

# CALIFORNIA HEALTH BENEFIT EXCHANGE BOARD

April 20, 2011

Franchise Tax Board  
Gerald Goldberg Auditorium  
9646 Butterfield Way  
Sacramento, CA 95827

## MINUTES

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

Joe Munso, retired annuitant at the California Health and Human Services Agency (CHHSA), called the meeting to order.

Board Members Present:

- Kimberly Belshé
- Diana Dooley
- Paul Fearer
- Susan Kennedy

Mr. Munso asked the Board members to introduce themselves and make brief welcoming remarks.

Kimberly Belshé thanked Diana Dooley and the Administration for the work that was done in advance of the Board meeting. Ms. Belshé stated Exchanges represent important new purchasing options for California consumers. She stated that she is excited about expanding coverage; improving affordability; and focusing on price, quality, and competition. Ms. Belshé acknowledged the fiscal challenges at the state and federal level. Ms. Belshé closed her remarks by noting that the success of reform is a function of policy decisions that the Exchange Board will make.

Diana Dooley, Secretary, California Health and Human Services Agency (CHHSA), thanked David Maxwell-Jolly, Katie Marcellus, Alex Kemper-McCall, and Joe Munso of CHHSA for their assistance in preparing for the Board meeting. Secretary Dooley noted it will take considerable effort on everyone's part to make the Exchange work, stating there are many pieces to the Exchange. Secretary Dooley stated this reform gives California an opportunity to use the pieces we already have to make our health care delivery better for everyone. She noted that coverage expansion is important, but the delivery of health care and preventing the need for illness treatment are as, if not more, important. The pieces of this program that focus on health care prevention and delivery are integral. Secretary Dooley stated there is a great deal of foundational work to do, noting that we have a strong foundation in the statute, and commitment by the Obama Administration to California's success in implementing health care reform. Secretary Dooley stated that the work ahead will require investment, dedication, sacrifice,

commitment. She closed her remarks by stating that our state budget situation is foundational; our first task is to resolve our state budget situation.

Paul Fearer shared his professional background, stating that he is the Senior Executive Vice President and Director of Human Resources at Union Bank, the chair of Pacific Business Group on Health, and was the chair of Pacific Health Advantage (PacAdvantage), a health insurance purchasing pool for small businesses. Mr. Fearer stated he is dedicated to improving the quality of the health care delivery system for all Californians. Mr. Fearer closed his remarks by stating he is passionate about accessibility, affordability, and quality in the health care system and is approaching this opportunity with excitement and trepidation.

Susan Kennedy shared that the issue of quality health care - making it more affordable, accessible, and reliable - is at forefront of health care policy, and is one of the most important issues our country faces. Ms. Kennedy stated that we have an opportunity in one of the first times in history to make a difference. She stated she is committed to making health care reform work in California. Ms. Kennedy closed her remarks by stating that she believes that if California succeeds in our efforts, we will lead the nation; if we fail, we will bring down the other states.

Joe Munso reminded the Board Member to let him know if any agenda item presents a conflict of interest issue.

**Public Comment:** None.

Ms. Belshé clarified the Board's intent of taking public comment after each agenda item.

## **Agenda Item II: Election of Interim Chair**

Mr. Munso stated that California statute requires the Board to elect a chair, or propose an interim chair until the appointment of the fifth Board Member.

**Motion/Action:** Ms. Belshé moved to elect Ms. Dooley the interim Chair of the Board. Ms. Kennedy seconded the motion.

**Discussion:** Ms. Kennedy said that having Ms. Dooley as chair would help ensure the Board has full support of the Administration, and believes this is important.

**Public Comment:** None.

**Vote:** Roll was called, and the motion was approved by a unanimous vote.

Chairwoman Dooley thanked the staff for their assistance, and thanked three additional members of the audience, Scott Bain, Jennifer Kent, Sumi Sousa for their work.

### **Agenda Item III: Conduct of Meetings**

Gabriel Ravel, Staff Counsel, Managed Risk Medical Insurance Board, presented to the Board a discussion of Robert's Rules of Order, which regulate conduct of meetings, including the process for introducing, discussing, and passing motions. Mr. Ravel noted that Robert's Rules of Order apply only until the by-laws are established, at which point, the by-laws are in effect.

Presentation: [Overview of Robert's Rules of Order](#)

Mr. Ravel presented to the Board a presentation related to the Bagley-Keene Open Meeting Act of 2004, which requires the Board to provide notice of its meetings, allow public participation at meetings, and hold meetings in open session except in limited circumstances.

Presentation: [Overview of the Bagley-Keene Open Meeting Act](#)

**Discussion:** Ms. Kennedy asked if the meetings would be webcast. Mr. Munso stated the facility did not allow for webcast, but that the goal will be to webcast in the future.

**Public Comment:** None.

### **Agenda Item IV: Review of the duties/responsibilities of the California Health Benefit Exchange**

Katie Marcellus presented to the Board a summary of the duties of the Exchange, including federal requirements as well as state requirements as defined by Assembly Bill 1602 (Perez, Chapter 655, Statutes of 2010) and Senate Bill 900 (Alquist, Chapter 659, Statutes of 2010), state legislation that created the California Health Benefit Exchange.

Presentation: [Exchange Provisions in the Affordable Care Act](#)

**Discussion:** None.

**Public Comment:** Beth Capell, Lobbyist and Policy Advocate, Health Access California, commended the remarks of the Board members and thanked staff for their work. Ms. Capell commented on Slide # 12 of the presentation regarding the Exchange Board responsibilities and duties to serve the public interest of those seeking coverage through the Exchange. She encouraged Board members to think of good customer service as fundamental to the success of the Exchange. Ms. Capell noted she is hopeful the Board will do all they can to maximize enrollment, manage adverse selection, and be mindful of external stakeholders with regards to small group insurance and individual insurance.

### **Agenda Item V: Federal Grants – Existing planning grant and new federal grants to support the establishment of state operated exchanges**

Ms. Marcellus, and Alex Kemper-McCall, Policy Analyst, California Health and Human Services Agency, presented an overview of the \$1 million Exchange planning grant CHHS applied for and received on behalf of the Exchange and of the Exchange establishment grants, including required milestones and a timeline. CHHS staff recommended that the Exchange apply for a Level II establishment grant and submit the application on September 30, 2011. Staff

also recommended that the Board establish a two-member subcommittee to provide policy direction in the development of the grant application.

Presentation: [Overview of Exchange Planning Grants and Exchange Establishment Grants](#)

**Discussion:** Mr. Fearer asked Ms. Marcellus to clarify her statement that the federal Department of Health and Human Services (DHHS) will not increase the budget if incorrect estimates were used in the application, asking if this was the state's interpretation, or definitive. Ms. Marcellus clarified that is the staff's interpretation that DHHS will not increase the budget if the incorrect estimates are used in the application. Ms. Belshé stated that in the context of the Planning Grant, there was language that would allow for state and federal partners to reconsider, and that this is a matter of asking our federal partners for clarification.

Ms. Belshé asked staff if there are any outstanding deliverables that the Board should be aware of regarding the planning grant. CHHSA staff responded that they plan to present to the Board proposed changes to the workplan and budget at the next meeting.

Chairwoman Dooley shared that in the last months of 2010, then Secretary Belshé used Agency resources to set the stage for the Exchange planning, and that Chairwoman Dooley has continued to use Agency resources to necessitate planning, to allow for the preserving of resources of the grant for future use.

Ms. Belshé asked Ms. Marcellus to advise on what the implication would be of missing a September 30 deadline. Ms. Marcellus stated that the Board can apply for the grant as late as June 2012. Ms. Belshé asked Ms. Marcellus to confirm that there is flexibility in the grant submission date. Ms. Marcellus confirmed yes.

**Motion/Action:** Ms. Kennedy moved to apply for a Level II establishment grant on September 30, 2011. Mr. Fearer seconded the motion.

**Public Comment:** Ms. Capell encouraged staff to explore with the federal government the details of revisiting the budget. She said it may not be correct that federal HHS would not increase the budget if there were mistakes. Ms. Capell also emphasized that it was important to have available to the public the key milestones of core areas for policy decisions.

Elizabeth Landsberg, Legislative Advocate, Western Center on Law and Poverty, requested that the Board reconsider their motion to apply for a Level II establishment grant. She wanted the Board to explore a Level I establishment grant for portions that need funding and can be worked on immediately, including stakeholder consultation and eligibility and enrollment. She noted the state is going to have a fundamental restructuring of eligibility determinations that would require new collaboration between the Department of Health Care Services, the California Health and Human Services Agency, the California Health Benefit Exchange Board, and the Managed Risk Medical Insurance Board. Ms. Landsberg urged the Board to reconsider their timeline.

Ms. Kennedy responded to Ms. Landsberg's concerns by asking the Board if it was fair to assume that regardless of whatever level grant the Board applied for, that the Board would proceed with stakeholder consultation. Chairwoman Dooley and Ms. Belshé each confirmed that the Board would pursue stakeholder consultation.

Mr. Fearer stated he is making an assumption that there is a contingency if the Board needs to reconsider the level of the grant for which they apply, that the opportunity still exists. Chairwoman Dooley stated that she is assuming this is true; that until an application is submitted, the decision of what level establishment grant the Board applies is still within the Board's jurisdiction. Mr. Munso confirmed that the Board would have the ability to adjust the level of the planning grant, and that the Board's decision to apply for the Level II Planning Grant by September 30, 2011, gives staff target dates, so they may begin work.

Ms. Belshé said she assumed that the work Ms. Marcellus discussed in her presentation was either completed or being done and would show how to reach a Level II establishment grant application by September 30, 2011. Ms. Belshé recognized that there will be more information moving forward to solidify her decision but that she feels comfortable applying for a Level II establishment grant by September 30, 2011.

Ms. Belshé asked Ms. Marcellus to advise on what the implication would be of missing a September 30 deadline. Ms. Marcellus stated that the Board can apply for the grant as late as June 2012.

Chairwoman Dooley said that while the Level II application was ambitious, she did not want to duplicate work by submitting a Level I application by June and a subsequent Level II application. She said that the Exchange's federal colleagues are eager for a Level II application from California.

**Vote:** Roll was called, and the motion was approved by a unanimous vote.

The Board then considered the establishment a subcommittee of two Board members to assist in grant development.

**Motion/Action:** Ms. Belshé moved to create a two-member subcommittee to direct grant development. Ms. Kennedy seconded the motion.

**Discussion:** None.

**Public Comment:** Ms. Capell noted that the subcommittee is not subject to open meeting laws and requested that there be a process for stakeholder consultation in the grant application process.

**Vote:** Roll was called, and the motion was approved by a unanimous vote.

Chairwoman Dooley asked if any Board members would volunteer to serve on the subcommittee. Ms. Belshé volunteered. There were no other volunteers.

**Motion/Action:** Based on Board discussion, Ms. Kennedy moved to create a subcommittee of up to two members, initially with one member, Board Member Belshé, to work with staff to develop a Level II establishment grant application to be submitted by September 30, 2011. Ms. Belshé seconded the motion.

**Discussion:** Having only one volunteer, the Board discussed appointing a second member of the subcommittee to serve with Ms. Belshé. Mr. Fearer asked if the Board could be specific in the resolution that this is an initial appointment. Ms. Belshé stated she feels very strongly that two Board members serve on this subcommittee because the grant application is a critical undertaking. She stated that this discussion underscores the importance of having a fifth Board member. Ms. Kennedy stated that it is optimal, but not critical, that the subcommittee have two Board members; it is more critical to identify staff. Ms. Kennedy suggested the Board proceed with the volunteer they have, appoint staff for the Exchange, and focus on the product.

**Public Comment:** None.

**Vote:** Roll was called, and the motion was approved by a unanimous vote.

The Board recessed for Closed Session at 11:45 a.m.

#### **Agenda Item #VI- Call to Order**

The Board reconvened at 1:11 p.m. with Ms. Belshé, Mr. Fearer, Ms. Kennedy, and Chairwoman Dooley present.

#### **Agenda Item VII: Adoption of Statement of Interim Administrative Duties and appointment of Acting Administrative Officer or designated administrative entity**

Chairwoman Dooley announced that the Board had taken an action in the Closed Session to offer the appointment of an Acting Administrative Officer to Pat Powers. Chairwoman Dooley stated that the Board is very pleased she is available to guide the Board through the period they have ahead.

**Action/Motion:** Ms. Belshé moved to extend a contract to Pat Powers for a period not to exceed four months and for no more than \$100,000 dollars. Ms. Kennedy seconded the motion.

**Discussion:** None.

**Vote:** Roll was called, and the motion was approved by a unanimous vote.

**Public Comment:** Ms. Capell noted that the Statement of Interim Administrative Duties did not include any specific reference to stakeholder engagement. Ms. Belshé agreed that the statement of interim duties should be amended to explicitly include stakeholder engagement.

**Action/Motion:** Ms. Belshé moved to include in the Statement of Interim Administrative Duties the requirement that the Acting Administrative Officer collaborate with stakeholders. Ms. Kennedy seconded the motion.

**Vote:** Roll was called, and the motion was approved by a unanimous vote.

Presentation: [Statement of Interim Administrative Duties](#)

**Agenda Item VIII: Approval of Interim Resolution to delegate specific administrative authorities to Acting Administrative Officer or Administrative Entity**

Mr. Munso presented an interim resolution to delegate specific administrative authorities to the Acting Administrative Officer. Mr. Munso noted that absent delegated authority, the Board would be required to approve many minor administrative actions in Board meetings, possibly delaying actions. Mr. Munso explained that the resolution would give the Acting Administrative Officer administrative authority to execute legal documents, procure equipment, enter into contracts not to exceed \$150,000 (contracts greater than \$150,000 would be subject to Board approval), assume management of federal grants, hire no more than five civil service staff, and contract for staff on an interim basis.

Presentation: [Draft California Health Benefit Exchange Resolution No. 2011-01 – Delegating Authorities to an Administrative Agent](#)

**Motion/Action:** Ms. Kennedy moved to approve the Interim Resolution. Mr. Fearer seconded the motion.

**Discussion:** None.

**Public Comment:** None.

**Vote:** Roll was called, and the motion was approved by a unanimous vote.

**Agenda Item IX: Creation of Search/Recruitment Committee to make final recommendations to the full Board on final duty statements, salary ranges and recruitment approaches/processes for the Executive Officer, Chief Counsel and other key positions**

Mr. Munso stated the Board is required to recruit and appoint an Executive Director. Staff is proposing the creation of a Search/Recruitment subcommittee to bring reports back to Board. Staff has options that they would like to talk to the board about regarding how you to recruit for an Executive Director. Mr. Munso stated that staff recommendation would be to create a subcommittee that can work with staff.

**Motion/Action:** Ms. Belshé moved to create a two-member Search/Recruitment Subcommittee. Mr. Kennedy seconded the motion.

**Discussion:** None.

**Public Comment:** Ms. Capell noted that the duty statement for the executive director located in the California Exchange Planning Grant application did not have specific language about stakeholders. Chairwoman Dooley acknowledged Ms. Capell and said that the Board would include the language in the Executive Director's final duty statement.

**Vote:** Roll was called, and the motion was approved by a unanimous vote.

Chairwoman Dooley asked if any Board members would volunteer to serve on the subcommittee. Mr. Fearer volunteered to be a part of the Search/Recruitment Subcommittee.

**Motion/Action:** Ms. Kennedy moved to appoint Mr. Fearer and Chairwoman Dooley to the Search/Recruitment Subcommittee. Ms. Belshé seconded the motion.

**Discussion:** None.

**Public Comment:** None.

**Vote:** Roll was called, and the motion was approved by a unanimous vote.

### **Agenda Item X: Review of possible topics for upcoming meetings**

Ms. Marcellus presented the Board a proposal for possible discussion topics and action items in the next six months to develop the Establishment grant. Ms. Marcellus stated that staff will work with Ms. Powers and grant writers to refine the list of topics and action items proposed for Board consideration. Ms. Marcellus clarified that the California HealthCare Foundation is supporting grant planning and development, and the Blue Shield of California Foundation is supporting analysis of information technology systems options.

Presentation: [California Health Benefit Exchange Establishment Grant Discussion Calendar](#)

**Discussion:** Ms. Kennedy asked if the intent was for the Board to adopt the proposed topics for the upcoming meetings, or if these topics serve as recommended discussion topics. Chairwoman Dooley clarified that these are recommended discussion items to how the Board would facilitate the grant application process.

Ms. Belshé stated the proposal gives the Board an idea of the issues and complexity of decisions that need to be made. Ms. Belshé noted that failure is not an option. Ms. Belshé expressed her interest in bringing clarity to decision points that the Board will need to make in order to submit the establishment grant application in September, and to



ensure that we are meeting those deadlines with regards to stakeholder engagement. Ms. Belshé noted the Board may need to revisit their calendar to make sure they have sufficient time.

Mr. Fearer asked Ms. Marcellus if there is any expectation that the Board would consult with outside subject matter experts regarding some of the topics that are more technical in nature. Ms. Marcellus stated that this is the expectation, and that a lot of great work has been done with support of foundations.

Chairwoman Dooley stated that CHHSA has been in close communication with federal colleagues and at the beginning of the year, and there was a meeting of Innovator states. Chairwoman Dooley stated that the federal government has made clear that they want California to work closely with the Innovator states and that in return, the Innovator states will share their information with California. Chairwoman Dooley noted there will be great communication and opportunity to guide our work.

**Public Comment:** Ms. Landsberg noted that business operations are the key to developing information technology systems for the Exchange. She noted that the discussion of program integration would give a larger perspective on the business requirements relative to eligibility and enrollment.

Ms. Capell noted that stakeholder consultation was not specifically called out in all topic areas, and stated that she took it in good faith that stakeholder consultation will be included throughout the process.

#### **Agenda Item XI: Suggested agenda for the next meeting in May**

Ms. Marcellus presented a draft agenda for the May 11 Exchange Board meeting. Ms. Marcellus stated that the May 11 meeting agenda was subject to change and would not be final until posted on the Exchange website 10 days prior to the meeting.

Presentation: [Suggested Agenda for May 11 California Health Benefit Exchange Board Meeting](#)

**Discussion:** Ms. Belshe stated that to the extent that she and colleagues identify near term issues that should be addressed, the Board will look to staff to include the issues in the agenda. Ms. Belshe stated she believes the Board needs an application work plan, calendar of discussion points, and identification of where the Board is today versus where they will need to be in September.

Chairwoman Dooley said that the process of having a draft agenda and calendar is to invite participation both formally and informally. She said that stakeholders and the public should feel free to contact the Exchange and reconfirmed that the agenda is published ten days before the Board meeting.

**Public Comment:** None.

#### **Agenda Item XII: Suggested meeting calendar for remainder of calendar year**

Mr. Munso presented the suggested meeting calendar for the remainder of the calendar year and recommended that the Board adopt the calendar while recognizing that more meetings may be necessary.

Presentation: [Suggested California Health Benefit Exchange Board Meeting Calendar for 2011](#)

**Motion/Action:** Ms. Belshé moved to adopt the calendar presented by staff for the remainder of the calendar year. Ms. Kennedy seconded the motion.

**Discussion:** Mr. Fearer asked if the dates presented by staff had been changed, as there was one date he was not aware of, October 21. Mr. Fearer stated that he does not know if the Board can expect 100 percent participation at every meeting.

Chairwoman Dooley thanked Mr. Fearer for his comments, noting that the Board may have to revisit the meeting calendar once a fifth member is appointed to the Board. Chairwoman Dooley apologized to Mr. Fearer for the scheduling oversight, noting there was an effort by staff to work around everyone's schedule. Chairwoman Dooley stated that staff will work to resolve this issue.

**Public Comment:** None.

**Vote:** Roll was called, and the motion was approved by a unanimous vote.

### **Agenda Item XIII: Adjournment**

Mr. Munso thanked Bryan Hobson, Trina Gonzalez, Marta Bortner, Amber Kemp, Krista Baca, and Lorna Fong for their assistance in planning for and supporting the Board meeting.

Chairwoman Dooley thanked Mr. Munso for his assistance.

**Motion/Action:** Ms. Belshé moved to adjourn the nation's first health benefit exchange meeting with great pride and great promise. Ms. Kennedy seconded the motion.

**Vote:** Roll was called, and the motion was approved by a unanimous vote.

The meeting adjourned at 1:50 PM.