

**Florida Health Insurance Advisory Board  
Board of Directors Meeting Minutes  
Friday, December 18, 2020, 2:00 PM  
Via Teleconference  
Tallahassee, FL**

**Board Members Present:**

Mike Yaworsky, Chair Designee	Ken Stevenson, Vice Chair	Molly McKinstry
Louisa McQueeney	Christina Lake	Eric Johnson
Richard B. Weiss	Seth M. Phelps	Robert Muszynski

**Others Present:**

- Amy Hardee, Administrative Assistant II to the Deputy Commissioner – Life & Health, Office of Insurance Regulation (OIR)
- Shannon Doheny, Special Counsel to the Deputy Commissioner – Life & Health, OIR
- John Reilly, Deputy Commissioner – Life & Health, OIR
- Chris Struk, Life & Health Policy Advisor, OIR

**I. Call to Order**

Mike Yaworsky (Chief of Staff, Office of Insurance Regulation) announced that he had been appointed as the Chair's designee for this meeting by Commissioner and Chair David Altmaier. The Chair then called the meeting to order at 2:02 pm indicating that the meeting was properly noticed to the public in accordance with Florida Law.

**II. Roll Call**

Amy Hardee conducted a roll call, noting the presence of a quorum.

**III. Antitrust Statement**

Shannon Doheny was recognized and reviewed the antitrust statement.

**IV. Chair's Opening Remarks**

The Chair thanked the members for their attendance today to provide their expertise and insights.

**V. Approval of Minutes, November 17, 2020**

The Chair presented the minutes from the November 17, 2020, meeting for adoption, noting that members had been provided with advance copies. Eric Johnson moved to adopt the minutes as written, with a second by Seth Phelps, and the minutes were adopted without objection.

## **VI. Executive Director Selection Committee Status Report**

The Chair noted that the Executive Director Selection Committee is busy trying to find a replacement for our former Executive Director and they recently met on November 30. He then turned the time over to Seth Phelps, the Committee Chair, for a report from the Executive Director Selection Committee.

Seth Phelps reported that the Committee met on November 30 with the intent to interview all three candidates that applied for the open Executive Director position. However, after an initial discussion, the Committee came to a unanimous decision to recommend re-opening the search to ensure the best process for filling the position is followed and ensuring transparency in that process. The Committee Chair noted that this recommendation is not based upon the qualifications of those candidates who already applied, and those candidates are encouraged to re-apply.

Based on the above decision by the Committee, Seth Phelps noted that the Committee is seeking from the board a motion to:

1. Re-open the application process for the Executive Director position;
2. Post the position on a publicly available website, including the job description;
3. Keep the position open for not less than three weeks; and
4. Authorize the Selection Committee to evaluate and determine the details of the approach (including the website(s) upon which it will be posted) and return to the full Board with a recommendation, including those details.

Seth Phelps asked the Chair to make a motion to adopt the Committee's recommended plan. The Chair then made a motion to adopt the Committee's recommended plan, Eric Johnson seconded the motion, and it passed unanimously.

The Chair thanked Mr. Phelps for the report and the Committee's work so far. He then reassured the Board that as we proceed with the Executive Director search, OIR will continue to assist with some of the operational duties normally fulfilled by the Executive Director and help ensure Board materials are publicly available until a new Executive Director is appointed.

## **VII. State of the Market Annual Report Approval**

The Chair presented the 2020 State of the Market Annual Report for adoption, noting that members had been provided with an advance copy.

Rich Weiss moved to adopt the report, with a second by Christina Lake. Chris Struk noted that there is a typo on Page 4: "Total Market – 3,734,680, an increase of 125,407 covered lives or 0.44%" should read, "Total Market – 3,734,680, an increase of 16,471 covered lives or 0.44%". The Chair asked if there was any object to this change and there was none. The report was adopted without objection.

## VIII. Discussion/Approval of Legislative Proposals for 2021

The Chair noted that the substantive business before the Board today is the discussion and approval of the Board's 2021 legislative recommendations. He reminded members that only those proposals reaching a full consensus by the members today would be submitted to the 2021 Florida Legislature on behalf of the entire Florida Health Insurance Advisory Board (FHIAB). Eleven proposals have been received from Louisa McQueeney (Florida Voices for Health). They will be read with time for questions and discussions following each proposal.

### 1. Employee/Dependent Option Coverage in Small Group Plans

- Recommendation:** *Provide a clear legislative directive whereby small group employers be specifically allowed the option to offer "employee/dependent(s)" coverage in the open market, where dependent(s) are dependent children only.*

Louisa McQueeney moved that the Board make this recommendation, with a second by Robert Muszynski. The motion passed unanimously.

### 2. **Direct insurance companies to itemize the cost of medical, dental and vision in plans that offer these coverages and control provider networks.**

- Recommendation:** *Require insurance companies to itemize the cost of medical, dental and vision in bundled plans. Require insurance companies to refund consumers and, if applicable the federal government, for dental and/or vision services that cannot be used due to non-accessible provider networks.*

During the last Board meeting, the Office was tasked with obtaining consumer inquiry information from the Division of Consumer Services within the Department of Financial Services. The information provided indicated there were a total of four consumer inquiries related to policyholders being unable to locate in-network dental providers over the last year. Additionally, there were a total of six consumer inquiries regarding insufficient access to non-dental providers during the same time-period.

For additional information related to the review of network adequacy for these plans, Erin Bailey [Manager, Commercial Managed Care Florida Agency for Health Care Administration (AHCA)] was asked to provide a brief overview of network adequacy review. Ms. Bailey noted that AHCA performs network adequacy reviews for exclusive provider organizations, which these bundled plans would fall under, twice a year. These reviews include spreadsheets sorted by county and specialty, geographical access maps, and provider directories. No concerns have been found.

Louisa McQueeney moved that the Board make this recommendation. Eric Johnson noted his objection as he believes we have adequate protections in place and doesn't see how this recommendation adds additional protections. No vote was taken.

### 3. Deductible Health Credit Transfer

- Recommendation:** *Expand statute 627.666 to include individual on- and off-exchange policy holders a Deductible Health Credit Transfer to a new policy equal to the deductible paid by the policy holder to the prior insurer. The Credit Transfer should be for the entire amount paid by the consumer without limitations such as a time frame of 90 days preceding the effective date of the succeeding insurer's plan or recognition of the expenses actually incurred under the terms of the succeeding insurer's plan and subject to a similar deductible provision.*

Louisa McQueeney moved that the Board make this recommendation. Molly McKinstry seconded the motion after confirming the FHIAB previously submitted this recommendation in 2019 and 2020. The motion passed unanimously.

### 4. Provide health care consumers with one free copy of their own medical records.

- Recommendation:** *Provide consumer with one free copy of their medical record, to be provided to consumer by mail or electronic mail, at the time of payment request for services provided.*

Molly McKinstry requested clarification regarding who would provide the copy. Louisa McQueeney responded that it would be the provider.

Louisa McQueeney moved that the Board make this recommendation, with a second by Ken Stevenson. The motion passed unanimously.

### 5. Protect Consumers from prescription drug formulary changes during a policy year.

- Recommendation:** *Prohibit insurance carriers from amending or removing a covered prescription drug during the policy year. This will not preclude the insurance carrier from expanding the formulary and lowering prices throughout the policy year. This would exclude the formulary for Florida Medicaid which is covered under section 409.91195, Florida Statutes)*

Robert Muszynski noted his objection as he believes this is more of an issue with drug companies rather than insurers. No vote was taken.

### 6. Protect Consumers from uncontrolled health insurance premium rates based on preexisting conditions.

- Recommendation:** *Codify into state law requirements that Florida health plans may not vary rates based on one or more pre-existing conditions. Rates can vary based solely on four factors: family composition, geographic area, age, and tobacco use. Insurers are prohibited from charging an older adult in the oldest age band more than 3 times the rate of a younger person in the youngest age band and from charging tobacco users more than 1.5 times the rate of a non-tobacco-user's rate.*

Eric Johnson asked which policies this recommendation applies to. Louisa McQueeney responded that it would apply to all ACA plans. Based on this discussion, the Chair asked Louisa McQueeney and the Board if they would be amenable to adding “ACA-compliant” to the first sentence in the recommendation so that it now reads, “Codify into state law requirements that Florida ACA-compliant health plans may not vary rates based on one or more pre-existing conditions.” No objections to this change.

Seth Phelps noted again that this is based on the Supreme Court invalidating the ACA; however, if that were to happen, additional changes would probably be needed, and this recommendation may not have the intended consequence.

Louisa McQueeney moved that the Board make this recommendation, with a second by Christina Lake. The motion passed unanimously.

**7. Direct the Florida Office of Insurance Regulation to develop better and more inclusive standards of network adequacy for all group and individual health plans.**

- Recommendation:** *In inadequate narrow networks where primary care, mental health and hospital services are not within 30 miles or 30 minutes of each enrollee’s place of residence or work, treat out-of-network care as in-net-work care and apply the cost of the care to the annual accumulators, such as the deductible. Improve network adequacy.*

Eric Johnson noted that we have network adequacy requirements currently in place and 30 miles or 30 minutes may be too tight due to Florida’s geographic diversity.

Molly McKinstry reiterated that complaints should be referred to AHCA as they are usually able to resolve issues.

The Chair noted that this proposal was submitted as a recommendation by the FHIAB last year; however, following discussions during the FHIAB meetings, this was changed from “Florida Office of Insurance Regulation” to “Agency for Health Care Administration” and asked if the Board was interested in making this change again. Molly McKinstry agreed with this change. No objections to this change.

Louisa McQueeney moved that the Board make this recommendation; however, there was no second so the motion fails.

Following the vote, Molly McKinstry suggested that this recommendation may benefit in the future from specificity. While she agrees that 30 miles or 30 minutes is a good baseline, flexibility is needed, especially with regard to the rarity of some specialties. She also suggested adding clarity to this recommendation regarding what is meant by “Improve network adequacy.”

Molly McKinstry also noted that AHCA will work on ensuring consumers know to contact their office regarding networking adequacy complaints. To assist in this regard, she also suggested reviewing what health plans are sharing regarding who to call.

**8. Prohibit balance billing for emergency medical transportation.**

- Recommendation:** *Apply the balance bill rules under HB221, signed into law by Governor Scott, to include emergency transportation.*

Due to the fact that this issue is currently in litigation, Molly McKinstry suggested that this recommendation not be submitted at this time. Seth Phelps concurs. He noted that the Federal Legislature is also reviewing this issue. Eric Johnson noted his objection, believing that a vote on this issue would be premature at this time due to the preceding discussion. No vote was taken.

**9. Protect Consumers and Insurance Markets from short term plans.**

- Recommendation:** *Require a stronger consumer disclosure than is required by federal regulation. Ensure brokers and agents read the full disclosure to the consumer and require the consumer to sign a statement that they have read the disclosure. Institute an external appeal process where a third party will make final appeal determinations.*

During the last Board meeting, the Office was tasked with obtaining consumer inquiry information from the Division of Consumer Services within the Department of Financial Services. The information provided for the time period of January 2019 to current contained a total of 60 consumer inquiries related to short-term limited duration plans with more than half of them related to claims denial or claims delay.

Louisa McQueeney moved that the Board make this recommendation; however, there was no second so the motion fails.

Following the vote, Molly McKinstry suggested that this recommendation may benefit in the future from specificity.

**10. Include Applied Behavioral Analysis as a covered benefit in select private insurance plans.**

- Recommendation:** *Require each carrier authorized to sell health insurance in Florida to include at minimum one plan in each service area to cover Applied Analysis Services as covered by Medicaid.*

Louisa McQueeney moved that the Board make this recommendation; however, there was no second so the motion fails.

**11. Establish Step Therapy Protocols.**

- Recommendation:** *Establish clear, meaningful, and accessible procedures for prescribers to override the process by requesting an exemption; Prohibit insurers from requiring insured patients to fail a drug more than once.*

Molly McKinstry requested that Medicaid be excluded from this recommendation, by adding the following sentence to the end of the recommendation: "This would exclude Florida Medicaid which is covered under section 409.91195, Florida Statutes." No objections to this change.

Louisa McQueeney moved that the Board make this recommendation; however, there was no second so the motion fails.

The Chair thanked everyone for their participation and input into the discussion. He then asked Amy Hardee to finalize the Board's recommendations and issue a copy to the Office of Insurance Regulation, the Senate President, the House Speaker, and the Agency for Health Care Administration.

**IX. Other Business**

With there being no further business items on the agenda, the Chair asked if there were any members of the Board with other business to be brought before the Board.

Louisa McQueeney asked if there was a reason why the FHIAB Meetings seem to have moved from August/September to the end of the year, which is not an opportune time. The Chair responded that the lack of an Executive Director has played into this as well as the COVID situation this year. He hopes the Board may be able to assemble in person earlier in the year once the Executive Director position is filled.

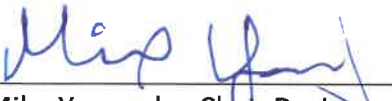
There being no further business, the Chair moved to the next agenda item.


**X. Public Comment**

The Chair asked if there were any members of the public who would like to comment. There being none, the Chair moved to the next agenda item.

**XI. Adjourn**

The Chair thanked everyone for participating. Having no further business, the meeting was adjourned at 3:30 pm.

  
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Mike Yaworsky, Chair Designee

  
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Date