

COLORADO HEALTH BENEFIT EXCHANGE BOARD
August 11th, 2011
9:30 AM – 1:30 PM
Legislative Services Building
200 E. 14th Avenue (across from Capitol)
Denver, CO 80203
MINUTES

Agenda Item I: Call to Order, Roll Call, Minutes, and Welcome

Board consultants, Bill Heck and Ted Willey, called the meeting to order at 9:30 AM.

Board members present: Richard Betts, Beth Soberg, Mike Fallon, Robert Ruiz-Moss, Steve Erkenbrack, Nathan Wilkes, Gretchen Hammer, Arnold Salazar, Eric Grossman, Jim Riesberg, and Sue Birch.

Exchange planning director Joan Henneberry and planning operations manager Shawn Raintree were present.

Over 60 guests attended the board meeting, which was available telephonically.

Vote: Ted Willey asked for confirmation of acceptance of the July 25th, 2011 meeting minutes, and the Board accepted.

Agenda Item II: Report from Bylaws/Legal Counsel Committee

Steve ErkenBrack and Richard Betts led a discussion on the committee's recommendations, which can be found in the memorandum to the Board dated August 9th, 2011. Because the Board determined legal counsel to be necessary for legal analysis, to formulate bylaws, and to ensure its compliance with Open Meetings statutes, etc., the Bylaws/Legal Counsel Committee proposed hiring the Attorney General's Office (AG), and contacted the AG to determine its willingness, fees, and possible conflict of interest. Attorney General Suthers indicated the AG is willing to assist the Board, the rate set at \$80 an hour, and there is no conflict of interest due to Colorado's law suit challenging the constitutionality of the individual mandate. The professional relationship between the Board and the AG would be on an "at will" basis, and thus the Board could decide to terminate its employment of the AG at any time. Several Board Members were not convinced there was no such conflict of interest. Robert Ruiz-Moss proposed the Board employ independent private counsel coincident to AG employment to ensure the Board's best interests are at the forefront. Nathan Wilkes proposed the Board seek a registered parliamentarian for the formulation of bylaws. Gretchen Hammer proposed the Board ask the AG if they have specific expertise gained by working with organizations similar to the Board.

Public Comment: Ann McGeyann explained that her office often hired outside counsel in order to avoid the public perception of a conflict of interest. She indicated public perception should dominate discussion of whom the Board hires for counsel.

Vote: The Board voted unanimously to accept the memorandum with the following amendments: the Board will ask the AG if they have specific expertise gained by working with similar organizations, the attorneys to be employed will attend the next Board Meeting and attempt to mitigate concerns of a conflict of interest, and the Board will seek independent general council within 60 days and may hire a parliamentarian, if available, to formulate bylaws.

Agenda Item III: Selection of Board Chair

Included in the Bylaws/Legal Counsel Committee's memorandum were details of the role of an interim Board Chair. This person would fulfill the roles of a permanent Chair until formulated bylaws command the election of a permanent Chair. The interim Chair will appoint a committee within 60 days to lead the creation of bylaws with the AG and/or a parliamentarian. Arnold Salazar proposed that the interim Chair be restricted from running for permanent Chair. Gretchen Hammer, Nathan Wilkes, and Robert Luiz-Moss had previously indicated their intent to run for Chair; Nathan Wilkes bowed out before the vote. Steve ErkenBrack reminded the Board that this vote had to be public due to Open Meetings Laws and could not be conducted via secret ballot. Nathan Wilkes proposes that, in the absence of bylaws, the Board adopts Robert's Rules of Order.

Public Comment: Katie Jacobsen from the Colorado Consumer Health Initiative (CCHI) announced CCHI's endorsement of Gretchen Hammer for Board Chair.

Vote: Arnold Salazar's amendment to restrict the interim Chair from becoming permanent Chair failed. In a 7-2 vote, the Board elected Gretchen Hammer to be interim Board Chair. Gretchen Hammer, Richard Betts, Beth Soberg, Steve Erkenbrack, Nathan Wilkes, Arnold Salazar, and Eric Grossman voted for Gretchen Hammer. Robert Luiz-Moss and Mike Fallon voted for Robert Luiz-Moss. Robert's Rules of Order were adopted.

Agenda Item IV: Board's Notice of Proposed Rulemaking (NPRM) Response

The NPRM was released by the Center for Medicare and Medicaid Services on July 11th, 2011, and Joan Henneberry has produced a memo with some of her own highlights and areas to which she thinks the Board may like to respond. Her document will be available at the Exchange's portal on the Colorado Health Institute's website. Henneberry encouraged the Board to read the NPRM and mark any areas to which the Board may choose to respond, and she reminded the Board that any comments would need to be submitted by September 30th, 2011 for consideration.

Vote: N/A

Agenda Item VI: Preparation for Next Meeting

The next meeting's agenda will include the following topics:

- Discuss comments on NPRM

- Hear attorneys from the AG
- Assemble committee to tackle bylaws

The next meeting will be held on August 22nd, 2011 from 9:30 a.m. to 1:30 p.m. at **COPIC, 7351 E. Lowry Blvd, Denver, CO, 80230**. Board and work group materials can be found at <http://www.coloradohealthinstitute.org/cohiex/board>.

Vote: N/A