UNITED STATES DEPARTMENT OF LABOR

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ADVISORY BOARD ON TOXIC SUBSTANCES AND WORKER HEALTH

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SUBCOMMITTEE ON IH and CMC AND THEIR REPORTS (AREA #4)

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MEETING

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MONDAY, JULY 18, 2016

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The Subcommittee met telephonically at 2:00 p.m. Eastern Time, Rosemary Sokas, Chair, presiding.

MEMBERS

SCIENTIFIC COMMUNITY:

MARK GRIFFON

MEDICAL COMMUNITY:

STEVEN MARKOWITZ, Chair of the Advisory Board
ROSEMARY K SOKAS, Chair

CLAIMANT COMMUNITY:

KIRK D. DOMINA
GARRY M. WHITLEY
FAYE VLIEGER

DESIGNATED FEDERAL OFFICIAL:

CARRIE RHOADS

C-O-N-T-E-N-T-S

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

2:02 p.m.

MS. RHOADS: Good morning or good afternoon, everybody, depending on your time zone.

My name is Carrie Rhoads, and I would like to welcome you to today's conference call meeting of the Department of Labor's Advisory Board on Toxic Substances and Worker Health, the Subcommittee on IH and CMC and their reports. IH is Industrial Hygienist and CMC is Contract Medical Consultant.

I'm the Board's Designated Federal Officer, or DFO, for today's meeting.

First, I want to note how much we appreciate the time and the work of our Board members in preparing for this meeting and being here today, and for all the work they are about to do.

I will introduce the Board members on the Subcommittee and do a quick roll call. And could you please just say "here" or answer for

your name for the transcript?

Dr. Rosemary Sokas is the Chair of the Subcommittee.

CHAIR SOKAS: Here.

MS. RHOADS: And the members are Ms. Faye Vlieger.

MEMBER VLIEGER: Here.

MS. RHOADS: Mr. Kirk Domina?

MEMBER DOMINA: I'm here.

MS. RHOADS: Mr. Garry Whitley?

MEMBER WHITLEY: Here.

MS. RHOADS: Mr. Mark Griffon?

MEMBER GRIFFON: Here.

MS. RHOADS: Dr. George Friedman-Jimenez is part of the Subcommittee, but he could not be on the line today.

And Dr. Steven Markowitz?

MEMBER MARKOWITZ: Here.

MS. RHOADS: Who is also the Chair of the Board.

Melissa Schroeder from SIDEM is in the room with me.

We are scheduled to meet from 2:00 to 4:00 p.m. Eastern time today. Given that the meeting is two hours, we are not scheduling a break at all.

Copies of meeting materials and any written public comments are or will be available on the Board's website under the heading "Meetings" and the listing there for this Subcommittee meeting.

The documents are also up on the WebEx screen, so everyone can follow along with the discussion.

The Board's website can be found at dol.gov/owcp/energy/regs/compliance/advisoryboard.htm or simply Google "Advisory Board on Toxic Substances and Worker Health," and it will likely be the first link.

If you haven't already visited the Board's website, I encourage you to do so. After clicking on today's meeting date, you will see a page dedicated entirely to today's meeting. The web page contains publicly-available material

submitted to us in advance of the meeting. We are going to also publish any materials that are provided to the Subcommittee there. You should also find today's agenda as well as instructions for participating remotely. If you are participating remotely and you're having a problem, please email us at energyadvisoryboard@dol.gov.

If you are joining by WebEx, please note that the session is for viewing only and will not be interactive. The phones will also be muted for non-Advisory-Board members.

Please note that we do not have a scheduled public comment session today. The call-in information has been posted on the Advisory Board's website, so the public may listen-in but not participate in the Subcommittee's discussion.

The Advisory Board voted at its April 26th through 28th meeting that Subcommittee meetings should be open to the public. A transcript and minutes will be prepared from

today's meeting.

During Board discussions today, as we are on a teleconference line, please speak clearly enough for the transcriber to understand. When you begin speaking, especially at the start of the meeting, please state your name, so we can get an accurate record of the discussion.

Also, I would like to ask our transcriber to please let us know if you are having an issue with hearing anyone or with the recording.

As DFO, I see that the minutes are prepared and ensure they are certified by the Chair. The minutes of today's meeting will be available on the Board's website no later than 90 calendar days from today, per FACA regulations. But, if they are ready sooner, they will be published before the 90th day.

Also, although formal minutes will be prepared, we will also be publishing verbatim transcripts which are, obviously, more detailed in nature. Those transcripts should be available

on the Board's website within 30 days.

I would like to remind the Advisory Board members that there are some materials that have been provided to you in your capacity as special government employees and members of the Board which are not for public disclosure and cannot be shared or discussed publicly, including in this meeting. Please be aware of this as we continue with the meeting today.

With that, I convene this meeting of the Advisory Board on Toxic Substances and Worker Health, Subcommittee on the IH and CMC, and their reports. I will turn it over to Dr. Sokas, who is the Chair of the Subcommittee.

CHAIR SOKAS: Thank you, Carrie, and thanks for all the effort that has gone into posting the federal notice and to making this all work out well.

And I want to thank all of the members who are able to participate and anyone who is phoning in.

The task that we have, which I think

we are all pretty clear about, is trying to help to ensure the quality, objectivity, and consistency of the work and written reports of Industrial Hygienists staff positions and consulting physicians and to make sure that the reports are as helpful as possible.

What we are going to do today is have several of the Board members, Faye Vlieger, Kirk Domina, and Garry Whitley, go through some of the challenges that are experienced by the stakeholders and really kind of frame for us what the issues are for the people using the program.

We will then, also -- and Mark Griffon is going to do the IH piece and I will do the medical piece -- we are going to assess the questions that were raised by the program itself. I think we are also going to need to gather information about potential areas for improvement from additional stakeholders, that I would include not only the claimants, but also the Industrial Hygienists and some of the CMCs, just to kind of get their perspective because we have

certainly heard from other perspectives. And then, together we will identify the tasks and the need for additional information and, then, assign those tasks and, hopefully, develop a work plan that we can implement before our next entire meeting in the fall, the entire Board meeting in the fall.

Does anybody on the Board have any comments or questions about the scope of today's discussion?

MEMBER MARKOWITZ: Rosie, this is Steve Markowitz.

My only comment is, as we think about things that we want to do, that we think about the fact that the next meeting is mid-October. We could have an additional phone call meeting before then, with six weeks' notice needed, but we could achieve that. And then, just think about what the steps are about what we might want to get done between now and the next phone call meeting or between now and the full meeting in October. That's all. It is just to inform kind

of the discussion as we talk through it.

CHAIR SOKAS: Right, right. So, we would need a six-week notice if we were going to do another phone meeting. If, on the other hand, we can assign tasks and get to work, basically, we may not need that additional phone meeting.

I was also going to ask that, Carrie, when we talk about the IH review issues, if this is all right with Mark, and certainly for when we get to the medical review issues, I would like to pull up just that one-page -- it is actually two pages -- that Jeff Kotsch put together in his presentation that really has the questions related to the program specifically. There are 10 questions, I think three of them for the IH and the rest of them seem to be more for the medical. Because that will just let people see in the background what it is we are talking about.

MS. RHOADS: Yes, that's fine. I think it is the presentation from the April 28th, I think, meeting.

CHAIR SOKAS: Yes, and it is the top of the page. It says, "CMC Contract Reviews". But, then, below that, there's the advice and assistance that is underlined and in bold. It says at the bottom "page 6 of 7". So, it goes from page 6 over into page 7.

MS. RHOADS: Okay. That's fine.

CHAIR SOKAS: I think that is probably the main thing that we will be referencing here. There probably are other things. And if other Board members would like to pull up anything either before, during, or after that, that would be great. So, just shout it out.

All right. I would like to actually move on, then. I think we have got plenty of content to do, and it may be that the duration that I have arbitrarily assigned to each presentation might go a little bit long or a little bit short.

But I would like to turn it over to Faye and Kirk and Garry, if they would kind of help us again frame what the major stakeholder

issues are with respect to both the questions that the program itself asked, but also the experiences that people go through and where the trouble spots might be or where we, as a Board, might be most helpful.

MEMBER VLIEGER: Okay. Well, the majority of the people on the Advisory Board -- this is Faye Vlieger -- don't know the process it goes through. So, you have a pretty dry presentation from what we had at the D.C. meeting in April and, also, the Procedure Manual.

The problems arise in the implementation of the use of the CMC and the IH in that the Claims Examiner frames the questions to them. And so, you may have ended up with a broad spectrum of issues that were presented to the CMC, but through the process -- and it even says so in that Industrial Hygiene document that we have, the document on the Industrial Hygienists -- that they are only allowed to answer, the Industrial Hygienists are only allowed to answer the questions that the Claims

Examiner puts to them.

And so, you may have actually had a number of toxins that are actually appropriate for the claimed condition, but, then, the Claims Examiner winnows that down to two or three obscure toxins, and then, the Department only analyzes those in their pure form. And so, classically, what happens is the chemicals in their pure state are sent to the Industrial Hygienists, who then opine they could not have been exposed to a sufficient quantity of these chemicals in their pure state to cause the disease.

Then, the Industrial Hygienist report is fed back to the CE, and the CE never questions the Industrial Hygienist report, in my experience. The Industrial Hygienist report stands on its own with no other peer review.

Then, the CE, who already is questioning that anything happened in the claim, sends the Industrial Hygienist report to a Contract Medical Consultant, who normally, in my

opinion, is not well-vetted for the opinion that they are making.

The CMC, again, is given limited information on the exposures and limited questions to answer, instead of giving them the information on the claim and saying, "Listen, this is what is claimed. This is what they were exposed to. Is there a 50-percent likelihood that this happened?" Because, remember, under this program, the standard is "as likely as not". So, that is basically 50 percent or better.

So, the CMC never goes against the recommendation of the IH. And in very, very few cases is there ever a referee called in on the CMC by the Department of Labor. The referee decision, doctor decision, is called in by the claimant, and the referee normally sides with the Department.

So, the claimant really has limited access to these experts that they want these very long decisional letters on. And the doctors that they do see don't have time to do that type of

letter. So, that is kind of it in a nutshell.

CHAIR SOKAS: Faye, I have a question. This is Rosie. I have a question for you. I read in one place where, if the claimant requests it, they can get a copy of the CMC letter. So, it doesn't automatically -- does any of this information automatically get sent to the claimants? Does the claimant get the CE's framing of the question? Does the claimant get the report from the IH? Does the claimant get the report from the CMC?

MEMBER VLIEGER: Classically, even when you get a request for the claim file, unless you specifically stated or you knew that these documents existed and asked for them in your request for the claim file, you did not get them. Many times the only time they see them is after there is a recommended decision to deny, because the Claims Examiner will state that the IH or the CMC said such-and-such.

I understand the Department is now going to include them routinely in a document

request, but I have not seen them being presented routinely with the recommended decision to deny. And that is normally at the point that the claimant knows what those two professionals said. I am not even going to call them "experts" because they aren't being given enough information to make an expert opinion.

It is kind of like -- I don't know if you have ever watched any of the police procedurals, but when the district attorney wants them to answer in a certain way, the question is very leading and there is only one way to answer, and it is usually not the answer that would be accurate. And that is the way these referrals go to the IH and the CMC.

I think if you look at the examples that we have seen and what we heard at the meeting in April, that you will see that that is true.

CHAIR SOKAS: And is there anything that would prevent the pieces of information just automatically being sent as they are generated to

the claimant?

MEMBER VLIEGER: No, it is not part of the Procedure Manual.

CHAIR SOKAS: Okay. All right.

MEMBER MARKOWITZ: This is Steven.

Faye, I have a question that you may or may not know the answer to. In the Procedure Manual, and I'm reading it, it says, quote, "The IH also reviews SEM searches performed by the DO" -- the District Office -- "to determine whether or not they were performed correctly and accurately." End of quote.

Does this suggest that the IH is actually not just focusing strictly on the questions posed by the CE, but is also looking at how good the SEM search process was? Do you have any experience with that?

MEMBER VLIEGER: My experience is that the CE forms the questions to the IH with a few contaminants. The IH doesn't look beyond what the CE provides to them.

And then, if you remember when we were

looking at the Site Exposure Matrix, depending on how you pull it up, it can be very stinted. And then, the disease has to be linked to the Site Exposure Matrix, to a chemical, before that can be verified and sent to the IH.

So, when you set up a database to use as your sole source of information, and you discount the input from the claimant in your Occupational History Questionnaire and from their physician, the only evidence that goes to the IH is what the CE sets up. I have not had experience where the IH actually says, "Oh, no, this is wrong. A welder is actually exposed to all of these things, including metal." I have never seen that happen.

MEMBER MARKOWITZ: Well, I think this is something that we really need to look at, actually, not just this specific issue whether the IH is looking at the validity of the SEM search, but a number of different aspects, but this is one aspect which ought to be in the documentation of the letter provided by the IH.

So, we ought to be able to look at this issue.

MEMBER VLIEGER: Yes, and I think when we had the IH in front of us in April and we asked him, you know, how long it takes to do this report that they do, if you look at a quantity of the IH reports, you will see most of them are boilerplate.

MEMBER MARKOWITZ: Right. Okay. Thank you.

CHAIR SOKAS: Well, I mean, the whole question of doing a quality assessment, quality kind of review of the content of the reports is still open; you know, one of the things we can discuss as one of the requests we might be able to help with.

But, again, I am sort of getting at it from the point of view of transparency. So, there is no real reason why the Procedure Manual couldn't say at each step of the process the claimant gets a copy of what is being requested by the CE, what the IH turns up. Because, obviously, that would at least speed things up

and, also, provide some sort of immediate review for potential accuracy.

MEMBER VLIEGER: Yes, I think with the new IH contract, I don't know if they wrote any of that into the new IH contract that they awarded, but we did ask these questions. The advocates had a meeting with the Department of Labor and the other parties to the program in December -- excuse me -- in March, and we asked them about this specifically: why is it that the claimant has no input to any of this? And they said they would look into it, but we haven't seen any response to that.

CHAIR SOKAS: Okay. Well, that is certainly a question we can raise.

MEMBER WHITLEY: Garry here.

I think we are onto something because the CEs I think are not sending enough information on up the line. I am going to give you a couple of real quick examples I ran into this week.

We had a sheet metal worker who the CE

sent him a form letter back that said that he agreed that a certain chemical caused COPD, but he couldn't say a sheet metal worker used that chemical. Well, I went on the SEM and called up sheet metal worker. There is that chemical. Called up the building that said sheet metal worker in. There is that chemical. Everything that he needed was right on the SEM, but, you see, he was filing for hearing and COPD.

He said he would send the information for the hearing on up to the IH, but he wouldn't send the COPD -- that is what the letter said -- the COPD on up because he couldn't find where he used that chemical.

And I printed it out for the guy. I said, "Here it is."

And today and the past two days, I have had two people call me and say, "I was an instrument technician and I am filing for hearing, and my CE is telling me that they don't cover instrument technicians." Well, when you pull the law, right in the middle of it is the

list of the covered, is instrument technicians.

So, I really think the biggest problem is the IH and the Medical Examiners are not getting enough information from the Claims Examiners.

CHAIR SOKAS: Uh-hum.

MEMBER VLIEGER: Yes, let's just say it is the issue of very channeled, very limited areas that they are allowed to answer to. And if they go outside the box, we don't see those intermediate responses. If there is any discussion between the CE and the CMC, the CE will go back to the CMC and ask them for clarification, but in the file I have never seen that intermediate report from the CMC where the CE disagrees with something that they did.

So, that, too, the draft CMC report that the CMC gets before they go back and as the clarification are not showing up, either. And I don't know if that is the internal issue with their records that they get from CMCs. I don't know.

Now the other issue Garry brings up is quite timely. It is that there is a separate Site Exposure Matrix that the Claims Examiners look at that is not public.

CHAIR SOKAS: Now, Steve, I'm going to bring you in on this one. Is the SEM Committee looking into that?

MEMBER MARKOWITZ: Looking into which aspect?

CHAIR SOKAS: To whether or not the information that is available -- I mean, I'm sure they are looking at the SEM, but has the question been raised about whether or not the information is available to the public?

MEMBER MARKOWITZ: Well, we are going to look into difference between the private and the public SEM, if that is your question.

CHAIR SOKAS: Okay. All right.

MEMBER DOMINA: Hey, this is Kirk. I just have a comment.

MEMBER MARKOWITZ: I am not exactly sure how we are going to do that, but it is the

intention of doing that.

CHAIR SOKAS: Okay. Got it.

Kirk?

MEMBER DOMINA: If you look at like what we were just talking about what is going to the IH, and whatever, if you look at the example that was provided for us in our April meeting, you will see where, like what Faye just stated, the question that was asked to the IH is -- the individual has worked from '77 until still currently employed, put in for COPD in 2012. But, when they sent the letter asking the IH, they stopped at 1995, based on the fact of that Circular.

CHAIR SOKAS: Right.

MEMBER DOMINA: Plus, the individual's work history, there's seven years missing; well, actually, 10 years, 11 now, because the last time they got his work history was in 2005. And so, you don't know; the guy could have been involved in an accident, an incident, or whatever. None of this information gets to them. And so, it is

a jaded report.

CHAIR SOKAS: Now we could get explicitly -- one of the very last questions on the list from the program to us is to look at that Circular, the one about the post-1995 expectations. And I think that is going to be a real task that we will be able to have input into.

So, I think I will be interested to hear what Mark has to say about, you know, when he does his presentation, but I think for sure that is going to be something that we will be taking on as a Subcommittee.

I am not clear in my own mind whether or not the inclusion of exposures is required through the most recent, though, and I guess that would be a question I would have, if anybody knows it right now or if that is one of the things we add to our list of questions.

MEMBER VLIEGER: Well, the law is quite clear about Part E. The statute states that, in order to be covered under this program,

you only have to have one day of employment to be covered under Part E. And so, the Department administratively made it that, if you had any exposures after 1995, by magic waving of their wand, that they could not have happened.

And I did send the Department of Energy's response to me about their input into those memos to Carrie for one of the other Subcommittee meetings. Basically, the Department of Energy did not tell them that that memo was factual.

And so, Carrie, do you have that DOE response about what their input was to DOL's 1995 post-exposure memo?

MS. RHOADS: That is actually on the website for the other Committee meeting. We don't have it up on the WebEx screen, but we can get it up, if you would like, in a few minutes.

MEMBER VLIEGER: Well, it is very telling because we are not quite on that topic yet, but the Department of Labor decided to administratively rule out exposure post-'95

because the Department of Energy had written memos to strengthen their toxic exposure to their workers. And just because the Department of Energy wrote a memo and an order to their contractors to stop doing it does not mean that it happened. That memo, that post-'95 exposure memo, is not backed up by any science.

CHAIR SOKAS: And in addition to that, Faye -- and this is something, Carrie, you might be able to kind of add to the list; I mean, it is the topic of that exposure memo -- but, in the late nineties, I think it was '98-99, OSHA actually did a series of invited visits to several of the DOE facilities. And Oak Ridge I am sure was one of them. I am trying to remember all of the different ones.

Because what they did was they were actually looking to see if they were going to be applying for VPP status, basically, which is their high-performing stuff, on the basis of the change in the central office's approach to health and safety. But, in point of fact, there were

slip-ups all over the place, and it was very clear that there were some actual impediments to the implementation of that.

One of them, as I recall really clearly, was that they were issuing contracts and renewing contracts on the basis of having an illness and injury reporting number that was quite low. And the problem with that is the minute you tie someone's contract or their bonus or their performance rating to that kind of a single number, you basically invite everybody to cook the books.

So, there was a lot of concern around the accuracy of the illness and injury reporting, about the disincentives to reporting, and to the fact that, like any organization, I mean any organization, there's a difference between the central office deciding something and everybody in the field actually performing and having it happen. So, that is true of any organization.

So, I think we, as a Committee, are going to have a lot to say about that particular

memo.

Kirk, did you have anything else that you wanted to bring up?

MEMBER DOMINA: Well, not at this time.

MEMBER VLIEGER: I think we need to talk about the correlating memo about hearing loss in toxin exposure post-1995. It follows the same issue where they just summarily decided that that was going to be that way. And the painters didn't change the stuff that they used. The metal workers didn't change the solvents they're exposed to. The instrument technicians still use the same things to clean parts. Yet, the post-'95 hearing loss memo has the same flaws that the post-'95 toxic exposure memo does.

CHAIR SOKAS: So, Faye, I think we should add that to the list then.

MEMBER VLIEGER: I would agree.

CHAIR SOKAS: Okay, great.

And Carrie has the website up. So, is that the DOL memo? The response?

So, Faye, did you want to walk us through the response from DOE?

MEMBER VLIEGER: Sure. If you look, I had queries to the Department of Energy what their position was on this post-1995 memo. And they did say that they provide them all kinds of information, but the bottom line on this response is that they did not have, the Department of Labor, that this was a factual memo. They give them information, and the Department of Labor made their own decision to do the post-'95 exposure memo basically stating that nobody has any reason to claim toxic exposure post-'95 unless it was an incident, accident, or off-normal occurrence.

Well, there is actually a Department of Labor memo. Carrie, did we have the Department of Labor's memo about how they came up with the post-'95 Circular? Was that up on the other page, too?

MS. RHOADS: I don't think so.

CHAIR SOKAS: No, I think we actually

had that, say, in our original binder from the April meeting. So, there was the original memo, and then, there was that second memo. It is there someplace. But it basically just supports the original memo, I think.

MEMBER VLIEGER: Yes, it does. And in countering their logic for this memo -- and Kirk can talk to this -- after 1995, the Department of Energy continually wrote memos about the fact that workers are still being exposed and they were going to improve the workers' situation. But it still isn't in fruition, and there were a number of documentation requirements that were put in place, that exposure information, monitoring data, incident and accident information would be in personnel records. And Kirk can speak to whether or not those have ever been implemented.

Are you there, Kirk?

MEMBER DOMINA: Yes. I was eating. Sorry.

MEMBER VLIEGER: All right.

MEMBER DOMINA: No, I mean, the other thing I talked about, too, when we were back there is anytime they put some, quote, "new program" in place, and we are in the middle of contract -- you know, who's running the site -- they are going to ask a request for equitable adjustment because they want more money to implement certain things.

And so, just because they say they may want to use -- or that things got safer, it is not necessarily so, because if you remember correctly, I think -- or maybe I didn't -- but our latest SEC for construction workers from '84 to 1990 came into effect because they were supposed to provide bioassay samples and a bioassay program for the construction workers, and it never happened. Even though DOE says you're going to do this, it doesn't mean it is going to happen. And this is the case with this.

And because of how they choose to record incidents, events, or whatever, it is up to them because it still in effect today, on how

things get recorded and what meets a certain level or requirement in their eyes that qualifies as an event when workers are exposed, as what we see going on today, or in the employer's opinion, not exposed.

CHAIR SOKAS: Uh-hum, uh-hum.

MEMBER VLIEGER: And remember, DOE has specific reporting criteria and requirements for investigation. And if an individual worker gets a chemical exposure, at least during the timeframe I worked at there, it didn't warrant an investigation because three or more people were not involved.

And so, the DOE criteria to even investigate is not what people expect. And remember, DOE is not held bound to any NIOSH regulation.

CHAIR SOKAS: You know, I think it would be interesting -- and, Carrie, I wish I had a better title to ask you to request, but I am wondering if, within the Department of Labor, you could access the OSHA report. There was a joint

DOE-OSHA activity that included a number of reports based on joint visits to several of the sites in the late nineties. I can try to figure out exactly when that took place, but it would have been '98 or '99, basically. And I can also try to figure out which directorate it would be in, but I think putting the request through the main office in OSHA ought to turn something up.

MS. RHOADS: I can do that. Whatever details you have, just send them to me. And then, I will use them in asking about that.

CHAIR SOKAS: I sure will. I will track down a little bit more than that. Good.

Any other comments, Garry, Kirk, Faye?

(No response.)

We are moving right along, which is great. I wanted to turn it over to Mark Griffon to talk about the IH review issues. There are some specific questions. Again, if we could go back to those? I think the questions for IH were six, seven, and eight maybe.

But, Mark, however you want to handle

this, whatever you want to talk about, the ball is in your court.

MEMBER GRIFFON: Okay. Thank you, Rosie. I am not sure just how to go about this.

But the main ones I saw -- and I don't know if they are numbered in what I'm looking at; there's a bunch of bullets -- but there is one --

CHAIR SOKAS: Uh-hum, many bullets.

MEMBER GRIFFON: -- recommendation, standardization of IH reviews that Jeff Kotsch had, I guess, in his presentation.

And I think, to me, that alone was very telling, that DOL at this point in the process is asking this Board to help with the definition of exposure levels by employees; recommendations regarding improving IH narratives, and proper assessment of employee toxic substance exposures in the absence of Occupational Safety and Health monitoring data.

So, I mean, that last one is pretty broad, I would think. But, as I was thinking about this issue, I am just thinking, you know,

for this Board, for us to look at this issue in a maybe comprehensive fashion -- and I don't know how much -- I think we have to think about what is going to overlap with the other Subcommittees. But I have been thinking about, you know, we need to review, or at least I do -- some others seem to understand this a little -- they are a little closer to this than I have been, at least on the Part E side.

But we need to understand how the procedures are used and other, in those public procedures we have seen, are there other directives or guidance that are given to the IHs or the CEs regarding exposures? Because it seems to me there's a lot of places in the process where a judgment has to be made by someone.

If the CE is looking at a claim for the first time, are they including all the exposures that come up on the SEM database or are they saying, based on the job title and my knowledge of what a sheet metal worker does, I think it is unlikely that he would have had any

significant levels of exposure to chemical X? And then, passing that information on from there.

So, who is making the judgments along the process? How are they making the judgments? How are they making sure they have consistency in the way they are applying these judgments for the various claims?

I think we need to look and see if there is QA/QC procedures. Are there peer reviews in IH or are the IHs reviewing the CE claims? I think there are so few IHs, I don't know how that could be happening.

And then, another line of questions I had was what is the site-specific expertise of the CEs or IHs that are involved in the process? Do they know these sites? Do they know the sites over time? Because they have changed quite a bit over the course of history of what has been going on and the potential for exposures over different decades on the sites.

Well, I mean, that is just some of the things I have been thinking of, Rosie, in terms

of the IH side of this process.

CHAIR SOKAS: So, you are in a position of, I think, being our only IH. So, the question, the way I would kind of frame it, is, which of these do you think you could actually have the time to get a handle on, right? Maybe part of this is to ask the -- because I was having the same response when I was looking at the medical stuff. I'm looking at, oh, my golly, well, maybe if I had a staff of five, you know, and full-time, I could do some of this.

MEMBER GRIFFON: Yes.

CHAIR SOKAS: So, some of it might be to narrow and to frame it a little bit by asking for more information.

MEMBER GRIFFON: Yes.

CHAIR SOKAS: So, are there particular scenarios that turn to out to be problematic in terms of inadequate exposure information or would it be helpful for you, for example, to see can examples of IH reviews for accepted cases, and maybe 10 examples for denied claims, and then,

kind of look to see if there's any patterns that you see emerge? Or do you have recommendations?

And one of the other things I thought I saw -- and, Steve, a question for you. I don't know if somebody else is going through this, but there was, for example, a question about revamping the Occupational Health Questionnaire, right? So, there is an Occupational Health Questionnaire that, right off the bat, I think you get rid of the family history because I don't actually think that is legal anymore.

And people suggested, I think, at the meeting that maybe they could use some of the approaches that, for example, CPWR has taken in terms of collecting information.

So, I guess the question is, looking at this, which of these do you think, given time constraints and that you are kind of the IH here, and others on the Committee I'm sure would be happy to help, but what do you think is the most realistic? And what would you need DOL to provide you to be able to start addressing some

of that?

MEMBER GRIFFON: Well, I mean, yes, I didn't get to that point yet, honestly. But I think, you know, some questions, certainly some examples. I mean, I have thought about this in maybe a different -- maybe others, like I said, are familiar with this, but, for me, it would be good to see the procedures. In other words, before I can make recommendations on how to improve, I have to sort of better understand how they are doing it right now.

CHAIR SOKAS: Right.

MEMBER GRIFFON: And looking at some examples would be helpful, but, also, looking at the procedures or internal guidance that they are using to make some of these judgment calls, or do they have a procedure in place? So, I think to see some of that stuff first --

CHAIR SOKAS: Yes.

MEMBER GRIFFON: -- to see, for instance, what percentage of claims have been forwarded to the IH if the CEs say, you know,

"This is a technical issue that is beyond our capability. We are referring it to an Industrial Hygienist."? What is the percentage --

CHAIR SOKAS: That is a really good data request.

MEMBER GRIFFON: Right.

CHAIR SOKAS: Again, this is really for Steve and Carrie, because I don't know if others are already doing this. But, for example, if Mark wanted a list, a number, just a count of what proportion of claims are forwarded to the IH and, then, maybe have a sampling of, a handful of claims that got forwarded, a handful of claims that didn't, because you want to look at both sides. Were there any that should have been that weren't in that little pile, you know, that sort of thing.

Maybe you would look at both. I mean, if we wanted to, we could just say, well, let's just look at the denials to see if we find problems with them because we are assuming that the process is specific, but maybe not sensitive.

I mean, that is, I know, reflection probably.

But, Carrie, is that the kind of thing that would be relatively straightforward to get that kind of a redacted series of cases and, then, the numbers across the board? "X" percent get forwarded along.

MS. RHOADS: I will ask the program how long would it take them to do that. If you give specific parameters for your request, like maybe for a specific year or something like that, that would --

CHAIR SOKAS: Okay. Because, I mean, I think we could do random or we could do the last three months, right, Mark? I mean, I don't think we are looking for a comprehensive thing here. Whatever is easiest for them, if they collect the data monthly, that's great, if they collect it annually. But we want to know, of all the claims coming in, how many were handled entirely by the CE, how many went to an IH. Of the ones handled by a CE only, how many were approved and how many disapproved? Of the ones

that went to the IH, how many were approved and disapproved?

MEMBER GRIFFON: Yes, that sort of thing, yes.

MS. RHOADS: I will start writing this down, and maybe we can refine. Like I will send some language and you can play with it, or whatever, before we forward it to the --

CHAIR SOKAS: Before we ask them, sure.

MEMBER GRIFFON: Yes.

CHAIR SOKAS: And we are going to be asking to see the actual files at some point, and it could be redacted or however. But I do think that for some of this, for both the IH and for the CMC, I think it is going to be a need to sort of look and see what it looks like. Maybe small samples, maybe five or maybe ten, you know, redacted. And it wouldn't have to be the whole file; it could just be the report, right, the information they receive and, then, the information that they give back.

MEMBER MARKOWITZ: This is Steve.

Actually, given the concerns that Faye especially raised about what the CE forwards to the IH or not, if we are going to look at a small number of claims, we shouldn't look just at the IH report, but also what the --

CHAIR SOKAS: No, what I was saying, Steve, was that we would look at what they get and what they give back, so what is forwarded by the CE to them and, then, what they return.

MEMBER MARKOWITZ: Right, and what I am saying is that could be augmented by, for these small number of claims, also looking at the exposure information that the CE is looking at. The concern was about some of the things the CE wasn't forwarding. So, if you only look at what the IH gets --

CHAIR SOKAS: I see what you are saying. Yes, got it.

MEMBER GRIFFON: I think, yes, Steve, I think you're right. This is Mark Griffon. I'm sorry.

I think we should, as we pick out randomly, or however, claims to look at, we should look at the entire claims file and, then, see what the CE looked at, what they forwarded on, what the IH looked at.

CHAIR SOKAS: I think that is absolutely right. And it is true for the medical information as well. So, that is right. That is a good point.

MEMBER GRIFFON: And then, the other, I mean, I was bouncing around a little bit with what I was talking about, but the other piece of what I am mostly interested in is these guidance or guidelines or internal procedures. You know, it is hard to request them when you don't know what exists.

So, I am looking at the one on the website and, for instance, it mentions a questionnaire and it mentions that I think the CE administers -- oh, the Resource Center administers the questionnaire, and they have a script that they follow, but I don't see any

script in the procedure that is on the web, anyway.

So, is there a standardized script or is it a site-specific script? I don't know what they are using. So, are there other guidelines that the CEs are using, that the IHs are using, as they assess these claims?

Because I think part of the magic that comes into play in this whole process is the SEM says chemical "X" and job "X", or at least jobs to chemicals, but it says nothing about the type of exposure or the level of exposure. And I think that is where people are making, or probably have to make, some judgments.

This even comes into play, in my opinion, after '95. These two things we bring up, I don't think it is a magical line where exposures at the site stopped completely. You could definitely make an argument that safety protocols and practices improved, but did toxic exposures suddenly -- you know, toxic exposures were not eliminated in '95. They might have been

greatly reduced in the later years, but not eliminated. So, it is a degree or it is a judgment of how much exposure people got. And the CEs and the IHs and the medical practitioners must be at some point making those judgments. So, I would like to see even internal guidelines to help in those judgments.

MEMBER VLIEGER: One of the things that kind of baffles me about how anybody can make assumptions on how much someone was exposed to is the lack of monitoring data. There is no monitoring data that was done. Yet, the Department of Labor turns around and says to the claimant, "Well, you need to provide us monitoring data for kind, quality, and quantity of exposure." Well, there is none that exists, and this program exists because there is no data. Yet, the Department of Labor turns it on its head and says, "Well, if you can't come up with it, then we have to rely on our experts." But the experts don't have any exposure data, either.

MEMBER GRIFFON: Right, right, right.

CHAIR SOKAS: Well, that gets back to Mark's question about whether the experts have any site-specific experience or training or information, you know, that kind of thing, if there is some ability that they have to get kind of insights into what was going on at a particular location.

MEMBER GRIFFON: Right, and --

MEMBER VLIEGER: I would be curious to -- I'm sorry, go ahead.

MEMBER GRIFFON: I'm sorry. I was just going to say, you know, that, of course, is a double-edged sword, too. We ran into this on the radiation side. The Radiation Board, when you look for experts or consultants to help in this process, if they have some experience, they also could have a conflict. So, you know, you run into this sort of -- but we ended up using a lot of people that, for instance, worked at DOE or at the sites over the years because they had great historical knowledge. I think NIOSH worked hard on developing a policy around that conflict-

of-interest issue and managing the conflicts and making sure, being transparent about them, but also using these people that had a lot of knowledge about historical operations.

But I think, yes, it is difficult for me to understand how CIH, if they didn't have much experience, I think the ones that they hired did have experience, at least at some of the sites, but there's so many sites that you couldn't possibly be expert on all these sites, especially over time.

MEMBER MARKOWITZ: Right. Yes, and the sites themselves are very complicated things. Each individual site is very complicated.

MEMBER GRIFFON: Right.

MEMBER MARKOWITZ: But, you know, the thing about these judgments that the IH makes is that they are inevitable, and partly because of a lack of data, but, in part, because that is just the nature of the work that we do.

And my question, then, is how consistent are these judgments across the IHs?

Actually, that relates to what the charter of the overall Board is. This task of this Committee is to look at the quality, objectivity, and consistency of IH and physician work.

Yes, we could look at how consistent the judgments are. And what I am mostly interested in is moving towards -- the question is, can we convert these judgments to presumptions, so that the whole process can be simpler?

MEMBER VLIEGER: From my experience -- this is Faye again -- from my experience, it is that when there is no monitoring data, the decision goes against the worker. I mean, that is what I have seen historically from the IH and CMC reports that I have requested.

And when the CE refers to the CMC with no monitoring data, that is what the CMC hangs their hat on. There is a presumption that there must be data, but it is just not here. And that is an erroneous assumption that no one ever tells them, "By the way, there is no monitoring data

because they did not monitor for this." And that presumption should be changed, that just because it isn't provided to you doesn't mean it was there and not provided. It means it doesn't exist.

And we have a request in to the U.S. Department of Energy. They are supposed to be putting a report out from our March meeting with them that the advocates had in Denver with them. They are supposed to be answering that question, "Tell us if you have breathing space and air monitoring data for the workers. And if you don't, tell us that also."

MEMBER MARKOWITZ: Well, you know, that is actually an empirical question that we can look at, the decisions the CMCs are making and the extent to which what Faye is saying is true or not.

CHAIR SOKAS: So, again, that really kind of implies that we will have data. That is part of the data request, basically. And we can certainly construct a way to look for that if we

have got all the records, you know, the complete records. We have to decide how many we want to look through and maybe how we are going to do it to be able to come up with those numbers.

MEMBER MARKOWITZ: This is Steven. I have a question.

If we are tasked with looking at the quality, objectivity, and consistency of the IHs and the CMC and the other physicians' work here, aren't we eventually going to have to look at a broad sample of reports and claims and look at those specific factors? And if that is true, what do we need to get there to better inform our request around those things? What initial information do we need?

And I think we are getting some of this down on the table, you know, some of the current reports on quality assurance or whatever they have produced, and, also, looking at a limited number of claims to understand the process.

But I keep thinking of, what do we

need ultimately to answer this question of quality and objectivity and consistency and, then, how do we get there?

CHAIR SOKAS: This is Rosie.

I am thinking there are two parts to that question. One is, what are the mechanisms through DOL? And then, the other is, again, what is the sample size we need, right? So, would we need to look at maybe all of the denials for a month throughout the country? I don't know what that number would be. Again, because that is where the concern is; it is with denials, not so much with acceptances.

And I guess, Carrie, that might be a question for you. I mean, even having us being able to read through five charts or ten charts apiece, or something like that, if we divvied up how we wanted to handle this, we would need to have both access to the charts, which obviously is challenging -- and the question for you guys is, we have taken an oath. So, does that mean we could look at them with the person's identifying

characteristics, which, of course, then, ratchets up the level of security for maintaining those charts? Or would it require DOL staff to redact all that information, right, which would be a lot of work?

And, Steve and Mark and Faye and Kirk and Garry, I guess the question for us is, how much of this do we need to see? And then, how much of this could we, then, ask for specifically, look at this diagnosis? I mean, to me right now, unless I missed it, I don't think we have the list yet of what are the most frequent diagnoses that are approved, what are the most frequent that are denied, you know, that level of what are the reasons for denial, that level of looking at every chart and just checking up the numbers. But, then, what would we want to look into more in-depth, and could DOL do that for us or do we? I mean, I think initially at least, we need to look at them ourselves probably.

Mark, I apologize. My computer just

went down. Did you have anything else that you wanted to raise right now or ask for information about?

MEMBER GRIFFON: No, I think that was the main things for my part of it. I mean, I don't know if it is in line with what Steve was just raising, but, I mean, that is exactly what I was thinking of, was this question of consistency, quality and consistency.

I mean, here's the other question: if you get a sampling of cases to review, to what extent can our Board do this without some help?

CHAIR SOKAS: Right.

MEMBER GRIFFON: I mean, I think an independent review is something that people have asked for for quite some time, but that would be more of sort of an audit of a percentage of cases or something like that. So, I don't know if that is something that is an option, but --

MEMBER VLIEGER: Mark, are you thinking of somebody like SC&A to help with the review of this stuff?

MEMBER GRIFFON: Yes, well, that is the model on the NIOSH side. The Board had to ultimately have a contractor to help with this review. Now there was perhaps a larger number that we were reviewing and pretty technical dose calculations, and things like that, that were involved. So, maybe it doesn't have to be to that extent, but something like that, yes.

CHAIR SOKAS: That is a great example to have, I mean to kind of frame what we are looking for. I think that might be the next step after we figure out what we can get from DOL originally, and looking through that, I think that will help us shape that request.

MEMBER GRIFFON: I agree, that is something perhaps down the line, but I think we need to get a handle on what is there ourselves first. And I, myself, have to -- maybe others know better -- but I have to get a better handle on sort of the internal process, how this all works behind the scenes. That will be useful.

CHAIR SOKAS: This is Rosie.

I agree with you, and I just think that is going to be the hardest to thing to get. But it will be at least interesting to see. Following a couple of charts I think will help with that.

MEMBER GRIFFON: Right, right.

MEMBER WHITLEY: Garry here.

I think you guys have that number down. Let's just say, for example, we ask for 20 cases in the past three months that have been denied.

CHAIR SOKAS: Uh-hum.

MEMBER WHITLEY: And let's just look at them and see. I think it will jump out at us. I really think it looks like we will have some real questions: why was this done? And then, we could ask some specific questions about those cases, and it will give us a clue. I'm like everybody else, I have got to see more of how past workers have -- the Claims Examiner I think is part of the whole problem.

On their behalf, I am using Oak

Ridge. It is 500 miles to Jacksonville. So, there is not a very good chance that one Claims Examiner down there has ever seen inside one of these plants in Oak Ridge, Tennessee. So, they really have no way to understand.

CHAIR SOKAS: So, just to follow up on that, I mean, what about if we each take -- I think we could do it in a way, if we each took maybe five cases and, then, have access to the others, I mean this might be a time when we might need to have a closed conversation, and we would have to discuss how and if that could happen.

But I think that doing that, and then, being able to discuss it across our group might be very helpful. I know it would be incredibly helpful for me for the medical stuff, and I am sure for the IH as well. It is just necessary really.

MEMBER WHITLEY: I agree.

CHAIR SOKAS: So, I like that idea. I think that we can move that forward before the end of today with specific numbers to request,

and just whatever Carrie can find out for us would be very helpful in that.

I don't want to cut this off. So, I think we should keep talking about all of these issues, but I would like to take us through the questions starting from the top.

Carrie, if you wouldn't mind? Because I think that first one was more of a medical question. Okay, great.

So, I did sort of number these, but Mark is right, they are just bullets.

The first one, this is a request from the program. It is for new presumptive criteria to be applied in eliminating the need for medical review. And the first piece that they mention is the diagnosis plus a toxin, plus a latency, time of exposure, equals causation.

Now I immediately had some concerns about the request even a little bit. I mean, I think there are examples that we have seen about -- I can't remember now if it is renal and trichloroethylene. There are some specific

guidances that have come out where the real question is, how do you figure the sensitivity versus specificity of all of this? And what's five years versus ten years versus two, you know, that kind of stuff?

So, I think it is possible there may be low-hanging fruit. What I would do, I would turn this around. And then, the other question, of course, is this whole concern we have currently about the quality of the evaluations that are going on. So, before you would want to turn any more to that, we would want to go through the rest of these discussions.

But I would ask DOL -- and, Carrie, I think should be an easy request -- but I really think that, for them, it would be relatively straightforward for them to be able to provide us, again, with a list of the top diagnoses that they make, both for denials and acceptances, the main reasons why they get denied or accepted. And this would be for the past year probably. I mean, this is just numbers-crunching.

And then, if there are particular ones that they suggest or that they are concerned might be routine enough that we could do that for, right? So, I would kind of put it back on them because some of these questions really seem to be asking for the universe of possibilities, and that is a little too broad for us. So, if we can nail it down to are there a couple of diagnoses that you think could be turned into something presumptive if we had this, this, and this information?

Steve, I know that you kind of mentioned that a little bit. Again, I am a little concerned with this whole question when it gets to be too specific. I think that whole being able to do the 50/50, as likely as not, is going to be our challenge when we do that.

But I would like more information from the program on which specific diagnoses are they really looking at that they would like to try to do this for.

And then, the second piece of that,

again, for the matrix of consequential illnesses, that can be accepted once the primary work-related illness is accepted, again, I think that rather than to try to imagine all the different possibilities, it would be very helpful to have like the three major diagnoses where this comes up, and then, what are the examples, both accepted and denied, of the kinds of consequential illnesses that people wanted to claim based on the main diagnosis?

So, if they could come up with what are your top three and what have you see and what have you accepted and what have you not accepted, you know, just to give us something to figure out what their main concerns are, I think we could work on that. But I don't want to promise to imagine the universe and, then, provide it. So, that is how I would handle that. It is just really at this point asking them to frame the questions based on their experience with priority in both categories.

Then, the next bullet down --

MEMBER MARKOWITZ: Rosie, can I just add something?

CHAIR SOKAS: Sure.

MEMBER MARKOWITZ: Yes, it's Steve Markowitz.

We have seen this now on a few of the Subcommittees, this issue of presumption and DOL's interest in presumption. I mean, because they have moved in that direction, right? We learned, I think, a little bit about asbestos and asthma and maybe even COPD.

CHAIR SOKAS: Yes, and I think I liked the asthma one. I thought they did a good job of that.

MEMBER MARKOWITZ: And those presumptions have been claimant-friendly. I mean, my interpretation of how they set up the criteria is that they are on the generous side to claimants rather than on the other side.

CHAIR SOKAS: I thought that was true for asthma. I was not so sure about the trichloroethylene. I mean, I didn't look into it

really carefully, but it raised a little concern with me. Especially because of the latency for that one, I had a little concern that they were being too specific.

MEMBER MARKOWITZ: Right. Well, so yes, and presumptions in and of themselves aren't necessarily generous or not. It depends on what you use as the criteria --

CHAIR SOKAS: Uh-hum.

MEMBER MARKOWITZ: -- where you set the limit. For instance, they have solvent-induced hearing loss which a person has to have 10 consecutive years of exposure prior to 1990 to one or more of a select group of solvents in one or more of a select number of occupations. So, that is a set of presumptions, but that is too restrictive.

CHAIR SOKAS: Right.

MEMBER MARKOWITZ: So, it is not specifically generous, but it depends on where you set the bar. But presumption is an approach which can be very claimant-friendly. And so, I

think that their interest in moving on presumption I regard as a very useful kind of opening.

CHAIR SOKAS: Okay. I mean, you are giving it a more positive interpretation than I was kind of. So, I think that is fair. I think that is good.

I still think we need to restrict them to maybe their three biggest issues because it is hard for me to imagine we are going to pull together more than that in the next year at least.

MEMBER MARKOWITZ: No, no, I agree with you. The most frequent things that people make claims for are --

CHAIR SOKAS: Right.

MEMBER MARKOWITZ: -- the things that we should help them with. I mean, that would both help DOL, help a lot of claimants, and would be a real contribution.

CHAIR SOKAS: Okay. So, taking your perspective, which I think is a really good one

because you're right, I mean, the asthma one was really good, I will say it in a more positive way; that we would like to kind of move forward on that, but we want to restrict it. We want the information about what their top priority areas are.

And I think the same is equally true for the matrix of consequential illnesses. I mean, I think that there probably are about three or four that come up all the time, and that would be fairly easy. My concern is that we could come up with a list of 10 consequential illnesses and just not think of the 11th or 12th, and that would be used to exclude people.

So, as long as it is done in the spirit of this is what we have so far, that is not the entire universe necessarily. I think those are two things that we could actually move forward on in Committee, and I am perfectly happy to assign that to George since he is not here today. I am teasing on that part.

But, Carrie, so that is a request for

both of those sub-bullets for additional information on their big priorities based on the number of requests that they get.

MEMBER MARKOWITZ: No, but, I mean -- this is Steven -- I think, is your request that we learn the frequency of different diagnoses that people make claims for, both on the claims side and on the consequential illness side? It is the frequency?

CHAIR SOKAS: Right. It is the most frequent requests for both of those. And then, I think it would be useful to also know, of those most frequent requests, how many are denied and how many are approved and are there problem areas that pop up.

MEMBER MARKOWITZ: "Requests," you mean claims, the most frequent type --

CHAIR SOKAS: Right. Right, that is what I mean, claims.

So, then, the next item is clarification/recommendation regarding the assessment of a medical opinion regarding the,

quote, "rationalization" -- wait a minute; let me just pull it back down; people can read that on the screen there -- supporting a conclusion.

And then, there is a circle up there about standardized triggers. Okay. And I am just going to go into a grumpy, old lady mode right now on this one.

So, the clarification of the assessment of the medical opinion, I think there is a communications issue for the medical and probably for the IH that kind of threads throughout all of this. I think the overall challenge is that there is a need to have things fit into boxes and to be able to be assessed by someone who is not technically-trained, on the one hand, and on the other hand, to have that information presented when there is a need for expertise in a way that is clear enough to give that kind of almost a computerized response to it, right?

And there was 217-15 memo, I think or 217-16. It is a 217 memo that we are not

supposed to share or discuss that was describing a, quote/unquote, "informal audit". But, in it, there were complaints about people providing too much information. They didn't want to hear it all. And I think we heard about some of that in our face-to-face meeting.

So, I think some of this is a communication issue. I had a problem on my end with the communication with words like "opine" because I think of opine as you opine about the weather, right? For some reason, it is like chalk on a blackboard to me. "Rationalize," which is in quotes here, but the idea of rationalizing, I realize that what the program means is to make something rational. But, again, what physicians might hear is, you know, one of the Webster definitions is -- and I am going to quote this because "rationalization" is something we don't want to attempt -- "to attribute one's actions to rational and credible motives without adequate analysis of the true, and especially unconscious, motives." I mean, the whole term,

quote/unquote, "rationalize" is subject to two very different interpretations.

And then, there was another place where they were asking for opinions, suspicions, or diagnoses, which, again, the word "suspicions" is like "OMG". So, I think there is kind of this, in the same way that there is kind of a legal/medical disconnect, there is sort of a bureaucratic medical disconnect in some of the communications. And it goes in both directions.

One of the questions I had, so in our task we are talking about getting guidance to staff physicians. Now I don't know if that was a typo, but I did want to know more about the role of staff physicians. I mean, I know there have been staff physicians in the past. I don't know if there is a staff physician currently who is engaged or if they are in the process of looking for somebody. I think they might be looking for somebody, is what is going on.

But it just seems that some of this communication problem is pretty profound. And

the way this question is asked makes it hard to be precise in figuring that out. But I do agree that one of the responsibilities we can take on as a Board or as a Subcommittee might be to help figure out ways to foster better communication. So, that I think is a realistic request.

When they talk about standardized triggers, I am a little more reluctant and I would wonder if maybe all denials should be reviewed. And so, the question is whether or not that is feasible or whether or not that is an easy thing for them to do. So, I would just ask that in the form of a question, whether they have considered reviewing all denials and making that the trigger.

When we go down to the next --

MEMBER MARKOWITZ: This is Steven. If I could just chime-in here?

CHAIR SOKAS: Sure.

MEMBER MARKOWITZ: This clarification/recommendation, what I interpret this as meaning is how do we tell a good report

from a bad report from the doctor. And what criteria can we use, whether it is a CMC report or a personal physician? What criteria can we use to assess those opinions or the decisions, as they describe their reasoning behind those decisions? I don't know really what the answer to that question is, but I think that is what they are asking here.

CHAIR SOKAS: I agree, I think that is what they are asking, but I think the issue is probably more upstream than that.

MEMBER MARKOWITZ: What do you mean?

CHAIR SOKAS: I think they are talking apples and oranges sometimes. For example, one of the complaints in that informal audit was that, on the one hand, the physician went through like very precisely what the toxic exposure was and the expected health outcome. But, then, they seemed to waffle on the language. Well, waffling on the language is what scientists are taught to do, basically, right?

So, there is that kind of

communication stuff. It is a matter of translation almost. I don't know. I mean, maybe there are things that we can say. I think they already have sort of the basics. If you don't have good diagnoses, then that doesn't matter. I mean, you have to have clear diagnoses. You have to have some clear connection between the exposure and the outcome.

Maybe, again, we can find out more once we look at a handful charts. Because I did not interpret that question to be that straightforward. I thought they meant that they had that in place, but were having trouble with it. But that is a question.

And, Carrie, I thought I looked through this stuff, but I didn't see anything. And there are very clear recommendations to the CE, to the Claims Examiner, that they need to have this, this, this, and this.

I think that pretty much explains what it is they need and how they are to interpret it, but if there is additional guidance that we

haven't seen already, that would be helpful.

MEMBER VLIEGER: This is Faye.

Econometrica did a report about the most common diseases, and the Department of Labor implemented some of them and, then, kind of strayed from the Econometrica report. That report the Department of Labor actually contracted to do, and they came up with the most common diseases based on their review from the former Worker Screening Program. So, some of this work has already been done, and the Department of Labor is asking again. And I don't know whether it is like when you are ask your mother and she tells you no, and then, you go ask your dad to see if he will say yes.

CHAIR SOKAS: Oh, interesting. That might be something, Carrie, to ask, if there are previous reports that address some of these questions, what is their take on them?

This next one, again, so the methodologies, they are looking for ways to improve physician responsiveness to data

requests. Again, I have a clarification question. Is this a question for both the treating physician as well as for the CMC, because it seems like there would be different mechanisms for either one of those?

Again, I didn't get a real sense -- and maybe I just missed it -- of what the current procedures are in place to get this information. So, what are they currently doing would be helpful.

MEMBER MARKOWITZ: Rosie, can I just jump in here? Steven.

This same issue was addressed to another Committee, the Medical Evidence Committee --

CHAIR SOKAS: Okay.

MEMBER MARKOWITZ: -- which is where it actually belongs.

CHAIR SOKAS: Okay. So, we will just delete that one.

MEMBER MARKOWITZ: Because these are IHs and doctors contracted by DOL. So, if they

are not responsive, they ought to have a way of dealing with them.

CHAIR SOKAS: That's right. I thought they were talking maybe about the treating clinician. But that's fine. That's great. So, we will skip that one, and we will just say that is not part of our purview.

MEMBER MARKOWITZ: Right.

CHAIR SOKAS: You're right. I mean, there was a series of these questions that was in the earlier part of that same day, and some of them are verbatim repeated. So, as long as we know the other Committee is doing that, we can just take it off of our list. So, that is off of our list.

The next one is, what sources of information exist that describe the synergistic effects of chemical-radiologic interventions and resulting health effects? I would ask if that is actually on one of the other Committees because that seems to have more to do with lungs than anything else, but I don't know.

MEMBER MARKOWITZ: Well, no such luck.

(Laughter.)

CHAIR SOKAS: It was worth a try. Okay.

Again, we can look around. I mean, I would, then, ask, well, where have you looked already? Have they identified any sources? I think the answer is going to be you do a PubMed search or you do a research search for each particular individual where it happens.

But, if the DOL has anything already, that would be helpful to know. Otherwise, we can take a look at it. I don't think we are going to come up with a magic bullet, but certainly we could search and look.

MEMBER VLIEGER: This is Faye.

I just sent the link from the U.S. Department of Labor site on the Econometrica report to Dr. Sokas, Dr. Markowitz, and to you, Carrie.

CHAIR SOKAS: Thank you.

MS. RHOADS: You sent that to the

Advisory Board inbox?

MEMBER VLIEGER: I sent to you, Dr. Markowitz, and Dr. Sokas.

MS. RHOADS: Okay. Thank you.

CHAIR SOKAS: Thank you, Faye.

So, the next question on this -- I am just going to kind of run through these now -- training resources for improving the quality of medical reviews of medical evidence in weighing conflicting evidence. I think that is another one that is a repeat, Mark? Steve? I'm sorry.

MEMBER MARKOWITZ: I'm sorry, I'm trying to get this back on my screen.

CHAIR SOKAS: This is the one about they want training resources -- and it is not clear to me for whom -- for improving the quality of medical reviews of medical evidence in weighing conflicting evidence. So, is that for the CE? Is that for the physicians? It is kind of not clear to me, but I thought that was a repeated question.

MEMBER MARKOWITZ: Yes. Well, you

know, this ought to go to the Medical Evidence Committee.

CHAIR SOKAS: Okay, great. And, Steve, I am assuming you are sitting in on all of those and you will just let them know?

MEMBER MARKOWITZ: Yes, but, hopefully, Carrie is getting this down.

CHAIR SOKAS: And Carrie will get the notes down. Okay, great.

MEMBER MARKOWITZ: My memory is almost perfect, but not --

(Laughter.)

But, just to look at this for a moment to see whether it really does relate to IH and the CMC and the CCOP and all that, this would be training resources really relevant to this Committee would be training of the CMCs, although it is to make sure that their medical reviews are of sufficient quality.

But in the "weighing conflicting evidence," you know, I don't know whether that applies to the CE who is sitting there trying to

figure out what is going on when he or she gets conflicting reports or whether that is the problems faced by the CMC. I don't know what to think.

CHAIR SOKAS: Yes, I mean, it is unclear who they are referring to. Again, it is a repeat question, I'm pretty sure.

MEMBER VLIEGER: Just so you know, the CE and their supervisor, if they ask for the input, are the ones who decide whether or not the medical evidence is sufficient. I'm not aware that there is a physician in every district office looking at every claim where they have questions about the medical evidence.

MEMBER MARKOWITZ: Right.

CHAIR SOKAS: So, that is a really interesting point. There is a place -- and I can't remember where it is -- it is in some document; I wrote down what they said in it, though. It was there is a place where it talks about when a CMC referral may not be needed, right? It is when they are telling people when

to refer for a CMC and when not to refer.

So, one of the times not to refer was if there is no exposure documented. Well, okay, you know, that probably makes sense not to refer to a CMC if you don't have an exposure. But, then, the next clause was if there is no plausible scientific association between the toxin and the diagnosed illness. And my question was, well, based on what? I mean, that is exactly why you would refer to a CMC, I would think, right? Because unless you are using the SEM or something else to dismiss potential relationships, or unless you have kind of searched the research publications, how would you know? And that would be exactly when you would want to have this.

So, I think one of the questions for us is maybe we just want to encourage people, if you don't know, that is when you should be having a CMC evaluation. Again, based on that informal audit, the problems were when they forwarded for CMC where they had treating physician information

that didn't get included accidentally, you know, that kind of stuff. So, that informal audit seemed to do nicely to look at procedural deficiencies, but it did absolutely nothing to look at quality of the content. So, that is a whole issue in and of itself, and whether or not, in addition to this informal audit, they plan to have a formal audit, I think we are going to be the formal audit or we are going to be shaping the formal audit.

MEMBER VLIEGER: I just want to throw one more piece of information to you about the CEs. Many of them are attorneys, and many of them are basing their decision on their legal training. And so, when we use specific definitions in what they are supposed to do, many of them are going to adhere strictly to the legal definition, irregardless of what the Procedure Manual says.

CHAIR SOKAS: Right. Right, right, right. That's very interesting. Well, again, hopefully, if we get the full charts, we will be

able to see some of that. So, that would be very helpful.

Carrie, can you move that down to the next page, page 7 of 7?

MEMBER MARKOWITZ: And while she is doing that -- Steve Markowitz -- can I just make a comment?

So, the CE, then, is looking at conflicting evidence and making a decision with or without the help of her supervisor or his supervisor. And DOL is asking for help on, presumably, training the CE and supervisor in this. But we are not sending him to medical school --

CHAIR SOKAS: Right.

MEMBER MARKOWITZ: -- or epidemiology school.

And I say this as a kind of a rhetorical thing, but is the answer here to have more of those go to a referee, to a third person who is qualified to settle this dispute?

MEMBER VLIEGER: Are you asking about

the application of the referee?

MEMBER MARKOWITZ: I'm asking, when you have a CE who is sitting there looking at what the personal provider does or says, and it is sent off to the CMC. And the CMC contradicts what the person's own provider says. The CE is sitting there and they are inclined to accept the CMC report probably, right?

MEMBER VLIEGER: That's correct.

MEMBER MARKOWITZ: That's why they have CMCs. But there is some doubt. And so, what DOL is saying here, "weighing conflicting evidence," right, and how are they supposed to make a decision? What DOL is requesting is, what training resources can we inject into this to help them? What I am saying is I am not sure training is going to do it. Is the answer for that case to go to a referee physician, so that --

CHAIR SOKAS: For an opinion.

MEMBER MARKOWITZ: Right.

MEMBER VLIEGER: Yes. However, there

is some bias for the referee because it is the same contractor that did the initial --

MEMBER MARKOWITZ: Right.

MEMBER VLIEGER: -- that did the CMC report. And so, the referee reports that I have seen seldom stray from the initial. So, I would love to see referee reports that actually go a different direction, but the referee is a different doctor within the same contract of the Contract Medical Consultant.

MEMBER MARKOWITZ: Right.

CHAIR SOKAS: Is the Contract Medical Consultant national or regional?

MEMBER VLIEGER: The contract is vetted. It is owned by QTC at this point. And that is the same people that do the VA disability ratings. And so, QTC vets the doctors.

If you wanted to talk to Dr. Welch about a particular issue that she had with one of the CMC doctors, if we wanted to talk to her on the side, the CE discounted her expert opinion letter and, then, went with the CMC's report that

was not fully rationalized or using current medical science, and the claim was denied.

CHAIR SOKAS: Wow. That's interesting.

MEMBER VLIEGER: And so, she did write another, a five-page response to a CMC report for a claim that is in the posture to deny, where she refuted the CMC. She also questioned the CMC's CV, whether or not the CMC was actually qualified to be opining on the case at all.

I don't know what she looked at. I don't know how she looked him up, but I saw the letter. I saw the five-page letter.

So, is that something that you wanted to bring her in on a Committee discussion and have her discuss her experience? That is something where you could talk to her with the former Worker Program and her providing medical opinion for the workers.

CHAIR SOKAS: Well, and the other thing, I mean, I think we can probably do -- I am not sure how to do that with a Subcommittee

Working Group, but, for sure, when we get to our next face-to-face meeting, we could pull her in for that conversation.

I am also wondering if we could explicitly request to see the number of cases that go to the second review or the referee rather and the number of times that it is overturned, and maybe review some of those, the ones on both sides, the ones that are overturned and the ones that aren't.

So, Carrie, that is another request for specific cases. Again, it would be nice to have those kind of total numbers of, out of so many cases evaluated every year, "X" number go for this referee, require a referee, and how many of those does it change the CE determination? But, also, to see a handful of those, so we can look through them.

And, Steve, I think the bigger question is, again, it is hard to almost mechanize some of this stuff as opposed to trying to deal with it -- oh, I don't know.

Let me just go to the next question. So, the next couple were for industrial hygiene. But, then, when we get down to the last two, there is a question there that I really could not interpret. I think I might have just spaced out on it. So, I am going to ask everybody.

It is generalization of prior IH and CMC findings pending adjudication actions. And I am just having a hard time figuring out what that means.

Mark, how did you interpret that?

MEMBER GRIFFON: I had trouble with that question, too, actually. I wasn't sure exactly what they were trying to get at, either.

CHAIR SOKAS: Steve?

MEMBER MARKOWITZ: Yes, this is my thought about that. I don't know if it is right or not.

So, IHs and CMCs write reports, and some of those reports are going to cover the similar issues. And the question is, can I aggregate some the finding from the CMC and IH

reports and generalize from those decisions, from those opinions, judgments, to use them for things, other cases, presumably, so that all of them don't have to be sent to IHs?

CHAIR SOKAS: Gotcha. I mean, I think in order to even begin to answer that question, we would really need to do the quality assessment that we have been talking about.

MEMBER MARKOWITZ: Yes.

CHAIR SOKAS: Okay. So, I think we can skip over that.

This last item I think is really needed, and Faye has already suggested adding to this. I think we could probably divvy this one up and clearly be able to come up with some response. So, individually, we could take our own work together to respond.

So, Circular 1505 is the Occupational Exposure Guidance Relating to Asbestos. I am happy to work on that. Steve, I don't know if you are interested in that, if the other team is actually doing that already.

MEMBER MARKOWITZ: No, it hasn't been claimed yet, Rosie. So, I would be happy to work with you on that.

CHAIR SOKAS: Okay. Terrific. So, that is easy.

And then, the next one I think we would all have concerns about. So, I would like to suggest whoever is the most passionate about it. This is that 1506, post-1995 Occupational Toxic Exposure Guidance.

Faye, I am assuming you are going to be interested, and Garry and Kirk. And, Mark, is this something that you would be interested in as well?

MEMBER VLIEGER: Sure.

MEMBER GRIFFON: Yes, sure, I can work with it. I think they are very familiar with it, but I can definitely work with it. And I am familiar with some of those OSHA reviews that you mentioned earlier, too.

CHAIR SOKAS: Oh, great. Okay.

MEMBER GRIFFON: I think I actually

have those reports somewhere in my office.

CHAIR SOKAS: Oh, Mark, that's awesome.

MEMBER GRIFFON: Yes. So, I can work with them on that, sure.

CHAIR SOKAS: That's terrific.

And then, Faye, you had a third one which was similar, which was the post-'95 hearing loss. Would you be willing to kind of include that in that group activity?

MEMBER VLIEGER: Yes, they go hand-in-glove. There was the same rationale for both Circulars.

CHAIR SOKAS: Okay, great.

So, for at least our last question, we should have some nice draft responses.

This is a question for Carrie in terms of keeping us on the straight and narrow here. When we sub-subdivide into actual getting tasks done, I am assuming we can communicate with each other. Like I can communicate with Steve as long as I keep you in the loop?

MS. RHOADS: That's right, yes.

CHAIR SOKAS: Okay, great.

So, we have got at least one task, and we probably are going to need to plan for more tasks, obviously. But I would like to propose that we, as a group, plan to have something that we are happy with internally, and maybe can share it with the others in the group or just with the people directly working on it?

Carrie, for example, if the group working on the post-'95 Circulars wanted to share that with Steve and me, is that something we could do now or would that need to wait until the next meeting?

MS. RHOADS: No, I think you can do that within the Subcommittee. Just keep the DFO --

CHAIR SOKAS: The draft?

MS. RHOADS: Yes, keep the draft. Keep the DFO email included.

CHAIR SOKAS: So, I would like to propose, then, that we set ourselves a timeline,

and maybe by the end of August the individual groups have a draft that we can share with the other half, you know, the other groups.

MEMBER MARKOWITZ: Clarification, Rosie? It's Steven.

CHAIR SOKAS: Sure.

MEMBER MARKOWITZ: Draft of what? What are you --

CHAIR SOKAS: So, they are asking us to do policy guidance review for these two, and now we are going to make three, Circulars. Basically, we might say, "Oh, this is great as is," although it is unlikely, or "We find this Circular to have the following problems and we would recommend changing it to the following language." And maybe give the reasons why and cite information.

But I think what we should propose to give back to DOL is a review, kind of a written review of what we find in those Circulars and what we think might be an improvement. Does that make sense?

MEMBER MARKOWITZ: Sure.

CHAIR SOKAS: And then, for the other things --

MEMBER GRIFFON: Pardon me, Rosie. Just one subtle thing here. I think that we, as a Subcommittee, putting together some findings and possible motion for the Board as a whole to consider --

CHAIR SOKAS: Right, right.

MEMBER GRIFFON: Because this Board is making recommendations; the Subcommittee is not making recommendations directly to the Department.

CHAIR SOKAS: Thank you. That's a really good point. Thank you, Mark.

MEMBER MARKOWITZ: But let me just offer a friendly amendment not to bring a motion to the full Board because I think these same topics, there are going to be other members of the Board who are going to want to weigh-in. So, I think it would be better to portray these as discussion pieces --

CHAIR SOKAS: Okay.

MEMBER MARKOWITZ: -- for further discussion.

CHAIR SOKAS: Okay, good.

MEMBER GRIFFON: Right, and then, maybe it can be made into a motion at the Board meeting.

CHAIR SOKAS: At the Board meeting, right, if everybody is onboard with it. Good.

MEMBER GRIFFON: Yes.

CHAIR SOKAS: Okay. So, the other questions, we can go through. One of the questions was -- and, Mark, you are going to think about this because you are sort of flying solo on this right now in terms of the questions targeting industrial hygiene, you know, the quality measures and all of that.

Before you get into any of that, there were requests for information that Carrie is going to get about current procedures for quality improvement or any forms they have to complete regarding quality improvement.

And then, I think both for that piece of it and for these other issues about whether we can do presumptive diagnoses, which we are going to look favorably on trying to do that, but we need the information, Faye it sounds like stands as the source of information on that, but, again, we kind of want to know what the major ones are from the DOL perspective.

The same thing for the matrix of consequential illnesses, we will get the list of the main questions that pop up or the main claims that are made and what the concern areas are.

I think we are not responding yet on this clarification of medical opinion or rationalization, and all of that, just because, well, I think our question is right now some of this may be language-related; some of it may be more than that, but what is the status of the Department's internal occupational medicine, occupational physician capabilities, right? So, who are they using and do they have somebody who is in charge of that at this point? That is more

of a question than anything, but we can certainly ponder it in the future, but it is not going to be an easy answer.

The next question, oh, here we go. This is where I am going to talk George into doing it. The source of information for synergistic effect between -- so, I am going to suggest that all of us look to see, spend maybe an hour or two kind of looking around to see if we have any good examples of sources of synergistic radiation and chemical effects. All right. So, that will be on all of us. We will just report back at our next face-to-face meeting.

It probably wouldn't hurt to have a little opportunity to touch base before the large meeting, but I am wondering if we could actually do that in the face-to-face meeting.

Steve, what are you looking at in terms of the agenda for that next meeting?

MEMBER MARKOWITZ: I am not looking at anything yet.

CHAIR SOKAS: Because, again, realistically, I mean, are we going to get something scheduled for us in August? Probably not. Does it make sense to try to do it in September? I'm not so sure.

MEMBER MARKOWITZ: Are you talking about a telephone meeting?

CHAIR SOKAS: I am talking about a telephone meeting. It took us from April to today to get one that we could all make, and then, it turned out one of us couldn't make it afterwards.

MEMBER MARKOWITZ: Right, right.

CHAIR SOKAS: So, I am not optimistic about being able to schedule a realistic other telephone meeting.

MEMBER MARKOWITZ: This is Steven Markowitz.

Actually, the other three Subcommittees I think are meeting by phone.

CHAIR SOKAS: That's because they are the only good ones. And I'm willing to try it if

others on the phone really feel that it would be necessary or helpful. I think it would be helpful for us to get together as a group, but I think we could do it for 30 minutes during coffee at the next meeting.

MEMBER MARKOWITZ: But the question is, well, listen, we could try to find a telephone meeting time and, then, if we fail, we fail. If we succeed, we succeed.

The question is whether we have something we want to achieve by having another phone call like this. And if there is something we think we can achieve, then let's try. And if it fails, then we will resort to something else.

CHAIR SOKAS: So, my question, I guess, to all of us was this business about are we going to be able to help them figure out synergistic effects, right? Do we need to do something on that before the face-to-face meeting because we are probably not going to do that?

MEMBER VLIEGER: This is Faye.

There were a number of studies done,

and I would have to go and look and see if they are up-to-date or not, but I thought IARC had done a large study of synergistic effects of radiation, radioactive materials, and chemicals. If I can find those links, I will forward it to you. It has got to be on one of my computers. But there was a large database done, large studies, and they may not be completely up-to-date. Or they may be did they roll through them to update kind of like they do with other programs? But I thought IARC was the one that had done that. Let me see if I can find them.

CHAIR SOKAS: Okay. I think that is wonderful, Faye. I think that is probably the best thing I have heard so far.

And I was thinking that if each of us dedicated a small amount of time to trying to find -- you know, if that answers the question, then we don't need to go further. But if each of us wanted to take on trying to find sources of information, preferably peer-reviewed sources of information, that might be useful. But the

question is whether we need to try to pull that together again before the October meeting.

MEMBER MARKOWITZ: This is Steve Markowitz.

My personal view is not that we don't need to, but that is not a time-dependent request. Frankly, I think that request is also outside of the purview of the entire Board, but, you know --

CHAIR SOKAS: Okay.

MEMBER MARKOWITZ: -- we're eager to help. That's fine.

CHAIR SOKAS: Okay.

MEMBER MARKOWITZ: I want to bring something back to an earlier part of the discussion. We talked about looking at a certain number of claims.

CHAIR SOKAS: Right.

MEMBER MARKOWITZ: And the question is, at the end of this meeting right now, are we going to submit a request to DOL for "X" number of claims where we get to see the IH medical

report and the data?

CHAIR SOKAS: Right. So, this is a request for Carrie. We talked about it a little bit, but you're right, we need to formalize it.

And, Steve, it kind of depends. I am assuming you want to do this as well. So, it looks like we have six members of the Committee, right, you know, including George?

MEMBER MARKOWITZ: Right, right.

CHAIR SOKAS: So, I would like to propose to Carrie -- and again, this is going to take some legwork within the Department to figure out what all the possibilities are for doing this -- but we would like to have five records apiece. So, there would be a total of 30 records that we would individually be responsible for reviewing, but, then, would want to be able to have access to the other, to the total 30.

So that we could actually have a conversation where I could say, "Oh, I think this was a problem in these three." And then, Mark could say, "Oh, wait a minute. Let me take a

look at that because maybe you missed something," right? Or, "Yes, I've seen the same thing in two others," right? And then, Faye could say, "Yes, and we have got this third thing going on here."

So, we could all make use of the original 30. That would, then, help us inform what we really thought we needed to look at for quality assurance, and maybe then somebody else could do it, right? There could be a subcontract where people could look at X, Y, and Z.

But we need to do that amount first to really understand it. So, the question is going to be, can we get 30 charts? Can we get trained on how to look through those charts? Are we okay with access without compromising -- you know what I mean? So, do we have to be able to get onto a secure site, all of that stuff?

I think the goal would be to have that happen and to have us be able to look at those charts between now and October. It is one of those things where I think it is going to be challenging to have the conversation. I think it

is a Working Group conversation, but that is going to be challenging to have that public because, obviously, this is going to be the most sensitive stuff, right? I mean, this is personal, this might be personal information.

MS. RHOADS: Can I just ask, are you asking or would you be asking the program to look at the entire case file or certain pieces of it?

CHAIR SOKAS: So, we are looking for cases that have been referred both to an IH and to a CMC, I think. Correct? Anybody else jump in here if I'm overstating this. And we would like the entire case file.

But we would like to see what the CE had available to them, what they sent forward to the IH, what happened. In fact, if a couple of these -- maybe these could be ones that actually had to go for -- I mean, I don't want to skew it entirely, but a subset of these could actually be ones that had to go for a referee.

So, we are looking for the more complicated cases that had to go someplace, and

we would like to be able to review both the IH and the CMC on all of them, and then, maybe a second opinion on some of them or a referee on some of them.

So, we are going to need to access to these. I am sure these charts are huge and with a lot of scanned information into them. And I don't know; I mean, I am assuming there is a secure website that we would be able to get permission to access these particular charts rather than somebody redacting everything and sending us hard copies. I mean, I doubt that that is going to be -- so, however DOL can work that out and what we would need to do in order to be able to access that information. But we want all of us to be able to have done that.

That I think actually might be a useful reason to have a phone call, Steve, now that I think about it. I don't know how anybody else feels. But if we could get that done -- I don't know if that is going to work out by the end of August, I mean, again, how challenging it

is going to be to actually get access to it. But if we could have that done by August, then we could certainly have a September phone call. Or we could meet, again, for an hour at Oak Ridge.

And, Steve, I think the only challenge for that would be your participation in all these different groups. But in a lot of these meetings it is useful sometimes to have time set aside for the Working Groups to have a little bit of face-to-face time.

MEMBER MARKOWITZ: Carrie, do you know when the Advisory Board meets whether the rules permit us to meet in Subcommittees, spend part of the time meeting in Subcommittees? I say that because, you know, obviously, that is probably impossible to work remote public access.

CHAIR SOKAS: Right.

MS. RHOADS: Yes, if you want to have Subcommittee meetings along with the main Committee meeting, we would have to publish that fact in The Federal Register.

MEMBER MARKOWITZ: Right, but, then,

not just publish it, but, then --

MS. RHOADS: Right.

MEMBER MARKOWITZ: -- provide the technical access to Work Groups.

MS. RHOADS: Right, right.

MEMBER MARKOWITZ: Yes.

CHAIR SOKAS: Well, and I think that it has got to be a question raised about when we have this conversation about the chart audits that we are going to be conducting, do we need to have an exemption to our public discussion? So, we need Rob Sadler, or somebody like that, to tell us about the confidentiality requirements of this particular task.

MS. RHOADS: Right. I'm writing that down.

MEMBER MARKOWITZ: In the other Subcommittees, two of them have requested claims. The assumption has been that it would be redacted of all identifying information. And DOL hasn't told us that they can't do it or it takes forever to do it.

CHAIR SOKAS: Okay. All right. If they can redact it, then it might not be an issue.

MEMBER GRIFFON: But, Rosie, also, on the other Board, the Radiation Board, I chaired the Dose Reconstruction Subcommittee for about 10 years and we discussed in public meetings those individual dose reconstruction cases, the findings, the specifics. I mean, you know, we just had to be very cognizant of not discussing any identifiers.

CHAIR SOKAS: Okay. Okay. So, you could like just not use maybe even --

MEMBER GRIFFON: It could be and has been done, is what I am saying I guess, yes.

CHAIR SOKAS: Okay. Okay. I mean, I am sure DOL is going to pay attention to the confidentiality stuff. So, if they can handle that from their end, that would make life easier for us.

Okay. Anything else that we didn't cover? Anything else that we need to ask Carrie

for?

MEMBER GRIFFON: Can I ask you a question, Rosie? You mentioned this informal audit report.

CHAIR SOKAS: Well, the informal audit report, we have got it in our -- I think it was one of the things you had to use like an ID code for.

MEMBER GRIFFON: Oh, okay. I will have to look back.

CHAIR SOKAS: And it was dated February 17th. I can't remember if it was '15 or '16. But it is definitely worth reading. You definitely want to go through it.

The problem from my perspective, again, it was process, what came forward, what came back. That is where some of that criticism about, oh, all we wanted was an answer to this question and, instead, we got this blah, blah, blah, blah, blah. You know, I mean, they don't say it in that -- you can sort of sense the frustration from the Claims Examiner because they

didn't get what they wanted from the physician.

But that kind of made me think, well, geez, if you had an in-house physician, that would be an easy translation. I mean, you know, some of the stuff, as Steve said earlier, you are not going to send every Claims Examiner through medical school, but if you had somebody in-house to answer a couple of questions like that, that might be the better way to go.

But, anyway, it did not address content of any of it. So, it was interesting. It did give you percentages by regional office of the times when the CMC resulted in an acceptance or a denial of the claim. And those varied quite a bit by region. I mean, that was very interesting.

So, that, in and of itself, sets up a question about some of the different regional stuff, which is also interesting. Say that it is the same contractor. So, it is the regional culture that seems to be different or maybe it is the type of cases that come through in the

different regions. I don't know.

MEMBER GRIFFON: And that was what was sent to us from DOL? I will have to look back. I don't think I looked at it.

CHAIR SOKAS: Yes, it is one of the ones you had -- Carrie, correct me if I am wrong -- but I think it was one of the ones you had to put in that -- she sent you a separate email with an ID, you know, with like a password. So, you had to enter the password in order to open it.

And it was definitely worth reading. It is just not enough of -- you know, it didn't really have quality in it.

MEMBER GRIFFON: Okay.

CHAIR SOKAS: I mean, it was really procedural, procedural quality, but not content quality.

I think we are at our mark now, I mean at our four o'clock point. I don't want to hold people up.

Is there any other comment, item that we have forgotten?

Carrie, anything you need clarified from us? I know we kind of threw a lot of questions at you?

MS. RHOADS: No, not right now. I am going to write them down and, then, I will send you a list.

CHAIR SOKAS: Okay, great. Thank you so much.

MS. RHOADS: Okay.

CHAIR SOKAS: Well, thank you, everybody. I hope everybody has a wonderful summer, and we can be in communication as long as we copy Carrie.

MEMBER VLIEGER: And are we planning on another teleconference before we meet in October?

CHAIR SOKAS: I think it depends on how fast we can get these charts.

MEMBER VLIEGER: Okay.

CHAIR SOKAS: I don't think there is a point to it unless we are each able to get our five charts reviewed, and then, we want to

discuss them. So, you know, if that can happen soon, then we will try to set up another meeting. And if it can't happen soon, then -- I mean, it has to happen at least six weeks before, so that we know that we can do The Federal Register notice anyway. So, we will see.

Okay. Any other questions? Any other comments?

(No response.)

All right. Thank you, everybody.

(Whereupon at 4:02 p.m., the teleconference was adjourned.)

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C E R T I F I C A T E

This is to certify that the foregoing transcript

In the matter of: Subcommittee on IH and CMC and Their Reports (Area # 4)

Before: Toxic Substances and Worker Health Adv. Bd.

Date: 07-18-16

Place: teleconference

was duly recorded and accurately transcribed under my direction; further, that said transcript is a true and accurate record of the proceedings.

Neal R. Gross

Court Reporter