

**Florida Health Insurance Advisory Board
Board of Directors Meeting Minutes
Tuesday, October 12, 2021, 2:00 PM
Via Teleconference
Tallahassee, FL**

Board Members Present:

Mike Yaworsky, Chair Designee	Ken Stevenson, Vice Chair	Cody Farrill
Louisa McQueeney	Christina Lake	William "Bill" Herrle
Eric Johnson, PhD, ASA	Richard B. Weiss, CPA	John J. Matthews
Seth M. Phelps	Rick Wallace	Robert Muszynski
Nathan Landsbaum		

Others Present:

- Amy Hardee, Administrative Assistant II to the Deputy Commissioner – Life & Health, Office of Insurance Regulation (OIR)
- Monica Ross, Chief Legal Counsel, 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 2:00 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

Monica Ross was recognized and reviewed the antitrust statement.

IV. Chair's Opening Remarks

The Chair thanked the members for their attendance.

The Chair also noted that Liz Miller, one of our carrier representatives who joined the Board in October 2020, has left her role as President and CEO of Sunshine Health so Nathan Landsbaum (the new President and CEO of Sunshine Health) has been appointed to serve in her stead.

V. Approval of Minutes, August 24, 2021

The Chair presented the minutes from the August 24, 2021, meeting for adoption, noting that members had been provided with advance copies. Seth Phelps moved to adopt the minutes as written, with a second by Rick Wallace, and the minutes were adopted without objection.

VI. Executive Director Selection Committee Status Report

The Chair recapped the Board's approved motion from its last meeting and turned the time over to Seth Phelps (Chair, Executive Director Selection Committee) for a status report.

Mr. Phelps reported that the Board's LinkedIn account is up and available. The Committee is now seeking approval for the draft job posting, which was included in the Board Packet, that reflects the job duties previously approved. Rick Wallace moved to adopt the Committee's recommended job posting, with a second by John Matthews, and the job posting was approved without objection.

The Chair thanked Mr. Phelps for the report and the Committee's work so far.

VII. Review of Plan of Operation

The Chair reported that the Plan of Operation requires that the Board review this plan and submit proposed amendments, if any, to the Commissioner for approval.

The Chair proposed that the Board accept the current Plan of Operation with no changes at this time and move forward with any recommendations or updates once an Executive Director is appointed. Cody Farrill moved to accept the recommendation, with a second by Christina Lake, and the recommendation was adopted without objection.

VIII. Discussion of Legislative Proposals for 2022

The Chair noted that the purpose of today's call was to discuss possible legislative proposals for 2022 and reminded members that only those proposals reaching a full consensus by the members would be submitted for consideration to the 2022 Florida Legislature on behalf of the entire Florida Health Insurance Advisory Board.

The Chair reported that eight proposals had been received from Louisa McQueeney (Florida Voices for Health). The Chair then asked Ms. McQueeney to review her proposals.

Recommendation #1: 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.

Ms. McQueeney reviewed her proposal, *Employee/Dependent Option Coverage in Small Group Plans*, as submitted.

Recommendation #2: Expand statute 627.666 to include individual on- and off-exchange policyholders a Deductible Health Credit Transfer to a new policy equal to the deductible paid by the policyholder to the prior insurer. The Credit Transfer should be for the entire amount paid by the consumer without limitations such as a period 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.

Ms. McQueeney reviewed her proposal, *Deductible Health Credit Transfer*, as submitted, noting that this was approved by the Board previously as a legislative recommendation.

Seth Phelps noted that currently the way the group carryover credit works is that up to the prior 90 days could carry over from the previous calendar year if the group moves. He asked if the intention here is only for the current calendar year or allowing up to the prior 90 days to carry over from the previous year for individuals also. Ms. McQueeney replied that said she thinks we should do both.

Recommendation #3: Provide consumer with one free copy of their medical record provided to consumer by mail or electronic mail, at the time of payment request for services provided. Ms. McQueeney reviewed her proposal, *Provide health care consumers with one free copy of their own medical records*, as submitted, noting that this was approved by the Board previously as a legislative recommendation.

Cody Farrill noted that the use of electronic health records has made medical records more accessible and that many consumers are now able to now access their medical records via electronic health records through their physician or provider. Ms. McQueeney agreed that electronic health records are wonderful; however, providers do not always provide testing results, so she wants it tied to billing. Also, there are many elderly people who do not know how to use computers.

Mr. Farrill also noted that this seems to be the role of the physician/provider rather than the insurer. John Matthews noted that the intent of this recommendation is noble; however, he agrees it is not within the scope of the Board. Mr. Matthews also noted that insurers do not always have every slip of paper that providers have. Rich Weiss agreed and noted that insurers do have the authority to request medical records; however, there may be a cost associated with such requests, depending on the contract negotiated between the provider and insurer. Eric Johnson concurred with the previous statements regarding the incompleteness of insurer's records.

Mr. Johnson also pointed out that there has been pretty significant activity at the federal level around transparency of information so it may be worthwhile to consider the effectiveness of that and let that develop a little bit before continuing down the path of doing something at the state level.

Recommendation #4: 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.

Ms. McQueeney reviewed her proposal, *Protect Consumers from prescription drug formulary changes during a policy year*, as submitted. She noted that we've discussed this before and it's been said that it's the drug companies, but her point remains that it's the insurance companies (not the consumers) that enter into contracts with the pharmaceutical companies.

Recommendation #5: Apply the balance bill rules under HB221, signed into law by Governor Scott, to include emergency transportation.

Ms. McQueeney reviewed her proposal, *Prohibit balance billing for emergency medical transportation*, as submitted, noting that this was approved by the Board previously as a legislative recommendation.

John Matthews noted that the Florida Legislature did previously include air ambulance in its surprise billing legislation (HB 747 in 2020), which is in ongoing litigation. He also noted that the Federal No Surprises Act does wrap in air ambulance coverage, which is set to go live on January 1, 2022. Therefore, the “air” aspect of this recommendation is mute. As a result, the Chair asked Ms. McQueeney if she would have any interest in striking the word “air” from her recommendation and she agreed. This recommendation now reads as follows:

5. Prohibit balance billing for emergency medical transportation

Consumers in a life-threatening accident or major medical emergency in need of emergency transportation by road or water to receive immediate health care attention at a nearby facility, are not able to make an informed decision or negotiate at arms-length about the cost of the transport. Health insurance companies provide coverage for this event, but some coverage gaps can leave consumers with surprise high medical bills for the service.

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

Recommendation #6: 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.

Ms. McQueeney reviewed her proposal, *Include Applied Behavioral Analysis as a covered benefit in all insurance plans*, as submitted.

Recommendation #7: Include Fetal Alcohol Spectrum Disorder to the definition of the term developmental disabilities in statute 627.6686.

Ms. McQueeney reviewed her proposal, *Include Fetal Alcohol Spectrum Disorder (FASD) to the definition of the term developmental disabilities*, as submitted.

Recommendation #8: Require each health insurer, issuing, delivering, or renewing a policy in Florida, which provides prescription drug coverage, administered by the insurer or pharmacy benefit manager, to apply any amount paid by the insured or paid on his or her behalf through a third-party, for which there is no generic drug available, shall be applied toward the policyholder’s total contribution to any cost-sharing requirement. Include disclosure in policy documents and on websites, that these payments will be applied to the policyholder’s out-of-pocket maximum, deductible, or copayment responsibility.

Ms. McQueeney reviewed her proposal, *Apply payments by, or on behalf of, a beneficiary to count toward the out-of-pocket cost sharing calculations*, as submitted.

The Chair thanked everyone for their participation and input into the discussion. He then noted that these recommendations will be voted on at the Board's next meeting.

IX. Other Business


The Chair asked if there was any other business to be brought before the Board. There being none, 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 2:49 pm.



Mike Yaworsky, Chair Designee

11/8/21

Date