

HOSPITAL DISTRICT NUMBER ONE OF MOHAVE COUNTY

3269 Stockton Hill Road

Kingman, Arizona 86409

AGENDA (MAY 5, 2026)

The Governing Board of Hospital District Number One of Mohave County (Hospital District Board) will meet in Regular Session on Tuesday, May 5th, 2026 at 4:00 p.m. The meeting will be held at the Kingman Regional Medical Center Mohave A Conference Room at 3269 Stockton Hill Road, Kingman, Arizona. The Hospital District Board may vote to go into Executive Session pursuant to A.R.S. § 38-431.03 (A)(3) for legal advice and A.R.S. § 38-431.03 (A)(4) for discussion or consultation with attorneys. The following topics and any variables thereto will be subject to Hospital District Board consideration, discussion, approval, or other action. All items are set for possible action.

I. CALL TO ORDER

II. ROLL CALL OF THE HOSPITAL DISTRICT BOARD MEMBERS

III. CONSIDERATION AND APPROVAL OF MINUTES

- A. Discussion and possible action regarding the approval of Regular Session Meeting Minutes from the Hospital District Board meeting that occurred on April 14, 2026. Katie Tacheron presenting.

IV. FINANCIAL MATTERS

- A. Discussion and possible action regarding Hospital District Board Attorney Tom Price's bill, currently set at \$5,928.00. Katie Tacheron presenting.
- B. Discussion and possible action regarding the bills of Tom Price and how they are accumulating due to the efforts of outside parties, forcing the Hospital District Board to pay the bills. Katie Tacheron presenting.
- C. Discussion and possible action regarding the payment of Tom Price via a warrant check. Katie Tacheron presenting.

V. OLD BUSINESS

- A. Discussion and possible action regarding the acceptance of the baseline D&O insurance policy via a vote which will enable the Hospital District Board to obtain the coverage it needs. Katie Tacheron presenting.
- B. Discussion and possible action regarding looking at adding additional coverage for EPL and Cyber as a next step to becoming fully insured. Katie Tacheron presenting.

VI. NEW BUSINESS

- A. Discussion and possible action regarding the job description, title, hourly salary, and formal job offering for Catherine Furtado's appointment as the new Hospital District Board Executive Assistant. Teresa Boegler presenting.
- B. Discussion and possible action regarding a June budget meeting. Budget material is required by Mohave County by July 1st. Katie Tacheron presenting.
- C. In person, open meeting law training session with Mohave County Chief Civil Deputy Attorney Jason Mitchell, who will provide a slide show presentation and a question-and-answer session. Jason Mitchell presenting.

VII. ADJOURNMENT

CERTIFICATION OF POSTING OF NOTICE

The undersigned hereby certifies that a copy of the attached notice will be duly sent to the Mohave County Board of Supervisors no later than May 4th, 2026 by 4:00 p.m. for posting on their public information board. Also, notice will be posted at 3269 Stockton Hill Road (Main Entrance to KRMC) in Kingman, Arizona, and on the webpage of the Hospital District Board, no later than May 4th, 2026, 4:00 p.m. in accordance with the statement filed by the Hospital District Number One of Mohave County. Dated this 24th day of April 2026.

Posted by Billy Neal

Billy Neal on behalf of:

Katie Tacheron

Chairperson of Hospital District Number One of Mohave County

Additional Meeting Resources:

Microsoft Teams meeting

Join:

<https://teams.microsoft.com/meet/266926580173910?p=bbTbbzJkMKpR1CNwvK>

Meeting ID: 266 926 580 173 910

Passcode: k3hC9Uv7

HOSPITAL DISTRICT NUMBER ONE OF MOHAVE COUNTY
3269 Stockton Hill Road
Kingman, Arizona 86409

REGULAR SESSION BOARD MEETING MINUTES

April 14, 2026

The Governing Board of Hospital District Number One of Mohave County met in Regular Session on April 14, 2026, at 2:00 p.m. The meeting was held at the Kingman Regional Medical Center, Mohave A Conference Room, 3269 Stockton Hill Road, Kingman, Arizona.

1. Call to Order

The Regular Session meeting of the Hospital District Number One of Mohave County Board was called to order at 2:00 p.m. A quorum was present.

2. Roll Call

Hospital District Board Members Present:

- Katie Tacheron, Chairperson
- Teresa Boegler, Vice Chairperson
- Logan Marsh, Hospital District Board Member
- Dr. Carol Newmyer, Hospital District Board Member
- Leanne Smith, Hospital District Board Member

Staff and Others Present:

- Billy Neal, Recording Secretary
- Thomas Price, Hospital District Board Attorney
- Josh Hoffman
- Shawn Butler
- Heath Evans
- Cheryl Porter
- Allen Poston

- Chris Bennett
- Angela Githens
- Barry Moore
- KRMC staff and members of the public

3. Hospital District Board Secretary Position

The Hospital District Board discussed the Hospital District Board Secretary position, including salary considerations, estimated monthly workload, national benchmarks, and the need to define the role as an administrative support position rather than solely a recording secretary. No action was taken.

4. Lease Agreement Between the Hospital District Board and KHI

The Hospital District Board discussed the lease agreement between KHI and the Hospital District Board. Topics included potential alternative payment structures, community support considerations, scholarships, the Del Webb project, collaboration toward a final lease structure, county support limitations, and administrative support needs.

A motion was made by Teresa Boegler to authorize Logan Marsh to continue discussions with KHI regarding a revised lease agreement. The motion was seconded by Dr. Newmyer and carried unanimously (5/0).

5. Hospital District Board Office Space

The Hospital District Board discussed the need for office space to support Hospital District Board operations and its alignment with the Hospital District Board's long-term goals.

A motion was made by Leanne Smith to authorize Logan Marsh to continue researching potential office space options for the Hospital District Board. The motion was seconded by Teresa Boegler and carried (4/1), with Dr. Newmyer dissenting.

6. Administrative Support Options

The Hospital District Board discussed administrative support options. It was noted that this topic had been addressed in detail previously. No action was taken.

7. Open Meeting Law Training

The Hospital District Board discussed in-person Open Meeting Law training offered by the Mohave County Attorney's Office.

A motion was made by Dr. Newmyer to accept the proposed Open Meeting Law training scheduled for May 5, 2026, at 4:00 p.m. The motion was seconded by Logan Marsh and carried unanimously (5/0).

8. Hospital District Board Bylaws – Page Numbering

The Hospital District Board discussed adding page numbers to the Bylaws to improve document navigation and clarity when referencing sections and amendments.

A motion was made by Teresa Boegler to add page numbers to the Hospital District Board Bylaws. The motion was seconded by Logan Marsh and carried unanimously (5/0).

9. Notation of Bylaws Amendments

The Hospital District Board discussed the notation of future changes to the Bylaws, including the use of quotations and section references to clearly identify amendments.

A motion was made by Logan Marsh to accept the outlined notation changes for Bylaws amendments. The motion was seconded by Teresa Boegler and carried unanimously (5/0).

10. Definitions of Real Property and Equipment

The Hospital District Board discussed the need for clearer definitions of real property and equipment within the Bylaws and the importance of aligning these definitions with the Lease Agreement.

A motion was made by Logan Marsh to include parcel numbers for Hospital District-owned properties in the Bylaws Appendix. The motion was seconded by Teresa Boegler and carried unanimously (5/0).

11. Calendar and Due Date Tracking

The Hospital District Board discussed implementing a calendar system to track key dates, deadlines, and Hospital District Board responsibilities, integrated with newly established Hospital District Board email accounts.

A motion was made by Leanne Smith to authorize Logan Marsh to research Google Workspace options at a nominal cost. The motion was seconded by Teresa Boegler and carried unanimously (5/0).

12. Future Hospital District Board Meeting Dates

The Hospital District Board discussed transitioning to a bi-monthly meeting schedule following the May 5, 2026 meeting.

A motion was made by Logan Marsh to approve bi-monthly meetings on the second Tuesday of July, September, and November beginning after May 5, 2026. The motion was seconded by Leanne Smith and carried unanimously (5/0).

13. Approval of Prior Meeting Minutes

The Hospital District Board reviewed the Regular Session Meeting Minutes from March 10, 2026. No corrections were proposed.

A motion was made by Logan Marsh to approve the March 10, 2026 Regular Session Meeting Minutes. The motion was seconded by Teresa Boegler and carried unanimously (5/0).

The Hospital District Board also reviewed the Emergency Session Meeting Minutes from March 26, 2026. One correction was identified regarding the meeting designation.

A motion was made by Logan Marsh to approve the corrected March 26, 2026 Emergency Session Meeting Minutes. The motion was seconded by Teresa Boegler and carried unanimously (5/0).

14. Financial Report

The Hospital District Board reviewed the financial report and balance sheet presented by Barry Moore.

A motion was made by Leanne Smith to accept the financial report as presented. The motion was seconded by Dr. Newmyer and carried unanimously (5/0).

15. Payment of Legal Invoice

The Hospital District Board discussed outstanding legal invoices from Thomas Price's office. Clarification was requested regarding the invoiced amounts. No action was taken.

16. Authorized Signors for Warrant Checks

The Hospital District Board discussed adding all current Hospital District Board members as authorized signors for warrant checks.

A motion was made by Logan Marsh to add all current Hospital District Board members as authorized signors. The motion was seconded by Dr. Newmyer and carried unanimously (5/0).

17. Call to the Public

Members of the public were afforded the opportunity to address the Hospital District Board. Heath Evans spoke regarding the importance of hiring qualified administrative support for the Hospital District Board. No action was taken.

18. Adjournment

A motion to adjourn was made by Logan Marsh and seconded by Teresa Boegler. The meeting adjourned at 2:46 p.m.

Respectfully submitted by,

Billy Neal, Recording Secretary on behalf of:

Katie Tacheron, Chairperson
Hospital District Number One of Mohave County

LAW OFFICE OF THOMAS E. PRICE, P.C.
 501 E. Oak St.
 Kingman, AZ 86401-5930

Invoice
 submitted to:
 Hospital District Number One of Mohave County
 Attn: Billy Neal ** send via email
 billy.neal@azkrmc.org
 3269 N. Stockton Hill Rd.
 Kingman, AZ 86409

March 23, 2026

In Reference To: Miscellaneous

Professional Services

	<u>Hrs/Rate</u>	<u>Amount</u>
2/25/2026 Reviewed Logan Marsh's February 24th email and attachments. Reviewed the original lease and subsequent supplements and amendments; reviewed Logan's attachments; made notes in response.	1.00 380.00/hr	380.00
2/26/2026 Left message for Heath Evans; Teleconference in regards to bonding issues.	0.70 380.00/hr	266.00
2/27/2026 Reviewed file; met with Katie and Logan.	1.80 380.00/hr	684.00
3/2/2026 Teleconference with Heath Evans; left message for Civil Deputy County Attorney Jason Mitchell.	0.30 380.00/hr	114.00
3/3/2026 Reviewed and responded to Logan's March 2nd email; left message for Deputy County Attorney Jason Mitchell.	0.10 380.00/hr	38.00
3/5/2026 Left message for Jason Mitchell; sent an email to Logan regarding same. Teleconference with Jason; sent an email to Logan.	0.30 380.00/hr	114.00
3/9/2026 Exchanged emails with Billy Neal in regards to obtaining a copy of the board packet; reviewed same.	0.50 380.00/hr	190.00
3/10/2026 Travel to KRMC; attended Board meeting.	2.70 380.00/hr	1,026.00
3/16/2026 Teleconference with Katie in regards to Mark Berry's request for a copy of the lease with KHI.	0.30 380.00/hr	114.00

Hospital District Number One of Mohave County

Page 2

	<u>Hrs/Rate</u>	<u>Amount</u>
3/17/2026 Reviewed emails from Billy Neal and Cheryl Porter.	0.10 380.00/hr	38.00
For professional services rendered	7.80	\$2,964.00
Previous balance		\$4,227.94
Accounts receivable transactions		
3/11/2026 Payment - thank you. Check No. 7667000293		(\$4,227.94)
Total payments and adjustments		(\$4,227.94)
Balance due		<u>\$2,964.00</u>

The balance is due upon receipt of this statement. Unless other arrangements have been made.

We appreciate your business. Thank you!

We accept VISA, MasterCard, American Express, and Discover.

If you have any questions regarding this billing statement, please contact our staff at (928) 753-1112.

LAW OFFICE OF THOMAS E. PRICE, P.C.
 501 E. Oak St.
 Kingman, AZ 86401-5930

Invoice
 submitted to:
 Hospital District Number One of Mohave County
 Attn: Billy Neal ** send via email
 billy.neal@azkrmc.org
 3269 N. Stockton Hill Rd.
 Kingman, AZ 86409

April 9, 2026

In Reference To: Miscellaneous

Professional Services

	<u>Hrs/Rate</u>	<u>Amount</u>
3/23/2026 Left message for Jason Mitchell. Teleconference with Katie in regards to auditor's request for copy of invoices; meeting with Jsaon Mitchell and Don Martin; discrepancy between open meeting laws and the Robert's Rules of Order.	0.40 380.00/hr	152.00
3/24/2026 Teleconference with Attorney Mitchell. Teleconference with Katie regarding same.	0.30 380.00/hr	114.00
3/25/2026 Exchanged texts with Katie in regards to Mark Berry's complaint. Teleconference with Katie regarding complaint and tomorrow's meeting.	0.40 380.00/hr	152.00
3/26/2026 Reviewed Mark Berry's complaint. Reviewed insurance policy. Travel to and from hospital; attended meeting; teleconference with Cheryl Porter; met with KRMC counsel, Martha Lewis.	2.10 380.00/hr	798.00
3/27/2026 Reviewed Logan's March 26th email.	0.10 380.00/hr	38.00
3/30/2026 Prepared two separate emails to Logan in regards to the upcoming meeting with the County and John Berry's complaint.	0.50 380.00/hr	190.00
4/2/2026 Met with Board Member Logan Marsh, Deputy County Attorney Josh Mitchell, County Supervisor Don Martin, and County Manager David Strahl.	1.30 380.00/hr	494.00
For professional services rendered	<u>5.10</u>	<u>\$1,938.00</u>
Previous balance		\$2,964.00

Hospital District Number One of Mohave County

Balance due

Amount
\$4,902.00

The balance is due upon receipt of this statement. Unless other arrangements have been made.

We appreciate your business. Thank you!

We accept VISA, Mastercard, American Express, and Discover.

If you have any questions regarding this billing statement, please contact our staff at (928) 753-1112.

LAW OFFICE OF THOMAS E. PRICE, P.C.
 501 E. Oak St.
 Kingman, AZ 86401-5930

Invoice
 submitted to:
 Hospital District Number One of Mohave County
 Attn: Billy Neal ** send via email
 billy.neal@azkrmc.org
 3269 N. Stockton Hill Rd.
 Kingman, AZ 86409

April 20, 2026

In Reference To: Miscellaneous

Professional Services

	<u>Hrs/Rate</u>	<u>Amount</u>
4/14/2026 Reviewed Becky Foster's April 13th email with attachment; forwarded a copy of said email to Katie Tacheron; discussed my proposed response with Katie Tacheron; drafted a response to same. Teleconferences with Billy Neal in regards to today's board packet; reviewed packet; teleconference with Katie Tacheron in regards to same. Travel to and from board meeting; attended board meeting.	2.50 380.00/hr	950.00
4/15/2026 Reviewed Katie Tacheron's April 14th email in regards to billing; teleconference with Katie Tacheron regarding same.	0.20 380.00/hr	NO CHARGE
Revised response and finalized same to Becky Foster's April 13th email.	0.20 380.00/hr	76.00
For professional services rendered	<u>2.90</u>	<u>\$1,026.00</u>
Previous balance		\$4,902.00
Balance due		<u>\$5,928.00</u>

The balance is due upon receipt of this statement. Unless other arrangements have been made.

We appreciate your business. Thank you!

We accept VISA, Mastercard, American Express, and Discover.

If you have any questions regarding this billing statement, please contact our staff at (928) 753-1112.

Questions for McGriff, a

Marsh & McLennan

Agency Insurance Company

General Questions:

1. Page 3 of 60 in packet - Commission of \$2,312.09? Policy, broker fee and commission = \$23,331.09? Underwriter to pay what % of premium as broker commission? **20% and we are paying MMA 11%** Is the county responsible for tax filings? **No, the policy is admitted. State taxes are not applicable.**
2. Why do we have a HIPAA Claim Sublimit of \$100,000? **This is standard limit amount to see from most insurance companies that offer D&O coverage. For more coverage here, it is more appropriate to have a cyber liability policy in place.**
3. With all the electronic, digital issues from fraud to impersonation of individuals, why is this not covered? See Page 1 of 6, Coverage Section, Fiduciary Liability, to Crime Coverage." **We can certainly ask the insurance company to provide us with these additional coverage options.**
4. Why was this EMTALA coverage reduced from \$250,000 to \$150,000? **We will ask for the underwriter to increase the limit to \$250,000.**
5. Define and explain with examples what the Stakeholder Derivative Demand Sublimit is?

The Stakeholder Derivative Demand coverage is a specific grant that reimburses the Hospital District Number One of Mohave County for costs it incurs to investigate a formal demand from one of its stakeholders.

Key terms are defined in the policy as follows:

- **Stakeholder Derivative Demand:** A written demand from one or more stakeholders asking the organization's board of directors to file a civil lawsuit against an executive for an alleged "Wrongful Act".
- **Stakeholder:** For a not-for-profit entity like the Hospital District, this is a "natural person member of such Organization who has an active interest that such Organization fulfill its mission". This could include community members, donors, or volunteers.

- **Investigative Costs:** The "reasonable costs, charges, fees (including but not limited to attorneys' fees and experts' fees) and expenses incurred by the Organization" to investigate or evaluate the demand. This does not include internal costs like salaries or overhead.
- **Sublimit:** The maximum amount the insurer will reimburse for all such costs is \$500,000.

This coverage is designed to address a critical pre-litigation event. When a stakeholder formally demands that the Board of Directors sue one of its own executives, the Board has a fiduciary duty to investigate the allegations seriously. This investigation can be expensive, often requiring the use of external law firms, forensic accountants, or other consultants.

The Stakeholder Derivative Demand Coverage reimburses the Hospital District for these investigative costs. It allows the board to make an informed decision on whether to proceed with a lawsuit against the executive.

Key features of this coverage are:

- **Pre-Claim Coverage:** It covers the costs to investigate the *demand*, which occurs before a formal lawsuit (a "Claim") is filed.
- **Reimbursement Basis:** The Hospital District must first pay for the investigative costs and then submit proof of payment to the insurer for reimbursement.
- **No Retention:** The policy specifies that no retention applies to this coverage .
- **Independence Required:** The demand must be made by a stakeholder "without the solicitation, assistance, active participation or intervention of any Executive".

Example 1: Alleged Breach of Duty Regarding Partnership Agreement

- **Scenario:** The Hospital District's board approves a revised 20-year lease and operating agreement with Kingman Healthcare, Inc., the private, non-profit entity that runs Kingman Regional Medical Center. A group of local taxpayers and concerned citizens who regularly attend the public board meetings forms a "stakeholder" group. They allege that the new agreement unfairly benefits the private operator at the public's expense by lowering the operator's capital improvement obligations and shifting the financial burden for future facility upgrades onto the District's taxpayers.
- **Demand:** The stakeholder group retains an attorney and sends a formal written demand to the board. They claim the board members who approved the lease committed gross negligence and breached their fiduciary duty to protect public assets. They demand the board file a lawsuit against those members to rescind the agreement and seek damages for the anticipated financial harm to the District.
- **Coverage:** The board must now formally investigate these serious allegations. To do so, it uses the Stakeholder Derivative Demand coverage to hire an independent law firm with

expertise in public-private hospital partnerships and a healthcare finance consulting firm. These experts are tasked with analyzing the new lease terms against industry standards and determining whether the board's decision-making process was sound. The fees for these external experts are considered "Investigative Costs" and are reimbursed by the insurer up to the \$500,000 sublimit.

Example 2: Alleged Improper Sale of Public Land and Lack of Transparency

- **Scenario:** The Hospital District owns a valuable, undeveloped parcel of land adjacent to the main hospital campus. During a closed executive session, the board approves the sale of this land to a local real estate developer. A community watchdog group focused on open government, acting as a "stakeholder," discovers that the developer has personal ties to a long-serving board member and that the sale price appears to be significantly below market value.
- **Demand:** The watchdog group sends a written demand to the board alleging a breach of the duties of loyalty and care. They claim the decision was made without proper public transparency, possibly violating Arizona's open meeting laws, and constituted a waste of public assets. They demand the board sue the members involved to void the sale and recover the property.
- **Coverage:** Faced with allegations of both a bad deal and improper procedure, the board must conduct a thorough investigation. It uses the policy's coverage to retain outside legal counsel specializing in Arizona's open meeting laws to review the legality of the executive session. It also hires a commercial real estate appraisal firm to conduct a retroactive fair market value assessment of the land at the time of the sale. The legal and appraisal fees are reimbursed as "Investigative Costs," enabling the board to make an informed, defensible decision.

Example 3: Alleged Failure to Meet Community Healthcare Needs

- **Scenario:** As part of its oversight of Kingman Regional Medical Center, the Hospital District board approves a new strategic plan that includes closing a small, money-losing health clinic in a remote, underserved part of Mohave County. A patient advocacy group, representing elderly and low-income residents from that area, qualifies as a "stakeholder." They argue that this decision, while perhaps financially prudent, is a direct violation of the District's core mission "to serve Mohave County residents and...meet the public's healthcare needs."
- **Demand:** The advocacy group delivers a formal written demand to the board. They insist the board sue the executives responsible for the strategic plan, alleging a breach of the public trust and the District's foundational purpose. The demand's goal is to compel the board to reverse its decision and restore the clinic's services.
- **Coverage:** This allegation forces the board to evaluate the complex balance between its fiduciary responsibility and its public service mission. To properly assess the demand, the board hires a healthcare consulting firm to conduct an independent community

health needs assessment for the affected area. It also retains legal counsel to provide an opinion on the extent of the board's legal duty to maintain specific services versus its discretion to manage the District's finances. These expert fees are covered as "Investigative Costs," providing the board with the critical third-party analysis needed to respond to the stakeholders' demand.

6. Why was the coverage described in question number 5 increased from \$250,000 to \$500,000? Please provide examples to justify this increase. I don't have any justification as to why the underwriter increased the limit.

7. Please define and explain with examples Privacy Administrative Proceeding Aggregate Sublimit?

This is not currently offered within the proposal provided by Intact. It is more closely related to coverage found in a Cyber Liability or potentially a Regulatory E&O policy.

A Privacy Administrative Proceeding Aggregate Sublimit are costs associated with responding to and defending against formal administrative or regulatory proceedings related to a privacy violation.

In the context of a hospital, this primarily refers to investigations, enforcement actions, or audits conducted by government agencies responsible for enforcing privacy laws, such as:

- The U.S. Department of Health and Human Services (HHS), Office for Civil Rights (OCR), which enforces HIPAA.
- State Attorneys General, who enforce state-level data breach and privacy laws.

The costs covered are typically legal defense fees, expert witness costs, and other expenses incurred in responding to subpoenas, official inquiries, and formal charges from a regulatory body.

Examples of Scenarios

1. **HHS/OCR Investigation Following a Ransomware Attack:**

- **Scenario:** The hospital's network is compromised by a ransomware attack, and the electronic health records (EHR) of 10,000 patients are exfiltrated. The hospital reports this major breach to the HHS Office for Civil Rights (OCR) as required by HIPAA. The OCR launches a formal investigation into the hospital's security practices and compliance with the HIPAA Security Rule.
- **How Coverage Would Apply:** The OCR's investigation is a "Privacy Administrative Proceeding." The hospital would need to hire specialized healthcare privacy attorneys to respond to OCR's data requests, prepare for interviews, and defend the

hospital's compliance program. The fees for these attorneys and any retained cybersecurity experts would have been paid under this sublimit.

2. State Attorney General Action for Improper Disposal of Records:

- **Scenario:** A third-party document shredding vendor improperly disposes of paper medical records, which are later found in a public dumpster. The Arizona Attorney General's office initiates an administrative proceeding against the Hospital District for violating state privacy laws and failing to properly oversee its vendors.
- **How Coverage Would Apply:** The legal costs to respond to the Attorney General's inquiry, negotiate a potential settlement, and defend the hospital's vendor management practices would be covered under this sublimit.

3. CMS Audit Regarding Patient Access Rights:

- **Scenario:** The Centers for Medicare & Medicaid Services (CMS), as part of its enforcement of patient rights under HIPAA, conducts an audit of the hospital's processes for providing patients with timely access to their medical records. The audit reveals systemic failures, leading to a formal administrative action to enforce compliance.
- **How Coverage Would Apply:** The hospital would incur legal and consulting costs to manage the audit response, demonstrate corrective actions, and defend itself against allegations of non-compliance. These expenses would be paid under the "Privacy Administrative Proceeding Aggregate Sublimit," preserving other policy limits for different risks.

8. Why did the coverage for Policy Aggregate Sublimit for E-Discovery Consultant Services increase from \$10,000 to \$25,000? I don't have any justification as to why the underwriter increased the limit.

9. What do you think is the risk that an individual Board member might be named in an individual lawsuit? Why is the coverage \$500,000, if this instance is such a rare thing?

This is what we call an Additional Side A limit. Every D&O policy has 3 insuring agreements – A, B and C. The proposal offered gives A, B and C a \$5,000,000 limit. This \$500,000 limit provides A with an additional safety net of coverage. A is coverage for the individual Ds and Os of the organization. The primary risk is that a board member could be sued personally, but the Hospital District is either unable (due to certain state laws or regulations) or unwilling to pay for their legal defense and any potential settlement or judgment. This is known as a "non-indemnifiable loss" – or it is also referred to as Side A. The main policy is designed to respond when the organization *can* and *does* pay on the director's behalf (indemnification). This special coverage exists for when it cannot.

There are three primary scenarios where this risk becomes a reality for a board member of the Hospital District:

1. **Derivative Lawsuits:** A stakeholder could sue a board member *on behalf of* the Hospital District itself, alleging the board member's actions harmed the organization (e.g., through a conflict of interest or gross negligence). In this situation, the Hospital District is the plaintiff (in theory), and it cannot use its own funds to pay the legal bills of the director it is suing. The board member would be forced to pay for their own defense out-of-pocket.
2. **Financial Insolvency:** If the Hospital District were to face severe financial distress or bankruptcy, it may simply lack the funds to indemnify its board members, even if it is legally obligated to do so. A lawsuit filed by creditors during insolvency is a classic example where directors are targeted personally, and the organization is unable to help.
3. **Legal Prohibitions:** State law or the District's own bylaws may prohibit indemnifying a director for certain types of alleged misconduct, such as actions involving criminal conduct, intentional fraud, or securing an improper personal benefit. If a lawsuit includes such allegations, the District may refuse to pay for the defense, leaving the board member to fund it themselves until they are proven innocent.

Why does it exist?

The \$500,000 Additional Limit of Liability Dedicated for Executives is specifically designed to fill a critical gap. It is a dedicated fund available only to the individual executives (including board members) for a loss that the organization does not cover.

The policy language confirms this is its sole purpose:

- It is available "**solely for Loss resulting from any Claim made against any Executive covered under Insuring Agreement (A)**".
- Insuring Agreement (A) is titled "**Insured Person Non-Indemnified Loss Coverage**".

This limit is structured to be a personal safety net for the board. It is "**in addition to, and not part of, the Policy Aggregate Limit of Liability**". This means that even if the main \$5,000,000 policy limit is completely exhausted by a lawsuit against the Hospital District entity, this separate \$500,000 remains untouched and available to protect the personal assets of the board members.

The financial consequences of being sued personally without the organization's financial backing can be catastrophic for an individual.

- **Severity over Frequency:** Insurance is designed to protect against events that are unlikely but financially devastating. A single complex lawsuit can easily generate hundreds of thousands of dollars in legal fees for an individual, threatening their home, savings, and retirement.

- **Attracting Talent:** Without this personal asset protection, it would be incredibly difficult for the Hospital District to attract and retain qualified, dedicated community members to serve on its board. No rational person would volunteer for a board position if it meant putting their family's financial security at risk.
- **A Cost-Effective Safety Net:** The \$500,000 limit provides a substantial fund to mount a vigorous legal defense. While costs can exceed this amount in extreme cases, it provides a critical buffer and peace of mind. The premium for this additional limit is typically a small fraction of the total policy cost, making it a highly efficient way to protect the board.

In short, this coverage is not for the everyday claim; it is for the "nightmare" scenario that could ruin a board member financially. The \$500,000 limit ensures that if such a scenario occurs, the individuals who volunteer their time for the community are not left to face it alone.

10. Why would there be any issue that the Board is indemnified for when the hospital covers us for almost everything and the majority of what they litigation they'd face doesn't have anything to do with our Board?

The Board's Risks Are Different from the Hospital's Risks. The hospital operator is responsible for the delivery of healthcare. The Board, as a public entity, is responsible for governance, oversight, and fiduciary duty to the citizens of Mohave County. Lawsuits against the Board will stem from these specific duties, not from hospital operations.

A "Wrongful Act" under the policy is defined broadly to include any actual or alleged "act, error, omission, misstatement, misleading statement or breach of duty by any Insured Person in his or her capacity as such". This describes the kinds of decisions a governing board makes.

Here are examples of lawsuits that would be aimed directly at the Board, not the hospital:

1. **Breach of Fiduciary Duty to the Public:** A taxpayer group could sue the Board alleging that the partnership agreement you have with Kingman Healthcare, Inc. is unfairly favorable to the private operator and constitutes a waste of public assets. The hospital operator would not be the primary defendant; the Board members who approved the agreement would be sued for breaching their duty to the public.
2. **Failure of Oversight:** Imagine a scenario where the hospital operator is found to have engaged in a major billing fraud scheme. While the operator would face regulatory action, a lawsuit could also be filed against the District Board alleging its members were negligent in their oversight duties and "should have known" about the fraud, thereby allowing it to happen.
3. **Mismanagement of District Assets:** The Board is responsible for "maintaining Hospital District property." If the Board sold a valuable piece of land for below market value or

entered into an unfavorable lease, stakeholders could sue the Board members directly for squandering public assets.

Even if the hospital operator has promised to indemnify the Board, there are critical situations where that promise can fail, leaving the board members' personal assets exposed. This is precisely what your D&O policy is for.

There are three primary scenarios where indemnification is not enough:

1. **Derivative Lawsuits (Side A Risk):** As we've discussed, if a stakeholder sues the Board *on behalf of* the Hospital District, the District is effectively the plaintiff. The law prohibits an organization from paying the legal fees of the directors it is suing. In this case, there is no indemnification, and the board members must pay for their own defense. Your D&O policy would respond directly to pay those bills under its "Insured Person Non-Indemnified Loss Coverage".
2. **Financial Insolvency:** The promise to indemnify is only as good as the financial health of the entity making the promise. If the hospital operator (Kingman Healthcare, Inc.) were to face severe financial distress or bankruptcy, it would be unable to pay the Board's legal bills, even if it wanted to. The D&O policy, backed by the assets of the insurance carrier, would step in to protect the board members.
3. **Legal Prohibitions:** The law forbids indemnification for certain actions, such as those involving criminal acts, intentional fraud, or securing an improper personal benefit (e.g., a conflict of interest). If a lawsuit contains such allegations, indemnification will be denied, and the D&O policy becomes the board member's primary source of protection.

In summary, the Board's D&O policy is not redundant. It is an essential financial backstop that protects the personal assets of the board members when they are sued for their governance decisions, especially when the hospital's promise to indemnify them is unavailable, illegal, or financially impossible.

11. What does the excise tax sublimit have to do with the Board?

This is a punitive tax the IRS can impose on not-for-profit organizations to prevent self-dealing and ensure that the organization's assets are used for their charitable or public purpose, not to enrich insiders.

An "Excess Benefit Transaction" occurs when a not-for-profit entity provides an economic benefit to an insider - known as a "Disqualified Person" - that is worth more than the value the entity receives in return. A "Disqualified Person" is typically a board member, a key executive, their family members, or a business they control.

The IRS can then levy two different excise taxes:

1. A tax on the "Disqualified Person" who improperly received the benefit.
2. A separate tax on the "Organization Manager" - which includes a board member—who knowingly approved the transaction.

As a board member, you are considered an "Organization Manager". If the Board knowingly approves a transaction that provides an excess benefit to an insider, the IRS can hold each approving board member personally liable for an excise tax penalty. This is a direct, personal financial risk tied to the Board's fundamental duty of care and loyalty.

The D&O policy is designed to protect the Board members in this exact scenario.

- The definition of "Loss" explicitly includes coverage for "Excess Benefit Transaction Excise Taxes that an Insured Person is obligated to pay as a result of a Claim".
- The policy provides a \$100,000 sublimit specifically to pay for this tax when it is levied against a board member in their capacity as an "Organization Manager".
- Importantly, the policy explicitly excludes coverage for the tax levied against the "Disqualified Person" who received the benefit. The policy protects the managers for their oversight role, not the person who was unjustly enriched.

12. When the term "stakeholder" is used, does this specifically mean a citizen of the area that the Hospital District Board serves? Why is this called an "organization" of people?

These terms are defined as follows by the policy:

"Stakeholder" means: with respect to any not-for-profit **Organization**, any natural person member of such **Organization** who has an active interest that such **Organization** fulfill its mission; with respect to any for-profit **Organization**, any securityholder of such **Organization**.

"Organization" means: (1) the **Named Organization**; (2) subject to the provisions of Section XI of these General Terms and Conditions, any **Subsidiary** thereof; and (3) any **Affiliate** listed by written endorsement to this Policy, but solely with respect to the Coverage Section(s) indicated on such endorsement. **Organization** shall also mean the **Named Organization** or any such **Subsidiary** in its capacity as a debtor in possession.

13. Explain, what "separate retention and coinsurance" means for the anti-trust and regulatory claims please.

These two coverages have a different retention than what is provided by the overall policy.

AntiTrust Claims have a retention of \$150,000 vs \$100,000 from the other coverages in the policy.

Regulatory Claims have a retention of \$1,000,000 vs \$100,000 from the other coverages in the policy.

These are more severe related matters which is why they have a larger retention as well as coinsurance associated with these types of perils.

Risk Scenario Questions:

The following questions pose various potential scenarios. If coverage does exist in the quote, please provide relevant sections where the coverage addresses the concerns.

- 14.** Prior notice / prior and pending matters. The policy excludes claims tied to matters previously noticed under prior management liability coverage, and also excludes claims tied to prior or pending litigation or proceedings as of the applicable pending or prior date, which in the quote appears to still be TBD. (Devil's advocate scenario: if a future claim is framed as arising out of prior board actions, prior disputes, prior complaints, prior regulatory issues, or anything arguably connected to already-known controversy, the carrier could try to say it is really a prior matter and deny coverage). **If there is a known matter that is currently pending or occurred prior to the date of the P&P Litigation date, which will likely be inception, then no coverage would be afforded for those matters.**
- 15.** Insured vs. insured exclusion. The policy excludes claims brought by or on behalf of the Organization or any Insured Person, subject to certain carve-backs such as derivative demands and some whistleblower-related circumstances. (Devil's advocate scenario: if a dispute develops internally between current or former board members, officers, or insured persons over governance, oversight, process, or alleged misconduct, the carrier could argue that the claim is barred as an insured-versus-insured dispute). **This exclusion is typical to find in just about every insurance policy. This exclusion is more about not covering moral hazards.**
- 16.** Technology / privacy exclusion. The policy excludes claims involving unauthorized or unintentional access, use, disclosure, corruption, damage, deletion, or impairment of non-public personal identifiable information, and also excludes claims involving failure of any system, software, network, hardware, backup facility, or related technology to function or prevent hacks, viruses, worms, trojans, and similar events, with only narrow carve-backs. (Devil's advocate scenario: if the Board is pulled into a claim involving records, email, public communications, HIPAA-adjacent information, data security, website issues, retention failures, notice failures caused by system issues, or breach-related allegations, the carrier could argue the matter falls into the technology/privacy exclusion instead of covered governance liability). **This type of exclusion is there because another insurance product is available for this type of coverage (Cyber Liability)**
- 17.** Express contract exclusion. The policy excludes liability under any express contract or agreement, except to the extent liability would have existed even without the contract. (Devil's advocate scenario: if the Board is sued over lease oversight, enforcement, amendments,

performance failures, approval of terms, or other contractual oversight involving the hospital lease or related agreements, the carrier could argue the exposure arises from contract liability and is excluded). **This type of exclusion is also included to avoid moral hazard and to separate business risk from insurable risks.**

18. Professional E&O exclusion. The endorsement states there is no coverage for claims arising from rendering, or failure to render, professional services for others for a fee. (Devil's advocate scenario: if the Board is accused of failures tied to operational oversight that the carrier tries to characterize as professional-service-related rather than governance-related, this could become a fight over whether the matter is outside coverage). **This exclusion is typical to find in just about every insurance policy as it is trying to be clear that this policy is not intended to pick up E&O or malpractice type claims that can be covered under a Professional or General Liability policy.**

19. Medical services exclusion. The quote expressly lists a medical services exclusion being added to the D&O form. (Devil's advocate scenario: if the Board is sued for alleged failures in oversight of hospital operations, quality concerns, credentialing-adjacent matters, clinical policy oversight, or anything the carrier can spin as connected to medical services, the insurer may try to characterize the claim as excluded even where the Board's role was governance and oversight rather than direct care). **This exclusion is typical to find in just about every insurance policy as it is trying to be clear that this policy is not intended to pick up E&O or malpractice type claims that can be covered under a Professional or General Liability policy.**

With that being said, I do believe the language that Intact provides is a bit broader than some other insurance company's exclusionary language. Some have the following wording in their form which is much more restrictive: *alleging, based upon, arising out of, attributable to, directly or indirectly resulting from, in consequence of, or in any way involving*

When we run into exclusions like this, sometimes they are required to be a part of the policy. We try to amend the language so that is it not quite as restrictive. Intact's wording already does a good job of this, in my opinion.

20. Employment-related wrongful acts exclusion. The D&O form excludes employment-related wrongful acts. The quote also shows EPL was not purchased. (Devil's advocate scenario: if the District or Board is dragged into a dispute involving a secretary, staff member, retaliation allegation, hiring/firing-related issue, harassment allegation, or other employment-type claim, there may be no meaningful coverage under this D&O structure). **This exclusion is typical to find because another insurance product is available for this type of coverage (Employment Practices Liability – EPL). We can quote EPL coverage for you, if interested.**

21. Discrimination / harassment exclusion for non-insureds. The form excludes claims involving discrimination against, or harassment of, any person or entity that is not an insured, subject to a narrow provider-selection carve-back. (Devil's advocate scenario: if a member of the public,

contractor, volunteer, attendee, applicant, or other non-insured alleges discriminatory treatment, harassment, unequal access, or similar conduct tied to District governance or Board-related activity, the carrier may argue the claim is excluded). **This exclusion is typical to find because another insurance product is available for this type of coverage (Employment Practices Liability – EPL). We can quote EPL coverage for you, if interested.**

- 22.** Bodily injury / property damage exclusion. The form excludes claims involving bodily injury, emotional distress, sickness, disease, death, or damage to tangible property, with only a narrow carve-back in the provider-selection context. (Devil's advocate scenario: if a plaintiff tries to plead governance failures as having caused physical harm, emotional distress, unsafe conditions, or damage to property, the carrier could use this exclusion to avoid coverage even if the allegations are wrapped around Board-level conduct). **See answer to what we provided to #19 above.**
- 23.** Pollution / environmental exclusion. The form excludes claims involving pollutants, cleanup, containment, treatment, or related environmental matters, except where only Insuring Agreement (A) applies. (Devil's advocate scenario: if the Board is named in a claim involving facility conditions, contamination allegations, hazardous materials, cleanup obligations, or environmental oversight, this could become an exclusion fight quickly). **A stand-alone pollution policy may be best for this type of scenario.**
- 24.** Fraud / illegal profit / deliberate dishonesty exclusion. The form excludes claims involving illegal profit, deliberately fraudulent or dishonest acts, or willful violation of law, but only if established by a final and non-appealable adjudication. There is also severability language so one insured person's knowledge is not automatically imputed to another. (Devil's advocate scenario: while this exclusion is more favorable than some because it requires final adjudication, it still becomes a major issue if any board-related dispute escalates into allegations of knowing misconduct, improper personal benefit, or willful legal violation). **That is what the final adjudication and severability language is for, to protect those that did not have such knowledge of the events.**
- 25.** Wage/hour, WARN, OSHA, COBRA, NLRA, workers' comp, unemployment, and similar statutory exclusions. The form excludes these categories expressly. (Devil's advocate scenario: if any Board-related dispute crosses into labor, benefits, worker protection, retaliation, or wage-related allegations, the policy appears positioned to push those matters out of coverage). **Some of these items can potentially be covered via endorsement with the purchase of EPL coverage, such as the Wage & Hour, Employee Retirement Income Security Act of 1974, the Fair Labor Standards Act, the National Labor Relations Act, the Worker Adjustment and Retraining Notification Act, the Consolidated Omnibus Budget Reconciliation Act, the Occupational Safety and Health Act,**
- 1.** Regulatory claims limitation. The policy provides no coverage for Loss, other than Defense Expenses, from any Regulatory Claim. (Devil's advocate scenario: if a regulator comes after the District or Board, there may be some defense cost help up to the applicable sublimit, but not full

indemnity exposure, which could still leave the District substantially exposed). **A Regulatory E&O product exists in the marketplace which can provide higher limits for indemnity and defense.**

Title: Mohave County District 1 Hospital Board Executive Assistant**Position Summary:****Reporting to the Board Chair this position is responsible for:**

- Documenting Board Meetings; this includes distribution of agenda to appropriate public sites as required by Open Meeting Laws
- Maintaining Records: Ensuring accurate and up-to-date documentation of board actions and decisions
- Facilitating Communication: Liaison between board ensuring effective communication and information
- Meeting Logistics: Scheduling venue arrangements and ensuring all necessary materials are available, including media
- Compliance and Governance: Ensuring adherence to legal and regulatory requirements according to open meeting laws

Skills:

- Administrative -managing administrative tasks such as document preparation, meeting scheduling and record keeping for the board
- Communication – must convey information effectively through emails and telephone calls ensuring clarity and transparency
- Collaboration – must be able to build positive relationships with board members
- Proactivity – taking the initiative to address potential issues and looking for ways to improve processes without being asked
- Interpersonal – effective interpersonal skills like flexibility, active listening and openness to feedback to build and maintain positive relationships with Board

Education:

- High school diploma. Any college helpful
- Experience – proven track record for administrative experience
- Technology – proficient in office software (Microsoft office) and online meeting tools

This position is intended to be part time, but will work additional hours as necessary.

Mohave County District 1 Hospital Board Executive Assistant

As required, three (3) staffing agencies were contacted regarding their ability to process the pay of the Hospital Board Executive Assistant

Requirements of Staffing Agency

- Pay on monthly basis as hours are approved and submitted by Board Chair
- Responsible for Work Comp
- Responsible for tax withholding
- Responsible to year end W-2

Agency:

A – 38% of hourly wage (\$35/hr + 38% = \$48.30/hr. board cost)

B – 37% of hourly wage (\$35/hr + 37% = \$47.95/hr. board cost)

C – 26% of hours wage (\$35/hr + 26% = \$44.10/hr. board cost)

\$35.00/hr is the salary that was originally presented by Board Chair and reference materials backed this for a part time executive assistant for a board of directors.

Arizona Open Meeting Law Training

Jason Mitchell

Chief Civil Deputy County Attorney

Mohave County Attorney's Office



Disclaimers



This presentation is not a substitute for legal advice on the Open Meeting Law (OML).



This presentation does not purport to represent the official policy of the Mohave County Attorney's Office (MCAO).

Compliance with Open Meeting Law

- ▶ Open Meeting Law requirements are set forth in A.R.S. § 38-431 through A.R.S. § 38-431.09 (available at azleg.gov).
- ▶ “All legal action transacted by any public body during a meeting held in violation of any provision of [the Open Meeting Law] is null and void” (*unless ratified*). A.R.S. §38-431.05.
- ▶ Violations:
 - ▶ Individual Civil Penalties up to \$2500.
 - ▶ If intent to deprive the public of information, Court may remove public officer from office.

What Must a Public Body Do?

- ▶ Provide standing and meetings notice
- ▶ Have an agenda
- ▶ Meet in public
- ▶ Permit public to attend
 - ▶ Exception: authorized executive sessions
- ▶ Take all action in public
- ▶ Create/ prepare meeting minutes or a recording.

What is a Meeting?

“Meeting” is a gathering, in person or through technological devices of a quorum of a public body to:

Discuss...Propose...Deliberate...Take legal action

- Can be emails from members that is sent to a quorum of members
- Can be a dinner where a quorum of members is present
- **[No work around]** Beware of polling members; reporting what others said
- (remember) All your emails are Public Records

A *quorum* is a majority of the public body seats (unless specific statutory provision specifies a different number). A.R.S. §1-216(B)

What Can You Talk About?

- ▶ Only what is on the Agenda!
- ▶ Agendas must contain information *reasonably* necessary to inform the public of the matters to be discussed or decided. A.R.S. § 38-431.09.
- ▶ Agendas for public meetings shall list the specific matters to be discussed, considered or decided at the meeting. A.R.S. § 38-431.02(H).
- ▶ “The public body may discuss, consider or make decisions only on matters listed on the agenda and other matters related thereto.” A.R.S. § 38-431.02(H).
- ▶ All discussion must be *reasonably related* to an adequately-described agenda item.

* Minor Exceptions - Call to the Public

Public Participation

- ▶ All meetings of any public body shall be public meetings and all persons so desiring shall be permitted to attend and listen to the deliberations and proceedings. A.R.S. § 38-431.01(A).

- ▶ **Public's rights**
 - ▶ Attend meetings
 - ▶ Listen to deliberations
 - ▶ Cannot require sign-in, but people presenting to the public body must identify themselves for the minutes
 - ▶ No right to speak, unless public body allows (denial of speech cannot be based on content; must be time, place, manner restrictions only).

Call to the Public



Members of Public can address any issue within jurisdiction of the public body.



- **Public body's response is limited to:**

- 1) Directing staff to study the matter.
- 2) Asking that a matter be placed on a future agenda.
- 3) Responding to criticism.

A.R.S. § 38-431.01(I)

Most Common Open Meeting Law Violations

Discussing something not on the agenda

- At Generic Call to Public
- New Issues brought up at Public Hearing
- *Last Item usually labeled Member comments or concerns*

Improper Notice or No Notice

- Discussions in emails; polling members, etc.
- Voting in executive session, or taking legal action outside of a meeting

Resources

- ▶ Arizona Agency Handbook - Chapter 7
 - ▶ <https://www.azag.gov/sites/default/files/docs/agency-handbook/ch07-2013.pdf>

- ▶ Arizona Revised Statutes §§ 38-431 to 38-431.09
 - ▶ <https://www.azleg.gov/arsDetail/?title=38>