

DRAFT

MINUTES

December 30, 2016

Group Insurance Board
State of Wisconsin



Location:
State Revenue Building – Events Room
2135 Rimrock Rd, Madison, WI 53713

BOARD MEMBERS PRESENT:

Michael Farrell, Chair	Ted Neitzke (via telephone)
Herschel Day, Secretary (via telephone)	Stacey Rolston (via telephone)
Terri Carlson (via telephone)	Nancy Thompson (via telephone)
Chuck Grapentine	JP Wieske (via telephone)
Waylon Hurlburt	Bob Ziegelbauer (via telephone)

BOARD MEMBERS ABSENT:

Bonnie Cyganek, Vice Chair

PARTICIPATING EMPLOYEE TRUST FUNDS (ETF) STAFF:

Bob Conlin, Secretary	Office of the Secretary:
John Voelker, Deputy Secretary	Cheryllynn Wilkins, Board Liaison
Office of Strategic Health Policy:	
Lisa Ellinger, Director	
Eileen Mallow, Deputy Director	

OTHERS PRESENT:

ETF Information Technology Services: Kadimma Mbanefo	General Public: Caitlyn Allen, Cora Allen-Coleman, Luella Allen-Waller, Kyle Bittorf, DJ Bruce, Brittyn Calyx, Rowan Calyx, Fred Day, Alex Fleagle, Jordan Foley, Alex Frye, Laura Gutknecht, Michele Hatchell, Ronni Hayon, Tracey Janke, Gabriel Javier, Caleb Johnson, Corrine Jutz, Owen Karcher, Autumn Kent, Lex Lancaster, Darla Lannert, Ray McMahon, Jaymee Meier, Jaime Neidermeier, Pamela Oliver,
ETF Legal Services: Diana Felsmann, David Nispel	
ETF Office of Communications: Mark Lamkins	
Department of Justice: Kevin Potter	
Department of Transportation: Richard Way	
Fair Wisconsin: Megin McDonell	

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General Public (continued):

Kathy Oriel, David Patton, Rachel Perry, Jennifer Pressman, Emily Ptak-Pressman, Melanee Ratman, Dan Ross, Erica Rotondo, Betsy Stovall, Steph Tai, Nick Telson, Jo Tent, Mitchell Turine, Sara Whitworth, CV Vitolo-Haddad

GSAFE:

Sawyer Johnson

Human Rights Campaign (HRC):

Joanne Lee

Madison Area Transgender Association (MATA):

Violet Byrns

Our Lives Magazine:

Patrick Farabaugh, Emily Mills

OutReach:

Ginger Baier

Physicians Plus:

Ron Sebranek

Michael Farrell, chair, called the meeting of the Group Insurance Board (Board) to order at 3:00 p.m. Waylon Hurlburt is attending today's meeting as the Department of Administration designee.

Mr. Potter from the Department of Justice (DOJ) attended the meeting in order to discuss the July 12, 2016, Board action to approve changes to the Guidelines Contract and Uniform Benefits for 2017 (Ref. GIB | 7.12.16 | 3A). These changes are in compliance with the federal Department of Health and Human Services (HHS) final regulations pertaining to Section 1557 of the Affordable Care Act (ACA) issued on May 18, 2016.

The state of Wisconsin has joined a federal lawsuit in Texas challenging the legality of the HHS regulations. The lawsuit requested a preliminary injunction be issued to preclude the enforcement of the HHS regulations, and a decision was expected soon. The request was heard on December 20, 2016, but no decision was issued by the time of the December 30 Board meeting.

The Chair announced the Board would convene in closed session pursuant to the exemptions contained in Wis. Stat § 19.85 (1) (g) to confer with legal counsel concerning advice about strategy to be adopted with respect to litigation in which the Board is or is likely to become involved. Mr. Nispel, Mr. Potter, Ms. Wilkins and Mr. Mbanefo were invited to remain during the closed session.

MOTION: Mr. Grapentine moved to convene in closed session, pursuant to the exemptions contained in Wis. Stat. § 19.85 (1) (g) to confer with legal counsel concerning advice about strategy to be adopted with respect to litigation in which the Board is or is likely to become involved. Mr. Hurlburt seconded the motion, which passed on the following roll call vote:

Members Voting Aye: Carlson, Day, Farrell, Grapentine, Hurlburt, Neitzke, Rolston, Thompson, Wieske, Ziegelbauer

Members Absent: Cyganek

The Board convened in closed session at 3:13 p.m. Mr. Neitzke departed at 5:00 p.m. Other ETF staff were invited into closed session at 6:15 p.m. The Board reconvened in open session at 6:24 p.m.

ANNOUNCEMENT OF ACTION TAKEN ON BUSINESS DELIBERATED DURING CLOSED SESSION

Mr. Farrell announced the Board met in closed session to consult with DOJ and ETF Legal Counsel regarding the final HHS rule. The Board will receive an update on this matter at the January 18, 2017, Board meeting. The Board also reserves the right to revisit the benefit in the future as necessitated by legal action, statutory compliance, potential financial impact, or in keeping with the Board's fiduciary responsibilities.

DISCUSSION AND CONSIDERATION OF 2017 UNIFORM BENEFITS – BENEFITS AND SERVICES RELATED TO GENDER REASSIGNMENT OR SEXUAL TRANSFORMATION - HHS NONDISCRIMINATION RULE

The Board's discussion of the gender reassignment language proposed was based on the legality of the final HHS rule.

MOTION: Mr. Hurlburt moved to reinstate the current exclusion related to benefits and services related to gender reassignment or sexual transformation contingent on all of the following:

- ***Subject to a court ruling or an administrative action that enjoins, rescinds or invalidates the HHS Rule;***
- ***Subject to compliance with Wis. Stat. section 40.03 (6)(c);***
- ***Subject to renegotiation of contracts that maintain or reduce premium costs for the state; and finally***
- ***Subject to the opinion of the DOJ that the action taken does not constitute a breach of board members' fiduciary duties.***

Mr. Wieske seconded the motion, which passed on the following roll call vote:

Members Voting Aye: Carlson, Farrell, Grapentine, Hurlburt, Rolston, Wieske, Ziegelbauer

Members Voting Nay: Day, Thompson

Members Absent: Cyganek, Neitzke

ADJOURNMENT

MOTION: Mr. Grapentine moved to adjourn the meeting. Mr. Hurlburt seconded the motion, which passed unanimously on a voice vote.

The meeting adjourned at 6:32 p.m.

Date Approved: _____

Signed: _____

Herschel Day, Secretary
Group Insurance Board