

**Colorado Health Benefit Exchange**  
***Board Meeting Minutes***

Mile High Room  
COPIC  
**7351 E. Lowry Blvd.**  
**Denver, CO 80230**

**June 11, 2012**  
**8:30 AM – 10:25 AM**

Board members present: Jim Riesberg, Nathan Wilkes, Steve ErkenBrack, Gretchen Hammer, Richard Betts, Eric Grossman, Mike Fallon, Beth Soberg, Sue Birch, By Phone: Arnold Salazar

Staff present: Patty Fontneau, Amy Berenbaum, Jessica Dunbar, John Barela, Myung Kim, Matt Benson

Approximately forty people attended the meeting in person and additional people joined by phone.

**I. Board Agenda**

There were no additions or edits made to the May 30<sup>th</sup> Board meeting [minutes](#).

**Vote:** The minutes from the May 30<sup>th</sup> Board meeting were unanimously approved by the Board with eight voting members present.

There were no additions made to the agenda. No Board members reported conflicts of interest.

**II. Board Development and Operations**

1. Board Chair report

Gretchen Hammer reported that the Supreme Court will be announcing its ruling on the Patient Protection and Affordable Care Act sometime later this month. All media inquiries should be directed to Patty Fontneau or Myung Kim.

During COHBE's next Board meeting on June 25<sup>th</sup>, the topic of Board officer positions will be discussed. Nominations can be made that day.

**III. Exchange Development and Operations**

1. Report from CEO/ED

Patty Fontneau gave an update on Essential Health Benefits. The Division of Insurance conducted a data call to collect information from carriers in Colorado. This data is being used to identify the ten plans from which we can select a benchmark plan. The data was received by the end of May. Last Friday, DOI had a meeting with the Federal government in order to reconcile the data collected by DOI with data from Federal sources. We have worked with an outside organization to put together a chart of those plans and benefits. We will be scheduling a webinar

in the next few weeks to discuss EHBs and benchmark options. There will also be public meetings regarding EHBs.

A number of Board Committee meetings are scheduled. The Rules and Regulations Review Committee will meet on June 19<sup>th</sup>. The IT and Implementation Committee will meet on June 13<sup>th</sup>. The Advisory Groups each had their first meetings and they have identified regular schedules going forward.

The contract with CGI was finalized and signed last week. COHBE and CGI staff have already begun working together to develop a project plan.

## 2. Finance Committee Report

### *a. Protection against Fraud, Waste and Abuse*

Richard Betts provided an overview of the [Fraud, Waste and Abuse Policy](#), within which five specific areas of risk have been identified: Internal Financial Processes (under the ownership of the Finance Committee), IT Vendor Contract Monitoring (under the ownership of the IT and Implementation Committee), Health Plan Compliance (under the ownership of the Finance Committee), Subscriber Data Integrity (under the ownership of the Finance Committee), and Privacy and Security (under the ownership of the IT and Implementation Committee and Personnel Committee).

Gretchen Hammer asked if another policy would be developed after Federal dollars are no longer applied to COHBE operations, since the definitions in this policy only reference Federal funds. Richard Betts said that the Finance Committee tried to put policies in place that will fulfill both short-term and long-term needs. Patty Fontneau explained that the best practices are the same whether or not COHBE has Federal funds; COHBE will want to continue the highest level of diligence. The Board recommended broadening the language to include other funding.

Beth Soberg noted that the IT and Implementation Committee will look at policies and processes and bring them back to the Board. Patty Fontneau reiterated that all issues referred to Board Committees will still come back to the whole Board for a decision.

Sue Birch asked whether there was discussion about the potential impact of touch points between COHBE and HCPF (MAGI, cost allocations, OSA audits, etc.). Patty Fontneau said that COHBE would include state partnership relationships as one of the detailed examples, but it would not change the Fraud, Waste and Abuse approach.

Jim Riesberg asked for clarification regarding whether COHBE has the option to ask the Federal government to determine eligibility. Patty Fontneau said that, yes, if COHBE decided that the Federal government should handle eligibility determinations, the Finance Committee would revisit the issue of Subscriber Data Integrity.

A motion was made to approve the Fraud, Waste and Abuse policy with two amendments: (1) the issue of touch points between state partners will be added under IT Vendor Contract Monitoring, and (2) the definitions section will be changed to include other funding.

**Public comment:** None

**Vote:** The Board unanimously approved the Fraud, Waste and Abuse policy with the two amendments discussed above with eight voting members present.

*b. Billing Processes*

Patty Fontneau presented the COHBE staff's [recommendation](#) that there is no separate policy for billing processes, but rather that any billing process follows the premium aggregation policy. If, during the development of the billing process model, any policy issues arise, they would be brought back to the Finance Committee to review and make recommendations to the Board. Gretchen Hammer agreed that this was one of those topics for which there really was not a separate policy decision. The board discussed the need for a vote and agreed that there was no vote required.

**Public comment:** None

**Vote:** No vote was required.

*c. Consultant Procurement Policy*

Patty Fontneau explained that the Procurement Policy COHBE already adopted references a separate [Consultant Procurement Policy](#), which she presented. This policy was developed and reviewed by the Finance Committee. The Consultant Procurement Policy does not change anything about the original Procurement Policy; it is better characterized as an extension of that policy.

Eric Grossman suggested that procurement from Colorado-based businesses also be encouraged (along with small, minority, and women-owned businesses). The Board agreed that procurement from Colorado-based businesses should be encouraged, though not required, since best in class is still the goal.

Jim Riesberg suggested that sexual orientation be added to the list of characteristics on the basis of which COHBE will not discriminate. The Board agreed that it should be included.

Eric Grossman suggested that COBE obtain guidance on whether the phrase “without conflict of interest between the parties” should be changed to not create unintended issues. The phrase “without direct or material conflict of interest” was suggested.

A motion was made to approve the Consultant Procurement Policy with two amendments and one point of clarification: (1) procurement from Colorado-based businesses will be encouraged, (2) COHBE will not discriminate against any person offering professional services because of sexual orientation, and (3) COHBE will clarify the wording of the conflict of interest phrase.

**Public comment:** None

**Vote:** The Board unanimously approved the Consultant Procurement Policy with the amendments and clarification discussed above with eight voting members present.

3. Policy Issues

*a. Certification of Exemption from the Individual Mandate*

Patty Fontneau presented the staff's [recommendation](#) that Colorado use the federal service as the default system for certifying exemptions from the individual mandate in the Exchange's initial years of operation. She recommended that, as volume, cost and complexity are identified, the Board revisit the decision. Patty also acknowledged that this decision may need to be revisited after the Supreme Court rules on the Patient Protection and Affordable Care Act. Patty Fontneau then provided an overview of staff's [response](#) to questions raised by the Board when the topic was introduced (including a [table](#)) and emphasized that the process of certifying exemption from the individual mandate will likely be highly manually intensive.

Steve ErkenBrack expressed his strong support for the staff's recommendation.

Nathan Wilkes commented that his only concern was that we don't yet know the cost of using the federal service.

Mike Fallon asked what definition of Native American would be used. Myung Kim responded that COHBE is hoping to get guidance from the tribes, with whom COHBE is working, and anticipates that there will be flexibility in the definition that will be used.

Eric Grossman asked if the estimated number of individuals potentially exempt from the individual mandate has been factored into COHBE's business model and financial projections. Gretchen Hammer questioned the relevance of that estimated number of individuals. Eric Grossman agreed that his question does not really impact this recommendation.

Nathan Wilkes suggested that the language of the recommendation be altered to say that COHBE "will" instead of "can" revisit the decision with the Board. Steve ErkenBrack motioned to approve the staff's recommendation with the language revision suggested by Nathan Wilkes and Nathan seconded the motion.

**Public comment:** None

**Vote:** The Board unanimously approved the Certification of Exemption from the Individual Mandate recommendation with the language revision discussed above with eight voting members present.

#### 4. Policy Issues to be Introduced

##### *a. Certification, Recertification and Decertification of Health Issuers and Qualified Health Plans*

John Barela gave a [presentation](#) outlining the [policy question](#) around certification, recertification and decertification of health issuers and qualified health plans. This policy issue will be tackled in multiple stages. June 25<sup>th</sup> is the proposed decision date for the first part of the decision, which will be related to the processes already covered by State, Federal, or UX guidance. These processes will be referred to the Rules and Regulations Review Committee before the next Board meeting.

In addition to a large portion of the requirements regarding certification already being dictated by State, Federal, or UX guidance, SB 11-200 instructs COHBE not to duplicate processes already performed by state agencies. This means that certification will involve many existing processes and only some completely new processes.

Beth Soberg asked if COHBE has considered establishing a period of time for which a plan cannot participate in the Exchange if it initially chooses not to participate. Similarly, she asked if it would make sense for the Exchange to require a multi-year commitment from plans that do choose to participate. She also touched on the issues of quality standards and marketing standards. Patty Fontneau responded that quality standards are already listed, and that Exchange participation requirements should be added to the list of completely new processes to be addressed.

Jim Riesberg mentioned that, currently, a plan can be licensed to sell insurance without being a QHP. However, the ACA requires that plans be QHPs. QHP certification also requires significant ongoing costs for plans.

Beth Soberg raised the issue of the population that frequently moves between private insurance and Medicaid. Patty Fontneau acknowledged that it is a significant topic that needs to be addressed, but it is not particularly a certification issue.

Steve ErkenBrack suggested COHBE reach out to the Colorado Medical Society and the Colorado Hospital Association to talk about what information would be good for consumers to have.

Jim Riesberg provided a reminder that DOI's activities are limited by statute and regulation. DOI cannot step into other areas without statutory changes. The COHBE Board needs to consider if statutory changes will be needed.

Eric Grossman recommended that COHBE look into: (1) the intent of the section of SB 11-200 that states "The Exchange shall foster a competitive marketplace for insurance and shall not solicit bids or engage in the active purchasing of insurance," (2) what other states are doing about certification, (3) DOI statutes, and (4) potential Exchange participation inputs.

In summary, the list of issues covered by Federal, State, and UX guidance around certification will be referred to the Rules and Regulations Review Committee. In Steve ErkenBrack's absence, Gretchen Hammer will chair that meeting on June 19<sup>th</sup>. Completely new processes will first go to Advisory Groups for discussion. The first set of decisions will be targeted for vote at the COHBE Board meeting on June 25<sup>th</sup>.

**Public comment:** None

*a. Employer and Employee Choice Architecture*

The essential questions for the [Employer and Employee Choice Architecture Policy](#) are: (1) What is the appropriate balance between employer/employee choice and financial viability of plan offerings on the SHOP Exchange? (2) Should the Exchange specify minimum participation and contribution rates? Included in this topic are the questions of how many plans an employer can offer to its employees, whether an employer can offer its employees plans across multiple carriers, etc.

This topic was referred to the Health Plan Advisory Group and the SHOP Advisory Group. The SHOP Advisory Group asked to move the issue up on their agenda so they could discuss it before discussing other related issues. The proposed decision date is July 9<sup>th</sup>.

*b. Management of Eligibility Appeals*

The essential question for the [Management of Eligibility Appeals Policy](#) is: What are the appropriate processes to use to manage eligibility appeals for items such as individual mandate exemptions, advanced premium tax credit and cost reduction allocations and other eligibility processes? This topic was referred to the IT and Implementation Committee. The proposed decision date is July 9<sup>th</sup>.

*c. Administering Premium Tax Credits and Cost Sharing Assistance*

The essential question for the [Administering Premium Tax Credits and Cost Sharing Assistance Policy](#) is: How will premium tax credits and sharing assistance be administered? This policy topic has already been introduced at the Health Plan Advisory Group. However, it does not seem like there is really a policy or process decision to be made because there is already a clear articulation of how this has to be handled. The proposed decision date is June 25<sup>th</sup>.

*d. Standard Comparative Plan Information*

The essential question for the [Standard Comparative Plan Information Policy](#) is: What is the appropriate information to be displayed to consumers when they are shopping for and comparing qualified health plans? This topic was referred to the SHOP Advisory Group and the Individual Experience Advisory Group. The proposed decision date is June 25<sup>th</sup>.

*e. Single Streamlined Application (Uniform Enrollment Application)*

The essential question for the [Single Streamlined Application Policy](#) is: Is there an advantage to Colorado to create a custom enrolment form, or should COHBE use a standard streamlined enrollment form that will support multi-state interoperability and partnership? The standard form has not yet been released. The NAIC and other groups have been looking into this. Eric Grossman commented that he thinks we're taking the right approach to this question; if the form is not easy to use, people will not use it. This topic was referred to the SHOP Advisory Group and the Individual Experience Advisory Group. The final decision date will be deferred until the proposed application is released.

*f. Navigator Role and Compensation*

The essential questions for the [Navigator Role and Compensation Policy](#) are: (1) How will COHBE partner with navigators? (2) What criteria will be used to identify navigators? (3) Will navigators be compensated and if so, how? This topic was referred to the Individual Experience Advisory Group. SHOP Advisory Group members decided to participate in the discussion about navigators at the Individual Experience Advisory Group meetings instead of adding the topic to their busy agenda. The proposed decision date is July 23<sup>th</sup>.

*g. Broker Relationship and Compensation*

The essential questions for the [Broker Relationship and Compensation Policy](#) are: (1) How will COHBE partner with brokers? (2) Will brokers be appointed and certified? Will brokers need to be appointed with all of the carriers on the Exchange? Should the Exchange try to develop a process to simplify becoming appointed with all carriers to become eligible to sell on the Exchange? (3) Will brokers be compensated and if so, how? Should all plans offer the same

commission in the Exchange? This topic was referred to the SHOP Advisory Group and the Individual Experience Advisory Group. The proposed decision date is July 23<sup>th</sup>.

The Board will not have further discussion about these topics until they work their way through the Advisory Groups and Board Committees.

Eric Grossman mentioned that data analytics will be important to improve the customer experience. Nathan Wilkes commented that data analytics was a big part of the vendor selection process. Gretchen Hammer added that Jeff Bontrager and the Data Advisory Work Group put together quality metrics and a mock dashboard. Patty Fontneau added that COHBE's policy and process list includes Quality Assurance & Improvement and Customer Satisfaction & Engagement, which are both related to data analytics, but as we move forward it will be more clearly defined.

**Public comment:** Adela Flores-Brennan, with the Colorado Center on Law and Policy, commented that she has spoken with Jessica Dunbar about eligibility appeals. There is still no federal regulatory framework for eligibility appeals or client due process requirements. COHBE's due process obligations to clients are important to address (timely and adequate notice, fair and impartial hearings, etc.). The appeals and grievance processes will help COHBE improve its other processes. This issue is larger than just COHBE, though. It may need to be considered by a multi-jurisdictional group and we should build on existing infrastructure. Patty Fontneau clarified that COHBE continuously works closely with all its partners and the Advisory Groups include staff from DOI and HCPF as standing members.

**Meeting adjourned:** 10:25am