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MINUTES

PCF OVERSIGHT BOARD

March 3, 2011

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 March 3, 2011 at the Woman's Hospital Corporate Board Room in Baton Rouge.

The following Board Members were in attendance:

Mr. Clark Cossé
Dr. Katharine Rathbun
Mr. Manual DePascual
Dr. John LaCorte
Mr. Kent Guidry
Dr. Van Culotta
Mr. Joe Donchess
Dr. Melanie Firmin

The following Board Member was absent:
Mr. James Hritz

Others present:

Mrs. Lorraine LeBlanc
Mr. Ken Schnauder
Mr. Adam Thames
Mr. John Morgan
Mr. Mike Walsh
Mr. John Broussard
Mrs. Barbara Woodard
Mr. Dave Woolridge
Mrs. Sharon Knight
Mrs. Lynn Duszynski
Mrs. Lori Pierce

Mr. Cossé called the meeting to order and asked that the record reflect eight Board Members were in attendance and a quorum was present. 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 January 6, 2011 minutes. Dr. Culotta moved for the minutes to be approved and Dr. Rathbun seconded the motion. By verbal vote, the minutes were adopted with no dissenting votes.

Mr. Cossé asked for the State Treasury report. Mr. Broussard began with a market update stating that there were currently two trends on the horizon; the stock market was on a good roll and the bond market was also very steady. Mr. Broussard stated that with these trends it would lead one to believe inflation in the US, South America and Europe had picked up. The current inflation rate is 2 – 3% and this factor has a strong influence on the traditional market. When the inflation rate goes up, the value of bonds decreases. The State's economy is growing and the stock market is growing so interest rates earned should go up. Dr. LaCorte asked if there was an advantage to buying short term versus long term at this point. Mr. Broussard stated that a barbell strategy, which is about half short term and half long term, would be a good choice. Mr. Donchess asked about the treasury raising the US debt ceiling and if it was best for the country at this time. Mr. Broussard stated this was problematic and he did not think it to be a good idea to raise the debt ceiling at this time. Dr. Firmin asked about the impact on the market due to the conflict in Middle East. Mr. Broussard stated oil was a commodity consumed worldwide and speculators are now involved and driving the price up. Dr. LaCorte asked if oil were to remain high, would it be good thing for Louisiana. Mr. Broussard replied only about 15% of state funds come from oil royalties. But if more drilling was allowed it could benefit the state. Mr. Broussard completed his report by stating the economy was ahead of last year and appeared to be growing.

Mrs. Pierce went over the PCF Performance Review Report with the Board. The average duration of long term investments is 4.56 years with an average yield of 2.68%. She informed the Board that the Treasury has substantially completed its mandate to invest $450,000,000. By March 31, 2011 investments will total $445,743,783. Mrs. Pierce stated that the Treasury had been able to increase the investments without increasing the risk to the overall portfolio and that this was done through the use of high quality corporate issues such as Microsoft and Merck. Mr. Cossé asked what the total amount of un-invested cash was for the fund and Mrs. Pierce stated that it was approximately $235,000,000. Mr. Cossé asked for discussion on the level of cash amount on hand versus the amount invested. Dr. Firmin stated with possible investment legislation, this amount will be sufficient. Dr. LaCorte made the motion to maintain the investment level at $450,000,000 and Mr. Guidry seconded the motion. By unanimous verbal vote, the motion carried. Mrs. Pierce reminded the PCF administration to be aware of how much the STO absorbs in monthly bank fees and that these fees would increase if the PCFOB managed their own portfolio. Mr. Cossé informed the Treasury that the PCFOB looked forward to a continued collaboration with their office.

Mr. Cossé introduced Mrs. Margaret Franklin and Mr. Roy Chenevert to all attending the meeting and asked for discussion regarding the PCF Annual Financial Report. Mrs. LeBlanc stated last August the PCF was informed by the Office of Statewide Reporting (OSRAP) that a more detailed business type annual financial report would be required instead of the report submitted by the agency over the past twenty-four years. The PCF was not notified of this change until late August, after the usual annual financial report was submitted. Mrs. LeBlanc stated due to the need for the more advanced reporting and classification of the revenues and having to compile two years of financial information, it was unrealistic for the PCF staff to become familiar with the requirements, compile the report and submit the report in the two week timeframe allowed. Several CPA firms were contacted for assistance before the task was accepted by Chenevert CPA Firm. Mrs. Franklin is a retired Legislative Auditor and the firm is on the Legislative auditor's list of approved CPAs. She understands the expectations and requirements of the report and agreed to do the compilation for both fiscal years and submit it by the timeframe set by OSRAP. Mr. Cossé asked for the staff's recommendation. Mrs. LeBlanc stated the CPA firm should be given a contract to continue the compilation of the financial report. Dr. Firmin made the motion to retain Chenevert CPA Firm with a $20,000 contract. Dr. Culotta seconded the motion. The vote was unanimous and there were no dissenting votes.

Mr. Cossé asked for the financial reports. Mrs. Woodard informed the Board that the year to date revenue collections were approximately $142,095,458 and that interest received was $5,355,973. Mrs. LeBlanc informed all attending the meeting that the financial information would be posted to the agency website by Friday afternoon. Mr. Cossé asked if there were any questions regarding the financial reports. There were none.

Mr. Cossé asked for the claims report. Mr. Schnauder stated he did not feel he would spend the entire $135,000,000 claims budget this year. He informed the Board that although panels seemed to be up the last couple of weeks, the average number was remaining steady at 125 per month. Mr. Schnauder stated for the months of January and February there are 50 claims being presented for approval totaling $22,010,712. He stated each month included three future medical benefits which will increase the current 175 FM claims to 181. Mr. Schnauder stated in the month of February, 112 claims were opened and 137 files closed, of which 37 had payments. The total number of open claims is 4992. Mr. Cossé stressed the importance of global settlements and complimented the claims section for their work. Mr. Schnauder stated that cooperation between all parties has greatly improved.

Mr. Guidry inquired about the receipt of copies of petitions and exceptions of prematurity as required by the Act. Mrs. LeBlanc stated there was still room for improvement from both the defense side and the plaintiff side as each had a responsibility to send petitions. Mr. Donchess asked if the PCF would send Mark Berger a note and that he would get it to his attorneys and Mr. Cossé asked if a statement could be sent to him as well. Mrs. Duszynski stated that it was her understanding that when there is a request for COE from LAMMICO's attorneys, a copy of the exception of prematurity is requested. Mrs. Leblanc confirmed that this was the practice of the PCF staff and any petitions or exceptions received were sent to claims for review.

Next, Mr. Cossé gave an overview of some of the proposed legislation that could impact the PCF. The first was to allow the PCFOB to have more control and diversity in investments and would allow the Board to retain money managers to assist with investments. He stated State Treasurer John Kennedy has encouraged the Board to consider such legislation. Mr. Cossé stated he has been researching a role model to follow and the one comparison was LASERS. Although their investment levels in certain items, such as equities, were much higher. The PCF should not be as aggressive as the LASERS. There was a concern regarding E & O coverage with the Board taking on management of investments, but Mrs. LeBlanc informed the Board that she had discussed this issue the ORM and there would be no change in coverage or costs related to this move. Mr. Cossé asked that this be confirmed in writing.

Another legislative item deals with a constitutional amendment. This was suggested by State Treasurer John Kennedy as an extra step to protect the PCF funds from use by the State and to protect the state from any responsibility for the PCF's liabilities. Such legislation could be seen as protecting the health care providers' investment in the program and injured parties' right to recovery from the protected funds. The final piece of possible legislation would be a bill to change the cap on damages. There continues to be a concern about the cap but there are still questions as to whether the key people could support some of the proposed concepts. Dr. Culotta stated the LSMS needs concrete concepts before the changes in the cap can be discussed.

Dr. Culotta informed the Board that the Prenatal Improvement Commission had approached him regarding a risk management activity for the OB community and asked if the PCF would be interested in taking part in such risk management programs. It was also mentioned that the PCF might consider offering reduced rates to those that participate in the program. Dr. Rathbun stated the Medicaid Advisory Board in Colorado has established a prenatal guidelines model and it has been used by COPIC for the past 25 years with good results. Members of the Commission would like to present information to the Board about the endeavor. DHH pays approximately 70% of the deliveries in Louisiana. Mrs. LeBlanc stated she had some concern with offering a discount to one class of providers and not others. Dr. Rathbun stated there was a national concern for pre-natal care and the number of infant deaths and injuries. Mr. Guidry stated the group that is being offered the program and discount is one of the higher risks and more costly to the PCF. Dr. Firmin made a motion to invite the Prenatal Improvement Commission to a future Board meeting and present a 20 – 30 minute presentation. The motion was seconded by Dr. Culotta. The vote was unanimous and there were no dissenting votes.

Mr. Cossé called for discussion on the PCF Claims Manager pay increase. He stated that more duties had been added to the Claims Manager job responsibilities and that his last pay increase was in 2009. Mr. Schnauder has a degree in finance, is a licensed adjuster and has earned CPCU status. Mrs. LeBlanc explained that as an off-budget agency, the Board can move funds from the Treasurer's office. Although restricted, there could still be some possibilities available to the Board now to diversify investments as allowed by state laws. Proposed legislation will expand the ability of the PCFOB to invest and this increases the need for staff involvement in investment proposals. Mrs. LeBlanc informed all that Ken will assume the responsibility of dealing directly with investment managers in discussing the actual investments being proposed. He will be the lead person on re-insurance potential. This has been reviewed every few years to see if there is potential and/or need for the PCF to obtain re-insurance for some of the higher costing claims. However, as the PCF payouts have increased and the costs of medical expenses continue to rise, the issue of re-insurance needs to be investigated yearly. It is also important to keep current on this in case the cap is declared unconstitutional or the cap is raised. The Board needs to have information readily available on re-insurance possibilities. He has had many meetings with re-insurers in the past and has an excellent working relationship with such insurers and brokers. He will also become more involved in other areas of the office so that he can serve as the second in command and be able to deal with problems in other sections in the absence of the Executive Director. Mr. Schnauder is also be responsible for the new Federal rules/laws regarding Medicare reporting and set-asides. This involves reporting on all claims to determine if Medicare is involved, if involved the PCF has to make sure the PCF protects Medicare's rights to reimbursement, and must now report all settlements to them in which Medicare is involved or may be in the future. This process changes almost daily as the Federal government and CMS constantly revise the guidelines and dates and reporting requirements. The PCF has had to contract with a company to ensure the PCF meets all deadlines and can keep up with all the changes. Mr. Schnauder negotiated the contract. He will also now have to prepare an RFP for fee scheduling services and select an appropriate vendor to provide the on-going service. Mr. Schnauder also personally handles all the class action cases and the cases where a provider has a large number claims. There has been an influx of these types of situations in the last 2 years. He works with all parties to track these mega cases and bring them to a conclusion.

Dr. LaCorte stated that based on these extra duties an increase in pay is warranted and asked for a recommendation. Mrs. LeBlanc stated that based on the comparison of the same classification in other businesses, the increase should be at least $10,000. Mr. Donchess made the motion to increase the Claims Manager salary by $10,000 and Dr. Firmin seconded the motion. The vote was unanimous and there were no dissenting votes. The raise was to be discussed at the prior meeting which was cancelled due to bad weather. The board voted unanimously to make the raise effective 1/1/11.

Mr. Cossé asked if there were any questions or comments from the public. There were none. Mr. Cossé thanked the guests for attending the meeting and the General Session was adjourned.

Dr. Culotta then motioned for the Board to move into the Executive Session and Dr. Firmin seconded the motion. The vote was unanimous and the Board moved into Executive Session to discuss matters of litigation.

Mr. Clark Cossé III, Chairman