

DRAFT

# MINUTES

November 8, 2011

**Group Insurance Board**  
State of Wisconsin

**Location:**  
Holiday Inn Hotel and Suites  
1109 Fourier Drive, Madison, WI



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## BOARD MEMBERS PRESENT:

Cindy O'Donnell, Chair  
Jon Litscher, Vice Chair  
Esther Olson, Secretary  
Robert Baird  
Marty Beil

Janis Doleschal  
Brian Hayes  
Jessica O'Donnell  
Daniel Schwartz

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## PARTICIPATING EMPLOYEE TRUST FUNDS (ETF) STAFF:

Dave Stella, Secretary  
Bob Conlin, Deputy Secretary  
David Nispel, General Counsel

Division of Insurance Services:  
Lisa Ellinger  
Office of Internal Audit: John Vincent  
Board Liaisons: Cindy Gilles, Chris Fried

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## OTHERS PRESENT:

ETF Office of the Secretary: Rhonda  
Dunn, Sharon Walk  
ETF Office of Communications and  
Legislation: Liz Doss-Anderson,  
Shawn Smith  
ETF Division of Insurance Services:  
Marcia Blumer, Jeff Bogardus, Bill Kox,  
Arlene Larson, Brian Shah, Betty  
Wittmann  
ETF Division of Retirement Services:  
Anne Boudreau  
Anthem: Susan Brins, Marin Kleinke,  
Sandy Reblin  
Dean Health Plan: Penny Bound  
Department of Justice: Charlotte Gibson  
Group Health Cooperative SCW:  
Chris Noffke, Paul Perkins  
Health Choice: Guy Penna  
Humana: Gina DiBruin, Elisabeth Wright  
Mercy Care: Mary Hesse

Minnesota Life: Kjirsten Elsner,  
Chris Schmelzer  
Navitus: Steve Alexander, Brent Eberle,  
Laura Morgan, Tom Radloff  
Office of State of Employment Relations:  
Paul Ostrowski  
State Engineers Association:  
Bob Schaefer  
United Health Care: Andrea Darling  
Unity Health Insurance: Kathy Ikeman  
University of Wisconsin System  
Administration: Beth Ritchie  
UW Health: Demi Wiemann  
Wisconsin Association of Health Plans:  
Carrie Kahn  
WEA Insurance Trust: Randy Mullis  
Wisconsin Physicians Service Insurance:  
David Grunke, Greg Nelson  
Charles Forsmo

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Board	Mtg Date	Item #
GIB	2.7.12	1

Cindy O'Donnell, Chair, Group Insurance Board (Board), called the meeting to order at 8:35 a.m.

## **CONSIDERATION OF AUGUST 23, 2011, OPEN AND CLOSED SESSION MEETING MINUTES**

***MOTION: Ms. Doleschal moved approval of the August 23, 2011, open and closed session meeting minutes as submitted by the Board Liaison. Ms. Olson seconded the motion, which passed without objection on a voice vote.***

## **ANNOUNCEMENTS**

Ms. O'Donnell announced David Arena resigned from the Board and an appointment to replace him would be made sometime in the future.

Due to his upcoming retirement, Ms. O'Donnell confirmed this would be Secretary Stella's last Board meeting. On behalf of the Board, Ms. O'Donnell presented Mr. Stella with a plaque to commemorate his service, guidance, and leadership to the Board. She conveyed the Board's gratitude for his dedication and hard work. Mr. Stella thanked the Board for carrying out its work thoughtfully and carefully.

Ms. O'Donnell congratulated Deputy Secretary Conlin for his recent appointment to Secretary of the Department of Employee Trust Funds (Department) effective January 3, 2012. She also congratulated Charlotte Gibson, the Board's Legal Counsel, on her recent appointment to Unit Director at the Department of Justice (DOJ).

Chris Fried was introduced to the Board as a new Board Liaison.

## **EDUCATIONAL TOPICS**

### **Appeals Process**

Ms. O'Donnell introduced David Nispel, the Department's General Counsel, and Ms. Gibson. Mr. Nispel referred the Board to the memo regarding the appeals process (Ref. GIB | 11.8.11 | 3A). He then provided a broad overview of Chapter 11 ETF, Wisconsin Administrative Chapter 40 and stated most concerns of Wisconsin Retirement System (WRS) members are successfully resolved through an informal review process conducted by the Department without a formal appeal being filed. This resolution may come through the Ombudsperson Services Program, a special consultant to the Deputy Secretary, settlement authority of the Secretary, and/or the settlement authority of supervisors and managers.

Ms. Gibson explained the Board's function in an appeal is quasi-judicial or exempt from open records, with deliberations completed in closed session. The Board is expected to

review the record without taking evidence or hearing testimony and provide oversight of the initial decision making process.

Ms. Gibson informed the Board that a person with a substantial interest in the issue to be decided, the Department, potential beneficiaries, and third party administrators or health insurance programs may all be parties involved in an appeal. A Hearing Examiner gathers evidence and issues a proposed decision. Prior to a Board meeting, Board members review the record and advice provided by Counsel to identify the specific issues to be resolved. During a Board meeting, Counsel provides a summary and recommendation followed by Board discussions prior to a vote on the appeal. The Board does have the option of remanding the appeal back to the Hearing Examiner to gather additional evidence or to consider a point of law the parties did not address. The Board has limited power to correct what might be deemed unfair.

Ms. Gibson stated that a final decision includes the findings of facts and conclusions of law as well as facts establishing the Board's jurisdiction and a statement of the disposition of the appeal. The final decision is communicated to the parties involved in the appeal. The losing party has the option to petition for re-hearing to correct factual evidence or present new evidence and may request a judicial review in circuit court.

The Board was assured by Ms. Gibson that members are indemnified in the appeals process as long as the conduct alleged in the lawsuit occurred in the scope of the member's duties as a Board member. In this type of case, representation would be provided by the DOJ without cost to a Board member, and the State or Trust Fund (depending on the nature of the case) would pay any judgment.

### **Fiduciary Responsibilities**

Mr. Nispel referred the Board to the memo regarding fiduciary responsibilities (Ref. GIB | 11.8.11 | 3B). He suggested Board members may wish to include the memo in their Governance Manuals.

Mr. Nispel explained the WRS is governed by Chapter 40 of the Wisconsin Statutes. He defined a fiduciary as one who holds assets in trust or in confidence for a beneficiary. He also confirmed all Board members are fiduciaries. Among other duties, Mr. Nispel stated Board members have a duty to collect contributions from employers and/or employees, to pay benefits, comply with plan documents, and to inform members. Board members also have a duty to act solely in WRS members' interest for the exclusive purpose of providing benefits to participants and their beneficiaries.

Mr. Nispel confirmed fiduciaries may rely on experts in and out of the organization. Although delegation of responsibilities is acceptable, abdication is not. This requires careful hiring and monitoring of experts by Board members. To properly administer benefits, law and policies must be accurately interpreted and benefits eligibility must be carefully determined. Mr. Nispel stated Board members must wear a fiduciary "hat"

when making fiduciary decisions and avoid self-dealing and self-enrichment. Decisions ultimately need to be based solely on what is in the best interests of members, retirees, and beneficiaries. If a fiduciary knows of a violation and does nothing about it, this constitutes a breach of fiduciary duty.

Board members have protection from liability when they are performing their duties in good stead. Mr. Nispel confirmed the State would pay for any excess damages awarded in proceedings against a Board member who is sued in his or her official capacity or for acts committed while carrying out Board duties when the court or jury finds that the Board member was acting within the scope of employment.

In conclusion, Mr. Nispel stated fiduciary standards are very high and a good process is very important to ensuring a good outcome along with careful, thorough, and scrupulous behavior.

### **Pharmacy Benefits Management**

Brent Eberle, Steve Alexander, and Tom Radloff, of Navitus Health Solutions (Navitus), introduced themselves to the Board. Mr. Alexander referred the Board to the Navitus Prescription Benefit Overview presentation (Ref. GIB | 11.8.11 | 3C). He shared that Pharmacy Benefit Managers (PBMs) have evolved from basic claims administrators to more complex organizations ensuring safe and appropriate drug utilization. They also execute clinical programs focused on cost-effectiveness, safety, and education.

Navitus provides the Board and Department:

- A commitment to lowering drug costs, improving health, and delivering superior service in a manner that inspires trust and confidence.
- The lowest net cost while keeping the needs of its members and Board in mind.
- Access to the highest levels of executive management and ensures Navitus' goals remain aligned with the Board's.
- An annual Strategic Business Plan.
- A drug formulary review by a group of 14 physicians and pharmacists who make clinical decisions on behalf of Navitus. This group determines what drugs are included in the formulary and in what tier.

Navitus' commitment to members includes:

- Implementation of an Employer Group Waiver Program on January 1, 2012, for all retirees. This will replace the Retiree Drug Subsidy Program due to cost effectiveness.
- Providing a "live," 24/7, toll-free provider hotline with many calls answered by certified pharmacy technicians to allow for first call resolution.
- Negotiating pharmacy discounts on behalf of the Board and passing 100% of the savings back to the State. These include:

- Lowering reimbursement for a 90-day medication supply.
- Mail service prescriptions.
- Personalized support for members impacted by chronic illnesses and complex diseases in order to improve the quality of life.

Statistically:

- During the third quarter of 2011, the group health insurance programs' generic utilization increased to 75.2% while the national average was 69% to 72%.
- Claims are adjudicating at 12.1% through the 90-day benefit with 3% of claims processed through mail order.
- The Wisconsin Public Employers (WPE) Group Health Insurance Program trend was below national averages at +0.4% in 2010 and is trending well in 2011.
- For the first half of 2011, there was an increase of 1.5% in the total plan paid per member per month, a 12.8% increase paid for specialty, and a decrease of -0.7% for non-specialty. Contributing factors to this trend include cost sharing, utilization, price inflation and drug mix, and network discounts.

#### **CLEARINGHOUSE RULE #11-044 ETF 11 APPEALS**

Ms. O'Donnell reintroduced Mr. Nispel. He referred the Board to the memo regarding the changes in Clearinghouse Rule (CR) #11-044 (Ref. GIB | 11.8.11 | 4A). He stated the Department is also developing and reviewing a related retaliation and discrimination policy.

Mr. Nispel summarized the changes to the rule which include the actual process for an expedited appeal, bypassing a formal appeal when all parties agree, specifying neither the Board nor an Administrative Law Judge have equity authority to determine an appeal, and confirming the power of an Administrative Law Judge. He also shared that if the Board approves the rule, it would go before the Employee Trust Funds, Teachers Retirement, Wisconsin Retirement, and Deferred Compensation Boards for their approval. If those Boards approve the rule, it will be sent to the Governor's Office and then to the Legislature for their consideration.

***MOTION: Mr. Beil moved to accept the proposed changes in CR #11-044 as presented. Ms. Olson seconded the motion. After further discussion, the motion failed on the following roll call vote:***

***Members voting aye: Beil***

***Members voting nay: Baird, Doleschal, Hayes, Litscher, C. O'Donnell, J. O'Donnell, Olson, Schwartzer***

***Members absent: None***

A request to strike Sections 15, 16, and 20 of the rule was made by Mr. Hayes.

**MOTION: Mr. Litscher moved to accept the proposed changes in CR #11-044 with modifications of deleting Sections 15, 16, and 20. Ms. J. O'Donnell seconded the motion which passed on the following roll call vote:**

**Members voting aye: Baird, Beil, Doleschal, Hayes, Litscher, C. O'Donnell, J. O'Donnell, Olson, Schwartzer**

**Members voting nay: None**

**Members absent: None**

The Board took a break at 9:55 a.m. and reconvened at 10:05 a.m.

## **HEALTH INSURANCE PROGRAM**

### **Act 32 Study**

Lisa Ellinger, Administrator of the Department's Division of Insurance Services (DIS), referred the Board to the Act 32 Study memo (Ref. GIB | 11.8.11 | 5A). Ms. Ellinger summarized the feasibility study on potential health care insurance reforms for public employees. The report from the Secretary of ETF and the Director of the Office of State Employment Relations was submitted to the Governor and the Joint Committee on Finance on October 31, 2011.

The following items were analyzed:

- Beginning January 1, 2013, offering eligible employees under Subchapter IV of Chapter 40 either a low-cost health care coverage plan or a high-deductible health plan.
- Implementing a three-level health insurance premium for single individuals, married couples with no dependents, and families with dependents.
- Implementing an online marketplace for purchasing prescription drugs.
- Requiring State employees to receive health care coverage through a health benefits exchange.
- Creating a health care insurance purchasing pool for all state and local employees receiving health care coverage under Medical Assistance.

### **Dependent Eligibility Audit Update**

John Vincent, Director of the Department's Office of Internal Audit, referred the Board to the Dependent Eligibility Verification Review memo (Ref. GIB | 11.8.11 | 5B). He reminded the Board that earlier this year a random sample of 1,000 covered dependents were selected to determine if they are eligible for coverage under the Group

Health Insurance Program. At the August 23, 2011, GIB meeting, it was reported that 91 of the 1,000 were under review by DIS.

Mr. Vincent reviewed the processes undertaken by DIS in addressing these outstanding cases and reported that all but four cases have now been resolved. A final report on this matter along with recommendations will be provided to the Board at the February 2012 meeting.

### **Guidelines and Uniform Benefits Changes**

Ms. Ellinger referred the Board to the Guidelines and Uniform Benefits for the 2012 Benefit Year memo (Ref. GIB | 11.8.11 | 5C). Department staff identified two changes for contract administration clarification. The first change aligns our program with Medicare Part D pertaining to individuals with foreign addresses. The second relates to limited enrollment for uninsured annuitants and continuants in the WPE Health Insurance Program.

### **OPERATIONAL UPDATES**

Ms. Ellinger referred the Board to the operational updates in their binders. She noted the action taken by the Joint Committee on Finance occurred after the last GIB meeting (Ref. GIB | 11.8.11 | 6D). This action provided a significant amount of resources primarily geared toward the retirement side given the high number of retirements but also for provisions in Acts 10 and 32 currently being implemented.

Referring to Item 6F on the agenda, Ms. Ellinger confirmed all future GIB meetings would be held at the State Revenue Building in the Events Room at 2135 Rimrock Road, Madison.

Ms. Ellinger provided a short summary on the 2011 Disease Management Survey (Ref. GIB | 11.8.11 | 6G). In 2006, the Department began surveying health plans annually about disease management related to chronic illness and high-cost care amongst WRS members.

The programs of interest resulting from the 2011 survey are:

- Cost-effective and safe utilization of elective outpatient high technology radiology studies (i.e., CT, MRI, PET, nuclear stress test).
- Improving end-of-life care.
- Coordination of care upon hospital discharge.
- Shared decision-making.

Ms. O'Donnell announced the Board would be meeting in closed session pursuant to the exemptions contained in Wis. Stat. § 19.85 (1)(a) for the purpose of discussing an appeal. Upon conclusion of the discussion, the Board will reconvene in open session.

**MOTION:** *Mr. Beil moved to convene in closed session, pursuant to the exemptions contained in Wis. Stat. § 19.85 (1) (a) for the purpose of quasi-judicial deliberations on an appeal. Ms. Doleschal seconded the motion, which passed on the following roll call vote:*

**Members Voting Aye:** *Baird, Beil, Doleschal, Hayes, Litscher, C. O'Donnell, J. O'Donnell, Olson, Schwartzer*

**Members Voting Nay:** *None*

**Members Absent or Not Voting:** *None*

The Board took a 10-minute break at 11:20 a.m. prior to the commencement of the closed session.

They reconvened in open session at 12:05 p.m.

**ANNOUNCEMENT OF ACTION TAKEN ON BUSINESS DELIBERATED DURING CLOSED SESSION**

Ms. O'Donnell announced that during closed session the Board voted to accept the Hearing Examiner's proposed decision, with modifications, in the matter of Appeal 2010-015-GIB.

**ADJOURNMENT**

**MOTION:** *Mr. Baird moved to adjourn the meeting. Ms. Olson seconded the motion, which passed without objection on a voice vote.*

The Board meeting adjourned at 12:10 p.m.

Date Approved: \_\_\_\_\_

Signed: \_\_\_\_\_

Esther Olson, Secretary  
Group Insurance Board