

**FINAL**  
**MINUTES OF THE OPEN SESSION MEETING OF THE**  
**NEW JERSEY SMALL EMPLOYER HEALTH BENEFITS PROGRAM BOARD**  
**HELD TELEPHONICALLY PURSUANT TO EXECUTIVE ORDER 103 (MURPHY)**  
**July 20, 2022**

**Members participating:** Herb Ames; Robert Benkert (United); Alison Birzon (Cigna); Gary Cupo; Margaret Koller; Thomas Pownall (Aetna Health); Gale Simon (DOBI); Tony Taliaferro (AmeriHealth).

**Others participating:** Ellen DeRosa, Executive Director; Chanell McDevitt, Deputy Executive Director; Rosaria Lenox, Managing Financial Officer; Jeffrey Posta, Deputy Attorney General.

**I. Call to Order**

E. DeRosa called the meeting to order at 10:00 A.M. She announced that notice of the meeting was provided to three newspapers of general circulation and the State House Press Corps, and posted at the Department of Banking and Insurance (“DOBI”), on the DOBI website, and at the Office of the Secretary of State in accordance with the Open Public Meetings Act.

E. DeRosa noted that, pursuant to P.L. 2020, c. 2, as a result of the state of emergency and public health emergency declared by Governor Murphy on March 9, 2020 through Executive Order 103, as subsequently extended,<sup>1</sup> due to the COVID-19 pandemic, the SEH Board’s regularly scheduled meeting is being held entirely telephonically rather than at the Board’s offices in Trenton. She stated that, in accordance with P.L. 2020 c. 11, electronic notice of the meeting and the means by which the public could attend the meeting telephonically was posted on the Board’s website, and issued electronically to all known interested parties.

E. DeRosa determined that a quorum was present, and that voting would be by roll call.

Members of the public were asked to identify themselves and are listed at the end of these minutes.

**II. Public Comments**

There were no public comments.

**III. Minutes of June 15, 2022**

**T. Pownall made a motion, seconded by M. Koller, to approve the minutes of the meeting of June 15, 2022 without amendment. By roll call vote, the motion carried unanimously.**

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<sup>1</sup> Pursuant to N.J.S.A. 26:13-3(b), a Public Health Emergency lasts for 30 days unless extended, while States of Emergency declared in accordance with N.J.S.A. App A:9-33 et seq. remain in effect until declared ended by a subsequent executive order. The Public Health Emergency was continuously extended through multiple executive orders until E.O. 244 (Murphy), issued June 4, 2021, declared the Public Health Emergency ended. However, Governor Murphy has not yet ended the State of Emergency established by E.O. 103 (Murphy). Thus, the Board continues to meet remotely, and public access is limited to telephonic means. (Notably, E.O. 280, issued January 11, 2022, resulted in another Public Health Emergency due to COVID-19, which was extended by E.O. 288 on February 10, 2022, then lifted by E.O. 292 on March 4, 2022.)

#### **IV. Staff Report – Expenses**

E. DeRosa discussed the expenses for July, noting two charges under the Legal category: the first being the typical charge from the Division of Law, totaling \$807.00 for Q4FY2022, and the second being a charge from the Office of Administrative Law (OAL), totaling \$52,365.31. She explained that the OAL had begun charging agencies for expenses incurred by the OAL for its rulemaking services, and that the Board had been charged about \$200 last year, but the current charge was unexpected. She further explained that OAL essentially charges its fiscal year rulemaking expenses to agencies that engage in rulemaking during that fiscal year, allocating the expenses on a per page basis. She stated the Board's rulemaking activity for FY2022 resulted in almost 60% of the total DOBI pages published (SEH pages totaled 487), and thus, the SEH Board's charge is nearly 60% of the total OAL charge made to the DOBI of \$90,000. E. DeRosa stated that, because the calculation is dependent on what all agencies do over a given period, it is almost impossible to budget for the expense, unless an agency knows it will not engage in rulemaking during a fiscal year.

R. Lenox stated the SEH Board does not have the funds from FY2022 to pay the expense, which is about \$50,000 over the FY2022 budget. She noted the Board has collected enough funds for FY2023 to pay the expense, but would still need to re-assess carriers to replenish FY2023 funding, probably no later than September. She explained that, while payment for the OAL charge is due July 1, OAL has indicated it can wait several months, which will allow the Board time to assess and collect funds for FY2022 prior to payment, rather than using FY2023 funds. R. Lenox stated that, with respect to the charges from the Division of Law, the Board would need to transfer the amount from its Wells Fargo Money Market account to its Checking account to pay those charges.

Board members requested written explanation setting forth the authority of the OAL to charge the agencies, so carrier Board members would be able to explain the issue to their respective companies, before authorizing payment of the expense or an additional assessment.

**G. Cupo made a motion, seconded by T. Pownall, to approve payment of the expense from the Division of Law, and approve the transfer of \$807.00 from the SEH Board's Money Market account to its Checking account, both at Wells Fargo. By roll call vote, the motion unanimously carried.**

#### **V. Additional Business – Standard SEH Plans – and Public Comments**

G. Cupo stated he believed the Board would be discussing the New Jersey Health Care Quality Institute's (NJHCQI) report,<sup>2</sup> noting this was why he asked Stacy Grant, Co-Chair of the New Jersey Association of Health Underwriter's (NJAHU) State Legislative Committee, to attend the Board's meeting.

It was pointed out that, because of the relationship of the Board to the DOBI – being in, but not of, the DOBI – the SEH Board does not typically take separate positions from those of the DOBI. It was further noted that it did not appear that many of the strategies in the report could be accomplished through the Board.

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<sup>2</sup> *Short and Long-Term Strategies to Support Health Care Affordability and Price Transparency for Small Employers and Consumers in New Jersey*. Issued by the NJHCQI July 2020, and updated June 2022.

L. Schwimmer, from NJHCQI, stated her interest in the subject is both as a health care policy advocate and as a small employer purchaser of health coverage for her employees. She suggested the Board has authority to act on many of the issues outlined in the report. She further suggested the Board has an obligation to be more proactive in promoting and maintaining a thriving small employer market, particularly because the Board is assumed to be populated by subject matter experts with respect to small employer health coverage and markets in New Jersey.

S. Grant, from NJAHU, stated that something must be done to make the small employer market more sustainable. She indicated she believes all parties have a similar goal of finding ways for small businesses to have access to affordable health care, but that there may be various means for achieving that goal.

It was suggested that some discussion with legal counsel regarding the Board's authority is warranted. T. Taliaferro indicated that given its agenda, the Board would not have any discussion following Executive Session.

## **VI. Close of Meeting**

**G. Cupo made a motion, seconded by H. Ames, to move into Executive Session, and formally close the open session as no additional discussion or action would follow the Executive Session. By roll call vote, the motion carried unanimously.**

*[The meeting adjourned at 10:45 A.M.]*

Public known to be in attendance:

- Stacy Grant, NJAHU
- Linda Schwimmer, NJHCQI