchange, and we added a carrier. We lost the Nevada
2 Health Co-Op. And, I think, that's well-known.

3 We also lost a PPO carrier, Time Insurance
4 Company, that didn't have a real large amount of
5 writings. But Time nationwide got out of the business
6 of individual health insurance on and off the Exchange.
7 So they just pulled out. That wasn't just a Nevada
8 decision, that was nationwide.

9 But Anthem joined the Exchange with its PPO
10 company. So Anthem brought a second company onto the
11 Exchange this year and with PPO plans available
12 statewide.

13 Prominence this year and, also, that came in
14 the 2015, brought some plans into southern Nevada to
15 complement its plan offerings in northern Nevada.

16 Both Anthem companies statewide, currently HPN,
17 southern Nevada and northern Nevada, do not service the
18 rural Nevada counties either on- or off-Exchange.

19 We saw a significant increase in enrollments as
20 we measured it at the time we collected the filings in
21 early May of this year. And that was a count as of
22 March 31st. The carriers reported 141,502 Nevadans
23 covered. And for the first time, the membership
24 on-Exchange exceeded the membership off-Exchange.

25 Carriers reported 81,752 Nevadans covered at

1 the end of the first quarter this year.

2 The average rate increase approved for 2016 was
3 just under 10 percent. As I indicated earlier, the
4 average rate increase for the individual market approved
5 for 2017, effective 1-1-17, is just over 10 percent,
6 about 10.7 percent.

7 So looking, now we've arrived in 2017. And I
8 first wanted to talk about southern Nevada, which
9 experienced the most significant change. There isn't
10 much left off of the Exchange in southern Nevada. So as
11 consumers in the state are shopping for plans, there
12 is -- well, first, on- or off-Exchange there are no PPO
13 plans.

14 Anthem did pull off of the Exchange with its
15 PPO company in southern Nevada. So residents of Clark
16 and Nye counties do not have any on-Exchange PPO options
17 when they're shopping during this open enrollment
18 period, effective 1-1.

19 Now, off of the Exchange, we have the two, two
20 of the three on-Exchange carriers that have kind of
21 mirrored plans off of the Exchange.

22 And then other than the plans you could buy
23 on-Exchange anyway from those carriers pretty much, all
24 there is is a single HMO plan from the Aetna HMO company
25 and a single PPO plan from the Aetna PPO company.

1 That's what's available to residents of Clark and Nye
2 counties.

3 Going to the next slide, for northern Nevada,
4 there is more competition in northern Nevada. The
5 Anthem PPO company, which is Rocky Mountain, is still on
6 the Exchange in all counties but Clark and Nye.

7 And, you know, off of the Exchange, in addition
8 to the Aetna plans, the two Hometown Health carriers
9 each have 19 plans. So there are 19 HMO plans from
10 Hometown off-Exchange available, 19 PPO plans
11 off-Exchange.

12 And the Hometown companies didn't -- coming
13 into this year just don't have much of a presence. They
14 each have just a few hundred Nevadans covered currently.
15 But there is, you know, at least in northern Nevada,
16 there are more, there's more choice, particularly for
17 PPO. And I'll talk about the PPO option, you know,
18 on-Exchange in northern Nevada.

19 Let me first focus on the Anthem PPO company,
20 Rocky Mountain. Rocky Mountain reported at the end of
21 the first quarter this year just over 18,000 QHP members
22 statewide.

23 For 2017, Anthem, the PPO company, reduced its
24 QHP plan offerings from 15 down to nine.

25 Now, what's important to point out, and for

1 anyone who may be listening that is actually on an
2 Exchange PPO plan in southern Nevada, because Anthem,
3 the PPO company, is not coming back on-Exchange in
4 southern Nevada, there are about 11,000 policyholders
5 that, if they do not choose a plan themselves, you know,
6 by the end of this month, you know, as Heather talked
7 about the auto reenrollment that's going on, CMS is
8 going to move the people who haven't already chosen a
9 plan with another carrier, CMS is going to move those
10 people to either Health Plan of Nevada or the other
11 Anthem company, both those companies being HMOs.

12 Because there's no PPO option available,
13 they're going to be moved, auto enrolled in an HMO
14 company. It depends on the metal level. As is
15 indicated on the slide, if you're on a gold or bronze
16 Anthem PPO Exchange plan, southern Nevada, you're going
17 to be moved to Health Plan of Nevada. And consumers,
18 those consumers are going to find out towards the end of
19 this month or early December from CMS.

20 Silver catastrophic policyholders will be moved
21 to the HMO Colorado company.

22 As indicated earlier, the QHPs from Anthem are
23 available in all counties outside of Clark and Nye. But
24 Anthem, off of the Exchange, is no longer going to be
25 marketing any PPO plans for 2017.

1 So a consumer that's interested in an Anthem
2 PPO plan off of the Exchange isn't going to see one on
3 any website that's actively marketed. The Division of
4 Insurance does display those plans on its website, and
5 it clearly indicates that they are not actively
6 marketed.

7 Another very important thing for people that
8 are -- I wanted to just -- because some people may be
9 sitting on plans off-Exchange with Anthem, so I wanted
10 to use this opportunity to try to get this message out
11 to them. If they don't already know, anyone that's on
12 an off-Exchange Anthem PPO plan, when they do get
13 renewed for 2017, will no longer have any doctors out of
14 the state of Nevada in-network or any coverage
15 out-of-network, out of the state of Nevada, unless it's
16 an emergency.

17 So that is a big change that those
18 policyholders, hopefully, will understand during open
19 enrollment, so they can make decisions whether that's
20 okay for them or they want to go another plan.

21 The Commissioner approved about a 14 percent
22 increase for the Anthem PPO company effective January
23 1st.

24 The Anthem HMO company, which is statewide on
25 and off of the Exchange and currently, well, not

1 currently, but as of the end of the first quarter
2 reported 7,284 QHP members, they've reduced the plan
3 offerings from 17 to 12, from 16 to 17.

4 And it's something that's important to point
5 out, and it's confusing to some consumers. I have heard
6 from some members of the Exchange staff that have gotten
7 phone calls on this. And Anthem's only gold plan -- and
8 all carriers on-Exchange must have at least one gold
9 plan. But Anthem's gold HMO plan is through the Office
10 of Personnel Management.

11 So that is the -- that office. And OPM also
12 administers the federal employee health plans. We don't
13 have much involvement, in terms the Exchange doesn't
14 have any involvement in certifying those plans. Those
15 OPM plans are certified by OPM.

16 They're displayed a little differently on
17 healthcare.gov. So consumers may not immediately
18 recognize those as Anthem. But they really are
19 identical to the other Anthem plans. The only
20 difference is, is regarding external review.

21 If a consumer appeals and wants to exercise
22 external review, those OPM policyholders go to OPM
23 instead of our agency, GovCHA, to exercise their
24 external appeal rights.

25 The Commissioner approved an increase just

1 under 9 percent for the Anthem HMO company effective
2 January 1st.

3 Health Plan of Nevada has the largest share of
4 QHP members in the states, reported 45,358 as of 3-31.

5 HPN did reduce its plan offerings from 16 to
6 10, has eliminated platinum plans, which means that
7 there are now no platinum plans available on- or
8 off-Exchange from any carrier in Nevada for 2017. So
9 consumers shopping won't find those.

10 And, also, consumers shopping won't find gold
11 plans off of the Exchange. So gold is only available,
12 actively marketed on-Exchange only, by carriers.

13 As I indicated earlier, HPN offers QHPs in
14 Clark, Nye and Washoe counties, not Carson, not in rural
15 Nevada.

16 Policyholders are going to get about an
17 8 percent increase effective January 1st.

18 And I added some off-Exchange information,
19 because HPN's sister company, Sierra Health and Life,
20 has the largest market share off of the Exchange
21 currently, and there's some significant change there.

22 Consumers in Nevada that are shopping won't
23 find Sierra plans anymore. They are not actively
24 marketing those plans. They're displayed on our
25 website, but they won't see them on a broker portal or

1 any other place, to buy it. They're not actively
2 marketed.

3 The 33,000 members that have renewed for 2017
4 on these Sierra plans will not have any network
5 providers out of the state of Nevada. That change is a
6 little different from Anthem. There is out-of-state
7 out-of-network coverage for these people that renew, but
8 there are no in-network providers outside the state of
9 Nevada for these 33,000.

10 The fourth carrier on Exchange is Prominence,
11 just about 11,000 members statewide. They're not in
12 rural Nevada. They are in, you know, Carson, Washoe,
13 the neighboring service area, three counties neighboring
14 to Carson, and also down in southern Nevada.

15 They are reducing their southern Nevada plans
16 down to four. And those four plans only have the
17 HealthCare Partners network. So any policyholders that
18 currently down in southern Nevada that have the other
19 network plans, they are going to be moved over to a
20 HealthCare Partners network plan if they don't take any
21 other action during open enrollment.

22 The Commissioner approved a 17 percent increase
23 for Prominence effective January 1st.

24 And Prominence, and they've been on the
25 Exchange since 2014, but Prominence has never actively

1 marketed individual plans off of the Exchange.

2 And that is the end of my presentation. And
3 I'd be happy to answer any questions anyone has. Thank
4 you.

5 DR. JAMESON: I would first like to thank you.
6 That was an excellent report, an incredible amount of
7 information in such an organized and easily understood
8 presentation. I didn't think I was going to really be
9 able to understand all that. And your really big slides
10 helped.

11 I want to ask if there's anybody, particularly
12 some of our brokers, who might -- Valerie, some of the
13 others, their area of interest, have any questions.

14 MS. CLARK: Madam Chair, Valerie Clark, for the
15 record.

16 Thanks for that. That was actually very
17 helpful for me. I sort of know most of this in my head,
18 but I wasn't clear on all of it. So it was very
19 helpful. Thanks, Glenn.

20 When the carriers get -- decide to pare their
21 plans down and/or exit the marketplace, are they
22 interviewed for their rationale of doing so? Are we
23 getting a clear understanding?

24 I mean I can make an educated guess. But do --
25 is there a formal process for interviewing the carriers

1 to get information about their experience on or off the
2 Exchange and why they may be coming on or exiting the
3 marketplace?

4 MR. SHIPPEY: Would you like me to address
5 that?

6 Okay. Thank you.

7 Thank you for the question. And there -- I
8 wouldn't say it's a formal process, but we certainly are
9 in close communication anytime any changes are made,
10 especially significant changes like this.

11 Carriers do openly communicate, for reasons
12 that are probably fairly obvious, that they want us, as
13 the regulatory agency, to understand, you know, what is,
14 you know, happening out in the marketplace. And they
15 also want -- we also are an agency that does get
16 information out to the public and other stakeholders.

17 Carriers have a number of decisions, you know,
18 that they can make. One of the decisions to not
19 actively market is something that carriers have been
20 doing since 2014. So there's not as much communication
21 with that decision. But, you know, we do have a pretty
22 good understanding when those carriers make that
23 decision.

24 Because the Division of Insurance website, we
25 did launch a marketwide rate wizard that shows all of

1 the plans and prices and plan documents and links to
2 provider networks and formularies. And because we
3 maintain that, it needs to be accurate and reflect what
4 carriers are presently doing and what they're going to
5 be doing in the future.

6 If a carrier actually decides to exit the
7 market, then that's when we have a formal process. And
8 if a carrier wants to completely exit -- for instance,
9 Time Insurance Company took that step nationwide --
10 there is a statutory obligation to submit a letter to
11 the Commissioner 60 days prior to notifying
12 policyholders 180 days in advance. So it's about an
13 eight-month process. And in that letter, carriers are
14 required to explain, you know, why they are making the
15 decision to exit.

16 Now, carriers, under the rules of the ACA, with
17 uniform application, carriers can, can make a lot of
18 changes from year to year. And then they can decide,
19 after we approve plans, that -- all plans, including
20 Exchange plans, are approved by the Division of
21 Insurance. We work closely with the Exchange on those
22 Exchange plans.

23 After we approve rates and forms, then it goes
24 over to the Exchange. The Exchange actually certifies.
25 Because the Exchange utilizes the federal platform,

1 carriers actually have -- they have to execute an
2 agreement and sign off on plans with the FFM, with CMS,
3 so they can actually make decisions at every point.
4 Even after the Exchange certifies, they can decide to
5 stop.

6 So there's a lot of activity that happens.

7 MS. CLARK: Sure. Well, and I -- yeah, I
8 understand that. I think, I'm thinking of it from the
9 perspective of trying to be proactive in maintaining
10 carriers in the state, whether they're on or off the
11 Exchange, preferably both.

12 But I mean I'm just curious. My educated guess
13 would tell me it has to do with loss ratios being high.
14 You know, demographic maybe, possibly demographic issues
15 or other. You know, when we're valuating large group
16 renewals -- we can't really do it for small group
17 anymore, but for large group we can find out a lot of
18 information about why a number is a number. And I
19 assume you get that information if you're going to be
20 approving rates and things like that.

21 But, I think, the general public, consumers
22 could definitely benefit from some pared down
23 information as to why things are the way they are.

24 You know, informally, you know, I've been told
25 by carriers that they are taking big losses. But why

1 are they taking big losses? What, why are the losses
2 big? What's, what's the problem? What can we do, as an
3 Exchange Board, as a Division of Insurance, or as a
4 state, what can we do to make carriers want to come
5 back?

6 Because you, as you -- you know, it's very
7 obvious where we're going with this. And, I think, the
8 question has to be asked, are we -- do we want to have
9 carriers here and have this Exchange be as vibrant as
10 possible, or do we want to let things kind of fizzle
11 out?

12 I highly doubt anyone wants to let things
13 fizzle out. But I feel like there could be some
14 proactive activity in partnering with the carriers more
15 to become a more attractive state to do business in.
16 And possibly that might have to do with, also, how
17 things are handled by the federal level with, you know,
18 the federal, FFM. You know, I'm a big proponent of
19 getting statewide -- restoring our state-based Exchange
20 as opposed to using FFM, because I feel we could get
21 much more data out of it.

22 But, I don't know, I feel like there's got to
23 be kind of this point in time when -- and I don't know
24 who takes the ball and runs with it, whether it's you or
25 the Exchange or maybe a collective group of people. But

1 somebody has to decide if we want to be an attractive
2 state for these carriers to do business in.

3 And if we do, what do we have to do to make
4 them want to come back? Because I have a feeling that
5 they would want to come back if things were attractive
6 to them, you know.

7 DR. JAMESON: Valerie, thank you so much.
8 Those are very good comments.

9 And I think that our new Exchange advisory
10 committee is going to address a lot of those questions
11 that you asked. And, hopefully, we will get the
12 feedback. Because, I think, it's all of our hope that
13 indeed we can keep this very vibrant and have increasing
14 and not decreasing numbers of participants with our
15 carriers and have them offer as broad of a number of
16 plans as possible.

17 And, I think, that's one thing we are going to
18 see with our Exchange advisory committee.

19 And I really thank you for all those questions
20 and comments. They're excellent.

21 MS. CLARK: Thank you. I'm sorry to be so
22 worried.

23 DR. JAMESON: And I think the -- and I want to
24 thank so much that presentation, as you pointed out as
25 well. It was excellent. And I think it was very

1 enlightening for many people.

2 The next item on our agenda is the discussion
3 and possible action regarding dates, times, and agenda
4 items in the future.

5 And I would just like to say I would like to
6 have Heather, as information comes in, to give us a
7 regular update on the ACA, nationally, how it affects us
8 locally, actions Congress might be taking.

9 And, also, Valerie, as a follow-up to what
10 you've said, when the -- an Exchange advisory
11 subcommittee starts meeting, to give us some follow-up
12 and updates on those meetings.

13 Did anybody else have any other things they'd
14 like to add?

15 MS. LEWIS: Madam Chair, I would just like to
16 add that we include in our publicity the fact that the
17 Affordable Care Act is still here, because there may be
18 some people who think that it's gone away with the
19 election that has just taken place.

20 I hope that we will make sure, and I haven't
21 looked at this completely, but I would hope that we
22 would just make sure that folks are aware that, you
23 know, the law has not changed.

24 DR. JAMESON: An excellent point.

25 MS. KORBULIC: If I could, I just wanted to

1 chime in on that and just thank you, Lavonne, for that
2 point. And that is something that we are adding to our
3 talking points. And in about an hour, Janel and I will
4 be talking to a radio show, and we'll make sure to hit
5 on that topic.

6 MS. WILSON: Can I just add -- Angie Wilson,
7 for the record -- that it's pretty amazing, looking at
8 the report that you gave, to look at the number of
9 Nevadans that are uninsured has, has significantly gone
10 down.

11 MR. SHIPPEY: M-hm (affirmative).

12 MS. WILSON: That's really remarkable. And
13 even though we don't -- I don't know what the percentage
14 was for 2016. But in '15, we were down to 12, just
15 around 12 percent, with another 20,000, 22,000 people on
16 the Exchange are now covered.

17 That is really, really remarkable.

18 MR. SHIPPEY: M-hm (affirmative).

19 MS. WILSON: I mean to look at this from a
20 statewide perspective. And the impact that that has,
21 not only on the Exchange, but even with Medicaid and how
22 much our partners at Medicaid have had to, you know,
23 really expand the care.

24 But that's something that, you know, I feel
25 really proud of. I know, you know, all the work that's

1 gone into that. So. Pretty remarkable.

2 DR. JAMESON: Excellent point, and especially
3 with the Medicaid expansion, as you stated.

4 At this point, if there's any public comment up
5 north, we'd like them to come forward.

6 Is there any public comment down here?

7 MS. KORBULIC: Yes, there is. There is.

8 DR. JAMESON: There's some.

9 MS. KORBULIC: Oh, there's public comment here
10 in the north.

11 DR. JAMESON: Oh, okay. We have none down
12 here. So why don't you go ahead and proceed.

13 MS. SUSAN HOKE: Hi. My name is Susan Hoke,
14 and I live in Reno. Can you hear me?

15 MS. KORBULIC: Oh, you have to push the button.

16 DR. JAMESON: We could hear.

17 MS. SUSAN HOKE: How's that?

18 My name's Susan hoke, and I'm from Reno. And I
19 came down today specifically to see, to make sure that
20 the ACA wasn't going away for 2017. 'Cause I'm
21 self-employed. I've always had health insurance, but I
22 had to buy it myself. And so I am very grateful to be
23 able to, for myself and my two daughters, to buy
24 insurance through the Exchange.

25 So keep it up, honestly.

1 MS. KORBULIC: Thank you very much.

2 MS. SUSAN HOKE: Thank you.

3 DR. JAMESON: Thank you so much for your
4 testimony. All of us on the Board and the staff really
5 appreciate those comments.

6 And we want you to know we're going to continue
7 working hard to make this a better Exchange, better than
8 ever the next year, and continue optimistically that we
9 will be able to be here to serve people such as yourself
10 and many other Nevadans, and get that uninsured rate
11 down as close to zero as we can.

12 I want to thank everybody today for this
13 excellent meeting, so informative, and, again, once
14 again, welcome Ryan.

15 Have a wonderful afternoon.

16 MS. KORBULIC: Do we need to vote to close?

17 MR. BELCOURT: No.

18 MS. KORBULIC: Okay. Great. Thank you.

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