

MINUTES OF MEETING
OF THE INDUSTRIAL COMMISSION OF ARIZONA
Held at 800 West Washington Street
Phoenix, Arizona 85007
Thursday, June 29, 2023 – 1:00 p.m.

Present:	Dennis P. Kavanaugh	Chairman
	Joseph M. Hennelly, Jr.	Vice Chair
	Scott P. LeMarr	Commissioner (Telephonic)
	D. Alan Everett	Commissioner
	James Ashley	Director
	Afshan Peimani	Assistant Chief Legal Counsel
	Trevor Laky	Legislative Affairs Chief/Public Information Officer
	Charles Carpenter	Medical Resource Office Manager
	Renee Englen	Medical Resource Office Assistant
	Melissa Spurgeon	Labor Supervisor
	David James	Labor Investigator
	Christina Sanchez	Labor Investigator
	Kimberly Gooby	Labor Investigator
	Jennifer Cox	Labor Investigator
	Jessie Atencio	ADOSH Director
	James Reitmeier	ADOSH Compliance
	Anna Maria Stonerock	ADOSH Admin
	Kara Dimas	Commission Secretary

Chairman Kavanaugh convened the meeting at 1:00 p.m. In attendance, confirmed by roll call were Dorothy Schulte (Court Reporter); Lea Bartynski (Snell & Wilmer); Susan Strickler (Arizona Self Insurers Association); Anthony Ramirez (Accident Law Group); Corvina Reveles and Kaylie Reveles (Next of Kin); Barry Alostock (Faith, Ledyard & Faith, PLC) (Attny for next of Kin); Gale Vogler (CopperPoint); Juan Zandejas (Foothills Packing, Inc.); Justin Serfass, Shawn Puckett and Pat Olstad (Funko, LLC); Robin Wicktor and Nubia Briceno (MBI); Jodie Crawford (Sunrise DME); Jacquelyn Simioni (I Chief, L.L.C.); David Howard and Dawson Stoffel (PRM); Anthony Julian (ACC); Tracy Koff (Premier Risk Management); Greg Gilbert and Daniel Medeiros (Concentra); Anne Ryman (ABC15); and Blanca Garza (Piana Nonwovens LLC). Also in attendance on the telephone, confirmed by roll call were Gina Robertson, Kevin Tribout, Aisha Shelton and Teriann Scarantino (Optum); Dr. Joel Brill, Christine O'Donnell and Pauline Williams (FAIR Health); Douglas Breit, Jennifer Cervera and Leah Holladay (Sedgwick); and Susan Curley (One Call).

Public Hearing regarding the 2023-2024 Arizona Physicians' and Pharmaceutical Fee Schedule established under A.R.S. § 23-908(B).

Chairman Kavanaugh welcomed interested parties to the public hearing which gives stakeholders another opportunity to comment on staff proposals regarding the 2023/2024 Arizona Physicians' and Pharmaceutical Fee Schedule and the recommendations for changes to the Fee Schedule. He noted the staff proposal has been posted on the Commission's website for the last month.

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

Chairman Kavanaugh thanked Mr. Carpenter.

The following attendees addressed the Commission during the Public Hearing: Susan Curley, Greg Gilbert and Susan Strickler.

At the conclusion of the testimony, Chairman Kavanaugh noted that the record will remain open for written comments until the close of business on July 6, 2023. Comments received by the Commission will be placed on the Commission's website, along with the transcript from today.

A written transcript of the Public Hearing is attached hereto.

Approval of Minutes of June 15, 2023 Regular Meeting Minutes.

Vice Chair Hennelly moved to approve the Minutes of the June 15, 2023 regular session meeting and Commissioner Everett seconded the motion. Chairman Kavanaugh, Vice Chair Hennelly, Commissioner LeMarr and Commissioner Everett voted in favor of the motion. The motion passed.

Consent Agenda:

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

a. Approval of Proposed Civil Penalties Against Uninsured Employers.

1. 2CNP22/23-1605 About Integrity Movers LLC \$5,000

Commissioner Everett moved to approve the item on the Consent Agenda and Vice Chair Hennelly seconded the motion. Chairman Kavanaugh, Vice Chair Hennelly, Commissioner LeMarr and Commissioner Everett voted in favor of the motion. The motion passed.

Discussion and Action regarding Proposed Retaliation Penalty.

1. RT-2223-0087 SW General, Inc. \$1,000–Retaliation Penalty \$250–Civil Penalty

Ms. Sanchez summarized the Labor Department's investigation into the Earned Paid Sick Time (EPST) Retaliation claim. Ms. Sanchez recommended that the Commission approve issuance of a Penalty in the amount of \$1,000.00 for violation of A.R.S. § 23-364 and a \$250.00 civil penalty for violation of § 23-375(C).

Vice Chair Hennelly moved to approve issuance of a Penalty for Retaliation in the amount of \$1,000.00 and \$250.00 civil penalty to SW General, Inc. Commissioner Everett seconded the motion. Chairman Kavanaugh, Vice Chair Hennelly; Commissioner LeMarr and Commissioner Everett voted in favor of the motion. The motion passed.

2. RT-2223-0094 Southwest Airlines Co. \$33,600–Retaliation Penalty

Ms. Spurgeon summarized the Labor Department’s investigation into the Earned Paid Sick Time (EPST) Retaliation claim. Ms. Spurgeon recommended that the Commission approve issuance of a Penalty in the amount of \$33,600.00 for violation of A.R.S. § 23-364.

Commissioner Everett moved to approve issuance of a Penalty for Retaliation in the amount of \$33,600.00 to Southwest Airlines Co. Vice Chair Hennelly seconded the motion. Chairman Kavanaugh, Vice Chair Hennelly; Commissioner LeMarr and Commissioner Everett voted in favor of the motion. The motion passed.

3. RT-2223- 0113 Cafe Valley, Inc. DBA Cafe Valley Bakery \$13,735.35–Retaliation Penalty

Ms. Spurgeon summarized the Labor Department’s investigation into the Earned Paid Sick Time (EPST) Retaliation claim. Ms. Spurgeon recommended that the Commission approve issuance of a Penalty in the amount of \$13,735.35 for violation of A.R.S. § 23-364.

Commissioner Everett moved to approve issuance of a Penalty for Retaliation in the amount of \$13,735.35 to Cafe Valley, Inc. DBA Cafe Valley Bakery. Vice Chair Hennelly seconded the motion. Chairman Kavanaugh, Vice Chair Hennelly; Commissioner LeMarr and Commissioner Everett voted in favor of the motion. The motion passed.

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

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

Do Portugal Circus, LLC
317 W Santa Paula Rd
Tucson, AZ 85706

Fatality
Years in Business: 29
Empl. Covered by Inspection: 13

Site Location: 7700 W Arrowhead Towne Center
Glendale, AZ 85308
Inspection No: FC-2023-A7717-0101
Inspection Date: April 25, 2023

NON-SERIOUS

- 1) 29 CFR 1904.39(a)(1): The employer did not report within 8-hours the death of an employee resulting from a work-related incident.
- 2) 29 CFR 1904.39(a)(2): The employer did not report within 24 hours a work-related incident resulting in in-patient hospitalization, amputation or the loss of an eye.
- 3) 29 CFR 1910.184(d): Inspections. Each day before being used, the sling and all fastenings and attachments shall be inspected for damage or defects by a competent person designated by the employer. Additional inspections shall be performed during sling use, where service conditions warrant. Damaged or defective slings shall be immediately removed from service.

Div. Proposal - \$3,349.00
TOTAL PENALTY - \$6,698.00

Formula Amt. - \$3,349.00
TOTAL FORMULA AMT. - \$6,698.00

Mr. Atencio discussed ADOSH's inspection, summarized the citation and proposed penalties.

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

Foothill Packing, Inc.
12350 Tangelo Ave
Yuma, AZ 85365

Programmed Planned
Years in Business: 20
Empl. Covered by Inspection: 7

Site Location: 24 Co. and B Ave & C Ave
Yuma, AZ 85365
Inspection No: PP-2023-E7721-0087
Inspection Date: February 1, 2023

SERIOUS – Citation 1 - Item 1 –

- a) 24 Co. and B Ave & C Ave, Yuma, AZ 85365: An operator was observed driving a New Holland tractor, serial and model numbers unknown, without the seatbelt fastened. 29 CFR 1928.51(b)(2)(i)(B)

Div. Proposal - \$6,696.00
TOTAL PENALTY - \$6,696.00

Formula Amt. - \$6,696.00
TOTAL FORMULA AMT. - \$6,696.00

Mr. Atencio discussed ADOSH's inspection, summarized the citation and proposed penalty.

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

Funko, LLC
2600 S Miller Rd
Buckeye, AZ 85326

Complaint
Years in Business: 1
Empl. Covered by Inspection: 150

Site Location: 2600 S Miller Rd
Buckeye, AZ 85326
Inspection No: CP-2023-Q6169-0026
Inspection Date: March 21, 2023

SERIOUS – Citation 1 - Item 1 –

- a) Freight: Employees operating a Lantech Inc., stretch wrap machine, Model Q300XT, serial number QX053550, were exposed to rotating and moving parts such as the turntable.
b) Freight: Employees operating a Lantech Inc., stretch wrap machine, Model Q300XT, serial number QX053550, were exposed to an automated cutting blade.
c) Freight: Employees operating a Lantech Inc., stretch wrap machine, Model Q300XT, serial number QX0054374, were exposed to rotating and moving parts such as the turntable.
d) Freight: Employees operating a Lantech Inc., stretch wrap machine, Model Q300XT, serial number QX0054374, were exposed to an automated cutting blade.

- e) Freight: Employees operating a Lantech Inc., stretch wrap machine, Model Q300XT, serial number QX0054375, were exposed to rotating and moving parts such as the turntable.
- f) Freight: Employees operating a Lantech Inc., stretch wrap machine, Model Q300XT, serial number QX0054375, were exposed to an automated cutting blade.
- g) Freight: Employees operating a Lantech Inc., stretch wrap machine, Model Q300XT, serial number QX0054376, were exposed to rotating and moving parts such as the turntable.
- h) Freight: Employees operating a Lantech Inc., stretch wrap machine, Model Q300XT, serial number QX0054376, were exposed to an automated cutting blade.
- i) Freight: Employees operating a Lantech Inc., stretch wrap machine, Model Q300XT, serial number QX0054377, were exposed to rotating and moving parts such as the turntable.
- j) Freight: Employees operating a Lantech Inc., stretch wrap machine, Model Q300XT, serial number QX0054377, were exposed to an automated cutting blade.
- k) Freight: Employees operating a Lantech Inc., stretch wrap machine, Model Q300XT, serial number QX0054378, were exposed to rotating and moving parts such as the turntable.
- l) Freight: Employees operating a Lantech Inc., stretch wrap machine, Model Q300XT, serial number QX0054378, were exposed to an automated cutting blade.
- m) Freight: Employees operating a Lantech Inc., stretch wrap machine, Model Q300XT, serial number QX0054379, were exposed to rotating and moving parts such as the turntable.
- n) Freight: Employees operating a Lantech Inc., stretch wrap machine, Model Q300XT, serial number QX0054379, were exposed to an automated cutting blade.
- o) Freight: Employees operating a Lantech Inc., stretch wrap machine, Model Q300XT, serial number QX0053911, were exposed to rotating and moving parts such as the turntable.
- p) Freight: Employees operating a Lantech Inc., stretch wrap machine, Model Q300XT, serial number QX0053911, were exposed to an automated cutting blade. 29 CFR 1910.212(a)(1)

Div. Proposal - \$8,929.00	Formula Amt. - \$8,929.00
TOTAL PENALTY - \$8,929.00	TOTAL FORMULA AMT. - \$8,929.00

Mr. Atencio noted this file was being brought back to the Commission after additional review and noted there were eight machines and not sixteen. Mr. Atencio discussed ADOSH's inspection, summarized the citation and proposed penalty.

Chairman Kavanaugh checked if Funko would like to comment.

Mr. Serfass noted he was available for questions.

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

I Chief, L.L.C.
 4479 W Ina Rd
 Tucson, AZ 85741

Complaint
 Years in Business: 2
 Empl. Covered by Inspection: 8

Site Location: 24 Co. and B Ave & C Ave
 Yuma, AZ 85365
 Inspection No: CP-2023-T3633-0102
 Inspection Date: June 1, 2023

SERIOUS – Citation 1 - Item 1 –

- a) Kitchen: Employees who screened and changed the fryer oil were not provided with and required to wear eye and face protection. 29 CFR 1910.133(a)(1)
 Div. Proposal - \$4,838.00 Formula Amt. - \$4,838.00
 TOTAL PENALTY - \$4,838.00 TOTAL FORMULA AMT. - \$4,838.00

Mr. Atencio discussed ADOSH's inspection, summarized the citation and proposed penalty.

Chairman Kavanaugh checked if anyone would like to comment.

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

Lucky AG, Inc.	Programmed Planed	
1140 Abbot St Ste A	Years in Business:	5
Salinas, CA 93901	Empl. Covered by Inspection:	2
Site Location:	W 1 st St & N Figueroa Ave	
	Yuma, AZ 85365	
Inspection No:	PP-2023-E7721-0087	
Inspection Date:	February 2, 2023	

SERIOUS – Citation 1 - Item 1 –

- a) 24 Co. and B Ave & C Ave, Yuma, AZ 85365: An operator was observed driving a New Holland tractor, serial and model numbers unknown, without the seatbelt fastened. 29 CFR 1928.51(b)(2)(i)(B)
 Div. Proposal - \$6,696.00 Formula Amt. - \$6,696.00
 TOTAL PENALTY - \$6,696.00 TOTAL FORMULA AMT. - \$6,696.00

Mr. Atencio discussed ADOSH's inspection, summarized the citation and proposed penalty.

Chairman Kavanaugh checked if anyone would like to comment.

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

Piana Nonwovens LLC	Referral	
2801 N Main St	Years in Business:	4
San Luis, AZ 85349	Empl. Covered by Inspection:	7
Site Location:	2801 N Main St	
	San Luis, AZ 85349	
Inspection No:	RF-2023-E7721-0086	
Inspection Date:	January 31, 2023	

SERIOUS – Citation 1 - Item 1 –

- a) Production Department: The employer did not develop or implement an adequate written Lockout/Tagout Program for employees required to deenergize machinery and equipment when needed.

- b) Production Department: Certification of periodic inspections of energy control procedures on machinery used in the manufacturing of mattresses, including Oven, EOL Winder 1, Card 1, Vlapper, Crosslapper, Blend Line Hoppers, and Box, was not available.
- c) Production Department: An employee was exposed to a rotating moving drum with spikes on the V-Lap brand, model and serial #YYKS-1115, without all the energy rendered inoperable.
- d) Production Department: An employee was required to perform service and maintenance on various machines and equipment without receiving adequate Lockout/Tagout training.
- e) Production Department: The employer did not maintain certification of training for employees required to apply Locks and Tags as part of a Lockout/Tagout Program. 29 CFR 1910.147(c)(1)

Div. Proposal - \$10,151.00	Formula Amt. - \$10,151.00
TOTAL PENALTY - \$10,151.00	TOTAL FORMULA AMT. - \$10,151.00

Mr. Atencio discussed ADOSH's inspection, summarized the citation and proposed penalty.

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

Rubber Stamp Sisters, LLC
 DBA Phoenix Rubber Stamp Co.
 4020 E McDowell Rd
 Phoenix, AZ 85008

Programmed Planned
 Years in Business: 5
 Empl. Covered by Inspection: 5

Site Location: 4020 E McDowell
 Phoenix, AZ 85008
 Inspection No: PP-2023-Q6169-0013
 Inspection Date: January 12, 2023

SERIOUS – Citation 1 - Item 1 –

- a) Sublimation Room: One employee used a table top Craftsman vertical drill press, model and serial numbers unknown, to drill holes in nameplates that had no guard at the point of operation.
- b) Production Room: One employee used a table top Sprunger vertical drill press, Model DP14, Serial 79376, to make stamps that had no guard at the point of operation. 29 CFR 1910.212(a)(1)

Div. Proposal - \$2,486.00	Formula Amt. - \$2,486.00
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SERIOUS – Citation 1 - Item 2 –

- a) Production Room: One employee used a Craftsman table saw, model #113.298090 and serial number #96045P0234, that lacked a guard to prevent accidental contact with the rotating blade. 29 CFR 1910.213(e)(1)

Div. Proposal - \$2,486.00	Formula Amt. - \$2,486.00
TOTAL PENALTY - \$4,972.00	TOTAL FORMULA AMT. - \$4,972.00

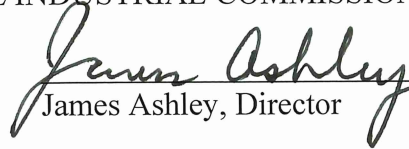
Mr. Atencio discussed ADOSH's inspection, summarized the citation and proposed penalties, and reviewed the photographs.

Ms. Dimas confirmed Commission meeting dates through August 2023. Commissioner LeMarr will not be available for July 13th and 20th or August 31st. Vice Chair Hennelly noted he may not be available for July 13th. Commissioner Everett noted he will be telephonic on July 20th and 27th.

The meeting was adjourned at 2:22 p.m.

THE INDUSTRIAL COMMISSION OF ARIZONA

By


James Ashley, Director

ATTEST:


Kara Dimas, Commission Secretary

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INDUSTRIAL COMMISSION OF ARIZONA

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PUBLIC HEARING REGARDING THE 2023-2024
ARIZONA PHYSICIANS' AND PHARMACEUTICAL FEE SCHEDULE

* * * * *

June 29, 2023

1:00 p.m.

Prepared by:
Dorothy A. Schulte, RPR
Certified Court Reporter
Certificate No. 50459

PERFECTA REPORTING
602-421-3602

(ORIGINAL)

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THE PUBLIC HEARING REGARDING THE 2023-2024
ARIZONA PHYSICIANS' AND PHARMACEUTICAL FEE SCHEDULE was
reported by Dorothy A. Schulte, CCR, RPR, Arizona
Certified Court Reporter No. 50459, in and for the
State of Arizona.

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TELEPHONIC APPEARANCES

COMMISSIONERS: Commissioner Scott P. LeMarr

IN-PERSON APPEARANCES

COMMISSIONERS: Chairman Dennis P. Kavanaugh
Vice Chairman Joseph M. Hennelly, Jr.
Commissioner D. Alan Everett

STAFF: James Ashley, Director
Afshan Peimani, Asst. Chief Counsel
Kara Dimas, Commission Secretary
Charles Carpenter, MRO Manager
Renee Englen, MRO Assistant

PUBLIC COMMENTS

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SPEAKERS:	PAGE:
SUSAN CURLEY (ONE CALL).....	13
GREG GILBERT (CONCENTRA).....	14
SUSAN STRICKLER (AZ COUNTIES INSURANCE POOL)...	15

1 Phoenix, Arizona
2 June 29, 2023
3 1:00 p.m.

4 P R O C E E D I N G S

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7 CHAIRMAN KAVANAUGH: At this time, on
8 our agenda, we are going to have the public hearing on
9 our annual Fee Schedule.

10 The public hearing is being held to give
11 members of the public and Commission stakeholders an
12 opportunity to comment on staff proposals regarding the
13 2023-2024 Arizona Physicians' and Pharmaceutical Fee
14 Schedule and to make additional recommendations for
15 changes to the Fee Schedule.

16 The Staff Proposal has been posted on the
17 Commission's website for the last month.

18 And so Charles Carpenter, the Manager of the
19 Medical Resource Office, will provide a brief overview
20 of the Staff Proposal.

21 So, Charles, I'll hand it over to you.

22 MR. CARPENTER: Thank you, Chairman.
23 I'm not sure if it's so brief today. We've got quite a
24 few updates that we're proposing.

25 So good afternoon Commissioners, Chairman,

1 Director Ashley, colleagues, and guests. Thank you for
2 the opportunity to present the Staff Proposal for the
3 2023-2024 Physicians' and Pharmaceutical Fee Schedule.

4 So I'd like to begin by thanking the many
5 stakeholders who have provided input that was used to
6 improve and update the Fee Schedule this year. I want
7 to recognize and thank those who attended our
8 stakeholder meeting two weeks ago and also those who
9 attended a similar meeting last year.

10 I also want to thank all of the stakeholders
11 who attended our virtual meetings as we developed the
12 Fee Schedule Proposal for this year.

13 Finally, I want to thank the Arizona Dental
14 Association for their participation, their input and
15 all their support in developing the Dental Fee Schedule
16 for this year's proposal -- proposed Fee Schedule
17 update.

18 So, first, staff proposes to include the
19 updated service codes, relative value units or RVUs,
20 and reimbursement values as presented in the tables
21 accompanying the published proposal.

22 This year, staff proposes to use values from
23 FAIR Health to establish the RVUs assigned to "gap"
24 codes. Previously, we have used values from Optum to
25 assign "gap" codes -- RVUs to "gap" codes. We analyzed

1 the methodology that's utilized by FAIR Health in
2 establishing their RVUs and felt comfortable in that we
3 could understand their methodology, and we did
4 replace -- or we are using their methodology or their
5 values for the RVUs for "gap" codes this year.

6 We are going to continue to use the Centers
7 for Medicare and Medicaid services or CMS's, surgical
8 global periods, and we will also assign RVUs to
9 consultation services and delineate codes that are
10 unique to Arizona.

11 We also propose to update the RBRVS
12 conversion factor used in this year's -- or in the
13 2023-2024 Fee Schedule by increasing the conversion
14 factor for Surgery services to \$72 and the conversion
15 factor for Pathology, Medicine, Physical Medicine and
16 Rehabilitation, and Evaluation and Management Services
17 to \$68.

18 Second, staff proposes to adopt the service
19 codes and reimbursement values as presented in the
20 Healthcare Common Procedure Coding System, or
21 H-C-P-C-S, HCPCS, table accompanying the published
22 proposal.

23 The reimbursement values are based on the
24 reimbursement values published by the CMS in the April
25 2023 Medicare Durable Medical Equipment, Prosthetics,

1 Orthotics, and Supplies for -- and Supplies Fee
2 Schedule. Staff proposes to maintain separate values
3 for rural and nonrural areas and to utilize the
4 methodology established by CMS to designate rural and
5 nonrural areas in Arizona.

6 HCPCS codes that did not have a value
7 assigned by CMS were assigned a reimbursement value
8 based on data from FAIR Health. The values were then
9 multiplied by a conversion factor of 1.4, resulting in
10 the reimbursement values listed in the table.

11 Third, staff proposes to adopt the Current
12 Dental Terminology, or CDT®, codes and reimbursement
13 values based on mean billed charges by Arizona dental
14 professionals that constitute the Dental Fee Schedule.

15 Staff is finalizing contracts that license
16 the Commission to distribute the full dental fee
17 schedule to all who request a copy.

18 At this time, we can distribute, by request,
19 a sample that includes the 34 most frequently billed
20 codes and the assigned reimbursement values to those
21 codes.

22 Staff worked closely with the Arizona Dental
23 Association to develop this Dental Fee Schedule. The
24 intent of this Dental Fee Schedule is to incentivize
25 dental professionals to accept and provide services to

1 injured workers who need their expertise.

2 Staff has received numerous calls and emails
3 from injured workers, nurse case managers, health care
4 providers, and even adjusters where they are looking
5 for dentists or a list of dentists who will accept and
6 treat or provide services to injured workers.

7 So our collaboration with the Arizona Dental
8 Association in developing this Fee Schedule is intended
9 to incentivize dental professionals to participate and
10 provide services to injured workers.

11 Fourth, staff proposes to continue the
12 designation of Medi-Span® as the source to determine
13 Average Wholesale Price (AWP).

14 Fifth, staff proposes to adopt the deletions
15 and additions to the 2023 edition of the American
16 Medical Association's Current Procedural Terminology
17 publication, also known as the CPT®

18 Sixth, staff proposes revisions in each
19 section of the Fee Schedule Guidelines by removing
20 references that were already named in the Introduction
21 Section and updating language regarding the Arizona
22 specific codes to improve clarity. Staff also proposes
23 to add the Dental, HCPCS, and Home Healthcare
24 Guidelines as new sections of the Fee Schedule.

25 Seventh, staff proposes to amend the

1 Introduction Section of the Fee Schedule by adding
2 language that defines dental practitioners and
3 additional references to dental services and providers
4 when appropriate. Staff also proposes to remove the
5 reference to the 1995 and 1997 Documentation Guidelines
6 and replace the documentation standard with the
7 American Medical Association's Evaluation and
8 Management Code and Guideline Changes and the
9 Guidelines for Evaluation and Management Services in
10 the current CPT® publication.

11 Staff proposes to remove the reference to
12 Optum 360, The Essential RBRVS and add language that
13 incorporates by reference FAIR Health data to assign
14 RVUs to "gap" codes.

15 Additionally, staff proposes to amend Section
16 B by adding the updated documentation standards in
17 Subsection (B)(9) and adding a new Subsection, (B)(12)
18 that references the Dental Fee Schedule for information
19 on billing and reimbursing dental services.

20 Staff proposes to update the language in
21 Subsection J(4) to clarify the appropriate manner to
22 bill and reimburse supplies and materials given the
23 adoption of the HCPCS codes. The last proposed update
24 to the Introduction Section is in Section K and
25 involves the addition of acronyms ADA for the American

1 Dental Association and CDT for the Current Dental
2 Terminology.

3 Eighth, staff proposes to add language to
4 Section C of the Anesthesia Guidelines that clarify
5 billing procedures for healthcare providers.

6 Ninth, staff proposes to add modifier "59" to
7 the Surgery Guidelines and additional language to
8 modifier "AS" that clarifies appropriate reimbursement
9 when the modifier is billed.

10 Tenth, staff proposes to delete HCPCS codes
11 U0001 and U0002 from the Pathology and Laboratory
12 Guidelines. These codes were developed in response to
13 the COVID-19 Public Health Emergency and are no longer
14 in use.

15 Eleventh, staff proposes to add Section F to
16 the Medicine Guidelines to clarify the codes that are
17 to be used for Moderate Sedation based upon the
18 provider who performs the service.

19 Twelfth, staff proposes to add language to
20 the Physical Medicine and Rehabilitation Guidelines
21 that clarifies and emphasizes the documentation
22 expectations for healthcare providers who bill for
23 these services. This language was added based on
24 reimbursement issues brought to our attention
25 through -- by payers and providers as well.

1 Staff also proposes to update the language in
2 Section D to reference the amended instructions in the
3 Introduction Section on billing and reimbursing
4 materials and supplies.

5 Thirteenth, staff proposes to add the
6 descriptions for the Arizona Specific Codes to the
7 Special Services Guidelines and also include
8 documentation expectations when codes AZ003 and AZ004
9 are billed by healthcare providers.

10 Staff also proposes to delete Arizona
11 Specific Code AZ044. This code is no longer necessary
12 since there are now currently CPT® codes that should be
13 used when services are provided outside of regular
14 business hours.

15 Fourteenth, staff proposes to update the
16 Evaluation and Management Guidelines to correspond with
17 the updates to the Evaluation and Management Guidelines
18 in the 2023 CPT® publication.

19 And, finally, staff proposes to update the
20 Special Services Code Table to reallocate the CPT®
21 codes that were previously included in this section to
22 the Medicine Code Table. This update does align with
23 the format of the current CPT® publication.

24 And the Medical Resource Office appreciates
25 your time considering this proposal. I am happy to

1 take any questions from the Commission.

2 CHAIRMAN KAVANAUGH: Okay. Any
3 questions from either Commissioner LeMarr on line or
4 Commissioners here present?

5 (No audible response.)

6 CHAIRMAN KAVANAUGH: Hearing none.
7 Okay. We'll now welcome all of you to
8 present your oral comments and recommendations
9 regarding the 2023/2024 Fee Schedule. And we'll start
10 with a list of people who have already requested to
11 speak, per the instructions you received a month ago
12 with a copy of the proposed updates.

13 Others wishing to speak will then also be
14 given an opportunity. You will have five minutes to
15 speak. At the beginning of your comments, for the
16 record and our court reporter, please state your name
17 again and spell it, and state who you represent.

18 And at the conclusion of your comments, the
19 Commissioners and staff may ask you questions.

20 In the interest of time, please don't repeat
21 what other speakers have stated. If you agree with
22 what has been said, simply state as such.

23 Although the public hearing will end when
24 oral comments have concluded, written comments will
25 continue to be accepted through close of business on

1 Thursday, July 6, 2023.

2 And once the record is closed, the Medical
3 Resource Office and the Commission will carefully
4 consider all comments and available information and
5 data prior to taking formal action related to the
6 2023/2024 Arizona Physicians' and Pharmaceutical Fee
7 Schedule.

8 And I have, right now, three requests to
9 speak on the Fee Schedule. And first on line I will
10 ask Susan Curley again to identify herself for the
11 record and offer her comments.

12 MS. CURLEY: Hi, this is Susan Curley
13 from One Call. My last name is spelled C-U-R-L-E-Y.

14 We just wanted to keep our comments brief.
15 Well, at a high level, we think more time may be needed
16 to implement the Dental requirements for the CDT part
17 of the Fee Schedule.

18 Specifically, the requirement to include the
19 brand name, model number and catalog number. We
20 respectfully ask that you consider giving us more time
21 for that because it's a non-standard requirement for
22 billing.

23 Thank you.

24 CHAIRMAN KAVANAUGH: Thank you, Susan.
25 Are there any questions from the

1 Commissioners on line or here present regarding her
2 comments?

3 (No audible response.)

4 CHAIRMAN KAVANAUGH: Okay. Thank you.
5 Our next speaker is Greg Gilbert from
6 Concentra.

7 MR. GILBERT: Do I've got to go up? Can
8 I stand here --

9 CHAIRMAN KAVANAUGH: No, you need --
10 you've got to come up.

11 MR. GILBERT: Oh, no.

12 CHAIRMAN KAVANAUGH: You've got to be on
13 stage.

14 So, again, please identify yourself for the
15 record and the court reporter.

16 MR. GILBERT: It's Greg Gilbert,
17 G-I-L-B-E-R-T, with Concentra.

18 Chairman, Commissioners, Director, thank you
19 for the hard work on the Fee Schedule.

20 I have testified -- I was thinking back --
21 probably over 15 plus years at these meetings. And you
22 guys did a really good job.

23 I've been asking for several years to look at
24 the conversion factors, especially given what's going
25 on from an inflationary perspective within the nation,

1 obviously in Arizona, and appreciate that they looked
2 at that this year and increased those, so...

3 We're also very supportive of the HCPCS
4 process.

5 Interesting comment from the previous
6 speaker. That will be something we're going to go back
7 and look at because I didn't catch the non-standard
8 part of that, so we'll have to look at what we need to
9 do from a billing perspective. That may cause some
10 challenge. So maybe a grace period might be looked at
11 as opposed to delaying the implementation.

12 So thank you.

13 CHAIRMAN KAVANAUGH: Thank you,
14 Mr. Gilbert.

15 Any questions from the Commissioner on line
16 or Commissioners here present?

17 (No audible response.)

18 CHAIRMAN KAVANAUGH: Hearing none.

19 MR. GILBERT: Thank you.

20 CHAIRMAN KAVANAUGH: Thank you so much
21 for your comments.

22 Next, Susan Strickler, Arizona Counties
23 Insurance Pool.

24 MS. STRICKLER: Yes, good afternoon.
25 Thank you, Mr. Chairman, Commissioners, Director

1 Ashley.

2 On behalf as past president of the Arizona
3 Self-Insurers Association, we do support the Staff
4 Proposal on the Fee Schedule changes, but I would also
5 like to bring up another issue that I have a concern
6 about on behalf of Arizona Counties Insurance Pool, who
7 I work with, that possibly we could work for the
8 stakeholder process this year and maybe consider
9 something for next year for the Fee Schedule, if it
10 comes to that.

11 The issues involving paying hospital provider
12 bills for injured workers. I spend about 40 percent of
13 my time trying to call providers to get a bill so that
14 we can pay them.

15 For example, I had a sheriff deputy who was
16 shot in the lower torso in July of 2022. It was a
17 traumatic injury, and, thankfully, he will make a full
18 recovery; but I have spent countless hours trying to
19 obtain his bill. He's been reported to collections
20 four times.

21 I'm now friends with the collections agency
22 because I called them so many times, but they can only
23 request the hospital to send a bill, and we're still
24 dealing with a bill from July of 2022.

25 And, unfortunately, for those of us who can't

1 direct medical care, we have no control of bargaining
2 power over some of the hospitals that are providers.

3 I've had calls from injured workers who are
4 in the middle of a mortgage and trying to get a loan
5 and they get put on hold because something shows up on
6 their collection.

7 I'd love to pay these bills. I'm sure the
8 hospital would be happy to receive our money, but there
9 seems to be a huge disconnect between this process, and
10 I think a lot of it has to do with outsource billing
11 services, and also they sell the debt to debt
12 collectors.

13 So I'd love to work with any stakeholders of
14 the Commission on this process. I've talked to my
15 colleagues, and they all agree it's an incredibly
16 growing problem, and I just feel bad for these injured
17 workers because they get the statements. They get sent
18 to collections, and then we try to help them, and it's
19 just -- it's very, very difficult.

20 Thank you for your time.

21 CHAIRMAN KAVANAUGH: Thank you, Susan.
22 That's an important issue.

23 Any questions or comments from the
24 Commissioner on line or here present?

25 (No audible response.)

1 MS. STRICKLER: Thank you.

2 CHAIRMAN KAVANAUGH: Thanks so much.

3 Are there any other individuals here or on
4 line who wish to comment on the Fee Schedule? If so,
5 either, please, come to the microphone or on line and
6 identify yourself.

7 Hearing none, this will conclude the Annual
8 Fee Schedule Public Hearing.

9 And, as a reminder, although the oral
10 proceeding has concluded, written comments will be
11 accepted through the close of business on July 6, 2023.
12 And written comments may be submitted to Charles
13 Carpenter, Manager of the Medical Resource Office. His
14 contact information is available on the Commission's
15 MRO webpage at azica.gov. All written comments along
16 with a transcript of this hearing will be posted on the
17 Medical Resource Office webpage.

18 So thank you, Charles.

19 Thank you all for comments on this issue.

20 * * *

21 (Fee Schedule Public Hearing concluded at
22 1:25 p.m.)

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C E R T I F I C A T E

BE IT KNOWN that the foregoing proceedings were reported by Dorothy A. Schulte, Certified Reporter, Certificate No. 50459, State of Arizona, and reduced to written form; that the foregoing 18 pages constitute a full, true, and accurate transcript; all done to the best of my skill and ability.

DATED at Phoenix, Arizona, this 24th day of July, 2023.

Dorothy A. Schulte

Dorothy A. Schulte, RPR
Certified Court Reporter
Certified No. 50459