

SC PUBLIC EMPLOYEE BENEFIT AUTHORITY- BOARD OF DIRECTORS

Wednesday, May 15, 2013 – 1:00 P.M. [Minutes Adopted 6/19/13]

202 Arbor Lake Drive, Columbia SC, Main Conference Room 2nd Floor

Board Members Present:

Mr. Art Bjontegard, Chairman (in person)
Ms. Peggy Boykin (in person)
Mr. Frank Fusco (in person)
Ms. Stacy Kubu (in person)
Sheriff Leon Lott (in person)
Mr. Steve Matthews (in person)
Mr. Joe “Rocky” Pearce (in person)
Mr. Audie Penn (in person)

Others present for all or a portion of the meeting:

David Avant, Travis Turner, Lil Hayes, Stephen Van Camp, Justin Werner, Matthew Davis, Robbie Bell from the South Carolina Public Employee Benefit Authority (PEBA); Brooks Goodman from BCBSSC; Donald Tudor from the South Carolina State Retirees Association; Boyd Shealy, Susan Hance and Donna Foster from the Budget and Control Board; Alex Mullikin from Mullikin Law Firm.

1. CALL TO ORDER; ADOPTION OF PROPOSED AGENDA

Chairman Bjontegard called the meeting to order at 1:00 p.m., and Mr. Pearce gave the invocation. Ms. Hayes confirmed meeting notice compliance with the Freedom of Information Act. Mr. Matthews moved to adopt the agenda. Sheriff Lott seconded. Unanimously approved.

2. MINUTES OF PREVIOUS MEETING

Sheriff Lott moved to approve the minutes of the April 17, 2013 meeting as amended. Mr. Matthews seconded. Unanimously approved.

3. AGENCY HEAD SALARY COMMISSION PRESENTATION

Ms. Donna Foster with the State Agency Head Salary Commission was introduced. She began by explaining the history of the Commission. In 1985, the state government decided to implement a meaningful pay structure for agency heads and university presidents. The first step was to contact with Hay Associates, an international consulting firm specializing in executive pay. Based upon the “Hay formula,” a pay range structure was established. This structure blends private sector pay data along with national public sector pay data. This structure was intended to reflect the duties, responsibilities, and performance. The intent of the Commission has been to conduct a study to adjust the ranges to keep up with trends in executive salary data. The minimum threshold reflects the market pay for someone with little or no experience in directing an organization. The mid-point reflects the market salary for someone with experience in leading an organization similar to this one. The Commission is composed of four appointees by the Chairman of the Senate Finance Committee, four appointees by the Chairman of the House Ways and Means Committee, and three appointees by the Governor. Any decisions to hire an agency head above the minimum must be vetted by the Commission. To determine the performance measures for an agency head, the

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director proposes objectives to be approved/amended by the Board. The Board is responsible for determining whether the objectives have been met. The agency director submits a report to the Board explaining whether/how the objectives have been met, not met, or exceeded. The Board then compiles a report using this information and provides it to the AHSC. The Commission makes decisions to reward success of all agency heads based upon performance. There have been no increases for 6 years. A performance planning document would normally be created. The evaluation is good to do even when/if it is not required by the Commission. The crucial element to the process is to have Board members continually communicate progress to the agency head whether or not objectives are being met. She added that there is a benefit to successes being reflected in this process in that the agency's successes are brought to the attention of the House and Senate members with whom the agency may have business. Chairman Bjontegard introduced the process that will be used by PEBA. It is three-pronged. The Board will evaluate the agency head, the agency head will evaluate the Board, and the Board will evaluate itself. More on this will be discussed in executive session. He asked Ms. Foster whether there are mechanisms being used by other agencies to supplement the agency head's salary, such as grants. Ms. Foster responded that some do. For example, ETV has such a supplement. The entities that use this mechanism more are colleges and universities. The main goal of avoiding overuse of these mechanisms is to ensure the agency head is performing in the best interest of the state of South Carolina, not his own interests or those of a private party. Mr. Penn asked whether the two dates—the August 15 deadline for filing the Agency Head Evaluation document/survey composite score and the September 15 deadline for submitting the planning document—mentioned in the presentation are the only deadlines for the AHSC. Ms. Foster responded they are.

4. HIPAA TRAINING

Robbie Bell gave a brief explanation of the requirements of HIPAA Privacy and Security standards.

Health Policy Committee Report

5. STATE HEALTH PLAN BUDGET PROCESS

Mr. Pearce asked Mr. Avant to report on the status of the State Budget process. Mr. Avant explained that the Senate approved the administrative budget. For the Health Plan, they also required a 6.8% increase in the employer contribution and a 0.0% increase in the employee contribution. He added that they also included the provision that the PEBA Board may increase copays and/or deductibles by up to 20%, just as the House did.

Mr. Penn asked how the 20% increases to copays and deductibles affect grandfathering under ACA. Mr. Avant responded that this is the upper limit of increases while maintaining grandfathered status.

Mr. Van Camp then briefed the Board about the results of the Supreme Court case between employee associations and the B&C Board. He explained the budget process for the 2013 plan year resulted in a 6.8% increase to employer contributions with no employee contribution increase. The Governor approved the budget with this provision in it by not vetoing the item. When the State Health Plan went to the BC Board for

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approval of the Plan, the Board voted to change the contribution increase to a 4.6% increase on both employer and employee contributions. The Supreme Court ordered a stay on collecting the increase to employee contributions. They ultimately ruled that the B&C Board violated separation of powers by attempting to change what the legislature had done with regard to appropriations. He noted that this more clearly draws the bounds within which the PEBA Board may work with regard to premiums. Mr. Fusco asked how much money was not collected as a result of the stay. Mr. Van Camp responded that this was about \$6M. Mr. Fusco then asked what PEBA is doing to collect those premiums retroactively. Mr. Van Camp responded that PEBA will begin collecting these back employer premiums around July or August. Mr. Avant added that employer groups were advised early on in the lawsuit that they should not count on the contribution increase not being 6.8%, so they would not spend this money. Mr. Matthews asked whether the final sentence of the proviso would allow the PEBA Board to change not only copays and deductibles but premiums midyear in the event of a catastrophic shortfall. Mr. Van Camp responded that the discussions between PEBA staff and the General Assembly involved this representing potential premium increases as well as plan feature changes. Ms. Kubu asked whether this means that copays and deductibles would jump much higher once the Plan losses grandfathered status. Mr. Van Camp responded that it could, but that the Board will be the ultimate decision-maker as to how the plan design will change to accommodate the added costs of ACA compliance. Mr. Penn added that he and Mr. Pearce had discussed developing a long-range plan to allow the Board to state where it would like to see the Plan in future years so it could be communicated to the GA in time to affect the budgeting process. Mr. Fusco agreed, adding that he believed the Board should be ready to provide a detailed proposal to the GA by October of the year prior to the start of the fiscal year. Mr. Van Camp agreed. Mr. Pearce then asked whether there had been a three-year proposal, like the one being developed now. Mr. Fusco responded that when he was the BC Board's Executive Director, EIP had begun a strategic plan to develop the three-year proposal process. Mr. Van Camp added that once this was decided on, ACA happened and made it difficult to make many changes. Mr. Pearce added that he believes changes needed to be contemplated to not only address increases in cost, but to drive costs down in the form of improved health outcomes. Mr. Fusco agreed, adding that this is one of the reasons for his suggestion to submit the proposal in October. Chairman Bjontegard concluded this discussion by directing the Health Policy Committee to work on having the proposal ready by October.

Mr. Turner then discussed the Pharmacy Benefit Manager Request for Proposal. He noted that the original RFP was cancelled because none of the responders met the requirements of the RFP. He added that it will be possible to get this finished before the plan year. Mr. Avant noted that the dates for this new RFP are designed such that, even with a protest, the new PBM will be in place by the beginning of the plan year. He mentioned that certain components of the RFP can be implemented regardless of which responder is awarded the contract.

Mr. Pearce then introduced a proposal by MUSC to conduct a pilot project. This would be a Patient Centered Medical Home for just MUSC employees. Mr. Turner explained that a meeting was conducted with PEBA staff and MUSC executives to discuss this about two months ago. He continued by saying that there would need to be more details from MUSC before this can be considered.

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He then began a discussion regarding S.290, which is proposed legislation begun by MUSC. Mr. Turner explained that the bill would require the SHP to pay for services rendered within a telemedicine program. Mr. Avant added that PEBA staff is consulting with the Senate to address issues PEBA may have with the bill. Mr. Pearce added that the Board does not need to perform any action today, but would like to refer the issue to the HCP. Ms. Boykin commented that this appears to potentially address the issue of improving the overall health of SHP members by increasing access to care in rural areas where specialists or a larger number of providers are not available. Mr. Matthews asked what the reasons might be for not wanting this bill to pass. Mr. Avant responded that it was more along the lines of the fee structure for such services and the fact that a new board would be created that would potentially overlap PEBA Board functions in certain areas.

FAAC Committee Report

Mr. Matthews noted that the Governor signed the Indemnification Bill.

He then mentioned that the Internal Auditor position is being worked on by the FAAC Committee and will be taken up in the next meeting.

The third matter he explained was the fact that many PEBA IT personnel will likely soon begin to retire and a need to bring in replacements will arise. He noted this is a concern because the IT job market is highly competitive. Mr. Penn asked whether any consideration had been given to outsourcing IT functions. Mr. Avant explained this is one of the considerations being made in the IT strategic plan. Mr. Bjontegard asked about the Governor's proposal for a statewide IT setup. Mr. Avant noted that there is still a lot of uncertainty regarding how this will look.

Retirement Policy Committee Report

Mr. Fusco reported that on May 8, 2013, the BC Board approved the five retirement system valuations.

He reminded the Board that the Deferred Compensation Program will come under the authority of the PEBA Board on January 1, 2014 and the Board needs to be educated on the DC program and what its duties will be.

He explained that the RCP received a briefing on the Optional Retirement Program (ORP) at its last meeting and will bring information to the Board regarding its responsibilities.

Mr. Avant added that the RCP asked him to continue efforts on behalf of PEBA to impress upon the SCRSIC to have a standard protocol in place to ensure after an investment has been approved that the agreed funding is made. He noted that these are discussions that have been had in the past, but he continues to communicate with the RSIC to make this happen.

6. DIRECTOR'S REPORT

Mr. Avant mentioned the internal auditor position is not an effort to fill an empty position. He explained that there is currently an internal auditor, who is conducting auditing functions. He explained that the staff is highly credentialed and qualified, and works on auditing investment information from RSIC. PEBA also brings in external auditors to assess certain areas of operation. He also mentioned that there is a staff of four or five

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field auditors who travel to employers to ensure compliance with PEBA guidelines for administration of the insurance and retirement programs.

Mr. Avant then went on to discuss the Strategic Planning process. He invited the Board to participate in the planning process to ensure the agency's proposed plan does not conflict with the Board's goals.

Mr. Avant explained that the Accountability Report is due by September 13. He explained that the report is to help an agency assess itself. He added that the Board will be able to review the report before it is submitted to the Legislature. Chairman Bjontegard asked Mr. Avant for a deadline for the things he wants the Board to address. Mr. Avant responded that he would like to have them before the June meeting. He asked that these responses be submitted to staff by June 10.

7. ROUND TABLE COMMENTS

Ms. Boykin asked about progress regarding changing the monthly meeting requirement for the full Board to reduce the burden on staff and shift the responsibility to the committees. Mr. Avant responded that legislative staff advised him it would be better to focus on getting the Indemnification Bill passed before addressing such other issues.

Mr. Matthews mentioned that the FAAC Committee will also pursue a rider on the liability insurance for the Board.

Mr. Penn had nothing to add.

Chairman Bjontegard noted that the Board will finish its first year on June 30, 2013 and that would be a fitting time to resign, if they desired.

Mr. Pearce thanked PEBA staff and members of the HCP Committee for their patience while he acclimated himself to his position as Committee Chair.

Sheriff Lott had nothing to add.

Ms. Kubu had nothing to add.

Mr. Fusco explained that he has had difficulty using the Board's Extranet—both with the technical connection and finding specific documents. Mr. Avant acknowledged his concern, noting that staff is working with IT to attempt to improve the organization of the Extranet and to provide meaningful support to Board members in the use of the site.

8. EXECUTIVE SESSION PURSUANT TO S.C. CODE OF LAWS

At 3:04 p.m., upon motion by Mr. Pearce and second by Sheriff Lott, the Board voted unanimously to enter into executive session.

Open meeting resumed at 3:15 p.m. following the Executive Session. No action was taken by the Board while in Executive Session.

There being no further business, Chairman Bjontegard adjourned the meeting at 3:16 p.m.

SC Public Employee Benefit Authority - Board of Directors

Wednesday, May 15, 2013 – 1:00 P.M.

202 Arbor Lake Drive, Columbia SC, 29223 S Main Conference Room

AGENDA

1) Adoption of Proposed Agenda

2) Minutes of Previous Meeting

New Business

3) Agency Head Salary Commission Presentation, Ms. Donna Foster

4) HIPAA Training - Mr. Robert Bell, PEBA

Committee Reports

5) Health Policy Committee

6) Finance, Administration, Audit & Compliance Committee

7) Retirement Policy Committee

8) Round Table Discussion

9) Executive Session (if needed)

SC PUBLIC EMPLOYEE BENEFIT AUTHORITY- BOARD OF DIRECTORS

DRAFT MINUTES

Wednesday, April 17, 2013 – 1:00 P.M.

202 Arbor Lake Drive, Columbia SC, Main Conference Room 2nd Floor

Board Members Present:

Mr. Art Bjontegard, Chairman (in person)
Ms. Peggy Boykin (in person)
Mr. Frank Fusco (in person)
Sheriff Leon Lott (in person)
Mr. Steve Matthews (in person)
Mr. Joe “Rocky” Pearce (in person)
Mr. Audie Penn (in person)
Mr. John Sowards (in person)
Mr. David Tigges (in person)

Others present for all or a portion of the meeting:

David Avant, Lil Hayes, Stephen Van Camp, Justin Werner, Robbie Bell, Matthew Davis, and Travis Turner from the South Carolina Public Employee Benefit Authority (PEBA); Carlton Washington and Roger Smith from the State Employees Association; Brooks Goodman from BlueCross BlueShield of South Carolina, Wayne Pruitt from the State Employees Retiree Association, and Linda Gamble from the State Treasurer’s Office.

AGENDA

1. Call to Order; Adoption of Proposed Agenda

Chairman Bjontegard called the meeting to order at 1:00 p.m. Mr. Penn gave the invocation. Ms. Hayes confirmed meeting notice compliance with the Freedom of Information Act. Chairman Bjontegard then asked for a motion to adopt the agenda, noting that the Treasurer—at the last minute—declined to attend the meeting. Mr. Sowards moved to adopt the agenda with this amendment. Mr. Tigges seconded. Unanimously approved.

2. Minutes of Previous Meeting

Chairman Bjontegard requested a motion to adopt the minutes from the March 20, 2013 meeting. Mr. Sowards moved to adopt. Mr. Lott seconded. Unanimously approved. Chairman Bjontegard noted that Ms. Kubu and new member, Mr. Steve Heisler, were not in attendance. He also commended the Board members for submitting their *Statements of Economic Interest* by the April 15 deadline.

3. Budget and Control Board and PEBA: Curtis Loftis, State Treasurer

Chairman Bjontegard explained that the Treasurer was scheduled to speak to the Board about his perspective on the relationship between the PEBA Board and the Budget and Control Board. He added that he had requested that the Treasurer refrain from discussing

the impending Supreme Court case concerning the B&C Board's decision to split funding increases for the 2013 State Health Plan premiums in equal percentages between employers and employees. He then asked Mr. Avant to comment on the Treasurer's decision to decline to attend. Mr. Avant explained that he was in the Health Policy Committee meeting when the Treasurer emailed him with a letter declining his attendance. Mr. Avant added that he would respond to the Treasurer's letter.

Retirement Policy Committee Report

4. Update on Hutto v. SCRS

Mr. Sowards asked Mr. Avant to provide the Board with the background on the *Hutto v. SCRS* case. He explained that the lawsuit was the final case in a matter relating to Act 153 of 2005, which required working retirees to pay employee contributions to the system just as any other employee would make. Mr. Avant added that this case is the third in a trilogy of cases regarding this new requirement. The first two cases—both related to individuals who retired prior to the effective date of the change—were *Layman v. SCRS* and *Arnold v. PORS*. These both had been resolved within a few years. He continued by explaining that the *Hutto* case—initiated by a retiree who retired after the effective date of Act 153—was brought before a federal court in 2010, charging that the requirement of withholding employee contributions from a working retiree's paycheck without giving a corresponding increase to that retiree's pension benefit violated the Takings and Due Process clauses of the U.S. Constitution. SCRS responded with a motion to dismiss. Judge Chiles, the Federal District Court judge overseeing the case, dismissed the case on the grounds that—according to the Eleventh Amendment of the U.S. Constitution—the State of South Carolina could not be sued in a federal court over this matter without its consent. The litigants requested a reconsideration, which was denied. Mr. Avant added that the deadline for the plaintiffs to submit an appeal of this decision is May 6, after which time (if no appeal has been filed) the matter would be put to rest. Chairman Bjontegard recommended to the Board to accept Mr. Avant's explanation as information.

5. Update on Disability Retirement Study

Mr. Sowards then presented staff's additional research regarding the General Assembly's request for information regarding the effect and/or propriety of the changes to Act 278 which required disability retirees to meet Social Security's *any occupation* standard of disability in order to be approved for disability retirement benefits. He asked Mr. Avant to give a brief explanation of the update. Mr. Avant began by explaining that there was presently a bill being considered by the GA which would repeal the portion of Act 278 that implemented this change in standard for PORS and keep the previous *own occupation* standard. He noted that it would have a minimal impact on the unfunded liability, but could have a significant impact on valuations moving forward—possibly requiring increases to contributions as high as 12 percentage points.

Mr. Werner then explained that the Retirement Policy Committee requested PEBA staff to continue efforts to conduct comparative research related to disability retirement to get a better understanding of how South Carolina's disability retirement process and criteria measures against other states in the region and country. Staff will be reporting these findings to the RPC in the coming months.

Chairman Bjontegard mentioned the strategic plan for PEBA and the committee charters. Mr. Avant added that PEBA is in a process of developing a collective strategic plan, using the various plans developed by each component entity—Employee Insurance Program, Retirement Systems, and Deferred Compensation. He explained that PEBA has entered into a *Memo of Understanding* with the University of South Carolina's Institute of Public Policy and Research to facilitate the strategic planning process. He added that management would hope to enlist the input of Board members to develop the plan. PEBA

will stream the plan components as they are developed to the Board via the Finance, Administration, Audit, and Compliance (FAAC) Committee.

Chairman Bjontegard added that he hopes to have a strategic plan for the Board to review and approve for the June 2013 Board meeting.

FAAC Committee

Mr. Matthews explained that a great deal of discussion has occurred with regard to consolidating EIP and Retirement staff into one facility or complex. He added that there are possibilities to provide for space and parking, including asking the SCRSIC to purchase land and rent it to PEBA to provide additional parking necessary to accommodate the staff consolidation. He added that PEBA has purchased several new computer terminals through Dell to update obsolete technologies.

6. Internal Auditor

Mr. Matthews then introduced the position description for an auditor position which would report to the Board on processes, finances, and other matters related to the functions of the PEBA agency. He added that the position will be finalized and advertised in the coming weeks both internally and externally.

Chairman Bjontegard added that the SCRSIC owns part of the building at 1201 Main St. Mr. Avant added that the 202 Arbor Lake Drive property is owned by PEBA as an operating asset.

Mr. Matthews also added that all Board members must attend a briefing conducted by the Agency Head Salary Commission. This is required by statute and will be conducted on May 15. He added that the Board is not required to evaluate Mr. Avant because of his interim status, but the Board wishes to conduct a preliminary evaluation anyway.

Chairman Bjontegard noted that Mr. Avant will also conduct an evaluation of the Board.

Mr. Fusco stated that he had previously constructed auditor positions for evaluating efficiency and performance measures and suggested the Board consider adding this function to the description for this Internal Auditor position. He also explained that he believed technology should be a large component of the auditing process. He added that the state has, in the past, used external consulting firms via DSIT for evaluations of technology.

Mr. Matthews asked Mr. Avant to report on the progress of the indemnification bill for the Board. Mr. Avant responded that the bill passed out of Senate Finance Committee on April 9, 2013, with discussion about staggering terms for Board members—although the bill was not amended. He added that the proposed bill to disband the PEBA Board and/or move its functions under a Department of Administration has not changed from what has previously been communicated to the Board.

Health Policy Committee Report

7. MUSC Proposal

Mr. Pearce began by introducing a proposal by MUSC. Mr. Avant explained that MUSC executives contacted PEBA regarding a way to recoup losses that will be incurred as a result of decreased revenue through the health care reform legislation. They proposed a pilot in which they would operate a patient-centered medical home for all of their covered lives—employees and dependents. He estimated this would impact about 12,000 covered lives. He opined that the pilot could be a beneficial test-run for the proposed PCMHs the Board has heard about in past meetings. Mr. Pearce agreed that it could help provide metrics and data regarding the actual savings to be realized through such a program. He then moved that the Board approve this pilot and any steps necessary to implement it. Mr. Matthews asked whether MUSC is ready to begin this program. Mr. Avant responded that PEBA needs to present its concerns to MUSC before moving ahead. Mr. Sowards added that there are a number of details still to be worked out. He proposed that the motion be

tabled until more details are available. Mr. Pearce responded that staff stated a motion is required. Mr. Avant clarified that the motion is really to allow PEBA staff and the HPC to pursue more information on the pilot and bring that information back to the Board at a later date.

8. SHP Options continued research

Mr. Pearce began by explaining that for 2014 the Plan will remain grandfathered based upon the General Assembly's instruction. He continued by explaining that the plan options must be considered long term for after 2014. Wellness benefits and other related initiatives must become priorities for the Board moving forward to defray increasing costs for health care. He stated that improving wellness benefits under the Plan may be one way to reduce costs, as long as they do not cost the Plan any more money. He also proposed that the Board consider changes to the Plan on a longer-term schedule than annually. He concluded by stating that there is nothing that can be done for 2014. Mr. Penn added that this requires the Board to be more diligent in developing plans for the future years. Mr. Sowards asked what the cycle is. Mr. Avant explained that the process requires having a proposed budget to the GA about 14 or 15 months in advance and that August is the self-imposed deadline for the Board to submit the proposed plan changes. Mr. Fusco interjected that the 2014 Plan approval by the PEBA Board must happen no later than the July meeting to allow the B&C Board time to approve the plan by its legally-imposed August 15 deadline.

9. Pharmacy Benefits Manager RFP Update

Mr. Pearce asked Mr. Avant to discuss the RFP for the Pharmacy Benefits Manager. Mr. Avant explained that the RFP was put out in mid-February. March 1 a pre-proposal conference was conducted to advise the potential proposers the opportunity to discuss the expectations of the RFP. He concluded that the rest of the information regarding the PBM would be discussed in executive session.

Chairman Bjontegard commended PEBA staff for working hard to conduct four meetings in a single week.

10. Director's Report

Mr. Avant suggested scheduling committee meetings well in advance of the scheduled PEBA meetings to aid staff in preparing and to give the Board the opportunity to review information before full Board meetings. Chairman Bjontegard added that formally scheduling these meetings will increase the likelihood of them taking place in advance of the meetings.

11. Executive Session Pursuant to SC Code of Laws §30-4-70(a)(2)

Chairman Bjontegard stated that he would postpone the round table discussion until after the executive session to provide members the opportunity to comment on information heard in the executive session. He then asked for a motion to enter executive session. Mr. Matthews moved to enter executive session. Mr. Sowards seconded. The Board unanimously voted to enter executive session at 1:53 p.m.

The Board re-entered general session at 2:40 p.m.

12. Round Table Discussion

Chairman Bjontegard then asked each Board member to provide any additional comments or input.

Ms. Boykin commented that determining what the Board's role is will be the most difficult challenge it faces.

Mr. Sowards had nothing to add.

Sheriff Lott had nothing to add.

Mr. Pearce had nothing to add.

Mr. Fusco commented that committees should try hard to meet well in advance to reduce the burden on staff. He also suggested that Board members speak to their sponsors to establish the Board's role.

Mr. Tigges suggested that a bill be proposed to reduce the requirement of monthly Board meetings to less frequently and conduct most of the Board's business in committee meetings.

Chairman Bjontegard commented that staff is working on bills addressing meeting frequency and staggered terms.

With nothing further to discuss, Chairman Bjontegard adjourned the meeting at 2:50 p.m.

PUBLIC EMPLOYEE BENEFIT AUTHORITY AGENDA ITEM

Wednesday, May 15, 2013

Agenda 3

1. **Subject:** Agency Head Salary Commission

2. **Summary:** Agency Head Salary Commission laws and processes

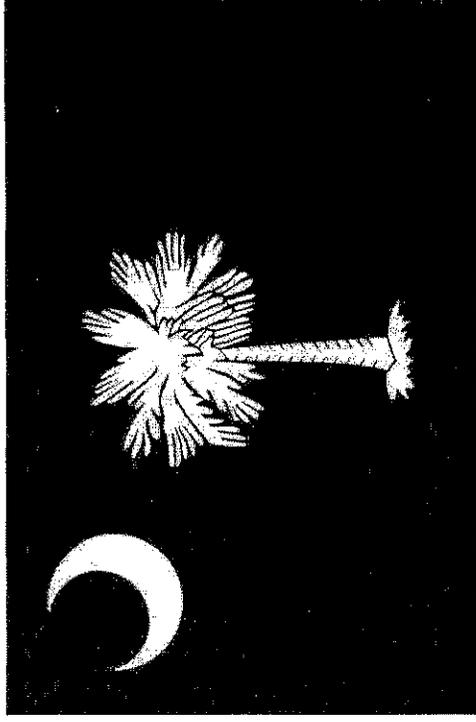
Background Information: Pursuant to §8-11-165, all new members appointed to a governing board of an agency must attend Agency Head performance appraisal training provided by the commission within the first year of their appointment unless specifically excused by the chairman of the Agency Head Salary Commission.

3. **What is Board asked to do?** Receive training as required by §8-11-165

4. **Supporting Documents:**

- (a) Attached:
 - 1. Agency Head Salary Commission Presentation
 - 2. Agency Head Salary Commission Statutes
 - 3. Agency Head Survey for Board/Commission Members

Agency Head Salary Commission Training for the Boards and Commissions



Who are the Agency Head Salary

Commission members?

Appointees Appointees House Appointees of the

Senate Finance Ways and Means Governor

- Sen. Leatherman
- Sen. Ford
- Sen. Hayes
- Sen. O'Dell

- Rep. Barfield
- Rep. Pitts
- Rep. Howard
- Rep. Skelton

- Mr. Hatfield
- Mr. Newman
- Ms. Sokol

History of the Agency Head Salary Commission

- Created by Legislature in 1984
- First Commissioners appointed in 1985
- Developed performance evaluation process for agency heads
- Implemented salary structure including ranges for each position
- Conducted periodic comprehensive job analysis studies
- Awarded pay increases over the years based on a variety of factors

The Roles of the Commission

- Develops pay policies and monitors market trends
- The agency must have the prior favorable recommendation of the Commission to offer a salary at a rate that exceeds the minimum of the range.
- Recommends salary increases for implementation
- Conducts comprehensive job analysis and market studies

The Role of the Staff of the Commission

- Provides training on performance evaluation process
- Assists in preparation of requests to the Commission
- Assists in pay policy development
- Maintains records and salary histories
- Performs other research and administrative duties

AHSC Related Provisos and Laws

- Pay within Range
- Hire Above Minimum
- Salary Increases
- Bonuses Prohibited
- Reporting of Salary Supplements
- Dual Employment- Requires Prior Approval
- Moving Expenses
- Training of New Board/Commission Members

Comprehensive Job Analysis:

Hay Study

- Required by law
- Contracts with The Hay Group to study all agency head positions
- Requires updated position descriptions
- Interviews each agency director
- Reviews job content for re-evaluation of salary ranges
- Analyzes current compensation practices for internal pay equity and external market competitiveness
- Recommends an effective compensation program

The Performance Evaluation Process

(4 Stages)

- I. Planning Stage**
- II. Interim Performance Conference**
- III. Pre-Appraisal Interview**
- IV. Evaluation Stage**

Step I - The Planning Stage

(New On-line Version)

- Agency director submits written performance proposals
- Commission reviews proposals, negotiates changes, and adopts objectives
- Identify 6 performance objectives focusing on leadership, strategic planning, customer focus, workforce focus/ human resources, process management/ continuous improvement, and financial management
- Performance objectives should be measurable
- Discussion of how to recognize acceptable performance
- Copy due to the Commission by September 15th

Step II – Interim Performance

Conferences

- Discussion of progress toward objectives
- Notification of new or adverse trends (economic, legislative, or other)
- Renegotiation of objectives (loss of funds, legal requirements, program changes)
- Held at least once during year, but usually on an as needed basis

Step III – Pre-Appraisal

Interview

1. Agency director presents information to Board
2. Board discusses objectives and how agency director met or exceeded expectations
3. Board asks questions to obtain sufficient information to evaluate performance

Step IV – The Evaluation Stage

- Evaluation survey for Board members
- Composite score from surveys
- Preparation of final evaluation document and additional evaluation question(s)
- Review with agency director
- Significance of signatures (Approval from majority of Board)
- Original document due to the Commission by August 15th

Tips For Successful Evaluations

- Remember to discuss performance evaluation in executive session
- Change objective at mid-year if necessary
- Answer all questions
- Include recognitions received
- Include impact of objectives
- Be thorough in providing information
- Not evaluated based on weight (do not send in bulky attachments)

Staff to the Commission

- Donna (Traywick) Foster 803-737-0901
- Boyd Shealy 803-896-5130
- Susan Hance 803-896-5064



Any questions?

Agency Head Salary Commission

INSTRUCTIONS FOR COMPLETING SURVEY COMPOSITE

After each Board/Commission member has completed a survey as part of the evaluation of the agency head, please complete the reverse side of this sheet. The composite scoresheet will yield the average score for the survey that the agency head received and that average score must be indicated on the Agency Head Evaluation Document in question five on page 10. The composite scoresheet must be attached to the evaluation document when it is submitted to the Agency Head Salary Commission for review.

1. Record the number of responses that the agency head received in each category of the five-point rating scale.
2. Multiply the number of responses in each category by the weight given to each rating.
3. Divide the total number of points for each question by the number of respondents who completed the survey or, if a question was skipped, the number of respondents to the question.
4. Total the average scores for Questions 1-15 and record the figure in the Subtotal space.
5. Divide the Subtotal by 15 to obtain an average score received by the agency head for the survey.

For Example:

A Board with 10 members completes the survey evaluating their agency head.

	Strongly Agree	Agree	Neutral	Disagree	Strongly Disagree	Average Score
Question 1	5	4	3	2	1	
	5	4	1			4.4
	5(5)	+	4(4)	+	1(3)	= X
	25	+	16	+	3	= 44
			44/10	=		4.4

Agency Head Salary Commission	For Board/Commission Members
--------------------------------------	-------------------------------------

	Strongly Agree	Agree	Neutral	Disagree	Strongly Disagree	Average Score
	5	4	3	2	1	
Question 1	_____	_____	_____	_____	_____	_____
Question 2	_____	_____	_____	_____	_____	_____
Question 3	_____	_____	_____	_____	_____	_____
Question 4	_____	_____	_____	_____	_____	_____
Question 5	_____	_____	_____	_____	_____	_____
Question 6	_____	_____	_____	_____	_____	_____
Question 7	_____	_____	_____	_____	_____	_____
Question 8	_____	_____	_____	_____	_____	_____
Question 9	_____	_____	_____	_____	_____	_____
Question 10	_____	_____	_____	_____	_____	_____
Question 11	_____	_____	_____	_____	_____	_____
Question 12	_____	_____	_____	_____	_____	_____
Question 13	_____	_____	_____	_____	_____	_____
Question 14	_____	_____	_____	_____	_____	_____
Question 15	_____	_____	_____	_____	_____	_____

Subtotal (Total Average Scores for Questions 1-15) _____

Final Average Score for Survey (Subtotal / 15) _____

I acknowledge that the above composite represents the scores from the individual surveys of the Board/Commission members.

Signature: _____ Date: _____

For use by the Agency Head Salary Commission only.

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Agency Head Survey for Board/Commission Members

Indicate the extent to which you agree or disagree with the following statements about your agency head. Answer each question by drawing a circle around the number which comes closest to describing your assessment.

	Strongly Agree	Agree	Neutral	Disagree	Strongly Disagree
1. The agency head reflects the core values of the agency.	5	4	3	2	1
2. The agency head keeps the board/commission informed about matters affecting the agency including legislative initiatives.	5	4	3	2	1
3. The agency head communicates and demonstrates a clear understanding of the goals and mission of the agency.	5	4	3	2	1
4. The agency head is well prepared, informed, and offers solutions when presenting budgetary and programmatic request/reports to the board/commission.	5	4	3	2	1
5. The quality of customer service and the programs administered by the agency head equals or exceeds the needs of the community.	5	4	3	2	1
6. The agency head ensures that his decisions, actions, and customer interactions are ethical.	5	4	3	2	1
7. The agency head anticipates needs and problem areas and makes sound decisions regarding the solutions.	5	4	3	2	1
8. The agency head makes customer service a high priority for the agency.	5	4	3	2	1
9. The Agency head effectively aligns organizational strategy, structure, and processes in order to become more responsive to external and internal change demands.	5	4	3	2	1
10. The agency head ensures the workforce represents diversity in recruitment, promotions, and placement.	5	4	3	2	1
11. The agency head's leadership has a positive influence on employee morale and performance.	5	4	3	2	1
12. The board/commission trusts and has confidence in this director.	5	4	3	2	1
13. The agency head effectively collaborates with other agencies and entities.	5	4	3	2	1
14. The agency head has established a good working relationship with the General Assembly.	5	4	3	2	1
15. The agency head is effective in managing the financial resources of the agency.	5	4	3	2	1

Comments: _____

Name: _____ Signature: _____

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Agency Head Performance Planning Stage

State of South Carolina

Agency Head Salary Commission (FY 2013)

Logout

Agency: HR TEST LOGIN

Agency Head:

Fiscal Year: 2013

Planning Document Instructions

In completing the planning phase of the evaluation process, the agency head will meet with the board/commission (Governor or designee) to propose the objectives and standards for success he/she will meet in the upcoming year. The board/commission (Governor or designee) will accept, reject, modify, and discuss the agency head's proposed objectives and success criteria. Success criteria is a statement of conditions that will exist when a duty or responsibility has been satisfactorily met. The success criteria must include the expected actions, timeframes, frequency, costs, quantities or other appropriate and specific measures and business results that will enable the agency head and evaluators to agree on expected outcomes and recognize when these outcomes have been satisfactorily achieved. When acceptable objectives are identified, the board/commission (Governor or designee) will complete the planned objectives on the evaluation document and review them with the agency head. Signatures will be obtained and the original will be retained by the board/commission (Governor or designee) for completion at the end of the evaluation period. The planning process should be completed by September 15 of each year.

Mission Statement

Briefly summarize the mission of the agency.

Objective 1

Leadership

The Leadership objective examines how the agency head guides and sustains the organization, setting organizational vision, values, and performance expectations.

Objective 2
Strategic Planning

The Strategic Planning objective examines how the agency head develops strategic objectives and action plans, the implementation of the plans, how plans are changed if circumstances require a change, and how accomplishments are measured and sustained.

Objective 3
Customer Focus

The Customer Focus objective examines how the agency head determines who the agency customers are, the requirements, needs and expectations of those customers, and the satisfaction of those customers.

Objective 4
Workforce Focus/Human Resources

The Workforce Focus/Human Resources objective examines how the agency head ensures the performance, management, and development of the workforce to utilize its full potential in accomplishing the organization's overall mission, strategy, and agency goals.

Objective 5
Process Management/Continuous Improvement

The Process Management/Continuous Improvement examines how the agency head continuously works to improve the agency work process and improves its work process to deliver organizational success.

Objective 6
Financial Management

The Financial Management objective examines how the agency head manages the budget, manages audit results, and determines priorities for the expenditure of funds to achieve agency short- and long-term organizational goals.

Save Data

Pertinent Agency Head Salary Commission Statutes

SECTION 8-11-160. Agency Head Salary Commission; salary increases for agency heads. [SC ST SEC 8-11-160]

All boards and commissions are required to submit justification of an agency head's performance and salary recommendations to the Agency Head Salary Commission. This commission consists of four appointees of the chairman of the House Ways and Means Committee, four appointees of the chairman of the Senate Finance Committee, and three appointees of the Governor with experience in executive compensation.

Salary increases for agency heads must be based on recommendations by each agency board or commission to the Agency Head Salary Commission and their recommendations to the General Assembly.

HISTORY: 1985 Act No. 201, Part II, § 3A; 1987 Act No. 20 § 1, eff March 30, 1987.

SECTION 8-11-165. Salary and fringe benefit survey for agency heads; limits on salaries of agency employees and presidents of a technical college; agency head salary adjustments; new members of agency governing board to attend performance appraisal training. [SC ST SEC 8-11-165]

It is the intent of the General Assembly that a salary and fringe benefit survey for agency heads must be conducted by the Office of Human Resources of the State Budget and Control Board every three years. The staff of the office shall serve as the support staff to the Agency Head Salary Commission.

No employee of agencies reviewed by the Agency Head Salary Commission may receive a salary in excess of ninety-five percent of the midpoint of the agency head salary range or the agency head actual salary, whichever is greater, except on approval of the State Budget and Control Board, and except for employees of higher education technical colleges, colleges, and universities.

No president of a technical college may receive a salary in excess of ninety-five percent of the midpoint of the agency head salary range or the agency head actual salary, whichever is greater, except on approval of the Agency Head Salary Commission and the State Budget and Control Board.

The Agency Head Salary Commission may recommend to the State Budget and Control Board that agency head salaries be adjusted to the minimum of their salary ranges and may recommend to the board that agency head salaries be adjusted when necessary up to the midpoints of their respective salary ranges. These increases must be based on criteria developed and approved by the Agency

Head Salary Commission.

All new members appointed to a governing board of an agency where the performance of the agency head is reviewed and ranked by the Agency Head Salary Commission shall attend the training in agency head performance appraisal provided by the commission within the first year of their appointment unless specifically excused by the chairman of the Agency Head Salary Commission.

HISTORY: 1989 Act No. 189, Part II, § 2, eff June 8, 1989 (became law without the Governor's signature); 1995 Act No. 145, Part II, § 3, eff June 29, 1995; 2008 Act No. 353, § 2, Pt 20B.1, eff July 1, 2008.

SECTION 8-11-170. Agency head dually employed by another state agency; timely payment. [SC ST SEC 8-11-170]

(A) An agency head may not be dually employed by another state agency or institution of higher education without prior approval by the Agency Head Salary Commission and the State Budget and Control Board.

(B) An employee who is approved for dual employment must be paid in a timely manner. The secondary agency must make payment of funds approved for and earned under dual employment within forty-five days of the beginning of the employment.

HISTORY: 1993 Act No. 164, Part II, § 46A, eff July 1, 1993; 2002 Act No. 356, § 1, Pt XI.G, eff July 1, 2002.

Agency Head Survey for Board/Commission Members

Indicate the extent to which you agree or disagree with the following statements about your agency head. Answer each question by drawing a circle around the number which comes closest to describing your assessment.

	Strongly Agree	Agree	Neutral	Disagree	Strongly Disagree
1. The agency head reflects the core values of the agency.	5	4	3	2	1
2. The agency head keeps the board/commission informed about matters affecting the agency including legislative initiatives.	5	4	3	2	1
3. The agency head communicates and demonstrates a clear understanding of the goals and mission of the agency.	5	4	3	2	1
4. The agency head is well prepared, informed, and offers solutions when presenting budgetary and programmatic request/reports to the board/commission.	5	4	3	2	1
5. The quality of customer service and the programs administered by the agency head equals or exceeds the needs of the community.	5	4	3	2	1
6. The agency head ensures that his decisions, actions, and customer interactions are ethical.	5	4	3	2	1
7. The agency head anticipates needs and problem areas and makes sound decisions regarding the solutions.	5	4	3	2	1
8. The agency head makes customer service a high priority for the agency.	5	4	3	2	1
9. The Agency head effectively aligns organizational strategy, structure, and processes in order to become more responsive to external and internal change demands.	5	4	3	2	1
10. The agency head ensures the workforce represents diversity in recruitment, promotions, and placement. The agency head ensures the workforce represents diversity in recruitment, promotions, and placement.	5	4	3	2	1
11. The agency head's leadership has a positive influence on employee morale and performance.	5	4	3	2	1
12. The board/commission trusts and has confidence in this director.	5	4	3	2	1
13. The agency head effectively collaborates with other agencies and entities.	5	4	3	2	1
14. The agency head has established a good working relationship with the General Assembly.	5	4	3	2	1
15. The agency head is effective in managing the financial resources of the agency.	5	4	3	2	1

Comments: _____

Name: _____ Signature: _____

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PUBLIC EMPLOYEE BENEFIT AUTHORITY AGENDA ITEM

Wednesday, May 15, 2013

Agenda 4

1. Subject: HIPAA Compliance

2. Summary:

Background Information:

Due to the merger between the Employee Insurance Program (EIP) and the South Carolina Retirement Systems, PEBA is now considered to be a “covered entity” under the Health Insurance Portability and Accountability Act of 1996 (HIPAA).

Section 160.103 of Title 45 of the Code of Federal Regulations states that a covered entity is:

“(1) A health plan; (2) A health care clearinghouse; or (3) A health care provider who transmits any health information in electronic form in connection with a transaction covered by this subchapter.”

The HIPAA Privacy Rule requires that all PEBA staff receive training to ensure that they understand the mandates of HIPAA.

3. What is Board asked to do?

The Board is asked to receive the mandated HIPAA training.

4. Supporting Documents:

- (a) Attached:
 - 1. HIPAA Training Presentation

South Carolina
PUBLIC EMPLOYEE BENEFIT AUTHORITY

PEBA

**SECURITY, PRIVACY, AND HIPAA
COMPLIANCE TRAINING**

Compliance Training

This presentation is an introduction to the Health Insurance Portability and Accountability Act (HIPAA) of 1996. You will be required to read the HIPAA Privacy and Security Policies and Procedures manual located in the I: drive folder. Additionally, you are required to complete the PowerPoint training. You will also be required to complete a quiz. A score of below 90 will require you to retake the training and the quiz.

HIPAA

The Health Insurance Portability and Accountability Act was passed in 1996 as part of a broad Congressional attempt at healthcare reform.

Federal Healthcare Legislation

- **Federal floor of health information privacy protection**
- **More protective SC laws remain in force**
- **Assures an individual's rights in health information**
- **Imposes restrictions on uses and disclosures of Protected Health Information (PHI)**
- **Provides for civil and criminal penalties for violations**

Security, Privacy and HIPAA Compliance

Purpose:

To establish protocol for maintaining security and privacy standards during PEBA business operations

Protected Health Information (PHI)

- **PHI is defined as individually identifiable health information (IIHI) that has been maintained or transmitted by a covered entity regardless of form, whether it is kept on paper or has been entered on the computer or transmitted electronically.**
- **PHI is health information that identifies an individual, or with respect to which there is a reasonable basis to believe that the information can be used to identify an individual.**

Protected Health Information (PHI)

- **Name**
- **5 digit ZIP codes**
- **All elements of dates (except year) for dates directly related to an individual: DOB, admit, discharge, DOD, all ages over 89**
- **Age**
- **Telephone numbers**
- **Fax numbers**
- **Electronic mail addresses**
- **Social Security numbers**
- **Medical record numbers**
- **Health plan beneficiary numbers**
- **Account numbers**
- **Certificate/license numbers**
- **Vehicle identifiers and serial numbers, including license plate numbers**
- **Device identifiers and serial numbers**
- **Web Universal Resource Locators (URLs)**
- **Internet Protocol address numbers (IPs)**
- **Biometric identifiers, including finger and voice prints**
- **Full face photographic images and comparable images**
- **Any other unique identifying number, characteristic, or code**

Covered Entity

A covered entity is a healthcare provider, a health plan, or a healthcare clearinghouse. A covered entity must comply with the Privacy and Security Rules.

Healthcare Providers

A healthcare provider is any person or entity that furnishes bills or is paid for health care in the normal course of business, including:

- Physicians
- Nursing homes
- Pharmacists
- Hospitals

Health Plan

A health plan is an individual or group plan that provides for, or pays the cost of, medical care including:

- HMOs
- Insurance companies
- Employee benefit plans
- Medicare

What is a Clearinghouse?

Clearinghouses are organizations that receive health information from providers and plans and then help standardize information in the payer's required format for claims processing.

PEBA

As an employee benefit plan, PEBA is a covered entity.

What is a covered entity's responsibility?

As a covered entity, PEBA is required to ensure health information that identifies any participant in its Health Benefits Plans is kept confidential.

Privacy vs. Security

- **Privacy standards address issues patients may face with the way health information is used, how it is to be protected and how and to whom it is to be disclosed.**
- **Security standards are the measures organizations take to protect their information.**

HIPAA Privacy Rule Requirements

- **A covered entity must train all of its workforce.**
- **A covered entity must develop policies and procedures addressing HIPAA rights and duties.**
- **A covered entity must send a Notice of Privacy Practices to those it serves to explain what rights they have.**

Information Covered by the Privacy Rule

- **The Privacy Rule protects both electronic records and paper records that contain individually identifiable health information.**

Compliance Training

Minimum Necessary Use and Disclosure

Minimum Necessary Use and Disclosure

Under the Privacy Rule....

USE is the employment, application, utilization, examination or analysis of information within PEBA.

DISCLOSURE is the release, transfer, provision of access to or divulging in any other manner of information outside PEBA.

Minimum Necessary Use and Disclosure

The Minimum Necessary Standard governs both the use of information within PEBA and disclosure of information outside PEBA. Minimum Necessary limits the PHI to which employees have access, which PEBA employees have access to PHI, and to which PHI they have access. If your job function requires that you have access to PHI, and you cannot do your job without it, then you will have access to only that part which you need.

- PEBA supervisors will identify the position(s) or classes of positions that require employees to have access to Protected Health Information (PHI).
- All PEBA employees will read and sign the Employee Confidentiality Agreement.
- PEBA will maintain standard protocols to limit PHI disclosures or requests to that which is the minimum necessary for routine or recurring requests and/or disclosures.
- Non-routine disclosures require consultation with a team leader or supervisor.
- PEBA employees will only forward emails to individuals outside PEBA with authorization of the original sender and in accordance with electronic transmission protocols.

Health Information Rights Created by HIPAA Privacy Rule

- Right to inspect and copy your PHI.
- Right to amend your PHI.
- Right to receive an accounting of disclosures of PHI.
- Right to limit use and disclosures of PHI.
- Right to receive confidential communications.
- Right to receive a copy of Notice of Privacy Practices.
- Right to file a complaint.

Right to Inspect and Copy

An individual has the right to:

- See his /her information;
- Receive a copy of his/her health information; or
- Receive a summary, if he/she agrees in advance to a summary and to pay the cost of preparing such a summary.

Exceptions to an Individual's Right to Inspect or Copy

- Psychotherapy notes
- Information prepared for litigation
- Information to which the Clinical Laboratory Improvements Amendment prohibits access
- Information subject to the United States Privacy Act

Exceptions to an Individual's Right to Inspect or Copy

- Psychotherapy notes
- Information prepared for litigation
- Information to which the Clinical Laboratory Improvements Amendment prohibits access
- Information subject to the United States Privacy Act

PEBA may **deny** a request to inspect and copy if the access to information:

- Would endanger life or safety of requester or another;
- Could cause domestic violence or abuse or;
- If the information was obtained under a promise of confidentiality.

Right to Amend

- An individual has the right to amend his/her health information if the information is incorrect or incomplete
- An individual may request an amendment for as long as PEBA keeps the information
- A request to amend may be denied if:
 - The information was not created by PEBA
 - The information is not part of the information an individual would be permitted to inspect and copy; or
 - The information on file is accurate and complete.

Right to an Accounting of Disclosures

- An individual has the right to request a list of the disclosures of his/her health information that PEBA made.
- The first list requested within a 12-month period will be provided free of charge.
- PEBA may charge for additional lists within a 12-month period.

Use and Disclosure

- PEBA will ask for written permission before it uses or discloses PHI for purposes not covered in the Notice of Privacy Practices.
- If an individual gives written permission to use or disclose information, he/she may revoke that permission at any time by notifying PEBA in writing, and PEBA will no longer use or disclose the information for that purpose.

Right to Request Restrictions of Use and Disclosure

- An individual may request that PEBA restrict the use and disclosure of his/her PHI.
- PEBA is not required to agree to this request.
- If PEBA does agree, PEBA will comply with the request unless the information is needed to provide emergency treatment.

Right to Receive Confidential Communications

An individual has the right to receive information:

- At an alternative location;
- By alternative means; and,
- To request that PEBA communicate by certain means or at a certain location.

Notice of Privacy Practices (NPP)

- Effective April 14, 2003
- All Plan members and new enrollees receive NPPs when enrolled.
- NPP is posted in PEBA's lobby and on its website, www.eip.sc.gov.
- NPP is available upon request.
- NPP explains all the privacy rights under the HIPAA privacy rule.
- PEBA employees must follow practices described in the NPP.

Right to File Complaints

If an individual believes his HIPAA rights have been violated, he may file a complaint with the:

- Public Employee Benefit Authority's Privacy Officer;
- Secretary of the U.S. Department of Health and Human Services;
or
- Both offices.

Complaints can be filed by anyone, for themselves or on behalf of someone else. PEBA will not intimidate, threaten, coerce, discriminate against or take other retaliatory actions against any individual who files a complaint.

HIPAA Security Rule Requirements

There are three Security Rule requirements:

- Administrative standards are the administrative actions, policies, and procedures to manage the selection, development, implementation and maintenance of security measures to protect PHI and to manage the conduct of PEBA workforce in relation to the protection of that information.
- Physical safeguards are physical measures, policies, and procedures to protect a Covered Entity's electronic information systems and related buildings and equipment, from natural and environmental hazards, and unauthorized intrusion.
- Technical safeguards mean technology and the policy and procedures for its use that protect electronic health information and control access to it.

Compliance Training

Workstation Use and Security

Workstation Use and Security

- Access of PHI without subscriber authorization must be limited to purposes permitted and PEBA policies and procedures and federal and state laws.
- Staff shall not load unauthorized software, programs, or files onto PEBA workstations.
- Staff shall not copy PEBA records onto personal devices.
- Monitors should be positioned such that unauthorized persons cannot view information. Offices and cubicles facing the parking garage need to have the shades drawn when there are workers outside.
- All computer users must comply with the Password Management Policy. Passwords must be a minimum of 15 characters.
- Do not share your password with anyone. This includes IT and your supervisor. Additionally, do not write your password on sticky notes or other paper and leave it around or near your computer.

Workstation Use and Security

- Do not use someone else's account or spoof
- or send emails that appear to have originated from one source when actually they were sent by another source.
- All workstations, laptops, and Personal Digital Assistants (PDAs) must have power-on passwords activated.
- Staff must lock their computers when leaving workstations unattended.
- Staff must lock their workstations when leaving work area for extended periods.
- Workstations will be inspected to assess their compliance with PEBA Physical Security guidelines (e.g. monitors out of direct view of unauthorized individuals, etc).
- If you give someone access to your account or they learn your password because you did not secure it or your computer, you may be subject to disciplinary action up to, and including, termination of employment with PEBA.

Email and Malicious Software

- Do not open emails unless you know the sender. If you receive email from an unknown sender, contact IT. Please inspect email addresses carefully to ensure they are from a legitimate source.
- Do not open links in emails without confirming with the sender the validity of the links.
- Do not give your work email address for any personal emails.
- Never download files from the Internet.
- Never install any software yourself; IT staff should install all software on PEBA computers.
- Never install any personal software on PEBA computers.
- Do not make illegal copies of any software.
- Notify your Security Officer if you suspect your password has been compromised.

Log-ins

Immediately report any of the following to your supervisor or the Security Officer:

- If someone is using another's password;
- If someone is asking for your password;
- If your screen suddenly looks different; or
- If there is any other unusual or out-of-the ordinary situation.
- PEBA's internal systems are for conducting PEBA's business as authorized by PEBA management.
- Unauthorized use of PEBA assets is not permitted.
- Users of PEBA systems shall access only those resources for which they are authorized.
- Your activities and the computer resources you access will be monitored.

Transmissions

- Every effort will be made to avoid or limit the transmission of PHI via electronic means (e.g. faxing or emailing); and then, only with the proper protocols and disclaimers in place.
- Any documents to be sent via fax should be sent via electronic fax, if possible. If not possible, the sender must remain at the machine until the transmission is complete to remove material from the machine.
- Fax machines and copiers should also be regularly checked for, and cleared of, material containing PHI. This is the responsibility of every staff member.
- Emails containing PHI should be sent using the secure email function.
 - Instructions for sending secure emails are located on the I: drive in the HIPAA Privacy and Security Policies and Procedures folder.

Transmissions

- Documents containing PHI must be placed in the locked shred bins located throughout PEBA offices. No materials containing PHI may be left on photocopiers, fax machines or exposed on any work area.
- Telephones, voicemail and answering machines are not secure. Do not discuss PHI over speakerphone, and do not leave messages containing PHI on an answering machine.
- Be certain that you are talking to the subscriber or their authorized representative when giving subscriber information over the phone, just as if you were providing the information in person.

Physical Security Safeguards

PEBA shall make every effort to control access to its offices.

- PEBA employees shall wear their picture ID badges while on PEBA premises.
- All external doors providing external access (except for the reception entrance) will remain locked at all times.
- The reception area must be attended by at least one PEBA employee at all times that the reception entrance doors are open (regular business hours).
- ALL visitors (non-PEBA employees) are required to sign in with reception, wear a visitor's badge, and be escorted while in any area where PHI may be present. Even if the visitors have a visitor's badge, they must still be escorted.
- Visitors to PEBA
- are only allowed inside the offices during regular business hours.

Physical Security Safeguards

- Designated locked doors shall not be temporarily unlocked or propped open, with the exception of emergency situations.
- All PEBA employees must have an access swipe card, provided by PEBA administration, to access PEBA offices.
- Do not lend your badge or swipe card to anyone.
- Employees are responsible for the security and possession of their access cards.
- Employees should escort unidentified and unauthorized persons to the reception entrance during regular business hours. If an employee is concerned about a visitor, he or she should call the receptionist and ask the receptionist
- to contact the Bureau of Protective Services.

Physical Security Safeguards

- Employees must clear desks and workspaces of any sensitive documents or PHI at the end of each workday and place these documents in a secure location to prevent inadvertent disclosure.
- All unsecured areas (desks, work areas, faxes, copiers, etc.) should be cleared of all documents containing PHI when not in use.
- If an employee loses a swipe card or keys to his or her desk or office, the employee
- must notify the HIPAA Security Officer.

Records Retention

PEBA must maintain all records for a minimum of six years from the date of creation or the date it last was in effect, whichever is later.

This includes:

- Any information pertaining to a request of disclosure of PHI.
- Complaints and their dispositions.
- The designee for the position of Privacy Officer, who is responsible for developing policies and procedures and receiving complaints.
- Documentation of PEBA policies and procedures along with changes.
- Changes to the Notice of Privacy Practices.
- Documentation of any restriction or disclosure to which PEBA had agreed pursuant to a request.
- Documentation of training of PEBA personnel regarding HIPAA.

Software Change Requests

Do not use PHI as examples to define problems for software changes.

Security Issues

- Virus attack
- Misdirected Fax
- E-mail to wrong person
- Corrupt back-up tape
- Stolen computer/CD
- Using another's password
- Posting passwords
- Any improper disposal of PHI
- Workstation logged on while not in use
- Unsupervised visitors
- Impersonating another
- Theft of PHI
- Providing a terminated employee access to any PEBA information

Reporting Security Issues

- Notify your supervisor immediately. If a supervisor is not available, notify the Security or Privacy Officer. Notification may be verbal or in writing. If the notification is initially verbal, you may also be asked to put the notification in writing.
- PEBA will not retaliate against anyone for reporting an incident or a potential incident.

Reporting Authorities

Incidents should be reported to:

- Your supervisor
- Security Officer Sue Sadik 737-2066
- Privacy Officer 734-2267

Enforcement of HIPAA Provisions

The Secretary of the Department of Health and Human Services (HHS) has the authority to impose:

- Civil penalties;
- Criminal penalties; or
- Both

for violations of HIPAA provisions.

PUBLIC EMPLOYEE BENEFIT AUTHORITY AGENDA ITEM

Wednesday, May 15, 2013

Health Agenda

1. Subject: Health Budget Update

2. Summary: The Senate Finance Committee passed their version of the Appropriations Bill on May 8. The Senate began budget deliberations on Monday, May 13.

Background Information:

3. What is Board asked to do? Receive as Information

4. Supporting Documents:

- (a) Attached:
 - 1. Budget summary

FY 2013-2014 Budget Process H.3710

Governor's Recommendation:

“An additional \$78,371,427 for increased employer contributions for employee healthcare and benefits, assuming that the split between the employer and the employee's share of these costs remains as it is today.”

House of Representatives passed (March):

\$ 58,991,000 Recurring

\$ 15,819,245 (Agency Beginning Base)

\$ 74,810,245 Recurring

* Includes a 6.8% Employer-only premium increase; no subscriber premium increase but increases co-pays by 20%. (Pursuant to Proviso 105.7)

New provisos:

105.6. *(PEBA: Tobacco User Differential Study) The Public Employee Benefit Authority shall conduct a study to determine if it is in the best interest of the state and the State Health Plan to differentiate between tobacco users by category of product used and non-users regarding rates charged to enrollees in its health plans by imposing a surcharge on enrollee rates based upon the category of tobacco product used. Recommendations shall include, but not be limited to an appropriate surcharge to be assessed and shall be submitted to the Chairman of the Senate Finance Committee and the Chairman of the House Ways and Means Committee by October 1, 2013.*

105.7. *(PEBA: FY 2014 State Health Plan) Of the funds authorized for the State Health Plan in Plan Year 2014 pursuant to Section 1-11-710(A)(2) of the 1976 Code, an employer premium increase of 6.8% and a subscriber premium increase of 0% for each tier (subscriber, subscriber/spouse, subscriber/children, full family) will result for the standard State Health Plan in Plan Year 2014. Co-payment increases for participants of the State Health Plan in Plan Year 2014 shall not exceed 20%. Notwithstanding the foregoing, pursuant to Section 1-11-710(A)(3), the Public Employee Benefit Authority may adjust the plan, benefits, or contributions of the State Health Plan during Plan Year 2014 to ensure the fiscal stability of the Plan.*

	Current	Estimated 20% Co-pay increases from House Budget
Deductible	\$350/\$700	\$420/\$840
Coinsurance max	\$2000/\$4000	\$2400/\$4800
Physician co-pay	\$10	\$12
Emergency room co-pay	\$125	\$150
Outpatient Hospital co-pay	\$75	\$90
Pharmacy co-pay	\$9/\$30/\$50	\$9/\$36/\$60

Senate Finance Committee Passed (May)

\$ 61,826,030 Recurring

\$ 15,819,245 (Agency Beginning Base)

\$ 77,645,275 Recurring

* Includes a 6.8% Employer-only premium increase; no subscriber premium increase but increases co-pays by 20%. (Pursuant to Proviso 105.7)

	Current	Estimated 20% Co-pay increases from SFC Budget
Deductible	\$350/\$700	\$420/\$840
Coinsurance max	\$2000/\$4000	\$2400/\$4800
Physician co-pay	\$10	\$12
Emergency room co-pay	\$125	\$150
Outpatient Hospital co-pay	\$75	\$90
Pharmacy co-pay	\$9/\$30/\$50	\$9/\$36/\$60

New Provisos:

105.6. (PEBA: Tobacco User Differential Study) The Public Employee Benefit Authority shall conduct a study to determine if it is in the best interest of the state and the State Health Plan to differentiate between tobacco users by category of product used and non-users regarding rates charged to enrollees in its health plans by imposing a surcharge on enrollee rates based upon the category of tobacco product used. In conducting the study, the authority shall offer a period for public comment. Recommendations shall include, but not be limited to an appropriate surcharge to be assessed and shall be submitted to the Chairman of the Senate Finance Committee and the Chairman of the House Ways and Means Committee by December 31, 2013.

[PEBA must offer a period of public comment on the study and the date of report is changed from House version.]

105.7. (PEBA: FY 2014 State Health Plan) Of the funds authorized for the State Health Plan in Plan Year 2014 pursuant to Section 1-11-710(A)(2) of the 1976 Code, an employer premium increase of 6.8% and a subscriber premium increase of 0% for each tier (subscriber, subscriber/spouse, subscriber/children, full family) will result for the standard State Health Plan in Plan Year 2014. Co-payment increases for participants of the State Health Plan in Plan Year 2014 shall not exceed 20%. Notwithstanding the foregoing, pursuant to Section 1-11-710(A)(3), the Public Employee Benefit Authority may adjust the plan, benefits, or contributions of the State Health Plan during Plan Year 2014 to ensure the fiscal stability of the Plan.

[Same as House version]

105.8. (PEBA: Exempt National Guard Pension Fund) In the calculation of any across-the-board cut mandated by the Budget and Control Board or General Assembly, the amount of the appropriation for the National Guard Pension Fund shall be excluded.

[Moved from Budget and Control Board Employee Benefits (Section 103) by the Senate Finance Committee]

PUBLIC EMPLOYEE BENEFIT AUTHORITY AGENDA

Wednesday, May 15, 2013

Health Agenda

1. **Subject:** Pharmacy Benefits Manager (PBM) Contract update

2. **Summary:** The first Request For Proposals (RFP) was cancelled due to extensive, fundamental flaws in all the proposals. No protests were filed.

Last week detailed communications were sent to each proposer specifying the problems and informing them that a revised RFP (limited to the EGWP structure for Medicare insureds) is about to be issued. The new RFP will be issued on May 13, 2013.

These letters also emphasized the requirement to present any issues during the question and answer phase (as should have been done the first time) and that waiting to present the same type issues in the proposals this time would likely result in a disqualification from consideration. The pre-proposal conference will be held May 21, 2013, and proposals will be due June 5, 2013.

The contract will go into effect for the insurance plan January 1, 2014.

3. **What is Board asked to do?** Receive as Information

4. **Supporting Documents:** None

PUBLIC EMPLOYEE BENEFIT AUTHORITY AGENDA ITEM

Wednesday, May 15, 2013

Health Agenda

1. **Subject:** S.290 Telemedicine Bill

2. **Summary:**

Background Information:

3. **What is Board asked to do?** Receive as information

4. **Supporting Documents:**

- (a) Attached:
 - 1. Copy of S.290

South Carolina General Assembly
120th Session, 2013-2014

S. 290

STATUS INFORMATION

General Bill

Sponsors: Senators Cleary, Hutto, Hembree, Davis and Alexander

Document Path: I:\council\bill\agm\19847ab13.docx

Companion/Similar bill(s): 3779

Introduced in the Senate on January 24, 2013

Introduced in the House on April 24, 2013

Last Amended on April 23, 2013

Currently residing in the House Committee on **Labor, Commerce and Industry**

Summary: Telemedicine Insurance Reimbursement Act

HISTORY OF LEGISLATIVE ACTIONS

<u>Date</u>	<u>Body</u>	<u>Action Description with journal page number</u>
1/24/2013	Senate	Introduced and read first time (Senate Journal-page 4)
1/24/2013	Senate	Referred to Committee on Banking and Insurance (Senate Journal-page 4)
1/31/2013	Senate	Recalled from Committee on Banking and Insurance (Senate Journal-page 3)
1/31/2013	Senate	Committed to Committee on Medical Affairs (Senate Journal-page 3)
4/18/2013	Senate	Committee report: Favorable with amendment Medical Affairs (Senate Journal-page 5)
4/19/2013		Scrivener's error corrected
4/23/2013	Senate	Committee Amendment Adopted (Senate Journal-page 29)
4/23/2013	Senate	Read second time (Senate Journal-page 29)
4/23/2013	Senate	Roll call Ayes-38 Nays-0 (Senate Journal-page 29)
4/24/2013	Senate	Read third time and sent to House (Senate Journal-page 15)
4/24/2013	House	Introduced and read first time (House Journal-page 95)
4/24/2013	House	Referred to Committee on Labor, Commerce and Industry (House Journal-page 95)
4/25/2013		Scrivener's error corrected

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VERSIONS OF THIS BILL

[1/24/2013](#)

[4/18/2013](#)

[4/19/2013](#)

[4/23/2013](#)

[4/25/2013](#)

1 COMMITTEE AMENDMENT ADOPTED

2 April 23, 2013

3

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S. 290

5

6 Introduced by Senators Cleary, Hutto, Hembree, Davis and

7 Alexander

8

9 S. Printed 4/23/13--S.

[SEC 4/25/13 12:06 PM]

10 Read the first time January 24, 2013.

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[290-1]

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A BILL

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, SO AS TO ENACT THE “SOUTH CAROLINA TELEMEDICINE ACT”; BY ADDING ARTICLE 3 TO CHAPTER 47, TITLE 40 SO AS TO PROVIDE DEFINITIONS AND TO REQUIRE COVERAGE OF TELEMEDICINE SERVICES BY THE STATE PUBLIC EMPLOYEE BENEFIT AUTHORITY AND BY ESTABLISHING THE TELEMEDICINE ADVISORY COUNCIL.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Chapter 47, Title 40 of the 1976 Code is amended by adding:

“Article 3
Telemedicine

Section 40-47-300. This article is known and may be cited as the ‘South Carolina Telemedicine Act’.

Section 40-47-310. (A) For the purposes of this article:
(1) ‘Telemedicine’ means the delivery of health care, including diagnosis, treatment, or transfer of medical data, by means of bi-directional, real-time, interactive, secured and HIPAA compliant, electronic audio and video telecommunications systems by a consulting health care provider to a patient of a referring health care provider, at a referring site. HIPAA compliant electronic audio and video telecommunications systems must be used between the consultant site and referring site. Standard telephone, facsimile transmissions, unsecured electronic mail, or a combination of them do not constitute telemedicine services.

1 (2) 'Consultant site' means the physical site at which the
2 consulting health care provider is located at the time the health
3 care is provided by means of telemedicine.

4 (3) 'Referring site' means the physical site of the patient.

5 (4) 'Consulting health care provider' means an allopathic or
6 osteopathic physician, physician assistant, or a nurse practitioner
7 licensed in the State of South Carolina and practicing pursuant to
8 their respective practice act under Title 40.

9 (5) 'Referring health care provider' means an allopathic or
10 osteopathic physician, physician assistant, or nurse practitioner
11 who, upon evaluation of the patient determines the need for
12 consultation and makes the arrangements for the consulting health
13 care provider services. A referring health care provider must be
14 licensed in the State of South Carolina and practicing pursuant to
15 their respective practice act under Title 40.

16 (6) 'State Health Plan' means the employee and retiree
17 insurance program administered by the Public Employee Benefit
18 Authority.

19 (B) (1) On or after January 1, 2014, the State Health Plan shall
20 not require face-to-face contact between a consulting health care
21 provider and a patient as a prerequisite for payment for covered
22 services appropriately provided through telemedicine in
23 accordance with generally accepted health care practices and
24 standards at the time the telemedicine service was rendered.

25 (2) Notwithstanding the provisions of item (1), the State
26 Health Plan shall establish coverage guidelines, documentation
27 requirements, and benefit design standards for telemedicine
28 services.

29 (C) Reimbursement for covered services provided through
30 telemedicine shall be determined by the State Health Plan and shall
31 be based upon Current Procedural Terminology (CPT) codes with
32 appropriate GT telemedicine modifiers (via interactive audio and
33 video telecommunications systems).

34 (D) It is the responsibility of the consulting health care provider
35 to communicate the details of the telemedicine service with the
36 patient's primary care provider or referring health care provider
37 within a mutually agreed upon time frame and mode of
38 communication.

39 (E) The Board of Medical Examiners shall promulgate
40 regulations to authorize and establish standards for other forms or
41 methods of providing health care services through telephone,
42 facsimile, or electronic means, or combination thereof; provided,
43 however, that the State Health Plan may reimburse for such other

1 services but are not required by subsection (B) of this section to do
2 so.

3 (F) The Board of Medical Examiners and the Board of Nursing
4 shall use the same standards in evaluating and investigating a
5 complaint and disciplining a licensee who practices telemedicine
6 as it would use for a licensee who does not practice telemedicine.

7 (G) This chapter does not affect health care services currently
8 reimbursed by the State Health Plan that utilize electronic
9 communications which are not real-time or preclude the Public
10 Employee Benefit Authority from reimbursing for similar services
11 in the future.

12

13 Section 40-47-320. (A) There is hereby created the
14 Telemedicine Advisory Council whose functions are to study
15 telemedicine outcomes, evaluate reimbursement rates and make
16 recommendations regarding the further development and use of
17 telemedicine. The council shall consist of:

18 (1) the Director of the Department of Insurance or their
19 designee;

20 (2) the Director of the Department of Health and Human
21 Services or their designee;

22 (3) the Director of the Department of Labor, Licensing and
23 Regulation or their designee;

24 (4) the Director of the Public Employee Benefit Authority or
25 their designee;

26 (5) a member of the Senate appointed by the Chairman of the
27 Senate Medical Affairs Committee;

28 (6) a member of the House of Representatives appointed by the
29 Chairman of the House Labor, Commerce and Industry
30 Committee;

31 (7) five members appointed by the Governor consisting of:

32 (a) a rural hospital administrator;

33 (b) a physician with specialized knowledge and interest in the
34 use of telemedicine;

35 (c) a psychiatrist with specialized knowledge and interest in
36 the use of telepsychiatry;

37 (d) a representative from a health insurance issuer licensed to
38 do business in this State; and

39 (e) a representative from a public medical school in South
40 Carolina; and

41 (8) the Chairman of the Board of Directors for Palmetto Care
42 Connections, Inc. or their designee, ex officio and non-voting.

1 (B) The Director of the Public Employee Benefit Authority or
2 their designee shall serve as chairman. A quorum will be a
3 majority of the members present but not less than four attendees.
4 Members shall serve without per diem, subsistence, or mileage.

5 (C) Staff support shall be provided by the Public Employee
6 Benefit Authority, the Senate, and the House of Representatives.

7 (D) Members shall be appointed no later than August 1, 2013
8 and will serve a minimum of two years. Vacancies must be filled
9 in the manner of the original appointment for the unexpired portion
10 of the term. The initial meeting of the council shall be no later
11 than December 1, 2013, and the council shall meet at least twice a
12 year or at the call of the chairman.

13 (E) The council shall make a progress report to the Public
14 Employee Benefit Authority, the Chairman of the Senate Medical
15 Affairs Committee and the Chairman of the House of
16 Representatives Labor, Commerce and Industry Committee no
17 later than July 1, 2015, and annually thereafter. The progress
18 reports shall include, but not be limited to, evaluation of the access
19 to health care; patient satisfaction of telemedicine services;
20 medical outcomes; affordability of telemedicine health care
21 services; and recommendations and results from subsection (F).

22 (F) The council shall research and evaluate the opportunities and
23 challenges for further growth and development of telemedicine in
24 South Carolina including, but not limited to, market incentives for
25 telemedicine growth; market impediments to the use and growth of
26 telemedicine; statutory and regulatory limitations to the utilization
27 and growth of telemedicine; the value and availability of the
28 various types of telemedicine available in medicine, including
29 physician-to-patient telemedicine; the impact of telemedicine
30 policy directives and decisions by the Board of Medical
31 Examiners; and, liability concerns for providers and insurers.”

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33 SECTION 2. This act takes effect upon approval by the Governor.

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