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**MINUTES OF THE MEETING OF THE  
NEW JERSEY INDIVIDUAL HEALTH COVERAGE PROGRAM BOARD  
AT THE OFFICES OF THE NEW JERSEY DEPARTMENT OF BANKING AND  
INSURANCE  
TRENTON, NEW JERSEY  
February 4, 1997**

**Directors Participating:** J. Donnellan (Prudential); S. Kelly (Blue Cross and Blue Shield of New Jersey); L. Moskowitz (Department of Banking and Insurance); E. Shrem, R. Rondum; R. Smart (Mutual of Omaha); G. Young (USHealthcare); L. Yourman

**Others Participating:** K. O'Leary, Executive Director, DAG M. Smyth (DOL); E. DeRosa, IHC Program Assistant Director, W. Sanders, SEH Program Assistant Director

**I. Call to Order**

J. Donnellan called the Board meeting to order at 9:50 a.m. K. O'Leary announced that notice of the meeting had been published in three New Jersey newspapers and posted at the Department of Banking and Insurance and the Office of the Secretary of State in accordance with the Open Public Meetings Act. A quorum was present.

J. Donnellan noted that S. Kelly returned from a leave, and he extended a welcome back on behalf of the Board.

**II. Review of Minutes**

*January 14, 1997*

**R. Smart offered a motion to adopt the minutes of the January 14, 1997 Board meeting, as amended. L. Yourman seconded the motion. The Board voted in favor of adopting the minutes, as amended, with one abstention (S. Kelly).**

**III. Report of the Policy Forms Committee**

R. Smart reported that Board members had been provided with plan change mark-ups to Plan C and the HMO plan during the January Board Meeting. Any comments were to have been provided no later than January 24, 1997. No comments were received. She noted that the Board had specifically discussed each of the changes during Board meetings since the annual policy review process commenced in the spring of 1996.

R. Smart expressed her expectation that the Board would be in a position to vote to propose the policy form changes and corresponding changes to the Regulations.

W. Sanders distributed a memorandum outlining a possible timetable for promulgation as well as issues concerning implementation. A copy of the February 4, 1997 memorandum is attached to the minutes. If the Board votes to propose the changes during the February 4, 1996 meeting, the next proposal date to the Office of Administrative Law (OAL) would be February 14, 1997. K. O'Leary noted that he and E. DeRosa discussed the feasibility of having all the Administrative Code pages marked up for proposal in order to file the proposal with the OAL on February 14, 1997. He said that there may not be adequate time to prepare the material prior to the February 14, 1997 date and that the next filing date would be March 7, 1997. He noted that the effect on the timing for adoption would be a delay of about 2 weeks. The Board agreed that staff should attempt to prepare the documents for proposal by February 14, 1997, but that March 7, 1997 could be used as a fall back date.

W. Sanders said that a rule change could be made effective as early as the date of publication. Assuming the proposal will be filed on February 14, 1997, the Board could vote to adopt during the May 13, 1997 Board meeting which would allow for a May 23, 1997 adoption filing with the OAL. The adopted rule would be published in the June 13, 1997 New Jersey Register. Thus, the rule could be effective on June 13, 1997. The Board may elect to use a later date. Discussions during prior Board meeting suggested that the Board may be interested in a July 1, 1997 effective date in order to accommodate the Children First Program.

L. Moskowitz said the plans for the Children First Program should be in place no later than September 1, 1997. The forms should be adopted in advance of that date so carriers would have sufficient time to implement the child only rating tier and forms changes.

The July 1, 1997 date would coincide with the effective date of some changes required by Kennedy Kassebaum. R. Smart commented that she understood that if a state filed for an alternative mechanism that existing plans may be retained beyond the July 1, 1997 date. W. Sanders said the alternative mechanism filing was due by April 1, 1997. He also noted that legislative changes would be required to comply with Kennedy Kassebaum. For example, the Kennedy Kassebaum pre-existing condition exclusion would not allow a carrier to consider a pregnancy as a pre-existing condition, under certain circumstances. R. Smart clarified that under Kennedy Kassebaum, there is only pre-existing conditions "protection" if the person is moving from employer group coverage. L. Moskowitz said that while the IHC statute is more liberal than Kennedy Kassebaum in many respects, there were circumstances where the IHC statute is less liberal.

W. Sanders said he spoke with Mark Stanton at the OAL and was advised that the Board could include changes to conform to Kennedy Kassebaum, upon adoption. This would give the Board more time to consider the changes as well as have the benefit of Federal regulations, which are due to be released by April 1, 1997.

R. Smart expressed concern that carriers may not be in a position to implement the changes for a July 1, 1997 effective date. She said carriers would be quoting July 1, 1997 business beginning in late May, and would need to have all the marketing material prepared by that time. If the Board only adopted the changes on May 23, 1997, carriers would not have time to produce necessary materials. G. Young suggested the Board could designate a July 1, 1997 effective date, but give carriers until September 1, 1997 to implement the changes. That way, if a carrier could be ready to issue the revised plans as of July 1, 1997, that carrier could do so. E. DeRosa reminded the Board that it had allowed a carrier elected deferred implementation date of March 1, 1995 for the January 1, 1995 changes, and that much confusion ensued. A fixed effective date/implementation date should be designated. S. Kelly noted that if the Board chose a September 1, 1997 date, a carrier could begin to market plans with September 1, 1997 effective dates as soon as the carrier filed rates.

R. Rondum said she was “feeling miserable.” She listened to implementation concerns in light of Children First, Kennedy Kassebaum and carrier administration. No one spoke about the rights of grandparents. She reminded the Board she had been fighting for the rights of a grandparent to purchase coverage for himself or herself and a grandchild, under one policy, for close to 3 years. She wondered why Children First and Kennedy Kassebaum should be driving the timetable for implementation. What happened to the rights of grandparents?

S. Kelly explained that it was critical to give carriers ample time to produce materials to accurately describe the plans. Otherwise, as consumer may be able to purchase a plan that includes all the plan changes, but would not know what the new benefits were and may not take advantage of them since carrier materials would not be available.

J. Donnellan asked if the Board needed to decide on an effective date during this meeting. W. Sanders said it would be helpful to alert carriers to the anticipated effective date in the proposal summary. G. Young suggested the question was how much confusion the Board wanted. If the Board wants the least confusion, defer the effective date until September 1, 1997. For more confusion, use August 1, 1997, and for chaos, the Board should use a July 1, 1997 date. J. Donnellan said he would elect to limit confusion to the extent possible, but recognized R. Rondum’s frustration, given the fact that she has pushed for coverage for grandchildren since 1993 and realization of her desired result would be deferred 2 months.

W. Sanders asked how renewals should be addressed in light of a September 1, 1997 effective date. The two options would be the “turn-key” approach whereby a carrier would amend all inforce plans as of the effective date, or the anniversary date approach whereby a carrier would implement the changes upon the first anniversary on or after the effective date. L. Moskowitz commented that the second option would mean a covered person’s plan may not be amended for up to 12 months following the effective date. The Board decided that carriers should have the option to use either approach.

E. Shrem asked if the inclusion of changes to conform to Kennedy Kassebaum would lead to higher rates. J. Donnellan said there was no way to predict the impact on rates.

W. Sanders explained that the nature and volume of the forms changes would not make use of a compliance rider to amend inforce plans a viable option. The Board agreed.

With respect to the phase out of business for Plan A and the lower deductible options, the Board agreed to consider the process outlined in the draft withdrawal regulation. The Board would consider whether it is an orderly process, protecting the public. The Board would discuss the draft withdrawal regulation during the Legal Committee report.

**R. Smart offered a motion that the Board file the proposed policy form and regulation changes with the Office of Administrative Law, with an anticipated effective date of September 1, 1997. G. Young seconded the motion. The Board voted unanimously in favor of filing the proposed policy form and regulation changes with the Office of Administrative Law.**

#### **IV. Report of the Ad Hoc Committee (Harvard Brandeis Study)**

R. Smart reported she had not been able to make direct contact with Kathy Schwartz to ask for a preliminary report of the findings of the study. She would continue to try to get beyond an exchange of messages.

#### **V. Report of the Executive Director**

##### *Expense Report*

**L. Yourman offered a motion to approve the payment of the expenses noted on the February 4, 1997 Expense report. G. Young seconded the motion. The Board voted in favor of approving the payment of the expenses, with R. Rondum abstaining with respect to reimbursement of her own expenses.**

##### *Loss Audits*

K. O'Leary said he did not receive a written update from D&T, but that he did receive an oral update.

- BCBSNJ: D&T was still waiting for materials concerning expenses, expense credits and Medicaid payments.
- National Casualty: The audit was nearly complete.
- Time: The audit was nearly complete.
- Manhattan National: D&T suggested data to request from Manhattan National since the Board did not intend to ask D&T to perform a complete audit.. Manhattan National finally provided the data last week and K. O'Leary forwarded it to D&T. He noted the company increased the loss amount by \$100,000. K. O'Leary said the Operations Committee would meet with D&T to determine the next steps. L. Moskowitz wondered if the carrier had a right to re-state the loss amount.

G. Young asked that the Board push for completion of the audits.

#### *Administrative Audit*

K. O'Leary reported he received a print out of all account activity last week and he forwarded it to D&T last week.

#### *Assessment Appeals and Reconciliation*

The loss audit was still incomplete, so there was no change to the status of the Assessment Appeals and Reconciliation.

#### *Legislative Activity*

A 2261, which was heard in the Assembly Insurance Committee on January 7, 1997 was scheduled for another hearing on Monday, February 3, 1997 at 2:00 p.m. The February 3, 1997 hearing was canceled late Friday afternoon. K. O'Leary said he was prepared to testify and that a copy of his prepared testimony was in the Board packets. He noted that L. Yourman and Assemblyman Felice were the only persons opposed to the bill who were given an opportunity to testify during the January hearing.

#### *Kennedy/Kassebaum Update*

L. Moskowitz has been placed in charge of a task force to implement compliance with HIPAA. W. Sanders distributed a copy of his memo to L. Moskowitz which outlined the tasks necessary to effect compliance in the individual and small employer markets.

#### *Accountant*

K. O'Leary reported he received over 100 resumes from persons interested in being considered for the accountant position. W. Sanders and E. DeRosa had assisted with the review of the resumes. He said he hoped to begin the interview process next week.

#### *Outreach*

K. O'Leary will speak to the South Jersey Underwriters on February 20, 1997.

[Break: 10:50 a.m. - 11:05 a.m.]

## **VI. Report of the Technical Advisory Committee**

#### *Rate Filings*

J. Donnellan noted that TAC recommended that the Board deem 2 rate filings complete, Celtic and PFL. He explained that PFL filed January 1, 1997 rates on January 3, 1997 and that TAC was pursuing the matter of rates for plans issued or renewed on January 1 and 2 with the carrier. He reminded the Board that while the rate filing was informational, a carrier may not use rates until they have been filed with the Board. He noted that the Board addressed a similar situation last year and that TAC was following the precedent set with that prior carrier. Therefore, TAC recommended that the filing be deemed complete as of the filing date, January 3, 1997. L. Yourman asked if the carrier could use the rates prior to hearing from the Board regarding completeness of the filing. S. Kelly explained that the informational filing is "file and use." A carrier need not

delay use of the rates until the Board deems them complete. If a filing is deemed incomplete, the carrier must immediately discontinue use of the rates.

R. Rondum asked why TAC had to rely on precedent as TAC recalled it. She reminded the Board that a couple of years ago she had asked that a “Policies and Procedures” manual be prepared. There should be an established, already agreed upon policy, documented in the manual, to address the late filing of rates. J. Donnellan said TAC won’t know exactly what action to take until it receives and reviews the response from the carrier regarding what rates were charged on January 1 and 2. R. Rondum expressed concern that the TAC or Board may take inconsistent action, and she did not want to be liable for inconsistency due to failure of Committee or Board members to recall what was done in the past. K. O’Leary noted that the role of the Committee as well as rate filing rules were set forth in the regulations, and that the regulations were the policies and procedures manual. R. Rondum said there should be policies and procedures to back up the regulations.

**L. Moskowitz offered a motion to deem the Celtic filing, effective 3/1/97, and the PFL filing, effective 1/3/97, complete. S. Kelly seconded the motion. The Board voted unanimously in favor of deeming the rate filings complete.**

J. Donnellan explained that TAC reached no recommendation regarding rate filings from National Casualty and Washington National. A TAC member expressed concern that the filing lacked sufficient data to support the need for a 50% increase and noted this was the 4th significant increase in less than a year. Some members of TAC identified data they believed would be necessary to support the requested rate increase. Another TAC member, V. Paguia commented that these filings were just like prior filings made by National Casualty and Washington National. A determination of whether a filing is complete may only be based on the requirements of N.J.A.C. 11:20-6. TAC was divided as to whether the requirements had been satisfied. J. Donnellan said neither company was selling new business. These rates were for inforce business only. The companies have asked to terminate inforce business. S. Kelly noted that experience on a closed block tends to become increasingly bad. People do not understand that they can change carriers without jeopardizing the payment of claims incurred prior to termination of the current plan.

T. Smith suggested that the carriers could educate their covered persons, and advise them there are other options. E. DeRosa said she had already suggested that to the carriers and they did not seem inclined to include any information with their renewals. The Board asked K. O’Leary to reach out to a higher level person.

L. Moskowitz suggested that the Board could allow these carriers to begin following the withdrawal regulation, in anticipation of an eventual withdrawal. After the Board considered the draft regulation it may want to revisit how to handle these carriers.

TAC should consider the filings again. Only 4 of the members were present for the meeting during which the filings were discussed. If the other members participate in the next meeting, TAC may be able to come back with a recommendation.

#### *Modal Factors*

National Health Insurance Company submitted modal factors which exceed the time value of money. TAC has asked for justification and will not have a recommendation until a response has been provided.

### **VII. Report of the Marketing Committee**

E. Shrem said that about 600 letters were mailed to firms inviting them to request a copy of the RFP for a marketing and communications consultant. Staff received requests from 81 firms. The pre-bid conference was held on February 3, 1997. 31 firms attended, many with multiple representatives. She said E. DeRosa provided an overview of the Program. Next, E. Shrem spoke about expectations. She noted she used R. Rondum's description of the Program as the "stealth" program and reiterated the desire that the Program be more visible. A question and answer session followed. Examples included questions concerning the budget and measurement of success based on enrollment. E. Shrem also reminded the potential bidders of the March 26, 1997 deadline and that they must bid on both compensation options. L. Moskowitz said he was concerned that the Board may lose the most qualified bidder by requiring bids on both options.

### **VIII. Report of the Legal Committee**

K. O'Leary said the Committee met by teleconference on February 3, 1997 to review the withdrawal regulation. He explained that there was no provision in the IHC Act to address withdrawal, so carriers were effectively withdrawing by rate increases.

K. O'Leary walked the Board through the regulation. The draft regulation addressed total market withdrawal, the withdrawal of an option, and the withdrawal of a plan pursuant to the Board canceling the plan or option. In all instances, adequate notice would be required to ensure an orderly phase out.

The Committee had several questions, as outlined on K. O'Leary's cover memo to the Board. The Board was asked to review the recommendations and draft, and be prepared for a full discussion during the March meeting.

The draft regulation indicated a carrier was either in or out. The Committee thought a carrier should be able to cease offering new business, but retain inforce business. For example, a carrier may sell its minimum number of non-group persons and want to close new business since it already met its obligation.

L. Moskowitz was concerned that the Committee recommended no separate DOBI filing. R. Smart explained that the Committee did not identify a reason a carrier should be required to make a separate filing. The Department was represented on the Board. L.

Moskowitz suggested that if a carrier wanted to withdraw from several markets, the carrier would be required to make a several filings. If a carrier was surrendering its license, would it still need to file with the IHC Board to terminate individual business?

K. O’Leary suggested the Board closely consider the matter of what to do if a carrier was an exempt carrier. Alternatively, if the carrier was non-exempt, there would be the matter of reimbursement for losses. Another issue to consider was how to handle affiliated carriers. Suppose a company offered coverage through several affiliates and wanted to cease writing for one. If the company was an exempt carrier, should the exemption be forfeited for all? Can one affiliate withdraw while another stays? K. O’Leary noted that “carrier” is a defined term, which includes all affiliates. The withdrawal regulation may need to use another term.

L. Moskowitz asked what would happen if the merger of 2 companies dictated the withdrawal of one. He offered the Aetna and USHealthcare merger as an example.

L. Moskowitz asked what role public interest should play. Suppose the last carrier selling indemnity plans applied to withdraw?

The Legal Committee should review the draft for compliance with Kennedy Kassebaum. The TAC should review it in terms of the effect on exemptions and reimbursement. The entire Board should likewise review the draft. The TAC should consider the regulation before the Legal Committee and pass any recommendations to the Legal Committee.

Since there are no public members on the Legal Committee or TAC., public members should provide comments to K. O’Leary who will forward to the Committees.

J. Donnellan suggested that the new marketing firm should be asked to manage the message of withdrawals.

## **IX. Executive Session**

**E. Shrem offered a motion that the Board close the Open Session and begin Executive Session. L. Moskowitz seconded the motion. The Board voted unanimously in favor of beginning Executive Session.**

*[Break: 12:45 p.m. - 12:55 p.m.]*

*[Executive Session 12:55 p.m. - 2:05 p.m..]*

## **X. Close of Meeting**

**G. Young offered a motion to adjourn the Board meeting. R. Smart seconded the motion. The Board voted unanimously in favor of adjourning the Board meeting. [The meeting adjourned at 2:05 p.m.]**



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**Directors Participating:** J. Donnellan (Prudential); S. Kelly (Blue Cross and Blue Shield of New Jersey); L. Moskowitz (Department of Banking and Insurance); E. Shrem, R. Smart (Mutual of Omaha); G. Young (USHealthcare); L. Yourman

**Others Participating:** K. O’Leary, Executive Director, DAG M. Smyth (DOL); E. DeRosa, IHC Program Assistant Director

**I. Call to Order**

J. Donnellan called the Board meeting to order at 9:45 a.m. K. O’Leary announced that notice of the meeting had been published in three New Jersey newspapers and posted at the Department of Banking and Insurance and the Office of the Secretary of State in accordance with the Open Public Meetings Act. A quorum was present.

J. Donnellan announced that this March 11, 1997 meeting had been designated as the Annual Meeting. The Board would make Board position and committee assignments during this Annual Meeting.

**II. Review of Minutes** *[February 4, 1997]*

**L. Moskowitz offered a motion to adopt the minutes of the February 4, 1997 Board meeting, as amended. L. Yourman seconded the motion. The Board voted in favor of adopting the minutes, as amended.**

**III. Board Position and Committee Assignments**

*Chair of Board*

J. Donnellan asked for nominations to serve as Chair. He noted that he currently served in that role.

**E. Shrem nominated J. Donnellan to serve as Chair of the Board. She noted that this nomination was for J. Donnellan, personally. If Prudential were to designate another person to represent Prudential on the Board, the position of Chair would not automatically be filled by such other person, and the Board would need to elect a Chair. R. Smart seconded the motion. The Board voted unanimously in favor of J. Donnellan continuing to serve as Chair of the Board, with J. Donnellan abstaining.**

*Vice Chair of Board*

J. Donnellan asked for nominations to serve as Vice Chair. He noted that R. Smart currently served in that role.

**E. Shrem nominated R. Smart to serve as Vice Chair of the Board. She noted that this nomination was for R. Smart, personally. If Mutual of Omaha were to designate another person to represent Mutual of Omaha on the Board, the position of Vice Chair would not automatically be filled by such other person, and the Board would need to elect a Vice Chair. S. Kelly seconded the motion. The Board voted unanimously in favor of R. Smart continuing to serve as Vice Chair of the Board, with R. Smart abstaining.**

*Secretary of the Board*

J. Donnellan asked for nominations to serve as Secretary. He noted that L. Yourman currently served in that role. He further noted that the Plan of Operations specified the position of Secretary.

**E. Shrem nominated L. Yourman to serve as Secretary of the Board. R. Smart seconded the motion. The Board voted unanimously in favor of L. Yourman continuing to serve as Secretary, with L. Yourman abstaining.**

In considering Committee assignments, the Board chose to vote for the Chair and Vice Chair for each Committee. To the extent possible, the Board would reach a consensus on committee membership. Board members were given lists of current committee membership.

*Policy Forms Committee*

**R. Smart nominated Loretta Curry (BCBSNJ) to serve as Chair. J. Donnellan seconded the motion. The Board voted unanimously in favor of L. Curry serving as Chair of the Policy Forms Committee.**

**J. Donnellan nominated R. Rondum to serve as Vice Chair. L. Yourman seconded the motion. The Board voted unanimously in favor of R. Rondum serving as Vice Chair of the Policy Forms Committee.**

L. Yourman volunteered to become a member of the Policy Forms Committee. R. Smart volunteered to give up her seat on the Committee, but agreed to serve the Committee on a consulting basis. By consensus, the Board agreed that other existing Committee members should continue on the Committee. (M. Smith from Time, M. Ringelheim from Prudential, M. Malloy from DOBI, DAG M. Smyth, and E. DeRosa)

#### *Legal Committee*

E. Shrem asked R. Smart if she would be willing to serve as Chair. M. Smyth noted that while the Department of Banking and Insurance has been a participant in Legal Committee meetings, the Department had been a Non-Voting Participant. Gale Simon stated that she believed the Department should be a voting participant. R. Smart suggested that it may be helpful to ask a carrier that does not have a seat on the Board to offer participation on the Legal Committee. L. Yourman expressed concern that no public member was represented on the Legal Committee. In response to an inquiry from the Board, S. Kelly advised the Board that she learned that M.L.B. Kaplan was no longer interested in serving as Chair of the Legal Committee.

**S. Kelly nominated R. Smart to serve as Chair. E. Shrem seconded the motion. The Board voted unanimously in favor of R. Smart serving as Chair of the Legal Committee, with R. Smart abstaining.**

The Legal Committee will come back to the Board with recommendations as to the Vice Chair as well as the rest of the membership on the Committee.

#### *Technical Advisory Committee (TAC)*

**L. Moskowitz nominated J. Donnellan to serve as Chair. E. Shrem seconded the motion. The Board voted unanimously in favor of J. Donnellan continuing as Chair of the TAC, with J. Donnellan abstaining.**

**L. Moskowitz nominated S. Kelly to serve as Vice Chair. E. Shrem seconded the motion. The Board voted unanimously in favor of S. Kelly continuing as Vice Chair of the TAC, with S. Kelly abstaining.**

#### *Operations Committee*

L. Moskowitz said he believed the Chair of this Committee should be the Chair of the Board. He also recommended that the existing membership be retained. S. Kelly said BCBSNJ would like to become a participant on this Committee, and the Board agreed.

**R. Smart nominated J. Donnellan to serve as Chair. L. Yourman seconded the motion. The Board voted unanimously in favor of J. Donnellan continuing as Chair of the Operations Committee, with J. Donnellan abstaining.**

The Operations Committee will come back to the Board with a recommendation as to the Vice Chair.

### *Complaint Committee*

K. O'Leary explained that while a Complaint Committee was recommended in the Plan of Operations, that recommendation preceded the arrangement between the Board and the Department of Banking and Insurance whereby the Department handles complaints concerning IHC plans, just as it handles complaints for any other plan. G. Young asked if the Committee might be a mechanism to address problem patterns. L. Moskowitz suggested that the Committee should develop a relationship with the Consumer Protection unit of the Department.

**J. Donnellan nominated L. Yourman to serve as Chair. R. Smart seconded the motion. The Board voted unanimously in favor of L. Yourman continuing as Chair of the Complaint Committee, with L. Yourman abstaining.**

The Complaint Committee will come back to the Board with recommendations as to the Vice Chair as well as the rest of the membership on the Committee.

### *Marketing Committee*

E. Shrem said the Committee would like to have a non-Board member carrier offer the participation of a marketing person. M. Smyth reminded the Board that bids in response to the RFP are due on March 26, 1997 and it would be important to have committee members participate in the review process who were familiar with the activities of the Board and the Marketing Committee. E. Shrem said the Committee had already established a meeting schedule to review the bids and interview candidates, and that current members agreed to participate. L. Moskowitz suggested the Board keep current membership until replacement or additional members can be named during a subsequent Board meeting, which would follow the early April review of the bids.

**J. Donnellan nominated E. Shrem to serve as Chair. R. Smart seconded the motion. The Board voted unanimously in favor of E. Shrem continuing a Chair of the Marketing Committee, with E. Shrem abstaining.**

## **IV. Report of the Policy Forms Committee**

R. Smart said that each member was provided with a copy of the March 7, 1997 filing that was made with the Office of Administrative Law. The public hearing was scheduled to be held during the April 8, 1997 Board meeting. Written comments would be received until May 7, 1997. She noted that staff was mailing copies of the filing to all carriers that sell IHC plans. She also reported that staff would make the plans available on disk.

R. Smart explained that the Board had never taken action to propose modifications to The Certification of Compliance, Exhibit Q. A copy of the current Exhibit Q, marked to show changes to address all plan options that were implemented in January 1996, as well as those proposed in the current proposal, was included in the Board packets. She asked the Board to vote to propose these changes so the revised form would be adopted by the time carriers would be required to use the revised policy forms. S. Kelly asked if the Policy

Forms committee reviewed the revised Exhibit Q. R. Smart said the Committee had not reviewed the revised Exhibit Q.

**R. Smart offered a motion to propose the draft modifications to Exhibit Q. G. Young seconded the motion. The Board unanimously in favor of proposing the modifications to Exhibit Q, with S. Kelly abstaining.**

L. Moskowitz commented that the Health Care Quality Act, if enacted, appeared to require HMO carriers to offer a POS product. He said he was uncertain as to specific application to the IHC market.

R. Smart said there were indications from U.S. Treasury that the structure of the family deductible for MSA qualifying plans may require the Board to modify the text that was adopted to accommodate high deductible MSA plans. It appears that Treasury believes that if a plan covers a family, then in all instances, the family deductible must be satisfied. The individual deductible would apply only if the plan covers only one person. She noted that only one carrier, Golden Rule, had systems already in place to administer a family deductible in such a manner. M. Smyth commented that if Treasury released regulations that confirm this approach, the IHC plans would be automatically amended via the Conformity with Law provision. If, however, Treasury simply released a statement, the Conformity with Law text would not necessarily apply.

*[Break: 10:50 - 11:05]*

## **V. Report of the Executive Director**

### *Expense Report*

**Gerald Young offered a motion to approve the payment of the expenses included on the March 11, 1997 expense report. R. Smart seconded the motion. The Board voted unanimously in favor of approving the payment of such expenses, with E. Shrem abstaining with respect to reimbursement of her own expenses.**

### *Audits*

The payment to Medicaid was the only outstanding issue in the audit of BCBSNJ.

The audits of National Casualty Company and Time Insurance Company were complete, and representation letters were being finalized. K. O'Leary said there would not be adjustments to the loss amounts for either of these carriers.

K. O'Leary reported he had forwarded the materials Manhattan National sent to D&T and asked D&T for a recommendations as to how to proceed. D&T provided a recommendation. K. O'Leary said the Operations Committee would meet to review and discuss the recommendation.

The 1994 and 1995 administrative audits of the program were not complete. D&T reviewed the data provided by the Department of Banking and Insurance and noted that data was missing. K. O'Leary has requested the missing data.

### *1996 Losses*

K. O'Leary reported that 8 carriers filed for reimbursement of losses, with the total amount requested being \$38,874,885. Each of the 8 carriers was seeking an amount in excess of \$1,000,000, so all 8 carriers should be audited. He would contact each carrier and ask for a contact person for the audits.

K. O'Leary said he asked S. Sanders of D&T for a rate for the 1996 loss audits. L. Moskowitz asked if D&T had a checklist of items to request in an audit. He said he assumed the 1996 rate would reflect the level of efficiency one would expect from a firm that has conducted audits for the prior 3 years. He said the level of efficiency of D&T should have sharply improved.

L. Moskowitz asked if the Board would have to go through the competitive bid process for the 1996 audit. K. O'Leary explained that the Board's RFP allowed for up to 3 one year extensions with D&T. M. Smyth agreed there was no need to go out for new bids.

K. O'Leary said that, of the carriers that had not filed to be exempt for 1996, only 3 had not requested reimbursement (Trustmark, Centennial, Principal).

R. Smart commented that the losses indicated that guaranteed issue, community rated individual business was a money losing business.

K. O'Leary said that none of the 8 carriers seeking reimbursement had competitive rates. S. Kelly commented that the enrollment for each of the carriers seeking reimbursement had fallen by 50% to 90%.

### *Enrollment*

K. O'Leary reported that 4th quarter 1996 enrollment had fallen from 178,000 to 160,000. The terminated plans were largely indemnity. HMO enrollment was increasing as was enrollment in the lower cost indemnity plans. S. Kelly said there were only about 14,000 pre-reform plans still in force. K. O'Leary said the number of small group plans also had decreased slightly in the 4th quarter. He did not know if the people were now uninsured or had become covered under large group plans.

### *Harvard Brandeis Study*

K. O'Leary said he spoke with Kathy Swartz. Mathematica had completed the policyholder survey and the results would be available in late March 1997. Deborah Garnick and Kathy Swartz completed the carrier surveys. J. Donnellan questioned the usefulness of the survey data. He noted that 1996 experience was very different from prior experience.

### *Legislation*

A 2261, a Bateman/Garrett bill was the subject of a couple of meetings. K. O'Leary said he sent Board members a summary of the bill. L. Moskowitz said there was potential for an Administration proposal for health reform, but it may not be timely enough to pass before the election.

K. O'Leary said he wrote to Assemblyman Garrett to clarify that the idea of combining the IHC and SEH Boards was not a Board generated idea.

The Health Care Quality Act, S. 269, left committee March 10, 1996. K. O'Leary said the Act applied to all markets. G. Simon suggested the forms may require some disclosure statements. She also commented that the Department of Banking and Insurance regulated the indemnity carrier PPO and POS market via the Selective Contracting Arrangement Regulations. The Department of Health adopted the HMO regulations. Thus, there was some crossing of jurisdictions.

K. O'Leary said Ward Sanders was working with the Department of Banking and Insurance and the NAIC (National Association of Insurance Commissioners) on Kennedy Kassebaum filings and compliance.

### *Outreach*

2/20/97 Presentation to South Jersey Life Underwriters

3/10, 3/11/97 Presentation to groups of doctors.

K. O'Leary also reported he was responding to an Urban Institute Survey, which was a study of states that had reform.

## **VI. Report of the Technical Advisory Committee**

### *Exhibit K*

J. Donnellan asked that the Board vote to propose some modifications to Exhibit K, the Market Share and Net Paid Loss Report that carriers file each March 1. The Board materials contained a copy of the current Exhibit K, marked to show changes. TAC had worked on the revised form last summer, but it had not yet been brought to the Board to be proposed. S. Kelly suggested adding an additional item under item 1 of Part C, to ask

carriers to subtract the FEHBA premium from the total net earned premium. The Board agreed.

**G. Young offered a motion to propose the modifications to Exhibit K. L. Yourman seconded the motion. The Board voted unanimously in favor of proposing the modifications to Exhibit K.**

#### *Withdrawal Regulation*

K. O'Leary said TAC met to discuss the loss implications of allowing a carrier to withdraw. TAC recommended that a carrier be able to renew inforce business even if the carrier was not selling new business. Further, such a carrier could seek an exemption. If a carrier elected to discontinue selling new business, however, such carrier should be required to advise customers, at next rate change, that there were other options.

L. Yourman expressed concern that a carrier could stop writing new business for a period, while renewing inforce business, and then resume new business sales, without any penalty. Yet, a carrier that would withdraw from the market would have to wait 5 years to re-enter. R. Smart said she believed the 5 year prohibition was consistent with Kennedy/ Kassebaum.

M. Smyth said the regulation should clarify that if a carrier only ceases offering new business, that carrier would still have responsibility for the inforce business.

L. Yourman expressed concern with the option for a carrier to withdraw a plan option. Specifically, she said did not think a carrier should be able to terminate an option (for example, \$15 copay) for offering coverage for prescription drugs.

Refer to the attached March 5, 1997 memo from K. O'Leary, outlining TAC recommendations.

The balance of the discussion concerning the Withdrawal Regulation would be deferred until copies of the most current draft could be made and distributed to Board members

#### *Rate Filing Recommendations*

J. Donnellan called the Board's attention to the asterisk note concerning the National Casualty and Washington National filings. He noted that both of these carriers expressed desire to exit the individual market. These rate filings, which represented a 50% rate increase, demonstrated a negative consequence of not having a withdrawal regulation.

**R. Smart offered a motion to accept the rate filing recommendations of TAC, as set forth on the attached Report of the Technical Advisory Committee. E. Shrem seconded the motion. The Board voted unanimously in favor of accepting the rate filing recommendations.**



J. Donnellan said TAC was trying to understand the relationship among United Health Care, Travelers and Metropolitan. The carriers have said they are not affiliated. If that is the case, they can be treated separately. If they are in fact affiliated, the Board would need to consider whether the rates charged by each must be the same. J. Donnellan said TAC asked M. Smyth to investigate the obligations of these carriers under the IHC Act. He said TAC would rely on assistance from the Department of Banking and Insurance to understand the relationship among these carriers. G. Simon said that since no New Jersey domestic carrier was affected, the Department was not involved in the transaction.

*Withdrawal Regulation (Continued)*

K. O'Leary walked the Board through the draft regulation, section by section. S. Kelly asked why such a long period from approval of withdrawal to actual non-renewal was built into the regulation. She noted it could take up to 18 months before a carrier could non-renew a plan. She suggested the Board might want to have an option whereby a carrier could non-renew at a fixed point in time, given sufficient notice. L. Yourman again expressed concern with a carrier withdrawing a plan option. She stated that a customer should be able to buy whatever benefit he or she wants. M. Smyth asked K. O'Leary to closely look at the use of the terms "issue" and "offer," as the draft inappropriately used both to mean the same thing.

**VII. Report of the Marketing Committee**

E. Shrem asked the Board to approve the inclusion of the IHC Program in the phone book listing. The cost for the listing, which would also specify the SEH Program, would be shared with SEH.

**J. Donnellan offered a motion to authorize adding the IHC Program to the phone book listing, with the cost shared with the SEH Program. L. Yourman seconded the motion. The Board voted unanimously in favor of accepting the motion.**

E. Shrem reported that the 5,000 Buyer's Guides that were printed in January were nearly gone. She said that in light of the expected implementation date for the IHC policy forms changes, the Buyer's Guide would not be updated until September. Therefore, she asked to be able to print another 10,000 of the current Guides to satisfy the demand for Guides from now until September.

**R. Smart offered a motion to authorize the reprinting of 10,000 more Buyer's Guides. S. Kelly seconded the motion. The Board voted unanimously in favor of authorizing the reprint of the Buyer's Guide.**

The deadline for Marketing and Communications Consultant bids was set as March 26, 1997. The Committee has already scheduled several days to review the bids as well as interview candidates.

**VIII. Executive Session**

**L. Moskowitz offered a motion to close Open Session and begin Executive Session. S. Kelly seconded the motion. The Board voted unanimously in favor of beginning Executive Session.**

*[Break: 1:00 p.m. - 1:10 p.m.]*

*[R. Smart left the meeting during the Break.]*

*[Executive Session: 1:10 p.m. - 2:18 p.m.]*

## **IX. Close of Meeting**

**E. Shrem offered a motion to adjourn the meeting. G. Young seconded the motion. The Board voted unanimously in favor of adjourning the meeting. The meeting adjourned at 2:18 p.m.**

**MINUTES OF THE MEETING OF THE  
NEW JERSEY INDIVIDUAL HEALTH COVERAGE PROGRAM BOARD  
AT THE OFFICES OF THE NEW JERSEY DEPARTMENT OF BANKING AND  
INSURANCE  
TRENTON, NEW JERSEY  
April 8, 1997**

**Directors Participating:** *J. Beck (USHealthcare); J. Donnellan (Prudential); S. Kelly (Blue Cross and Blue Shield of New Jersey); E. Shrem, G. Simon (Department of Banking and Insurance); R. Smart (Mutual of Omaha)*

**Others Participating:** K. O’Leary, Executive Director, DAG M. Smyth (DOL); E. DeRosa, IHC Program Assistant Director

**NOTE:** The names of directors who participated in the meeting via teleconference are shown in *italics*.

## **I. Call to Order**

J. Donnellan called the Board meeting to order at 9:30 a.m. E. DeRosa announced that notice of the meeting had been published in three New Jersey newspapers and posted at the Department of Banking and Insurance and the Office of the Secretary of State in accordance with the Open Public Meetings Act. Roll call was taken. A quorum was present.

## **II. Report of the Executive Director**

*Expense Report*

J. Donnellan noted that the report included an expense for the reprinting of 10,000 Buyer's Guides and asked how long it was expected that 10,000 would last. E. DeRosa said that based on current usage, 10,000 should be a sufficient quantity to last until September 1997.

**J. Donnellan offered a motion to approve the payment of the expenses included on the April 8, 1997 Expense Report. S. Kelly seconded the motion. The Board voted unanimously in favor of approving the payment of the expenses.**

### *Preliminary 1996 Assessment Notice*

K. O'Leary reported that the preliminary assessment notice was mailed to all carriers on April 1, 1997, the date required by regulation. He said he had received calls from carriers that were surprised by the size of their assessments, since the amount of the losses, approximately, \$43 million, was significantly less than the amount of the losses for 1995. He explained that the equation changed since BCBSNJ had filed for an exemption for 1996. As a result, while none of the losses to be reimbursed were attributable to BCBSNJ, BCBSNJ would not be required to share in the payment of the loss reimbursement. In prior years, BCBSNJ was responsible for the payment of 35% of the loss reimbursement. Since BCBSNJ did not file for loss reimbursement, all of the requested loss reimbursement was attributable to reform plans.

K. O'Leary said the final assessment billing would be sent within 60 days, as required.

### *Request for Withdrawal*

K. O'Leary reported that Aetna Health Plans filed a request to cancel all inforce business. He noted that Aetna asked to cancel all plans, as of a date certain, December 31, 1997, and had not asked to non-renew. As of the end of December 1996, Aetna had 796 contracts in force. K. O'Leary suggested the response to this request should be the same as the response given to other carriers that requested to withdraw. That is, Aetna should be advised that there can be no withdrawal unless and until the Board adopts a withdrawal regulation. He noted that he sent the draft regulation to the Governor's Office shortly after the March Board meeting. He followed up twice. To date, the Governor's Office had not commented on the regulation.

### *Operations Committee Update*

K. O'Leary reported that the Operations Committee met on April 4, 1997. D&T provided draft audit reports for National Casualty and Time Insurance Company. The Committee would consider whether future audits should evaluate claims payment practices. J. Donnellan noted that carriers seeking reimbursement must submit a Performance Report Certification. The Committee will discuss the possibility of claims payment standards with D&T. J. Donnellan said the Committee expected to have final audit reports for National Casualty and Time Insurance Company for the next Board meeting so the Board could take action.

S. Kelly asked what amount of losses would trigger an audit. K. O'Leary responded that the Board had not established a specific amount. Thus far, the Board had only elected to forego a full audit for Manhattan National. That decision was based on an initial request for loss reimbursement of approximately \$300,000. When Manhattan National produced the back-up the Board requested, the company discovered that the loss amount was understated. K. O'Leary explained that D&T suggested a basis for the Operations Committee to review the data Manhattan National provided, In addition, D&T requested a data tape from Manhattan National, and would be reviewing it.

K. O'Leary said discussions between D&T and BCBSNJ concerning Medicaid payments were continuing.

K. O'Leary asked D&T to submit a written proposal for renewal of the contract. D&T asked to discuss the scope of future audits with the Operations Committee before providing the bid. K. O'Leary said the Committee would be meeting within the next couple of weeks.

### **III. Report of the Technical Advisory Committee**

J. Donnellan said the Committee reviewed rate filings from First Option and Medigroup, and recommended that both be deemed complete.

**S. Kelly offered a motion that the Board deem the First Option Health Plan and Medigroup rate filings complete. E. Shrem seconded the motion. The Board voted unanimously in favor of deeming the rate filings complete.**

*[This motion was amended during the May 13, 1997 Board meeting. Refer to the minutes of that Board meeting.]*

### **IV. Public Hearing on proposed Changes to the IHC Policy Forms**

**E. Shrem offered a motion that the Board appoint E. DeRosa as the Hearing Officer. G. Simon seconded the motion. The Board voted unanimously in favor of appointing E. DeRosa as the Hearing Officer.**

### **V. Close of Meeting**

**E. Shrem offered a motion to adjourn the Board Meeting. J. Beck seconded the motion. The Board voted unanimously in favor of adjourning the meeting. [The meeting adjourned at 9:55 a.m.]**

### **PUBLIC HEARING NOTE:**

E. DeRosa opened the Public Hearing at 10:00. No commenter was then present. She stated that the hearing would remain open until 10:30 a.m. No commenter arrived prior to 10:30 a.m. The hearing was closed at 10:30 a.m. She noted that written comments would be accepted until May 7, 1997.

**MINUTES OF THE MEETING OF THE  
NEW JERSEY INDIVIDUAL HEALTH COVERAGE PROGRAM BOARD  
AT THE OFFICES OF THE NEW JERSEY DEPARTMENT OF BANKING AND  
INSURANCE  
TRENTON, NEW JERSEY**

**April 24, 1997**

**Directors Participating:** J. Donnellan (Prudential); S. Kelly (Blue Cross and Blue Shield of New Jersey); E. Shrem; G. Simon (Department of Banking and Insurance); R. Smart (Mutual of Omaha); R. Rondum

**Others Participating:** K. O'Leary, Executive Director; DAG M. Smyth (DOL); E. DeRosa, IHC Program Assistant Director; W. Sanders, SEH Program Assistant Director

**I. Call to Order**

K. O'Leary called the Board meeting to order at 10:15 a.m. He announced that notice of the meeting had been published in three New Jersey newspapers and posted at the Department of Banking and Insurance and the Office of the Secretary of State in accordance with the Open Public Meetings Act. A quorum was present.

**II. Report of the Executive Director**

*Accountant*

K. O'Leary announced that Pearl Lechtner began working for the IHC and SEH Boards on April 14, 1997.

*Expense Report*

K. O'Leary explained that staff had not received a number of Federal Express billing statements for mailings sent in February, March and April. Federal Express recently contacted staff and provided copies of the unpaid bills. Staff verified that the bills were for mailings that were actually made.

**R. Smart offered a motion to approve the payment of the Federal Express expenses shown on the April 24, 1997 expense report. E. Shrem seconded the motion. The Board voted unanimously in favor of approving the payment of the Federal Express expenses.**

*Proposal to Combine the IHC and SEH Boards*

K. O'Leary explained that the Commissioner of Banking and Insurance requested input from both the IHC and SEH Boards concerning whether the Boards endorse a proposal to combine the IHC and SEH Boards into one Board, while retaining distinct IHC and SEH Programs. He explained that the SEH Board met on Tuesday, April 22, 1997, to discuss the proposal and passed a resolution opposing the combining of the Boards.

E. Shrem said that she believed the Boards should remain separate since the Programs are very distinct. She noted there are too many differences between the Programs to have them administered by a single Board. J. Donnellan commented that the same sentiment was shared by the SEH Board.

R. Rondum said she felt very strongly that the Board should be separate. She said that it often seemed to her that the IHC Board was the "step-child" of the SEH Board in the sense that the SEH Board often assumed a leadership role and the IHC Board played a somewhat responsive role. She noted that the constituencies of the Boards are very different. Further, she did not think it would be prudent to take any action that would appear to muzzle the voice of the consumer.

J. Donnellan commented that public interests must be represented on the IHC Board.

K. O'Leary commented that the SEH resolution noted that combining the Boards would not result in any added efficiencies. J. Donnellan agreed that the IHC resolution must likewise deliver the message that there would not be any economies or efficiencies to be gained by combining the Boards. K. O'Leary noted that it may be cumbersome to combine the Boards since it would seem there would have to be committees to address IHC and SEH specific issues.

R. Smart said she agreed with what had been said : no economies; different issues; serving a different constituency. She added that both Boards already have full agendas. She opposed the combining of the Boards.

S. Kelly added that she feared that IHC issues may be buried in the context of a combined Board.

R. Rondum said she believed she has become educated in the process of serving on the Board. Other members echoed a similar sentiment.

K. O'Leary noted that it appeared all members believed the Boards should remain separate. He distributed copies of the SEH resolution to use as a drafting tool for the IHC resolution.

M. Smyth commented that there are legal differences between the programs. She suggested it may be difficult for a single Board to administer two programs, and it may be worth noting in the resolution.

R. Rondum asked that the resolution emphasize that the IHC Board created an avenue to address consumer concerns. It provides a single, dependable, organized pipeline. The IHC Board provides the Commissioner with a consumer voice. R. Smart added that the voice does not merely react to issues. The IHC Board is proactive.

G. Simon said the Commissioner believed that the combining of the Boards would not have been a controversial issue. She said the Commissioner was under the impression the Boards supported the idea.

K. O'Leary was asked to revise the SEH resolution for IHC purposes to include the points raised during the discussion. J. Donnellan was to review the IHC resolution before it was released.

**E. Shrem offered a motion that the Board adopt a resolution opposing the combining of the IHC and SEH Boards. R. Rondum seconded the motion. The Board voted in favor of the resolution, with G. Simon abstaining.**

#### *Resignation*

K. O'Leary announced that he gave notice of his resignation. He accepted a position with NYLCare. It would be a business position, and would not involve any legal or regulatory work. He said he planned to remain as Executive Director until early to mid-June. He noted that there were some projects he would like to complete prior to leaving.

### **III. Executive Session**

**J. Donnellan offered a motion that the Board begin Executive Session for purposes of discussing personnel issues. R. Smart seconded the motion. The Board voted unanimously in favor of beginning Executive Session. [10:50 a.m.]**

### **IV. Close of Meeting**

**R. Smart offered a motion to adjourn the Board meeting. E. Shrem seconded the motion. The Board voted unanimously in favor of adjourning the Board meeting. The meeting adjourned at 12:25 p.m.**