

MINUTES

PCF OVERSIGHT BOARD

October 7, 2010

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 October 7, 2010, at the Woman's Hospital Corporate Board Room in Baton Rouge.

The following Board Members were in attendance:

Mr. Clark Cossé
Dr. Katharine Rathbun
Dr. Van Culotta
Mr. Kent Guidry
Mr. Jim Hritz
Dr. Melanie Firmin

The following Board Members were absent:

Mr. Joe Donchess
Dr. William LaCorte
Mr. Manual DePascual

Others present:

Mrs. Lorraine LeBlanc	Mrs. Barbara Woodard
Mr. Ken Schnauder	Mr. Dave Woolridge
Mr. Mark Berger	Mrs. Cindy Dolan
Mr. Tom McCormick	Mrs. Sharon Knight
Mrs. Joan Burmaster	Mr. Adam Thames

Mr. Cossé called the meeting to order and asked that the record reflect six 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 September 2, 2010 minutes. Dr. Rathbun moved for the minutes to be approved and Dr. Firmin seconded the motion. By verbal vote, the minutes were adopted with no dissenting votes.

Mr. Cossé asked for the financial reports. Mrs. LeBlanc informed the Board that the operating budget expenses were going as planned and in line with the normal expenses and that the net collections to date were approximately \$27,000,000. She informed the Board that the claim expenditures to date were approximately \$30,297,415 and that the fund balance was \$608,402,365. Mrs. LeBlanc stated that less revenue had been received for the last month than what was paid out in claims. She informed the Board that the Touro Infirmary surcharge payment was sent certified mail to the street address and had been sitting at the Post Office for the last month. The mail carrier allegedly had attempted delivery twice, both times the office was closed and no notice was left concerning the delivery attempts. Had this check been received timely and deposited it would have shown \$4,000,000 more toward the year to date revenue. Mr. Cossé suggested that a notice be placed on the website asking all providers to use FedEx or UPS services. Mrs. LeBlanc informed all attending the meeting that the PCF financial information would be available on the website by Friday afternoon. Mr. Cossé asked if there were any questions regarding the financial reports. There were none. Dr. Culotta motioned for the Board to accept the financial report and Mr. Guidry seconded the motion. Verbal vote was unanimous and the financial reports were approved.

Mrs. LeBlanc presented a draft of the 2012 budget to the Board for their review. She explained that as an off budget agency, the budget was due to the Legislative Fiscal Office January 1st of each year and that the Board would have the final copy of the 2012 budget to approve at the December meeting. Mr. Cossé asked why the salary category had increased. Mrs. LeBlanc stated that although merit increases were not expected and highly unlikely, the calculation must be included for any last minute merit approvals. Also, the claim adjuster position that had been cut in the prior fiscal year was filled and money added back to the budget. She also explained to the Board that there were possible promotions for the claim and accounting staff that were being considered. Mrs. LeBlanc informed the Board that as of this morning, a notice was received from the Office of Planning and Budget stating the new retirement rates percentages to calculate when completing the 2012 budget. Mrs. LeBlanc reminded the Board that any unspent money would remain in the State Treasury Office in the fund account and would not go to general funds. Mr. Cossé asked where the payment of the CPA would fall and Mrs. LeBlanc replied that it would be paid out of the professional services category. Mr. Cossé asked that the actuary and accounting services be separated in the professional services category so that the Board could review the charges for each. Mr. Cossé stated that the Board should approve the CPA and Dr. Culotta stated that the Board should be aware of who is hired beforehand. Mrs. LeBlanc explained to the Board that the services of the CPA were secured for a limited time for a compilation of the 2009 ending fund balance and the 2010 Enterprise AFR. She stated that this report was a public document and must be accurate. She felt that the timeframe that Statewide Reporting had given the agency was unreasonable and the report was new to the PCF staff. Also, other important issues were being addressed in the office, such as the AccuFund installation and setup, which did not leave sufficient time for the compilation needed for the report. It was strongly felt outside expertise was immediately needed for this report to be accurate and submitted by the deadline. Mrs. LeBlanc stated no professional services contract was entered into, but an engagement letter was signed. Should the Legislative Auditor cease the auditing of the PCF, the agency would be forced to contract with a CPA firm from the Legislative Auditors approved list. Mr. Cossé asked that background information be provided on the CPA that was hired to do the compilation for the Enterprise AFR at the November meeting. Further the Board

must approve any future engagements with a CPA. Mr. Guidry asked if claim defense fees were paid out of this side of the budget and Mrs. LeBlanc stated that no, legal fees for claim settlements were paid out of the claim expenses. Mr. Cossé asked if there were any other questions regarding the proposed 2012 budget. There were none.

Mr. Cossé asked for the claims manager report. Mr. Schnauder reported that during the month of September the claims section had opened 120 claim files and closed 190, with only 30 closed with a payment by the PCF. Mr. Schnauder explained that usually only 12% of claims closed were with payment. The total pending claims are 4,894, down 57 from last month. Mr. Schnauder reported that there are currently 176 future medical cases, 5 less than last month due the closing of inactive files. Twenty five claims were being presented for approval totaling \$6,648,816. Mr. Schnauder informed the Board that litigation expenses were lower this year than last year at this time. He stated new panel filings were still down and as of today, there were a total of 1,100 filed for the calendar year. Mr. Cossé asked if there were any further questions on the Claims Manager report. There were none.

The next item on the agenda was the request by LAMMICO that the Board consider a change in the effective date of the rate changes that were voted on by the Board during the September meeting. Mr. Cossé stated that the Board had approved a rate decrease to be effective for all members January 1, 2011. In a letter to the Board dated October 5th, Dr. Grimstead asked the Board to make the decreases effective immediately to expedite rate relief for healthcare providers throughout the state. He informed all at the meeting that the PCF Actuary estimated the reduction in revenue to the PCF would be approximately \$8,000,000 if the effective date was changed from 1/1/11 to 9/2/10. Mr. Cossé stated by allowing retroactive rate relief as proposed, there could be an argument that the UAL is not fairly distributed among all HCP's since most have already paid the increase imposed in 2010. Dr. Firmin stated last year, due to the push from the Department of Insurance to address the UAL, there was a rate increase even though the actuary results indicated there was room for a rate reduction. The main purpose of the reduction is rate relief to the HCP and it seems the earliest possible date is 9/2/10. Dr. Firmin moved to make the rate reductions effective 9/2/10. Dr. Rathbun seconded the motion. Dr. Culotta reminded all at the meeting that the PCFOB had been defending the unfunded liability issue last year and approving this request could have a fiscal impact on the fund and might result in an increase in rates next year. Dr. Culotta asked the representatives from Lammico if Dr. Grimstead had the authority to speak on behalf of the Lammico Board. Mrs. Burmaster stated that as CEO of Laminco, Dr. Grimstead had made the Lammico Board aware of the rate relief request. Dr. Rathbun expressed her concern regarding the loss of approximately \$8,000,000 in revenue this year when such was to go towards the UAL. She also felt it would have an impact on next year's rates since the same providers would pay the reduced rates at renewal next year causing a considerably larger decrease in the fund balance. Mr. Hritz agreed. Dr. Culotta explained that the UAL is the lowest it has ever been and in much better shape than it ever has been, despite the undue criticism from the Department of Insurance last year. He cautioned the members that approving the rate relief this year could require rates to be raised in 2012. Mr. Guidry asked if the effective date of future rate changes could be September instead of January. Mrs. LeBlanc informed all that the rates used to be effective July 1st of each year. She stated the majority of the reports done as a state agency are based on fiscal year data and perhaps a change in the timing of the actuary report should be considered. Mr. Cossé reminded all the funds held by the

PCFOB are reserved for expected losses and do not represent a surplus. Mrs. Knight stated that outcome of next legislative session was unknown and there might be further changes with the medical malpractice cap. Mr. Cossé stated the cap would have to be addressed at some point. Dr. Culotta stated that if the cap was raised there would be an increase in the surcharge rates. Mr. Woolridge advised the Board there might be an issue relative to notice as provided in SB 514 which gave the PCF Board the authority to set rates, but also provided for notice to be given 15 days in advance before rates are determined. Mrs. LeBlanc stated that the recent annual report was ready in May and that the data is usually given to the actuary in March and April of each year. Mr. Guidry amended the motion to move the effective date of the current rate reductions from 1/1/11 to 9/2/10 and to adopt a policy to vote on rates in July of each year with an effective date for any rate changes in September of each year. Dr. Culotta seconded the motion. The verbal vote was unanimous.

Mr. Cossé asked if there would be a problem with the PCF proceeding forward with the action approved tonight regarding the change in dates for the rate discussion and effective date. Mrs. LeBlanc stated she did not anticipate any, but should there be any problems in providing data to the actuary early enough to meet the deadlines, it could impact the September date.

Dr. Culotta asked Ms. Dolan if this would affect HSLI and her reply was no. Dr. Culotta asked Mr. Berger if this would affect the nursing homes and he replied no. Mrs. Bishop requested that information regarding the changes be posted to the PCF website as soon as possible.

The discussion then focused on the Pharmacist and EMT Rates. After some discussion the Board clarified the surcharge requirements for hospital pharmacists and ambulance services. Those hospitals that do not allow discharged patients, employees or others to obtain prescription medicines from the hospital owned pharmacy will not be required to pay an additional surcharge for pharmacists that are employed by the hospital. Further, any hospital that provides ambulance services must pay a separate surcharge for that service based on the established PCF surcharge rates for EMTs, regardless of whether the service is provided only for the hospital's patients or provides services to other hospitals. It was felt the ambulance services should not be added to the hospital liabilities when rates are established. Mr. Hritz moved that these changes be made effective 9/2/10 for pharmacists and that a grace period until January 1, 2011 be allowed for hospitals and insurers to obtain and report information relative to their ambulance services. Dr. Culotta seconded the motion. Mr. Cossé asked if there were any comments regarding the rates for pharmacists and EMT's. There were none. The vote was unanimous.

Mr. Cossé thanked the guests for attending the meeting and the General Session was adjourned.

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

Mr. Clark Cossé, Chairman