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# MINUTES

# PCF OVERSIGHT BOARD

September 2, 2010

WOMAN'S HOSPITAL
BATON ROUGE, LA.

Mr. Clark Cossé Chairman convened the meeting of the Patient's Compensation Fund Oversight Board, at 6:30 PM on Thursday September 2, 2010, at the Woman's Hospital Corporate Board Room in Baton Rouge.

The following Board Members were in attendance:
Mr. Clark Cossé
Dr. Katharine Rathbun
Dr. Van Culotta
Mr. Manual DePascual
Mr. Kent Guidry
Mr. Jim Hritz
Dr. Melanie Firmin

The following Board Members were absent:
Mr. Joe Donchess
Dr. William LaCorte

Others present:
Mrs. Lorraine LeBlanc
Mr. Ken Schnauder
Mr. Jim Hurley
Mrs. Cindy Amedee
Mr. Peter Bondy
Ms. Bradley George
Mrs. Barbara Woodard
Mr. Dave Woolridge
Mr. Larry Seger
Mr. Mark Berger
Mrs. Annette Droddy
Mr. Tom McCormick

Mr. Cossé called the meeting to order and asked that the record reflect seven Board Members were in attendance at the meeting tonight thus there was a quorum. Mr. Cossé welcomed the guests to the meeting and asked all present to introduce themselves.

Mr. Cossé asked for public comments. No public comments were made.

Mr. Cossé called for the approval of the August 5, 2010 minutes. Dr. Culotta moved for the minutes to be approved. Dr. Rathbun seconded the motion. By verbal vote, the minutes were adopted with no dissenting votes.

Dr. Culotta motioned to move the discussion on the 2010 Actuarial Study, item eight up on the agenda. Mr. Hritz seconded the motion and the verbal vote was unanimous. Mr. Cossé asked for a summary the 2010 rate review by the actuary. Mr. Hurley stated that procedurally the processes used and data given were consistent with prior years. The study revealed a decrease in rates was justified. A significant contributing factor to this was the impact of deficit reduction load that has been added over the past years. Mr. Cossé asked if the Board members had any questions at this point. There were none. Mr. Cossé then asked if there were any questions from the public and there were none. Mr. Hurley went over the overall rate reductions indicated by the study, adding that there was still a 5% deficit reduction load added in to this year's study and results. The indicated rate level reductions, including the off balances were hospitals -11.2%; physicians -15.8% ; nursing homes -1.4% ; advance practice nurses and dentists and oral surgeons -15.7%; CRNA's -17.8%; other category – no change.

Dr. Culotta asked Mr. Hurley for his opinion on if the PCF Board was being fiducially responsible by accepting these rate reductions. Mr. Hurley stated the proposed rates should cover loss estimates for 2011 and with the 5% reduction should generate sufficient funds. Dr. Culotta moved for the Board to accept the 2010 actuary study regarding rates and Dr. Firmin seconded the motion. Mr. Hurley mentioned that there were some differences in estimated reductions for the physician classes and he provided as estimate based on an overall 15% decrease for physicians, but would revise it to reflect an overall reduction of 15.8%. This has been done in past years when the actuarial study indicated there were differences in the indications by some classes.

Mr. Hritz asked about the prior discussion involving the definitions of the nursing home beds. Mr. Hurley stated there was a proposal to reassign various bed classifications and provide clearer definitions on nursing facility bed types and he did calculations based on two nursing home bed types and a bed type strictly for assisted living beds. Mrs. LeBlanc informed the Board that there was a sheet in their folders relative to proposed rates, including revised nursing home bed rates. Dr. Culotta stated that two categories should be considered for nursing homes, skilled and intermediate. Mr. Hurley stated that the revised definitions result in an overall rate reduction was -1.14%. Dr. Culotta asked the Board to review the recommended pharmacist rates on the summary sheet. He recommended that the suggested rates apply to new pharmacist enrolled after Jan 2011, but allow those pharmacist currently enrolled to retain their current rates. Further, there were suggested rates for chiropractors and optometrist which currently pay a percentage of the underlying premium.

Dr. Culotta made a motion to amend the suggested pharmacist rates by limiting the new rates to new enrollees and to apply the rates for the other categories as indicated on the summary sheet which was based on the August 30, 2010 supplemental actuary report. Dr. Firmin seconded the motion.

Mr. Cossé asked if there were any comments regarding the discussion. Dr. Rathbun asked if it would pose a problem to limit the pharmacist to occurrence coverage only at the primary level. Dr. Culotta stated that one claim could cause damage to the Fund as more would be paid out than the usual $250.00 currently being paid and the Board really needed to further review and evaluate the pharmacist rates. The Board needed a better way to charge if taking on greater volume and risks of larger pharmacy chains. Mr. Hurley stated that occurrence would be broader coverage than claims made and it would be more risky. Mr. Guidry stated that occurrence policy would be 3 years forward and claims made would be 3 years back. Mrs. LeBlanc stated that statue required the PCF and underlying coverage types need to match. Dr. Culotta made a motion to amend his prior motion to allow both occurrence and claim made policies for pharmacist and restated that new business would pay the new rates effective 1/1/2011. Dr. Firmin seconded the motion. Mr. Cossé asked if there were any further comments or questions regarding the 2010 rate review for the Board and then the public. There were none. By unanimous verbal vote, the motions carried and the 2011 rates were adopted.

Dr. Rathbun asked for discussion on the proposal regarding part time health care providers and the method used to calculate the surcharge. The PCF currently uses three levels of discounts based on the hours worked per month. She did research and talked to other PCFs and she had prepared a memo proposing a change to a single discount of 50% for part time physicians based on the hours that they actually worked and based on a 50 hour work week. This is similar to discounts used by Kansas. The number of hours currently used for physicians receiving a 75% discount (35 per month) equates to working 1 day per week. She felt this was hardly the case and very unlikely. There are 833 participants receiving a 75% discount. Mr. Cossé asked how LAMMICO gave their discounts. Dr. Rathbun stated that it was a gradual discount and although did match the PCF discount, LAMMICO no longer uses the same discount percentages as the PCF, although the number of hours per month is the same. It was suggested that some type of audit might be needed. Mr. Guidry stated that an internal audit system to verify how many hours a health care provider worked would require additional staff. Dr. Culotta stated while he felt the proposal was on the right track, he felt further study was needed since the change would impact 800 providers. Dr. Firmin asked where the original discount mechanism originated and was informed by Mrs. LeBlanc that they were based on those used by LAMMICO. Mr. McCormick with LAMMICO commented that they had looked at other states when the discounts were established. They do not do audits but trust the physicians to provide accurate information. Dr. Rathbun then made a motion to adopt a 50% part-time discount for those providers changing to part-time status after 1/1/2011 who are working 25 hours per week or less and any provider working more than 25 hours would get no discount. Mr. McCormick questioned the ability to have different rates for the current providers. Mr. Bondy questioned the legality of such a rate structure. Mr. Woolridge stated the health care providers have no vested rights so an equal rights argument may not stand up in court. Mr. McCormick also stated it would be difficult for LAMMICO to manage such a rate scheme. Mr. Hritz made a substitute motion to table the discussion and prior motion on part-time discounts due to the possible impact to providers at the end of their careers and the legal questions raised. Dr. Culotta seconded the motion. Dr. Rathbun stated there needed to be an announcement that the part-time discounts may be discontinued in 2012 and advise providers that they may be required to complete an affidavit as to the hours worked per week. Dr. Rathbun wanted to add to the motion that the part-time discounts be included in the next year's rate study. There were no more questions or comments by the Board or the public. There was a unanimous verbal vote to table any changes to the part-time discounts and to notify providers of possible changes in 2012. Dr. Rathbun then continued with an additional item in her memo. She felt there was an issue with tail coverage when a health care provider receives a discount as that is also a discount on the prior year's full time exposures and this issue needs to be corrected. She stated a fee needed to be charged similar to the drop down surcharge that the PCF charges a health care provider with claims made coverage when dropping down to a lower class. Dr. Culotta made a motion to enforce a fee, similar to the drop down charge for providers changing to part-time coverage. There were no further comments or questions. By unanimous verbal vote, the motion carried.

Mr. Cossé asked for information on the financial reports. Mrs. LeBlanc informed the Board that both the claim and operating budgets were in line with the normal expectations. As shown on the report, the net collections to date were $23,000,000, claim expenditures to date were approximately $12,000,000 and the PCF cash and investment balance was about $621,000,000. Mrs. LeBlanc informed all attending the meeting that the PCF financial information would be available on the website. Mr. Cossé commented that to date, the amount shown was the largest fund balance he had witnessed. Mr. Cossé asked if there were any questions or comments regarding the financial reports. There were none. Mr. Hritz made a motion that the Board accept the financial report and Mr. Guidry seconded the motion. Verbal vote was unanimous and the financial reports were approved.

The Board members were provided with the monthly report from the State Treasury Office. Mrs. LeBlanc informed the Board as of the end of July the investments totaled $237,500,000 with an average term of 4.83 years and average yield of 2.69%. Mrs. LeBlanc added that an additional $1,000,000 had been invested in IBM bonds during the month of August. Mrs. LeBlanc stated that she had sent the Board authorization to invest an additional $200,000,000 to the Treasury Office, but that investing that much money would take some time in the current market. Mr. Cossé stated that he was disappointed in the returns that the money was receiving and reminded the Board that PCF General Counsel was researching legislation to change the current restrictions so that the PCF could invest their money in a broader portfolio. Mrs. LeBlanc reminded the Board that representatives from the State Treasury Office would be attending the November Board meeting to present the annual investment report. Mr. Cossé asked if there were any further comments or questions regarding the investment report and there were none.

Mr. Cossé asked for the claims manager report. Mr. Schnauder reported that during the month of August the claims section had opened 112 files and closed 149. Twenty-seven of those closed last month were with payment. The total open claims were 4,951, the lowest number in many years. There have been 956 panels filed so far this year. The number of ongoing future medical cases will be 181 following tonight's approval of four cases involving ongoing future medicals. Mr. Schnauder informed the Board that 46 claims were being presented at this meeting for approval totaling about $15.1 million. Mr. Cossé asked if there were any further questions on the Claims Manager report from the board members or the public. There were none. Mr. Hritz made a motion for the Board to accept the Claim Manager's report and Mr. Guidry seconded the motion. By unanimous verbal vote, the report was accepted.

Mr. Cossé asked for discussion on possible changes in the Annual Legislative Report format. Mrs. LeBlanc reminded the Board that when the first and second reports were submitted they were lengthy. At the time, there were many new Legislators that were not familiar with the PCF and it was felt necessary to educate them on the PCF. She stated that the report this year should focus on the fact that during the past few years, the PCF had narrowed the gap of the unfunded liability. Mr. Cossé asked that a note of thanks be included in this year's report to the Legislators on their support in passing legislation allowing the PCFOB to become an off-budget agency and free of regulation by the Department of Insurance. Mr. Cossé stated the original reason of this report was to educate the Legislators on the history and mission of the fund, but questioned the continued need for the report. Mrs. LeBlanc replied that almost all of the material in the report was available on the PCF website. Mr. Cossé asked if the hits to the PCF website were counted and Mrs. LeBlanc informed the Board that the site was set up by the DOA Information Services and we had no way of determining its use. Mr. Berger asked what the current IBNR and exposure was. Mr. Schnauder stated that according to the actuary's estimate reserves and IBNR totaled $773,000,000 and $621,000,000 was in the bank and investments, thus the unfunded liability, based on the new definition, would be approximately $150,000,000. Previously the gap, based on the prior definition, was around $450,000,000. Had the current definition been used last year, the unfunded liability would have been much less, about $170,000,000 as that was the amount collected and that was added to the liabilities in the prior definition. With the rate increased over the last several years, the PCF has narrowed it down to $150,000,000. Mr. Hurley informed the Board that even with the rate decrease planned for 2011, the PCF will continue to add to the cash reserves as the collections should be above the amount necessary to pay claims and expenses. Mr. Cossé asked if there were any questions regarding the 2010 Legislative Report or any other comments from the public. There were none.

Mr. Cossé thanked the guests for attending the meeting and the General Session was adjourned.

Mr. Hritz made the motion for the Board to move into the Executive Session to discuss litigation involving the PCFOB. Mr. Guidry seconded the motion. By unanimous vote, the Board moved into the Executive Session.

Clark R. Cossé

Mr. Clark Cossé, Chairman