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# ***Committee Meeting***

of

## **JOINT COMMITTEE ON AUTOMOBILE INSURANCE REFORM**

*“Deliberations with regard to automobile insurance reform”*

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**LOCATION:** Committee Room 4  
State House Annex  
Trenton, New Jersey

**DATE:** March 19, 1998  
9:30 a.m.

### **MEMBERS OF COMMITTEE PRESENT:**

Senate President Donald T. DiFrancesco, Co-Chairman  
Assembly Speaker Jack Collins, Co-Chairman  
Senator John O. Bennett  
Senator Gerald Cardinale  
Senator Joseph M. Kyrillos Jr.  
Senator Richard J. Codey  
Senator John H. Adler  
Assemblyman Paul DiGaetano  
Assemblyman E. Scott Garrett  
Assemblywoman Clare M. Farragher  
Assemblyman Joseph V. Doria Jr.  
Assemblyman Joseph Charles Jr.



### **ALSO PRESENT:**

Thomas K. Musick  
*Office of Legislative Services*  
*Committee Aide*

Laurine Purola  
Jarrod C. Grasso  
*Majority Staff*  
*Committee Aides*

Thomas J. Hastie  
Tim Clark  
*Democratic Staff*  
*Committee Aides*

***Meeting Recorded and Transcribed by***  
**The Office of Legislative Services, Public Information Office,**  
**Hearing Unit, State House Annex, PO 068, Trenton, New Jersey**

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## TABLE OF CONTENTS

### Page

#### **APPENDIX:**

Assembly Bill No. 1751 “New Jersey Criminal Insurance Fraud Act”	1x
“Position on Auto Insurance Reform Proposal” submitted by New Jersey Department of Banking and Insurance	7x
Memorandum to John Farmer Chief Counsel Governor’s Office From Commissioner Elizabeth Randall New Jersey Department of Banking and Insurance submitted by New Jersey Department of Banking and Insurance	11x
Letter addressed to Senate President Donald T. DiFrancesco and Assembly Speaker Jack Collins from Martin J. Scott, D.O. President New Jersey Association of Osteopathic Physicians and Surgeons	14x

hw: 1-90

**SENATE PRESIDENT DONALD T. DiFRANCESCO (Co-Chairman):** I want to thank the members of the Committee. I know Senator Codey is in the State House at a meeting. He'll be here very quickly. So we're all here, and I want to thank all of the members for all the time that they have devoted to this issue thus far, through all of the public meetings we've had, and, of course, particularly Speaker Collins, who has been in charge throughout all of those meetings, with some very few rare exceptions, and has been very active in the deliberations and in taking the testimony and in asking the questions.

When we started this process, we told all of you that this is an unusual situation, that people were looking for action. People were, in fact, demanding action in terms of car insurance -- rates particularly. The Speaker asked that we consider a special committee, and we did so. I think this has, so far, worked very well. I'll repeat again, I believe this has been a bipartisan approach to reform, which is what our goal was. We believe that the people involved in the system will have to help us reform the system, and we believe they will. We also believe that we need guaranteed savings when we finish with a product -- a bill that is eventually passed, and we believe that a guaranteed savings will be there.

Today this is basically a meeting amongst ourselves that is merely open to the public. We will be discussing some of the options that we have, with the benefit of our staff explaining the details of some of those options.

We will start with the PIP options. So what I'm saying to you is that we will be discussing this among ourselves but not with the members of the general public. We have heard plenty. We have received plenty of

information. If we require more information or answers to questions, through staff, we will seek them out from those people who are either here or who need to be contacted.

If no one else has anything that they would like to ask about this meeting, I would like to start. And by starting, I mean that Laurine has now, and with the staff, has passed out a sheet entitled "PIP Options," and I'd like to have her go through that.

MS. PUROLA (Majority Aide): On the sheet before you, you will see several options, things that have been suggested in the hearing process. The first is maintaining the existing \$250,000 PIP benefit, \$75,000 of which is in the PIP premium itself. The rest is pooled, through the Unsatisfied Claim and Judgment Fund. Some of the things that have been suggested to control costs are establishing the use of standard treatment protocols. Those protocols-- There is no such thing as a list of standard protocols, but -- and protocols change all the time because treatments change -- but there are protocols which can be referenced by the Commissioner.

The second is establishing a statutory standard for diagnostic testing. That would entail something of the nature of diagnostic tests that are generally recognized, say, by the professional board of a national standard-setting organization.

Precertification for certain types of claims and case management of certain types of injuries is another cost containment device. Generally precertification is used on -- often on elective procedures, and it would also, probably in this case, be used maybe on the purchase of durable medical equipment or perhaps some things such as orthotics. Case management is also

used in the health insurance industry, and it generally has to do with the really serious cases. And in this case it's often getting them into rehabilitation quickly.

The next provision is the establishment of an enforcement mechanism to ensure that providers who are being reimbursed under PIP do, in fact, collect the deductible from the injured person. That is from Senator Adler's bill.

The next is the establishment of a more specific policy form for PIP. Right now there is no language in the policy that would be analogous, say, to a health benefit policy. And most of the policies simply reiterate the language of the statute, which is a 1972 statute. If there was some sort of a contractual basis for these benefits, obviously, that is something that could be debated in a dispute resolution process, as well.

And the final thing is to establish a dispute resolution process.

The next option is reducing PIP to \$10,000 or \$15,000, as a basic benefit. This would cover 80 percent or 90 percent of the existing claims, but then have language in the statute so that if an individual had an injury of a nature that is listed in the statute, almost like a threshold, they would be entitled to medical benefits up to \$250,000. The language which has been proposed is in the memorandum on PIP options, and it's on the third page in italics. This is what Prudential has suggested be used.

Finally, the dispute resolution procedure: It was suggested in the hearings that this needs to be changed. The current arbitration system could be used, with part-time arbitrators. The suggestions of the American

Arbitration Association, which include written opinions and use of medical panels for certain cases, could be adopted.

The third would be an arbitration or dispute resolution procedure, which is tied to a peer review panel, which would be used in certain cases, for example, medical necessity or causality, which could be done at the option of any party -- the arbitrator or the claimant or the insured.

Finally, peer review in its pure form, without arbitration, is another option.

And the fourth would be managed care, which is a health maintenance type coverage, which would either be optional or mandatory.

Those are the various options which you could consider.

PRESIDENT DiFRANCESCO: Now, before we get into a discussion of these options -- these four options, really.

MS. PUROLA: Oh, yes.

PRESIDENT DiFRANCESCO: You didn't mention--

MS. PUROLA: I didn't mention, there's also an option for a \$2000 straight deductible for PIP. If you would have, say, an HMO or full health insurance coverage, you could elect to take a straight \$2000 deductible for some savings, but that would be an option.

PRESIDENT DiFRANCESCO: Now, this discussion, at least at this time, presupposes that there is not an inclination to eliminate no-fault insurance or to eliminate the mandatory insurance aspects of automobile insurance. Now, I have not -- I'll say it again, we have not made decisions on anything, and we could have a discussion about that. My preliminary discussions with some of the leadership were that while the elimination of no-

fault insurance as we know it seemed intriguing and perhaps there were some very good, compelling arguments made for it, I believe, myself, individually, that right now we should not move toward that, in that way. But that doesn't mean we shouldn't -- someone else couldn't have a discussion about it and we could talk about it, because I think there was a great deal of merit placed on the table for that proposal. It's just that I think that's high risk, particularly in the health delivery area, and it would take time, and our goal was to do something as quickly as possible and try to fix the current system, I believe.

So if you would like to have a discussion about no-fault insurance or the elimination of mandatory insurance, we can do that, too. I don't want to preclude that.

ASSEMBLYMAN DORIA: I think that in some of the discussions that we've had, the determination of what that meant -- what does it mean to do away with no-fault -- is a good thing, maybe, to discuss and to create a dichotomy between one portion, the PIP coverage, versus the other, the verbal threshold. I would tend to think -- and I'm not speaking for the group here -- that everyone has an interest in maintaining some kind of health coverage, some type of personal injury protection, through PIP, which is one of the integral parts of no-fault at the present time. In the past, if no-fault didn't exist, in order to recover costs for any type of injury or any type of health care provided, one would have to, necessarily, go into a court situation and sue to recover those costs. Under the system we have, the personal injury protection is probably one part of the no-fault.

The other part of the no-fault is the whole question of verbal threshold and the ability to sue or not to sue. And so I think that the question

then becomes, in a discussion -- and maybe it would be good if we had that discussion at this point, because I think you're right, Mr. Chairman, that all this presupposes that we're going to stay with the same system. I think that if we were going to say, Now, what do we want to keep? What don't we like? What do we like and what don't we like about no-fault, or is it just general consensus that we want to keep no-fault? But I do think that that dichotomy serves a role to understand, I think, what most people see as no-fault, and the part that most people like about no-fault is the health protection

PRESIDENT DiFRANCESCO: That's correct.

ASSEMBLYMAN DORIA: And the part that there might be more of a contentious nature about is the whole question of the variable threshold, which was not in the original no-fault bill --but the whole concept of a threshold, whether it's a verbal threshold, a numerical threshold, or any threshold is the other, versus the old tort system.

PRESIDENT DiFRANCESCO: Right.

Mr. Speaker.

**ASSEMBLY SPEAKER JACK COLLINS (Co-Chairman):** Well, first off, as you alluded to, Mr. President, in our conversations, the idea of the elimination of no-fault or mandatory coverage is something that, when the leadership met, there wasn't a whole lot of rallying behind that idea. I'm the sponsor of a bill to eliminate no-fault. I wanted it part of the discussion. I know Senator Adler had a bill that would do the same thing.

I think you're touching on some good points, Joe. And I'm more than willing to discuss those, as we go along, even now. But one thing that I think we have to keep in perspective, and you heard me say this a number of



times in our meetings, is we have to do something major, and I thought the elimination of no-fault-- I don't know that there's anything much more major than that, other than maybe not requiring mandatory coverage?

But there just doesn't seem to be the support in our discussions. And if anyone wants to jump in and support it now, with gusto, I don't have a problem with that discussion, but -- for it. And I don't want to drag out, months and months and months of us going back and forth, and the Governor, though I haven't spoken to her, has indicated that she is not in support of getting rid of no-fault. And when we are finished here, whenever we're finished here, the Governor, of course, gets the final say.

I believe that that discussion can continue, but while I have the floor here, I don't see how we can get rid of mandatory insurance though. I think it's something that we have to keep in this state. We're a unique state, in many ways. And yet, as we go through these discussions, you'll hear me say I want more and more choice for people, and that would be the ultimate choice, but that's just not one I'm willing to give them, right now.

So I think -- and we haven't heard anybody who wanted to get rid of mandatory insurance.

Maybe we could take that off the table, Senator, unless someone wants to talk about that, and then go to no-fault.

Are there any mandatory people here, that want to eliminate mandatory? (no response)

ASSEMBLYMAN DORIA: Then why don't we just move that it's off the table.

SPEAKER COLLINS: Right. So that one's gone. And I saw-- It looks like the Majority Leader in the Assembly wanted to say something about no-fault.

ASSEMBLYMAN DiGAETANO: Right.

SPEAKER COLLINS: Go right ahead -- or anything you want.

ASSEMBLYMAN DiGAETANO: Thank you, Mr. Chair and Mr. Chair.

SPEAKER COLLINS: You can call us Jack and Don.

ASSEMBLYMAN DiGAETANO: I was not part of any meeting at which this was discussed or a consensus was reached, and I would just like to state, publicly at this point, in all the testimony that I have heard, there are a couple of things that have particularly moved me. One in particular is that our PIP coverage is the -- I don't want to say Cadillac, because that's a new radio ad, at least -- but is the best coverage in the United States of America. And, in fact, on the issue of fault/no-fault, we really don't have no-fault, nor do we have fault. We have both. And that is, on PIP coverage we have no-fault, but on everything else we have fault.

So let me just state, and I don't know what the rest of the Committee thinks, and I'm not here to be disruptive, but I am absolutely convinced by the testimony that as a result of this coverage, this particular first-party coverage and this very rich benefit coverage, that some of the bills that have been presented for payment are unnecessary. I'm convinced by the testimony that they should not have been paid and they should not be paid in the future, whether it's for treatment or diagnostics. And I'm convinced by the testimony that a large portion of the claims which make up 90 percent of all

claims -- the 10,000, 15,000 and under -- are made up, in large portion, of some of these diagnostics and some of these treatments.

I also notice that we don't have that problem -- we don't have that similar problem, at least it's not pronounced, it's not publicized, in the delivery of medical services under our other policies. Now, it seems to me that our no-fault PIP then and therefore is driving that, is permitting it, because if medical treatment was provided under our regular health policies, apparently we don't have these problems.

So I'm willing to support a return to fault. I would not support removal of mandatory insurance, but I'm willing to support a return to fault. But I'm not trying to be disruptive. I don't know what the entire Committee thinks. I just want it to be said that I'm willing to support that.

PRESIDENT DiFRANCESCO: Well, the reason why we have proceeded as we have today, with this PIP option, is because it didn't appear that there was sufficient support in this Committee for your position.

ASSEMBLYMAN DiGAETANO: Okay.

PRESIDENT DiFRANCESCO: Now, if there are six other people on this Committee that feel the same way, then we'll start the discussion with that. So let's get that off the table or let's keep it on the table, one way or the other now. I think that's-- We have to do that.

Senator Adler and then Senator Kyrillos.

It's bipartisan, remember?

SENATOR ADLER: Well, I raised my hand with the option to speak on the PIP issue. I've heard from people throughout the course of these hearings and for several years that I've been a legislator about the value of PIP,

about the significance it's played in their lives or in a family member's life after a traumatic motor vehicle accident. I had initially believed, over the course of some years, that maybe we should get rid of no-fault and lower the PIP limit substantially, to \$10,000, and that would accommodate most people's injuries.

I have reversed my position with respect to PIP. I believe that PIP serves a valuable function for many, many people who were seriously injured, and to set a low financial threshold would not meet human needs. In many, many cases, it would lead to gross inequities for people who don't have health insurance, are pushed into charity care or pushed into Medicaid based on poverty, and in many cases it would lead to a lower level of the quality of health care, and I don't want to see that in our society.

So I want to say publicly, and I obviously have introduced a fairly comprehensive bill that makes it pretty public, that I personally believe that we should maintain the \$250,000 figure. I support many of the things that Laurine just articulated. Of course, many of them are in a bill that I've sponsored, but I believe we have to meet the needs of people who are injured, and at the same time address some of the concerns that the Assemblyman just identified in terms of the overutilization of some diagnostic testing, the overutilization of some medical treatments, chiropractic treatments that are costing the system money. And I think the first of the items you see on that sheet we have regarding standard treatment protocols, I think, will address some of the concerns that Paul has raised, and at the same time, meet--

PRESIDENT DiFRANCESCO: Right. I was going to-- We need to get into those details after we determine whether or not no-fault or no no-fault.

Senator Kyrillos.

SENATOR KYRILLOS: Thank you, Mr. President. I raised my hand to speak because I think you want to bring some cloture to your question as to whether or not we're going to continue to discuss this no-fault or fault issue, and I think you are right in your sense, and I think the Speaker said it as well, of this Committee and the other members of this Legislature, at least the ones that I have talked to, and most members of the public that I have talked to, that while it is far from perfect, the current system that we have, the no-fault system, is the best social and automobile insurance policy and system for the State of New Jersey.

I agree with the Majority Leader insofar as he says that we have had two systems, heretofore, perhaps the best of both systems, a fault system and a no-fault system. It's my point of view that therein lies the problem. He errs on one side; I err on the other. I think, to try to fix some of the problems with our no-fault system, the kinds of PIP options that Laurine has outlined before us are the way to go. Senator Adler has a good bill that he's introduced. Many, many of these options which are before us right now are in a bill that I've introduced, and I think that we can bring the kind of cost controls, trying to pick out the mistakes that have happened on the health insurance side, but some of those same decisions and the evolution that has happened on the health insurance side to auto insurance will bring about a more rational policy or system, employ peer review and the like, while at the very same time keeping, if not the most generous, at least one of the most generous systems in the country for paying for automobile injuries -- catastrophic and typical.

PRESIDENT DiFRANCESCO: Anyone else at this time?

Senator Bennett and Senator Cardinale.

SENATOR BENNETT: Thank you, Mr. Chairman. Having heard all the testimony and weighing everything, I believe that, if given an opportunity, perhaps the preference might have been to have gone with taking our existing system and trying to restructure a completely new one as opposed to making changes within the scope of what we have. However, similar to what, I guess, the Majority Leader in the Assembly has said, but as a practical matter, I think that that is not basically the direction that there will be an ability to formulate a consensus on. And, accordingly, I think that we should probably put that behind us as an option and try to move forward with making some of the changes within our existing structure as to what can be done in order to effectuate a savings.

With that in mind, I'd like to just get -- I notice on these options that are given here, there are some savings that are listed.

PRESIDENT DiFRANCESCO: Why don't we stay with no-fault.

SPEAKER COLLINS: Why don't we stay with no-fault.

PRESIDENT DiFRANCESCO: Gerry, do you want to address just the no-fault issue?

SENATOR CARDINALE: Just the no-fault issue?

PRESIDENT DiFRANCESCO: And then we'll get into the details. I want to get into some of the details of these options.

SENATOR BENNETT: But my question is, how do you know whether or not to do no-fault or not -- or to deal with no-fault or to go back to a tort system without knowing the savings that you're going to do? And how do you then find out what the savings are?

PRESIDENT DiFRANCESCO: We start from scratch. We start all over.

SENATOR BENNETT: Well, who gives us those figures?

PRESIDENT DiFRANCESCO: We have the information available to us with respect to--

SENATOR BENNETT: And that information on the savings came from where?

PRESIDENT DiFRANCESCO: You mean savings with respect to no-fault?

SENATOR BENNETT: Savings on-- Changes that we either do comprehensively, across the board, or in fine-tuning.

PRESIDENT DiFRANCESCO: I guess what I was driving at is, if we want to eliminate the system we have now and impose a different system, then we need to know the philosophy of the Committee with regard to the elimination of that system and then start with What are we going to do about medical coverage? What are we going to do about litigation? What are we going to do about fraud? What are we going to do about that? so that, you know, there will be a change, like in other states.

But if you want to stick with this system and try to fix this system in some way, then we want to move forward and start discussing these options.

SENATOR BENNETT: Isn't savings relevant?

PRESIDENT DiFRANCESCO: They're relevant, after we make that philosophical decision, yes. You can have as much savings as you want by eliminating no-fault or by having a no-fault system, depending on your ability to sue and your PIP coverages -- or your medical coverages, I assume.

SPEAKER COLLINS: If I may, Mr. President, maybe, in the broadest sense, do we want to get rid of no-fault or not is something that we would have on the table now. Let's say -- and I think it's going to go this way from discussions that I've had -- we want to stay with this no-fault system and then go along and make changes. If at the end, we do that and at the end we say, "Hey, this isn't whatever number we want," then we might want to bring the elimination of no-fault back to the table, when we get to the very end with all these numbers. But right now, you know, I think we just sort of decide do we want to get rid of no-fault or not. And I think I know what the answer is going to be, at least with the Committee.

PRESIDENT DiFRANCESCO: Senator Cardinale.

SENATOR CARDINALE: It's always been recognized, I think, even going back to 1972 -- and I don't mean to imply that I was here then -- that no-fault--

PRESIDENT DiFRANCESCO: It seems like it, Gerry.

SENATOR CARDINALE: --that no-fault is a benefit which has to be paid for. And the question is -- and it costs money, and there's no question that if you said, "Let's eliminate no-fault," and you didn't do anything else, then you would save some money, but what happens to the individual is what we have to think about. Because at least half of those individuals are at fault in an accident, and those individuals under our current system are getting their medical expenses paid. And what happens to those medical expenses? They just don't go away. Our society is not one that leaves people bleeding in the streets, and someone is going to pay for that. It may



not be through the auto insurance, but it's going to be through some modality. People are going to pay for that medical care.

So that when you look at the costs to the system, I think it is much better to consider, from a social perspective, that we need to continue to provide this care and perhaps only address ourselves to getting rid of what the Majority Leader has become convinced of, and I'm very impressed with the fact that these Committees have brought that result -- that there is a great deal-

SPEAKER COLLINS: Olive branch.

SENATOR CARDINALE: --in the system that can be fixed without harming people's right to be treated, but just harming, perhaps, those who err.

PRESIDENT DiFRANCESCO: Is that yes or no?

ASSEMBLYMAN DiGAETANO: It's an endorsement of me personally. I like that. (laughter)

SENATOR CARDINALE: It means let's stay--

SPEAKER COLLINS: I knew that this Committee would bring people together. This is great.

PRESIDENT DiFRANCESCO: Stay with the present system?

Joe, do you want to eliminate no-fault?

ASSEMBLYMAN CHARLES: If we're talking about PIP--

PRESIDENT DiFRANCESCO: Yes, we're talking about PIP.

ASSEMBLYMAN CHARLES: --and the PIP coverage we're talking about, no. I think that we should maintain it for the reasons that were just expressed by Senator Cardinale. I think, if we did do that, this would have

implications all across the board, and we might then have to revisit insurance in other areas to see what adjustments then have to be made. I mean that, among other things, is a strong argument against eliminating this PIP feature of automobile insurance.

On the other question, the fundamental question of whether we should -- your question -- a short answer to whether we should do away with mandatory insurance coverage, obviously, my answer to that is no. So we can get on to the -- as far as I'm concerned, we can move on to the particular options that were listed under -- that Laurine has presented to us.

PRESIDENT DiFRANCESCO: Okay. So Laurine has outlined these PIP options.

What, Senator Codey?

SENATOR CODEY: Just do away with it in South Jersey -- Collins and Adler.

PRESIDENT DiFRANCESCO: Well, we can divide the state in half.

And I don't mean to say that this won't be revisited, because history tells us we will. And perhaps the elimination of the present system is the right thing to do, even today. But because, as Joe mentioned and as Gerry mentioned, the ramifications of it, you know, the medical coverage aspects of it, the litigation aspects, it would require, I think, a great deal of more study and thought and testimony. And my thought today is that we try to fix this system to give immediate relief but keep the book open for the future in terms of, if it doesn't work, we come back and we be a little more dramatic, perhaps.

Okay, Laurine has outlined what she referred to as four options.

Laurine, are they mutually exclusive options?

MS. PUROLA: Well, yes, I would say-- Actually, some of the subheadings in No. 1 could be applied, if you reduced the benefit to \$10,000 or \$15,000, with the catastrophic rider. Some of that cost containment could still be applicable to that, yes.

SENATOR CODEY: Don, could I -- on the one that she just mentioned, the 10 and the 15, with the catastrophic rider--

PRESIDENT DiFRANCESCO: Right.

SENATOR CODEY: My sense of it is, the catastrophic rider, you still have got to pay for it.

PRESIDENT DiFRANCESCO: Right.

SENATOR CODEY: So, in essence, it's the same thing. It makes no sense, and I don't see where you get the saving out of it.

PRESIDENT DiFRANCESCO: There doesn't appear to be a huge difference in savings. Is that correct? I mean, am I reading this properly?

SENATOR CODEY: I'd like to say let's just scrap that idea right away.

SPEAKER COLLINS: No, I don't want to say that.

SENATOR CODEY: Well, let's talk about it. I mean--

PRESIDENT DiFRANCESCO: Dick is saying let's talk about 10 to 15 versus maintaining the \$250,000.

SENATOR CODEY: Right, but the 10 to 15 with the catastrophic rider is basically the same cost as we have today

SENATOR KYRILLOS: Mr. President.

PRESIDENT DiFRANCESCO: Well, wait.

Laurine, is that accurate?

MS. PUROLA: The catastrophic in this particular proposal is very limited. The language limits it

SENATOR CODEY: You can do whatever you want with the catastrophic.

MS. PUROLA: Yes, you could. The figure that we had from Prudential on savings, unfortunately, it's an overall figure which would include collision and comp, but it would be about 8.5 percent, if you add peer review and some of the other things.

SENATOR CODEY: But it would be a reduction in benefits--

MS. PUROLA: Yes.

SENATOR CODEY: --from the existing PIP?

MS. PUROLA: Yes.

SENATOR CODEY: Significant, to some degree?

MS. PUROLA: Yes.

PRESIDENT DiFRANCESCO: Senator Kyrillos and then Senator Cardinale.

SENATOR KYRILLOS: Thanks, Mr. President.

Laurine, to reiterate the Senate President's question, can you just quickly mix and match these options for us? What can go with the other? It seems to me a lot of what's in the first option could be combined with Option No. 2.

MS. PUROLA: Yes.

SENATOR KYRILLOS: Certainly, you could still have peer review. I mean, that's Option 3, which calls for that as one of the menu

options. There's also an Option 1. I mean, is there anything on the list that couldn't go together?

MS. PUROLA: The only things that don't -- the only things that don't really mix are one and two. You're either going to have 250,000 medical--

SENATOR KYRILLOS: Right.

MS. PUROLA: --or you're going to have the 10.

SENATOR KYRILLOS: Okay. But some of the cost controls and new standards employed in Option 1 could be coupled with No. 2?

MS. PUROLA: Yes.

SENATOR KYRILLOS: Correct?

PRESIDENT DiFRANCESCO: Correct, as well as 3, of course.

SENATOR KYRILLOS: Right, so--

PRESIDENT DiFRANCESCO: As Senator Codey was saying, do we want to have a 10 or 15 with a catastrophic rider, or do we want to maintain the \$250,000 total benefit?

SENATOR KYRILLOS: Is it productive, Mr. President, for Laurine to just go down the list of what she thinks, based on her best education and what she's gotten in feedback from people, would be the savings attached to some of these things, as well as the cost in terms of different benefit standards, etc.?

MS. PUROLA: We don't have the estimates individually, because it's difficult to tell, but it would probably be somewhere in the neighborhood of 15 percent for that whole -- that No. 1.

SENATOR KYRILLOS: And that's 15 percent of--

MS. PUROLA: Plus the arbitration.

SENATOR KYRILLOS: --of PIP?

MS. PUROLA: Yes, 15 percent of PIP.

SENATOR KYRILLOS: And the item you have in parentheses, what is that?

SPEAKER COLLINS: Twenty-six. That's how much it would be saving.

MS. PUROLA: If you look up there, (indicating) I have a -- using one particular insurer, a statewide average rate.

PRESIDENT DiFRANCESCO: A statewide average of \$176; therefore, it would be \$26. Now that's not true in all cases, that it's \$176, but--

MS. PUROLA: It could be more, actually, depending on what was in the policy form and depending on-- It's hard to quantify what effect, for example, the protocols would have on utilization.

ASSEMBLYMAN CHARLES: Just on that point, Mr. Chairman, so we understand what we're talking about as we look at this. The PIP options that have been placed in front of us, where it says 15 percent, under Option No. 1, that means 15 percent savings, if you have all of those bulleted items also included. Is that correct?

MS. PUROLA: Yes.

PRESIDENT DiFRANCESCO: Right. That's correct.

MS. PUROLA: Or something similar.

ASSEMBLYMAN CHARLES: Something similar to that. All right, I understand that.

SENATOR KYRILLOS: Tell me if we're getting too detailed here. The \$176 average PIP, that's the average cost?

MS. PUROLA: That's the statewide average for this particular insurer?

PRESIDENT DiFRANCESCO: What -- in Jersey City it's a little lower, believe it or not.

MS. PUROLA: PIP varies by territory, but not by class.

SENATOR KYRILLOS: Okay. Now the 15 percent savings in Option No. 1, does that incorporate the potential 5 percent savings that would be in Option No. 3?

MS. PUROLA: Well, actually, probably yes, because they -- the last part of No. 1 talks about the dispute resolution procedure.

SENATOR KYRILLOS: Okay. So some kind of reform on dispute resolution is incorporated in that 15 percent savings already?

MS. PUROLA: Yes.

SENATOR KYRILLOS: Now, suppose you combined 1 and 2, you get 20 percent savings for the item that Dick Codey was talking about, \$10,000 plus--

PRESIDENT DiFRANCESCO: Ten to fifteen, with a rider?

MS. PUROLA: Yes.

PRESIDENT DiFRANCESCO: Ten to fifteen with a rider, but all of the other--

MS. PUROLA: There would be a reduction. I can't quantify that, but there would be a reduction in the 10 to 15 if some of these things were employed.

ASSEMBLYMAN CHARLES: Excuse me. Would you clarify that point? I'm sorry. Item No. 2, it says 20 percent next to that. That's with no bullets underneath it.

PRESIDENT DiFRANCESCO: Well, that's including all those bullets, though.

MS. PUROLA: Right.

ASSEMBLYMAN CHARLES: That includes the-- That's the question.

SPEAKER COLLINS: No, I would think it didn't include them.

MS. PUROLA: You can incorporate any of the bullets in No. 1 in No. 2, and--

ASSEMBLYMAN CHARLES: And if you did that--

SENATOR KYRILLOS: But what Joe Charles is saying, without any of those bullets, do you get 20 percent savings, just by doing 10,000?

MS. PUROLA: Yes.

SPEAKER COLLINS: Yes, just on--

SENATOR KYRILLOS: So, if you do both, are you saying, Laurine, you could get 35 percent savings? Is that what you're trying to say?

ASSEMBLYMAN CHARLES: Or something greater than 20 percent?

MS. PUROLA: Well, probably not that much.

SPEAKER COLLINS: Well, it would be greater than 20.

MS. PUROLA: Yes, it would be greater than 20, but it wouldn't be that much, no.

ASSEMBLYMAN DORIA: Mr. Chairman.



PRESIDENT DiFRANCESCO: Senator Cardinale, then Speaker Doria.

SENATOR CARDINALE: My comment was going to be that I believe you could take No. 2 and incorporate many of the subprovisions of Option No. 1, as to the initial \$10,000 to \$15,000, whichever you selected. You couldn't incorporate all of the features into the catastrophic, because some of them, in fact, deal with case management, and so forth, which is also considered to be, in a very narrow framework in that catastrophic rider, language that has been put forward there.

And that's really -- that catastrophic language is really what I believe, looking at the history of what the Legislature tried to do back in 1972, the essence of what they were trying to say. What they were trying to say was only very serious injuries would be compensated and that all of the garden variety of injury would not be compensated. So they were taking that thought, that philosophy, and applying it to PIP, and I think it would be very productive for us to look into that particular area, especially since I know that we're going to come to a minipolicy, and when you deal with a minipolicy, you will have to incorporate--

PRESIDENT DiFRANCESCO: Basic. Not a mini, a basic.

SPEAKER COLLINS: Basic policy.

MS. PUROLA: Basic.

PRESIDENT DiFRANCESCO: It's not like a minivan. This is not a minipolicy.

SENATOR CARDINALE: Whatever you want to call it, you're going to have to deal with the issue of PIP, and there's something that's not

here that I think, maybe, we should put on this map so that we have it, at least for the other discussion.

PRESIDENT DiFRANCESCO: Right.

SENATOR CARDINALE: And that is have a gap, and it's been suggested. It was suggested by one of the witnesses, I think, or by some of the material we got, that if you gave a basic coverage of whatever number -- five, ten, fifteen -- and then you had a gap, but then you picked it up again where people had extremely serious injuries, at let's say 50 or 25 or 75 or wherever you wanted to pick it up, you have that as an additional way that you can allow people who have these very -- you know, people who do become very, very injured as the result of an automobile accident to be treated, when you get to the top, but not allow some of the things that came before us, where you get what appears to be a fender bender, where you get \$60,000 worth of medical bills.

PRESIDENT DiFRANCESCO: Gerry, how do you feel about No. 2 versus No. 1?

SENATOR CARDINALE: I think they can be combined.

PRESIDENT DiFRANCESCO: Are you at a conclusion yet?

SENATOR CARDINALE: No, I think-- Yes, my first statement was I think you can combine No. 2 and No. 1. What you have in No. 2 is the 250,000 has been knocked down to 10,000 or 15,000.

PRESIDENT DiFRANCESCO: Okay. Are you comfortable with that?

SENATOR CARDINALE: But as to the 10,000 or 15,000, you can apply all these other--

PRESIDENT DiFRANCESCO: Right.

SENATOR CARDINALE: --limitations as you're evaluating the 10,000 and 15,000.

PRESIDENT DiFRANCESCO: But are you comfortable with the 10,000 and 15,000?

SENATOR CARDINALE: So yes, I think that-- I would be comfortable with it.

PRESIDENT DiFRANCESCO: Okay.

Joe Doria.

ASSEMBLYMAN DORIA: Let me begin by saying that I agree with the Speaker, as it relates to options. And I think one of the first things that maybe we can do and get some agreement upon is the concept of the optional \$2000 deductible, as it relates to people having choice, the choice being an affirmative choice: that if they want to take a \$2000 deductible that then could be paid for by their health insurance, this would give them a savings of approximately 20 percent, or \$35, based upon the figures we have.

That, I think, is a good first step to beginning to look toward how do we create choice while, at the same time, guaranteed protection. And I think that's what we want to do. We want to guarantee people are protected while at the same time giving them choice.

So I would say that, you know, before -- one of the things that we could agree to right now is to allow for people to have the freedom of choice to select a \$2000 deductible on an optional level -- not on a default level. I don't want it to be a default, where if you don't decide, it automatically becomes deductible, but rather that there is an affirmative decision, that \$2000

deductible to be made, based upon your own decision. You know what kind of health insurance you have; you can make the decision.

Let me then say-- That's the first thing that I would recommend and suggest. I think we could probably agree to that, and that would be an optional savings for people, based on choice.

The next thing I would say is, I think that when we come to the arbitration issue, we can all agree that we need to change the present arbitration system and go with a more professional -- the choice that was in No. 3 that was presented, professional arbitration with medical experts available to consult with the arbiter. That then deals with a number of the concerns that have been expressed here about the present arbitration system, about the lack of written reports, about the fact that one day the attorney could be an arbiter and the next day the attorney could be one of the complainants, and that would create a much better system, similar to what--

SPEAKER COLLINS: Who said that?

ASSEMBLYMAN CHARLES: Those attorneys, I'll tell you. They wear so many hats, those attorneys.

ASSEMBLYMAN DORIA: I was told by a number of witnesses-- But I do think that that -- and, of course, that would be something that would be paid for through the system. The State would not have to pick up the cost of that. That's the second thing, I think that--

I think that No. 3 -- and I'm just trying to create areas of where, maybe, we have some agreement. I'm just throwing this out. I think that the biggest debate is going to be over whether we stay at 250,000 or go to the 15,000. I don't think anybody wants 10,000.

PRESIDENT DiFRANCESCO: We're having that debate now.

(laughter)

SPEAKER COLLINS: We're waiting for you to get to that part of it, Joe.

ASSEMBLYMAN DORIA: Well, I did the easy stuff first.

PRESIDENT DiFRANCESCO: I'm at the edge of my chair, Joe.  
(laughter)

ASSEMBLYMAN DORIA: I always learned, you do the easy things first, and then you get to the harder things. That's how I used to take my tests. I always did all the stuff that I knew, and then I got to the hard part that I didn't know.

PRESIDENT DiFRANCESCO: If you get to the other part, yes.

ASSEMBLYMAN DORIA: I got to it, and what I usually did was say -- toss a coin and say which way, and it usually worked right, thank God.

When you get down to the 250,000 -- and I'll say the 15,000 -- as the max for the PIP, it seems to me that when you discuss savings and you discuss the need for the catastrophic rider, what-- The first issue has to be, what's the cost of the catastrophic rider? If the cost of the catastrophic rider is as much as what it means to get to the 250,000, then there's no benefit. And I get the impression from what Laurine said, it depends upon the wording of what the catastrophic rider would be, and we've seen some proposed wording.

SPEAKER COLLINS: Did Prudential give us any-- I mean, you used Prudential's words. There are others. I have the wording of what that would cost, what with the savings.

MS. PUROLA: Not by itself. They're going to try to do that, because it was an independent actuary that worked it out.

SPEAKER COLLINS: Okay.

MS. PUROLA: They used an 8.5 percent figure.

ASSEMBLYMAN DORIA: And again, 8.5, based upon the wording here, I couldn't go with the Prudential wording here. It doesn't seem to be, in my mind, cover enough, based upon what could happen to individuals. And if that's going to save us only 8.5 percent, I begin to get nervous about what the real savings is going to be. And that's what, I think, always the trade off has to be: what are we giving away to get what percentage or what dollar amount? Obviously, we want to have a significant dollar amount and every dollar counts, but we have to weigh the trade-offs.

My concern is that this protection was created to guarantee that people's hospital bills and doctors bills are paid for, and there are a lot of people who don't have health insurance, and we have to remember that anytime we cut this benefit back, number one, health insurance is going to pay, but even more so, that in many instances the State is going to pay out of things like uncomp care or Medicaid, which is another whole problem.

SPEAKER COLLINS: But let me just ask this question, somewhat rhetorically, because others want to jump in, and we have a list.

But I understand what you're saying, Joe. And, of course, we've talked about it before. If you start looking at each savings as just \$20 here and \$8 there, and so on, well, of course, no one, for \$20, some would say-- But when you put it all together, there could be major savings in the whole package.

I think we all realize we have to do something of some-- Whatever it is. We could sit here and say till the cows come home -- a Salem County comment, Dick, for you-- (laughter)

SENATOR KYRILLOS: Dick wants you to explain what that means.

SPEAKER COLLINS: Well, they come home every night at milking time.

SENATOR CODEY: I want to know what time that is. (laughter)

SPEAKER COLLINS: It's about 4:30, right now. We'll be gone by then.

But what happens is, we could say, "This is good. That's good." Obviously, the people of the state don't think it's as good as some of us think it is. Now, I want to help people, too. And I've said from the beginning, I'm very, very -- I support a \$15,000 PIP. It takes up -- almost 91 percent of all the claims are there. Then, as you've heard me say before, some kind of catastrophic rider, some kind of net -- though you got me the other day, Dick, and again, you brought it. I mean, if it's going to be the same amount of money, why not just stay.

But why are we so different in this area than all the other states in the country. I mean, I heard people saying, "Well, we're going to do this in New Jersey, and we're going to worry about this person and that person." You go to state after state, they don't have this kind of protection. Yet those people, I'm sure, are in catastrophic injuries also -- or accidents. Why is New Jersey the great paternalistic-- We're going to step up and help New Jerseyans. Forty-nine other states -- 48, other than Michigan -- aren't doing it, and we're

so wrong. I mean, I don't see everybody beating up the Legislature in all those other states about cost. And their legislators care about catastrophic injury?

PRESIDENT DiFRANCESCO: Okay.

You have it, Majority Leader.

ASSEMBLYMAN DiGAETANO: Thanks, Mr. Chair.

The first question I have, and it's really been talked around the past few moments, is how does one's health policy fit in any of these?

MS. PUROLA: I'm sorry?

ASSEMBLYMAN DiGAETANO: How does one's health policy fit with any of the options? And here's why I ask the question.

It was suggested to me this morning that someone who chose a \$10,000 PIP coverage could not collect for the over 10,000 on their health coverage and could not collect -- or at least the provider couldn't collect from Uncompensated Care. So that's my first question. How does -- how would one's health coverage and/or Uncompensated Care in New Jersey fit with any of these options?

MS. PUROLA: If you have an insured health insurance program, that is, if the risk is transferred to an insurer, if your employer buys it from an insurer, your health coverage would kick in at \$10,000. The ERISA plans, which are the self-insured employers, and there are about 50 percent of the people that are covered in this state -- the ERISA plans have the right, and some of them have to decline to permit their employees -- their members -- to take their health insurance coverage in lieu of PIP, which is permitted under our law.



However, I don't know that you could go so far as to say that if there was a \$10,000 limit that they would refuse to cover anything over that. They don't want it as a substitution. They don't want their benefit plan as a substitution, but, in fact, if there is no other coverage, an employer might well decide--

ASSEMBLYMAN DiGAETANO: So the very simple question is this: If we choose the \$10,000 option, then someone with health coverage, whether it be an employee of the state or private sector, has a claim in excess of \$10,000, is the amount over \$10,000 covered by the health policy?

MS. PUROLA: It would be-- It would be covered to the extent that the benefits were available. Many health policies have limitations on certain benefits. Many don't cover rehab at all.

ASSEMBLYMAN DiGAETANO: What about state employees?

MS. PUROLA: The State Health Benefits Plan, I'm not sure that it covers rehabilitation. The State would have to make the decision, I think, to pick up anything in excess.

ASSEMBLYMAN DiGAETANO: So currently it does not?

ASSEMBLYMAN DORIA: Currently it does not.

MS. PUROLA: Currently it won't--

ASSEMBLYMAN DiGAETANO: And what about the question of Uncompensated Care, then?

PRESIDENT DiFRANCESCO: What's the question?

ASSEMBLYMAN DiGAETANO: Well, the question is, over 10,000, for the provision of services, as was represented to me this morning by

someone obviously much smarter than I am, that under our New Jersey law it's not covered.

PRESIDENT DiFRANCESCO: What's not covered?

ASSEMBLYMAN DiGAETANO: The amount over 10,000 is not covered by Uncompensated Care, in the event that you're not able to pay the bill.

PRESIDENT DiFRANCESCO: Oh, okay.

MS. PUROLA: I'm not sure that's--

PRESIDENT DiFRANCESCO: Only Laurine can answer that question.

ASSEMBLYMAN DiGAETANO: Well, what's the answer?

SPEAKER COLLINS: Gerry's going to answer it.

ASSEMBLYMAN DiGAETANO: Okay, Doctor Cardinale, answer the legal question.

SENATOR CARDINALE: No, it's not a legal question.

ASSEMBLYMAN DiGAETANO: It is.

SENATOR CARDINALE: It's a question of what the policy provides. Now, this concept is, you're lowering your level of insurance to \$10,000. As I understand your question, you say, well, if you've lowered your insurance to \$10,000, what happens to the amount over it? You haven't got the coverage.

Now, if your employer is willing to buy the kind of policy that would give you the coverage, that's wonderful. The State -- I found myself in that box, and I changed back -- has very limited -- Laurine said it -- very

limited rehabilitative services in the State policy. And many private plans have the same thing.

And there is no one answer. There may be some policies which would give you very good coverage, and there are some policies which would give you no coverage, depending upon what individual policy you have. So we can't answer that in terms of everybody.

ASSEMBLYMAN DiGAETANO: Mr. Chairman, my question had nothing to do with policies. That question was answered.

PRESIDENT DiFRANCESCO: If you don't have a policy.

ASSEMBLYMAN DiGAETANO: My question is, where there is not coverage for over \$10,000, does State law prohibit a claim made for Uncompensated Care?

PRESIDENT DiFRANCESCO: Well, if you have the money to pay for it?

ASSEMBLYMAN DiGAETANO: That's the question. It has nothing to do with policies.

PRESIDENT DiFRANCESCO: Wait a minute. If you have the money to pay for it, Paul, you pay for it yourself.

ASSEMBLYMAN DiGAETANO: And if you do not?

PRESIDENT DiFRANCESCO: Then you're a charity case. If you don't have assets, if you don't have the money to pay for it, you're a charity case.

ASSEMBLYMAN DiGAETANO: Mr. President, the reason I ask this question is because it was represented to me this morning that our State law prohibits that.

PRESIDENT DiFRANCESCO: Prohibits what?

ASSEMBLYMAN DiGAETANO: Prohibits a claim made for uncompensated care if you can afford to pay it.

PRESIDENT DiFRANCESCO: If your -- if you don't have the coverage and you can't afford to pay and you don't have the assets, you mean that the hospital is going to refuse to treat you?

ASSEMBLYMAN DiGAETANO: No.

PRESIDENT DiFRANCESCO: That the doctor is going to--

ASSEMBLYMAN DiGAETANO: The State would refuse to pay the hospital for the care, if you couldn't pay it.

PRESIDENT DiFRANCESCO: Clare, do you have this answer?

ASSEMBLYWOMAN FARRAGHER: The other day we had a bill up in the Assembly--

PRESIDENT DiFRANCESCO: Is that why you're raising it?

ASSEMBLYWOMAN FARRAGHER: Yes. -- and I was scanning through it, and I noticed that under the exclusions for reimbursement for charity care was some auto. And I think staff should double-check that.

MS. PUROLA: Because there's coverage.

ASSEMBLYWOMAN FARRAGHER: Right, because technically there's coverage. Currently, it's assuming the coverage up to a quarter of a million.

PRESIDENT DiFRANCESCO: Well, we can change that, can't we?

ASSEMBLYWOMAN FARRAGHER: Right. Yes, we can. And that's what I was going to say. We would have to change that.

PRESIDENT DiFRANCESCO: Well, we first have to make the decision whether we're going to do that or not.

ASSEMBLYWOMAN FARRAGHER: Right.

ASSEMBLYMAN DiGAETANO: Okay, Mr. President, may I get past this question?

PRESIDENT DiFRANCESCO: Yes, sure.

ASSEMBLYMAN DiGAETANO: I think it's been answered by my learned colleague that it's not currently covered under Uncompensated Care, so we would have to change it.

PRESIDENT DiFRANCESCO: Well, I don't agree with that, but we can move forward. I mean, you're going to be in the hospital, they're going to treat you. If you're in the hospital, they're going to treat you.

ASSEMBLYMAN DiGAETANO: We require that. The question is, though, whether it gets paid. At any rate, let's get past that.

I'm a little troubled by the estimate of reduction in premiums here on Option No. 2. In our testimony, we heard and I raised the issue, approximately how much would your insurance coverage be reduced if you chose to have your health coverage taken over by your health policy, if you were permitted to do so? And the answer I got, because I actually had the information beforehand, is in the range of \$30 to \$35, which is in the range of Option No. 2.

And that troubled me, because it seemed to me, logically, that your PIP coverage should be zeroed out. And I was told that the reason that wasn't zeroed out is that there is some wrap-around coverage, and it covers other passengers in your vehicle, other members of your family, and I've also been

told that there are some other areas of your insurance premium not entitled to PIP, which pay out PIP claims.

So I'm troubled, Mr. President, that the estimated savings, if we reduce the coverage to 10,000 to 15,000, is only equal to the amount that your insurance companies would reduce your premium if you opted, if you were able to, to go to your health coverage. It seems to me that it's an inappropriate--

PRESIDENT DiFRANCESCO: It ought to be higher, you mean?

ASSEMBLYMAN DiGAETANO: It seems to me like it should.

SPEAKER COLLINS: A bigger savings.

PRESIDENT DiFRANCESCO: Well, what do you want me to change it to, because I'll change it right now. (laughter)

ASSEMBLYMAN DiGAETANO: Well, you see, if I was an actuary, I could give you that expert advice, but I'm not, and I don't know anybody on the Committee or the staff that is, so I'm concerned about the estimates here.

PRESIDENT DiFRANCESCO: Laurine suggests that -- and remember, she's our staffperson. Laurine suggests that it's because the catastrophic coverage would cost you a certain amount of money, and it's not that cheap. It's not a cheap policy.

ASSEMBLYMAN DiGAETANO: So this option would actually cost the policyholder more than if they opted to have their health coverage take over their PIP coverage today?

MS. PUROLA: Yes.

ASSEMBLYMAN DiGAETANO: Okay. And the last thing, Mr. President, if I may, is just to throw out this idea. I know attorneys are regularly bashed, and I have heard and told about as many attorney jokes as anyone else here. However, the attorneys, as I understand it, have a fairly good and a fairly well respected fee arbitration process. And in that fee arbitration process, whether it be between attorneys or attorney/client, what's decided is whether or not there is a fee payable or chargeable. The interesting thing that I find we have not heard, in any of our testimony on this issue with respect to medical services, was any decision on whether or not there was a fee chargeable. It's a question as to whether or not it was payable by the insurance companies. The reason I raise the issue, Mr. Chair, is I understand that in the attorney arbitration, once that group of attorneys, who are reviewing attorneys -- I think we can call that peer review -- makes a decision, then the attorney is barred from charging the client anything more than that decision.

But the testimony that we heard before this Committee, and I guess it's incorporated in what you might call peer review or maybe even in arbitration, but it's not stipulated here, is that once that decision is made, it's a decision made that the insurance coverage does not have to pay. Is it or will we include in it provision that it is not a billable or a chargeable performance of services?

That's it. That's the question I raise.

PRESIDENT DiFRANCESCO: So your question is on the dispute resolution procedure?

ASSEMBLYMAN DiGAETANO: Dispute resolution, yes, on one of the dispute resolution procedures, because my concern is that someone-3+

or some group of someones decides that the insurance company doesn't have to pay, but the "claimant" or injured party still is obligated to pay the provider of services, whether it be for diagnostics or treatment or what have you.

PRESIDENT DiFRANCESCO: Well, okay.

Senator Adler, did you want to speak?

SENATOR ADLER: Thanks. First of all, I'm glad that the Majority Leader touched on the cost subsidy issue we heard testimony about, with respect to comp and collision and PIP. I think the \$26 figure we're working with is probably low. It's probably accurate for PIP, and I think one of the many things that Laurine has done a fantastic job on, but I think it's a low ball figure of the overall savings that the system would realize, what we would realize as premium payers. So I think we shouldn't lock into the \$26 figure as what we would realize under Option No. 1.

I would like to get to the issue of 250,000 versus the 10,000 or 15,000. I think Paul really made the case for the 250,000 just now in talking about charity care and talking about the State's public policy decision over a number of years to meet people's medical needs. The working poor who don't have medical care, we provide for them through charity care in a humane way, and that's a decision we made as a society. I think in the PIP context, we should make that same humane decision, to meet people's medical needs, to cut out the fraud, to cut out the overutilization, but to meet people's medical needs not with some artificial threshold, but in a rational, humane way. And when compared to other states, I think we do a better job than other states in meeting people's medical needs here in the state in auto context and with our charity care system. So I think we should really look to that philosophy that



we have articulated in a charity care way, look to that in gauging how we reform the auto insurance system and stick with the 250,000, which has very, very adequately met people's medical needs throughout our society.

PRESIDENT DiFRANCESCO: Okay. Senator Kyrillos was next.

SENATOR KYRILLOS: Thank you, Mr. President.

Just to follow up on John's comments about how our society has approached this issue: We've been very generous.

A question to Laurine: Does this Option No. 2, is it possible to look at it from a point of view of having the best of both worlds? With this catastrophic rider, can we be generous and can we be more frugal at the very same time? And how can we do both--

PRESIDENT DiFRANCESCO: Did you look at the language?

SENATOR KYRILLOS: --which gets back to Dick Codey's original question, how do you get those kinds of savings if you can cover the array of catastrophic problems that might arise?

MS. PUROLA: Well, this estimate is based on that somewhat narrow definition that's in the memo. And to the extent that there would be a number of serious injuries which would result from car accidents that would not be covered and might exceed the 10,000, if you add some of those into this, you will arrive at about the same amount of money that you'd be paying for the 250,000.

SENATOR KYRILLOS: So--

MS. PUROLA: Only if you keep it very restricted, would you get these.

SENATOR KYRILLOS: Okay. So we're clear and to help us with our decision, the basic stuff would be covered under this option. The catastrophic stuff, as defined in your memo, would be covered. So what falls in the middle? What wouldn't be covered, so we know what we're--

PRESIDENT DiFRANCESCO: Well, I think you have to look at the -- right now, at least, for purposes of this discussion, there is a criteria on page 3 of this document that says, "Death, permanent and significant brain injury," etc. There are probably lots of things that do fall outside the scope of that definition.

SENATOR KYRILLOS: We had-- You know, we had some physicians that came that--

PRESIDENT DiFRANCESCO: Senator Adler, you want to--

SENATOR ADLER: I'll just give you an example, a herniated disk that needs surgery, where the person can't stand upright -- they really are in pain all the time -- under this definition, the surgery may exceed \$10,000, and they may not have the money to pay for it, and so they opt to walk hunched over for the rest of their life in great pain. I don't think that's the direction we want to go as a society, in a PIP context. We've chosen not to go that way in a charity care context, and I suggest that we -- that this is an inadequate definition of what is catastrophic. For a person with a seriously herniated disk, that's catastrophic.

SENATOR KYRILLOS: Is that example that John outlines not covered by this, Laurine?

MS. PUROLA: No.

SENATOR KYRILLOS: His example is not covered by this?

MS. PUROLA: No, it's not, or any serious injury, say if you break a number of bones and have to be in a body cast for six months, that wouldn't be covered either.

SENATOR KYRILLOS: What would happen to those people, if we had this system? They'd go to their health insurance? What would happen?

MS. PUROLA: They'd go to their--

SENATOR KYRILLOS: And what do other states do? Because most states don't have our \$250,000 PIP coverage right now.

MS. PUROLA: No, I don't think--

PRESIDENT DiFRANCESCO: Only one does.

MS. PUROLA: --that there's any state that distinguishes between catastrophic and--

SENATOR KYRILLOS: So what would happen to John's example? If they, hopefully, had health insurance, health insurance would cover it?

MS. PUROLA: Right.

PRESIDENT DiFRANCESCO: Yes.

I have a list here.

Assemblyman Garrett.

ASSEMBLYMAN GARRETT: Just following up on that question. Item No. 2 does not presuppose then a requirement, as Item No. 4 does, that you would have to prove health insurance in order to opt for it?

MS. PUROLA: No, although that would be an option if you wanted to do that.

ASSEMBLYMAN GARRETT: That's true. And that would take care of all of those concerns, then, if you wanted the other way.

PRESIDENT DiFRANCESCO: Say that again, Scott.

ASSEMBLYMAN GARRETT: Option No. 4 clearly requires that before you can take Option No. 4 that you must prove to the agent that you have a health insurance policy that would step in. Option No. 2--

PRESIDENT DiFRANCESCO: Is that true? In other words, I couldn't take No. 4 without--

ASSEMBLYMAN GARRETT: Well, it says it in the item. It could be used by persons with health insurance coverage or HMO coverage. I was--

PRESIDENT DiFRANCESCO: Could be used.

MS. PUROLA: Yes.

PRESIDENT DiFRANCESCO: Could be used. I don't think the thought was to require.

SPEAKER COLLINS: Not to require.

ASSEMBLYMAN GARRETT: Not required. Then if we're going to make the law, we can make it anyway we want.

That would be the way to address both options -- No. 4, then, if it's not in No. 4 right now, and Option No. 2, to address both of the Senators' concerns. I guess it would also address the Assemblyman's concerns, as well, as far as charity care is concerned, that in order to opt for it, you would have to provide coverage -- proof of coverage before we go there.

And I'm not making up my mind at this point. I just can see that we could have real problems, though, if we go with Option No. 2, as far as

definitions. I like the definition that drew Al's ear, but I can just see immediately that what is defined as significant brain injury would pose a traumatic stress syndrome, which we seem to have in just about every case, which theoretically, I guess, the medical profession could define as being permanent in nature in certain cases. Would that fall into that category then?

MS. PUROLA: No, not necessarily.

ASSEMBLYMAN GARRETT: Not necessarily.

MS. PUROLA: No. You mean in the way it's defined? You could define it any way you want to define it, but as is presently defined and priced, it would be confined to just what you see there.

ASSEMBLYMAN GARRETT: What do--

MS. PUROLA: Those incidents.

ASSEMBLYMAN GARRETT: Would the throwing in requirement that we would have to have proof of insurance coverage add or detract anything to the savings? It shouldn't.

MS. PUROLA: I don't think it would add or detract. The one thing is that health insurance wouldn't necessarily provide the rehab, so that doesn't mean that all your expenses would be covered over 10,000, and it would probably be, also -- the verification would probably be hard to administer.

ASSEMBLYMAN GARRETT: Well, we have the same verification system in place now, to an extent, for the system we have today, where PIP is primary or secondary.

MS. PUROLA: Right. You'd have to-- You'd have to verify-- But you don't have to have-- Well, yes. I'm not sure that they make you verify that you have health insurance. You can--

ASSEMBLYMAN GARRETT: Well, you have to put down, I believe--

MS. PUROLA: You can say who it is--

ASSEMBLYMAN GARRETT: --who it is.

MS. PUROLA: --but in terms of actually verifying that it exists, I don't know if they do that.

ASSEMBLYMAN GARRETT: I'll just conclude on this. Whatever options we pick out of these four or any other ones, it has to be something that the agents are going to be able to sell and explain to the insureds. And I think we have to come up with a fairly simple plan, not something overly complicated. So we have to just keep that in the back of our minds. We may be going down a complicated road by giving too many of these options. Thank you.

PRESIDENT DiFRANCESCO: Joe Charles.

ASSEMBLYMAN CHARLES: I just would weigh in against the \$10,000 to \$15,000 PIP benefit, with catastrophic rider, I think, for many of the reasons that I stated in support of maintaining the PIP option, being as a social policy that we've been observing as a state to provide coverage in these kinds of situations. I think the savings that are suggested here, 5 percent over the Option No. 1, does not outweigh the complications that come from trying to describe or define a catastrophic injury and also to administer that.

I think -- we've just heard Joe, in asking his question, say, "Well, tell me what is a catastrophic injury within this definition?" And John came up with some definitions. Other people came up with some definitions. I think that once you get into trying to define what this catastrophic injury is, we're going to create some situations where what should be compensated or paid for is not paid for.

I mean, I can think of another situation where someone is, let's say, struck by a car or is involved in an accident, stuff is broken -- arms, legs, or whatever -- is hospitalized because of some internal injuries, some bleeding or whatever that happens, and they have to be hospitalized for a period of time, and that's going to result in a hospital bill of \$20,000, \$25,000, and that situation would not be covered under this definition of a catastrophic injury.

I guess what I'm really saying is that we don't get enough out of this Option No. 2 to -- in terms of savings to outweigh just the limitation of coverage that it's going to achieve and also the complications and the litigation that might result if we have that. I would just think that, you know, if we're going to do reform that doesn't damage our driving public, we should just keep the \$250,000 on, because you're talking about \$8 in exchange for all those complications and limitations of coverage. Then maybe it's not worth it for us.

PRESIDENT DiFRANCESCO: Okay.

Senator Codey.

SENATOR CODEY: I would reiterate what Joe said. I think we ought to move on -- move on, unless there is a consensus to do otherwise--

PRESIDENT DiFRANCESCO: Well, there might be.

SENATOR CODEY: --to eliminate this option.

PRESIDENT DiFRANCESCO: Yes. I'm keeping a track of this.  
Senator Bennett, do you want to weigh in on this now?

SENATOR BENNETT: I have a question, first. These savings, the percentages that are over on the side, are the percentages based on the average PIP cost of just one company, evidently?

MS. PUROLA: Yes.

SENATOR BENNETT: Where do those savings numbers come from? How do we know that those percentages are correct?

ASSEMBLYMAN DiGAETANO: I asked that question already.

SENATOR BENNETT: You didn't get an answer though.

MS. PUROLA: What they normally do is look at their claims, and it's an unscientific process to begin with, but looking at the claims is probably the easiest way to find out what claims would be either reduced in number or eliminated if these things had been in place.

SENATOR BENNETT: So the proposed savings that are contained here are from the actuaries from the insurance companies, and they're telling us what the consumer will save if we do what they -- what is proposed here?

MS. PUROLA: Yes, they're giving-- These are estimates as to -- although the experts haven't seen all of these, necessarily -- they are estimates as to the savings if a certain set of cost-saving devices are put in place. Plus there's an independent actuary, as well.

SENATOR BENNETT: Who's the independent actuary?

MS. PUROLA: Tillinghast. (phonetic spelling)

SENATOR BENNETT: And who paid for them?



MS. PUROLA: I don't know. I would assume Prudential paid for them.

PRESIDENT DiFRANCESCO: Well, let me try to frame this question so-- I know Senator Codey has suggested that we move on. I think we should try to decide between how this Committee feels about mandating a \$15,000 PIP coverage with this rider and the \$250,000 that we have today. New York has \$50,000. Pennsylvania has \$5000. Delaware has \$15,000/\$30,000, and I know the Speaker has made the point that, you know, compared to other states, we are pretty high. So in order to get on to the other items on the sheet, I'd like to decide whether we want to make change or not. Senator Codey, Senator Adler, and Assemblyman Charles have indicated that they wish to keep it at \$250,000, and Senator Kyrillos said the same.

Senator Kyrillos?

SENATOR ADLER: He's listening.

SPEAKER COLLINS: Well, wait a minute. Let's not take the vote yet.

PRESIDENT DiFRANCESCO: Okay.

SENATOR KYRILLOS: Mr. President.

PRESIDENT DiFRANCESCO: Okay, all right. Then I was wrong in doing that.

SPEAKER COLLINS: No, that's all right. I just wanted to play on what you just said.

SENATOR KYRILLOS: I don't-- This is a relatively new concept to most members of this Committee, I think.

PRESIDENT DiFRANCESCO: No, it was thrown out.

SENATOR KYRILLOS: A little bit. We haven't really looked at all the dimensions of this, but, you know, if we're going to think of the example that John Adler brought up -- and, you know, it's a terrible situation -- and this example and that example, and if our desire to forge a consensus means that we add those things into the mix, the savings will be minimal and people will then be concerned about cost shifting to health insurance, and it might detract from the core mission of trying to get this behind us.

PRESIDENT DiFRANCESCO: I think Assemblyman Garrett suggests that we do something else, and that was to suggest that you can take the 15,000 -- the 10,000 to 15,000 -- if you have health coverage. I think that's what he was referring to.

SENATOR KYRILLOS: Consider it as an option.

PRESIDENT DiFRANCESCO: I thought he suggested that, but I don't think that-- You're trying to decide whether or not we can frame a catastrophic definition, you mean. Is that what you're driving at?

SENATOR KYRILLOS: That will satisfy most people, I guess, yes.

PRESIDENT DiFRANCESCO: Speaker Collins.

SPEAKER COLLINS: If I may. And we don't have an official vote yet, so let me just throw out a couple-- First off, as you just said, Senator, Senator Adler described a particular situation. Once we start down that particular situation road, wait till we get to the threshold issues, and so on, because I've heard those for the 13 years that I've been up here. You're sitting at a red light, and a drunk driver comes through and hits you. So there's always going to be difficult situations.

Let me just phrase my argument this way. First off, we are under a mandate to change what we are doing. Now, we have a lot of things we can talk about, but the mandate is the change. And this is an area where I think we have to be realistic and look at the possibilities of change. Ninety-one percent of all the coverage will fall under \$15,000 -- 91 percent. Remember, I was here when we reduced it from unlimited to a quarter of a million. Remember the weeping and gnashing of teeth that went on. We're there. What happens to more -- these are rhetorical. What happens to the more than quarter of a million dollar costs now? We have some. And surrounding states, our states, similar to us: New York, \$50,000. They don't care in New York as much as we care, in our paternalistic view, to help everyone? Pennsylvania is 5000. Delaware is 30,000. I mean, in Salem County, Delaware is nirvana is all we ever hear about. They're at 30,000, and we're at a quarter of a million, because we care more.

No, we're just into this. Ninety-one percent will be taken care of. The problem, in my judgment of auto insurance here, we have a lot of things we can pick out, but it's very obvious to me, we have the best in America, but obviously the people aren't happy with it. And we have to do some things and step forward, and 91 percent--

I don't know about your classes, Professor Doria, but 91 percent in my class is usually a pretty good grade.

Then we make the law. We can decide what's catastrophic. I just think that, just to move past this, because you're only going to save \$40 or \$30, we can be doing that--

ASSEMBLYMAN DORIA: Eight dollars.

SPEAKER COLLINS: No, not \$8, Joe. Not when they're finished with all of it.

I just think this is an area we should look at, and obviously, you can see how I feel.

PRESIDENT DiFRANCESCO: Senator Adler.

SENATOR ADLER: I think Speaker Collins hit it right on the head when he said we're going to have to do something real that affects cost savings for the people of New Jersey. But the idea of having a \$10,000 or \$15,000 PIP benefit, which then kicks over into health insurance for any overage, for any exceedance, isn't cost savings, it's cost shifting. And our goal here is not to raise rates for employers who provide health insurance or for people who buy their own individual health insurance or small group health insurance. Our goal is to find savings in the system. I think some of the items in that Option No. 1 that we're looking at, that also included item as simple as Option No. 3, finds savings in the system rather than cost shifting.

I look at No. 2 and we're going to shift costs from PIP to health insurance or to charity care or to Medicaid. Somebody is paying for it, and they won't see it right away, but they'll see it in a couple of years in a way that's going to send a whole new group of people in here and muck up this debate rather than solving the problem and bringing costs down in a real way on a long-term basis.

I really think we should stick with the 250,000. That doesn't mean -- I think we all understand -- that doesn't mean that every claim gets to 250,000. That's a false number in people's minds, thinking that we spend a lot more than other states. If we find the cost savings, we'll still be keeping

most of these claims down in the \$5000 to \$10,000 range, but for the people who are really hurt, whether it's a herniated disk or the full body cast or the rehabilitation of the head trauma that is really needed, we shouldn't try to lower their costs -- lower their coverage in a way that's going to hurt them as individuals.

PRESIDENT DiFRANCESCO: Senator Cardinale, you're on my list.

SENATOR CARDINALE: Well, I'd just like to-- I think I gave you the impression that I preferred No. 2 as opposed to No. 1.

PRESIDENT DiFRANCESCO: Yes, you did.

SENATOR CARDINALE: That's not really accurate.

SPEAKER COLLINS: No, I think that was accurate. (laughter)

SENATOR CARDINALE: The question here that guides my decision is what people are asking me to do is not exactly what the Speaker alluded to what his people asked him to do, and you know, we come from different parts of the state. But what people are asking me to do is to change the system by eliminating, if I can make two broad categories, greed and fraud.

They're not really asking to have diminished coverage. And when you consider PIP, understand PIP is more than medical. PIP is lost wages. PIP is a number of other things, funeral expenses, and a whole bunch of other things that get in there, and that \$10,000 doesn't loom quite so large when you consider the other things that PIP is obligated to cover.

So I think it's a very significant reduction, and I agree with the Speaker wholeheartedly, that we can't say, "Well, this is only this much and this is only that much." But when we are making the evaluations with respect

to loss of coverage, I think, you know, it would weigh, at least with me, to where we should keep as much coverage as we can but get rid of the greed factors -- and I think all of those little subtleties do that -- and get rid of the fraud factor.

PRESIDENT DiFRANCESCO: Okay. The Majority Leader and then Clare.

ASSEMBLYMAN DiGAETANO: Thank you, Mr. President. Again, the question comes to mind, and it was a subject of some discussion by this Committee before-- I have, in the past several months, visited a number of senior groups, and it has been raised on almost every occasion with me by the seniors that as a result of our requiring PIP coverage -- any coverage -- that Medicare cannot be primary and therefore, they could not, since it's mandatory, they could not opt out of it, and Medicare won't cover it, and of course, we require a minimum of 250,000.

The question of our staff I have is this. If we require only 10,000 or 15,000, and a senior who is covered by Medicare for all other medical services reaches that limit and has no other coverage, will the amount over their limit be Medicare eligible?

MS. PUROLA: Yes. If there is no other health insurance available, the coverage is exhausted and may do--

ASSEMBLYMAN DiGAETANO: Thank you.

PRESIDENT DiFRANCESCO: Assemblywoman Farragher.

ASSEMBLYWOMAN FARRAGHER: Did my Speaker have something?

SPEAKER COLLINS: No.

PRESIDENT DiFRANCESCO: No, no.

SPEAKER COLLINS: I'll give it one more try in a moment, but thank you, Assemblywoman. (laughter)

ASSEMBLYWOMAN FARRAGHER: I think that what we're doing here is we're agonizing over small things. What we're talking about is, are we going to reduce a mandate on the people. I view it in this way: Will more people be able to easily afford automobile insurance, which we require, if we lower this dollar figure for the mandated -- minimum mandated. We're not saying that no one else can buy up. They can, but when you talk to people like I do in my district -- and I'm in a pretty comfortable district, I'll admit that, very much middle-upper income.

SENATOR BENNETT: A wonderful district.

PRESIDENT DiFRANCESCO: A rich district. A rich, Republican district. We know that.

ASSEMBLYWOMAN FARRAGHER: John Bennett and I are in the 12th District, but I hear from people who can manage the down payment on their auto policy on the mandated minimum coverages of today and then face the decision of whether to pay the rent, buy the groceries, or make the next payment on the auto insurance. This is a real problem for the working poor, who very often do not have any other medical coverage.

So what do they do? They take the chance and they drive. I look at this more as a way to get those folks who are uninsured, not able to afford insurance, to get them street legal, if you will, by lowering the mandated requirement.

Now, how we deal with those cases where a person who's got that minimum mandated coverage, how we deal with those cases that fall outside of that range, I think, is separate. But I think to continually force people to buy coverage that they can't afford, with money they don't have, then we're missing the whole point here. People are talking about not being able to afford, and the State requiring, and I think we should stop agonizing over those few cases that go beyond that.

PRESIDENT DiFRANCESCO: Okay, so 10,000 and 15,000, you're comfortable with because--

SPEAKER COLLINS: I think--

PRESIDENT DiFRANCESCO: Go ahead.

SPEAKER COLLINS: I'm just going to say I'm glad I allowed you to speak, Assemblywoman. (laughter)

PRESIDENT DiFRANCESCO: Okay, so you fall on that side of the 10,000, 15,000, because you think it will save enough money to make a difference.

ASSEMBLYWOMAN FARRAGHER: I do, yes.

PRESIDENT DiFRANCESCO: Okay.

Who's next? Anyone else on this issue?

Jack, do you want to speak again on the issue?

SPEAKER COLLINS: No, all I want to say is exactly why we're here. We're not here because these are happy days. We're here because the people want change. And I heard Gerry, and as shocking as it may be, there are people in my district who think we should keep the PIP benefits and do some of the other things. And don't worry, when it gets to fraud, I know we're



going to be frothing at the mouth. We're going to fraud these people to death. We're going to nail them, but is that what is going to lead to a change?

And think again -- my last plea -- 91 percent are taken care of. Surrounding states aren't at our level. It's not like we're talking about a foreign country. We've got the opportunity, with seniors, to go to Medicare. We can come up with a catastrophic rider of some kind. I just think that people should be allowed to make the decision without us. For 23 years we've been doing this, helping the people. And we can say -- and I heard the testimony, if you remember, the very first day for this Committee, only one person complained about the cost. Everything else was "Keep the PIP where it is" or do this or do that. That might not be a cross-section of New Jersey, but people are concerned about their coverage. Ninety-one percent, and we can do more. I think there's a savings here, and I think it gives people the choice to do what they want to do and look at other plans, and I just think it's a time to reduce this mandate for the reasons that Clare says.

SENATOR CARDINALE: We may have the ability to do that later on under the basic policy. So if people want to do that, Jack, 92 percent, as you said, 91 percent are covered, may opt for the basic coverage, if, in fact, we do that. That's, obviously, an option we're going to consider and talk about either this morning or very shortly. They can do it right there, what you want to do, Jack. But if you do this, the 10,000 to 15,000 with a catastrophic, basically it's the same thing.

SPEAKER COLLINS: That's the point you've made, and I want to pursue that a little more with some information, but I have to concede that.

SENATOR CARDINALE: Unless you read the fine -- what the catastrophic injury is.

SPEAKER COLLINS: Right.

PRESIDENT DiFRANCESCO: Well, do you want to bring this to a conclusion, or do you want to continue to discuss it?

SPEAKER COLLINS: Well, I think-- I don't know. We're not going to make final, etched in stone votes today. I think we sort of see where people are. There are some of us who are on the right side, and then others we have to work with a little bit, but why don't we just move to the next, and we can come back to it, quickly, at the end.

PRESIDENT DiFRANCESCO: Well, Paul, do you have a fixed opinion on this yet, or are you still--

ASSEMBLYMAN DiGAETANO: I'm willing to consider a reduction from 250,000.

PRESIDENT DiFRANCESCO: To 10,000 to 15,000.

SPEAKER COLLINS: Fifteen thousand is the number.

PRESIDENT DiFRANCESCO: Well, let me tell you what I feel, without taking a vote and moving forward. I've listened to everybody. I don't know what the cost of a hospital stay is for a couple of days. I know it's very expensive -- very expensive. And, of course, that's just the hospital bill, and then when you get into surgery, it could be very expensive.

And while I understand that other states who have started, perhaps, from zero -- and we're not starting from zero here -- who go to 5000 and 15,000 and 20,000, you know, that makes sense to other states, because they're not coming down, perhaps, from coverage that exists. I kind of feel

that if I could throw this out to all of you, if New York is at 50,000, why can't we be at 50,000? It would get me at that point where I'm not uncomfortable with, you know, as John describes, some of these terrible injuries, and right now, we go to 75,000, and everything is pooled, but \$50,000 of PIP coverage would make me feel a lot better personally.

I'm just throwing this out. I could probably, for the good of the order, here, support either side. But some compromise would make sense to me, because I think 15,000 is pretty low.

SENATOR CARDINALE: Why not compromise it on making these two options: 15,000, if they choose it and, as Scott Garrett suggested, they can demonstrate that they have additional coverage; and 250,000 as the standard policy.

PRESIDENT DiFRANCESCO: Then where's the -- wait a minute. You can only take the 15,000 if you have health coverage is what you're saying.

SENATOR CARDINALE: That's what I said.

ASSEMBLYMAN DiGAETANO: May I make a point on that, Mr. Chair?

PRESIDENT DiFRANCESCO: Yes.

ASSEMBLYMAN DiGAETANO: The point I made earlier about seniors is real, Mr. Chairman. If we require that they have other insurance, Medicare would not be that other. They would still be required to buy.

PRESIDENT DiFRANCESCO: So?

ASSEMBLYMAN DiGAETANO: They would have to buy the coverage anyway, and they would get it without buying it from Medicare, if we didn't require this other coverage.

PRESIDENT DiFRANCESCO: But we can't focus in on one particular -- I mean, from my standpoint, I'm not going to focus in on one particular group of people.

Clare, how do you respond to that? If you can only take 15,000 if you have a health policy? Suppose you don't?

ASSEMBLYWOMAN FARRAGHER: Right. And most young drivers, as I said, the working poor -- there are so many who are not covered by health policies. This is their--

PRESIDENT DiFRANCESCO: Do you really think that's true?

ASSEMBLYWOMAN FARRAGHER: Oh, yes. Oh, yes.

SENATOR KYRILLOS: Mr. President, I would think yours as a compromise for us, perhaps, to think about. Would you put the catastrophic rider--

PRESIDENT DiFRANCESCO: No.

SENATOR KYRILLOS: --attach that 50,000? Just a flat \$50,000, which is the standard in New York State right now.

PRESIDENT DiFRANCESCO: Right. It's higher than most other places.

Senator Adler.

SENATOR ADLER: I think somebody should mention that we're talking about saving -- in going from 250,000 to 50,000, we're probably saving \$3 or \$4, \$5, because there's not that -- how many -- \$8. And in the process--

PRESIDENT DiFRANCESCO: Well, I'm not going to, because I'm going to buy more coverage, probably, right. There's lots of people that--

SENATOR ADLER: Well, you're a lucky person, and you could afford to do that. A lot of people are not going to make that choice, and they're going to suffer. Those two cases of serious injury are going to suffer, because the difference in treatment between 50,000 and 250,000 may make the difference between leading a complete disabled life and leading a functional life for someone with that traumatic injury.

SENATOR KYRILLOS: How do you know it's only \$8? Do we know it's only--

PRESIDENT DiFRANCESCO: Well, we can argue that. But, John, we can argue that.

Where did we come up with \$8?

SENATOR ADLER: I understand that, and I think our idea is to try to keep the good aspects of the system. I think the PIP limit is one of the good aspects of the system right now, and to lower it to save \$8 is going to seriously disadvantage a certain, limited number of people, maybe for the benefit of the rest of us, but God forbid one of us is one of those very few number of cases that is traumatized by that. That person, that small group of people are going to suffer to save a relatively small amount of money.

If we want to cut costs in the system, the other items on this PIP option page can cut costs. Whether it's with the protocols or changes in arbitration, we can have real dollar savings without having a serious detriment to that small number of traumatically injured people. I think we're really going

in a different direction that we've talked about up until now that will really disadvantage a small number of people in a very unfair way.

SPEAKER COLLINS: John, let me just say, just so I correct-- We're on the same page on this page.

Laurine, if -- the way this is written, 15,000 PIP -- 10,000 to 15,000 -- and a catastrophic rider is a 20 percent savings of PIP, is that correct?

MS. PUROLA: Right.

SPEAKER COLLINS: Twenty percent. So it's not \$8, it's 20 percent of the PIP coverage, which in this case--

SENATOR ADLER: Well, no, Jack--

SPEAKER COLLINS: --would be \$40.

SENATOR ADLER: Jack, I don't know if you heard. Donnie is talking about \$50,000 from \$250,000.

SPEAKER COLLINS: Oh, the 50,000.

MS. PUROLA: Using the existing rates, the existing 250,000 would be 123, and 50,000 would be 115, so it would be \$8, using existing premiums.

SENATOR ADLER: Eight dollars. I mean, we're supposed to look out for the little guy in this, and the person who is seriously--

SPEAKER COLLINS: No, we're supposed to look out for everybody.

SENATOR ADLER: Including the little guy.

SPEAKER COLLINS: Everybody, including the little guy.

SENATOR ADLER: Right. Well, the guy that gets hurt and needs that rehabilitative treatment is the little guy who is going to be hurt badly twice, once for the injury itself and second by a system that has forgotten that person.

SPEAKER COLLINS: But he's still going to have the option to buy up to this, which you're going to put in there mandatory. You give him no choice, he's going to have to buy it. And if we give him the choice, he doesn't have to buy it, but he can, so how does he lose?

SENATOR ADLER: He'll lose -- the people who choose the option that you're proposing, what Don's proposing, lose the one time they get in that accident--

SPEAKER COLLINS: Because they're not smart enough to do it, is that what you're saying?

SENATOR ADLER: Well, they were dumb enough to be in an accident.

SENATOR KYRILLOS: He's not seriously proposing this. This is just food for thought. It will help us galvanize our minds for all this other stuff.

ASSEMBLYWOMAN FARRAGHER: Mr. Chairman.

PRESIDENT DiFRANCESCO: Clare.

ASSEMBLYWOMAN FARRAGHER: We're talking about people who can't afford it to get--

SPEAKER COLLINS: Thank you.

ASSEMBLYWOMAN FARRAGHER: We're trying to make it available to those people.

SENATOR ADLER: And we get there through a basic policy.

ASSEMBLYWOMAN FARRAGHER: We can't worry about whether they're going to be in an accident or not. We should be concerned they can only--

SENATOR ADLER: Well, what are we paying for insurance?

ASSEMBLYWOMAN FARRAGHER: Excuse me. We should be concerned that they can only afford the first installment on a policy. The policy lapses, they're uninsured, they have nothing.

SENATOR ADLER: I agree with you fully. For those people who can't afford it, we could address their needs with the so-called basic policy, which we've been calling it that traditionally for a number of years now, the so-called basic policy, that used to be called the minipolicy until a week ago. We can meet the needs of those people who legitimately can't afford the current insurance rates, even if we bring it down by 15 percent or 16 percent, but for the people that we're going to hurt here, you know, I don't want to look those people in the eye and say we tried to help those people and give them the sort of insurance they think they're buying all along.

PRESIDENT DiFRANCESCO: Let me just say something to all of you. I suggested a compromise. And the reason why I suggested it is not because I'm feeling sorry for the people that can't afford insurance. That's not what I'm doing here. We're talking about a mandated policy. What is this state -- what are we, as legislators, what should we be mandating, telling people they have to buy -- have to buy?

Now, you're suggesting to me that -- you're saying, I've got to take care of everybody. I've got to make sure I take care of everybody. I've got to



mandate that everybody is taken care of. I don't know that that's what the people are asking us to do. They're saying, "My insurance rates are too high because you people in Trenton have mandated, all these years, that we buy big policies, and I'm not allowed to buy something less."

John, let me finish.

SENATOR ADLER: Did I interrupt?

PRESIDENT DiFRANCESCO: "And I'm not allowed to buy something less." I would like to allow them to buy something less or something more if they so please. I'm concerned about mandating a dramatic change from 250,000 to perhaps 10,000 or 15,000. I think that that -- therein perhaps could be some problems, if you're in the hospital for a week and you have some surgery and all that. I'm trying to get beyond what 99.9 percent of the cases are, and that's why I threw out, "How about 50,000."

Now, the Speaker may not like that. I'm trying to bring some consensus here to a number where we can move on to other areas.

You made your point that you think we should stick to 250,000. I understand your point, but I don't agree with it.

SENATOR ADLER: The point is, coupled with the notion that we can find cost savings in the system. I'm not saying, therefore, we should run up the bills in every patient.

PRESIDENT DiFRANCESCO: I'm not even talking about how much this is -- \$20 or \$30 or \$40. I'm not even concerning myself with that. People are concerned that we're mandating something. The reason why they don't yell at us as much for health insurance is because they don't have to buy it. If we told them they had to buy it, then we'd hear from them, but they

don't have to buy that. And so, you know, where do I go in terms of telling people what's good for them, in New Jersey?

SENATOR ADLER: I have not heard one person come to me and say, "The problem with our insurance system which costs so much money, the most expensive in the State" -- I mean, excuse me, in the country -- "the problem with the system is we give extra care to people with traumatic injury. And that's an outrage, and we've got to cut out that extra care for people who are so seriously injured."

PRESIDENT DiFRANCESCO: John, please, we're not talking about that.

SENATOR ADLER: What I'm hearing from people -- Don, I didn't interrupt you. What I hear from people--

PRESIDENT DiFRANCESCO: Well, you're misconstruing what I said. You're telling me I don't care about people who have traumatic injuries. I don't want you to give anybody that impression. That's not true at all. We're not talking about it. What should we mandate on the people? You're not the people's keeper.

SENATOR ADLER: Well, I think, collectively, we are the people's helper.

PRESIDENT DiFRANCESCO: I don't think you're right there.

SPEAKER COLLINS: Helper, and we're going to do them--

PRESIDENT DiFRANCESCO: A lot of states don't have mandatory insurance, John.

SENATOR ADLER: My point is, what people have said to me -- maybe they've said different things to you, and the testimony has been real

clear, people want to cut out the fraud. They want to cut out-- And the fraud is on all different sides. They want to cut out the excessive diagnostic testing, the excessive treatment, and that's what we should do. That's what this number one option describes, cut out that. Save costs without taking people's medical benefits away. People were real clear in testimony.

PRESIDENT DiFRANCESCO: We're not taking medical benefits away.

SPEAKER COLLINS: We're not taking them away, John.

PRESIDENT DiFRANCESCO: Don't misconstrue what we're saying.

SPEAKER COLLINS: That's not what we're doing. We're not saying, "You can't take this." We're saying, as the Senate President said, you have a choice.

SENATOR KYRILLOS: Mr. President, with all due respect to John and to the people, I don't think most people, John, realize the very generous benefits that their auto insurance premium buys. They compare it to Arkansas and Louisiana and every other state in the union that gives them a fraction of what they buy with their auto policies now.

ASSEMBLYMAN DORIA: Mr. Speaker -- Mr. Chairman. You know, I think that we already, in a way, did this debate, because we made a decision that we were going to mandate auto insurance. That was a very important decision, because that's the first paternalistic decision we made. The decision was that we have decided that people have to have auto insurance. Now, in a lot of states, they don't have to have auto insurance, so we've made the first paternalistic decision, and that is, we're going to mandate

auto insurance. The determination now is that we must be able to provide the citizens of the state with a realistic expectation that when they purchase that insurance, they will have some type of adequate protection. That's the difficulty we find ourselves in, the philosophical debate that was just going on.

The difficulty is that people do not, realistically, and I'm sure all of us can admit, that until we got involved in this discussion, this debate here on auto insurance, none of us read our auto insurance policies, just like most of us don't read our health insurance policy. We don't read our life insurance policies. We take it on faith that we're going to pay a certain amount of money, and God forbid, something happens to us, we and our families will be protected. That's basically what most people, when they buy insurance, believe.

And the question is, and there's no question, when we create the comparisons with other states, the comparison is always onerous, because North Dakota, South Dakota, Montana, wherever you would want, are very different.

SPEAKER COLLINS: New York.

ASSEMBLYMAN DORIA: New York, the coverages--

SPEAKER COLLINS: Pennsylvania.

SENATOR KYRILLOS: Delaware.

ASSEMBLYMAN DORIA: The coverages are different, okay.

PRESIDENT DiFRANCESCO: Illinois, the Soviet Union.

ASSEMBLYMAN DORIA: Whatever the state may be. Well, if we go to the Soviet Union-- But their coverages are going to be different, okay, and every state has different coverages, no matter what the state is. The reality

of the situation is that we have a responsibility to guarantee that what we provide the citizens, we say is a policy, is a basic policy, is a comprehensive policy, is really that--

PRESIDENT DiFRANCESCO: Is adequate.

ASSEMBLYMAN DORIA: Is adequate.

SPEAKER COLLINS: Ninety-one percent.

ASSEMBLYMAN DORIA: Based upon what we have determined and what those people who are the so-called experts -- and I always like to use the word so-called, because all experts are usually questionable -- but the so-called experts tell you is necessary.

I think my concern here -- and I share the concern that Senator Adler has -- my concern here is that when we tell people that if you buy the so-called comprehensive policy, that it is truly comprehensive, that if, God forbid, you are in an accident and, God forbid, you need significant medical treatment or you have a long time out of work where you need to have your pay covered or if, God forbid, you die, that this so-called comprehensive policy would provide the necessary monetary reimbursements so that a person feels, "Well, I paid my insurance my entire life. I should be collecting from it, and they should cover everything that I think they should cover."

Now, I think in the end, what we have to decide is how paternalistic do we want to be. We've already made one decision: we're going to make everybody have insurance. The simpler solution to our problem would have been to say, everyone decide whether they want insurance or not--

PRESIDENT DiFRANCESCO: Well, let me ask you--

ASSEMBLYMAN DORIA: --we walk away, wash our hands like Pilate--

PRESIDENT DiFRANCESCO: Joe?

ASSEMBLYMAN DORIA: --and could do whatever we want.

PRESIDENT DiFRANCESCO: When you ask the average citizen about mandatory insurance, what's their reaction?

ASSEMBLYMAN DORIA: They want it.

PRESIDENT DiFRANCESCO: Well, why do they want it?

ASSEMBLYMAN DORIA: Because they want to have the feeling of protection that when they get in an accident, not only are they protected, but they're protected against someone else.

PRESIDENT DiFRANCESCO: Protected against what?

ASSEMBLYMAN DORIA: Protected, number one, against bodily harm, that's number one.

PRESIDENT DiFRANCESCO: Now we're talking about the another aspect of insurance.

ASSEMBLYMAN DORIA: And they're also protected as it relates to their provision of any kind of medical services they may need as a result of the accident.

PRESIDENT DiFRANCESCO: Which they buy and pay for.

ASSEMBLYMAN DORIA: Which they buy and pay for. They buy and pay for all of this.

PRESIDENT DiFRANCESCO: But what is their real concern with an uninsured driver striking their vehicle?

ASSEMBLYMAN DORIA: That they're going to have--

PRESIDENT DiFRANCESCO: Their ability to recoup from that uninsured driver, right?

ASSEMBLYMAN DORIA: That's right, that they are going to be able to recoup.

PRESIDENT DiFRANCESCO: But that's not the issue here.

ASSEMBLYMAN DORIA: No, that is not the issue.

PRESIDENT DiFRANCESCO: The issue is, what kind of coverage should we mandate?

ASSEMBLYMAN DORIA: No, and I think-- What I'm saying is that we have to do a value judgment and weigh costs and benefits, the advantages and disadvantages.

PRESIDENT DiFRANCESCO: That's what I'm trying to do.

ASSEMBLYMAN DORIA: And the question is, do we save enough -- is the justification of savings enough to justify not having a higher benefit? And that's what I think we're debating here, and I think we have to make that determination based upon our best judgment. But in the end, the responsibility is ours, because the general public, whatever we say, will believe, at least until they get in an accident. And once they get in an accident they'll either say, you know, this was sufficient or this wasn't sufficient.

But most people don't ever use their policies. And if you don't-- I mean, I haven't used my policy in years and years. Most people don't ever -- they pay their premiums and never collect anything, luckily. But the unfortunate ones that have to collect, that need the benefits, we have to guarantee that benefits are adequate in today's world.

And, no, I definitely don't support the 15,000. The 50,000 I could consider.

PRESIDENT DiFRANCESCO: Scott and then Joe Charles.

ASSEMBLYMAN GARRETT: I agree with Joe and John on the points that we should be addressing these other areas. I don't know if we're going to solve everything today in our discussions.

PRESIDENT DiFRANCESCO: No, we can't.

ASSEMBLYMAN GARRETT: Okay. Then--

PRESIDENT DiFRANCESCO: Do you want to skip over this and come back to it?

ASSEMBLYMAN GARRETT: Well, that--

PRESIDENT DiFRANCESCO: We could come back Sunday.

ASSEMBLYMAN GARRETT: Okay. That's sort of my suggestion. I just want to throw out -- not to suggest that we come back Sunday. I would just like to throw out something to consider and then see if we can go beyond this one point.

The suggestion I make with regard to No. 2 is to put in two amendments, if you will, to it. One is the one Gerry and I referred to before, that you require proof of your own health insurance. That takes care of most of the problems that Joe has spoken of before. Also, put in a caveat to -- that the second exception to it, that is that if you're covered by Medicare, that takes care of the senior problem out there, that those people would be allowed to buy into it, and then they would have coverage. So that takes care of a vast majority of all the citizens who either have health insurance or they have Medicare -- take care of almost everyone out there that-- I think, when you've



made those two exceptions, though, to it, you probably will see that number, 20 percent savings, go up. I have, just, questions of the accuracy of that number, and I think you would actually see a higher savings there.

So before we debate even further whether this is a great idea or a bad idea for the reasons that Joe was suggesting, I think maybe we can -- I would suggest that we leave it at that and come back, try to get some actuarial numbers to see whether this is the savings that are here or that are even better than that and then go forward and take a look at some of the other ideas that John was suggesting, as far as the real cost savings, as far as the peer review and the arbitration system.

SENATOR ADLER: I didn't suggest peer review.

ASSEMBLYMAN GARRETT: Oh, I thought that was one of your ideas. (laughter)

SPEAKER COLLINS: And I'm still waiting for the real savings in that, but go ahead.

ASSEMBLYMAN GARRETT: That's all. I would just like to move on to some of the other points -- that we can come back to this after we get the numbers on a true savings.

ASSEMBLYMAN CHARLES: Just a question.

PRESIDENT DiFRANCESCO: Okay, Joe.

ASSEMBLYMAN CHARLES: Yes, a question. What happens when -- if the limit is reduced to 50,000 or 15,000, how does that impact the Unsatisfied Claim and Judgment Fund? What happens on that side? Right now it kicks in at -- where? -- 75,000? It doesn't kick in anymore at 50,000?

What happens there? It goes out of business? Is that what's intended with this lowering of the \$50,000 limit? Do you still have to have it?

PRESIDENT DiFRANCESCO: Will that make a difference to you, depending on what the answer -- will that make a difference to your decision?

ASSEMBLYMAN CHARLES: No, I just want to know what happens. It might. It might. I need to know what happens beyond the \$50,000. If nothing happens beyond the 50,000 anymore, are we then having that shifted to charity care or to some other insurance situation for-- Or is it not covered it all? Does it become debt that's uncollectible?

MS. PUROLA: Fifty thousand would be the flat limit, so there wouldn't be any resorting to the Fund for any of those individuals. However, there is a lot -- the Fund has somewhere in the neighborhood of \$3 billion worth of obligations, and so somewhere in the insurance premium has to be built in money to pay those old claims.

ASSEMBLYMAN CHARLES: Those old claims. But going forward, now -- going forward, now, what then is the role of the Fund if that is a change that we effect? Forget about current debt that we still have to pay off. Will the -- if this were made law, would the Fund then be incurring any new obligations, or would the life of the Fund be ended? What happens to bills beyond \$50,000? No coverage anymore from anybody for treatment?

SENATOR ADLER: No treatments.

ASSEMBLYMAN CHARLES: No treatments?

SENATOR ADLER: That's what it is.

SENATOR CARDINALE: You lower the amount of the coverage-- I mean, if you have \$10,000 worth of life insurance, you don't collect as much as if you have \$250,000 worth of life insurance.

ASSEMBLYMAN CHARLES: No, no.

SENATOR CARDINALE: It's a simple concept.

ASSEMBLYMAN CHARLES: I asked a question. I just wanted to know what happened to the Fund. So right now, we have coverage of \$250,000 -- \$75,000 through your premium, \$75,000 by payment by the insurance companies into the Fund. If we lowered the \$50,000, then that's \$50,000 going to be covered by premium paid by the ratepayer, or is the insurance company going to pick up a part of that premium, too?

MS. PUROLA: If you went-- To give you an example of an existing premium of \$123, let's say, statewide, reducing it to 50,000 would reduce it to \$115, and then that would be the flat premium, and it would cover 100 percent of the coverage rather than, as we have it now, our premium only covers \$75,000 of it.

ASSEMBLYMAN CHARLES: So I think-- My question, if I-- The answer to my question then is that the Fund has no more role, the UCJF has no more role if this is pushed back to \$50,000. The \$50,000 coverage is paid for entirely in the policy premium?

MS. PUROLA: Right.

SPEAKER COLLINS: Why don't we--

ASSEMBLYMAN GARRETT: Can I clarify that point?

SPEAKER COLLINS: Go ahead, Scott.

ASSEMBLYMAN GARRETT: The Fund would kick in. The Senate President's idea is at a \$50,000 floor. I can still buy, under his proposal, a \$250,000 policy. And if I buy that \$250,000 policy, unless we change the law, the Fund would kick in at the \$75,000 level.

MS. PUROLA: For an option, but not for the 50,000.

ASSEMBLYMAN GARRETT: Not the 50,000.

MS. PUROLA: Well, you could do it either way. You could continue the pooling or not continue it for the actual coverage.

SPEAKER COLLINS: Why don't we move to another topic? And we'll surely come back to this one.

ASSEMBLYMAN DORIA: Let's go to an easy one.

SPEAKER COLLINS: Which is that, fraud?

Well, I told you we were going to start with the easy ones first. And by the way, I notice, as members are leaving, we are going to continue this on Monday, correct?

SENATOR ADLER: A full day?

PRESIDENT DiFRANCESCO: What time?

ASSEMBLYWOMAN FARRAGHER: We have a session.

PRESIDENT DiFRANCESCO: You have a session?

ASSEMBLYWOMAN FARRAGHER: Yes.

PRESIDENT DiFRANCESCO: Cancel the session. (laughter)

ASSEMBLYMAN DORIA: You have a session today, right?

SPEAKER COLLINS: Well, we can stay right through today, if you'd like. Cancel yours.

Why don't we go with 9:30. Let's try to start at 9:30.

PRESIDENT DiFRANCESCO: From 9:30 till 12:00?

SPEAKER COLLINS: I don't know what time we have.

PRESIDENT DiFRANCESCO: Till 12:30, on Monday?

SPEAKER COLLINS: We'll work something out.

ASSEMBLYMAN DORIA: We have a session at 2:00.

PRESIDENT DiFRANCESCO: And then maybe after your session, we continue after your session? The next day or something like that?

ASSEMBLYMAN DORIA: I don't think the next day, based on my schedule.

PRESIDENT DiFRANCESCO: What do you want to do?

SPEAKER COLLINS: Do you want to go to fraud?

PRESIDENT DiFRANCESCO: Fraud? Okay.

Okay, we're going to ask Laurine to run through these consumer protection and fraud provisions.

MS. PUROLA: On the sheet that's before you, the consumer protection and fraud prosecution, these are things which have been suggested. First, the office of an independent prosecutor. There are several ways you can handle that. The bill that's in creates an independent prosecutor within the Department of Insurance but no control on the part of that prosecutor over either the Division of Fraud in the Department of Insurance or in the activities with respect to prosecution of fraud in the Attorney General's Office.

You can have an independent prosecutor in, but not of, or in either the Department of Law and Public Safety department or the Department of Insurance charged with investigating and prosecuting fraud -- a gubernatorial appointment subject to advice and consent. You have an

option of bringing under the control of that fraud prosecutor the Division of Insurance Fraud, which is in the Department of Insurance presently, and also bringing, under the jurisdiction of the insurance fraud prosecutor, the existing attorneys who are working in the Department -- I'm sorry, yes -- in the Department of Law and Public Safety and who are presently being funded by the insurance industry. About \$2 million is going, right now, to the Attorney General for that.

Creates, in coordination with county prosecutors to better organize the fraud effort: It's presumed that this, like the activities presently, would be paid for by assessments on the insurance industry, which most of these divisions are now, and that they would be required to maintain a general database. And something that was called to our attention that's been required in Massachusetts recently is a uniform reporting form that all insurers use and send to a central database, tracking certain activities -- certain individuals where there is suspected patterns of fraud.

Another suggestion that was made is to have the SCI participate in fraud detection activities, and-- Tim, do you want to talk, or, Jarrod, do you want to talk about the -- Jarrod, Assemblywoman Farragher's bill, which is on the--

MR. GRASSO (Majority Aide): Assemblywoman, do you want to speak on your bill?

ASSEMBLYWOMAN FARRAGHER: I don't have it with me, Jarrod.

MR. GRASSO: I didn't bring it either. I didn't bring a copy of that bill.

ASSEMBLYWOMAN FARRAGHER: Briefly, basically, the bill criminalizes what is currently civilly penalized and is not working very well. The economic sanctions and fines have not been a deterrent at all, and the Speaker and I dropped in a bill that we got from the Coalition Against Insurance Fraud, out of Washington, D.C., the same place we got the health insurance fraud that we recently passed, and I'm sorry I didn't bring it with me.

Oh, he's got the statement. (unidentified colleague provides the Assemblywoman with a copy of the statement from her bill)

Addresses the problem of fraud, all the things we already know, how much it costs, and so on. It concerns all forms of insurance fraud and complements the New Jersey Insurance Fraud Prevention Act of 1983. It's under the jurisdiction of the Department of Banking and Insurance, and under the bill, the crime of the second degree for a person to derive or seek to derive a benefit of \$2000 or more through insurance fraud.

It allows the court to aggregate amounts involved in transactions conducted pursuant to one scheme or course of conduct.

There's a lot of duplication of companies, people using different names to register their cars, taking out all the insurance policies under different names, and basically using the same documentation to collect from two different companies. That's why the aggregate was allowed.

Insurance fraud schemes in which the benefit obtained or sought to be obtained is less than \$2000 would be considered a crime of the third degree.

It also provides that a person convicted of insurance fraud may be subject to a fine in an amount equal to three times the value of any financial loss or damages sustained by any other person because of the violation. One-third of the trebled damages award will be payable to the State to be used solely for the purpose of investigating and prosecuting insurance fraud and educating the public.

It also provides for severe penalties against licensed professionals who engage in fraud. The bill expressly requires the permanent forfeiture of a person's professional license if he is convicted of insurance fraud or a crime involving fraud or dishonesty with respect to a claim for payment or reimbursement under a policy of insurance.

SPEAKER COLLINS: Gerry?

SENATOR CARDINALE: I think that's a wonderful beginning. But I think you need to go a great deal -- to do a great deal more. One, I think it needs to be something in, but not of, the Department, because if it's within the Department, what you have really done is change the name of what already exists and established a few more penalties, which are very positive, but we're not changing the operations.

What we heard from the Commissioner is that when they got all these new fraud investigators, what they did was investigate whether the insurance companies were, in fact, following their own guidelines. We have to charge them with going out and doing the kind of sting operations that have happened occasionally and doing them on a repetitive and consistent basis so that those who would engage in fraud will have to at least look over their shoulders and be careful. And charge them with catching these people, and



make some specifics, like, if there is a relationship that occurs more than three or four times where fraud is involved, that everyone involved in this can be charged with conspiracy, that there be a presumption of conspiracy.

Let me tell you what I'm talking about. It didn't come before this Committee. I didn't want to bring these people in, and-- But it came before my Committee. There was a bus operator who was serving the Newark schools. They had a flat tire on the bus, and about 400 people claimed to have been in the bus, including the teachers in the school. And there was one attorney who got T-shirts with his name on them and they said, "If you were involved in this thing," and all these people were--

You have to be able to get at that attorney. You have to be able to get at runners. You have to be able to get at the doctors involved. Because this whole thing-- You've got to be able to get this through conspiracy laws. There has to be a presumption that if you've been involved with this kind of stuff for three times, that you're engaged in a conspiracy, whether you're a doctor or a lawyer or one of the people who was suing.

The people who are suing are probably the least culpable. It's all the rest of the people involved in the ring, but they're the people who generally get away with it. And it's that kind of mechanism -- if you put that mechanism in place and then do the sting operations, pretty soon all of these mills are going to close shop, and they're going to go somewhere else. Maybe they'll go to Georgia, maybe they'll go to Delaware, maybe they'll go to New York, but it will not be safe to operate in New Jersey anymore.

So I'd like to see-- I think you've got a good start in this, but I'd like to see something far more specific. And I'll add one more feature, which

I mentioned to you the other day, that we should go back and look at all the cases where there was arbitration. And we're talking here, in this PIP stuff, about establishing standards. There are national norms. And if there were cases before arbitration, where these treatments and fees, and so forth, exceeded national norms, we should attempt through this, over the last five years -- whatever number of years the Committee would pick -- go back and attempt to recoup those moneys that were paid. The Unsatisfied Claim and Judgment Fund has got a big debt; put the money there. We're not going to give the money back to the insurance companies. We shouldn't be accused of favoring insurance companies. Take this recouped money, whether it be legal fees, it be medical fees, or it be, if we can get it, the people who have unjustly profited from the system. Go back and recoup those.

I've got a more detailed proposal, which I'll, perhaps, share with the members of the Committee, if there is any thought of-- I mean, I don't want to bore you with this if nobody is interested in it; however, it would be, I think, something that we could really do a great service to the people by punishing past fraud.

ASSEMBLYWOMAN FARRAGHER: Mr. Chairman, Mr. Speaker, this refers to actions committed under the law of '83.

And, Senator, I know you were here, because I was here for that one, too. So that if there is a clause in there with regard to inducement to commit fraud, that's covered. But I don't have the full text of the bill. I just have the statement, which I just read from, and I did skip over some stuff. You know, I was trying to hurry so it wouldn't take too much time.

SENATOR CARDINALE: I haven't read the bill.

ASSEMBLYWOMAN FARRAGHER: Because we're not going to adopt it today.

SPEAKER COLLINS: No, but hopefully soon, as the co-prime. Assemblyman Garrett.

ASSEMBLYMAN GARRETT: Just three quick points of suggested inclusions in the bill. One is a bill that was in last year that I had in, which required police accident reports and exchange of information at accident scene. That was A-1677, to try and get the information there of actually who was involved in the accident. Secondly, and this may be what you were talking about, but I'm not sure; that is, to criminalize running.

SENATOR CARDINALE: Sure. Criminalize running on both sides, the employer of the runner, as well as the runner.

ASSEMBLYMAN GARRETT: Right. And the receipt of kickbacks would all be criminalized.

The third point is where this would be placed. On the outline here, we have it being placed in two possible locations, as far as fraud. Item No. 4 puts it in the Division of Consumer Affairs.

MS. PUROLA: That's a different -- that's something different. That is the creation of an insurance claims ombudsman, who would take, basically, the existing functions of the Division of Consumer complaints in the Department of Insurance and move it to a separate office in the Division of Consumer Affairs, to do some market conduct monitoring and also to deal with complaints that individuals have that they refer to the Department, relative to claim settlement practices.

ASSEMBLYMAN GARRETT: Okay. Well, I don't like that idea, but with regard to--

SPEAKER COLLINS: We're not there yet.

ASSEMBLYMAN GARRETT: Yes. We'll agree to get back to that issue someday, right?

Then, more to the point, as far as the investigation and prosecution of it, under your proposal we have it under, basically under the AG. And under what Gerry is--

MS. PUROLA: It could be anyway. It could be -- in the one bill, I believe it was Senator Adler's bill, had it in the Department of Insurance. It could be in, but not of, either department, any way that you would want it.

SPEAKER COLLINS: You could put it in Agriculture, if you want.

ASSEMBLYMAN GARRETT: Well, that's one of the best departments, but my suggestion is, from personal experience, that having someplace other than the DOI creates a paper nightmare and a breakdown in communication. I think we've got testimony on that, as well, that the exchange back and forth is not there. They're already charged with that responsibility, doing fraud, and from everything in the testimony is they're not doing the job at the AG.

MS. PUROLA: It was a question of the fact that they're also attorneys in the Attorney General's Office and that the Division of Fraud doesn't actually prosecute the cases.

ASSEMBLYMAN GARRETT: Well--

MS. PUROLA: So it was an attempt to bring all three of them together.

ASSEMBLYMAN GARRETT: Well, that brings up my answer to that, and this is just a proposal that my local county prosecutor -- one of the prosecutors in my county suggested, and I throw it out for your consideration and to think about -- to turn it over entirely to the local county prosecutor's office. A problem was just suggested or a little area that you have to be concerned about, and that is the coordination of the prosecutors, because these rings are sometimes bigger than countywide, but I know, from dealing with these cases, a lot of times they're just particular rings within areas, and your local prosecutor is probably the best one to know exactly what's going on in there.

So I guess my recommendation for your consideration, at least, is to keep it out of the AG's Office, keep it within the DOI and maybe use the DOI as the coordinating branch or arm and allow the actual implementation to be based on a local level, the county prosecutor's level.

Funding of it can be done in one or two ways. One, through the initial assessments that are already out there, by the carriers, could be funneled down to the county prosecutors or to the DOI to coordinate it. Or a more radical idea is to a funding under the -- for the fines and fees that are assessed in the successful cases to come back to the county prosecutor's office, so as an incentive for them to do-- That's the problem we have right now with the AG, there is no incentive for them to do what we had charged them with.

I just throw those ideas out there for you to consider as far as having the counties take a look at it. Thank you.

SPEAKER COLLINS: Thank you, Scott.

SENATOR CARDINALE: Speaker, may I raise just one question?

SPEAKER COLLINS: Let me just jump on, where Scott and I at times aren't in agreement, but you're right there this time. And particularly this interest in the prosecutors. That's come to me, and not having experiences that you actually have been involved in, but I like that and that's something I want to continue to discuss as we go along.

Senator Cardinale.

SENATOR CARDINALE: The problem I would have in wanting to keep it with the Department of Insurance is not a theoretical problem. It's a problem of our experience, that what happens is you tend to have much of the data and much of the input that comes from the insurance companies who are going to be reporting these fraud cases. We've heard, over and over again, that the Department is not interested in pursuing that, so much so that -- I think it was -- Allstate went out and began civil suits on their own because the Department didn't proceed on data that was already before the Department.

I don't know if it was in this Committee or in another committee or just in private meetings: the *V and K* case was reported to the Department of Insurance years ago, and they didn't do anything about it. It took a long, long time before they actually began to pursue that case. Now that experience leads me to believe you need to have some independent voice, and by making it in, but not of, you can accomplish that, and you don't have to have, let's say, Civil Service rules bothering whether people are going to continue to work there. I think you need a great deal of latitude in terms of whether you have attorneys, investigators, and so forth, and maybe sometimes you need one mix

and sometimes you need another mix, so the director has to have great latitude if you're going to have an effective agency doing this.

But if you have an effective agency doing this, then I think any rules that we can concoct will be only supplementary to their imagination in going forward and getting these things done.

But what do you do when you catch an attorney representing 15 people who weren't on the bus? What happens to that attorney? What happens to the doctor? We've gone after those individuals, but there are plenty of those individuals out there. You can never exhaust them. We've got to get at the attorney. We've got to get at the doctor who are involved in this ring, and not just the runners. And I think we've got to make some basic changes in the law where you can have, perhaps, a rebuttable presumption of conspiracy, where a number of people are involved in the same incident, with the same lawyer, with the same -- because they all probably came through a runner, but it's very hard to prove.

SPEAKER COLLINS: Of course, that's something we'll be discussing.

Senator Adler.

SENATOR ADLER: I'm going to commend Assemblywoman Farragher and yourself, Mr. Speaker. I think your Option No. 3 addresses a lot of the concerns that Senator Cardinale legitimately raises with respect to the fraud that the medical and legal professionals may be participating in. If we pull their license once, we don't have to pull it a second time. We pulled their license permanently, so I think we've addressed that we don't need what is unconstitutional. We don't need rebuttable criminal presumptions. You

can't have criminal presumptions of guilt. But we don't need that, because if you get your license pulled once, you can't keep treating, you can't keep trying cases, you can't keep practicing the fraud. So I think Clare and Jack have really addressed that issue very, very well.

I think Assemblyman Garrett has raised a concern that we legitimately could have regarding coordination of prosecution efforts. I have a second concern about having it at the county level rather than at the State level. There may be some county prosecutors who just aren't interested in this issue, and I think we, as a society, have to be interested in this issue. A lot of prosecutors have chosen particular types of crimes they want to focus on, and they have the discretion to do that. I think this is a major cost element of our society that has to be addressed, and I think if we centralize it, with participation at the county level but centralize the coordination of effort, I think we'll be able to get to it everywhere, from Salem and Cape May counties all the way to Sussex and Bergen counties, and really reach the whole state.

But I think Option Nos. 1, 3, and 4 together meet a lot of the needs that we feel and that we've heard from our constituents regarding getting at this fraud and cutting it out. I'm very troubled about the idea of having the State SCI dedicate all its resources to this pursuit. I think the SCI has done a lot of good things, we've all recognized, in terms of hunting down government corruption and other corruption through our society. I'd hate to see all of its resources directed at this one troubling element of our society and lose out on the opportunity to also catch bad guys in other elements of our society. But if we do 1, 3, and 4 together, we've really gone a long way, along



with the cost savings we're talking about in the PIP context. That together can cut out a lot of the fraud that's already out there.

SPEAKER COLLINS: Thank you, Senator.

Let me just say, and I think we all know this, these are just guides. No offense to the staff who put them together or Laurine who read them, but -- and I don't want this to sound too self-centered -- but we'll make the law, and we can ask SCI for a quarter of their effort, a half of their effort or all, or none, and so on. So let's always just keep this in mind. These are guideposts that we're talking about, but the law is going to come from us and hopefully signed by the Governor -- or the bill is going to come from us and signed by the Governor and become law.

Assemblyman DiGaetano.

ASSEMBLYMAN DiGAETANO: Thank you, Mr. Speaker. My question is very simple, and I hope it's brief enough.

I've heard, in various places, about these organizations, if you will, these mills and how they operate. My question is very simply this: Does not the RICO statute or statutes apply to their operations, and if not, why not?

SPEAKER COLLINS: Does anyone know the answer to that?

ASSEMBLYMAN DiGAETANO: Well, apparently it hasn't been used in any of these celebrated cases, and I'm wondering why not. I mean, it seems to me that that's a pretty heavy statute or group of statutes to use, at least in the areas where I've heard about it being used, and I'm unsure as to why it's not being used in insurance cases.

SPEAKER COLLINS: That's something that we will be pursuing.

Well, we have a few people missing here, but as I said earlier, somewhat tongue in cheek, I think when it comes to fraud, we'll all be onboard even, I believe, with a fraud prosecutor, or anyone at least sitting here now who has trouble with a fraud prosecutor, we're not determining where it will be or whatever else, but someone directly relating to checking fraud when it comes to auto insurance.

I myself, and excuse me, as others have pushed forward to me with regard to what people are concerned about, I think that this might be the No. 1 crime in the State right now, at least in size if not in the particular aspects of some of the other horrors that are out there. The people are upset about auto insurance, and I think everyone would agree -- I think we could argue the amounts, but so much of it is tied to fraud. I don't know that it's the total panacea. It's one of those things we could all jump up and down on, but I think we have to do a lot of other things also.

Anyone else want to comment on the SCI aspect, bringing them, asking them to be involved at some level? Anybody feel strongly one way or the other?

SENATOR ADLER: Could I just join in on that one more time?

SPEAKER COLLINS: Sure.

SENATOR ADLER: I think it's dangerous, dangerous for us as a Legislature, to try to dictate the different areas in which the SCI engages its operations. I think it's best for them to figure out where to go and catch different crimes, given the broad range of responsibilities they have. I think if we do this right with the State -- whatever we're going to call it if it's a fraud prosecutor -- with the resources under that person, we will maybe need the

SCI, maybe not, but let's see how it goes with this new prosecutorial branch that we're setting up. We can always come back to this two years later if we don't think the prosecutor is doing the job. You know, we can have somebody else come do it through the SCI.

SPEAKER COLLINS: All right.

SENATOR CARDINALE: Mr. Speaker, I think we need to find out whether you can, because I've been informed that you can have a rebuttable presumption of conspiracy in a criminal matter. Now, Senator Adler is a lawyer, and I'm not. And maybe, you know, he knows something that I don't, but I think we ought to get a definitive answer about whether we can do that kind of thing, because without it, or without, perhaps, bringing in the RICO statutes -- and I will compliment Assemblyman DiGaetano, again, for thinking of that idea -- it is--

ASSEMBLYMAN DiGAETANO: Thank you, again.

SENATOR CARDINALE: It is important that we get at the head of these things and not just get to the tentacles of the octopus but get right to the heart of it. And if we can get some of those hearts-- It's like getting at the drug dealers. If you can get at the head people in this thing, you're going to quickly resolve many of these issues and make them afraid to operate or make them change their ways. You know, maybe we don't have to worry about the past as much as we have to worry about the future.

SPEAKER COLLINS: Any other comments.

Assemblywoman?

ASSEMBLYWOMAN FARRAGHER: Do you want to hear about rebuttable presumption of guilt in a vehicular homicide? No, no.

SPEAKER COLLINS: Whatever -- you don't want to add to that, okay.

We also have here, and maybe I'll take the presumption of the Chair. We have another issue that deals with this, but a number of the members have slipped away. I know a couple have previous commitments, and the Senate is getting ready to meet, and we're going to meet again Monday, at 9:30, so why don't we pick it up with No. 4 on Monday, with consumer protection, when everyone is here and fresh. And then we have other topics.

So why don't we recess. We will just recess this Committee until Monday morning, 9:30.

**(MEETING CONCLUDED)**