

**MINUTES**  
**PCF OVERSIGHT BOARD**

May 7, 2009

WOMAN'S HOSPITAL  
BATON ROUGE, LA.

Mr. Clark Cosse', Chairman, convened the meeting of the Patient's Compensation Fund Oversight Board, at 6:30 PM on Thursday May 7, 2009, at the Woman's Hospital Corporate Board Room in Baton Rouge.

The following Board Members were in attendance:

Mr. Clark Cosse'  
Mr. Joe Donchess  
Dr. Van Culotta

Dr. Katharine Rathbun  
Mrs. Dionne Viator

Board Members absent:

Dr. Melanie Firmin  
Dr. William LaCorte  
Mr. Kent Guidry  
Mr. Manual DePascual

Others present:

Mrs. Lorraine LeBlanc  
Mrs. Barbara Woodard  
Mrs. Aminthe Broussard  
Ms. Annette Droddy

Mr. Ken Schnauder  
Mr. Dave Woolridge  
Dr. John Lemoine

Mr. Cosse' called the meeting to order. Mr. Cosse' asked that the record show that five board members were in attendance and that a quorum was present. Mr. Cosse' welcomed the guests to the meeting and asked all present to introduce themselves.

Mr. Cosse' asked for public comments. No public comments were made.

Mr. Cosse' called for the approval of the April minutes. Dr. Culotta moved for the minutes to be approved with no corrections. Dr. Rathbun seconded the motion. The minutes were adopted and there were no dissenting votes.

The next item on the agenda was the approval of the professional contracts for the new fiscal year. These include the general counsel, conflict general counsel, actuary, fee scheduling, and computer consultants. It was recommended by Mrs. LeBlanc that all professional contracts be renewed and that the amounts of each contract remain the same. The only possible change would be with the post implementation computer maintenance contractor; however, the amount of the contract would remain the same. Any changes would be brought to the attention of the Board.

Mrs. Woodard explained that the BA 7 was received in the claims budget and that claim expenditures were \$101,232,995. Surcharge net collections were \$156,941,380 and Filing Fee net collections were \$227,900. Expenditures were as expected and the overall budget appeared adequate for the remaining weeks of the fiscal year. Mrs. Woodard informed the Board that there was an incident in which someone had used a fraudulent PCF check in Paris, Tennessee, but because the PCF account was protected by positive pay, the charge did not go through. Mr. Cosse' asked if there were any other comments on the financial reports or budget. There were none.

Mr. Cosse' asked for the claims manager report. Mr. Schnauder reported that the pace had picked up in April, although previous months were slow months, but he felt things were back to normal. Mr. Schnauder stated that he was presenting 31 claims for approval in the amount of \$10,436,663 and that he expected the claims budget would be exhausted by mid June. Mr. Cosse' asked what the procedure would be regarding claim settlements if there were no money left in the budget and if another BA7 for \$5,000,000 should be requested. Mrs. LeBlanc stated that the claims would be paid in July and that it was too late in the fiscal year to submit another BA7. The Board was informed that while the signed paperwork had not been sent back to us yet, verbal approval from the budget office was received for the increase in budget authority to \$120,000,000 for the FY 2010 claims budget. Mr. Schnauder reported that for the first time in a long while more claims were opened than closed, but only by 3 claims. He reported that panel filings were averaging about 110 per month based on the total year to date filings of 440. This is less than the previous two years; thus it appeared that the frequency was down. Mr. Cosse' asked if there were any other questions or comments on the claims report. Dr. Lemoine asked if there was an increase in the number or percent of serious claims. Mr. Schnauder stated that based on the increase in payment this was probably true.

Mr. Cosse' then called for a discussion on the 2009 legislation. Mrs. LeBlanc informed the Board that there were three bills that were directly linked to the PCF. The first HB 671, which dealt with adding nurse practitioner and clinical nurse specialist to the Medical Malpractice Law. Dr. Rathbun asked if each group of medical professionals paid for their own exposures. Dr. Lemoine stated that very seldom is a claim directed against the nurse practitioner without including the physician. Mrs. Viator asked if the PCF supported this bill. Mrs. LeBlanc stated

that the PCF did support the bill. Mr. Cosse' made comment that he had heard in committee on Monday that the final bill was on the floor and expected to pass committee on Monday.

HB 72 was another attempt by the Nursing Home Association to close the gap in insurance coverage for incidents involving the nursing home residents. Last year's bill was met with a great deal of resistance so the most controversial items were removed this year. It will be heard in House Civil Law committee on May 11<sup>th</sup>.

The next bill discussed was HB 224, referred to as the cap bill. It provides for increases in the limitations of recovery with annual adjustments of the limits of liability. Mr. Cosse' stated that he does not feel that this bill will pass if a compromise proposal isn't reached and agreed upon by the health care providers, trial lawyers and insurers.

The last bill brought up for discussion was HB 738 which dealt with funds under the state's umbrella. Mrs. LeBlanc stated she was very concerned about this bill and how it would relate to the overall fund balance and disposition of the PCF fund. This bill would allow fund money to be taken and put into the state's general fund. Mr. Cosse' stated that this should be opposed and stated that other state's where this action had occurred, Wisconsin, New York did not work out well and the Board's position had a dual role in that protecting the injured party compensation and the doctor's fund was a priority. Mr. Cosse' stated that hard copies of suggested amendments needed to be taken to the Capitol. He did not perceive this bill as a problem, but never the less, needed to be treated as a problem.

Mr. Cosse' asked for discussion on the PCF Confidentiality Agreement. He asked that all members review the form. Dr. Rathbun stated that more detail and stronger words are needed in the content. Mr. Donchess asked if a specific timeframe such as 72 hours should replace the word promptly. Mr. Woolridge stated that this confidentiality form was a standard form, and more of a reminder to the Board Members not to discuss information discussed in the Executive Session or any closed door discussion. Mr. Woolridge stated since it did not have any real recourse if breached, "promptly" should suffice. Dr. Rathbun made a motion for the Board to revisit at the next PCF Board meeting in June to allow time for consideration of any changes. Dr. Culotta seconded the motion. Members also stated the envelopes containing settlement narratives should continue to be stamped "Confidential". Mr. Cosse' asked if there was any further discussion on this matter. There was none.

Mr. Cosse' asked if there were any public comments, there were none. Mr. Cosse' thanked the guests for attending the meeting and the General Session was adjourned. The Board moved into the Executive Session.

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Mr. Clark Cosse', Chairman