

SC PUBLIC EMPLOYEE BENEFIT AUTHORITY  
BOARD OF DIRECTORS

MINUTES [Approved 12/18/13]

Wednesday, November 16, 2013 – 1:00 p.m.  
202 Arbor Lake Drive, Columbia SC, Main Conference Room 2nd Floor

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**Board Members Present:**

Mr. Art Bjontegard, Chairman (in person)  
Ms. Peggy Boykin (in person)  
Mr. Frank Fusco (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)  
Mr. Steve Heisler (in person)  
Ms. Stacy Kubu (in person)  
Sheriff Leon Lott (by phone)

**Others present for all or a portion of the meeting:**

David Avant, Lil Hayes, Stephen Van Camp, Justin Werner, Travis Turner, Matt Davis, John Page, David Quiat, and Virginia Wetzel from the South Carolina Public Employee Benefit Authority (PEBA); Donald Tudor and Wayne Pruitt with the State Retirees Association; Carlton Washington with the South Carolina Employee Association; Daniel Brennan with the SC State Treasurer’s Office; and Steve Smith, Miranda Weaver, Scott Honken, Colby Heiner with Catamaran.

**I. Call to order**

Chairman Bjontegard called the meeting to order at 1:00 p.m., and Mr. Sowards gave the invocation. Ms. Hayes confirmed meeting notice compliance with the Freedom of Information Act. Mr. Heisler moved to adopt the agenda and Mr. Sowards seconded. The agenda was unanimously approved.

**II. Approval of minutes from the last meetings – October 16, 2013**

Chairman Bjontegard asked for amendments to the October 16, 2013 meeting minutes. There being no amendments, Mr. Heisler moved to adopt the minutes and Mr. Sowards seconded. The Board minutes from October 16, 2013, were unanimously approved.

**III. Executive Session Pursuant to § 30-4-70 (a)(1)**

As noted on the agenda, an executive session was called and entered into unanimously at 1:05 p.m.

Open meeting resumed at 1:50 p.m. following the Executive Session. No action was taken by the Board while in Executive Session.

**Action:**

Mr. Fusco moved the PEBA Board to appoint David Avant as the agency’s Interim Director effective January 1, 2014. Mr. Matthews seconded. The motion was unanimously approved.

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**Action:**

Mr. Fusco moved for the Board to initiate a national search for a permanent agency director during which period Mr. Avant would serve as the interim director and noting that Mr. Avant's application would be graciously accepted by the PEBA Board. Mr. Matthews requested a roll call vote and Chairman Bjontegard asked for a show of hands. By a vote of six to five, the Board moved to conduct a national search.

**Action:**

Mr. Fusco moved for the FAAC Committee to be designated as the lead entity for the search process but allowing all PEBA Board members to attend related meetings. Mr. Matthews seconded. The motion was unanimously approved.

## IV. Committee Reports

### A. Finance, Administration, Audit and Compliance (FAAC) Report

Mr. Matthews reported that the FAAC Committee met on November 6, 2013, and reviewed the following agenda items.

**SCRS Financial Statements Audit – Fiscal Year 2012/2013 [in notebook materials]**

Mr. Matthews reported that the Independent Auditors' Report performed by CliftonLarsonAllen (CLA) resulted in an Unmodified "clean" opinion that the financial statements were presented fairly, in all material respects, and in conformity with the U.S. Generally Accepted Accounting Principles (GAAP). Mr. Matthews advised that future auditing standards will require all participating employers within the SC Retirement Systems (state agencies, local government entities, and school districts) to report their proportionate share of the total unfunded liability of the Systems. There was discussion regarding the collection of contributions from each entity. The Committee will continue to keep the Board informed as new standards are implemented. Mr. Matthews also suggested that going forward the Retirement Policy Committee should also review the audits of the Retirement Systems Financial Statements. The Board received the SCRS Financial Statements Audits as information.

**FY 12/13 PEBA Human Resource Report [in notebook materials]**

Mr. Matthews reported that the Committee received PEBA's Fiscal Year 12/13 HR report from HR Director, Kim Brown and requested to receive all subsequent fiscal year HR reports in August of each year. Mr. Matthews introduced Kim Brown who summarized her report. The Board received this as information.

**PEBA Internal Auditor Report**

Mr. Matthews advised that the Committee received an initial report from PEBA's Internal Auditor in accordance with the Board's recent approval of the reporting structure of the Internal Auditor to the FAAC Committee with a dotted line to the Agency Director. Mr. Matthews introduced PEBA's Internal Auditor, John Page who summarized his audit coverage, audit planning considerations, audit schedule, duties, time budget, current

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initiatives, and his year-to-date accomplishments. Mr. Avant highlighted Mr. Page's extensive efforts related to the new reporting of fees within SCRS's Financial Statements for Fiscal Year 2013. The Board received his initial report as information and was advised that Mr. Page will be reporting quarterly to the Committee in the future.

**2014 PEBA Legislation – Volume Two [in notebook materials]**

Mr. Matthews advised that the Board approved the FAAC Committee's recommendation of Volume One of technical and substantive legislative changes during their October 2013 meeting. The Committee now recommended Volume Two of legislative changes for approval by the Board. Upon approval, both Volumes will be consolidated into finalized draft legislation in order to get a sponsor for legislative pre-filing in December 2013.

**Action:**

Mr. Matthews moved to approve 2014 PEBA Legislation, Volume Two, as recommended by the FAAC Committee. Mr. Bjontegard seconded. Unanimously approved.

**B. Health Care Policy Committee Report**

Mr. Pearce advised that the Health Care Policy Committee met earlier in the day, November 20, 2013, and reviewed the following agenda items.

**Catamaran Presentation [in notebook materials]**

Mr. Pearce advised that the Committee received an introductory presentation from PEBA's new Pharmacy Benefits Manager, Catamaran. He introduced the following representatives from Catamaran: Steve Smith, Scott Honken, Miranda Weaver, and Colby Heiner. They highlighted their company's measurable proof of value through a holistic approach to pharmacy benefits resulting in improved healthcare cost and outcomes, the details of their new partnership with PEBA, the value of their future on-campus presence at PEBA, the details of the Employer Group Waiver Plan to provide pharmacy benefits to retirees, and a summary of the implantation process thus far. The Board complemented the Catamaran team and the PEBA team for their extensive effort during the implementation process. Catamaran thanked the PEBA Team, noting everyone's dedication and professionalism. Chairman Bjontegard asked for the names of those PEBA employees and expressed his thanks and appreciation for everyone's hard work. Those noted were David Avant, Travis Turner, Laura Smoak, Phyllis Buie, Stephen Van Camp, Colleen Clark, Denise Hunter, Dewey King, Chuck Wilson, Helen Everson, Doug Hislop, Sharon Graham, Dayle DeLong, Patrick Harvin, Kevin Crosby, Nancy Higgins, David Quiat, Ken Turnbull, Thelma Hopkins, Michele Perrick, Wayne Sams, Nayeong Jeong, and Jeff Walton. There was discussion regarding Catamaran's satisfaction survey of participating members and the expected date of the survey results. Catamaran also highlighted their mobile application features.

**Health Analytics [in notebook materials]**

Mr. Pearce advised that the Committee received a presentation from W. David Patterson, PhD, Chief of Health and Demographics for the SC Office of Research and Statics. The presentation highlighted health care quality and cost reduction based on the need for care coordination and patient engagement. Based upon the State Health Plan's claims data gathered for plan year 2012, he defined health condition outliers that could benefit

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significantly from patient coordination and management of care. He also provided a Patient Engagement Framework offered by the National eHealth Collaborative that informs, engages, empowers, partners, and creates a health community for the patient. The board received this as information.

### **Reports to the Legislature**

#### 2012 Abortion Report [in notebook materials]

Mr. Avant presented a report indicating the State Health Plan's portion of total member premiums paid to cover abortions performed under the Plan for 2012. The Committee received this as information. He advised that this report will be sent to the Chairman of the Senate Finance Committee and the House Ways and Means Committee.

#### Tobacco User Differential Study: FY 12/13

Mr. Avant presented a draft report of the claim cost analysis of State Health Plan members paying a tobacco surcharge for Fiscal Year 12/13. Mr. Avant advised the period of public comment will be scheduled soon. Mr. Pearce advised the Committee directed staff to further research the data available and other research sources prior to publishing the report and opening the period of public comment. There was discussion regarding discrepancies within the data collection process.

### **MUSC PCMH Pilot**

PEBA Chief of Staff, Travis Turner informed the Committee that all plan details of MUSC's PCMH Pilot Plan have been finalized excluding the establishment of quality outcome measures, which should be completed very soon. The Committee will be reviewing MUSC's communications to their employees regarding the new PCMH Pilot Plan. There was discussion regarding the processes in place to measure the plan's success.

## **C. Retirement Policy Report**

Mr. Sowards reported that the Retirement Policy Committee met on November 4, 2013, and reviewed the following agenda items.

### **ORP Plan Document Restatement [in notebook material]**

Mr. Sowards advised that the Committee reviewed an ORP Plan Document Restatement in preparation for Cycle C filings for IRS determinations in January 2014. Changes were technical in nature to comply with IRS regulations and were recommended by PEBA's legal counsel and outside consultant, Ice Miller.

#### **Action:**

Mr. Sowards moved to approve the ORP Plan Document Restatement as recommended by the Retirement Policy Committee. Mr. Bjontegard seconded. Unanimously approved.

### **Defined Contribution Plan Best Practices [in notebook materials]**

Mr. Sowards reported that the Committee reviewed NAGDCA's Defined Contribution industry best practices in comparison to South Carolina's Defined Contribution Plans (ORP and Deferred Compensation). He advised that the Committee will be reviewing defined

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contribution recommendations from PEBA staff and outside consultant Summit Consultants during their retreat scheduled for December 4, 2013.

## V. New Business

There was no new business discussed.

## VI. Round Table Discussion

### Director's Report, David Avant:

- Mr. Avant reported that PEBA's IT department is reviewing software options for tablets to be used by the Board members.
- Mr. Avant reported that PEBA's communications department is actively reviewing all communications sent to members to insure proper PEBA branding.
- Mr. Avant announced that there were twenty three state agencies that participated in the State Harvest Hope Food Drive this year and PEBA placed 3<sup>rd</sup> overall for their fundraising efforts.
- Mr. Avant reported that the Board's annual 2014 retreat has been scheduled for February 28, 2014, and March 1, 2014. February 28<sup>th</sup> will include presentations from speakers nationwide and will provide six or more hours of Board member continuing education. March 1<sup>st</sup> will serve as a normal business meeting for the Board.

Board members requested an update on the annual Health enrollment process that took place during the month of October 2013. Mr. Avant reported that from all accounts annual enrollment was very successful and all feedback has been positive.

Mr. Fusco reiterated his complements to PEBA staff and external partners for all of their hard work during the last quarter.

## VII. Adjournment

There being nothing further to discuss, Chairman Bjontegard adjourned the meeting at 2:55 p.m.

**SC Public Employee Benefit Authority  
Board of Directors Meeting**

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

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**Wednesday, November 20, 2013 – 1:00 P.M.**

**AGENDA**

- 1. Adoption of Proposed Agenda**
- 2. Minutes of Previous Meeting – October 16, 2013**
- 3. Executive Session Pursuant to § 30-4-70 (a)(1)**
- 4. Old Business**
  - a. Finance, Administration, Audit & Compliance Committee**
  - b. Health Policy Committee**
  - c. Retirement Policy Committee**
- 5. New Business**
- 6. Round Table Discussion**

**NOTICE OF PUBLIC MEETING**

This notice is given to meet the requirements of the S.C. Freedom of Information Act and the Americans with Disabilities Act. Furthermore, this facility is accessible to individuals with disabilities, and special accommodations will be provided if requested in advance.

SC PUBLIC EMPLOYEE BENEFIT AUTHORITY  
BOARD OF DIRECTORS

**DRAFT MINUTES**

Wednesday, October 16, 2013 – 1:00 p.m.  
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**Board Members Present:**

Mr. Art Bjontegard, Chairman (in person)  
Ms. Peggy Boykin (in person)  
Mr. Frank Fusco (in person)  
Mr. Steve Matthews (in person)  
Mr. Joe “Rocky” Pearce (in person)  
Mr. Audie Penn (in person)  
Mr. John Sowards (by phone)  
Mr. David Tigges (in person)  
Mr. Steve Heisler (in person)  
Ms. Stacy Kubu (by phone)

**Others present for all or a portion of the meeting:**

David Avant, Lil Hayes, Stephen Van Camp, Justin Werner, Travis Turner, Matt Davis, Megan Lightle, Angie Warren, and Virginia Wetzel from the South Carolina Public Employee Benefit Authority (PEBA); Donald Tudor and Wayne Pruitt with the State Retirees Association; Carlton Washington with the South Carolina Employee Association ; Daniel Brennan with the SC State Treasurer’s Office; Mike Madalena with Gabriel, Roeder, Smith & Company (GRS) (by phone); Ryan Bear with Walgreens; and Greg Ryberg and Sarah Corbett with the Retirement Systems Investment Commission.

**I. Call to order**

Chairman Bjontegard called the meeting to order at 1:00 p.m., and Mr. Matthews gave the invocation. Ms. Hayes confirmed meeting notice compliance with the Freedom of Information Act. Mr. Bjontegard moved to amend the agenda to allow Greg Ryberg to address the Board at the beginning of the meeting, which was agreed upon.

**II. Approval of minutes from the last meetings – September 18, 2013**

Chairman Bjontegard asked for amendments to the September 18, 2013 meeting minutes. There being no amendments, the Chairman called for the adoption of the meeting minutes which were unanimously approved.

**III. Retirement Systems Investment Commission - Presentation**

Greg Ryberg introduced himself to the Board as the new Chief Operating Officer of the SC RSIC. He provided his personal, professional, and political background and how those skills will lend themselves to the efficient operating of the Investment Commission. He expressed his commitment to funding the liabilities of the SC Retirement Systems and maintaining a close working relationship with the PEBA Board.

**IV. Committee Reports**

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DRAFT MINUTES

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**A. Retirement Policy Committee Report**

Mr. Sowards reported that the Retirement Committee met on October 7, 2013, and reviewed the following agenda items.

**ORP MetLife Fund Replacement [in notebook materials]**

Action:

Mr. Sowards moved to approve the ORP MetLife Fund Replacement as recommended by the Retirement Policy Committee. Chairman Bjontegard seconded. Unanimously approved.

**Defined Contribution Plan Comparisons [in notebook materials]**

Mr. Sowards advised that the Committee reviewed a comparison of both Defined Contribution Plans in order to prepare for proper oversight of both plans once the SC Deferred Compensation Program comes under the Board's oversight on January 1, 2014. He suggested the Board receive this as information.

Mr. Sowards announced that the Committee has scheduled a retreat on December 4, 2013, to review this information in more detail.

**Deferred Compensation Commission Meeting Report (9/27/13) [in notebook materials]**

Mr. Sowards announced the last Deferred Compensation Commission Meeting was held on September 27, 2013. He referred to Mr. Bjontegard for a summary of his observations while in attendance at the meeting. Mr. Bjontegard noted several key points as a result of audit findings of the SCDCP which included deficiencies with reporting employers and unclaimed funds. He then asked Ms. Boykin and Mr. Avant for any additional highlights as serving members of the Commission. Ms. Boykin noted that the Investment Committee will continue to serve through the end of 2013.

**Retirement Systems Investment Commission Report [in notebook materials]**

PEBA Interim Director, David Avant, summarized his attendance at the most recent RSIC meeting on September 26, 2013. He noted that a new protocol was established for funding investments once approved by the Commission, a non-disclosure agreement was developed between RSIC and other pertinent agency's staff, and there was a shift of equity to global markets.

Mr. Avant then introduced Sarah Corbett, RSIC's Operational Due Diligence Director, who presented RSIC's approved asset allocations with expected returns based upon recommendations resulting from the recent Asset Liability Model (ALM) study completed by Hewitt EnnisKnupp. There was discussion regarding the partnership between PEBA and RSIC in future assessments of integrated information technology enhancements.

**B. Finance, Administration, Audit and Compliance Report**

Mr. Matthews reported that the FAAC Committee met on October 1, 2013, and reviewed the following agenda items.

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**PEBA Board Member Education Policy [in notebook material]**

Action:

Mr. Matthews moved to approve the PEBA Board Education Policy as amended and recommended by the FAAC Policy Committee. Chairman Bjontegard seconded. Unanimously approved.

**2014 PEBA Legislation [in notebook materials]**

**Technical**

Section 1. Explanation: Amends Section 1-11-770(A) to return the 211 program to the Budget and Control Board. There was no intent to move the 211 program, which has never been part of either the retirement or insurance functions of the Budget and Control Board. PEBA has no responsibilities for the operation of the 211 program.

The Board **approved** this section.

Section 2. Explanation: Amends the interest payment section of SCRS, JSRS, GARS and PORS to provide that interest would be paid on an inactive account in these systems if the member is prohibited from withdrawing their contributions from the account because of other provisions of law. For example, a member could not withdraw contributions from an inactive account if the member has an account in a correlated system or the ORP.

The Board **approved** this section.

**Substantive**

Section 1. Explanation: Amends Section 9-4-10 to increase Board terms to three years from two years and to stagger Board terms. No Board member may serve more than two consecutive terms. A Board member may sit out one three-year term and become eligible to serve again. The Board positions are identified by number and are placed into three different Term cycles:

Term A positions are appointed on July 1, 2014 for three-year terms.

Term B positions are appointed on July 1, 2015 for three-year terms.

Term C positions are appointed on July 1, 2016 for three-year terms.

Term A positions would serve an initial two-year term from July 1, 2012 until the later of June 30, 2014 or until their successors are appointed and qualify. Thereafter, Term A positions would have three-year terms.

Term C positions would serve an initial four-year term from July 1, 2012 until the later of June 30, 2016 or until their successors are appointed and qualify. Thereafter, Term C positions would have three-year terms.

Section 9-4-10 is further amended to provide for quarterly rather than monthly meetings.

Finally, Section 9-4-10 is amended to provide that PEBA's activities will be performed under the supervision of an Executive Director who will be appointed by the PEBA Board on and after January 1, 2014.

The Board sent this back to the FAAC Committee for further review.

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Section 2. Explanation: Amends Section 1-11-710(A)(2) to provide an August 15th deadline for the health plan to be approved each year, including the approval of the Budget and Control Board or its successor under Section 9-4-45. This re-establishes the August 15th deadline for the Budget and Control Board (or its successor) to approve the health plan, which will give PEBA enough time to implement any changes prior to annual open enrollment in October.

The Board **approved** this section.

Chairman Bjontegard asked all committees to begin finalizing potential legislation associated with each committee.

**Committee Updates:**

Mr. Matthews reported that the Committee discussed a potential property acquisition and a personnel issue during Executive Session during which no actions were taken. He reported that the Inspector General will complete a fiduciary audit of the RSIC for 2013. PEBA's fiduciary audit will be completed upon authorization of funding from the General Assembly. He advised that the Committee will meet in November to review PEBA's Fiscal Year 12/13 HR Report.

**C. Health Care Policy Committee Report**

Mr. Pearce advised that the Health Care Policy Committee met earlier in the day, October 16, 2013, and reviewed the following agenda items.

**2015 State Health Plan Budget Recommendation [in notebook materials]:**

Action:

Mr. Pearce moved to approve the actuarial trends and the 2015 State Health Plan versions to be offered to the Governor and General Assembly for budget development, including an ACA compliant plan necessitating \$60.6 million with \$7 million set aside for incentives (new option four, column IV); including a request that the Governor and General Assembly not include any Budget Provisos that restrict PEBA from developing Plan design; and to insure compliance with Federal Law to allow only non-Medicare enrollees into any proposed savings plans. Mr. Bjontegard seconded. Unanimously approved.

There was discussion regarding the presentation of the budget recommendation to the Governor and the General Assembly to allow PEBA to continue to develop plan design based upon consumerism and incentives to result in better health outcomes.

**Three Year General Fund Outlook of the State Health Plan [in notebook materials]:**

Pursuant to Code of Laws 11-11-350, each state agency receiving in the aggregate one percent or more of the state's general fund appropriation for any fiscal year shall provide to the Office of State Budget an estimate of its planned general fund expenditures for the next three years. This report is due to the Office of State Budget during the second quarter of each fiscal year.

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Mr. Avant summarized the three-year general fund projections of the state health plan (FY 2015 through FY 2017). It was noted that this projection is not binding. The Board received this as information.

Mr. Penn suggested indicating that the projections are based upon the State Health Plan's current grandfathered status(non-ACA compliant). Mr. Bjontegard agreed and directed staff to notate this document with this information prior to submitting to the State Budget Office.

There was discussion regarding the Board's review and approval of legislatively mandated items to be provided to the General Assembly. It was decided that the Health Care Policy Committee and the PEBA Board will be provided the Three Year General Fund Outlook of the State Health Plan annually to be received as information with no approval required.

**Catamaran Update [in notebook materials]:**

Mr. Pearce advised that the transition to the new Pharmacy Benefits Manager, Catamaran is progressing accordingly. A packet of all communications from Catamaran to subscribers thus far was provided for Board to review.

**MUSC Update:**

Mr. Avant reported that MUSC and PEBA meet regularly as plan details are still being finalized.

**Public Information Sessions - Updates**

Mr. Pearce announced that a Public Information Session was held on October 2, 2013, to discuss Medicare Advantage.

He also advised that the Public Information Session to discuss the expansion of the State Health Plan network will be scheduled for a date in the future. The Committee decided to research potential partnerships with smaller South Carolina businesses with the first step to contact the SC Small Business Chamber of Commerce.

**V. New Business**

In preparation for procuring IT devices for Board Members to review related materials, PEBA IT Systems Manager, Robbie Brown, presented comparisons between an iPad and a Windows 8 Surface Tablet. The Board collectively decided to move forward with the procurement of the Windows 8 Surface Tablet. Mr. Avant advised that this will be South Carolina State property and all information on this device will be subject to the Freedom of Information Act. Once a Board Member's term expires, the tablet will be turned into PEBA's IT department. Mr. Brown advised that the tablets should be procured and formatted within the next three months. Mr. Bjontegard asked Mr. Brown to prepare a future demonstration of Board Books applications.

**VI. Round Table Discussion**

**Director's Report, David Avant:**

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The PEBA agency is currently conducting its annual United Way Campaign. So far, the agency has raised approximately \$2,500.00 through “Jeans for a Day” program and an Agency-wide bake sale.

**Chairman’s report**

PEBA Social Media Initiatives [in notebook material]

Mr. Bjontegard noted the notebook materials summarizing PEBA’s successful social media initiatives. He advised that the agency should hire a full time webmaster; develop a robust plan to collect member email addresses; to transition from paper to electronic communications with members; and to insure all communications to members be PEBA branded.

Mr. Bjontegard announced that PEBA’s Communications Director, Megan Lightle will be retiring in 2014.

Ms. Boykin report from the 2013 NCTR Conference

Chairman Bjontegard announced that Ms. Boykin attended the 2013 National Council on Teacher Retirement Conference and asked her to present a summary of her observations while in attendance. Ms Boykin recommended that the Board review the following items discussed at the conference:

- Implementation of new GASB rules specifically related to Local Government’s financial reporting of their share of SCRS’s unfunded liability.
- Review of PEBA’s disaster recovery plan to include business continuity in addition to IT recovery strategies.
- The State of Maryland has been legislatively directed to issue a request for proposal for a Medicare Advantage program which may serve as a resource for PEBA in the future.
- New health care exchanges will allow Retirees to receive subsidies and opt out of the State Health Plan which may affect the negotiation power with SC State Health Plan providers in the future.

Mr. Bjontegard noted that in the pocket of each member’s notebooks are a monthly calendar and past action report.

**VII. Executive Session Pursuant to § 30-4-70 (a)(1), (a)(2) and (a)(3)**

As noted on the agenda, an executive session was called and entered into unanimously at 3:20 p.m.

Open meeting resumed at 4:20 p.m. following the Executive Session. No action was taken by the Board while in Executive Session.

**VIII. Adjournment**

There being nothing further to discuss, Chairman Bjontegard adjourned the meeting at 4:22 p.m.

**PUBLIC EMPLOYEE BENEFIT AUTHORITY**  
**BOARD AGENDA ITEM**  
(Reporting Committee: Finance, Administration, Audit and Compliance)

**Meeting Date:** November 20, 2013

**Tab 3**

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**1. Subject: SCRS Financial Statement Audit**

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

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**3. Supporting Documents:**

(a) Attached:

1. Summary of Audited Financials
2. CliftonLarsonAllen PowerPoint Presentation

(b) Not Attached but Available:

1. Audited Financial Statements: Transmittal Letter
2. SCRS FY 12/13 Audited Financial Statements

## Brief Summary of SCRS Audited Financial Statements

- Independent Auditors' Report performed by CliftonLarsonAllen (CLA) resulted in an Unmodified "clean" opinion that the financial statements are presented fairly, in all material respects, and in conformity with U.S. Generally Accepted Accounting Principles (GAAP). In prior years, this would have been referred to as an "unqualified" opinion.
- CLA's Report on Internal Control over Financial Reporting and on Compliance and Other Matters Based on an Audit of Financial Statements was Performed in Accordance with Government Auditing Standards.
- According to CLA's report, no material weaknesses or significant deficiencies were identified.
- The total net position for all five defined benefit plans combined, increased by \$1.5 billion or 6 percent. The increase from \$24.98 billion to \$26.5 billion was attributable to both positive investment performance and increased contribution levels.
- The plans are in a net cash outflow position with benefit payments exceeding contribution receipts. Investment earnings are relied upon to fill the gap between inflows of cash (employer and employee contributions) and outflows of cash (benefit payments).
- One change worth noting in the 2013 Financial Statements involves the reporting of Investment fees and costs. In prior years, only directly invoiced fees were reported as a separate investment costs. Investment fees and expenses paid on a "net of fee" basis were not readily separable at the time of issuance of prior years' Financial Statements. Therefore, these fees and expenses were netted against investment income and were only included in the net appreciation or depreciation in an investments' fair value. While this reporting method for net of fee investment costs is in compliance with Generally Accepted Accounting Principles, PEBA strove for more transparency in this area. Therefore the RSIC, with the help and urging of PEBA staff, implemented an extensive process to collect, compile and validate fee information for those investment managers paid on a net of fee basis. This information was collected in time for inclusion in PEBA's 2013 Financial Statements. So, for 2013 PEBA's Financial Statements not only show the directly invoiced investment fees and expenses, they also report investment expense numbers netted out of accounts including investment management fees, performance fees (carried interest) and "other" expenses such as organizational expenses in limited partnership structures. Even though this change in presentation of fees has no impact on the amount of total net assets, it does provide greater transparency for the reader of the Financial Statements.
- After the fee reclassification described above, the total investment expenses reported in the financial statement increased from \$298 million in FY2012 to \$420 million in FY2013.



November 6, 2013

## Audit Results Presentation to:

**South Carolina Public Employee Benefit Authority –  
Finance, Administration, Audit and Compliance  
(FAAC) Committee**



**CliftonLarsonAllen**

[www.cliftonlarsonallen.com](http://www.cliftonlarsonallen.com)

# Agenda

- Introductions
- History of CLA
- 2013 Audit Results
- Financial Highlights
- Required Communications
- New GASB Pronouncements Regarding Pension Plans



# History of CLA



[cliftonlarsonallen.com](http://cliftonlarsonallen.com)

# History of CLA

- Established on January 2, 2012, as the nation's newest top-10 accounting firm
- CLA is the result of a union between Clifton Gunderson and LarsonAllen, both established more than 50 years ago

Firm Wide Employees

• 3,500+

Partners

• 550+

Firm-wide government professionals

• 600+

Firm-wide government clients

• 1,700+

# Deep Industry Knowledge

- CLA's Public Pension Team currently provides audit and consulting services to more than 20 state and local governmental retirement systems across the country. In addition, the key personnel assigned to this engagement focus almost exclusively on governmental retirement systems. The knowledge gained from specializing in this unique niche enables our professionals to provide extraordinary service to our governmental retirement system clients coupled with methodologies which enhance efficiencies and quality.

# 2013 Audit Results

- Independent Auditors' Report - Unmodified "clean" opinion that the financial statements are presented fairly, in all material respects, in conformity with U.S. Generally Accepted Accounting Principles (GAAP).
  - Formatting change due to implementation of Audit Clarity Standards
  - Minor changes due to implementation of GASB 63
  - Reclassification of investment expenses
- Limited procedures were performed, and no opinion rendered, on management's discussion and analysis, required supplemental information, supplemental schedules, and the Introductory, Investment, Actuarial, and Statistical sections.
- Report on Internal Control over Financial Reporting and on Compliance and Other Matters Based on an Audit of Financial Statements Performed in Accordance with *Government Auditing Standards*
  - No material weaknesses were identified.
  - No significant deficiencies were identified.
- Letter to the Board providing required communications with those charged with governance

# Financial Highlights

<b>Assets</b>	<b>2013</b>	<b>2012<sup>1</sup></b>	<b>Increase/ (Decrease)</b>	<b>% Increase/ (Decrease)</b>
Cash and cash equivalents, receivables and prepaid expenses	\$ 4,023,450	\$ 3,416,972	\$ 606,478	17.75%
Investments, at fair value	24,587,774	23,157,144	1,430,630	6.18%
Securities lending cash collateral invested	106,633	184,025	(77,392)	(42.06%)
Capital Assets, net of accumulated depreciation	3,083	2,984	99	3.32%
<b>Total Assets</b>	<b>28,720,940</b>	<b>26,761,125</b>	<b>1,959,815</b>	<b>7.32%</b>
 <b>Liabilities</b>				
Deferred retirement benefits	468,781	386,302	82,479	21.35%
Obligations under securities lending	106,633	184,025	(77,392)	(42.06%)
Other accounts payable	1,645,150	1,211,693	433,457	35.77%
<b>Total Liabilities</b>	<b>2,220,564</b>	<b>1,782,020</b>	<b>438,544</b>	<b>24.61%</b>
<b>Total Net Position</b>	<b>\$ 26,500,376</b>	<b>\$ 24,979,105</b>	<b>\$ 1,521,271</b>	<b>6.09%</b>

# Financial Highlights, cont'd.

	2013	2012	Increase/ (Decrease)	% Increase/ (Decrease)
<b>Additions</b>				
Employee contributions	\$ 775,634	\$ 674,311	\$ 101,323	15.03%
Employer contributions	1,103,044	969,897	133,147	13.73%
State-appropriated contributions	4,539	3,937	602	15.29%
Net Investment income	2,549,543	127,554	2,421,989	1,898.80%
Other income	4,083	2,951	1,132	38.36%
<b>Total Additions</b>	<u>4,436,843</u>	<u>1,778,650</u>	<u>2,658,193</u>	<u>149.45%</u>
<b>Deductions</b>				
Annuity benefits	2,766,267	2,547,907	218,360	8.57%
Refunds	102,255	98,461	3,794	3.85%
Death benefits	21,268	20,315	953	4.69%
Administrative & other expenses	25,782	24,711	1,071	4.33%
<b>Total Deductions</b>	<u>2,915,572</u>	<u>2,691,394</u>	<u>224,178</u>	<u>8.33%</u>
<b>Increase in Net Position</b>	<u>1,521,271</u>	<u>(912,744)</u>	<u>2,434,015</u>	<u>266.67%</u>
Beginning Net Position	24,979,105	25,891,849	(912,744)	(3.53%)
<b>Ending Net Position</b>	<u>\$ 26,500,376</u>	<u>\$ 24,979,105</u>	<u>\$ 1,521,271</u>	<u>6.09%</u>

# Required Governing Body Communications

- Auditor's responsibility under U.S. Generally Accepted Auditing Standards
- Significant accounting policies
- Management judgments and accounting estimates
  - Valuation of alternative investments
  - Actuarial assumptions and methods used
- Financial statement disclosures

# Other Communications

- Management was very cooperative and professional during the audit process
- No disagreements with management
- Management did not consult with other accountants on the application of GAAP or GAAS
- No major issues were discussed with management prior to retention
- Management Representations



# Recently Issued GASB Statements Regarding Public Pension Plans

# GASB Pension Standards

Standard #	Title	Effective Date
GASB 67	Financial Reporting for Pension Plans	Fiscal Years beginning after June 15, 2013
GASB 68	Accounting and Financial Reporting for Pensions	Fiscal years beginning after June 15, 2014

## Summary of Plan Provisions

- **Recognition, measurement and presentation of financial statement amounts generally similar to current guidance**
- **Note disclosures and required supplementary information:**
  - Similar to nature of disclosures for employers with the addition of information on investment policies and actual rates of return on plan assets
  - Certain information only required for single-employer and cost-sharing plans
  - No actuarial-related disclosures for agent multiple-employer plans
- **Requirements regarding the measurement of net pension liability (asset) are similar to the requirements for employers:**
  - Net pension liability (asset) not recognized by pension plans

## Summary of Plan Provisions *(continued)*

- I **Substantial changes to methods and assumptions used to determine actuarial information for GAAP reporting purposes:**
  - Entry Age Normal is the only allowable actuarial cost method
  - Projected benefit payments should include effects of ad-hoc COLAs considered substantially automatic
  - A single blended rate should be used to discount projected future benefit payments, based on:
    - I The long-term expected rate of return on plan investments (net of investment expenses) that are expected to be used to finance the payment of pension benefits to the extent that the plan's fiduciary net position is projected to be sufficient to make projected benefit payments and is expected to be invested, using a strategy to achieve that return; and
    - I A yield or index rate for 20-year, tax-exempt general obligation (municipal) bonds with average rating of AA or higher, to the extent that the conditions above are not met
  - The actuarial methods and assumptions allowable under current standards may continue to be used to determine funding amounts
- I **Note disclosures and required supplementary information related to pensions are expanded**

# New and Emerging GASB Issues

- What actions need to be taken?
  - GASB 67 and 68 signal the start of this discussion, but this is a conversation that will take time.
  - The first thing state and local governments need to find out is how sustainable are their pension plans.
  - Then they need to clearly communicate the situation to the public and to their board members.
  - Finally, they need to talk about the long-term structural changes needed to shore up the pension plan, if it is currently unsustainable.
  - From an accounting perspective, the books will actually appear different, so it is also important to understand where the technical changes will occur.





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**PUBLIC EMPLOYEE BENEFIT AUTHORITY**  
**BOARD AGENDA ITEM**  
(Reporting Committee: Finance, Administration, Audit and Compliance)

**Meeting Date:** November 20, 2013

**Tab 4**

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**1. Subject: FY 12/13 HR Report**

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**2. Summary:** During the October 2013 FAAC Committee Meeting, staff was directed to provide a PEBA Agency HR Report for FY 2012/13.

In the future this report will be presented to the FAAC Committee in August of each year.

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

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**4. Supporting Documents:**

- (a) Attached:
1. FY 12/13 PEBA Agency HR Report

## **FAAC Committee**

### **HR Update**

**November 2013**

#### **Policies**

Developed and implemented the following HR policies:

Progressive Discipline Policy  
Leave Policy and Procedures  
Family Medical Leave Act  
Leave Transfer Program Policy  
Overtime Policy and Procedures  
EPMS Policy and Procedures  
Grievance Procedure Policy  
Reduction in Force Policy  
Workplace Violence Policy  
Drug-Free Workplace Policy  
Nepotism Policy  
Anti-Harassment Policy

#### **Vacancies**

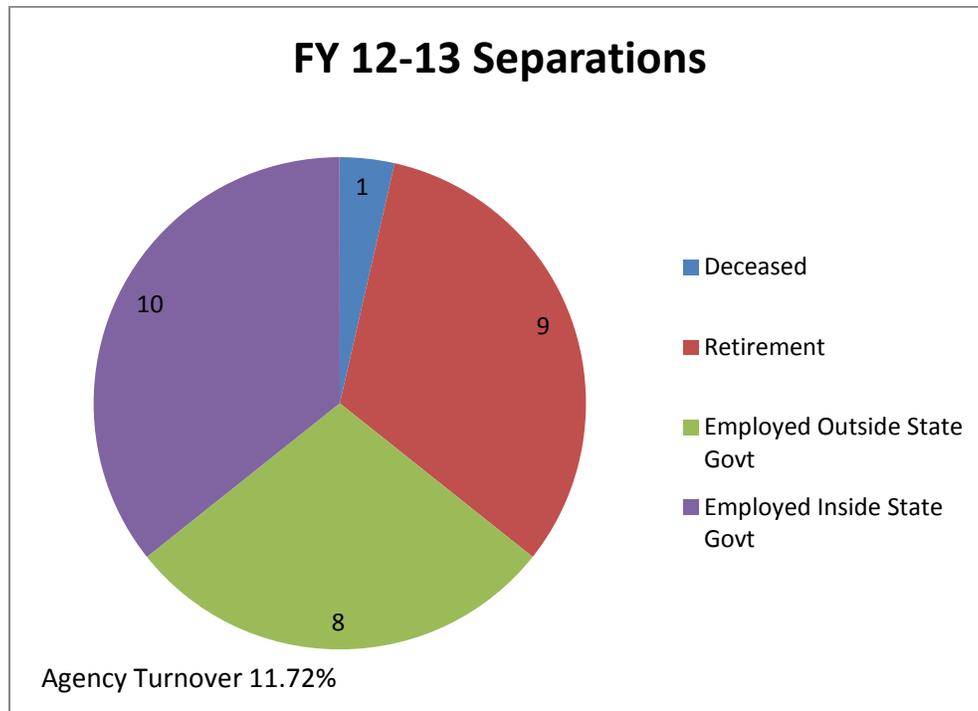
- As of 10/23/13 – 28 vacancies
- Recently gave up 11 vacancies (10 classified and 1 unclassified)

#### **Actions**

- New Hires – 11 (4 Temporary and 7 Permanent)
  - Call Center – 2 Permanent
  - Information Technology – 3 Permanent & 2 Temporary
  - Legal – 1 Permanent & 2 Temporary
  - HR – 1 Permanent
- Rehires – 1
  - Return to work retiree
- Promotions – 3
  - Employee movement to a higher pay band
  - Usually in response to a recruitment and selection process
  - Results in salary increase
- Demotions – 2 (1 voluntary and 1 involuntary)
  - Employee movement to a lower pay band

- Reassignments – 12
  - Employee movement to a different position within the agency
  - Sometimes in response to a recruitment and selection process
  - May or may not result in salary adjustment
- Salary Adjustments – 52
  - Salary increases as a result of additional duties/responsibilities, performance or special adjustment
  - Includes established Call Center career path movement
  - Restructuring and attrition resulted in additional job duties and responsibilities for many employees
  - Merger of two agencies caused significant pay inequities - disparate salaries within many job classifications used by both EIP and SCRS
  - Salary compression continues to be an issue
- Reclassifications – 22
  - Change in job classification
  - Can result in higher, lower or same pay band
  - May or may not result in salary adjustment

**Separations**



- Began use of Exit Questionnaires in July 2013. Minimal data has been collected thus far.

## **Workforce Planning**

- Managers are being guided through a systematic process to identify gaps between the current workforce and the workforce needed in the next three years.
- 1<sup>st</sup> phase – Using the strategic plan as a guide, managers were asked to assess the critical issues, goals and objects that will drive workforce needs and then forecast the type (competencies) and size (headcount) of workforce needed in the next three years. The core areas of the agency have completed this step in the process – Customer Service, Retirement Systems Finance and Insurance Programs Finance.
- 2<sup>nd</sup> phase – Identification of gaps between the needed workforce and the outlook of the current workforce.
- 3<sup>rd</sup> phase – Development of strategies to address the gaps. Possible strategies include work process redesign, job sharing, employee development and recruitment initiatives. Managers are utilizing a rating tool to assess employee performance and potential for advancement. This will enable them to use succession planning as a more targeted strategy.
- Complete Agency Workforce Plan – a proactive, evolving guide to ensure a workforce that can accomplish strategic goals and objectives now and in the future, and will provide a basis for staffing decisions, efficient staff utilization, recruitment and training and development.

## **Employee Satisfaction and Engagement Survey – Upcoming**

**PUBLIC EMPLOYEE BENEFIT AUTHORITY  
BOARD AGENDA ITEM**

(Reporting Committee: Finance, Administration, Audit and Compliance)

**Meeting Date:** November 20, 2013

**Tab 5**

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**1. Subject: 2014 PEBA Legislation – Volume 2**

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**2. Summary:** The FAAC Committee and the PEBA Board reviewed and approved Volume 1 of technical and substantive changes during their October 2013 meetings.

The Committee and the Board will need to review and finalize Volume 2 of substantive and technical legislative changes during the month of November 2013 in order to get a sponsor for Legislation pre-filing in December.

---

**3. What is Board asked to do?** Approve 2014 Legislation (Volume 2) as recommended by the FAAC committee.

---

**4. Supporting Documents:**

- (a) Attached:
1. PEBA Legislation 2014 Volume 2 – Explanation
  2. PEBA Legislation 2014 Volume 2

**Substantive Change**

**Section 1. Explanation:** Changed the version previously considered by FAAC and the PEBA Board to provide that if a Board member is appointed at a time other than the beginning of a term, the Board member will serve the remainder of the defined unexpired term for that particular Board seat.

Amends Section 9-4-10 to increase Board terms to three years from two years and to stagger Board terms. No Board member may serve more than two consecutive terms. A Board member may sit out one three-year term and become eligible to serve again.

The Board positions are identified by number and are placed into three different Term cycles:

Term A positions are appointed on July 1, 2014 for three-year terms.

Term B positions are appointed on July 1, 2015 for three-year terms.

Term C positions are appointed on July 1, 2016 for three-year terms.

Term A positions would serve an initial two-year term from July 1, 2012 until the later of June 30, 2014 or until their successors are appointed and qualify. Thereafter, Term A positions would have three-year terms.

Term C positions would serve an initial four-year term from July 1, 2012 until the later of June 30, 2016 or until their successors are appointed and qualify. Thereafter, Term C positions would have three-year terms.

Section 9-4-10 is further amended to provide for quarterly rather than monthly meetings.

Finally, Section 9-4-10 is amended to provide that PEBA's activities will be performed under the supervision of an Executive Director who will be appointed by the PEBA Board on and after January 1, 2014.

Approve: \_\_\_\_\_

Approve as Modified: \_\_\_\_\_

Delete: \_\_\_\_\_

## Technical Changes

**Section 2.** Explanation: Amends Section 9-1-640 to add the new Class Three members to a statute providing for a division of SCRS members into classes.

Approve: \_\_\_\_\_

Approve as Modified: \_\_\_\_\_

Delete: \_\_\_\_\_

**Section 3.** Explanation: Amends Section 9-1-1850 to clarify that the statute is available to Class Two members only. The statute allows Class Two members with 25 years of service credit to establish up to three years of service credit to reach the Class Two retirement eligibility of 28 years of service credit. Class Three members do not have 28-year retirement eligibility; they must satisfy the “Rule of Ninety” (age +service credit must equal or exceed ninety).

Approve: \_\_\_\_\_

Approve as Modified: \_\_\_\_\_

Delete: \_\_\_\_\_

**Section 4.** Explanation: Amends Section 9-1-1770(E), the Incidental Death Benefit payments, to conform with the new Class Three retirement provisions. Upon death, the beneficiaries of Class Two retired members receive \$2k if the retiree had at least 10 years of service but less than 20; \$4k if the member had more than 20 years of service but less than 28 years; and \$6k if the retiree has 28 or more years of service credit. A retiree only receives the full \$6k if they have reached the full number of years needed for unreduced retirement under Class Two.

For the new Class Three retirees, the amounts would be: \$2k if the retiree had at least 10 years of service but less than 20; \$4k if the member had more than 20 years of service but less than 30 years; and \$6k if the retiree has 30 or more years of service credit. Thirty years was used for Class Three members under the Rule of Ninety because the normal retirement age is 60 and under the Rule of Ninety, a person at normal retirement would need 30 years of service credit to receive unreduced retirement benefits.

Approve: \_\_\_\_\_

Approve as Modified: \_\_\_\_\_

Delete: \_\_\_\_\_

**Section 5.** Explanation: Amends Section 9-1-10(17) to provide a definition for “effective date of membership” in SCRS. A Class Three member has an “effective date of membership” after June 30, 2012. The term “effective date of membership” means the beginning date of any period of employment that constitutes earned service in SCRS or the beginning date of a period of earned service in a correlated system (PORS, GARS). This definition tracks agency practice in administering the new Class Three requirements.

Approve: \_\_\_\_\_

Approve as Modified: \_\_\_\_\_

Delete: \_\_\_\_\_

**Section 6.** Explanation: Amends Section 9-11-10(10) to add Class Three service. The provision now defines Class One service as service that is not Class Two service or Class Three service.

Section 6 further amends Section 9-11-10(18) to provide a definition for “effective date of membership” in PORS. A Class Three member has an “effective date of membership” after June 30, 2012. The term “effective date of membership” means the beginning date of any period of employment that constitutes earned service in PORS or the beginning date of a period of earned service in a correlated system (SCRS, GARS). This definition tracks agency practice in administering the new Class Three requirements.

Approve: \_\_\_\_\_

Approve as Modified: \_\_\_\_\_

Delete: \_\_\_\_\_

**Section 7.** Explanation: Amends paragraphs (3), (7) and (10) of Section 9-11-40 to provide for Class Three service and to clarify that any member with an effective date of membership after June 30, 2012 is a Class Three member of PORS.

Approve: \_\_\_\_\_

Approve as Modified: \_\_\_\_\_

Delete: \_\_\_\_\_

**Section 8.** Explanation: Amends Section 9-11-210(3) to specify “Class One” service rather than service “which does not qualify as Class Two service”. The original language could have included Class Three service.

Approve: \_\_\_\_\_

Approve as Modified: \_\_\_\_\_

Delete: \_\_\_\_\_

**Section 9.** Explanation: Amends Sections 1-11-703(10) and 1-11-703(14) to substitute “PEBA” for “Employee Insurance Program” or “EIP”.

Approve: \_\_\_\_\_

Approve as Modified: \_\_\_\_\_

Delete: \_\_\_\_\_

**Section 10.** Explanation: Amends Section 1-11-705 to substitute “PEBA” for “Employee Insurance Program” in several places. In paragraphs (G)(1), (G)(2) and (I)(2), substitutes “PEBA’s self-funded health plans” for “Employee Insurance Program” where appropriate.

Approve: \_\_\_\_\_

Approve as Modified: \_\_\_\_\_

Delete: \_\_\_\_\_

**Section 11.** Explanation: Amends Section 1-11-707 to substitute “PEBA” for “Employee Insurance Program” in several places. In paragraphs (G)(1) and (G)(2), substitutes “PEBA’s self-funded LTD plans” for “Employee Insurance Program” where appropriate.

Approve: \_\_\_\_\_

Approve as Modified: \_\_\_\_\_

Delete: \_\_\_\_\_

**Section 12.** Explanation: Amends Section 1-11-715 to substitute “PEBA” for “Employee Insurance Program of the Budget and Control Board” and “Employee Insurance Program”.

Approve: \_\_\_\_\_

Approve as Modified: \_\_\_\_\_

Delete: \_\_\_\_\_

**Section 13.** Explanation: Amends Section 1-11-720(C) to substitute “PEBA” for “Office of Insurance Services”.

Approve: \_\_\_\_\_

Approve as Modified: \_\_\_\_\_

Delete: \_\_\_\_\_

**Section 14.** Explanation: Amends Section 1-11-725 to substitute “State Health Plan” for “state employee health insurance program”.

Approve: \_\_\_\_\_

Approve as Modified: \_\_\_\_\_

Delete: \_\_\_\_\_

**Section 15.** Explanation: Amends Section 1-11-730(C) to substitute “PEBA” for “EIP”.

Approve: \_\_\_\_\_

Approve as Modified: \_\_\_\_\_

Delete: \_\_\_\_\_

**Section 16.** Explanation: Amends Section 1-11-740 to substitute “PEBA” for the “Division of Insurance Services of the board”.

Approve: \_\_\_\_\_

Approve as Modified: \_\_\_\_\_

Delete: \_\_\_\_\_

**Section 17.** Explanation: Amends Section 1-11-780 to substitute “PEBA’s self-funded health plans” for the “State Employee Insurance Program”.

Approve: \_\_\_\_\_

Approve as Modified: \_\_\_\_\_

Delete: \_\_\_\_\_

2014 PEBA LEGISLATION VOLUME 2

**SECTION 1. Section 9-4-10 of the 1976 Code is amended to read:**

Section [9-4-10](#). (A) Effective July 1, 2012, there is created the South Carolina Public Employee Benefit Authority. The governing body of the authority is a board of directors consisting of eleven members. The functions of the authority must be performed, exercised, and discharged under the supervision and direction of the board of directors.

(B)(1) The board is composed of:

- (a) three nonrepresentative members ([Seats #1, #2, and #3](#)) appointed by the Governor;
- (b) two members appointed by the President Pro Tempore of the Senate, one a nonrepresentative member ([Seat #4](#)) and one a representative member ([Seat #5](#)) who is either an active or retired member of SCPORS;
- (c) two members appointed by the Chairman of the Senate Finance Committee, one a nonrepresentative member ([Seat #6](#)) and one a representative member ([Seat #7](#)) who is a retired member of SCRS;
- (d) two members appointed by the Speaker of the House of Representatives, one a nonrepresentative member ([Seat #8](#)) and one a representative member ([Seat #9](#)) who must be a state employee who is an active contributing member of SCRS;
- (e) two members appointed by the Chairman of the House Ways and Means Committee, one a nonrepresentative member ([Seat #10](#)) and one a representative member ([Seat #11](#)) who is an active contributing member of SCRS employed by a public school district.

(2) For purposes of the appointments provided by this section, a nonrepresentative member may not belong to those classes of employees and retirees from whom representative members must be appointed.

(C)(1) A nonrepresentative member may not be appointed to the board unless the person possesses at least one of the following qualifications:

- (a) at least twelve years of professional experience in the financial management of pensions or insurance plans;
- (b) at least twelve years academic experience and holds a bachelor's or higher degree from a college or university as classified by the Carnegie Foundation;
- (c) at least twelve years of professional experience as a certified public accountant with financial management, pension, or insurance audit expertise;

(d) at least twelve years as a Certified Financial Planner credentialed by the Certified Financial Planner Board of Standards; or

(e) at least twelve years membership in the South Carolina Bar and extensive experience in one or more of the following areas of law:

(i) taxation;

(ii) insurance;

(iii) health care;

(iv) securities;

(v) corporate;

(vi) finance; or

(vii) the Employment Retirement Income Security Act

(ERISA).

(2) A representative member may not be appointed to the board unless the person:

(a) possesses one of the qualifications set forth in item (1); or

(b) has at least twelve years of public employment experience and holds a bachelor's degree from a college or university as classified by the Carnegie Foundation.

(D)(1) Members of the board shall serve for terms of ~~two~~ three years and until their successors are appointed and qualify. Provided however, Board Seat positions appointed in Term A in subsection (D)(3) below shall serve initial terms of two years from July 1, 2012 to the later of June 30, 2014 or until their successors are appointed and qualify; and Board Seat positions appointed in Term C set forth in subsection (D)(5) below shall serve initial terms of four years from July 1, 2012 until the later of June 30, 2016 or until their successors are appointed and qualify.

(2) No member of the board may serve more than two consecutive terms. A member of the board who has served two consecutive terms may become eligible to serve on the board again after not serving on the Board for a three-year term.

(3) Term A. Board Seat positions 1, 5, 6, and 9 shall be appointed on July 1, 2014 for three-year terms and until their successors are appointed and qualified. Board Seat positions appointed in Term A shall be appointed on July 1<sup>st</sup> of every subsequent third year after July 1, 2014.

(4) Term B. Board Seat positions 2, 4, 8, and 11 shall be appointed on July 1, 2015 for three-year terms and until their successors are appointed and qualified. Board Seat positions appointed in Term B shall be appointed on July 1<sup>st</sup> of every subsequent third year after July 1, 2015.

(5) Term C. Board Seat positions 3, 7, and 10 shall be appointed on July 1, 2016 for three-year terms and until their successors are appointed and qualified. Board Seat positions appointed in Term C shall be appointed on July 1<sup>st</sup> of every subsequent third year after July 1, 2016.

~~(6) Vacancies must be filled within sixty days in the manner of original appointment for the unexpired portion of the term. Terms commence on July first of even numbered years. If an appointing official appoints a Board member at a time other than the beginning of a term as set forth in this section, the Board member shall serve for the remainder of the unexpired portion of the term for that Board seat position and until his or her successor is appointed and qualified.~~

Upon a member's appointment, the appointing official shall certify to the Secretary of State that the appointee meets or exceeds the qualifications set forth in subsections (B) and (C). No person appointed may qualify unless he first certifies that he meets or exceeds the qualifications applicable for their appointment. A member serves at the pleasure of the member's appointing authority.

(E) The members shall select a nonrepresentative member to serve as chairman and shall select those other officers they determine necessary. Subject to the qualifications for chairman provided in this section, members may set their own policy related to the rotation of the selection of a chairman of the board.

(F)(1) Each member must receive an annual salary of twelve thousand dollars. This compensation must be paid from approved accounts of general funds and retirement system funds based on the proportionate amount of time the board devotes to its various functions. Members may receive the mileage and subsistence authorized by law for members of state boards, commissions, and committees paid from approved accounts funded by general funds and retirement system funds in the proportion that compensation is paid.

(2) Notwithstanding any other provision of law, membership on the board does not make a member eligible to participate in a retirement system administered pursuant to this title and does not make a member eligible to participate in the employee insurance program administered pursuant to Article 5, Chapter 11, Title 1. Any compensation paid on account of the member's service on the board is not considered earnable compensation for purposes of any state retirement system.

(G) Minimally, the board shall meet ~~monthly~~ quarterly. If the chairman considers it more effective, the board may meet by teleconferencing or video conferencing. However, if the agenda of the meeting consists of items that are not exempt from disclosure or the meeting may not be closed to the public pursuant to Chapter 4, Title 30, the provisions of Chapter 4, Title 30 apply, and the meeting must be open to the public.

(H) (1) The functions of the South Carolina Public Employee Benefit Authority shall be performed, exercised, and discharged under the supervision and direction of an Executive Director. The Executive Director shall act under the supervision and direction of the board.

(2) Effective January 1, 2014, the board shall appoint the Executive Director.

**(H)** Effective July 1, 2012, the following offices, divisions, or components of the State Budget and Control Board are transferred to, and incorporated into, an administrative agency of state government to be known as the South Carolina Public Employee Benefit Authority:

- (1) Employee Insurance Program; and
- (2) the Retirement Division.

**SECTION 2. Section 9-1-640 of the 1976 Code, as last amended by Act No.500 of 1988, is further amended to read:**

“ Notwithstanding any other provisions of law governing the System, effective July 1, ~~1964~~2012, there shall be two classes of participating employers and ~~two~~ three classes of members. Class One employers shall include all employers who irrevocably elect, by written notification to the Board not later than December 31, 1964, to remain, and to have members in their employ remain, under the provisions of the System as in effect on June 30, 1964. Class Two employers shall include all employers who irrevocably elect, by written notification to the Board not later than December 31, 1964, to participate, and to have members in their employ participate, under the provisions of the System as amended effective July 1, 1964. Any such notification shall become effective for all purposes as of July 1, 1964. Failure by any employer to file such notification shall be deemed an irrevocable election by the employer to be a Class One employer. In any event, the State shall be a Class Two employer. Members in the employ of a Class One employer shall be Class One members, and members in the employ of a Class Two employer shall be Class Two or Class Three members as applicable. Any employer becoming such on or after July 1, 1964 shall be a Class Two employer. In the event that a member shall transfer, without break in membership, from one class to another, the Board shall determine his benefit upon retirement in an equitable manner by uniform rules consistent herewith.

Notwithstanding the foregoing, any Class One employer may elect to become a Class Two employer and have employees in its employ participate under the provisions of the System as amended effective July 1, 1964; provided, that such employer and each and every such member

shall make such additional contributions to the System, plus regular interest, as would have been required had such employer become a Class Two employer as of July 1, 1964.

Effective July 1, 1976, or any subsequent July first, a Class One employer may elect Class Two coverage on July 1, 1976, or as of July first of any year thereafter. It is mandatory for each Class One employee of any such employer to participate in Class Two coverage from the effective date of the employer election. Upon service retirement, a member shall receive a service retirement allowance equal to the sum of his benefit computed by the Class One formula for service credited under Class One membership and his benefit computed by the Class Two formula for service credited under Class Two membership. A Class One member may convert Class One service to Class Two by paying into the System two and one-half percent of his earnable compensation, or the average of the highest twelve consecutive quarters, whichever is greater, for each year prorated for periods of less than one year. A member who elects to convert from Class One to Class Two must convert all such service for which eligible.”

**SECTION 3. Section 9-1-1850 of the 1976 Code, as last amended by Act No. 1 Of 2001, is further amended to read:**

“ A Class Two member who has at least twenty-five years of creditable service may elect to receive up to three years of additional service credit as though the additional service credit were rendered by the member as an employee or member upon paying into the member's retirement system, during the ensuing number of years the member wishes to purchase in the manner the Comptroller General shall direct, the employer and employee contributions that would be due for the position that the member presently holds at the salary level in effect during those years. If the position is consolidated or eliminated after the member's retirement, the member shall pay the employer and employee contributions during the remaining required years at a level equal to what these contributions were for the position before its consolidation or elimination. The member also shall pay the employer and employee cost for health and dental insurance in effect during the ensuing years the member wishes to purchase. The additional service credit qualifies the member for retirement and the member must terminate employment within ninety days after electing the option provided by this section. The salary level of the position the member presently holds, during the ensuing years the member pays the employer and employee contributions, is attributable to the member for purposes of determining the member's average final compensation.

The retirement benefits of the member shall not commence until the time benefits would have been paid when the member had completed twenty-eight years of service.

The option allowed by this section cannot be exercised if the member has purchased nonqualified service pursuant to Section 9-1-1140(E).

The option allowed by this section is not available to a Class Three member.”

**SECTION 4. Section 9-1-1770(E) of the 1976 Code, as last amended by Act No. 176 of 2010, is further amended to read:**

“(E)(1) Upon the death of a retired Class One or Two member who is not a retired contributing member after December 31, 2000, there must be paid to the designated beneficiary or beneficiaries, if living at the time of the retired member's death, otherwise to the retired member's estate, a benefit of two thousand dollars if the retired member had ten years of creditable service but less than twenty years, four thousand dollars if the retired member had twenty years of creditable service but less than twenty-eight, and six thousand dollars if the retired member had at least twenty-eight years of creditable service at the time of retirement, if the retired member's most recent employer, before the member's retirement, is covered by the preretirement Death Benefit Program.

(2) Upon the death of a retired Class Three member who is not a retired contributing member, there must be paid to the designated beneficiary or beneficiaries, if living at the time of the retired member's death, otherwise to the retired member's estate, a benefit of two thousand dollars if the retired member had ten years of creditable service but less than twenty years, four thousand dollars if the retired member had twenty years of creditable service but less than thirty years, and six thousand dollars if the retired member had at least thirty years of creditable service at the time of retirement, if the retired member's most recent employer, before the member's retirement, is covered by the preretirement Death Benefit Program.

**SECTION 5. Section 9-1-10(17) of the 1976 Code, as last amended by Act No. 278 of 2012, is further amended to read:**

“(17) ~~[Reserved]~~ “Effective date of membership” means the beginning date of any period of employment that constitutes earned service in the system or the beginning date of any period of earned service in a correlated system.”

**SECTION 6. Sections 9-11-10(10) and 9-11-10(18) of the 1976 Code, as last amended by Act No. 278 of 2012, are further amended to read:**

“(10) "Class one service" means credited service which is not class two service or class three service.”

\*\*\*\*\*

“(18) ~~Reserved~~ “Effective date of membership” means the beginning date of any period of employment that constitutes earned service in the system or the beginning date of any period of earned service in a correlated system.”

**SECTION 7. Sections 9-11-40(3),(7) and (10) of the 1976 Code, as last amended by Act No. 77 of 2003, is further amended to read:**

\*\*\*\*

“(3) Any employer participating in the System as of June 30, 1974 which is not participating in the Supplemental Allowance Program may elect as of July 1, 1974 or as of July 1 of any year thereafter to provide Class Two membership for police officers in its employ and thereby enable them to qualify for benefits based on Class Two service. Any such employer who so elects shall agree to pay the increased rate of employer contributions applicable to Class Two members with respect to police officers in its employ who become Class Two members. The police officers in the employ of any such employer which does not make such election shall be entitled only to the benefits herein provided with respect to Class One service. Any member with an effective date of membership after June 30, 2012, shall be a Class Three member.”

\*\*\*\*

“(7) Each member shall be classified as either a Class One member, Class Two or a Class ~~Two~~ Three member, as hereinafter provided, and shall make the contributions and be eligible for the benefits provided for his class. Each member who is a participant in the Supplemental Allowance Program as of June 30, 1974 shall be a Class Two member. Any other police officer who became a member prior to July 1, 1974 and who is employed by the State or by an employer which is participating in the Supplemental Allowance Program as of June 30, 1974 or which elects to provide Class Two membership for police officers in its employ may elect by written notice filed with the Board within 60 days after July 1, 1974 to become a Class Two member as of said date, provided that any such member who is not in service as of July 1, 1974 may make such election within 60 days after his return to service. Any police officer becoming a member on or after July 1, 1974 who is employed by the State or by an employer which has elected to provide Class Two membership for police officers in its employ shall become a Class Two member, however any member with an effective date of membership after June 30, 2012, shall be a Class Three member. Any member employed by an employer whose date of admission is on or after July 1, 1974 shall be a Class Two or Class Three member, as applicable. Any member who is not a Class Two or Class Three member shall be a Class One member.”

\*\*\*\*\*

“ (10) Notwithstanding any other provision of law, any county, municipality or other political subdivision of the State, and any agency or department thereof which is participating in the South Carolina Retirement System with respect to firemen in its employ, may become an employer under the South Carolina Police Officers Retirement System with respect to such firemen by applying to the Board for admission to the System and complying with the rules and regulations of the Board. Such application shall set forth the requested date of admission which shall be July 1, 1976, or any subsequent July first, next following receipt by the Board of such application.

In no event will admission as an employer under this subsection be allowed unless a majority of all persons then employed as firemen by the prospective employer elect irrevocably to become members of the System as of the requested date of admission.

All persons who are employed as firemen by such employer at the date of the employer's admission to the System shall become members as of such date unless, within a period of one month following such date, they shall have filed with the Board on a form prescribed by the Board a notice of their election not to be covered in the membership and a duly executed waiver of all present and prospective benefits which would otherwise inure to them on account of their participation in the System.

All persons who become employed as firemen by the State or other employer after the employer's date of admission to the System under the provisions of this subsection shall become members, as a condition of their employment.

Notwithstanding the provisions of this subsection, no fireman shall become a member on or after July 1, 1976, unless the member's employer certifies to the system that his service as a fireman requires at least one thousand, six hundred hours a year of active duty and that the member's salary for the service is at least two thousand dollars a year. If in any year after this certification the member does not render at least one thousand, six hundred hours of active duty as a fireman, or if the member does not receive at least two thousand dollars in salary, his membership ceases and the provisions of Section 9-11-100 apply.

Each fireman who becomes a member of the System as provided in this subsection shall be classified as a Class Two or Class Three member, as applicable, and shall make the contributions and be eligible for the benefits provided for Class Two or Class Three members. With respect to his service while a member of the System, any fireman who becomes a member of the System pursuant to this subsection shall be subject to all of the provisions of this article which would be applicable if he were a police officer.

If a fireman is a member of the South Carolina Retirement System at the time he becomes a member of the South Carolina Police Officers Retirement System his membership in the South Carolina Retirement System shall be continued so long as his membership in the South Carolina Police Officers System continues. Service credited to the member under the provisions of the South Carolina Retirement System shall be considered credited service for the purpose of determining eligibility for benefits, but not the amount thereof, under the South Carolina Police Officers Retirement System. Any benefit under either one of these two correlated systems shall be computed solely on the basis of service and contributions credited under that System, but in determining the member's average final compensation, his compensation received during credited service under both Systems shall be taken into account. Such benefits shall be payable at such times and subject to such age and service conditions as provided under the respective Systems; provided, however, a member shall not be eligible to receive retirement payments so long as he is employed in a position covered by the South Carolina Retirement System or the South Carolina Police Officers Retirement System. Notwithstanding the above, the disability retirement benefit shall only be paid from and based on the benefit provisions of the System to which the member is contributing at the time of disability and shall be based on the total of his credited service under both Systems. The amount of accumulated contributions of such disabled member which is credited to his account under the System to which he is not contributing at the time of disability, shall be transferred to the System from which his disability retirement benefit shall be paid.”

**SECTION 8. Section 9-11-210(3) of the 1976 Code, as last amended by 278 of 2012, is further amended to read:**

“(3) Any Class Two member, other than a member who makes the election provided in subsection (2) of this section, who has Class One credited service ~~which does not qualify as Class Two service~~ may elect by written notice filed with the Board at any time prior to retirement to establish credit for such service as Class Two service by making a special contribution prior to retirement equal to the excess of (a) five percent of his monthly rate of compensation at the time such contribution is made, over (b) sixteen dollars, multiplied by (c) the number of months of such credited service.”

**SECTION 9. Sections 1-11-703(10) and 1-11-703(14) of the 1976 Code, as last amended by Act No. 278 of 2012, are further amended to read:**

“(10) ~~“Employee insurance program” or “EIP”~~ “PEBA” means ~~the office of~~ the South Carolina Public Employee Benefit Authority, ~~which designated by the board to operate~~ operates insurance programs pursuant to this article.”

\*\*\*\*

“(14) "State health and dental plans" means any insurance program administered by ~~the employee insurance program PEBA~~ pursuant to this article.”

**SECTION 10. Section 1-11-705 of the 1976 Code, as enacted by Act No. 195 of 2008, is amended to read:**

“(A) There is established in the State Treasury separate and distinct from the general fund of the State and all other funds the South Carolina Retiree Health Insurance Trust Fund (SCRHI Trust Fund) to provide for the employer costs of retiree post-employment health insurance benefits for retired state employees and retired employees of public school districts. Earnings on the SCRHI Trust Fund must be credited to it and unexpended funds carried forward in it to succeeding fiscal years.

(B) The board is the trustee of the SCRHI Trust Fund and the State Treasurer is the custodian of the funds of the SCRHI Trust Fund.

(C) ~~The employee insurance program PEBA~~ shall administer the SCRHI Trust Fund.

(D) ~~The employee insurance program PEBA~~ shall engage actuarial and other services as required to transact the business of the SCRHI Trust Fund. The actuary engaged by ~~the employee insurance program PEBA~~ shall provide technical advice to the board regarding operation of the SCRHI Trust Fund.

(E) Upon recommendations of the actuary, the board shall adopt generally accepted and reasonable actuarial assumptions and methods for the operation and funding of the SCRHI Trust Fund as it considers necessary and prudent. The actuarial assumptions and methods adopted by the board must be appropriate for the purposes at hand and must be reasonable, individually and in the aggregate, taking into account the experience of the plan and reasonable expectations. Utilizing the actuarial assumptions most recently adopted by the board, the actuary engaged by ~~the employee insurance program PEBA~~ shall set the annual actuarial valuations of normal cost, actuarial liability, actuarial value of assets, and related actuarial present values for the SCRHI Trust Fund.

(F) The board may adopt policies and procedures and promulgate regulations as necessary for the proper administration of the SCRHI Trust Fund.

(G)(1) The funds of the SCRHI Trust Fund must be invested and reinvested by the State Treasurer in the manner allowed by law. The State Treasurer shall consult with ~~the employee insurance program PEBA~~ and ~~the employee insurance program's PEBA's~~ actuary to develop an annual investment plan for the SCRHI Trust Fund taking into account the cash flow needs of ~~the~~

~~employee insurance program PEBA's self-funded health plans~~ with regard to payment of the employer share of premiums and claims for covered retirees.

(2) Effective beginning with the first fiscal year after the ratification of an amendment to Section 16, Article X of the Constitution of this State allowing funds in post-employment benefits trust funds to be invested in equity securities, the Retirement System Investment Commission (RSIC) established pursuant to Chapter 16 of Title 9, shall invest and reinvest the funds of the SCRHI Trust Fund as assets of a retirement system are invested. The chief investment officer shall consult with ~~the employee insurance program PEBA~~ and ~~the employee insurance program's PEBA's~~ actuary to develop an annual investment plan for the SCRHI Trust Fund taking into account the cash flow needs of ~~the employee insurance program PEBA's self-funded health plans~~ with regard to payment of the employer share of premiums and claims for covered retirees. After the initial fiscal year the RSIC assumes this investing function, the annual investment plan for the SCRHI Trust Fund must be approved by the commission no later than June first of each year for the fiscal year beginning July first of the same calendar year.

(H) The board annually shall determine the minimum annual required contributions to the SCRHI Trust Fund on an actuarially sound basis in accordance with Governmental Accounting Standards Board Statement No. 45, or any other Governmental Accounting Standards Board statements that may be applicable to the SCRHI Trust Fund.

(I) The board shall fund the SCRHI Trust Fund:

(1) through the employer contributions for the South Carolina Retirement Systems as provided in Section 1-11-710(A)(2). The total employer contributions collected from the State and school districts for post-employment benefits must be transferred immediately to the SCRHI Trust Fund for investment, reinvestment, and the payment of post-employment benefits;

(2) by transfer of ~~the Employee Insurance Program PEBA~~ as of January thirty-first of each calendar year to the trust fund from ~~the employee insurance program's PEBA's~~ operating account, the cash balance in the operating account in excess of one hundred forty percent of the actuarially-determined IBNR reserves of ~~the state's health plans PEBA's self-funded health plans~~ as of December thirty-first of the preceding year. On May 1, 2008, an initial transfer must take place applicable to the cash balance as of December 31, 2007; and

(3) with funding as authorized by the General Assembly pursuant to Section 1-11-710(D).

(J) Each month, ~~the employee insurance program PEBA~~ shall determine the monthly amount of the state-funded employer premium with respect to retired state employees and retired public school district employees who are eligible for state-paid employer premiums pursuant to Section 1-11-730, and shall transfer this amount to the operating account from the SCRHI Trust Fund. In addition, ~~the employee insurance program PEBA~~ shall transfer the total cost of post-employment benefits for retirees and their dependents, net of premium contributions made on behalf of

retirees and other sources of revenue attributable to retirees, in accordance with Governmental Accounting Standards Board Statements Nos. 43 and 45 and the Implementation Guide.

(K) The funds of the SCRHI Trust Fund may only be used for the payment of employer-provided other post-employment benefits under the terms of the state health and dental plans. The administrative costs related to the administration of the SCRHI Trust Fund, and the investment and reinvestment of its funds, may be funded from the earnings of the SCRHI Trust Fund.

(L) As a trust, the funds of the SCRHI Trust Fund are not assets of the State or the school districts or their respective agencies. The contributions to the SCRHI Trust Fund are irrevocable and may not revert to the employer except upon complete satisfaction of all liabilities and administrative expenses of the state health and dental plans of other post-employment benefits provided pursuant to the state health and dental plans.”

**SECTION 11. Section 1-11-707 of the 1976 Code, as enacted by Act No. 195 of 2008, is amended to read:**

“ (A) There is established in the State Treasury separate and distinct from the general fund of the State and all other funds the South Carolina Long Term Disability Insurance Trust Fund (LTDI Trust Fund) to provide for the payment of benefits under the state's Basic Long Term Disability Income Benefit Plan. Earnings on the LTDI Trust Fund must be credited to it and unexpended funds carry forward in it to succeeding fiscal years.

(B) The board is the trustee of the LTDI Trust Fund and the State Treasurer is the custodian of the funds of the LTDI Trust Fund.

(C) ~~The employee insurance program~~PEBA shall administer the LTDI Trust Fund.

(D) ~~The employee insurance program~~PEBA shall engage actuarial and other services as required to transact the business of the LTDI Trust Fund. The actuary engaged by ~~the employee insurance program~~PEBA shall provide technical advice to the board regarding operation of the LTDI Trust Fund.

(E) Upon recommendations of the actuary, the board shall adopt generally accepted and reasonable actuarial assumptions and methods for the operation and funding of the LTDI Trust Fund as it considers necessary and prudent. The actuarial assumptions and methods adopted by the board must be appropriate for the purposes at hand and must be reasonable, individually and in the aggregate, taking into account the experience of the plan and reasonable expectations. Utilizing the actuarial assumptions most recently adopted by the board, the actuary engaged by ~~the employee insurance program~~PEBA shall set the annual actuarial valuations of normal cost, actuarial liability, actuarial value of assets, and related actuarial present values for the LTDI Trust Fund.

(F) The board may adopt policies and procedures and promulgate regulations as necessary for the proper administration of the LTDI Trust Fund.

(G)(1) The funds of the LTDI Trust Fund must be invested and reinvested by the State Treasurer in the manner allowed by law. The State Treasurer shall consult with ~~the employee insurance program~~PEBA and ~~the employee insurance program's~~PEBA's actuary to develop an annual investment plan for the LTDI Trust Fund taking into account the cash flow needs of ~~the employee insurance program~~PEBA's self-funded LTD plans with regard to payment of the employer share of premiums and claims for covered retirees.

(2) Effective beginning with the first fiscal year after the ratification of an amendment to Section 16, Article X of the Constitution of this State allowing funds in post-employment benefits trust funds to be invested in equity securities, the Retirement System Investment Commission (RSIC) established pursuant to Chapter 16 of Title 9, shall invest and reinvest the funds of the LTDI Trust Fund as assets of a retirement system are invested. The chief investment officer shall consult with ~~the employee insurance program~~PEBA and ~~the employee insurance program's~~PEBA's actuary to develop an annual investment plan for the LTDI Trust Fund taking into account the cash flow needs of ~~the employee insurance program~~PEBA's self-funded LTD plans with regard to payment of the employer share of premiums and claims for covered retirees. After the initial fiscal year the RSIC assumes this investing function, the annual investment plan for the LTDI Trust Fund must be approved by the commission no later than June first of each year for the fiscal year beginning July first of the same calendar year.

(H) The board annually shall determine the minimum annual required contributions to the LTDI Trust Fund on an actuarially sound basis in accordance with Governmental Accounting Standards Board Statement No. 45, or any other Governmental Accounting Standards Board statements that may be applicable to the LTDI Trust Fund.

(I) The board shall increase the employer contributions used to fund the BLTD Plan by an amount equal to or greater than the minimum annual required contribution for the LTDI Trust Fund as determined in subsection (H) of this section. The increased employer contributions remitted to ~~the employee insurance program~~PEBA under this subsection must be deposited in the LTDI Trust Fund.

(J) Each month, ~~the employee insurance program~~PEBA shall transfer to the operating account from the LTDI Trust Fund the amount invoiced by the third-party administrator for the BLTD Plan for payment of LTDI claims, including reasonable expenses associated with claims administration of the BLTD Plan.

(K) The assets of the LTDI Trust Fund may only be used for the payment of the state's claims under the BLTD Plan along with reasonable expenses associated with the operation of the BLTD Plan, and the assets of the LTDI Trust Fund may not be used for any other purpose. The

administrative costs related to the administration of the LTDI Trust Fund, and the investment and reinvestment of its funds, must be funded from the earnings of the LTDI Trust Fund.

(L) As a trust, the funds of the LTDI Trust Fund are not assets of the State or the school districts or their respective agencies. The contributions to the LTDI Trust Fund are irrevocable and may not revert to the employer except upon complete satisfaction of all liabilities and administrative expenses of the State Basic Long Term Disability Income Benefit Plan of other post-employment benefits provided pursuant to the State Basic Long Term Disability Income Benefit Plan.”

**SECTION 12. Section 1-11-715 of the 1976 Code, as enacted by Act No. 31 of 2011, is amended to read:**

“~~The Employee Insurance Program of the Budget and Control Board~~PEBA is directed to develop and implement, for employees and their spouses who participate in the health plans offered by ~~the Employee Insurance Program~~PEBA, an incentive plan to encourage participation in programs offered by ~~the Employee Insurance Program~~PEBA that promote health and the prevention of disease. ~~The Employee Insurance Program~~PEBA is further directed to implement a premium reduction or other financial incentive, beginning on January 1, 2012, for those employees and their spouses who participate in these programs.”

**SECTION 13. Section 1-11-720(C) of the 1976 Code, as last amended by Act No. 278 of 2012, is further amended to read:**

“ (C) If an entity participating in the plans pursuant to subsection (A) is delinquent in remitting proper payments to cover its obligations, ~~the board's Office of Insurance Services~~ PEBA shall certify the delinquency to the department or agency of the State holding funds payable to the delinquent entity, and that department or agency shall withhold from those funds an amount sufficient to satisfy the unpaid obligation and shall remit that amount to ~~the Office of Insurance Services~~ PEBA in satisfaction of the delinquency. “

**SECTION 14. Section 1-11-725 of the 1976 Code, as last amended by Act No. 278 of 2012, is further amended to read:**

“The board's experience rating of all local disabilities and special needs providers pursuant to Section 1-11-720(A)(3) must be rated as a single group when rating all optional groups participating in the ~~state employee health insurance program~~State Health Plan.”

**SECTION 15. Section 1-11-730(C) of the 1976 Code, as last amended by Act No. 278 of 2012, is further amended to read:**

“ (C) For employees who participate in the state health and dental plans pursuant to the provisions of Section 1-11-720 but who are not members of the State Retirement Systems, one year of full-time employment or its equivalent under their employment relation equates to one year of earned retirement service credit under a state retirement system for purposes of the requirements of subsection (B)(1) and (2) of this section. ~~The EIP~~ PEBA shall implement the provisions of this subsection and make determinations pursuant to it. A person aggrieved by a determination of ~~the EIP~~PEBA pursuant to this subsection may appeal that determination as a contested case as provided in Chapter 23 of Title 1, the Administrative Procedures Act.”

**SECTION 16. Section 1-11-740 of the 1976 Code, as amended by Act No. 278 of 2012, is further amended to read:**

“~~The Division of Insurance Services of the board~~PEBA may develop an optional long-term care insurance program for active and retired members of the various state retirement systems depending on the availability of a qualified vendor. A program must require members to pay the full insurance premium.”

**SECTION 17. Section 1-11-780 of the 1976 Code, as enacted by Act No. 76 of 2005, is amended to read:**

“~~The State Employee Insurance Program~~PEBA's self-funded health plans shall continue to provide mental health parity in the same manner and with the same management practices as included in the ~~plan~~plans beginning in 2002, and ~~is~~ are not under the jurisdiction of the Department of Insurance. The continuation by ~~the State Employee Insurance Program~~PEBA's self-funded health plans of providing mental health parity in accordance with the ~~plan~~plans set forth in 2002 constitutes compliance with this act.”

**PUBLIC EMPLOYEE BENEFIT AUTHORITY**  
**BOARD AGENDA ITEM**  
(Reporting Committee: Health Care Policy Committee)

**Meeting Date:** November 20, 2013

**Tab 6**

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**1. Subject: Initial Presentation from Catamaran**

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

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**3. Supporting Documents:**

- (a) Attached:
  - 1. Catamaran Presentation



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November 20, 2013

# Catamaran

A NEW APPROACH TO PHARMACY BENEFITS

South Carolina  
PUBLIC EMPLOYEE BENEFIT AUTHORITY

**PEBA**



# Attendees

- Scott Honken, PharmD, MBA, Vice President, Clinical Consulting
- Miranda Weaver, RPh, MS, Vice President, State & Government Client Services
- Steve Smith, Vice President of Sales, State & Government Division
- Colby Heiner, Director of Sales, State & Government Division



# PBM Skill and Scale



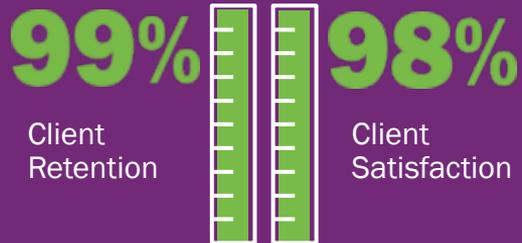
National Presence  
50+ Locations



Employees  
3,500+



Top 4 PBM  
based on Market Cap



25M

25M PBM Lives  
250M Scripts Annually



1 in 5 Rx Claims  
Processed on RxClaim<sup>®</sup>

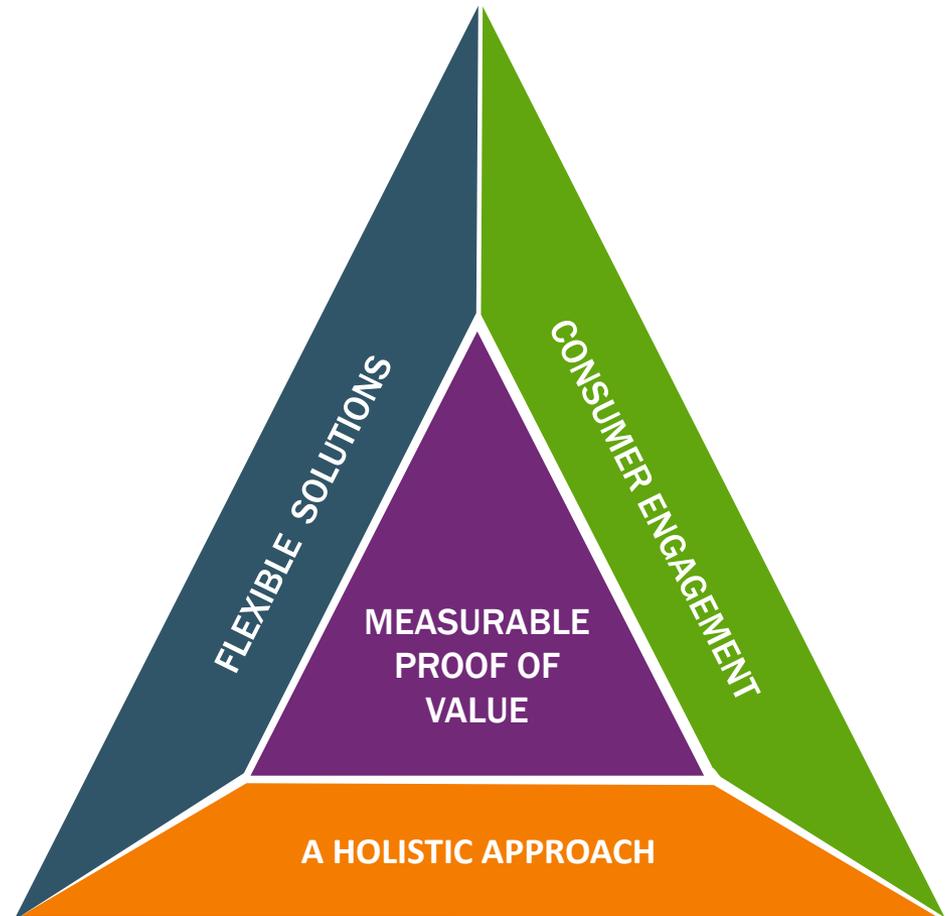


# The Catamaran Difference is focused on providing each client with measurable proof of the value we deliver

Catamaran sets itself apart by delivering a measurable proof of value to each client and member.

We do this through:

- A **holistic approach** to pharmacy benefits that works across the entire system to drive sustainable improvements to cost & outcomes
- **Flexible solutions** that are tailored to the needs of each individual client and lead to shared goals and aligned incentives
- Deep competencies around **consumer engagement** and a comprehensive portfolio of programs and tools that help influence the behavior of individuals





# Catamaran and SC PEBA

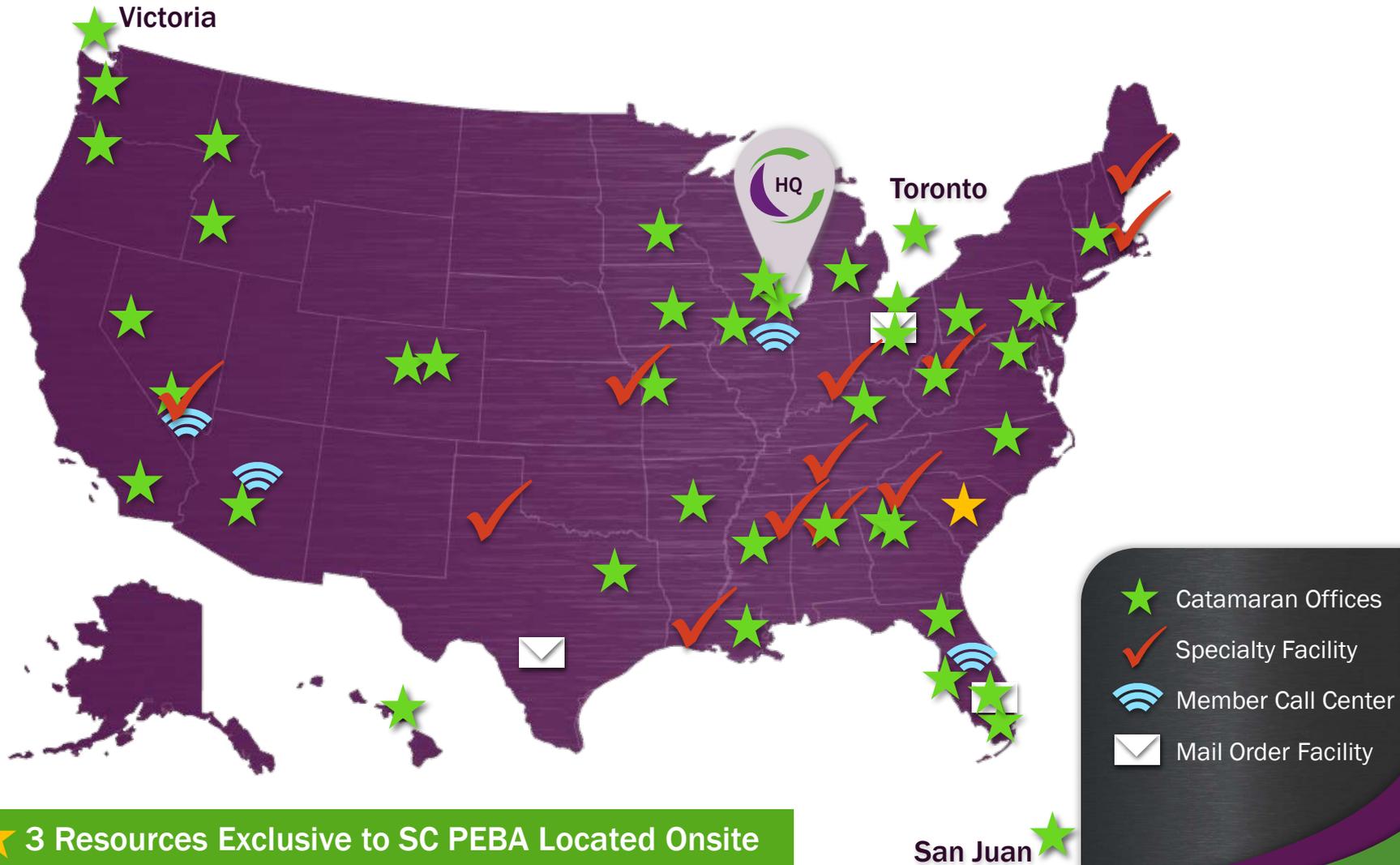
- Catamaran will partner with SC PEBA to:
  - » Help SC PEBA **take control of prescription drug costs**
  - » Provide flexible, holistic solutions to **improve patient care** and **empower SC PEBA members**
  - » Ensure a **smooth transition** to our services for SC PEBA members
  - » **Drive innovation** to better serve SC PEBA and its members



Catamaran's experienced team can support your needs through our holistic approach to pharmacy benefits.

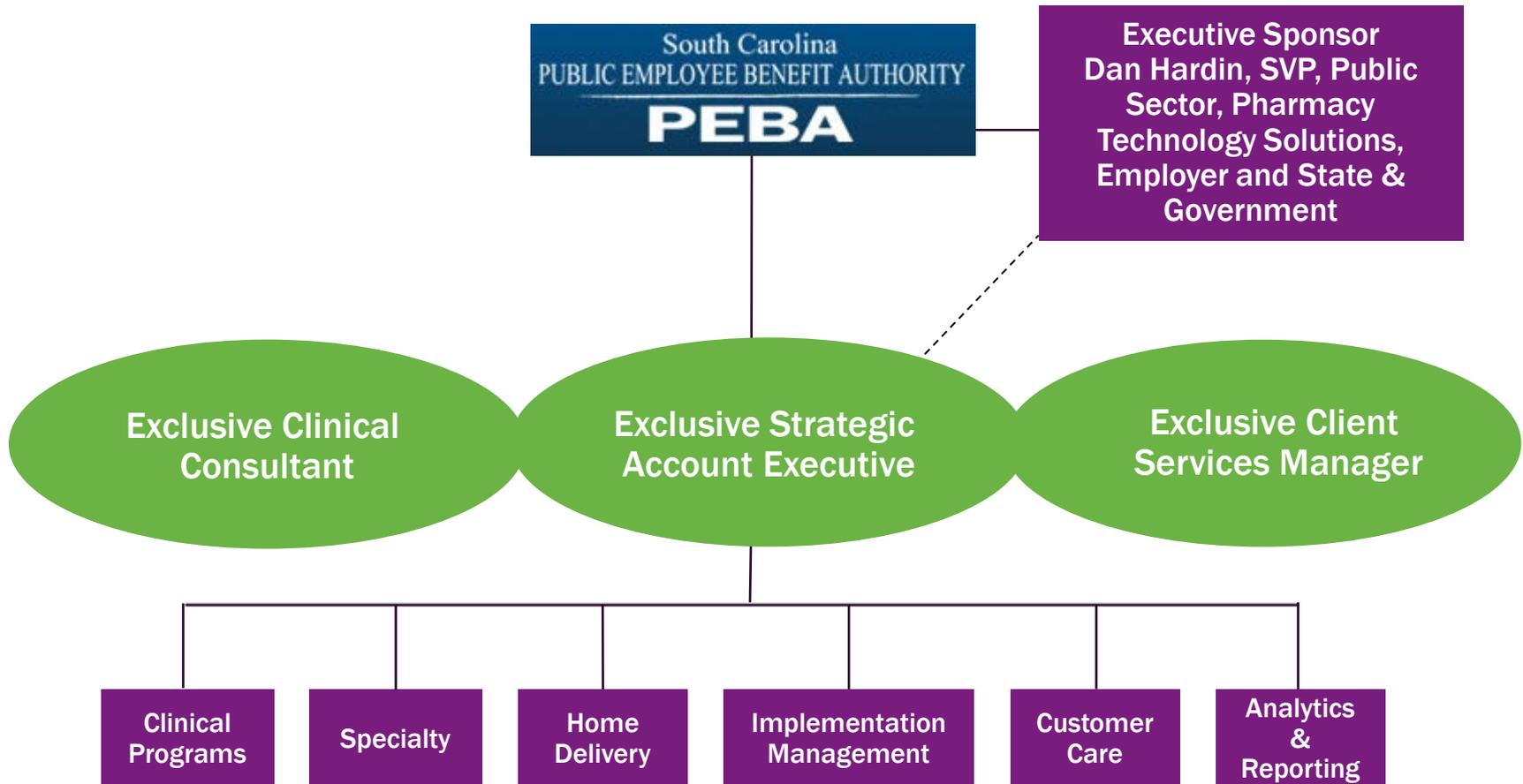


# Catamaran 50+ Locations



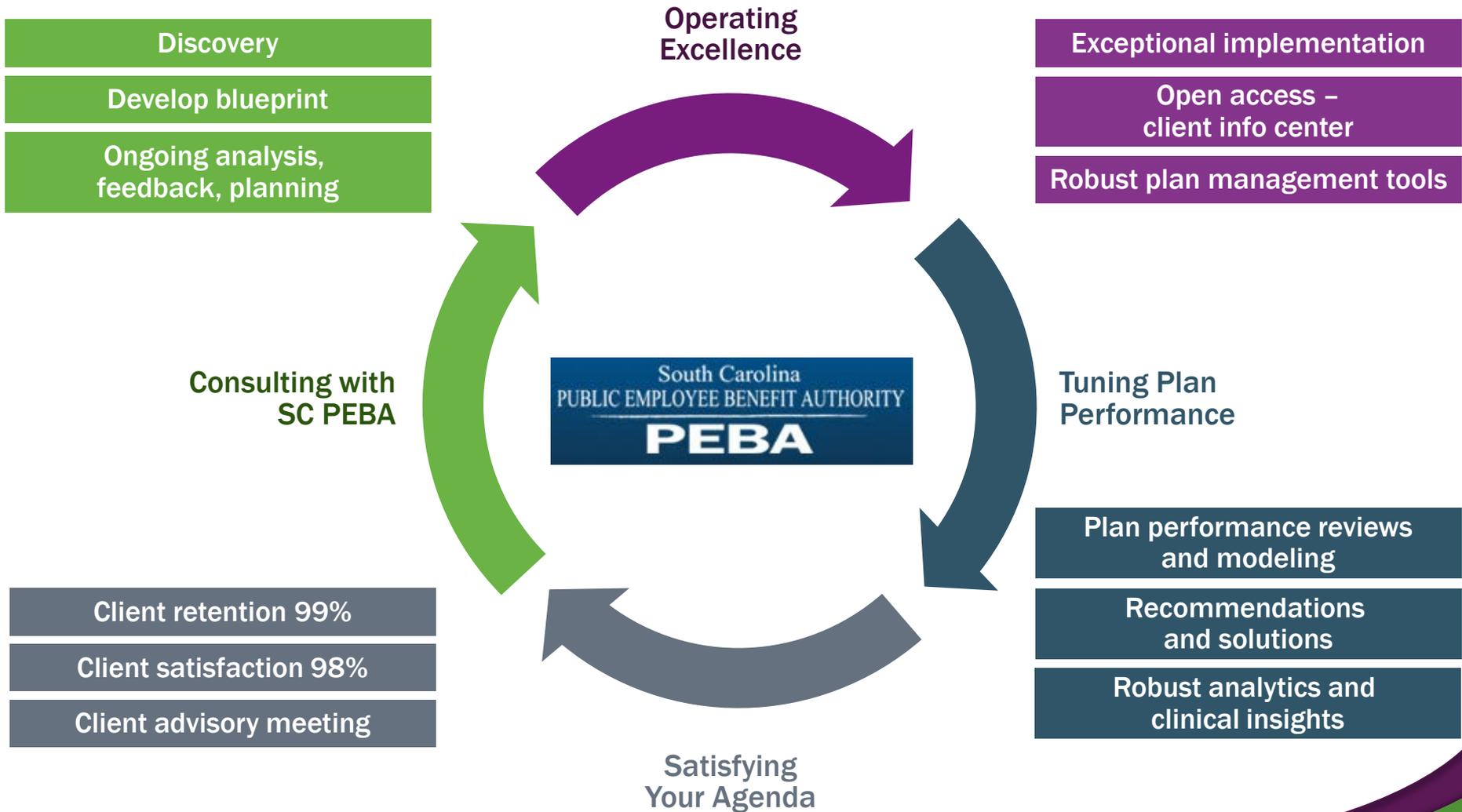


# Account Team Structure





# What You Can Expect





# New to SC PEBA for 2014: EGWP

Experience and Expertise	<ul style="list-style-type: none"><li>• Large focus on Medicare - 300+ employees in Catamaran Government Services</li><li>• The only PBM EGWP in the Nation to be awarded a CMS 2013 5-Star Rating!</li><li>• Catamaran PDP EGWP in operation for over 6 years (since 2007)</li><li>• Spotless compliance track record with CMS</li><li>• Former CMS regulator on staff who designed and built the EGWP program at CMS</li></ul>
Flexibility	<ul style="list-style-type: none"><li>• Catamaran EGWP can be offered as Self-Funded or Fully-Insured</li><li>• Fully-customizable EGWP plan design and formulary solution for <u>all</u> size clients</li><li>• Member materials may be heavily customized to minimize member confusion</li></ul>
Innovation	<ul style="list-style-type: none"><li>• Industry-leading claims adjudication technology (RxClaim)</li><li>• Ability to maximize Pharma discounts under an Enhanced EGWP true single-plan/single-claim solution</li></ul>
Member Satisfaction	<ul style="list-style-type: none"><li>• Minimal member disruption via ability to mirror current benefits</li></ul>

**SC PEBA EGWP benefit will mirror the Active Plan**



# SC PEBA Implementation Milestones Accomplished

- SC PEBA team announced change to Catamaran on PEBA website and in PEBA Direct Newsletter on October 1
- Catamaran Introductory letter sent to members on October 8
- All member communication materials and ID cards have been reviewed and approved
- All benefit and clinical documents have been approved and benefit plan build is in progress
- All Retail Maintenance Network pharmacies have been contracted, with expansion of network to include other large chains (K-mart, Rite Aid, Wal-Mart)
- Transition files (Mail Refills, Prior Authorizations, Claims History) from Express Scripts are in process
- Candidate identified for on-site Strategic Account Executive position





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# Q&A



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# Account Management



# Client Info Center

The Catamaran **Client Information Center (CIC)** gives clients streamlined access to the tools and information needed to manage their pharmacy benefits and keep up-to-date on trends and news about Catamaran and our dynamic industry.

The screenshot shows the Catamaran Client Info Center website. At the top, there is a navigation bar with links for Home, Help, Contact, and Logout. Below this is the Catamaran logo with the tagline "stay well ahead" and the text "Client Info Center IT'S TIME FOR TRANSFORMATIVE IDEAS". A secondary navigation bar lists various services: Client Requests, Client Applications, Clinical Services, Mail, Specialty, Medicare Part D, File Cabinet, and Announcements. The main content area is divided into several sections: a "welcome to the Client Info Center" banner, a list of services (reaching the account team, accessing invoices, and checking request status), a "Had a great experience? Share it with us!" link, an "Account Management Team" section with profiles for Bill Perkins, John Nicolosi, Hilda Krause, Jennifer Fischer, and another team member, a "Catamaran: Making a Difference" video section, a "News and Views" section, and an "Application Quick Launch" section with links for RxClaim, RxView, and RxTrack. The footer contains copyright information for 2012 Catamaran and links for HIPAA and Legal Terms.

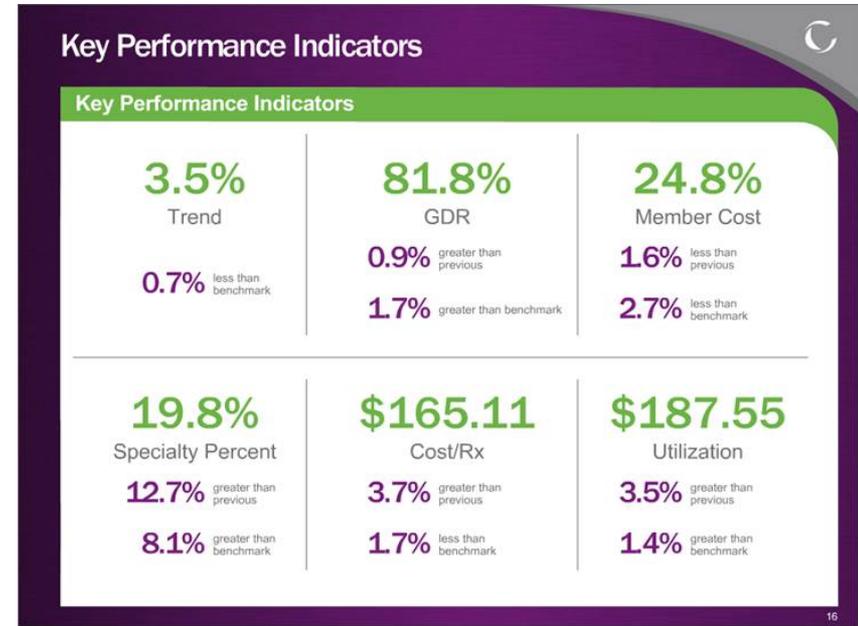
The CIC is a place to:

- Access client applications, including **RxClaim<sup>®</sup>**, **RxView<sup>™</sup>**, **RxTrack<sup>®</sup>** and more
- View our **Pipeline Report** and review information about drugs in development
- **Request plan changes**, data reports or questions to be researched
- Learn about drug recalls, expiring patents and relevant **clinical research**
- Review **book of business trend data** in our trend report: informed trends<sup>™</sup>
- Review all reports including invoices, daily, weekly, monthly and quarterly reports



# Plan Reviews

- Flexible Performance Reporting
  - » Detailed Benefit Plan Level Performance
- Multiple Benchmarking Options
- Identifying High Performers
- Identifying Emerging Trends
- Client Preferred Frequency
  - » Quarterly, Annually, etc.





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# Member Engagement



# Helping Members is Our Top Priority

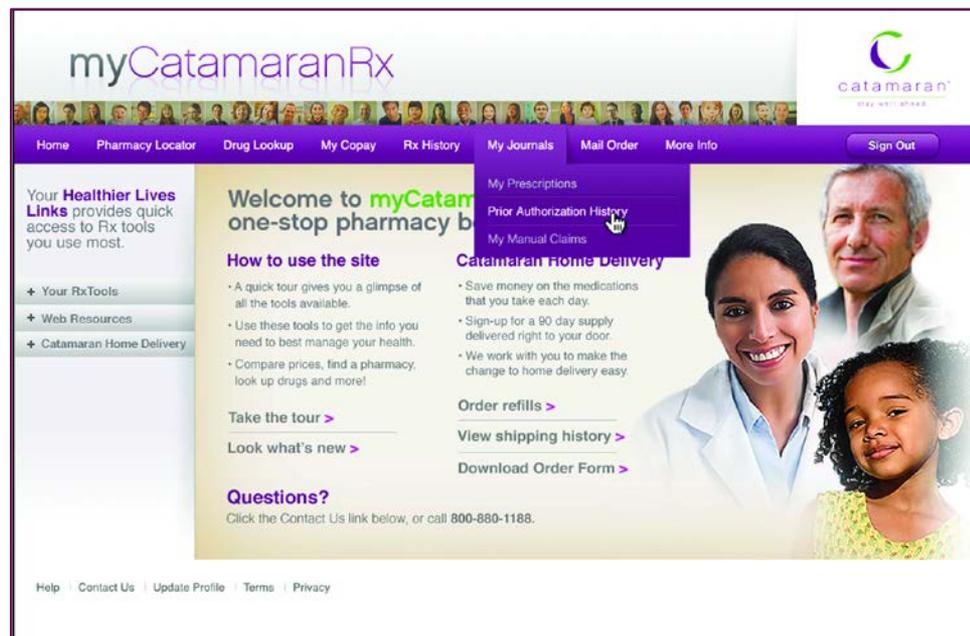




# Catamaran Member Portal

## Helping Members Make Informed, Cost-effective Decisions

- Compare medication costs and choose the most cost-effective Rx
- Locate nearby network pharmacies using geo-locator technology
- Pull up a full medication history during a doctor visit
- Learn how to handle a missed dose of medication



Web-enabled access

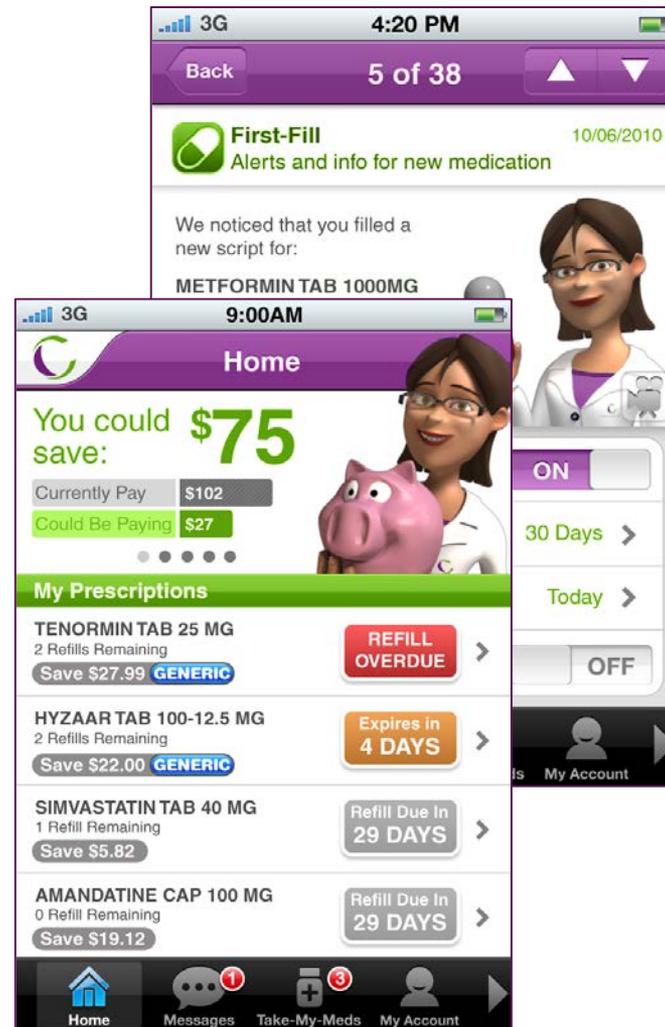


For members on-the-go



# Our Mobile Solution

- **Fill-My-Scripts** – reminder to refill prescriptions
- **Take-My-Meds** – medication reminders to promote adherence
  - » **Push Messaging** – leverages available data to deliver timely, relevant messaging
- **Mobile Advocate** – designed to mimic behavior of provider to elicit action and participation
  - » **Integrated User Interface** – platform intelligently responds to events or triggers based on data elements or information



Smart  
Messaging

Animated  
Avatar

Personal  
Advisor

Real-time,  
Personalized  
Interactions



catamaran

# Clinical Solutions



## Catamaran Understands the Key Clinical Priorities for SC PEBA



**Drive Improved  
Health Outcomes**

Deliver a sound clinical approach to drive improved health outcomes



**Effectively Engage  
Members**

Demonstrate the importance of engaging members through support tools

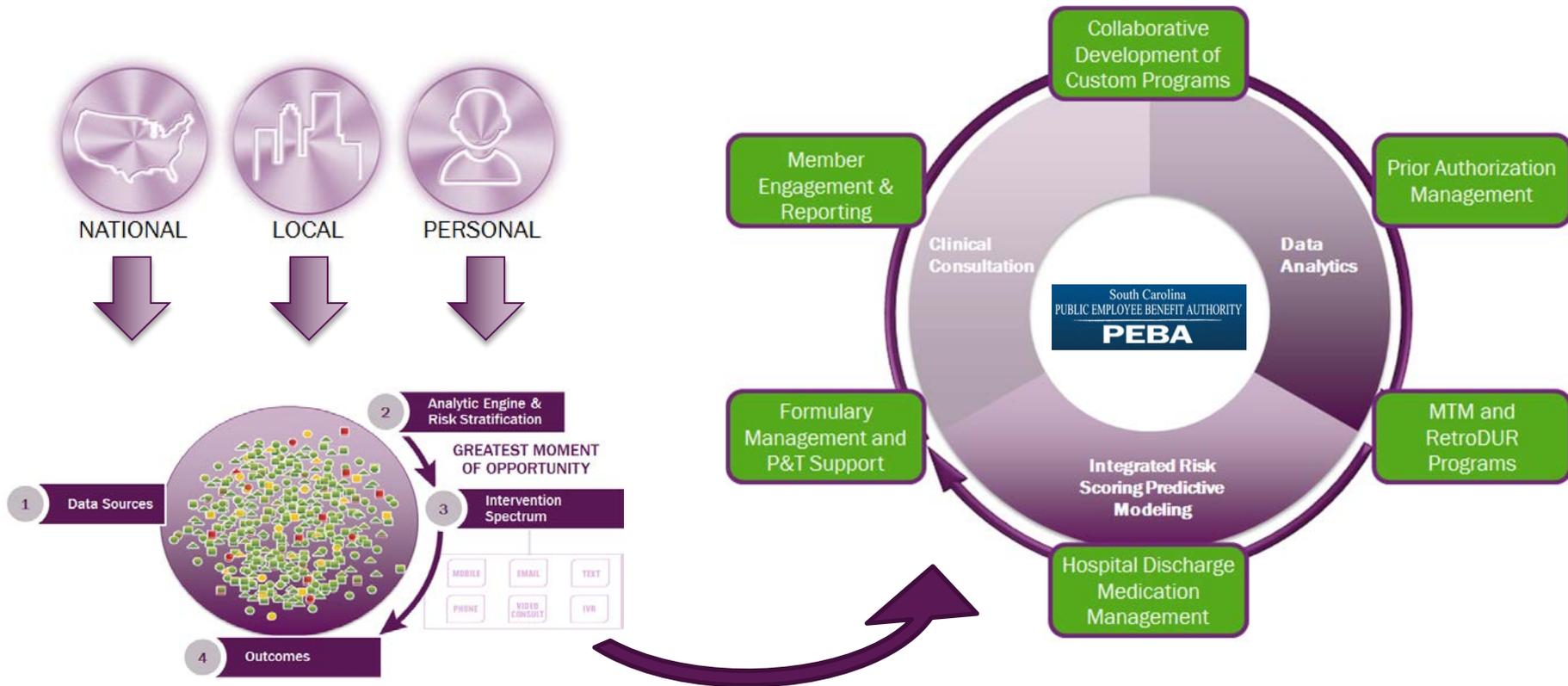


**Deliver Cost Savings**

Provide cost control strategies for current & future Rx spend



# Catamaran Provides a Flexible Set of Clinical Solutions Matched with SC PEBA's Unique Trends & Utilization Patterns



*Catamaran's clinical approach and strategy enable a robust clinical solution for SC PEBA*



# We have the Skill, Scale & Clinical Programs to Effectively Address SC PEBA's Specialty Rx Spend



- Experienced Staff
- 5<sup>th</sup> largest Specialty pharmacy
- Operational efficiency



Catamaran Specialty Pharmacy Opportunities	Cost Control
<b>Utilization management</b> <ul style="list-style-type: none"> <li>• Evidence-based guidelines</li> <li>• Improved patient outcomes</li> </ul>	✓
<b>Dose optimization</b> <ul style="list-style-type: none"> <li>• Integrated clinical information with appropriate dosing</li> <li>• Waste management</li> </ul>	✓
<b>Quantity limits</b> <ul style="list-style-type: none"> <li>• Dispensing limited to a one month supply</li> <li>• Proactive medication management</li> </ul>	✓
<b>Step therapy</b> <ul style="list-style-type: none"> <li>• Ensures use of clinically appropriate medication</li> <li>• Retrospective claim review</li> </ul>	✓
<b>Preferred products</b> <ul style="list-style-type: none"> <li>• Drives preferred product utilization</li> <li>• Restricts non-preferred products with PAs, NDC block, tiered copays</li> </ul>	✓
<b>Utilize Exclusive Specialty Pharmacy Network</b> <ul style="list-style-type: none"> <li>• Consistent patient management</li> <li>• Cost control</li> <li>• Access to specialty medications</li> <li>• Relevant data reporting</li> </ul>	✓

We will focus our efforts on addressing the following Specialty Rx areas:

- Comprehensive PA Programs
- Specialty Preferred Drug List
- Patient Care Model
- Innovative Engagement Tools





# Catamaran Provides a Comprehensive Approach in Addressing Specialty Rx



**Access to  
Specialty Meds**



**Patient  
Education**



**Patient  
Monitoring**



**Injection  
Training**



**Financial  
Support**



**24|7  
Clinician  
Consultation**



**Free Delivery  
of Medications**



**Video  
Consult**

Specialty Rx  
Management



# Our MTM & RetroDUR Programs will Provide Additional Rx Management & Support to SC PEBA & its Members

MTM



Comprehensive MTM Modules



Engagement Thru Multi-Prong Model



Configurable to Meet Client Needs

RetroDUR



Modular Approach on Disease State



Enhanced Prescriber & Pharmacist Outreach



Full Detection and Engagement

Robust risk scoring & analytics coupled with proprietary clinical rules engine

MTM and RetroDUR Programs



# Using New Technology, Catamaran MTM Pharmacists are able to Provide Hands-On Medication Counseling Services



**MTM Pharmacist Consultation**



**Skype and Facetime**



**Satisfaction Measurement**

**Targeted Members:** Patients where a change in medication was recommended to the Physician and the Physician approved the recommendation, for Comprehensive Medication Review (CMR) and Targeted Medication Review (TMR).

MTM and  
RetroDUR  
Programs



# The Abuse Medications & Narcotics Program is Part of RetroDUR & Targets Medication Abuse in Commercial Populations

Opioid Rx sales increased more than **350%** from 1999 to 2010<sup>1</sup>

**50%** increase in opioid prescriptions in workers comp programs from 1999 to 2007<sup>3</sup>

Deaths from opioid overdose in the US **quadrupled** from 4,000 to 16,600 from 1999 to 2010 <sup>2</sup>

*There is a growing need to address opioid utilization and reduce the clinical and financial risks associated with opioid overdose*

- Catamaran's Abuse Medications & Narcotics Program is a RetroDUR module that targets **medication abuse in commercial populations**
- Using Catamaran's proprietary clinical rules engine, SC PEBA members with overdose issues are **accurately identified** in the system
- **Multiple Interventions** to physicians and pharmacies; 2<sup>nd</sup> intervention to provider made 5-7 business days after initial outreach

Abuse Medications & Narcotics Program

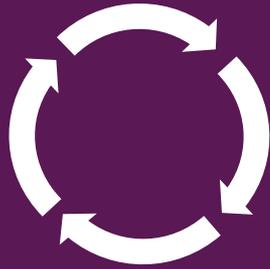
1. Kunins HV, Farley TA, Dowell D. Guidelines for opioid prescription: why emergency physicians need support. Ann Intern Med 2013;158:841-2.

2. Dowell D, Kunins HV, Farley TA. Opioid analgesics – risky drugs, not risky patients. JAMA 2013;309:2219-20.

3. Levi Jeffrey. Prescription Drug Abuse: Strategies to Stop the Epidemic 2013. Trust for America's Health October 2013.



# Our Formulary Advantage (FA) Program Encourages the Selection of Clinically Effective, Lower-Cost Medications



**Comprehensive,  
Unbiased Approach**

19 therapeutic classes,  
national independent  
P&T committee



**Improved Cost Savings  
Opportunities**

Increasing GDR, not  
chasing rebates, drives  
optimal drug mix



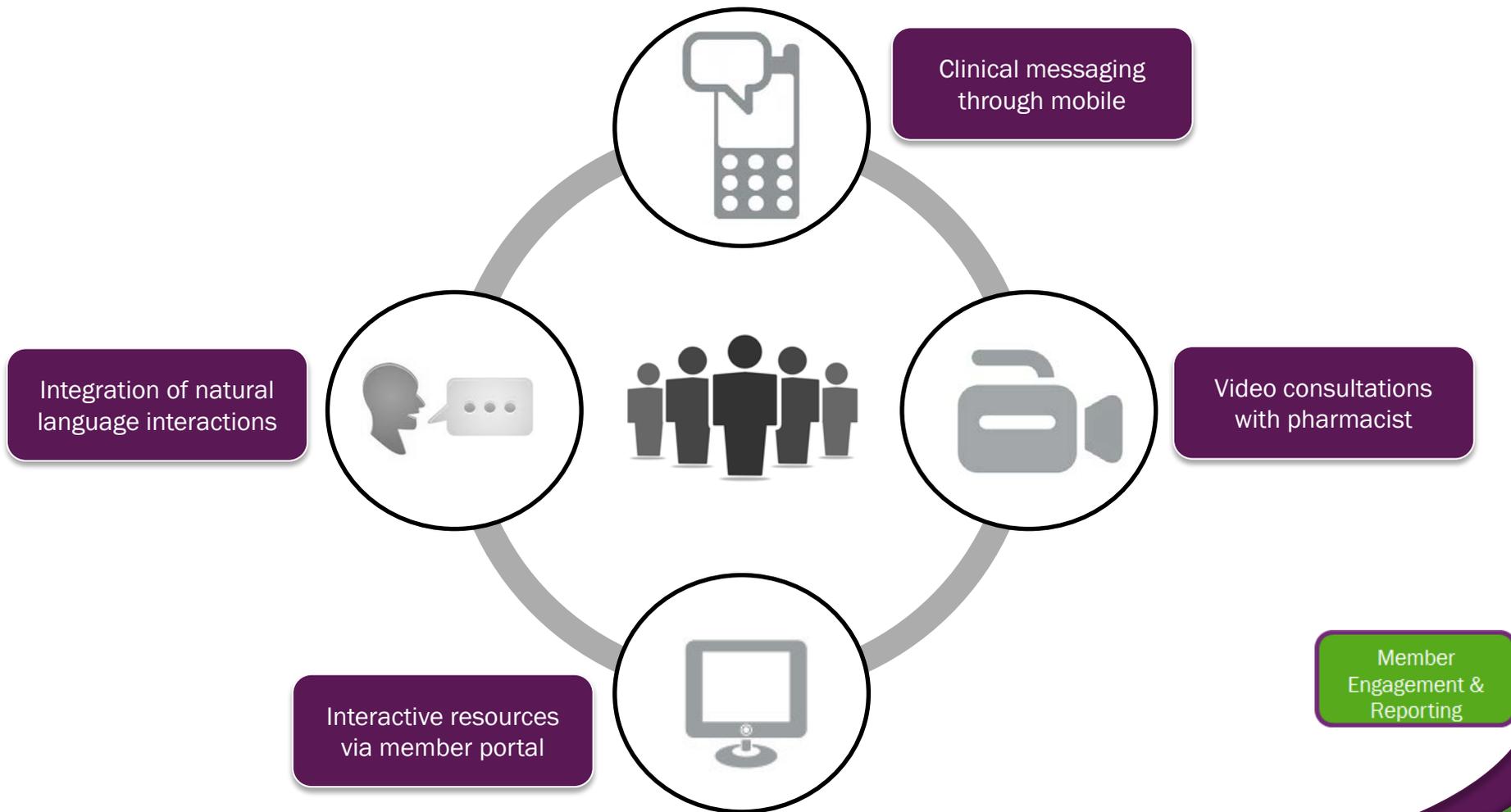
**Seamless Member  
Transition**

Communication followed  
by soft and hard edits

Formulary  
Management and  
P&T Support

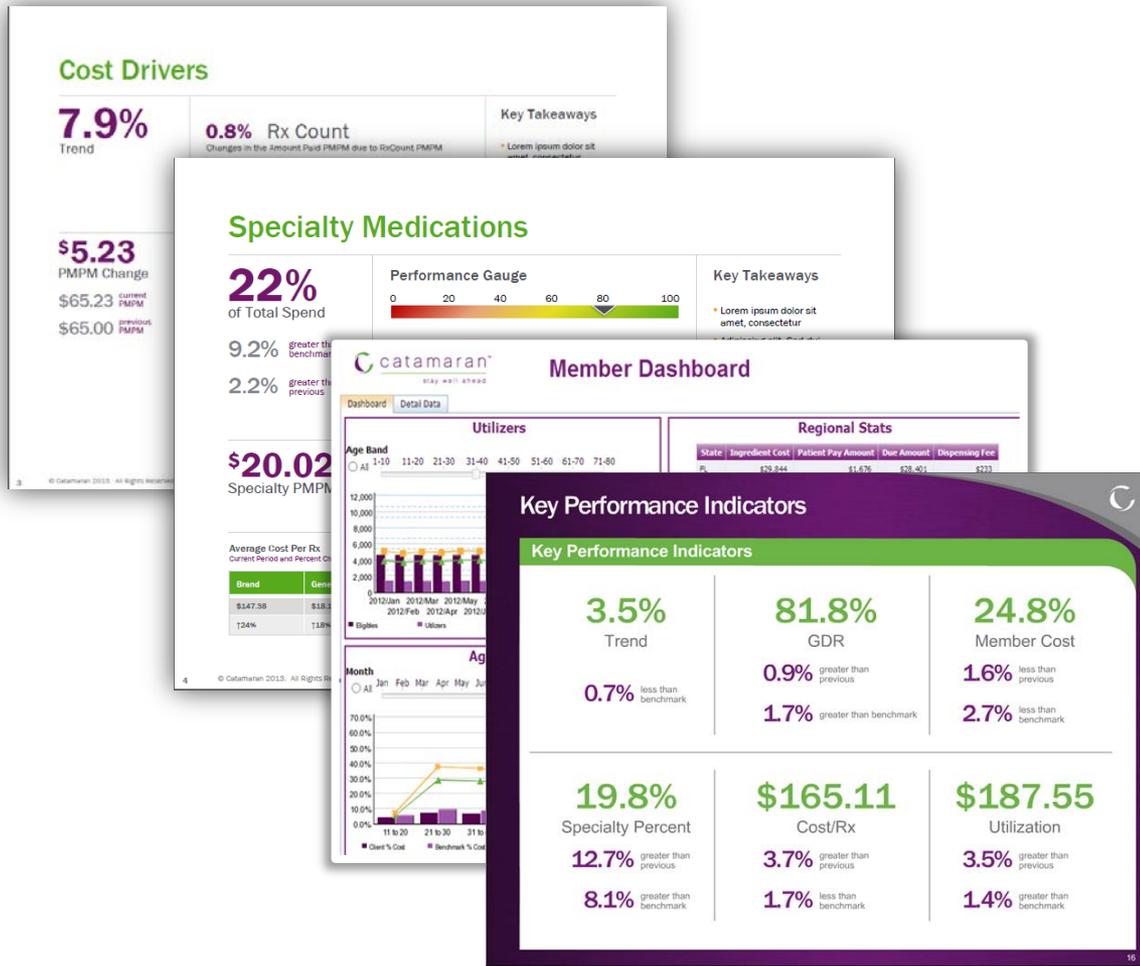


# We Will Use Risk Analytics to First Identify Members & Then Effectively Engage Them Using Multiple Channels





# Catamaran will Demonstrate Value Through its Analytic Insights & Clinical Intelligence Reporting Package



- Dynamic dashboards with interactive drill-down
- Robust self-service and ad-hoc reporting tools
- Front-end Business Intelligence Application
- Clinical Program Outcomes Reporting
- Comprehensive quarterly plan reviews

Member Engagement & Reporting

**PUBLIC EMPLOYEE BENEFIT AUTHORITY**  
**BOARD AGENDA ITEM**  
(Reporting Committee: Health Care Policy Committee)

**Meeting Date:** November 20, 2013

**Tab 7**

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**1. Subject: Health Analytics**

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

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**3. Supporting Documents:**

- (a) Attached:
  - 1. ORS Health and Demographics Summary of data July 2013
  - 2. Health Analytics Presentation



SC BUDGET AND CONTROL BOARD

## DIVISION OF RESEARCH AND STATISTICS HEALTH & DEMOGRAPHICS

### OVERVIEW

The SC Budget and Control Board, Division of Research and Statistics (DRS), a neutral service entity in South Carolina state government, became a central setting to house the data and to link persons across multiple service providers. The Division began its work with a limited number of agencies, private providers and non-profit organizations. It was the vision of the DRS, agencies and those organizations that helped to propel the more expanded version that exists today. These agencies and organizations recognized the need for program evaluation and outcomes that encompassed information from other systems. The need to better understand disparities that exist in health, education, law enforcement and social services was also a driving force to integrate data from these systems. Through a series of statutes and agreements, agencies and organizations entrust their data systems with the DRS while retaining control of their own data at all times. The philosophy for the data warehouse: “It is the entire human experience that influences health and social well-being and should therefore be captured in an integrated data system.” The DRS developed a series of algorithms using various combinations of personal identifiers to create its own unique identifier, enabling statistical staff to “link across” multiple providers and settings. Hence it allows for linkages while protecting confidentiality of the client. “Requests” to link data must be approved by all participating agencies and organizations.

### DATABASES

THE DATA WAREHOUSE INCLUDES THE FOLLOWING SOUTH CAROLINA STATE AGENCIES, NON-PROFITS, AND PRIVATE ENTITIES:

1. Legal/Safety Service
  - a. Dept. of Juvenile Justice
  - b. State Law Enforcement Division
  - c. Dept. of Probation, Pardon and Parole
  - d. Dept. of Corrections
2. Social Services
  - a. Dept. of Social Services (SCDSS) child care
  - b. DSS Economic Services
  - c. DSS Human Services
3. Behavioral Health
  - a. Dept. of Mental Health
  - b. Dept. of Alcohol and Other Drug Abuse Services
4. Education
  - a. Dept of Education (SCDE) tests, assessments
  - b. SCDE Student information system
  - c. SCDE Professional qualifications, certifications
  - d. SCDE Individual graduation plans (IGP)
  - e. S.C. First Steps
5. Health Department
  - a. Dept. of Health and Environmental Control (SCDHEC) – Vital Records
  - b. SCDHEC – Hospital and Nursing Home Joint Annual Report
6. Employment



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SC BUDGET AND CONTROL BOARD

- a. Dept. of Employment and Workforce
- b. Wage Data
- c. Unemployment Data
- d. Training Programs
- e. Trade Assistance Adjustment (TAA)
- f. The Workforce Investment Act (WIA)
- g. Wagner Peyser
- 7. Other State Support Agencies, Non-Profit Organizations
  - a. Dept. of Disabilities and Special Needs
  - b. Dept. of Vocational Rehabilitation
  - c. Governor's Office, Division of Continuum of Care
  - d. Lieutenant Governor's Office on Aging
  - e. Homeless Shelter Data (HMIS)
- 8. Claims Systems
  - a. Dept. of Health and Human Services (Medicaid Claims)
  - b. Public Employment Benefits Authority (SHP Claims)
- c. All Payer Health Care Databases
- d. Hospitalizations (Short-term Acute Care, Psychiatric & Rehabilitation)
- e. Emergency Dept. Visits
- f. Ambulatory Surgeries
- g. Home Health Visits
- h. Free Clinics
- i. Community Health Centers
- j. Disease Registries
- 9. Health Professions from the following Boards:
  - a. Dentistry
  - b. Medical
  - c. Nursing
  - d. Occupational Therapy
  - e. Optometry
  - f. Pharmacy
  - g. Physical Therapy

This integrated data system contains information about the use of programs and services by clients of state health and human service agencies, non-profit and private entities. The system enables the analysis of the use of services and crossover by clients among these entities. Release of information is under the control of originating entity.

The Data Warehouse is the basis for several ongoing contracts. These contracts are for First Steps, DSS data linkage and analysis, PEBA data linkage and analysis, and analysis and tracking of hospital acquired infections.

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DISCUSSION OF DATA SOURCES:

INDIVIDUAL STATE AGENCY DATABASES

The DRS receives copies of agency databases used for program administration and claims payment from variety of sources, including but not limited to, the following: S.C. Department of Health and Human Services (Medicaid claims), S.C. Department of Social Services (TANF, SNAP, Foster Care, Child Protective



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Services, etc.), S.C. Department of Mental Health (all inpatient admissions and ambulatory visits to mental health centers throughout the state), and S.C. State Law Enforcement Division, the S.C. Department of Juvenile Justice and the S.C. Department of Education. From these raw files, statistical databases are created and special analyses and research projects are done at the direction of the agencies. The originating agencies maintain control over the use of the data.

PRIVATE SECTOR HEALTH CARE UTILIZATION DATABASES INCLUDING:

- a) Inpatient Hospitalizations (Short-term Acute Care, LTAC, Psychiatric & Rehabilitation)
- b) Emergency Department Visits
- c) Ambulatory Surgeries
- d) Home Health Visits

These databases contain information from the UB-04 and CMS-1500 billing system and include reasons for use of services (ICD-9-CM diagnoses, types of services received (ICD-9-CM procedures or HCPCS/CPT procedures), charges for services by revenue center, length of stay, patient disposition, etc... With the ability to track patients over time, the systems permit some outcomes calculations such as readmission rates and ED visits within "x" days of treatment. The South Carolina Data Oversight Council, a seventeen member public/private body formed by the state statute with DRS as staff, oversees the collection and release of information from these databases.

S.C. HEALTH PROFESSIONS DATABASE, INCLUDING DATA FROM THE FOLLOWING BOARDS:

- e) Dentistry
- f) Medical
- g) Nursing
- h) Occupational Therapy
- i) Optometry
- j) Pharmacy
- k) Physical Therapy

Assembled via a partnership with SC Labor, Licensing and Regulations (LLR), this database contains information collected biennially at license renewal and enables the description and analysis of change geographic location, age, race, gender, specialty, practice setting and type, retention and service area of S.C. health professionals programs.

NON-PROFIT ORGANIZATIONS, INCLUDING:

- l) Free Medical Clinics



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- m) Community Health Centers
- n) Welvista
- o) Homeless Shelters (HMIS)

The Free Medical Centers and the Community Health Center data include information from practice management and electronic medical record systems. The Welvista data contains pharmaceutical information derived from a charitable program in support of the uninsured. The HMIS contains client descriptive information on the homeless population including but not limited to medical and behavioral health indicators.

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#### SOUTH CAROLINA DECENNIAL CENSUS

DRS is the designated State Data Center for the Bureau of the Census and receives all releases of Census files for the state. Databases include information from the 2010, 2000, 1990, 1980, and 1970 Census. Information from the American Community Survey is also available.

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#### POPULATION ESTIMATES AND PROJECTIONS

Annual state and county level population estimates are available by age, race, and sex. Municipal estimates and population projections are for total population only.

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#### GEOGRAPHIC INFORMATION SYSTEM (GIS)

This software provides the ability to address-match the databases described above and plot characteristics on maps; spatial analysis may be performed at multiple levels (point locations, census blocks and block groups, census tracts, etc.) and overlaid with neighborhood characteristics from the census (median household income, percent of single-headed households, etc.)

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#### SOUTH CAROLINA TRACKING SYSTEM

The databases are maintained in a warehouse-like structure that enables the tracking of patients/clients over time and across various types of care and services. This is done through the creation (at DRS) of a unique



## DIVISION OF RESEARCH AND STATISTICS HEALTH & DEMOGRAPHICS

SC BUDGET AND CONTROL BOARD

tracking number that stays with the individual over time. Personal identifiers are used to determine whether the individual is already in the DRS database or needs to be added with a unique number assigned. Personal identifiers are never stored with the statistical data and are maintained in a very secure environment. The unique number is created and appended to the statistical record; it is not derived from identifiable information making it untraceable back to the source.

### DATA WAREHOUSE & ANALYTICAL CUBES

The Data Warehouse is designed as a web-based, Integrated Statistical Warehouse to assist agencies and organizations in answering questions about their health and human service programs and the constituents they serve. Specifically, the system maintains links across multiple agencies and organizations, enabling users to access a broader range of data than has been available previously. The intention of the Data Warehouse is to enhance information available to private sector and state executive and program staff, not to replace data systems that may be already in place or underway. Such a comprehensive warehouse, with its ability to link a wide array of databases, adds a new dimension to information for program management and evaluation. It also allows for identification and longitudinal analysis of cohorts of interest.

### INFORMATION PRODUCTS

#### AVAILABLE TO THE GENERAL PUBLIC

1. S.C. Statistical Abstract
2. Community Profiles
3. Public Website: [ors.sc.gov](http://ors.sc.gov)

This site provides general descriptive statistics from the databases, copies of the information products listed above; and allows the users to define simple queries to generate ad-hoc reports.

#### AVAILABLE TO DRS PARTNERS

##### ABC TABLET APPLICATION

DRS developed an online/offline web-based tablet PC application used by ABC Child Care Program monitors reviewing childcare centers in the field. The application incorporates



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assessment tools for five levels of quality that determine reimbursement levels to child care providers. Monitors are able to conduct reviews and enter data while the tablet is offline, and then upload the data to a MySQL database when the computer is online again. The system includes a password-protected administrative website that allows staff members to manage user accounts and generate reports.

### COMMUNITY LONG TERM CARE (CLTC)

The web development team converted CLTC's waiting list and case management systems from a Microsoft Access data entry application to an online/offline web-based tablet PC application called Phoenix. Components of the software include:

1. A waiting list to track and prioritize clients who are waiting to be enrolled in the program.
2. A complete case management system that includes client applications, a centralized intake system, assessments, medications, caregiver supports, and service plans.
3. A system that allows case managers to electronically refer and authorize services for clients through outside providers.
4. A quality assurance module to monitor case manager work and performance.
5. A system to monitor the performance of service providers.

The application is in production, and is being expanded to include reporting and claim filing functions that are currently being provided by a third-party vendor.

### AGES AND STAGES QUESTIONNAIRE

This project is a partnership between DSS, USC, and DRS. The web development team converted a series of paper *Ages and Stages* child development questionnaires into a web application. The questionnaires allow both teachers and parents to assess the development of children between the ages of 4 months and 5 years. The application also includes a web-based tool that enables the administrators to manage classroom, teacher, parent, and student records; and it provides the administrators the ability to modify the questionnaires themselves.

### SOUTH CAROLINA DEPARTMENT OF EDUCATION (SCDE) DATA WAREHOUSE

As part of the State Longitudinal Data Systems Federal (SLDS) Grant, DRS has developed a data store accessible by SCDE staff. The data store includes testing, Individual Graduation Plan, teacher, student, and accountability data.



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### PURPOSE BUILT SCREENING AND REFERRAL SYSTEMS:

Co-Occurring State Initiative Grant (COSIG) - A web-based information system that screens for co-occurring mental health and substance abuse conditions and provides referral support among participating agencies. (SCDMH, DAODAS, SCDVR)

No Wrong Door Project- A web-based screening tool for adolescents. The web-based information system incorporates an existing screener (GAIN – Short Screener). (Partners include DMH and DAODAS, DSS, DJJ, as well as the school districts in Barnwell and Fairfield County and private health providers in Fairfield and York counties.)

### SOUTH CAROLINA HEALTH INFORMATION EXCHANGE (SCHIEX)

SCHIEx serves as a platform and provides the core services for several Health Information Exchange (HIE) projects in which DRS is a partner, including the Lakelands Rural Health Network, Connecting Communities of Care, TeleHealth and a Medicaid Provider HIE.

- The Lakelands Rural Health Network is now serving as the first fully integrated Sub Network Organization (SNO) and pilot for SCHIEx. Deployment for clinical began in May 2008. This is the first "real world" bi-directional exchange of both clinical and claims data using a technology approach applicable to the entire state.
- The TelePsychiatry initiative is a collaborative project among the SC Department of Mental Health, South Carolina Hospital Association, Medicaid and the DRS. It includes SCHIEx based on its ability to provide a continuity of care document (CCD) to providers on both ends of the virtual consultation process. TelePsych employs a full bi-directional interface, including videoconferencing and image sharing technology, enabling the consulting psychiatrist to remotely examine, diagnose and recommend a course of treatment for a patient. TeleStroke, a Health Sciences South Carolina initiative, is based on the same technology platform as TelePsych.
- Blue Cross Blue Shield of SC Foundation funded the "Connecting Communities of Care: Data Integration for Quality Improvement" project. This collaborative effort focuses on the use of the SCHIEx platform in order to provide community health centers, free clinics and rural health clinics with a common base of information that can support joint quality improvement and disease management initiatives. While the project's emphasis is on the gathering and aggregation of data to support and evaluate quality improvement, it will also result in the inclusion of over 30 clinics per year in the HIE.



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- A joint effort between the Department of Health and Human Services (DHHS) and the DRS to make Medicaid data available to healthcare providers pre-dates prior efforts at creating a comprehensive health information exchange; however, both organizations quickly realized the advantages of a comprehensive HIE. This project leverages the SCHIEx technology platform, includes all Medicaid claims for a ten year period, and puts the SCHIEx viewer in the hands of all primary care providers who accept Medicaid. Efforts are underway to include reference labs and DHEC's immunization data. (EHR – Electronic Personal Health Record)

#### REQUESTS FOR SERVICES

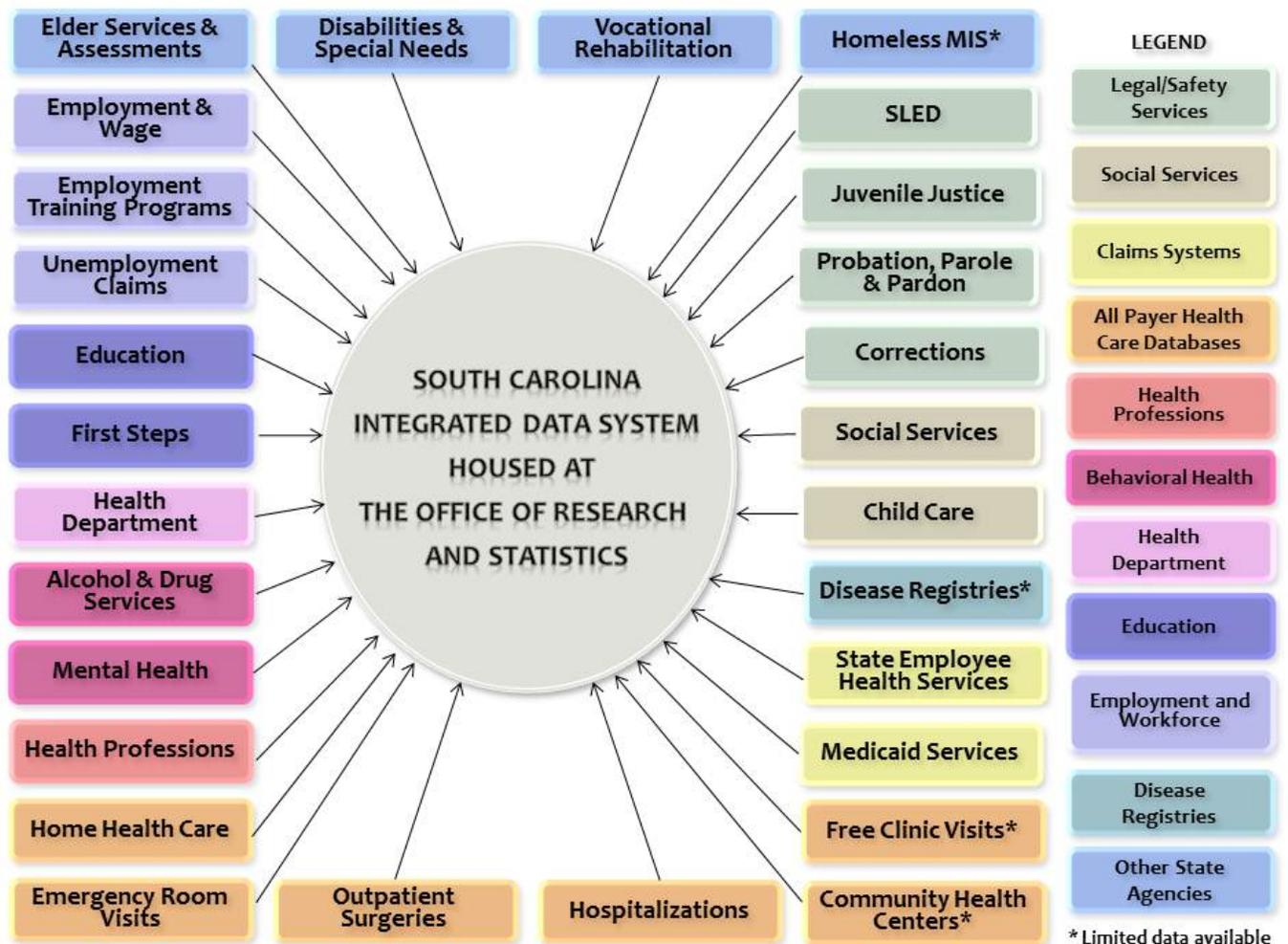
For requests that cannot be answered via the web site, the requestor may call our offices (803) 898-9940 and request special reports. The turn-around time varies by the complexity of the request and receipt of approvals where necessary. Charges are made to cover staff time and computer usage.



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SC BUDGET AND CONTROL BOARD

ATTACHMENT A



# **Health Care Quality and Cost Reduction: The Need for Care Coordination and Patient Engagement**

W. David Patterson, Ph.D.  
Columbia, SC  
November 20, 2013

# Vision: The Triple Aim

Institute for Healthcare Improvement (2012). <http://www.ihi.org/offerings/Initiatives/TripleAim/Pages/default.aspx>.

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The Institute for Healthcare Improvement (IHI) believes that new designs can and must be developed to simultaneously accomplish three critical objectives, or what we call the “Triple Aim”:

- Improve the health of the population;
- Enhance the patient experience of care (including quality, access, and reliability); and,
- Reduce, or at least control, the per capita cost of care.

# Value Based Care and Value Based Purchasing

- “Instead of payment that asks, ‘How much did you do?’ the Affordable Care Act clearly moves us toward payment that asks, ‘How well did you do?’ and more importantly, ‘How well did the patient do?’ ” Dr. Don Berwick, CMS Administrator April 11, 2011

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## **Some Key Problems**

# Breakdown of Costs Associated with Chronic Conditions

All Enrollees								
	Prevalence	Number of Members Identified	Total Spent PMPY Medical	Total Spent PMPY Medical Chronic Only	Total Spent PMPY Medical Non Chronic	Total Spent PMPY Drug	Total Spent PMPY Drug Chronic Only	Total Spent PMPY
No Chronic Conditions	68.16	269,863	\$1,363.06	\$-	\$-	\$505.79	\$-	\$1,868.85
Any Chronic Condition	31.84	117,709	\$5,734.71	\$2,476.00	\$3,258.70	\$1,994.71	\$910.86	\$7,729.41
Asthma	4.28	15,835	\$6,016.18	\$1,613.44	\$4,402.75	\$2,113.80	\$692.94	\$8,129.99
Adults	3.01	11,165	\$7,652.74	\$2,029.10	\$5,623.64	\$2,609.59	\$772.63	\$10,262.33
Children	1.28	4,700	\$2,148.35	\$623.96	\$1,524.40	\$940.80	\$498.70	\$3,089.16
Chronic Obstructive Pulmonary Disease (COPD)	1.16	4,366	\$20,530.19	\$4,118.19	\$16,412.00	\$3,822.34	\$951.02	\$24,352.53
Congestive Heart Failure (CHF)	0.62	2,320	\$32,278.12	\$11,745.96	\$20,532.17	\$3,446.35	\$309.14	\$35,724.48
Coronary Artery Disease (CAD)	2.10	7,850	\$19,749.21	\$8,231.62	\$11,517.59	\$3,471.93	\$1,131.34	\$23,221.14
Hyperlipidemia	18.81	69,191	\$5,888.14	\$1,490.80	\$4,397.34	\$2,251.62	\$306.48	\$8,139.76
Diabetes	7.64	28,362	\$8,189.96	\$3,113.17	\$5,076.80	\$3,259.98	\$1,648.08	\$11,449.94
Hypertension	21.89	80,885	\$6,622.74	\$2,299.40	\$4,323.34	\$2,130.88	\$246.84	\$8,753.62

# Costs Escalate Disproportionately

	One Condition	Two Conditions	Three Conditions	Four Conditions	Five Conditions	Six or More
<b>Number of Patients</b>	47,901	31,663	16,289	3,456	727	171
<b>Percent of Plan with Chronic Conditions</b>	47.80%	31.60%	16.26%	3.45%	0.73%	0.17%
<b>Average Paid</b>	\$ 4,877.11	\$ 6,724.10	\$ 10,675.97	\$ 22,123.58	\$ 36,618.23	\$ 57,894.42
<b>Total Paid Plan</b>	\$ 233,618,491	\$ 212,905,257	\$ 173,900,810	\$ 76,459,091	\$ 26,621,451	\$ 9,899,945

## Outliers (Any Record where the Total Paid by the Plan was More Than 2 Standard Deviations Above the Mean, by Condition)

### Asthma

Total Number		371
	Percent of Members Identified as Outliers	2.82%
Total Paid by the Plan		\$34,284,228.01
	Percent of Total Paid by the Plan	32.94%
Average Number of Chronic Conditions Associated with Person		3.26
Median Number of Chronic Conditions Associated with Person		3
Number that Died Within Year		9
Percent of those That Died Within Year		2.43%

### Coronary Artery Disease

Total Number		202
	Percent of Members Identified as Outliers	3.05%
Total Paid by the Plan		\$37,026,564.83
	Percent of Total Paid by the Plan	26.15%
Average Number of Chronic Conditions Associated with Person		3.95
Median Number of Chronic Conditions Associated with Person		4
Number that Died Within Year		27
Percent of those That Died Within Year		13.37%

### Congestive Heart Failure

Total Number		56
	Percent of Members Identified as Outliers	2.86%
Total Paid by the Plan		\$16,063,381.36
	Percent of Total Paid by the Plan	26.68%
Average Number of Chronic Conditions Associated with Person		4.27
Median Number of Chronic Conditions Associated with Person		4
Number that Died Within Year		8
Percent of those That Died Within Year		14.29%

## Chronic Obstructive Pulmonary Disorder

Total Number		95
	Percent of Members Identified as Outliers	2.58%
Total Paid by the Plan		\$23,810,204.21
	Percent of Total Paid by the Plan	28.80%
Average Number of Chronic Conditions Associated with Person		3.73
Median Number of Chronic Conditions Associated with Person		4
Number that Died Within Year		13
Percent of those That Died Within Year		13.68%

## Diabetes

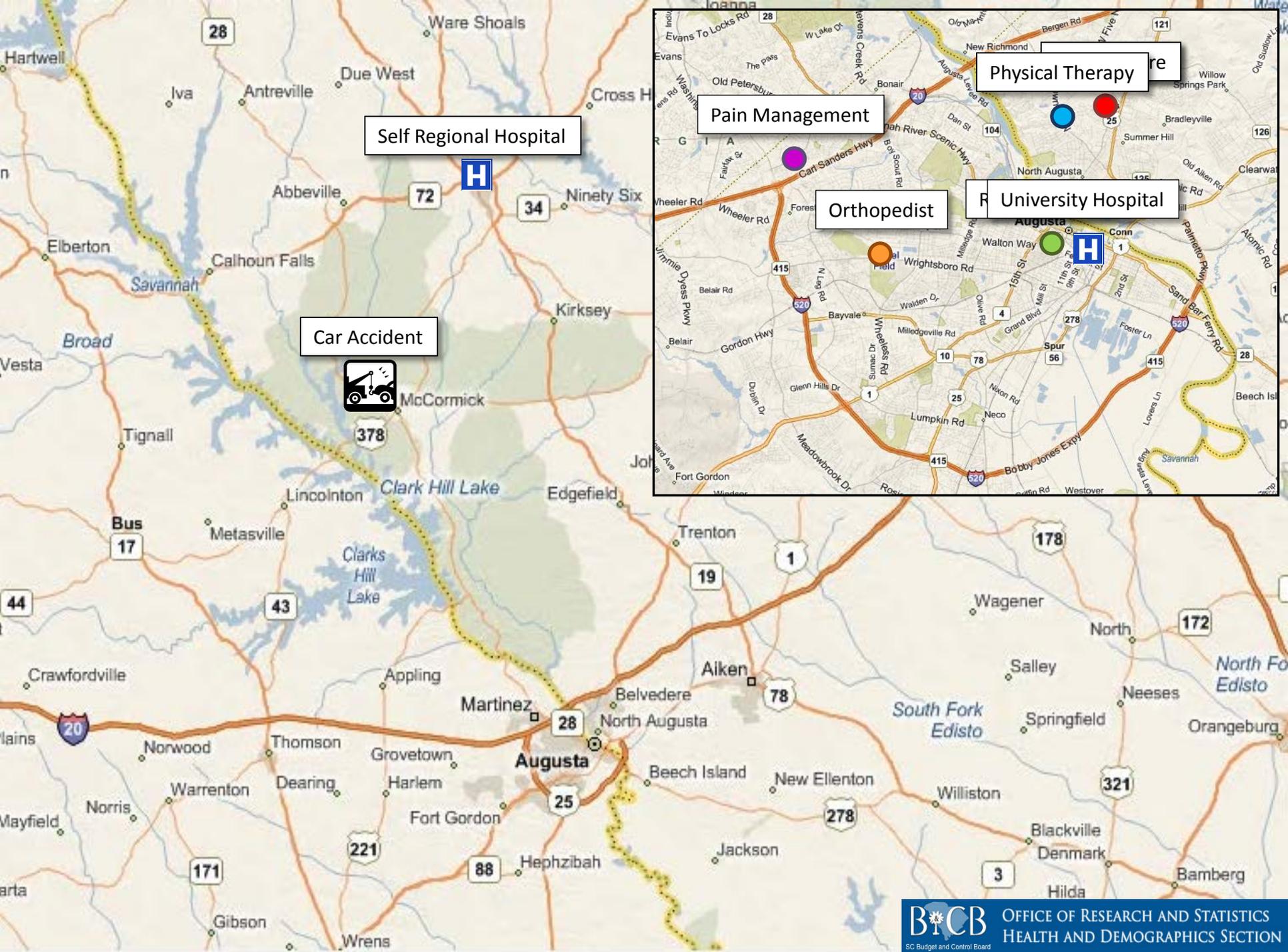
Total Number		567
	Percent of Members Identified as Outliers	2.35%
Total Paid by the Plan		\$77,734,159.98
	Percent of Total Paid by the Plan	30.04%
Average Number of Chronic Conditions Associated with Person		3.55
Median Number of Chronic Conditions Associated with Person		3
Number that Died Within Year		47
Percent of those That Died Within Year		8.29%

## Hyperlipidemia

Total Number		1,764
	Percent of Members Identified as Outliers	2.95%
Total Paid by the Plan		\$157,700,925.00
	Percent of Total Paid by the Plan	34.73%
Average Number of Chronic Conditions Associated with Person		3.13
Median Number of Chronic Conditions Associated with Person		3
Number that Died Within Year		68
Percent of those That Died Within Year		3.85%

## Hypertension

Total Number		1,796
	Percent of Members Identified as Outliers	2.59%
Total Paid by th Plan		\$194,001,239.00
	Percent of Total Paid by the Plan	34.00%
Average Number of Chronic Conditions Associated with Person		2.86
Median Number of Chronic Conditions Associated with Person		3
Number that Died Within Year		105
Percent of those That Died Within Year		5.85%



Self Regional Hospital

Car Accident



Pain Management

Orthopedist

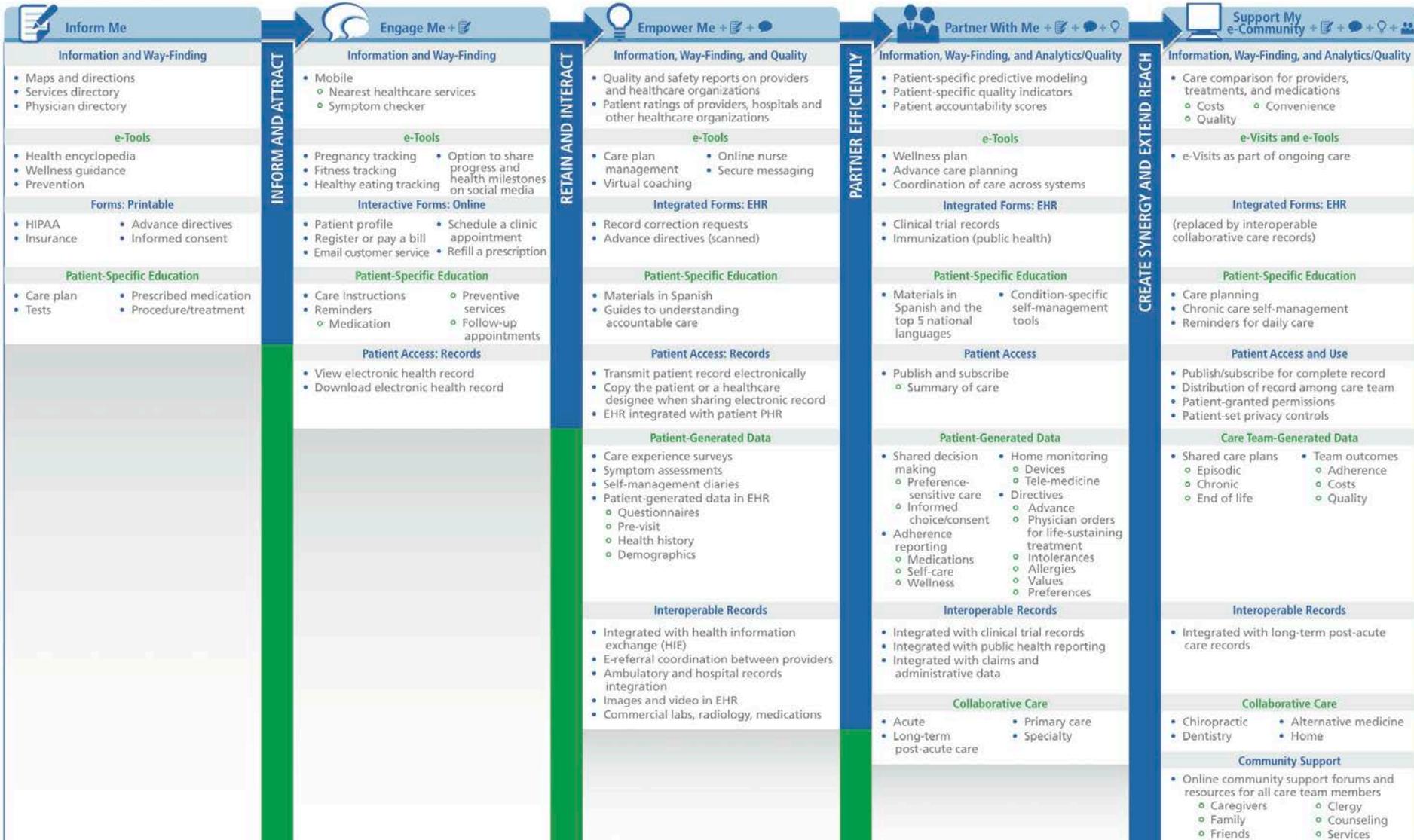
Physical Therapy

University Hospital

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## **A Framework for Solutions**

# PATIENT ENGAGEMENT FRAMEWORK



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## Discussion

**PUBLIC EMPLOYEE BENEFIT AUTHORITY**  
**BOARD AGENDA ITEM**  
(Reporting Committee: Health Care Policy Committee)

**Meeting Date:** November 20, 2013

**Tab 8**

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**1. Subject: Reports due to the Legislature**

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**2. Summary:**

**2012 Abortion Report:**

Pursuant to FY 13/14 Appropriations Act Proviso 105.4: The Public Employee Benefit Authority must determine the amount of the total premium paid for health coverage necessary to cover the risks associated with reimbursing participants in the plan for obtaining an abortion in the circumstances covered by this provision. The determination must be based on actuarial data and empirical study in the same manner and by the same method that other risks are adjusted for in similar circumstances. The plan must report this determination annually to the respective Chairmen of the Senate Finance Committee and the House Ways and Means Committee.

**FY 12/13 Tobacco User Differential Study:**

Pursuant to FY 13/14 Appropriations Act Proviso 105.6: 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.

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

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**4. Supporting Documents:**

- (a) Attached:
1. 2012 Abortion Report
  2. FY 12/13 Tobacco User Differential Study



SOUTH CAROLINA  
**PUBLIC EMPLOYEE BENEFIT AUTHORITY**  
David Avant, Interim Director

**State Health Plan portion of total member premiums paid to cover abortions performed under the Plan (Pursuant to FY 2013-2014 Appropriations Act Proviso 105.4)**

105.4. (PEBA: Funding Abortions Prohibited) No funds appropriated for employer contributions to the State Health Insurance Plan may be expended to reimburse the expenses of an abortion, except in cases of rape, incest or where the mother's medical condition is one which, on the basis of the physician's good faith judgment, so complicates the pregnancy as to necessitate an immediate abortion to avert the risk of her death or for which a delay will create serious risk of substantial and irreversible impairment of major bodily function, and the State Health Plan may not offer coverage for abortion services, including ancillary services provided contemporaneously with abortion services. The Public Employee Benefit Authority must determine the amount of the total premium paid for health coverage necessary to cover the risks associated with reimbursing participants in the plan for obtaining an abortion in the circumstances covered by this provision. The determination must be based on actuarial data and empirical study in the same manner and by the same method that other risks are adjusted for in similar circumstances. The plan must report this determination annually to the respective Chairmen of the Senate Finance Committee and the House Ways and Means Committee.

<b>2012 Claims Paid for Abortions as specified in Proviso 105.4</b>	
Amount Paid by SHP in 2012:	\$4,785.00
Cost per subscriber per month:	\$0.002

# Claim Cost Analysis of State Health Plan Members Paying the Tobacco Surcharge

## Introduction

There are two purposes to this analysis:

1. Measure the claim cost of State Health Plan (SHP) members who are charged a premium surcharge for tobacco use vs. those who do not; and
2. Examine the claim cost associated with the use of various forms for tobacco (i.e. cigarettes, pipe, chewing tobacco, etc).

Smoking and second hand smoking related costs are well documented:

Type	Cost	Citation
Smoking	Smoking cost the United States over \$193 billion in 2004, including \$97 billion in lost productivity and \$96 billion in direct health care expenditures, or an average of \$4,260 per adult smoker	<a href="http://www.cdc.gov/mmwr/preview/mmwrhtml/mm5745a3.htm">http://www.cdc.gov/mmwr/preview/mmwrhtml/mm5745a3.htm</a>
Second Hand Smoking	The point estimate closest to significance (p = .11) indicates annual smoking attributable costs equal \$890 in 2003 dollars and approximately 2 percent of total annual neonatal and pediatric health care costs.	<a href="http://www.ncbi.nlm.nih.gov/pubmed/18972984">http://www.ncbi.nlm.nih.gov/pubmed/18972984</a>

The healthcare costs of smokeless tobacco were more difficult to find. Below are several documented disease risks associated with smokeless tobacco use:

1. 80% higher risk of oral cancer (<http://www.drbcusp.com/index.aspx?sec=sup&sub=orc&pag=dis&ItemID=310411>)
2. 60% higher risk of pancreatic and esophageal cancer ( <http://jnci.oxfordjournals.org/content/early/2011/01/12/jnci.djq495/T4.expansion.html> and <http://www.ncbi.nlm.nih.gov/pubmed/22415469>)
3. Cancer of the pharynx (throat) and Cancer of the larynx (voice box) (<http://www.headandneckoncology.org/content/4/1/15>)

In response to this health hazard, the SHP, like many other plan sponsors, instituted the tobacco surcharge. The effective date of the surcharge was January 1, 2010.

While the public health issues surrounding tobacco use are not controversial, the long term economic impact of tobacco use is debated. Barendregt, Bonneaux, van der Maas (New England Journal of Medicine; October 9, 1997) found that:

"Health care costs for smokers at a given age are as much as 40 percent higher than those for nonsmokers, but in a population in which no one smoked the costs would be 7 percent higher among men and 4 percent higher among women than the costs in the current mixed population of smokers and nonsmokers. If all smokers quit, health care costs would be lower at first, but after 15 years they would become higher than at present. In the long term, complete smoking cessation would produce a net increase in health care costs, but it could still be seen as economically favorable under reasonable assumptions of discount rate and evaluation period."

## Analysis and Study Design

Because there is no claim or enrollment based indicator which identifies the form of tobacco used by the member, we are not able to develop cost differentials among the various forms of tobacco. In the event that the SHP enrollment system does capture an attribute that describes the form of tobacco used, such differentials could be developed and reported on.

There are three fundamental sources of information for the remaining cost study:

1. Medical and prescription drug claims data for the SHP population; and
2. Enrollment data for the SHP population; and
3. A current (as of 10/2013) list of subscribers that are currently paying the tobacco surcharge.

To create comparable cohorts of members associated with the tobacco surcharge and those who are not, SHP members who were enrolled in 2007, 2008, 2009, 2010, 2011, and 2012 were identified. No test of continuous enrollment was made during each year. Once the list of continuously enrolled were identified, those members were compared to the list of contracts that are currently assessed the surcharge. It should

be noted that the tobacco surcharge is levied on the entire contract. In other words, if one member of family is a tobacco user, the entire family is assigned to the tobacco cohort. For the purpose of the tobacco surcharge, the SHP enrollment system does not differentiate between family member: it is an all or nothing proposition at the contract level.

On the cohorts were developed, annual summaries of the medical and prescription drug claim expenses for January 1, 2007 to December 31, 2012 were developed. Each member was also assigned to an age / gender group each year so that demographic differences between the tobacco and non tobacco cohorts could be accounted for.

## Results

The following table summarizes the demographically adjusted per capita claim cost of the tobacco and non tobacco cohorts:

Year	Non Tobacco User Per Capita Cost	Tobacco User Per Capita Cost	Tobacco User Relativity
2007	\$2,876.3575	\$2,885.6233	1.00322137
2008	\$2,927.0989	\$2,944.1222	1.00581574
2009	\$3,243.1077	\$3,074.8949	0.948132219
2010	\$3,371.2958	\$3,202.3722	0.949893579
2011	\$3,627.9551	\$3,386.3809	0.933413123
2012	\$4,004.3460	\$3,841.4502	0.959320235

## Discussion

While the results of the analysis are consistent with the findings published in the NEJM, there are a number of potential issues with the analysis:

1. We are concerned that the self reported tobacco usage is understated. Based on the CDC's Behavioral Risk Factor Surveillance System, we would expect approximately 20% of the population to be a tobacco user. Based upon our surcharge statistics, less than 10% of the SHP population is a tobacco user. Assuming the SHP population is consistent with CDC statistics, the non tobacco user claim expenses includes the claim expenses for non reported tobacco users.
2. It is possible that the all or nothing attribution of tobacco use at the contract level is distorting the cost statistics. It would be desirable from an analytic perspective to be making the attribution at a member level.
3. There are a number costs and issues ignored in our approach:
  - a. Productivity
  - b. Quality / length of life
  - c. Other benefit expenses (i.e. disability, life insurance, pension payments)

**PUBLIC EMPLOYEE BENEFIT AUTHORITY**  
**BOARD AGENDA ITEM**  
(Reporting Committee: Retirement Policy Committee)

**Meeting Date:** November 20, 2013

**Tab 9**

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**1. Subject: ORP Plan Document Restatement**

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**2. Summary:**

The ORP Plan Document Restatement includes the following changes:

- a) IRS compliance recommended by Ice Miller in preparation for a determination letter filing for the plan
  - b) Reflect PEBA as the administrator/trustee for the plan rather than SCRS
  - c) Limit unnecessary cross-references to federal law
  - d) Technical/ non-substantive changes
- 

**3. What is Board asked to do?** Approve the proposed ORP Plan Document Restatement as recommended by the FAAC committee.

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**4. Supporting Documents:**

- (a) Attached:
  - 1. ORP Plan Document Restatement Summary
  - 2. ORP Plan Document Restatement

**ORP Plan Restatement  
Side-by-Side Comparison of Amended Provisions**

Plan Section	Current Provision	Amended Provision	Reason/Comments
Preamble	[None]	<p>The State of South Carolina established the South Carolina State Optional Retirement Program pursuant to Section 401(a) of the Internal Revenue Code of 1986 ("IRC") and Section 9-20-10 et seq. of the South Carolina Code of Laws ("Code"). As set forth in Section 9-20-20 of the Code, the purpose of the Program is to enable eligible employees of the State, its agencies, and its institutions of public education, as provided in Sections 9-20-10(2) and 9-20-40 of the Code, to participate in a defined contribution plan authorized by the United States Internal Revenue Code as interpreted and administered by the Internal Revenue Service, thereby permitting such employees to obtain the advantages inherent in such plans relative to the income tax treatment of the contributions and disbursements made pursuant to tax sheltered income deferral plans. The Plan is for the exclusive benefit of Eligible Employees, and their Beneficiaries, of any Participating Employer that participates in the Plan and Trust. The Plan is intended to qualify under IRC Section 401(a) and to be a government plan within the meaning of IRC Section 414(d), and the Trust is intended to be tax-exempt under IRC Section 501(a).</p> <p>The Plan was most recently amended and restated effective January 28, 2010. The Plan is now being amended and restated effective November 20, 2013, except as otherwise provided herein, to include all</p>	Added for current plan restatement

		<p>amendments made since the prior restatement and to make certain other required and desired changes.</p> <p>Except as otherwise specifically provided herein, the Plan as hereinafter set forth establishes the rights and obligations with respect to individuals who are Employees on and after November 20, 2013, and to transactions under the Plan on and after November 20, 2013. The rights and benefits, if any, of individuals who are not Employees on or after such date are determined under the Plan that was in effect on the date that their employment terminated, except as otherwise specifically provided herein or in a subsequent amendment.</p>	
Part 2	Whenever used in the Plan, each of the following terms has the meaning stated below. To the extent that any term is not defined in this part or otherwise by the Plan, such term has the meaning given by Chapter 20 Title 9 of the Code of Laws of South Carolina, 1976, or by the Internal Revenue Code.	Whenever used in the Plan, each of the following terms has the meaning stated below.	Limit cross-references to federal law
2.2	<b>"Applicable Law"</b> means the Law of the United States of America or the state of South Carolina Law that is applicable to the governance or administration of the Plan.	[Deleted]	Limit cross-references to federal law; additional conforming changes made throughout
2.12/2.11	<b>"Designated Service Provider" or "DSP"</b> is a company designated by the Director of the South Carolina Retirement Systems under Code § 9-20-30.	<b>"Designated Service Provider" or "DSP"</b> is a company designated to provide recordkeeping and/or investment services to the Plan pursuant to Code § 9-20-30.	Updated to reflect creation of PEBA
2.26/2.25	<b>"Investment Option"</b> means any investment	<b>"Investment Option"</b> means any investment option	Updated to reflect

	option selected by the DSP in accordance with the Plan's investment policy and approved by the Plan Administrator.	offered in accordance with the Plan's investment policy and approved by the Plan Administrator.	creation of PEBA and potential IPS changes
2.37/2.36	<b>"Plan Administrator"</b> means, consistent with Code § 9-20-30, the South Carolina Retirement System, and includes the DSP with respect to duties delegated to the DSP by the Plan Administrator.	<b>"Plan Administrator"</b> means the South Carolina Public Employee Benefit Authority and includes the DSP with respect to duties delegated to the DSP by the Plan Administrator.	Updated to reflect creation of PEBA
2.45/2.44	<b>"Spouse"</b> means, except for the purposes of IRC § 401(a)(9), the individual that is the Participant's spouse under Applicable Law.	[Deleted]	Limit cross-references to federal law
2.48/2.46	<b>"Trustee"</b> means the South Carolina Retirement Systems.	<b>"Trustee"</b> means the South Carolina Public Employee Benefit Authority.	Updated to reflect creation of PEBA
4.4	<p><b>Contributions limited by IRC § 401(a)(17)</b> In addition to other applicable limits stated by the Plan and notwithstanding any other provision of the Plan to the contrary, the amount of Compensation determined for the purposes of the Contributions to the Plan shall not exceed the limit prescribed by IRC § 401(a)(17) as adjusted each year according to IRC § 401(a)(17)(B).</p> <p>If the Plan Year or applicable period for determining Compensation contains fewer than 12 calendar months, then this Compensation limit is the amount equal to the annual IRC § 401(a)(17) limit for the applicable calendar Year during which the Compensation period begins multiplied by the ratio that is obtained by dividing the number of full months in the period</p>	<p><b>Contributions limited by IRC § 401(a)(17)</b> In addition to other applicable limits stated by the Plan and notwithstanding any other provision of the Plan to the contrary, the amount of Compensation determined for the purposes of the Contributions to the Plan shall not exceed the limit prescribed by IRC § 401(a)(17) as adjusted each year according to IRC § 401(a)(17)(B).</p> <p>Annual Compensation means Compensation during the Plan Year or such other consecutive 12-month period over which Compensation is otherwise determined under the Plan (the determination period). The cost-of-living-adjustment in effect for a calendar year applies to annual Compensation for the determination period that begins with or within such calendar year.</p>	IRS compliance; adds middle paragraph defining "annual compensation"

	by 12.	If the Plan Year or applicable period for determining Compensation contains fewer than 12 calendar months, then this Compensation limit is the amount equal to the annual IRC § 401(a)(17) limit for the applicable calendar Year during which the Compensation period begins multiplied by the ratio that is obtained by dividing the number of full months in the period by 12.	
6.2	<p><b>Vesting rules</b></p> <p>The Plan shall be construed consistently with IRC § 401(a)(7) as in effect on September 1, 1974.</p>	<p><b>Vesting rules</b></p> <p>(a) The Plan shall be construed consistently with IRC § 401(a)(7) as in effect on September 1, 1974. Notwithstanding anything in the Plan to the contrary, a Participant shall be one hundred percent vested in his or her Benefit upon attaining eligibility for a Distribution, and a Participant shall be one hundred percent vested in his or her accumulated Employee Contributions at all times.</p> <p>(b) In the event of a full or partial termination of, or a complete discontinuance of Employer Contributions to the Plan, the Benefits of the affected Participants under Plan shall be one hundred percent vested and nonforfeitable to the extent funded and to the extent required by federal law.</p>	IRS compliance; provides additional detail regarding vesting
10.10	[None]	<p><b>Deferral of Benefits</b></p> <p>A Participant who attains eligibility for a Distribution and continues to be an Employee shall continue to make Employee Contributions and shall continue to receive Employer Contributions, and shall continue to participate under the Plan. Further, a Participant's right to his Account is nonforfeitable as of his attainment of eligibility for a Distribution.</p>	IRS Compliance; clarifies the deferral of benefits after eligibility for a distribution

12.1	<p><b>Direct Rollover of Funds to Other Plans</b>  Consistent with IRC § 401(a)(31), for any Distribution that is an Eligible Rollover Distribution, the Distributee may elect, at the time and in the manner prescribed by the Plan Administrator, to instruct the DSP to have any portion of an Eligible Rollover Distribution paid directly to an Eligible Retirement Plan specified by the Distributee.</p>	<p><b>Direct Rollover of Funds to Other Plans</b>  Consistent with IRC § 401(a)(31), for any Distribution that is an Eligible Rollover Distribution, the Distributee may elect, at the time and in the manner prescribed by the Plan Administrator, to instruct the DSP to have any portion of an Eligible Rollover Distribution paid directly to an Eligible Retirement Plan specified by the Distributee. The Plan shall provide written information to the Distributee regarding Eligible Rollover Distributions no more than 180 days prior to payment of the Eligible Rollover Distribution, to the extent required by IRC § 402(f).</p>	<p>IRS Compliance; adds second sentence regarding providing rollover notices to participants</p>
15.7	<p><b>Governing law</b>  The Plan, and actions under or relating to the Plan, and the statute of limitations for such actions shall be governed by and enforced by the laws of the State of South Carolina and shall be construed, to the extent that any construction beyond the written Plan is necessary, according to the laws of the State of South Carolina or the Internal Revenue Code or other federal law, where applicable.</p>	<p><b>Governing law</b>  The Plan, and actions under or relating to the Plan, and the statute of limitations for such actions shall be governed by and enforced by the laws of the State of South Carolina and shall be construed, to the extent that any construction beyond the written Plan is necessary, according to the laws of the State of South Carolina.</p>	<p>Limit cross-references to federal law</p>
15.24	<p><b>USERRA</b>  Notwithstanding any provisions of this Plan to the contrary, contributions, benefits, and service credits with respect to qualified military service shall be provided in accordance with the Uniformed Services Employment and Reemployment Rights Act of 1994 ("USERRA") and the Heroes Earnings Assistance and Relief Tax Act of 2008 ("HEART"), Code Section 401(a)(37), and Code Section 414(u).</p>	<p><b>USERRA</b>  Notwithstanding any provisions of this Plan to the contrary, contributions, benefits, and service credits with respect to qualified military service shall be provided in accordance with the Uniformed Services Employment and Reemployment Rights Act of 1994 ("USERRA") and the Heroes Earnings Assistance and Relief Tax Act of 2008 ("HEART"), IRC § 401(a)(37), and IRC § 414(u).</p>	<p>IRS Compliance; adds subsections (c) and (e) regarding eligibility for certain distributions as a result of military service</p>

	<p>For purposes of this section, "qualified military service" is defined by federal law but it generally means the performance of duty on a voluntary or involuntary basis in a uniformed service under competent authority and includes active duty, active duty training, initial active duty for training, inactive duty training, full-time National Guard duty, a period for which a person is absent from a position of employment for the purposes of an examination to determine the fitness of the person to perform any such duty, and a period for which a person is absent from employment for the purposes of performing funeral honors duty as authorized by section 12503 or Title 10 to section 115 of Title 32 of the United States Code if such individual is entitled to reemployment rights under USERRA with respect to such service. Uniformed service means the Armed Forces, the Army National Guard and the Air National Guard when engaged in active duty for training, inactive duty training, or full-time National Guard duty, the commissioned corps of Public Health Service, and any other category of persons designated by the President in the time of war or national emergency.</p> <p>An Eligible Employee whose employment is interrupted by qualified military service under Code Section 414(u) or who is on a leave of absence for qualified military service under Code Section 414(u) shall be entitled to receive any employer contributions that he failed to receive</p>	<p>For purposes of this section, "qualified military service" is defined by federal law but it generally means the performance of duty on a voluntary or involuntary basis in a uniformed service under competent authority and includes active duty, active duty training, initial active duty for training, inactive duty training, full-time National Guard duty, a period for which a person is absent from a position of employment for the purposes of an examination to determine the fitness of the person to perform any such duty, and a period for which a person is absent from employment for the purposes of performing funeral honors duty as authorized by section 12503 or Title 10 to section 115 of Title 32 of the United States Code if such individual is entitled to reemployment rights under USERRA with respect to such service. Uniformed service means the Armed Forces, the Army National Guard and the Air National Guard when engaged in active duty for training, inactive duty training, or full-time National Guard duty, the commissioned corps of Public Health Service, and any other category of persons designated by the President in the time of war or national emergency.</p> <p>(a) An Eligible Employee whose employment is interrupted by qualified military service under IRC § 414(u) or who is on a leave of absence for qualified military service under IRC § 414(u) shall be entitled to receive any employer contributions that he failed to receive under the Plan as a result of his military service, provided he returns to employment with the Employer upon receiving an honorable discharge from military service and there is no intervening employment outside of the employment with the</p>	
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	<p>under the Plan as a result of his military service, provided he returns to employment with the Employer upon receiving an honorable discharge from military service and there is no intervening employment outside of the employment with the Employer.</p> <p>Effective January 1, 2009, an Eligible Employee whose employment is interrupted by qualified military service or who is on a leave of absence for qualified military service and who receives a differential wage payment within the meaning of Code Section 414(u)(12)(D) from the Employer will be treated as an Eligible Employee of the Employer and the differential wage payment will be treated as Compensation.</p> <p>Effective January 1, 2007, death benefits payable under the Plan shall be paid in accordance with Code Section 401(a)(37), which provides that in the case of an Eligible Employee who dies while performing qualified military service (as defined in Code Section 414(u)), the survivors of the Eligible Employee are entitled to any additional benefits (other than benefit accruals relating to the period of qualified military service) provided under the Plan had the Eligible Employee resumed and then terminated employment with the Employer on account of death.</p>	<p>Employer.</p> <p>(b) Effective January 1, 2009, an Eligible Employee whose employment is interrupted by qualified military service or who is on a leave of absence for qualified military service and who receives a differential wage payment within the meaning of IRC § 414(u)(12)(D) from the Employer will be treated as an Eligible Employee of the Employer and the differential wage payment will be treated as Compensation.</p> <p>(c) Effective January 1, 2009, notwithstanding subsection (b) above, an individual who receives a differential wage payment within the meaning of IRC § 414(u)(12)(D) from a Participating Employer shall be treated as having a severance from employment during any period the individual is performing qualified military service (as defined in IRC § 414(u)) for purposes of taking a Distribution from the Plan.</p> <p>(d) Effective January 1, 2007, death benefits payable under the Plan shall be paid in accordance with IRC § 401(a)(37), which provides that in the case of an Eligible Employee who dies while performing qualified military service (as defined in IRC § 414(u)), the survivors of the Eligible Employee are entitled to any additional benefits (other than benefit accruals relating to the period of qualified military service) provided under the Plan had the Eligible Employee resumed and then terminated employment with the Employer on account of death.</p> <p>(e) Notwithstanding anything in the Plan to the</p>	
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		<p>contrary, a Participant who is a reservist or national guardsman (as defined in 37 U.S.C. § 101(24)), and who was ordered or called to active duty, after September 11, 2001, for a period in excess of 179 days or for an indefinite period may request, during the period beginning on the date of the order or call to duty and ending at the close of the active duty period, a Distribution of all or part of his or her Account attributable to Contributions. The Distribution shall be paid to the Participant as promptly as practicable after the Plan Administrator receives the Participant's request. If the Participant's interest in the Trust Fund is invested in more than one of the separate Investment Options maintained under the Plan, a withdrawal of less than the complete balance of the interest shall be withdrawn pro rata from each applicable Investment Option.</p>	
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**AMENDMENT TO THE STATE OF SOUTH CAROLINA  
STATE OPTIONAL RETIREMENT PROGRAM  
PLAN DOCUMENT**

WHEREAS, the Board of Directors of the South Carolina Public Employee Benefit Authority (“Board”) has the responsibility and authority to modify or amend in whole or in part any or all of the provisions of the State Optional Retirement Program Plan Document (“Plan”); and,

WHEREAS, the Board adopted amendments to the Plan at its meeting on November 20, 2013, to be effective on that date, and directed that the Plan document be restated to incorporate those amendments and all prior amendments subsequent to the last restatement of the Plan on January 28, 2010; and,

WHEREAS, the Board reviewed the amended and restated Plan document at its meeting on November 20, 2013, and has authorized the Chairman of the Board to execute the amended and restated Plan document on its behalf;

NOW, THEREFORE, BE IT RESOLVED that the Plan, as amended and restated effective November 20, 2013, shall read as follows:

**STATE OF SOUTH CAROLINA  
STATE OPTIONAL RETIREMENT PROGRAM  
PLAN DOCUMENT**

Amended and Restated Effective November 20, 2013

**PREAMBLE**  
**AMENDMENT AND RESTATEMENT OF PLAN**

The State of South Carolina established the South Carolina State Optional Retirement Program pursuant to Section 401(a) of the Internal Revenue Code of 1986 (“IRC”) and Section 9-20-10 et seq. of the South Carolina Code of Laws (“Code”). As set forth in Section 9-20-20 of the Code, the purpose of the Program is to enable eligible employees of the State, its agencies, and its institutions of public education, as provided in Sections 9-20-10(2) and 9-20-40 of the Code, to participate in a defined contribution plan authorized by the United States Internal Revenue Code as interpreted and administered by the Internal Revenue Service, thereby permitting such employees to obtain the advantages inherent in such plans relative to the income tax treatment of the contributions and disbursements made pursuant to tax sheltered income deferment plans. The Plan is for the exclusive benefit of Eligible Employees, and their Beneficiaries, of any Participating Employer that participates in the Plan and Trust. The Plan is intended to qualify under IRC Section 401(a) and to be a government plan within the meaning of IRC Section 414(d), and the Trust is intended to be tax-exempt under IRC Section 501(a).

The Plan was most recently amended and restated effective January 28, 2010. The Plan is now being amended and restated effective November 20, 2013, except as otherwise provided herein, to include all amendments made since the prior restatement and to make certain other required and desired changes.

Except as otherwise specifically provided herein, the Plan as hereinafter set forth establishes the rights and obligations with respect to individuals who are Employees on and after November 20, 2013, and to transactions under the Plan on and after November 20, 2013. The rights and benefits, if any, of individuals who are not Employees on or after such date are determined under the Plan that was in effect on the date that their employment terminated, except as otherwise specifically provided herein or in a subsequent amendment.

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# **1. Establishment of Plan**

## **1.1. Plan established**

This document states the provisions of the retirement Plan established by Section 9-20-20 of the South Carolina Code of Laws, and establishes a Trust for the Plan assets. The provisions of Section 9-20-10 et seq. of the Code are incorporated into the Plan as if fully set out in this document.

## **1.2. Exclusive benefit**

The Plan and Trust are established for the exclusive benefit of Participants and their Beneficiaries. Consistent with IRC § 401(a)(2), no amount held under the Plan will ever inure to the benefit of the Plan Sponsor, any Employer, the Plan Administrator, or any successor of any of them, and all Plan investments and amounts will be held for the exclusive purpose of providing Benefits to the Plan's Participants and their Beneficiaries. Notwithstanding anything in the Plan to the contrary, it will be impossible at any time before the satisfaction of all liabilities to Participants, Beneficiaries, and Alternate Payees for any part of the Plan assets to be used for or diverted to purposes other than for the exclusive benefit of Participants, Beneficiaries, and Alternate Payees, except that payment of taxes and administration expenses may be made from the Plan assets as provided by the Plan or permitted by law.

## **1.3. Qualified plan**

The Plan Administrator intends to (but is not required to or obligated to) maintain the Plan as a plan that qualifies for favorable federal income tax treatment under Internal Revenue Code ("IRC") § 401(a).

### **1.3.1 Profit Sharing Plan**

For purposes of the Internal Revenue Code, the Plan is a profit sharing plan under IRC § 401(a)(27). However, all contributions to the Plan may be made without regard to profits for the taxable year.

## **1.4. Individual account plan**

The Plan is an individual account plan which provides for an individual Account for each Participant and for Benefits based solely upon the amount of Contributions, investment gains and losses, Fees, and expenses allocated to the Participant's Account.

## **1.5. ERISA does not apply**

The United States Code provisions created by Title I of the Employee Retirement Income Security Act of 1974 ("ERISA") do not apply to this Plan.

## **1.6. Governmental plan rules**

The Plan is a Governmental Plan within the meaning of 29 U.S.C. § 1002(32) and IRC § 414(d).

## **1.7. No third-party beneficiary**

The Plan Sponsor and each Employer does not intend by any of the Plan's provisions to make any Person other than a Participant, an Alternate Payee designated by a Qualified Domestic

Relations Order, or a Beneficiary under the Plan following the death of the Participant a third-party Beneficiary of the Plan. Further, nothing in the Plan can be construed or interpreted to authorize any Person other than a Participant, Alternate Payee, or Beneficiary after the Participant's death to maintain any cause of action under or relating to the Plan. The duties, obligations, and responsibilities of the Plan Administrator and each Employer concerning third parties will remain solely as imposed by law.

## **2. Definitions**

Whenever used in the Plan, each of the following terms has the meaning stated below.

### **2.1. "Account"**

means the total of the individual sub-Account(s) maintained on behalf of each Participant, Beneficiary, or Alternate Payee under the Investment Option(s) held pursuant to the Plan. The following sub-accounts shall be maintained by the DSPs: an Employer Account to which Employer Contributions shall be credited; an Employee Account to which Employee Contributions shall be credited; and a Rollover Account to which rollovers shall be credited.

#### **2.1.1 Separate Beneficiary Accounts**

If the Participant designates more than one Beneficiary, after the death of the Participant and upon the written request of any Beneficiary or upon an approved claim payable to any Beneficiary and not all Beneficiaries, the DSP shall, to the extent permitted by the Investment Option, maintain a separate Account with respect to the interest of each Beneficiary, beginning as of the next Valuation Date that occurs after the Beneficiary's request or claim is received by the DSP.

### **2.2. "Applicable Form"**

means the appropriate form as designated and furnished by the Plan Administrator or DSP to make an election or provide a notice as required by the Plan, including a form in electronic medium with an electronic signature in compliance with E-SIGN.

**2.2.1 "E-SIGN"** means 114 Statutes 464, Public Law 106-229 - the Federal Electronic Signatures in Global and National Commerce Act.

**2.2.2 "Electronic"** means, consistent with E-SIGN § 105(3), of or relating to technology having electrical, digital, magnetic, optical, electromagnetic, or similar capabilities regardless of medium.

**2.2.3 "Electronic Signature"** means, consistent with E-SIGN § 105(2), information or data in Electronic form, attached to or logically associated with an Electronic Record, and executed or adopted by a Person or an Electronic Agent of a Person, with the intent to sign a contract, agreement, or record.

### **2.3. "Alternate Payee"**

means a Person who is an alternate payee (within the meaning of IRC § 414(p)(8)) under an order directed to the Plan that the Plan Administrator or DSP has determined to be a Qualified Domestic Relations Order.

**2.4. "Annuity Payout Option"**

means a Payout Option which includes a provision for payments based, in whole or in part, upon the life of a natural person.

**2.5. "Beneficiary"**

means each Person a Participant designates by a valid Beneficiary Designation to receive any undistributed Benefit payable on or after the Participant's death.

**2.6. "Beneficiary Designation"**

means a valid and effective Beneficiary Designation made according to Part 7.

**2.7. "Benefit"**

refers to the right under this Plan of the Participant (or Beneficiary or other payee) to receive a Distribution of all or any portion of the Participant's Account.

**2.8. "Code"**

means the South Carolina Code of Laws.

**2.9. "Compensation"**

means all wages, salaries, fees, and other amounts paid to the Employee by the Employer for personal services actually rendered in the course of employment with the Employer and used as a basis for Employee and Employer contributions.

**2.9.1 Interpretation**

The term "Compensation" shall be interpreted by the Plan Administrator consistent with the interpretation of that term under the Pension Plan.

**2.10. "Contributions"**

means Contributions under the provisions of this Plan, including Employee Contributions and Employer Contributions.

**2.11. "Designated Service Provider" or "DSP"**

is a company designated to provide recordkeeping and/or investment services to the Plan pursuant to Code § 9-20-30.

**2.12. "Direct Rollover"**

means a payment under the Plan to an Eligible Retirement Plan specified by the Distributee.

**2.13. "Distributee"**

means any Person who receives, or but for his/her instruction to the Plan Administrator is entitled to receive, a Distribution.

A Distributee includes an Alternate Payee to whom the Plan Administrator is directed to make a payment under a Qualified Domestic Relations Order.

**2.14. "Distribution"**

means, as appropriate in the context, any kind of Distribution or the particular kind of Distribution provided by the Plan.

**2.15. "Distribution Commencement Date"**

means the first date on which a Distribution (or any payment under a Distribution) is paid or becomes payable.

**2.16. "Effective Date"**

means July 1, 2002.

**2.17. "Eligible Employee"**

has the meaning provided in Code §§ 9-20-10(2) and 9-20-40.

**2.18. "Employee Contribution"**

means those Contributions required from the Participant under Code § 9-20-50.

**2.19. "Employer"**

has the meaning provided in Code § 9-20-10(1).

**2.20. "Employer Contributions"**

means those Contributions made by the Employer under Code § 9-20-50.

**2.21. "Enabling Statute"**

means Chapter 20 of Title 9 of the South Carolina Code of Laws.

**2.22. "Fees"**

means any fees required or permitted to be charged against the Participant's (or Beneficiary's or Alternate Payee's) Plan Account according to (any one or more of the following): the Plan, the Trust, the Participation Agreement, an Investment Option including redemption fees, an investment advisory agreement, any other writing signed by the Participant (or, after the Participant's death, the Beneficiary), any written notice given by or on behalf of the Plan Administrator or the Trustee that is accepted or deemed accepted by the Participant (or Beneficiary), or any court order. Additionally, the Plan Administrator may impose fees to pay for expenses it deems proper to administer the Plan. The fees may be charged to the Participants' Accounts according to an equitable method determined by the Plan Administrator.

**2.23. "Fiduciary"**

means a Person that is a fiduciary of the Plan pursuant to applicable law.

**2.24. "Internal Revenue Code" or "IRC"**

means the Internal Revenue Code of 1986, as amended, and including any Regulations and rulings (or other guidance of general applicability) under the IRC, as applicable to a governmental plan as defined by IRC § 414(d).

**2.25. "Investment Option"**

means any investment option offered in accordance with the Plan's investment policy and approved by the Plan Administrator.

**2.26. "Investment Law"**

means, as applicable or relevant in the context, any federal or State banking law, insurance law, securities law, and other rules of the National Association of Securities Dealers, Inc. ("NASD")

and the rules of the NYSE and of any stock exchange or commodities exchange, to the extent approved or not disapproved by the SEC.

**2.27. "NYSE"**

means the New York Stock Exchange.

**2.28. "Participant"**

means an Eligible Employee (or former Eligible Employee) who made a State ORP Election and for whom Contributions under the Plan have been made or accrued and whose Account has not been fully distributed under the Plan.

**2.29. "Participation Agreement"**

means the Applicable Form that states the Participant's State ORP Election and such other information as the Plan Administrator may prescribe for the efficient or convenient administration of the Plan.

**2.30. "Payout Option"**

means any, except as limited below, of the annuity options or other options for payment that is available under the applicable Plan Investment Option.

**2.30.1 No gender-distinct tables**

A Payout Option shall not be based on gender-distinct actuarial tables.

**2.30.2 Plan requirements**

A Payout Option must satisfy all applicable provisions of the Plan, including (but not limited to) ¶ 10.2.

**2.31. "Pension Plan"**

means the South Carolina Retirement System defined benefit plan provided by Chapter 1 of Title 9 of the Code.

**2.32. "Person"**

means a natural person, a corporation, a limited liability company, an unincorporated association, a partnership, a joint venture, a business trust, the Plan Administrator, or anything that is a person within the meaning of applicable law.

**2.33. "Personal Representative"**

means the Person duly appointed by an order of the court (or of a registrar or administrator under the court's supervision) having jurisdiction over the estate of the Participant that grants the Person the authority to receive the property of the deceased Participant and to act as the personal representative of the Participant's probate estate.

**2.34. "Plan"**

means South Carolina State Optional Retirement Program provided by the Enabling Statute, as stated by this Plan document.

**2.35. "Plan Sponsor"**

means the State of South Carolina.

**2.36. "Plan Administrator"**

means the South Carolina Public Employee Benefit Authority and includes the DSP with respect to duties delegated to the DSP by the Plan Administrator.

**2.37. "Plan Procedure"**

means any written procedure adopted by or with the consent of the Plan Administrator.

**2.38. "Qualified Domestic Relations Order" or "QDRO"**

means a domestic relations order directed to the Plan that creates or recognizes the existence of the right of an Alternate Payee to receive all or a portion of any Benefit payable to a Participant under the Plan and that further meets all requirements for a qualified domestic relations order stated by IRC § 414(p) as applied to a Governmental Plan and Part 8.

**2.39. "QDRO Distribution"**

means a Distribution to an Alternate Payee required or permitted following a QDRO.

**2.40. "Retirement System Law"**

means those provisions of Title 9 of the Code that apply generally to the Plan Administrator's management or administration of the Pension Plan or this Plan.

**2.41. "Rollover Distribution"**

means any Eligible Rollover Distribution that is to be paid directly into an eligible retirement plan as a rollover under IRC § 402(a).

**2.42. "SEC"**

means and refers to the Securities and Exchange Commission, an agency of the government of the United States of America, established by Section 4(a) of the federal Securities Exchange Act of 1934.

**2.43. "Severance from Employment"**

means the date the Participant terminates employment with an Employer with no obligation for future services to be performed for an Employer in the plan by the Participant.

**2.43.1 Certificate from Employer**

The Plan Administrator is entitled to rely upon the date of Severance from Employment certified by the Employer.

**2.44. "State"**

means the State of South Carolina unless the context clearly indicates otherwise.

**2.45. "Trust"**

means and refers to the legal entity and the legal relationship created by ¶ 1.2 and pursuant to Part 18. Consistent with IRC § 401(a)(2), the Trust must be solely for the purposes of the Plan and consistent with ¶ 1.2

**2.46. "Trustee"**

means the South Carolina Public Employee Benefit Authority.

### **2.47. "Valuation Date"**

means any day on which both the NYSE is open for regular trading and the applicable DSP is open for regular business at its principal office.

A Valuation Day ends at the earliest of

- 4:00 p.m. New York time,
- the time that the NYSE closes trading, or
- the time that any Investment Option must value its assets and price its Shares.

In addition, the Plan Administrator may make reasonable rules governing the time of day after which an instruction will be treated as received on the next Valuation Day.

### **2.48. "Year"**

The Plan Year is each twelve-month period ended June 30. The limitation year is the calendar Year. The Plan Administrator shall be entitled to rely on the assumption that a Participant's taxable year is the calendar Year, unless the Participant gives written notice specifying his or her taxable year.

## **3. Participation in the Plan**

### **3.1. State ORP Election**

A State ORP election is made in accordance with Code § 9-20-40(A).

### **3.2. Form of State ORP Election**

An election under ¶ 3.1 must be made on the Applicable Form and filed with the Plan Administrator and the appropriate officer of the Employer.

### **3.3. Effective time of State ORP Election**

An election to participate in this Plan is effective on the Participant's first date of paid employment with an Employer under Code § 9-20-10(1) or the Effective Date.

### **3.4. State ORP Election is irrevocable**

The election to participate in this Plan is irrevocable, except as provided by ¶ 3.5.

### **3.5. Election to transfer to Pension Plan**

A Participant may elect to transfer to the Pension Plan as prescribed by Code § 9-20-40(B).

### **3.6. Election to transfer from a DSP to another DSP**

A Participant may elect to transfer to a different DSP during open enrollment as provided by Code § 9-20-10(4). However, the Participant may only elect a single DSP during open enrollment for Contributions to be made to the Plan. The Participant may transfer his or her account from the former DSP to the current DSP at any time.

### **3.7. Effect of non-communication**

An Eligible Employee who has not made the election permitted by ¶ 3.1 within the required time is deemed to have elected membership in the Pension Plan. An Eligible Employee who has not made the election permitted by ¶ 3.5 within the required time is deemed to have irrevocably elected to participate only in this Plan.

## **4. Contributions**

### **4.1. Employer Contributions**

For each Participant, the Employer shall make Employer Contributions in the amount provided by Code § 9-20-50.

#### **4.1.1 Delinquent Contributions**

The Plan Administrator may adopt rules and procedures to address delinquent contributions.

### **4.2. Employee Contributions**

Each Participant shall make Employee Contributions in the amount provided by Code § 9-20-50.

#### **4.2.1 Pick-up**

Each Employer shall pick-up Employee Contributions for all Compensation paid after the Effective Date. The Employee Contributions so picked up shall be treated as Employer Contributions pursuant to IRC § 414(h)(2). The Employer shall pay the picked up contributions directly to the Plan Administrator, instead of paying such amounts to the Participants, and such contributions shall be paid from the same funds that are used in paying salaries to Participants. Such Contributions, although designated as Employee Contributions, shall be paid by the Employer in lieu of Contributions by Participants. Participants may not elect to receive such Contributions directly instead of having them paid by the Employer to the Plan. Employer Contributions so picked up shall be treated for all purposes of the Plan and State law, other than federal tax law, in the same manner as Employee Contributions made without a pick-up.

### **4.3. Allocation of Contributions to Participant's Account**

Each DSP shall credit to each Participant's Account the Contributions actually received with respect to the Participant.

### **4.4. Contributions limited by IRC § 401(a)(17)**

In addition to other applicable limits stated by the Plan and notwithstanding any other provision of the Plan to the contrary, the amount of Compensation determined for the purposes of the Contributions to the Plan shall not exceed the limit prescribed by IRC § 401(a)(17) as adjusted each year according to IRC § 401(a)(17)(B).

Annual Compensation means Compensation during the Plan Year or such other consecutive 12-month period over which Compensation is otherwise determined under the Plan (the

determination period). The cost-of-living-adjustment in effect for a calendar year applies to annual Compensation for the determination period that begins with or within such calendar year.

If the Plan Year or applicable period for determining Compensation contains fewer than 12 calendar months, then this Compensation limit is the amount equal to the annual IRC § 401(a)(17) limit for the applicable calendar Year during which the Compensation period begins multiplied by the ratio that is obtained by dividing the number of full months in the period by 12.

#### **4.5. Plan to satisfy limit on annual additions**

(a) To the extent required under IRC § 415(c), in no event shall the “annual addition,” as defined in this Section for a Participant for any Plan Year, exceed the lesser of:

- (1) Forty Thousand Dollars (\$40,000), as adjusted, or
- (2) One hundred percent (100%) of the “compensation,” as defined in this Section, of such Participant received during the Plan Year.

(b) For purposes of this ¶ 4.5 and subject to IRC § 415(h), all defined contribution plans of each Employer are to be treated as a single defined contribution plan.

(c) If the annual addition for a Participant under the Plan, determined without regard to the limitation of paragraph (a), would have been greater than the annual addition of such participant as limited by paragraph (a), then the excess shall be corrected as permitted under the Employee Plans Compliance Resolution System (or similar Internal Revenue Service correction program).

(d) For purposes of this ¶ 4.5, “annual addition” means the annual addition as defined in IRC § 415(c) and as modified in IRC §§ 415(l)(1) and 419A(d)(2). In general, IRC § 415(c) defines the annual addition as the sum of the following amounts credited to a Participant’s Accounts for the limitation year under this Plan and any other qualified defined contribution plan maintained by an Employer:

- (1) Employer contributions; and
- (2) Employee contributions.

(e) For purposes of this ¶ 4.5, the following types of contributions are not Employer contributions and are not “annual additions”:

- (1) The restoration of an Employee’s accrual benefit, or any other restoration, by the Employer in accordance with IRC § 411(a)(3)(D) or IRC § 411(a)(7)(C) will not be considered an annual addition for the limitation year in which the restoration occurs.
- (2) The transfer of funds from one qualified plan to another will not be considered an annual addition for the limitation year in which the transfer occurs.

(f) For purposes of this ¶ 4.5, the following types of contributions are not treated as Employee contributions and are not “annual additions”:

- (1) Rollover contributions.
- (2) Repayments of amounts described in IRC § 411(a)(7)(B).
- (3) The direct transfer of employee contributions from one qualified plan to another.

(g) For purposes of this ¶ 4.5, “compensation” means compensation as defined in IRC § 415(c)(3) and shall not exceed the annual limit under IRC § 401(a)(17). In general, IRC § 415(c)(3) defines compensation as all of a Participant’s wages as defined in IRC § 3401(a) for the purposes of income tax withholding at the source but determined without regard to any rules that limit the remuneration included in wages based on the nature or location of the employment or the services performed (such as the exception for agricultural labor in IRC § 3401(a)(2)); provided, however, compensation shall also include the amount of any elective deferrals, as defined in IRC § 402(g)(3), and any amount contributed or deferred by the Employer at election of the Employee and which is not includible in the gross income of the Employee by reason of IRC § 125, 132(f), or 457. “Compensation” for purposes of this Section shall not include any picked-up Employee contributions to this Plan.

Further, payments made within the later of (i) 2½ months after Severance from Employment, or (ii) the end of the limitation year that includes the Severance from Employment date will be taken into account in determining compensation for allocations if they are payments that, absent a Severance from Employment, would have been paid to the Participant while the Participant continued in employment with the Employer and are:

- (1) regular compensation for services during the Participant’s regular working hours, or compensation for services outside the Participant’s regular work hours (such as overtime or shift differential), commissions, bonuses, or other similar payments, and the compensation would have been paid to the Participant prior to a Severance from Employment if the Participant had continued employment with the Employer; or
- (2) payments for up to 45 days of unused annual leave but only if the Participant would have been able to use the leave if employment had continued; or
- (3) payments pursuant to a nonqualified unfunded deferred compensation plan, but only if the payments would have been paid to the Participant at the same time if the Participant had continued employment with the Employer and only to the extent that the payment is includible in the Participant’s gross income.

Any payments not described above are not considered compensation if paid after Severance from Employment, even if they are paid within 2½ months following Severance from Employment, except for payments to the individual who does not currently perform services for

the Employer by reason of qualified military service (within the meaning of IRC § 414(u)(1)) to the extent these payments do not exceed the amounts the individual would have received if the individual had continued to perform services for the Employer rather than entering qualified military service.

A Corrective Distribution includes (but is not limited to) a corrective disbursement under Treasury Reg. § 1.415-6(b)(6) or IRS Rev. Proc. 92-93.

#### **4.5.1 Corrective Distributions**

The amounts corrected by a Corrective Distribution are disregarded for all purposes of the Plan, except as otherwise expressly provided by the Plan. A Corrective Distribution cannot be counted as a required minimum distribution under IRC § 401(a)(9). A Corrective Distribution is not an Eligible Rollover Distribution.

## **5. Investments and Investment direction**

### **5.1. Participant's duty of investment direction**

Each Participant (and, when applicable, each Beneficiary or Alternate Payee) shall, subject to the requirements of applicable Investment Law and any procedures established by each DSP (with the approval of the Plan Administrator), direct the investment of his Account(s). Accounts may only be invested in those Investment Options offered by the DSP.

### **5.2. Procedure for giving investment direction**

The Participant, Beneficiary, or Alternate Payee must give his or her investment direction according to the provisions of this Plan, including any procedure or Applicable Form required by the DSP (with the approval of the Plan Administrator).

### **5.3. Reasonable frequency**

The Plan Administrator or the DSP with the consent of the Plan Administrator and each Investment Option may, but only on a uniform and consistent basis, impose reasonable restrictions on the frequency with which a Participant, Beneficiary, or Alternate Payee may give investment directions. In addition to such restrictions, a Participant, Beneficiary, or Alternate Payee may not give more than one investment direction in any Valuation Day, therefore, the latest investment direction in a Valuation Day cancels all earlier inconsistent investment directions in that Valuation Day.

Redemption fees may be imposed by an Investment Option and will be charged to the Participant in accordance with the Investment Option's written policy.

### **5.4. Who directs investment**

During the Participant's life, the Participant shall direct the investment of his Account. After the Participant's death, the Beneficiary shall direct the investment of that Beneficiary's separate Account. If following a QDRO the Plan Administrator maintains a separate Account for the Alternate Payee, the Alternate Payee will direct investments of that separate Account. During the Participant's, Beneficiary's, or Alternate Payee's disability or incompetence, investments

shall be directed by the Person that is the court appointed and currently serving conservator or guardian of the estate of the Participant, or if there is no conservator or guardian, the Person who has authority to act for the Participant under a power-of-attorney accepted by the Plan Administrator according to ¶15.16.

A Participant, Beneficiary, or Alternate Payee may authorize an agent or attorney-in-fact to direct investment for all of his Account by giving written notice acceptable to the Plan Administrator and furnishing a power-of-attorney that is accepted by the DSP.

**5.5. Investment direction must be on applicable form**

Each investment direction shall be on the Applicable Form and shall not be proper unless it is signed by the Participant, Beneficiary, or Alternate Payee.

**5.6. Proper Person to receive investment direction**

The Participant, Beneficiary, or Alternate Payee shall give his investment direction only as permitted by a procedure adopted by the Plan Administrator. Only the DSP has authority to accept an investment direction and any direction is effective only when received.

**5.7. Plan Administrator not responsible**

Except as provided by ¶ 5.8, the DSP must accept every proper investment direction, and the DSP is obligated to comply with such proper investment direction.

If any Person (including a DSP) provides any investment education or investment information or investment advice of any kind, the Plan Administrator and the Trustee shall not be liable for any loss or liability arising out of such investment education or investment information or investment advice.

**5.8. Failure to give investment direction**

If at any time a Participant, Beneficiary, or Alternate Payee fails to exercise his duty of investment direction (or an investment direction is refused), the Plan Administrator shall, to the extent of the failure of proper investment direction, cause the Account to be invested according to the default fund approved by the Plan Administrator.

**5.9. Expenses of investment direction**

The Plan Administrator and each DSP may charge the Participant's, Beneficiary's, or Alternate Payee's Account for the expenses of executing his or her investment direction. If such expenses are so charged, the Plan Administrator or the DSP shall inform the Participant, Beneficiary, or Alternate Payee of the charges. Any expenses charged by a DSP must be approved by the Plan Administrator.

**5.10. Relieved from fiduciary responsibility**

To the extent of the Participant's, Beneficiary's, or Alternate Payee's investment direction, the Plan Administrator and the Trustee are relieved of any fiduciary responsibility and every kind of liability, and are not responsible for any damage or loss or expense or other claim which may arise from any Participant's, Beneficiary's, or Alternate Payee's investment direction or exercise of control (or failure to exercise his duty of investment direction and control).

## **6. Vesting**

### **6.1. Immediate vesting**

A Participant's interest in his Account shall immediately become and shall at all times remain fully vested and non-forfeitable.

### **6.2. Vesting rules**

(a) The Plan shall be construed consistently with IRC § 401(a)(7) as in effect on September 1, 1974. Notwithstanding anything in the Plan to the contrary, a Participant shall be one hundred percent vested in his or her Benefit upon attaining eligibility for a Distribution, and a Participant shall be one hundred percent vested in his or her accumulated Employee Contributions at all times.

(b) In the event of a full or partial termination of, or a complete discontinuance of Employer Contributions to the Plan, the Benefits of the affected Participants under Plan shall be one hundred percent vested and nonforfeitable to the extent funded and to the extent required by federal law.

## **7. Beneficiary**

### **7.1. Participant's power to designate his or her Beneficiary**

A Participant's right to designate his or her Beneficiary is limited by ¶ 7.2.1 and by all provisions of this Part.

#### **7.1.1 Beneficiary Designation power is personal to the Participant**

After the Participant's death, no Person will have any right or power to designate a Beneficiary or change any Beneficiary (except a Beneficiary's disclaimer of his, her, or its Benefit as permitted by ¶ 13.10). Any attempt to state such a provision in a Beneficiary Designation or otherwise is void.

### **7.2. Beneficiary Designation**

At any time before his or her death, a Participant may designate a Beneficiary or Beneficiaries, subject to the Plan's provisions. The Participant will have the right to change his or her Beneficiary Designation at any time, subject to the Plan's provisions.

A Beneficiary Designation must be on the Applicable Form. A Beneficiary Designation is not effective until the DSP accepts it. Each Beneficiary Designation completely revokes and cancels any and every previous beneficiary designation.

#### **7.2.1 Participant must designate a Beneficiary by name**

A Participant must designate each Beneficiary by name. A Participant cannot designate a Beneficiary by relationship or by class, and any such attempted beneficiary designation is void. Notwithstanding the preceding sentence, if the Plan Administrator finds that a Beneficiary Designation sufficiently describes a trust, the Plan Administrator may

construe the Beneficiary Designation as naming the duly appointed and currently acting trustee of that trust. Likewise, if the Plan Administrator finds that a Beneficiary Designation sufficiently describes an estate, the Plan Administrator may construe the Beneficiary Designation as naming the duly appointed and currently acting Personal Representative of that estate.

Any statement in a Beneficiary Designation attempting to state or create a condition or restriction on the Beneficiary's receipt or enjoyment of any Benefit is invalid and the Beneficiary is entitled to the Benefit without regard to any attempted condition or restriction.

Notwithstanding anything to the contrary in any Beneficiary designation in the Participation Agreement or any other document or otherwise (including any court order), any designation of a Beneficiary cannot be irrevocable and any such designation will be construed as a revocable designation of that Beneficiary.

If the Participant designates as Beneficiary more than one Person, all Persons of the same Beneficiary Designation (primary or contingent) have equal shares, unless the Participant specifies otherwise. "Per Stirpes" designations are not allowed.

If a Beneficiary Designation divides a Benefit between or among two or more Beneficiaries, the primary Beneficiary Designation must allocate the share of each such Beneficiary solely by specifying a percentage of the Participant's Account and the contingent Beneficiary Designation must allocate the share of each such Beneficiary solely by specifying a percentage of the Participant's Account. Without limiting the comprehensive effect of the preceding sentence, any division of any Benefit under a Beneficiary Designation will be ineffective to the extent that it would ask the Plan Administrator to consider any fact other than the amount of the Participant's Account.

#### **7.2.2 Substantial-compliance doctrine**

Any common-law doctrine or construction or interpretation principle of substantial compliance with the rules for making a beneficiary designation or nomination (or under the Law of contracts generally) will not apply to the Plan.

### **7.3. Construction of Beneficiary Designation**

A Beneficiary Designation will be construed according to the following provisions.

#### **7.3.1 Ignore any description of relationship**

Any statement in a Beneficiary Designation referring to a Beneficiary's relationship to the Participant is for convenience or information only, and has no effect in the construction or interpretation of the Beneficiary Designation.

#### **7.3.2 Dispose the full Account**

A Beneficiary Designation will be construed to dispose all the remaining Plan Account and all Benefits. For example, if a Beneficiary Designation specifies shares that total less than 100 percent of the Benefit, the Plan Administrator may adjust the shares pro rata so that the shares equal 100 percent.

### **7.3.3 Construe with Uniform Probate Code**

Except as otherwise provided by the Plan, a Beneficiary Designation that uses a term or phrase that would have significance in construing or interpreting a conveyance or disposition of a decedent's estate will, except as otherwise specified by the Participant, be construed or interpreted according to the Uniform Probate Code (without regard to the Participant's domicile at the time he or she made the Beneficiary Designation or at the time of his or her death). Likewise, if a Beneficiary Designation remains ambiguous after applying all provisions and construction rules stated by this Plan but would be resolved by applying the rules of construction and interpretation of the Uniform Probate Code for construing a beneficiary designation or conveyance, such rules will apply to the Beneficiary Designation, except as otherwise provided by the Plan. Notwithstanding the preceding sentences, the Plan Administrator will not give effect to any Uniform Probate Code provision concerning the effect of divorce or marital separation. Also, the Plan Administrator will not give effect to any Uniform Probate Code provision or any construction or interpretation principle that would require the Plan Administrator to consider information not in the Plan's Records.

### **7.4. Beneficiary must be alive when the Distribution becomes payable**

Notwithstanding any Beneficiary Designation or any law to the contrary, a Person will not be a Beneficiary unless he or she is living or it exists when the Distribution otherwise would become payable. Further, a Person that would receive a Distribution as a trustee or other fiduciary will not be a Beneficiary unless the Person that the trustee or fiduciary serves is living or exists when the Distribution would become payable. Any right of a Beneficiary is strictly personal to that Beneficiary and lapses on his or her death or its non-existence. Any undistributed Benefit that would have been distributable to a Person had he or she lived or it existed is not distributable to that Person's legatees or heirs. On a Beneficiary's death, any undistributed Benefit attributable to that Beneficiary becomes distributable to the remaining primary Beneficiaries or Beneficiary if any, or if none, to the remaining contingent Beneficiaries or Beneficiary, in each case to be distributable in equal shares to all living Beneficiaries of the applicable primary or contingent Beneficiary class.

### **7.5. Marriage or status has no effect**

Notwithstanding any State law to the contrary, a marriage, civil union, or domestic partnership, or a divorce, dissolution, annulment, revocation, or other end of a marriage, civil union, or domestic partnership, or any other creation, interruption, or end of a spouse, or other family relationship has no effect concerning whether a Person is (or is not) a Beneficiary.

### **7.6. Lack of Beneficiary designation**

If a Participant failed to designate a Beneficiary (including a failure because the Participant's beneficiary designation is invalid or ineffective) or no Beneficiary designated by the Participant is living or exists when the Distribution otherwise would become payable, the Participant's estate is the Beneficiary to the extent of the failure or invalid or ineffective designation. For the purposes of this Provision, the Plan Administrator may rely on an appropriate court order or the Personal Representative's written statement as to the identity (including name, address, and Taxpayer Identifying Number under IRC § 6109) of and shares allocable to the Persons entitled to such estate.

### **7.7. A slayer cannot be a Beneficiary**

A named beneficiary who feloniously and intentionally kills the Participant or Beneficiary is not a Beneficiary and is not entitled to any Distribution or any other right under the Plan; and any Benefit is available as though the killer had predeceased the Participant or Beneficiary.

## **8. Qualified Domestic Relations Order**

### **8.1. Adopt procedures**

The Plan Administrator will adopt written procedures for determining whether an order directed to the Plan is a QDRO.

### **8.2. Finding as to order's status**

The DSP will determine whether a final court order directed to the Plan is a QDRO based on ¶8.3.

#### **8.2.1 Delay**

The Plan Administrator may delay the commencement of its consideration of any order until the later of the date that is 30 days after receipt of the signed, certified order, or 30 days after the date of the order or the date that the Plan Administrator is satisfied that all rehearing and appeal rights on the order have expired.

### **8.3. QDRO procedures**

The procedure for considering whether an order is a QDRO will be as follows:

- The Plan Administrator will promptly notify the Participant and each Alternate Payee of receipt of an order and the Plan's procedures for deciding whether an order is a QDRO,
- On receipt by the Plan Administrator of an order and during the period in which the Plan Administrator has not yet determined whether an order is a QDRO, the Plan Administrator will not instruct any payment that would be inconsistent with the order to the extent that the order might be a QDRO,
- The Plan Administrator will continue the Participant's investment direction until the DSP makes its determination,
- The Plan Administrator may seek the advice of its legal counsel,
- The Plan Administrator will find whether the order is a QDRO,

If the Plan Administrator determines an order is a QDRO, it will:

- send notice to the Participant and each Alternate Payee,
- keep Plan Accounts consistent with the QDRO, and
- instruct the Trustee to pay the Distribution provided by the QDRO.

If the Plan Administrator determines that an order is not a QDRO, it must not instruct any Distribution from the Participant's Account for a period of 18 months, unless the Alternate Payee either releases a claim to the Benefits or such an escrow is resolved by the Plan Administrator's acts consistent with a QDRO.

#### **8.4. A Participant or Alternate Payee**

Consistent with IRC § 414(p)(4), an order does not fail to be a QDRO solely because the order directs a distribution or payment to be paid or payable to the Alternate Payee at a time that is earlier than the Participant's earliest retirement age. The Alternate Payee may request a distribution at any time after the QDRO is approved.

An order will not be a QDRO unless the Plan Administrator finds that:

- the order does not require the Plan to provide any type or form of benefit or any option not otherwise provided under the Plan;
- the order does not require the Plan to provide an increased Benefit; and
- the order does not require the payment of Benefits to an Alternate Payee that are required to be paid to another Alternate Payee under another order that the Plan Administrator (or a state court) previously found is a QDRO.

An order will not be a QDRO unless the Plan Administrator finds that the order clearly specifies:

- the name and the last known mailing address (if any) of the Participant, and the name and the mailing address of each Alternate Payee;
- the amount or percentage, or the manner in which the amount or percentage is to be determined, of the Participant's Account to be paid (or payable) to each Alternate Payee;
- the form of payment, and the number of payments or period to which the order applies.

The Plan Administrator may assume that the Alternate Payee named by the court order is a proper payee and need not inquire into whether the Person named is a spouse or former spouse of the Participant.

#### **8.5. Investment direction during domestic relations matter**

Notwithstanding any notice to the Plan Administrator (or to any other Person dealing with or performing services regarding the Plan) that a domestic relations order is or may be presented to be determined as a QDRO, the Participant shall continue to exercise his or her duty of investment direction as required by the Plan unless a court order expressly provides otherwise and the Plan Administrator determines that the court order is a QDRO. If a QDRO provides for an Alternate Payee (or any Person other than the Participant) to have a right of investment direction under the Plan, the Plan Administrator shall give effect to that court order to the extent permitted by the Plan.

### **8.6. Inability to locate Alternate Payee**

An Alternate Payee is responsible for maintaining a current residence address on file with the Plan Administrator and the DSP. The Plan Administrator has no duty to locate any Alternate Payee other than by sending written notice to the last known address on file with it.

## **9. No loan or early distribution**

### **9.1. No loan**

This Plan does not permit any loan to a Participant or other interested person.

### **9.2. No Hardship Distributions**

This Plan does not permit hardship distributions to a Participant or other interested person.

## **10. Distributions and Minimum Distribution Requirements**

### **10.1. Retirement Distribution**

Upon a Participant's Severance from Employment or attainment of age 59½, the Participant is entitled to apply to receive his or her Benefit payable under any Payout Option that satisfies the provisions of the Plan.

### **10.2. Minimum distribution**

#### **(a) General Rules**

- (1) The requirements of this ¶ 10.2 will take precedence over any inconsistent provisions of the Plan.
- (2) All distributions required under this ¶ 10.2 will be determined and made in accordance with IRC § 401(a)(9) and the Treasury Regulations under IRC § 401(a)(9).
- (3) Distributions to a Participant and his or her Beneficiaries shall only be made in accordance with the incidental death benefit requirements of IRC § 401(a)(9)(G) and the Treasury Regulations thereunder.

#### **(b) Time and Manner of Distribution**

- (1) The Participant's entire interest will be distributed, or begin to be distributed, to the Participant no later than the Participant's Required Beginning Date.
- (2) If the Participant dies before distributions begin, the Participant's entire interest will be distributed, or begin to be distributed, no later than as follows:

(i) If the Participant's surviving spouse is the Participant's sole Designated Beneficiary, then distributions to the surviving spouse will begin by December 31 of the calendar year immediately following the calendar year in which the Participant died, or by December 31 of the calendar year in which the Participant would have attained age 70 1/2, if later.

(ii) If the Participant's surviving spouse is not the Participant's sole Designated Beneficiary, then distributions to the Designated Beneficiary will begin by December 31 of the calendar year immediately following the calendar year in which the Participant died.

(iii) If there is no Designated Beneficiary as of September 30 of the year following the year of the Participant's death, the Participant's entire interest will be distributed by December 31 of the calendar year containing the fifth anniversary of the Participant's death.

(iv) If the Participant's surviving spouse is the Participant's sole Designated Beneficiary and the surviving spouse dies after the Participant but before distributions to the surviving spouse begin, this ¶ 10.2(b)(2), rather than ¶ 10.2(b)(2)(i), will apply as if the surviving spouse were the Participant.

For purposes of this ¶ 10.2(b)(2), unless ¶ 10.2(b)(2)(iv) applies, distributions are considered to begin on the Participant's Required Beginning Date. If ¶ 10.2(b)(2)(iv) applies, distributions are considered to begin on the date distributions are required to begin to the surviving spouse under ¶ 10.2(b)(2)(i). If distributions under an annuity purchased from an insurance company irrevocably commence to the Participant before the Participant's Required Beginning Date (or to the Participant's surviving spouse before the date distributions are required to begin to the surviving spouse under ¶ 10.2(b)(2)(i)), the date distributions are considered to begin is the date distributions actually commence.

(3) If the Participant's interest is distributed in the form of an annuity purchased from an insurance company, distributions thereunder will be made in accordance with the requirements of IRC § 401(a)(9) and the Treasury regulations thereunder.

(c) Definitions

(1) "Designated Beneficiary" means the individual who is designated as the beneficiary under the Plan and is the designated beneficiary under IRC § 401(a)(9) and Treasury Regulations section 1.401(a)(9)-1, Q&A-4.

(2) "Required Beginning Date" means the April 1 of the calendar year following the later of (i) the calendar year in which the Participant attains age seventy and one half (70½) or (ii) the calendar year in which the Participant retires.

### **10.3. Default Retirement Distribution**

If a distribution is required to begin according to ¶ 10.2 and the Participant has not filed a claim by the date that is 90 days before the Participant's Required Beginning Date (or if the Plan Administrator has denied a claim and an acceptable claim has not been filed before the applicable date), the Plan Administrator shall direct payment (or, if provided by the Investment Option, the Plan Administrator may without instruction make payment) according to the automatic Payout Option provided by the applicable Investment Option(s), or, to the extent not so provided, as a lump sum distribution.

### **10.4. Minimum distribution life expectancy**

The Participant, Alternate Payee, or Beneficiary may elect on the Applicable Form whether to recalculate life expectancy (or any element of it) to the fullest extent permitted by IRC § 401(a)(9)(D). If the Participant, Alternate Payee, or Beneficiary does not timely make this election, the Participant, Alternate Payee, or Beneficiary is deemed to have elected the "default" method specified by the applicable Investment Option(s), or to the extent that no method is so specified, that no recalculation shall apply with respect to any individual's life expectancy.

### **10.5. Death Distribution**

Upon the Participant's death before required distributions have begun (and before the Participant has otherwise received a total distribution of his Account), the Beneficiary is entitled to receive a distribution under any Payout Option that satisfies the requirements of the Plan.

### **10.6. Default Death Distribution**

If a distribution is required to begin to a Beneficiary and the Beneficiary has not filed a claim by the date that is 90 days before the date required by IRC § 401(a)(9) (or if the Plan Administrator has denied a claim and an acceptable claim has not been filed before the applicable date), the Plan Administrator shall direct payment (or, if provided by the Investment Option, the Plan Administrator may without instruction make payment) according to the automatic Payout Option provided by the applicable Investment Option(s), or, to the extent not so provided, as a lump sum distribution.

### **10.7. Minimum distribution period**

If a Participant has not furnished evidence of his or her Spouse's date of birth, the DSP will use the employee's age in determining the minimum distribution period according to Treasury Reg. § 1.401(a)(9)-5/Q&A-4(a) without regard to Treasury Reg. § 1.401(a)(9)-5/Q&A-4(b).

### **10.8. Distributions in Cash**

Any distribution shall be paid in cash.

### **10.9. Required Minimum Distribution Waiver of 2009.**

Notwithstanding any other provisions of this Section 10, a Participant or Beneficiary who would have been required to receive required minimum distributions for 2009 but for the enactment of IRC § 401(a)(9)(H) ("2009 RMDs"), and who would have satisfied that requirement by receiving distributions that are (1) equal to the 2009 RMDs or (2) one or more payments in a series of substantially equal distributions (that include the 2009 RMDs) made at least annually and expected to last for the life (or life expectancy) of the Participant's designated Beneficiary, or for a period of at least 10 years ("Extended 2009 RMDs"), will not receive those 2009 distributions

unless the Participant or Beneficiary elects to receive such distribution. Participants and Beneficiaries described in the preceding sentence will be given the opportunity to elect to receive the distributions described in the preceding sentence. However, a Participant or Beneficiary who receives required minimum distributions through an automatic payment system will continue to receive 2009 RMDs unless he or she elects not to receive the 2009 RMDs.

Notwithstanding any other provisions of the Plan, and solely for purposes of applying the rollover provisions of the Plan, 2009 RMDs (amounts that would have been required minimum distributions for 2009 but for the enactment of IRC § 401(a)(9)(H)) and Extended 2009 RMDs (one or more payments in a series of substantially equal distributions (that include the 2009 RMDs) made at least annually and expected to last for the life (or life expectancy) of the Participant's designated Beneficiary, or for a period of at least 10 years), will be treated as Eligible Rollover Distributions.

#### **10.10. Deferral of Benefits**

A Participant who attains eligibility for a Distribution and continues to be an Employee shall continue to make Employee Contributions and shall continue to receive Employer Contributions, and shall continue to participate under the Plan. Further, a Participant's right to his Account is nonforfeitable as of his attainment of eligibility for a Distribution.

## **11. Accounts**

#### **11.1. Account statement or confirmation**

Each Account statement or confirmation furnished by (or on behalf of) the Plan Administrator is intended as a legally significant statement of the accrued Benefit under the Plan. As to each Account statement or confirmation, if, by the date that is 180 days after the date that the statement or confirmation was mailed or otherwise sent or delivered, the Participant, Beneficiary, or Alternate Payee has not delivered a written objection as to the accuracy of the statement or confirmation, the accounting reported is then settled and conclusive and an account stated. If an objection to any Account statement or confirmation is withdrawn or is adjusted to the Participant's, Beneficiary's, or Alternate Payee's satisfaction, the accounting is then settled and conclusive and an account stated. To the extent that an Account statement or confirmation is an account stated, the Plan Administrator and DSP are discharged from any liability that might otherwise arise out of the Account as fully as if the Account had been settled by an appropriate court proceeding.

#### **11.2. Account balance**

The Account balance is the total amount or value of the Account (or sub-Account or separate Account as applicable) reduced by any applicable Investment Option or Trust charges, Fees, expenses, and taxes. At any time, the amount or value of any Account or sub-Account is the applicable Account balance (as stated above) as of the last Valuation Date.

## 12. Rollovers

### 12.1. Direct Rollover of Funds to Other Plans

Consistent with IRC § 401(a)(31), for any Distribution that is an Eligible Rollover Distribution, the Distributee may elect, at the time and in the manner prescribed by the Plan Administrator, to instruct the DSP to have any portion of an Eligible Rollover Distribution paid directly to an Eligible Retirement Plan specified by the Distributee. The Plan shall provide written information to the Distributee regarding Eligible Rollover Distributions no more than 180 days prior to payment of the Eligible Rollover Distribution, to the extent required by IRC § 402(f).

For purposes of this section, the following definitions shall apply:

(a) An “Eligible Rollover Distribution” is any Distribution from this Plan of any portion of the balance to the credit of the Distributee, except that an Eligible Rollover Distribution does not include: (i) any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the Distributee or the joint lives (or joint life expectancies) of the Distributee and the Distributee’s designated Beneficiary, or for a specified period of ten (10) years or more; (ii) any distribution to the extent such distribution is required under IRC § 401(a)(9); or (iii) the portion of any distribution that is not includible in gross income, provided that any portion of any distribution that is not includible in gross income may be an Eligible Rollover Distribution for purposes of a rollover to either (1) a traditional individual retirement account or individual retirement annuity under IRC §§ 408(a) or 408(b) or (2) a qualified trust which is part of a plan which is a defined contribution plan or a defined benefit under IRC §§ 401(a) or 403(a) or to an annuity contract described in IRC § 403(b), and such trust or annuity contract separately accounts for amounts so transferred, including separate accounting for the portion of such distribution that is includible in gross income and the portion of such distribution that is not includible. An eligible rollover distribution shall also mean a qualified rollover contribution to a Roth IRA within the meaning of IRC § 408A.

(b) An “Eligible Retirement Plan” is any program defined in IRC §§ 401(a)(31) and 402(c)(8)(B), that accepts the Distributee’s Eligible Rollover Distribution, as follows:

- (1) An individual retirement account under IRC § 408(a);
- (2) An individual retirement annuity under IRC § 408(b) (other than an endowment contract);
- (3) A qualified trust;
- (4) An annuity plan under IRC § 403(a);
- (5) An eligible deferred compensation plan under IRC § 457(b) which is maintained by an eligible employer under IRC § 457(e)(1)(A) (so long as the plan agrees to separately account for amounts rolled into the plan);
- (6) An annuity contract under IRC § 403(b); or

(7) A Roth IRA described in IRC § 408A.

(c) A “Distributee” includes an Employee or former Employee. It also includes the Employee’s or former Employee’s surviving spouse and the Employee’s or former Employee’s spouse or former spouse who is the alternate payee under a qualified domestic relations order, as defined in IRC § 414(p) or a nonspouse beneficiary who is a designated beneficiary as defined by IRC § 401(a)(9)(E). However, a nonspouse beneficiary may rollover the distributions only to an individual retirement account or individual retirement annuity established for the purpose of receiving the distribution and the account or annuity will be treated as an “inherited” individual retirement account or annuity.

(d) A “Direct Rollover” is a payment by the Plan to the Eligible Retirement Plan specified by the Distributee.

### **12.2. Rollover of Funds From Other Plans**

The Plan will accept Participant rollover contributions and/or Direct Rollovers of eligible distributions made after December 31, 2001, as described below:

- (a) pre-tax contributions from a qualified plan described in § 401(a) or 401(k) or 403(a) of the IRC, an annuity contract described in § 403(b) of the IRC and an eligible governmental deferred compensation plan described in § 457(b) of the IRC.
- (b) A Participant rollover of the portion of a distribution from an individual retirement account or annuity described in § 408(a) or 408(b) of the IRC that is eligible to be rolled over and would otherwise be includible in gross income.

The Plan does not accept direct rollovers of after-tax contributions.

### **12.3. Eligible Rollover Distribution payable without delay**

The DSP may (but is not required to) commence the Distribution less than 30 days after giving an Eligible Rollover Distribution notice only if the following requirements are met:

To the extent required by IRC § 402(f) and Treasury Reg. § 1.402(c)-2, the DSP must inform the Distributee in an Eligible Rollover Distribution notice or otherwise that the Distributee has a right to a period of at least 30 days after receiving the Eligible Rollover Distribution notice to consider the decision of whether to elect a Distribution and any available Payout Option, and the Distributee after receiving the Eligible Rollover Distribution notice must affirmatively elect a Distribution.

### **12.4. Transfer of Assets to Pension Plan**

The Participant may elect, at the time and manner prescribed by ¶ 3.5, to transfer assets from the Participant’s Account to the Pension Plan. After the effective date of an election to transfer under ¶ 3.5, a Participant in this Plan who has elected to become a Participant in the Pension Plan may transfer funds from this Plan to the Pension Plan in order to purchase service credit in the Pension Plan for the Participant’s Years of Participation in this Plan. A Participant may transfer funds from any sub-account in his account to purchase service credit in the Pension Plan as calculated under this Section. For Participants properly exercising this election, the DSP shall,

without restrictions, fees and/or charges, allow a Participant to transfer assets from the Participant's Account to the Pension Plan. This section will not prevent an equity or bond fund Investment Option from imposing a redemption fee related to market timing, as defined and provided in the fund's prospectus, charged to any investor on the asset transfer.

## **13. Administration of Distributions**

### **13.1. Claim for Distribution**

Any Distribution shall be paid only upon a claim made on the Applicable Form, and submission of additional information requested by the Plan Administrator, including but not limited to:

- if the Distribution is made under ¶10.1, appropriate evidence that the Participant has a Severance from Employment or has attained age 59½,
- if the Distribution is an Eligible Rollover Distribution, the Distributee's instruction as to whether the Distribution (or a portion of the Distribution) is to be paid directly to an Eligible Retirement Plan, and if any amount is to be paid directly to an Eligible Retirement Plan, the name and address of the trustee or plan administrator of that Eligible Retirement Plan together with any other information that the Plan Administrator or DSP reasonably requests pursuant to Treasury Reg. § 1.401(a)(31)-1T,
- if the Distribution is made on account of the Participant's death, appropriate evidence of the Participant's death,
- whenever required by the Plan Administrator, the date-of-birth of any Person as relevant to the Distribution,
- if the Account consists of more than one Investment Option, the order in which any Investment Options are to be charged or redeemed to pay the Distribution; and
- any other evidence or information that the Plan Administrator finds is relevant to administer a provision of the Plan in the Participant's or Beneficiary's and the Distributee's circumstances.

#### **13.1.1 Evidence of Death**

Absent contrary evidence actually known to the Plan Administrator, an appropriate death certificate or a court order stating that the Participant is found to be absent and presumed dead shall constitute appropriate evidence of the Participant's death.

#### **13.1.2 Changing an Investment Option**

If the Distributee fails to submit proper instructions, the Plan Administrator may to the extent provided by the Investment Option contract determine which Plan Investment Option(s) are to be charged.

### **13.2. Time for Distribution**

The Plan Administrator may require for payment of any Distribution a minimum advance notice, uniformly determined and consistently applied.

### **13.3. Payor may rely on apparent entitlement**

The Plan Administrator and the DSP are not liable for having made a payment under an unclear Beneficiary Designation or Participation Agreement to a Person not entitled to the payment, or for having taken or omitted any other action in good faith reliance on a Person's apparent entitlement under the Plan, before the payor actually received written notice of a claimed lack of entitlement under this Plan.

Any payor of any Distribution is not liable for having made a payment or having transferred an item of property to a Beneficiary Designated in a Beneficiary Designation (or in a similar writing reasonably believed to constitute a Beneficiary Designation) who is not entitled to the Distribution, or for having taken any other action in good faith reliance on the Beneficiary's apparent entitlement under the terms of the Beneficiary Designation before the payor received written actual notice alleging that the Beneficiary was not entitled to the Distribution.

### **13.4. Valuation of Payments**

Except to the extent otherwise expressly provided by the Investment Option(s), any payment or Payout Option shall be determined as of the Valuation Date requested by the Participant or Beneficiary, or if later, as of the Valuation Date that next follows the DSP's or Trustee's receipt in good order (within the meaning of the Investment Option(s) or applicable law) the approved claim.

### **13.5. Delay of payment**

The DSP may delay payment of an approved Distribution:

- to receive any necessary information,
- to permit a valuation of the Account,
- to permit any necessary or appropriate liquidation of assets,
- if a dispute arises as to the proper payee,
- if the Plan Administrator or the DSP has written notice of a domestic relations case or petition that may involve the applicable Account,
- if the Plan Administrator or the DSP has written notice of a bankruptcy case or petition that may involve the applicable Account,
- if the Plan Administrator or the DSP has notice of any legal proceeding or petition that may involve the applicable Account, or
- for any reason described elsewhere in this Plan, or
- for any other lawful purpose.

### **13.5.1 Delay related to Investment Option**

Without limiting the comprehensive effect of the above, to the extent that any Distribution requires a redemption or transfer of an Investment Option's shares, the Plan Administrator shall delay the Distribution during any period: when the NYSE is closed other than for a weekend or a holiday, or when trading on the NYSE is restricted (as determined by the SEC), or when an emergency exists making disposal of an Investment Option's securities or valuation of an Investment Option's net assets not reasonably practicable, or when the SEC has required or permitted the suspension of redemptions or transfers by order, or during any period otherwise described by § 22(e)(1)-(3) of the Investment Company Act of 1940, as amended [15 U.S.C. § 80a-22(e)(1)-(3)]. Also, the Plan Administrator or the DSP may delay any Distribution if doing so is necessary or appropriate to avoid exceeding an Investment Option's "large transaction amount" requirement that applies to the Trust.

### **13.5.2 Delay for FMLA**

If the Participant received an allocation of Employer Contributions for a period that included his absence under a federal or state Family and Medical Leave Act, the Plan Administrator shall delay payment of any Distribution until the Plan Administrator is satisfied that the Participant has returned to work from such absence or that the Participant will not or did not return to work from such absence.

### **13.6. Dispute as to proper recipient**

If a dispute arises as to the proper recipient of any payment(s) under the Plan, the Plan Administrator, in its sole discretion, may instruct the DSP(s) to withhold payment until the dispute is determined by a court of competent jurisdiction or is settled by the parties concerned.

### **13.7. Distribution to minor Beneficiary**

If a Distribution is to be made to a minor Beneficiary, any payment(s) may, except to the extent prohibited by applicable law, be paid to a responsible Person according to the following order:

If the amount is under \$10,000 per year:

- as instructed by an appropriate court pursuant to a written court order which has been provided to the Plan Administrator before the distribution,
- to the duly court appointed and currently acting conservator of the Beneficiary, evidence of which has been provided to the Plan Administrator before the distribution,
- to the duly appointed and currently active guardian of the Beneficiary, evidence of which has been provided to the Plan Administrator before the distribution,
- to the custodial parent of the Beneficiary,
- to a custodial adult with whom the Beneficiary maintains his or her residence, or
- to the court having jurisdiction over the estate of the Beneficiary.

If the amount is over \$10,000 a year, a conservator must be appointed by the court to receive the payment. This payment shall be in full satisfaction of all claims. The Plan Administrator has no duty to supervise or inquire into the application of any amount so paid.

#### **13.7.2 Payments after age of majority**

If at the time a Distribution begins the Beneficiary is a minor and the Plan Administrator begins payments to another Person under this Provision, the Plan Administrator may continue all payments under the Distribution to the other Person notwithstanding that the Beneficiary may have attained full age, unless the Beneficiary files a written claim according to all of the requirements of the Plan, including furnishing satisfactory evidence that he or she is of full age.

### **13.8. Distribution to incompetent Participant or Beneficiary**

If a Participant, Beneficiary, or Alternate Payee is unable to manage property effectively for any reason including (but not limited to) mental illness, mental deficiency, physical illness, physical disability, chronic use of drugs, chronic intoxication, confinement, detention by a foreign power, or disappearance, any payment may be paid according to the terms of the applicable Investment Option(s) (if any) or according to applicable Investment Law (if any), or the Plan Administrator may direct payment(s) according to the following order:

- as instructed by an appropriate court pursuant to a written court order,
- to the duly court appointed and currently acting conservator of the Participant or Beneficiary,
- to the duly court appointed and currently acting legal guardian of the estate of the Participant or Beneficiary,
- to the duly appointed and currently acting attorney-in-fact under a durable power-of-attorney if the Plan Administrator finds that the power-of-attorney provides sufficient power to authorize the attorney-in-fact to receive the Benefit, or
- to the court having jurisdiction over the estate of the Participant or Beneficiary.

#### **13.8.1 Payments made during incompetency**

This payment shall be in full satisfaction of all claims. The Plan Administrator has no duty to determine if a Person is unable to manage his affairs and is only required to act pursuant to the above order if it is provided written evidence of the incapacity through a document showing one of the above prior to the Distribution. The Plan Administrator has no duty to supervise or inquire into the application of any amount(s) so paid.

#### **13.8.2 Restoration of competency**

If at the time a Distribution begins the Participant or Beneficiary is an incompetent or incapacitated (as described above) and the Plan Administrator begins payments to another Person under this Provision, the Plan Administrator may continue all payments under the Distribution to the other Person notwithstanding that the Participant or Beneficiary may have become competent or may have been adjudicated as competent, unless the Participant or Beneficiary files a written claim according to all of the

requirements of the Plan, including furnishing a satisfactory court order that he is competent to manage his Benefit.

### **13.9. Payment to Personal Representative**

Any payment (or delivery of property) to the duly appointed Personal Representative of the Participant shall, to the extent of the payment (or delivery of property), bar recovery by any other Person or entity, including every Beneficiary, and shall, to the extent of the payment (or delivery of property), discharge any obligation under the Plan.

### **13.10. Disclaimer by Beneficiary**

Any Beneficiary may renounce or disclaim all or any part of any Benefit by filing a written irrevocable disclaimer not later than 31 days before the Distribution begins or any payment is otherwise to be made and before acceptance of any Benefit. An acceptance may be express or may be inferred from actions or facts and circumstances, including (but not limited to) those actions described in the Uniform Probate Code as establishing an inference of acceptance. In addition to any requirements under State law, the disclaimer is not effective unless the disclaimer describes the Benefit renounced, expressly declares the renunciation and the extent of it, expressly states the Beneficiary's belief upon reasonably diligent examination that no creditor of the Beneficiary (or, if the Beneficiary is an executor or trustee or guardian or other fiduciary, of any current or reasonably anticipated Beneficiary of the estate or trustee or guardianship or other fiduciary relationship or entity) would be adversely affected by the disclaimer, expressly states that the disclaimer is irrevocable, is signed by the Beneficiary, meets all requirements of IRC § 2518 such that the disclaimer would be treated as effective for federal gift and estate tax purposes, and otherwise is made in a form that is acceptable to the Plan Administrator. Notwithstanding any State law that would permit otherwise, if the Beneficiary is a minor or an incapacitated Person, any disclaimer cannot have any effect regarding the Plan until the court having jurisdiction of the minor's or incapacitated Person's estate authorizes the disclaimer after finding that it is advisable and will not materially prejudice the rights of any interested Person. Any Benefit disclaimed shall be payable as if the Beneficiary who submitted the disclaimer died before the Participant.

## **14. Plan Administration**

### **14.1. Plan Administrator has full authority**

The Plan Administrator has full and complete authority and discretion to control and manage the operation of and to decide all matters under the Plan. The Plan Administrator has any and all powers as may be necessary or advisable to discharge its duties under the Plan, and has complete discretionary authority to decide all matters and questions under the Plan.

#### **14.1.1 Examples of discretionary decisions**

Without limiting the comprehensive effect of the above, the Plan Administrator's discretionary decisions may include, but shall not be limited to, any decision as to:

- whether a natural person is an Employee,

- whether an Employee belongs to a particular employment classification,
- whether an Employee is an eligible Employee, the amount of a Participant's Compensation, the amount of Contributions to be made,
- whether an amount of Contributions exceeds the limits prescribed by the Plan,
- whether a Payout Option is an Annuity Payout Option,
- whether a Participant has a Severance from Employment,
- whether a Beneficiary Designation is valid or effective, who is the proper Beneficiary,
- whether a Participant or Beneficiary is a minor or is of full age, the Person who is a proper recipient for a Participant or Beneficiary who is a minor or an incompetent,
- whether any power-of-attorney is effective and acceptable to act with respect to the Plan.

The discretionary decisions of the Plan Administrator are final, binding, and conclusive on all interested Persons for all purposes.

#### **14.2. DSP Responsibilities**

Each DSP will be responsible for Participant communication, administration, record-keeping, and investment management services as set forth in the applicable RFP and Response/Proposal submitted by the DSP and the contracts entered into pursuant to those documents.

#### **14.3. Determinations to be uniformly made**

To the extent required by the Enabling Statute, any determination or decision required or permitted to be made for the purposes of the Plan by the Plan Administrator shall be uniformly and consistently made according to reasonable procedures established and maintained by the Plan Administrator.

#### **14.4. Plan Administrator is responsible**

The Plan Administrator is responsible for performing or delegating to the DSPs all duties required for the operation of the Plan. The Plan Administrator is responsible for supervising the performance of the DSPs.

#### **14.5. Information from Employer**

To enable the Plan Administrator to perform its responsibilities, the Employer shall promptly provide to the Plan Administrator complete and accurate information on any matter that is required by the Plan Administrator in order to make any decision or determination under the Plan. The Plan Administrator shall rely upon this information as supplied by the Employer, and shall have no duty or responsibility to verify this information.

#### **14.6. Plan Administrator may delegate or contract**

Except as prohibited by the Enabling Statute or other State law, the Plan Administrator may, except when expressly prohibited by this Plan, delegate any of its duties to any DSP, Employer, or employees.

#### **14.7. Plan services**

The Plan Administrator may contract with any Person to provide services to assist in the administration of the Plan. The Plan Administrator must make such contracts in compliance with the Enabling Statute and other applicable State and local law.

Any Person other than the Plan Administrator who performs services regarding the Plan (including but not limited to a DSP) is subject to the supervision and direction of the Plan Administrator, and does not have authority to control the operation of the Plan.

Any Person other than the Plan Administrator who performs services regarding the Plan (including but not limited to a DSP) is entitled to rely upon any direction, instruction, information, or action (or failure to act) of the Plan Administrator as being proper under this Plan, and is not required to inquire into the propriety or correctness of any such direction, instruction, information, or action.

#### **14.8. Plan Sponsor's right to terminate the Plan**

The Plan Sponsor may terminate or discontinue the Plan at any time.

#### **14.9. Final allocation**

If on termination of the Plan any amount is not allocated, all such amounts will be allocated among Participants in the ratio of the Participant's total Account balance on the Valuation Day that immediately precedes this allocation to the total Account balances of all Participants on such Valuation Day.

## **15. General provisions**

#### **15.1. Anti-alienation**

To the extent allowed by law, any benefit or interest available under the Plan, or any right to receive or instruct payments under the Plan, or any Distribution or payment made under the Plan shall not be subject to assignment, alienation, garnishment, attachment, transfer, anticipation, sale, mortgage, pledge, hypothecation, commutation, execution, or levy, whether by the voluntary or involuntary act of any interested Person under the Plan, except for an interest which becomes payable pursuant to a Qualified Domestic Relations Order. However, the preceding sentence shall not be construed to preclude the payment of any Fees or expenses (including taxes) of the Issuer(s) or the Trust.

#### **15.2. Levy or judgment**

Notwithstanding any other provision of the Plan, the Plan Administrator may pay to the IRS from a Participant's, Beneficiary's, or Alternate Payee's Account the amount that the Plan Administrator finds is demanded under an IRS levy with respect to that Participant, Beneficiary,

or Alternate Payee or is sought to be collected by the United States under a judgment resulting from an unpaid tax assessment against the Participant, Beneficiary, or Alternate Payee.

### **15.3. Audit**

The Plan Administrator may engage a public accountant to audit or review the financial statements and/or internal control procedures with respect to the Plan, and any fees paid or incurred for such audit or review and related accounting and auditing services shall be an expense that may be charged to the DSPs according to their contract. To the extent the audit is not paid by the DSPs, the expense can be charged to all Participants' Accounts in an equitable manner determined by the Plan Administrator.

### **15.4. Claims procedure**

By the terms of the Plan, the claimant (or other aggrieved Person) shall not be entitled to take any legal action (including but not limited to instituting any arbitration procedure) or otherwise seek to enforce a claim to benefits or rights under the Plan until he has exhausted all claims and appeals procedures provided by the Plan.

In considering claims under the Plan, the Plan Administrator has full power and discretionary authority to construe and interpret the provisions of the Plan.

### **15.5. Expenses**

Upon the Plan Administrator's written instruction, the Plan Administrator (or any DSP or other Person) shall be reimbursed from the Plan assets for any reasonable expenses approved by the Plan Administrator which are incurred in performing services regarding the Plan. Except as otherwise provided or permitted by the Plan, the reimbursement shall be effected by deducting a charge against all Accounts according to an equitable method determined by the Plan Administrator.

If the Internal Revenue Service determines, and the determination is not contested, or if contested, is finally upheld (or otherwise finally determined), or if a final court order (that is not appealed) decides that any payment of expenses is a violation of IRC § 401(a)(2), the Plan Administrator may assess the Employers on a pro-rata basis according to the number of Participants in the Plan for these expenses according the number of Participant accounts.

### **15.6. Fiduciary responsibility**

Any Fiduciary will have only those specific powers, duties, responsibilities, and obligations specifically provided by the Plan, or that are expressly required under a written agreement that is executed by or approved by the Plan Administrator if the written agreement is not inconsistent with the Plan.

Each Fiduciary warrants that any instruction or direction given, information furnished, or action taken by it will be according to the Plan's provisions (or an instruction of the Plan Administrator).

Each Fiduciary will be responsible only for the proper exercise of his, her, or its own powers, duties, responsibilities, and obligations, and any Fiduciary will not be liable for any act or omission (failure to act) of another Fiduciary, except as provided below.

A Fiduciary will be liable for a breach of fiduciary responsibility of another Fiduciary in the following circumstances: (1) if the Fiduciary participates knowingly in, or knowingly undertakes to conceal, an act or omission of the other Fiduciary, knowing such act or omission is a breach of the other Fiduciary's responsibility; (2) if, by the Fiduciary's failure to comply with his, her, or its duty in the administration of the Fiduciary's specific responsibility that gives rise to the Fiduciary's status as a Fiduciary, the Fiduciary has enabled the other Fiduciary to commit a breach of the other Fiduciary's responsibility; (3) if the Fiduciary has knowledge of a breach by the other Fiduciary, unless the Fiduciary makes reasonable efforts under the circumstances to remedy the breach.

#### **15.7. Governing law**

The Plan, and actions under or relating to the Plan, and the statute of limitations for such actions shall be governed by and enforced by the laws of the State of South Carolina and shall be construed, to the extent that any construction beyond the written Plan is necessary, according to the laws of the State of South Carolina.

#### **15.8. IRS approval**

If, under any application filed by or on behalf of the Plan, the IRS determines that the Plan as amended and restated does not qualify under IRC § 401(a), and the determination is not contested, or if contested, is finally upheld (or otherwise finally determined), the Plan Administrator, without further authorization or consent from the Plan Sponsor, may retroactively amend the Plan to the earliest date permitted by Treasury Regulations to the fullest extent that the Plan Administrator considers necessary to obtain an IRS determination that the Plan qualifies under IRC § 401(a).

#### **15.9. Mistaken contributions**

If any Contribution (or any portion of a Contribution) is made by the Employer by a good faith mistake of fact, upon receipt in good order of a proper request by the Plan Administrator, the Trustee or the DSP shall return the amount of the mistaken Contribution(s), except as limited below, to the Employer. A return of a mistaken Contribution will not be made if the return will not be made within one year from the date of the mistaken payment of the Contribution. Upon any return of a mistaken Contribution, earnings attributable to the mistaken contributions will not be returned and losses attributable to the mistaken Contribution shall reduce the amount to be returned.

#### **15.10. Necessary information**

The Participant, Beneficiary, or Alternate Payee shall provide upon any request of the Plan Administrator or DSP any information that may be needed for the proper and lawful operation and administration of the Plan; including but not limited to, his full legal name, his Social Security Number (SSN) or other Taxpayer Identification Number (TIN), his current address and the current address of his spouse and of any Beneficiary(s), evidence of his age, evidence of his or her marital status. The Participant shall promptly respond to and fully answer any reasonable inquiry related to these purposes. A failure to provide any information described above or which otherwise may be necessary or appropriate for the lawful operation of the Plan may result in a delay of eligibility for participation, in a delay of the payment of Contributions, or in a delay or refusal by the Plan Administrator, in its discretion, to authorize or permit any payment to be made.

The Plan Administrator (and any party acting for it) shall have the right to rely on any information or representation given by any Participant or Beneficiary or other party interested in the Plan. The Plan Administrator shall have no duty to inquire into the accuracy or adequacy or truth of any such information or representation. Any such representation shall be binding upon any party seeking to claim a Benefit through the Participant.

**15.11. No contract of employment**

Under no circumstances shall the Plan constitute or modify a contract of employment or in any way obligate the Employer to continue the services of any Employee.

**15.12. No right other than provided by Plan**

The establishment of the Plan and the purchase of any Investment Option(s) under the Plan shall not be construed as giving to any Participant or Beneficiary or any other Person any legal or equitable right against the Employer or the Plan Administrator or their representatives, except as is expressly provided by the Plan.

**15.13. Taxes**

The Employer and the Plan Administrator do not guarantee that any particular federal or state income, payroll, or other tax consequences would occur because of participation in this Plan.

**15.14. Notices**

Each Participant, Beneficiary, or Alternate Payee shall be responsible for furnishing the Plan Administrator and each DSP with his current address at all times. Any notice required or permitted to be given under the Plan shall be deemed given if directed to the proper Person at the current address in any Plan (or Investment Option) record and mailed or otherwise delivered to that address. This Provision shall not be construed to require the mailing or the delivery of any notice otherwise permitted to be given by posting or by publication.

**15.15. Plan is binding**

The Plan, and all acts and decisions taken under it, is binding and conclusive, for all purposes, upon every Participant, Beneficiary, Alternate Payee, any Person claiming through a Participant or Beneficiary or Alternate Payee, all other interested Persons, and upon the Personal Representatives, executors, administrators, heirs, successors and assigns of any and all such Persons. The Plan shall not affect contracts or other dealings with a Person who is not an interested Person, unless a written agreement executed by that Person expressly so provides.

**15.16. Power-of-attorney**

A power-of-attorney is not effective to permit the attorney-in-fact to submit any Claim, instruction, direction, or consent under the Plan or otherwise act regarding the Plan, unless the Plan Administrator, in its discretion, finds that the power-of-attorney is acceptable.

Without limiting the effect of the preceding sentence, the Plan Administrator will not accept a power-of-attorney until it finds that the power-of-attorney:

- Is a properly executed and filed durable power-of-attorney pursuant to the law of the jurisdiction in which it was created, which will remain effective despite the later incapacitation or disability of the principal.

- Indemnifies the Plan Administrator and every Person that may rely on the durable power-of-attorney against any liability that may arise out of the Plan Administrator's acceptance of the power-of-attorney.
- Contains the following provision or a substantially similar provision: "No person who may act in reliance upon the representations of my attorney-in-fact for the scope of authority granted to the attorney-in-fact shall incur any liability as to me or to my estate as a result of permitting the attorney-in-fact to exercise this authority, nor is any such person who deals with my attorney-in-fact responsible to determine or ensure the proper application of funds or property."
- Grants specific authority for the attorney-in-fact to conduct transactions with the principal's retirement plan, pension plan, or employee benefit plan.

A general grant of power in the power-of-attorney for the attorney-in-fact to handle the principal's affairs, without specific authorization in the power-of-attorney to deal with the principal's retirement benefits, does not authorize the attorney-in-fact to conduct any business on behalf of the principal with the Plan.

The attorney-in-fact may not designate himself as the beneficiary for a retirement benefit unless the power-of-attorney authorizes the attorney-in-fact to designate himself as a retirement beneficiary or authorizes the attorney-in-fact to give gifts of the principal's property to himself.

#### **15.17. Privacy**

The Plan Administrator (and any other Person acting for or at the request of the Plan Administrator) may disclose information concerning a Participant, Beneficiary, or Alternate Payee:

- when requested by the Participant's, Beneficiary's, or Alternate Payee's agent who acts under a Power-of-Attorney accepted by the Plan Administrator,
- when required by law,
- when required by a court order (including a subpoena),
- without a court order when reasonably requested by the IRS or the Department of Labor,
- when necessary or appropriate for the Plan Administrator to obtain tax or legal advice,
- when in the course of any domestic relations proceeding an attorney-at-law states in writing that he or she represents the Participant's spouse (or former spouse) or child and that the information is reasonably related to such proceeding, or
- when, in the course of the administration of a Participant's, Beneficiary's, or Alternate Payee's estate or succession, the Personal Representative (or an attorney-at-law who represents the Personal Representative) states in writing that he, she, or it needs the requested information to prepare a return of any estate tax, transfer tax, gift tax,

inheritance tax, death tax, or similar tax, whether of the United States, any State, or any foreign nation.

**15.18. Release**

Any payment or any agreement to make payments under a Payout Option selected by the proper payee, shall, to the extent of the payment(s) or agreement, be in full satisfaction of all claims. The Plan Administrator may require any Person, as a condition precedent to making or causing to be made any payment, or agreement for a Payout Option, to execute a receipt and release. If a dispute arises as to the proper payee of any payment(s), the Plan Administrator, in its sole discretion, may withhold or cause to be withheld any payment(s) until the dispute shall have been determined by a court of competent jurisdiction or shall have been settled by all the parties concerned.

**15.19. Service of legal process**

Requests for information, claims or demands, legal process, and court orders are properly made when addressed to the Plan Administrator in compliance with the South Carolina law.

**15.20. Severability**

If a court finds that any provision of the Plan is invalid, that holding shall not affect the remaining provisions of the Plan which shall be construed and enforced as if the invalid provision had not been included in the Plan, unless such a construction of the Plan would be clearly contrary to the Enabling Statute.

**15.21. Statute of limitations**

As to any action at law or in equity under or with respect to this Plan, the action shall be governed by (or precluded by) the relevant statute of limitations according to South Carolina law.

**15.22. Uniformity**

To the extent required by the Enabling Statute or applicable State law, provisions of the Plan shall be construed and applied in a non-discriminatory manner.

**15.23. Venue**

If any Person bound by the Plan under ¶ 15.15 or otherwise brings any proceeding against the Plan Administrator, the Trustee, or Plan Sponsor such Person submits to exclusive venue in the South Carolina courts sitting at Columbia, South Carolina.

**15.24. USERRA**

Notwithstanding any provisions of this Plan to the contrary, contributions, benefits, and service credits with respect to qualified military service shall be provided in accordance with the Uniformed Services Employment and Reemployment Rights Act of 1994 ("USERRA") and the Heroes Earnings Assistance and Relief Tax Act of 2008 ("HEART"), IRC § 401(a)(37), and IRC § 414(u).

For purposes of this section, "qualified military service" is defined by federal law but it generally means the performance of duty on a voluntary or involuntary basis in a uniformed service under competent authority and includes active duty, active duty training, initial active duty for training, inactive duty training, full-time National Guard duty, a period for which a person is absent from a

position of employment for the purposes of an examination to determine the fitness of the person to perform any such duty, and a period for which a person is absent from employment for the purposes of performing funeral honors duty as authorized by section 12503 or Title 10 to section 115 of Title 32 of the United States Code if such individual is entitled to reemployment rights under USERRA with respect to such service. Uniformed service means the Armed Forces, the Army National Guard and the Air National Guard when engaged in active duty for training, inactive duty training, or full-time National Guard duty, the commissioned corps of Public Health Service, and any other category of persons designated by the President in the time of war or national emergency.

(a) An Eligible Employee whose employment is interrupted by qualified military service under IRC § 414(u) or who is on a leave of absence for qualified military service under IRC § 414(u) shall be entitled to receive any employer contributions that he failed to receive under the Plan as a result of his military service, provided he returns to employment with the Employer upon receiving an honorable discharge from military service and there is no intervening employment outside of the employment with the Employer.

(b) Effective January 1, 2009, an Eligible Employee whose employment is interrupted by qualified military service or who is on a leave of absence for qualified military service and who receives a differential wage payment within the meaning of IRC § 414(u)(12)(D) from the Employer will be treated as an Eligible Employee of the Employer and the differential wage payment will be treated as Compensation.

(c) Effective January 1, 2009, notwithstanding subsection (b) above, an individual who receives a differential wage payment within the meaning of IRC § 414(u)(12)(D) from a Participating Employer shall be treated as having a severance from employment during any period the individual is performing qualified military service (as defined in IRC § 414(u)) for purposes of taking a Distribution from the Plan.

(d) Effective January 1, 2007, death benefits payable under the Plan shall be paid in accordance with IRC § 401(a)(37), which provides that in the case of an Eligible Employee who dies while performing qualified military service (as defined in IRC § 414(u)), the survivors of the Eligible Employee are entitled to any additional benefits (other than benefit accruals relating to the period of qualified military service) provided under the Plan had the Eligible Employee resumed and then terminated employment with the Employer on account of death.

(e) Notwithstanding anything in the Plan to the contrary, a Participant who is a reservist or national guardsman (as defined in 37 U.S.C. § 101(24)), and who was ordered or called to active duty, after September 11, 2001, for a period in excess of 179 days or for an indefinite period may request, during the period beginning on the date of the order or call to duty and ending at the close of the active duty period, a Distribution of all or part of his or her Account attributable to Contributions. The Distribution shall be paid to the Participant as promptly as practicable after the Plan Administrator receives the Participant's request. If the Participant's interest in the Trust Fund is invested in more than one of the separate Investment Options maintained under the Plan, a withdrawal of less than the complete balance of the interest shall be withdrawn pro rata from each applicable Investment Option.

## **16. Amendment**

### **16.1. Plan amendment**

Subject only to the South Carolina Constitution and ¶ 16.2, the South Carolina General Assembly has the right to amend the Plan and Trust at any time. To the extent consistent with the Enabling Statute, the Plan Administrator has the right to amend the Plan and Trust at any time.

### **16.2. Amendment cannot change exclusive benefit**

Any amendment of the Plan and Trust shall not be effective to the extent that the amendment has the effect of causing any Plan assets to be diverted to or inure to the benefit of the Plan Administrator or any Employer, or to be used for any purpose other than providing Benefits to Participants and Beneficiaries and defraying reasonable expenses of administering the Plan and Trust.

## **17. Construction**

### **17.1. Construction**

The provisions of this part govern the construction or interpretation of this Plan. These rules of construction and interpretation shall apply for all provisions, and shall supersede any other construction or interpretation rules.

### **17.2. Construction as a qualified plan**

The Plan Sponsor intends that the Plan conform to the Internal Revenue Code's requirements for federal tax treatment under IRC §§ 401(a) and 414(d), with Employee Contributions picked up under an arrangement consistent with IRC § 414(h)(2). Therefore, the Plan Administrator will construe and interpret the Plan to state provisions that conform to the requirements of IRC § 401, as applicable to a governmental plan under IRC § 414(d). When the Internal Revenue Code is amended through subsequent legislation, the Plan Administrator will construe and interpret the Plan as stating provisions consistent with such amendment of relevant law.

To the extent required for this Plan to qualify under IRC § 401(a), the provisions of this Plan shall be construed, consistent with Treasury Reg. § 1.401-1(b)(1)(ii), to provide:

- a definite pre-determined formula for allocating Contributions; a definite pre-determined formula for allocating investment earnings (and losses) among Accounts;
- periodic valuation of Plan assets (including Investment Options) and Trust assets at least once each year;
- periodic valuation of Accounts at least once each year;
- and distribution of Plan Accounts after attainment of a specified age or the occurrence of some event.

### **17.2.1 Purpose of Plan Amendments.**

The Plan has been amended to conform to the requirements of the Uruguay Round Agreement Act; the Uniformed Services Employment and Reemployment Rights Act of 1994, which provisions are generally effective December 12, 1994; the Small Business Job Protection Act of 1996, which are effective for Plan Years beginning on or after January 1, 1997; the Taxpayer Relief Act of 1997, which are effective for Plan years beginning on and after January 1, 1998; the Internal Revenue Service Restructuring and Reform Act of 1998, which are effective for Plan Years beginning on and after January 1, 1999, and the Community Renewal Tax Relief Act of 2000, which is generally effective for Plan Years beginning on and after January 1, 2001. Furthermore, the Plan and Trust is amended to comply with certain provisions of the Economic Growth and Tax Relief Reconciliation Act of 2001 (“EGTRRA”) which are based on the model amendment provided under Internal Revenue Service Notice 2001-57 and are intended as good faith compliance with the requirement of EGTRRA to be construed in accordance with EGTRRA and guidance issued thereunder effective for Plan Years beginning on and after January 1, 2002, and in certain other respects, for the purposes of continuing to provide certain benefits to Participants as hereinafter provided. Except as otherwise specifically provided herein, the Plan establishes the rights and obligations with respect to individuals who are employees on and after such dates, as applicable, and to transactions under the Plan on and after such dates, as applicable. The rights and benefits, if any, of individuals who are not employees on or after such dates, as applicable, shall be determined in accordance with the terms and provisions of the Plan that were in effect on the date that their employment terminated, except as otherwise specifically provided herein or in a subsequent amendment.

### **17.3. Construction with Enabling Statute**

The Plan is established and maintained with the intent that the Plan conform to the applicable requirements of the Enabling Statute. The provisions of the Plan shall be interpreted whenever possible to state provisions that conform to the applicable requirements of the Enabling Statute. When the Enabling Statute is amended or interpreted through subsequent legislation or regulations or an attorney general opinion, the Plan should be construed as stating provisions consistent with such amendment or interpretation of the applicable law.

### **17.4. Construction of statutes and regulations**

Any reference to a section of the Internal Revenue Code shall be construed to also refer to any successor provision. Any reference to a section of Treasury Regulations shall be construed to also refer to any successor provision of such Regulations. Any reference to a Revenue Ruling or Revenue Procedure or IRS Notice or IRS Announcement shall be construed to also refer to any guidance of general applicability that extends, amplifies, or modifies the Revenue Ruling or Revenue Procedure or IRS Notice or IRS Announcement.

The Plan refers to relevant regulations, including (but not limited to) Treasury regulations under the Internal Revenue Code, without regard to whether the regulations are substantive or interpretive and without regard to whether the regulations are proposed or temporary or final; but it is intended that any provision that refers to a regulation shall be construed to refer to the regulation in the sense of the appropriate legal effect (under administrative procedure law and otherwise) that the regulation currently has at the time the construction is made.

To the extent that a provision states a duty owed to any government (rather than a duty to a Participant or Beneficiary or other Person or entity having an interest under the Plan), the provision shall be construed as directory and shall be enforced only by the government. However, a provision that is necessary for the Plan to meet the requirements of a qualified plan within the meaning of IRC § 401(a) includes a duty owed to Participants and Beneficiaries and is not directory.

#### **17.5. Investment Law**

Whenever, after applying the specific construction rules of any definition or provision or part and the general construction rules stated in this part, the Plan may be susceptible to more than one construction or interpretation, a construction or interpretation that is consistent with or that is not inconsistent with applicable Investment Law is preferred over a construction or interpretation that is inconsistent with applicable Investment Law.

#### **17.6. Construction of words and phrases**

The headings and numbering of provisions in the Plan and text that is stated within brackets are included solely for convenience of reference and are not intended to limit, amplify, or affect the construction of any provision of this Plan.

The phrase “under the Plan” or “under this Plan” refers to the entire Plan as a whole and not merely to any part of any document or Provision in which the phrase appears. Any reference to a part of the Plan refers to the whole part. Any reference to a definition or provision of the Plan refers to the whole definition or provision, unless the reference specifies a particular portion or paragraph of the provision.

The singular shall be construed to include the plural, unless the context clearly indicates otherwise.

The words “as” or “if” shall be construed to mean the phrase, “to the extent that,” as appropriate in the context.

Any reference to the Plan Administrator shall be construed to refer to a DSP to the extent that the DSP is authorized to act on behalf of or under the direction of the Plan Administrator.

Unless the provision states otherwise, any reference to a Person or party shall be construed to refer also to any non-natural person or any entity (including but not limited to, any trust or estate).

Any reference to a corporation or similar organization shall be construed to include any successor to the corporation or similar organization.

If any provision concerning a benefit under the Plan is ambiguous, a construction or interpretation of the provision that would provide that such benefit is available in a non-discriminatory manner shall take precedence over a construction or interpretation that would not so provide.

### **17.7. Construction by reference to model laws**

To the extent that any construction beyond the written provisions of the Plan is necessary, the Plan shall be construed (except as otherwise provided by the Plan) according to any then-current restatement of law published or promulgated by the American Law Institute or any then-current Uniform Act or Model Act published or recommended by the National Conference of Commissioners on Uniform State Laws. The Plan Administrator may consider a withdrawn Uniform Act or Model Act if no successor has been promulgated. Among these sources, the Plan Administrator in its sole discretion may select any order of reference and if more than one source is relevant may decide which source it considers controlling or appropriate.

### **17.8. United States of America Constitution and South Carolina Constitution**

When applying any of the preceding construction rules relating to the Internal Revenue Code or the Enabling Statute or the Retirement System law, the Plan Administrator need not consider any statute or regulation or order to the extent that its application is contrary to the Constitution of the United States of America or is contrary to the Constitution of the State of South Carolina; however, the Plan Administrator may presume that any statute or regulation or order is not unconstitutional until a published controlling court decision expressly holds that such law is contrary to a Constitution.

To adopt this Plan, an officer of the South Carolina Public Employee Benefit Authority signed below.

## **18. Trust**

### **18.1. Trust**

A trust is hereby established under State law.

### **18.2. Adding property to the Trust**

The Trustee shall cause all Plan Investment Options applied for after the date that this restated Plan is adopted to be issued to or registered in the name of the Trustee for the purposes of this Trust.

### **18.3. Participant-directed investment**

In addition to (and not by limitation upon) the provisions above, the Trustee hereby authorizes each DSP to accept investment directions given by a Participant, Beneficiary, or Alternate Payee as provided by the Plan. If any investment direction is not received in good order, the DSP may, to the extent provided by the Investment Option, hold any Contribution in cash, without liability for interest or investment gains of any kind, until the Person receives complete proper instructions in good order or the DSP may direct the Contribution to the default Investment Option.

### **18.4. Trustee must defend the Trust**

The Trustee must defend the Trust in any action at law or in equity that asserts or alleges that the Trust is not a valid entity or is in any other way illegal or void or voidable. The Trustee is

entitled to pay from or be reimbursed by the Trust assets all of its actual expenses incurred relating to the defense of the Trust.

### **18.5. Trustee must hold Investment Options**

The Trustee must maintain ownership of the Investment Options. To the extent of Investment Options under a group trust, collective investment fund, or other pooled investment, the Trustee's participation (whether or not measured by shares or units) in the group trust, collective investment fund, or other pooled investment is the form of ownership. This section does not apply to those funds invested in individual annuity contracts prior to July 1, 2005.

#### **18.5.1 Other Investments**

The Trustee shall not invest any money or property of the Trust other than under an Investment Option.

#### **18.5.2 Power to use Investment Options**

The Trustee delegates to the DSPs authority to exercise any of the Trustee's rights or powers under the Investment Options. The Trustee shall oversee the DSP's actions so as to have reasonable assurance that the Investments Options are used according to the Plan and not for any improper purpose.

### **18.6. Trustee has no investment duties**

The Trustee has no investment duties under the Trust. The Trustee shall not invest any money or property of the Trust other than under the Investment Options as instructed by Participants, Beneficiaries, and Alternate Payees. Except to the extent otherwise required by the Enabling Statute, the Trustee has no duty to consider the prudence of any Investment Option. The Trustee has no duty to and shall not inquire into any Participant's, Beneficiary's, or Alternate Payee's investment direction.

#### **18.6.1 Trustee follows investment directions**

The Trustee shall not give any investment direction or instruction of any kind, except as instructed by a Participant, Beneficiary, Alternate Payee, or the Plan Administrator.

### **18.7. Trustee's powers**

Subject to the limitations stated by this Part 18, the Trustee has all powers provided by any applicable South Carolina statute and otherwise at law or in equity (including the common law), and has the following specified powers in addition to and not by limitation upon any such powers.

#### **18.7.1 General powers**

The Trustee may require any Person involved in the administration of the Plan, and any Person having any interest under the Plan, to furnish such certifications of facts as shall permit the Trustee to perform its duties under this Part 18 or under any applicable law. The Trustee has power to make, execute, and deliver as Trustee any and all contracts, waivers, releases, or other instruments in writing and to do all other acts as Trustee that the Trustee considers necessary or appropriate in carrying out any duty or power under this Part 18 or otherwise at law or in equity. The Trustee has power to adjust, settle,

contest, compromise and arbitrate any claims, debts, or damages due or owing to or from the Trust, and to sue, commence or defend any legal proceedings relating to the Trust.

#### **18.7.2 Power to employ accountants and counsel**

Subject to the Enabling Statute, the Trustee has power to employ (at the expense of the Trust) suitable agents, accountants, attorneys, lawyers, legal assistants, consultants, and counsel of any kind; and to pay their fees or expenses and compensation out of the Trust assets. The Trustee shall not be deemed imprudent by reason of its taking or refraining from taking any action according to the opinion of its counsel.

#### **18.8. Employer sends Contributions**

Each Employer sends Contributions to the DSP to be invested under the Investment Options. The Trustee shall not receive any Contributions.

#### **18.9. Plan accounting is Trust accounting**

Because this Part 18 provides that the Trustee shall not receive Plan Contributions, shall have no investment duties, shall not give investment instructions, and shall not pay Plan Distributions, the Trustee need not keep accounts of the Trust.

#### **18.10. Plan audits**

At any time the Trustee may (but is not required to) engage an independent public accountant to examine the Plan's financial statements or internal control procedures. If the Plan Administrator engages an independent accountant, the Plan Administrator must require that such engagement provide that the examination be made according to generally accepted auditing principles (or according to agreed upon procedures that the Trustee approves in writing), and that the Trustee is entitled to rely upon the accountant's examination and opinion and all reports relating to the examination.

#### **18.11. Action of Trustee**

The Trustee may authorize any of its officers or employees to execute documents on its behalf.

#### **18.12. Allocation of responsibility**

Any Person acting regarding the Trust shall have only those specific powers, duties, responsibilities, and obligations specifically provided by this Part 18, or that are provided by the Plan to the extent that the Plan is not inconsistent with this Part 18. Each Person is responsible only for the proper exercise of his, her, or its own powers, duties, responsibilities, and obligations, and any Person is not liable for any act or failure to act of another Person.

#### **18.13. Expenses**

The Trustee may pay from the Trust assets any actual expense (including, by example and not by limitation, actual fees of lawyers and legal assistants, accountants, auditors, proxy solicitors, or other consultants) reasonably incurred in performing services with respect to the Plan or the Trust. Without limiting the comprehensive effect of the foregoing, all of the provisions of the Plan concerning expenses are incorporated into and made a part of this Part 18 by reference.

#### **18.14. Indemnification**

For any officer or employee of the Trustee, such Person's service with respect to the Trust shall be treated as official duties, and such Person shall be entitled to public officer immunity, relief

from liability, and defense and indemnification to the same extent as provided for a government officer or employee in the conduct of his or her official duties.

**18.15. Non-involvement in business management**

The Trustee shall not have any duty to interfere or become in any way involved in the management or conduct of the affairs or business of any business organization or investment organization or entity in which any Trust assets may be invested, even if the Trustee has the controlling interest in such organization or entity. However, the preceding sentence shall not be construed to excuse the Trustee from asserting the Trust's rights if the Trustee has actual knowledge that an organization or entity has willfully defaulted on an obligation owing to the Trust. This provision shall not apply to the extent that its application would cause the Plan to fail to meet the requirements of IRC § 401(a)(2).

**18.16. Proxy voting**

The Trustee shall not have any duty to vote its shares or units or other interest in any Investment Option or any business organization or investment organization or entity in which any Trust assets may be invested. If the Trustee, in its sole and absolute discretion and free of any fiduciary duty, decides to vote any shares or units or other interest, the Trustee may (but need not) seek Plan investment directions concerning the Trustee's voting of any shares or units or other interest. Any voting is not subject to any fiduciary duty except to the extent required to satisfy IRC § 401(a)(2).

**18.17. Rule against accumulations**

The rule against accumulations does not apply to the Trust.

**18.18. Rule against perpetuities**

The rule against perpetuities does not apply to the Trust.

**18.19. Standard of care**

The Trustee shall discharge its limited duties under this Part 18 with the diligence under the circumstances then prevailing that a prudent person acting as a ministerial trustee of a trust for which the trustee had no duties other than to maintain record title of the trust property would use in the conduct of a like trust with a like aim to hold the Investment Options and any other money or property held for the purposes of the Plan solely as Plan assets for the purpose of investing Plan Accounts and paying Plan Distributions.

**18.20. Third-party reliance**

Any Person receiving property from, delivering property to, or having any other transaction with the Trustee is not required to consider the propriety of the acts of the Trustee or inquire into the application of the property or money received by the Trustee, as long as the Person is acting in good faith.

IN WITNESS WHEREOF, the undersigned has executed this amended and restated Plan this 20th day of November 2013.

By: \_\_\_\_\_  
Arthur M. Bjontegard, Jr., Chairman  
South Carolina Public Employee Benefit Authority

**PUBLIC EMPLOYEE BENEFIT AUTHORITY  
BOARD AGENDA ITEM**  
(Reporting Committee: Retirement Policy Committee)

**Meeting Date:** November 20, 2013

**Tab 10**

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**1. Subject: Defined Contribution Plans – Best Practices**

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**2. Summary:**

**NAGDCA Best Practices Comparison to the ORP and Deferred Compensation Program:** PEBA staff has created a comparison to show how the S. C. Optional Retirement Program and the S. C. Deferred Compensation Program compare to the best practices guide that was recently released by NAGDCA.

**Segal – Previously-Recommended Best Practices:** Segal (SC Deferred Compensation Investment Consultant) prepared a memo that describes best practice recommendations that have not yet been implemented. The memo also identifies possible areas of focus for the future.

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

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**4. Supporting Documents:**

- (a) Attached:
1. NAGDCA Best Practices Comparison to DC Plans
  2. Segal Best Practices Memo

## Defined Contribution Unit NAGDCA Best Practices Comparison

The National Association of Government Defined Contribution Administrators (NAGDCA) is an association for defined contribution retirement plans of government employers. Its mission is to unite representatives from state and local governments, and from private sector organizations servicing defined contribution plans, for the purpose of providing plan participants with financial security at retirement.

A “best” practice is by definition subjective. It is a method or technique that has consistently shown results superior to those achieved with other means, and that is used as a benchmark. Best practices are used to maintain quality. But of course what’s “best” for one plan sponsor may not be what’s “best” for all plan sponsors. In addition to being subjective, it is also dynamic. NAGDCA’s ideas about what’s “best” can and will evolve over time. When applying best practices, the strategic ability to balance the unique qualities of one’s own organization with the practices that it has in common with others is important.

NAGDCA believe that the most valuable benefit of being a member is having the opportunity to learn from one another. Approach this guide as if you were sitting down with your peers and asking a few basic questions: How is your plan structured? How do you select your providers? Do you work with a Consultant? What do you do well? What’s working in your plan? What struggles have you encountered, and how have you addressed those issues? Consider the information in this guide, along with other resources you may currently rely on (experts within your organization, educational materials, consultants, providers, etc.). With access to all these valuable resources, you can make well-informed decisions for your plan.

<b>PLAN ADMINISTRATION</b>		
<b>NAGDCA Best Practice</b>	<b>S. C. Optional Retirement Program</b>	<b>S. C. Deferred Compensation Program</b>
<p><b>Program Complexity</b> – When considering defined contribution plans, remember that more is not necessarily better. Investing can be complex and difficult for most employees, so plan sponsors should make participation and decision making as easy as possible. Offering multiple plans, providers, and/or too many investment options can discourage participation. Offering multiple plan providers also increases the plan sponsor’s responsibilities.</p>	<p>One plan with four record keepers. A different lineup of investment options for each record keeper.</p>	<p>Two plans with one record keeper. A single lineup of investment options across both plans.</p>
<p><b>Plan Documents</b> – A Plan Document is a written document that describes the Plan’s terms and conditions related to the operation and administration of a Plan. They are living, evolving documents. As the law changes (and it changes often), updates will be required. Additionally, as you refine the administration of your plan, you will need to incorporate those changes into your Plan Document.</p> <p>A best practice for administering your Plan Document is to review it on a regular basis (e.g. annually) to make sure the document is current. It’s easy for your internal processes to evolve over time and get out of synch with your Plan Document. The Plan Document is the source document the IRS uses to ensure your plan is administered in accordance with the applicable code and the established rules. It is prudent as a plan sponsor to periodically conduct your own review to ensure consistency.</p>	<p>There is a plan document, which is reviewed internally and by outside legal counsel on an annual basis.</p>	<p>Each plan has a plan document, which is reviewed internally and by outside legal counsel on an annual basis.</p>
<p><b>Plan Services</b> – Within a defined contribution plan there are various areas of service offered to plan participants. The best practice in understanding these services is to identify them as separate and important parts of plan administration, with each having its own goals and objectives to help ensure your overall plan goals are met.</p>	<p>Plan services are viewed as a package provided by each record keeper. This is how record keepers differentiate</p>	<p>Recordkeeping, administration, and custodial services are viewed similarly, while communications and investments</p>

<p>Major categories of plan services include: Recordkeeping, Administration, Communications, Investments, and Custodian/Directed Trustee.</p>	<p>themselves from each other.</p>	<p>are each viewed as separate services.</p>
<p><b>Bundled and Unbundled Plan Service Models</b> – Bundled involves an arrangement where a plan sponsor contracts with a single provider to provide most or all of the major plan services. Unbundled means that the plan sponsor is breaking apart the primary group of key services, rather than allowing one provider to handle all such services.</p> <p>Unbundling investment services from recordkeeping and communications is generally considered a best practice for defined contribution plans as they grow in size because unbundling offers the plan sponsor greater leverage in being able to obtain best-in-class services and more transparent pricing.</p>	<p>For the most part, an unbundled approach is being utilized.</p>	<p>An unbundled approach is being utilized.</p>
<p><b>Contracted and In-House Functions</b> – Plan sponsors can provide services using their own technological and human resources, or they can use contracted service providers. The more typical approach is to use a mix of the two. In general, the more technical or specialized a service, the more cost-effective it will be to use a contracted provider. But the more involved a particular service is with the unique operational environment of the plan sponsor, the more it will make sense for the plan sponsor to perform the task.</p> <p>Evaluating the scope of services involves much more than asking, “Can we do it?” or “Can they do it?” The real question is who can provide the service most efficiently. Who should do it? Efficiency involves not just an evaluation of cost, but also speed, accuracy and qualitative factors.</p>	<p>Virtually all administrative functions are delegated to contracted service providers. Plan-level decisions and legal matters are addressed in-house.</p>	<p>The majority of administrative functions are delegated to contracted service providers. Communications are directed by the plan sponsor and administered by the record keeper.</p> <p>Plan-level decisions and legal matters are addressed in-house.</p>
<p><b>Consulting Services</b> – Consultants are often used by plan sponsors to assist with important plan functions requiring the advice or services of experts. Consultants can assist with and enhance the fiduciary oversight of your retirement plans. They work with you to establish and maintain the tools necessary for you to demonstrate an ongoing process of prudent plan management. They provide a more efficient means of accessing technical and creative expertise than would otherwise be available to a plan sponsor from its internal resources. Consultants are not necessarily required in any or all subjects. Each plan sponsor should assess the degree to which its needs can be met by its internal resources and where the plan might benefit from outside firms with broader experience.</p> <p>Key consulting service areas include: Investments, Plan Administration/Regulatory, Communications, Tax and Legal Counsel, and Auditing.</p>	<p>Assisted by an investment consultant and outside legal counsel.</p>	<p>Assisted by an external auditor, an investment consultant, and outside legal counsel.</p>
<p><b>Role of the Internal Revenue Service</b> – The Internal Revenue Service (IRS) can also provide support to your plan, both in qualifying your plan as being compliant with laws and regulations and in assisting you with interpretive questions arising in ongoing administration. Some issues may be addressed with the IRS informally, and others may require a more formal review (for example, by seeking a private letter ruling). Because of the costs and time involved in more formal reviews, plan sponsors should carefully evaluate whether it is wiser to address regulatory questions directly through the IRS or through services which may be available through contracted service providers, in-house counsel, or contracted tax counsel.</p>	<p>The objective is to administer the plan as described by the plan document. In addition to reviewing it annually, we submit the plan document to the IRS under Cycle C (5-year schedule) for a determination letter.</p>	<p>The objective is to administer the plans as described by the plan documents. In addition to reviewing them annually, we submit the 401(k) plan document to the IRS under Cycle C (5-year schedule) for a determination letter and the 457 plan document for a private letter ruling.</p>

**PLAN GOVERNANCE**

<b>NAGDCA Best Practice</b>	<b>S. C. Optional Retirement Program</b>	<b>S. C. Deferred Compensation Program</b>
<p><b>Plan Oversight</b> – The most common form of plan governance involves creation of a specialized Board to assume oversight responsibilities of the defined contribution plans. Such Boards should meet on a regular basis (e.g. quarterly) to review the items as listed above, and minutes should be documented as well. Key responsibilities include:</p> <ul style="list-style-type: none"> <li>▪ Facilitating and promoting the benefits of the plan among employees and emphasizing the importance of plan participation</li> <li>▪ Designing the plan investment menu and monitoring the investment options</li> <li>▪ Approving plan administrative and investment policies</li> <li>▪ Approving changes to the services and features of the plans</li> <li>▪ Establishing a communications and education plan</li> <li>▪ Overseeing and monitoring the delivery of services to the plan in coordination with any established plan goals and objectives</li> <li>▪ Procuring for plan services, and evaluating performance of any hired service providers or consultants</li> <li>▪ Providing ongoing input on the plan services being delivered</li> </ul> <p>The level of expertise of the board often varies and it can be in the best interest of board members and the plan sponsor to hire outside experts to assist board members in effectively executing their responsibilities. Plan consultants may be hired to provide best practice or industry guidance with respect to education and plan administration, or fund line-up design and review. A more specialized investment advisor may assume primary responsibility for developing recommendations for investment menu design, oversight and reporting of investment performance, and recommendations of fund line-up changes, among other responsibilities. The plan will usually bear the costs of these additional professional services.</p> <p>Sub-Committees may also be established on a regular or periodic basis to address more specialized areas of particular importance to the plan. An Investment or an Education Sub-Committee are both examples of smaller, specialized teams that focus on key areas and are expected to report back to the entire board. Most frequently, sub-committees may make recommendations to the entire board but have not been delegated exclusive decision-making authority.</p> <p>Producing good written minutes of your meetings is one of the most valuable tools you can use to document the fulfillment of your fiduciary role and provide a reliable record of how and why changes were made. Finding the right level of detail can be challenging. Minutes should capture, not just final outcomes but, the most essential components of the deliberative process. This is particularly valuable with issues which may involve some controversy or challenging judgment calls. By demonstrating that your deliberations approached the issue prudently and in good faith, your organization will be well supported in the event the decision is questioned by a participant or some external individual or entity. Detailed minutes provide valuable information to future administrators and staff as they look back and try to determine why their predecessors made certain decisions. They also provide the same benefit to plan participants.</p>	<p>Plan is governed by the Board of Directors of the Public Employee Benefit Authority (PEBA), and plan matters are monitored by the PEBA Retirement Committee.</p>	<p>Plan is governed by the South Carolina Deferred Compensation Commission through December 31, 2013.</p> <p>Effective January 1, 2014, plan will be governed by the Board of Directors of PEBA, and plan matters will be monitored by the PEBA Retirement Committee.</p>

<p><b>Plan Record Retention</b> – It’s a good idea for plan sponsors to retain indefinitely a number of critical documents that demonstrate the effective management and administration of the plan. A copy of every version of the plan document, including amendments and adoption agreements, should be kept for at least six years after the termination of the plan. Signed contracts with service providers, including any updates or amendments that may have taken place over time, should be readily available, along with any communications to plan participants regarding plan changes or amendments. Evidence of the selection process of Committee members that was used, including filling vacant spots on the committee, should be retained, along with meeting notes. It is also a good idea to retain evidence of steps taken to review and monitor plan services delivered, including the educational outreach efforts to plan participants, their outcomes, and the performance of the investment line-up. This may be accomplished each year through the careful review of a detailed Annual Plan Review, or similar document, from your plan record keeper, which may store much of this information in a single document.</p> <p>A common practice is to retain all participant records at least until the account has been totally depleted, either through extended benefit payments or transfer to another plan or IRA. Even then, industry practice is often to retain beneficiary records, in particular, for an unlimited period of time. The Plan Document should provide clear guidance on the designation of a default beneficiary, in the event participants fail to make a selection upon enrollment. And to ensure participants are aware of the beneficiary designation they have on record, steps such as posting current beneficiaries on participant statements and providing participants with written confirmations of all beneficiary record changes, help to ensure that participant records remain up-to-date and accurate.</p>	<p>Critical documents, such as the plan document and contracts, are retained indefinitely.</p> <p>Documents held by the record keepers must remain available to the plan sponsor for three years after the recordkeeping contract has ended.</p> <p>Current beneficiary designations are posted on quarterly statements, and written confirmations of beneficiary changes are provided to participants.</p> <p>The plan document provides clear guidance regarding default beneficiary designation.</p>	<p>Critical documents, such as the plan documents and contracts, are retained indefinitely.</p> <p>Documents held by the record keeper must remain available to the plan sponsor for six years after the recordkeeping contract has ended.</p> <p>Current beneficiary designations are posted on quarterly statements, and written confirmations of beneficiary changes are provided to participants.</p> <p>The plan documents provide clear guidance regarding default beneficiary designation.</p>
<p><b>Optional Documents</b> – There are a number of additional, optional supporting documents for you to consider that may help ensure the smooth operation of your plan. These optional documents include: By-Laws or Charter Documents, a Policy Manual, and an Investment Policy Statement.</p> <p>A thoughtful, well-organized plan will help to ensure smooth operation. A thorough, well-documented process can help to provide the proper level of protection for fiduciaries.</p>	<p>By-Laws and an Investment Policy Statement are available.</p>	<p>By-Laws and an Investment Policy Statement are available.</p> <p>The Employer Reference Guide also provides important information about various policies and procedures.</p>

<b>PLAN DESIGN</b>		
<b>NAGDCA Best Practice</b>	<b>S. C. Optional Retirement Program</b>	<b>S. C. Deferred Compensation Program</b>
<p><b>Hardship and Unforeseeable Emergency Withdrawals</b> – Hardship and unforeseeable emergency withdrawal provisions allow plan participants to withdraw funds for non-retirement uses. While offering these provisions to plan participants may not be considered a best practice on its own merits, it is extremely common to do so. There are certain circumstances where access to retirement funds can make a significant difference in a plan participant’s life. These are the precise circumstances that withdrawal provisions are designed to address.</p> <p>Determining whether a participant’s circumstances merit a hardship or unforeseeable emergency withdrawal can be very subjective. Since the plan sponsor is ultimately responsible for administering these provisions in compliance with applicable laws and regulations, clear and consistent policies and procedures are critical.</p>	<p>Not available.</p>	<p>Hardship and unforeseeable emergency withdrawals are available to participants, subject to the provisions of the plan documents and IRS regulations.</p> <p>These withdrawals are processed by the record keeper, and all appeals are reviewed by PEBA staff.</p>

<p>Plan Sponsors should carefully consider, not only whether to offer hardship withdrawals or unforeseeable emergency withdrawals but, the structure of the services as they can have a significant detrimental effect on participant savings.</p>		
<p><b>Loans</b> – Like hardship withdrawals, loans are another commonly offered feature of defined contribution plans. There are two types of loans which can be offered: General Purpose Loans and Principal Residence Purchase Loans.</p> <p>In general, if a plan elects to allow loans, it is considered a best practice to restrict the number of loans taken (e.g. to one or two at a time, to balance flexibility against administrative burdens) and to charge a fee for initiating a loan to discourage loan use.</p> <p>Loans are an optional service, but one that is comforting to participants seeking to increase their contributions to the plan or who are concerned that they may need access to funds in an emergency. The challenge for plan sponsors is to assess the behavior of their own participant population and, if loans are to be offered, set rules that strike a balance between meeting participant needs and ensuring that the plan is used primarily as a retirement savings vehicle.</p> <p>As the most common procedure used for loan repayment is payroll deduction, plan sponsors should also prepare for the ongoing administrative responsibility that comes along with a loan provision in your plan.</p> <p>Plan Sponsors should carefully consider, not only whether to offer loans but also, the structure of the plan services as this can have a significant detrimental effect on participant savings.</p>	<p>Not available.</p>	<p>Up to two loans may be taken across both plans. Loan terms and amounts are subject to the provisions of the plan documents and IRS regulations.</p> <p>All loans are processed by the record keeper. A loan origination fee is charged.</p> <p>It is not required that loans be repaid via payroll deduction, which leads to an above average rate of default.</p>
<p><b>Investment Advice</b> – Opinions remain divided with respect to best practices regarding communication, education, and advice. As a general summary, despite extensive efforts for participant education, the empirical record of communication and education campaigns to materially improve the investment decisions (savings rates, participation rates, investment diversification, etc.) of plan participants is quite poor. It may be worth noting that the collective record of automatic plan features, plan design changes, or plan sponsor actions in driving savings and investment actions is far superior. This merits mention because investment advice is frequently offered to participants along with other plan communication and education efforts. In reality, however, there is a very clear line between education and guidance to plan participants, on one hand, and advice, on the other.</p> <p>One method for providing participants with investment advice is to offer a managed account service via the plan record keeper. Frequently, these services are also paired with access to a call center that has trained and licensed financial planners available to answer questions and assist in financial planning and asset allocation decisions. From an investment perspective, initial studies of participant asset allocation results with these services indicate they may improve diversification and reduce total volatility. For a plan sponsor seeking to offer managed account services and access to phone-based financial advisors, the key items to monitor are:</p> <ul style="list-style-type: none"> <li>▪ Fees</li> <li>▪ Revenue-sharing transparency when revenue is passed from the advice provider to the record keeper</li> <li>▪ Appropriateness of the asset-allocation model</li> <li>▪ Accuracy of the reflection of DB and Social Security Benefits in asset allocation planning models</li> <li>▪ Investment fund selection process transparency when revenue sharing is passed between the fund provider to the advice provider</li> </ul>	<p>One record keeper offers a managed account service. An additional fee is charged for this service. Financial planners are available via a call center.</p> <p>Most record keepers have individuals available to provide one-on-one financial planning sessions. These individuals are not dedicated to the plan.</p>	<p>The record keeper offers a managed account service. An additional fee is charged for this service. Financial planners are available via a call center.</p>

<p>Another option for advice is to provide access to investor centers, or a field force of representatives that will conduct one-on-one financial planning sessions. For many plans this provides an excellent benefit. However, it is important that plans carefully weigh whether they will encourage one-on-one field forces to conduct financial planning sessions when cross-selling of other products is permitted, as is often the case. Finally, with all advice solutions, it is important to seek transparency with respect to how participants receive counseling with respect to items like rollovers, financial planning in retirement, and purchases of services like annuities, and any associated compensation received by those providing advice to plan participants.</p>		
<p><b>Rollovers</b> – Plan sponsors have wide latitude with respect to permitting rollovers into their plan from other plans. In general, rollovers are commonly permitted into and out of plans, as this permits participants to exercise control over their retirement assets and to eliminate the frustrations associated with managing multiple retirement accounts.</p>	<p>Rollovers in and out are allowed, subject to plan document provisions and IRS regulations.</p>	
<p><b>Roth Options</b> – For most governmental plans, it is now possible to offer access to a Roth version of the same plan. Because these options permit otherwise effectively identical use of the plan, but with an additional option that can help a portion of plan participants to better manage their tax burden in retirement, it is considered a best practice to offer a Roth option when available from the record keeper.</p>	<p>Not applicable.</p>	<p>Pretax or Roth savings options are available for each plan.</p>
<p><b>Automatic Plan Features</b> – In the ERISA marketplace, fiduciary safe harbor protections for plan sponsors that adopted automatic enrollment and automatic contribution escalation features in their plans have led to a very significant increase in plan sponsors utilizing these features. A large volume of research from various record keepers, academics, and institutions like the Employee Benefit Research Institute has conclusively demonstrated a few key facts about automatic plan features:</p> <ol style="list-style-type: none"> <li>I. When plans adopt automatic enrollment, participation is notably higher than when they don't, often by 10-20%.</li> <li>II. When plans adopt a default investment, like a target date fund, and automatically enroll participants, the majority of assets invested in these options remain there.</li> <li>III. When plans automatically enroll plan participants at a given contribution level – most commonly 3% – contribution rates tend to remain close to that level.</li> <li>IV. When plans adopt automatic enrollment and automatic escalation in combination, participation rates remain high, and contribution levels rise to significantly higher levels than when only automatic enrollment is adopted.</li> </ol> <p>The experiences in both ERISA and non-ERISA plans lead to a relatively clear set of conclusions. For plan sponsors seeking to increase plan participation, no change to the plan will be as effective as automatic enrollment. However, adopting automatic enrollment without automatic contribution escalation results in artificially low contribution rates. As a result, when possible, it is best to adopt the two in combination.</p> <p>An alternative to automatic enrollment is active choice which simply requires new employees to make a choice to opt-in or opt-out of the plan. It is also possible to adopt quick enrollment procedures, where participants can sign up and use the default in just a few minutes.</p> <p>Some employers are taking a step beyond automatic enrollment and re-enrolling existing employees as an effective way to increase plan participation.</p>	<p>Plan is an alternative to SCRS. If selected, contributions to the plan are mandatory.</p> <p>By statute, employer and employee contribution amounts are equal to SCRS contribution amounts.</p>	<p>Employer and/or employee contributions (if any) are discretionary.</p> <p>No automatic plan features have been implemented, and to implement these features would likely require a legislative change.</p>

<p><b>Employer Match</b> – Historically, governmental employers generally did not make matching contributions to defined contribution plans because the employer’s contributions went to fund a defined benefit plan. Even if the defined contribution plan is not intended as a primary retirement source of income, there are other reasons to consider implementing a matching program.</p>	<p>By statute, employer contributions are mandatory.</p>	<p>Employer contributions are discretionary.</p>
<p><b>Investment Menu Design</b> – Plan sponsors designing an investment menu face many challenges. First and foremost are the requirements that face a plan fiduciary, such as quality of each investment, fees, appropriateness, and offering a sufficient array of choices. But, there are many other items that affect menu construction.</p> <p>In recent years there have been many advances in the behavioral finance literature that have significantly changed the way that many plans approach building their investment menus. Previously, many plan sponsors believed that offering a very wide array of investment choices is the best approach. This line of thinking is often rooted in beliefs about the importance of freedom of choice, or concern that participants would have insufficiently specific options to execute their desired investment strategy.</p> <p>Today, however, the industry is unambiguously moving toward a streamlined model for investment menu design. Complex investment menus with many options are beneficial to a minority of participants who are active investors, while they can serve to scare off a generally larger portion of the participant base that become confused in sifting through all the options.</p> <p>As a result, the investment menu that most resembles a “consensus best practice” today includes: 1) A tier of one or more pre-diversified “QDIA” investments, such as risk-based funds, target date funds, balanced funds, or a managed account service and 2) A tier of a few “core” funds for participants to construct portfolios. A “third tier” is sometimes included, which often includes a self-directed brokerage fund or more narrowly focused investment selections.</p> <p>The biggest challenge in designing an investment menu is balancing the benefits of simplicity with the benefits of diversification. You’ll be more successful at this if you anchor your investment decision-making in the average participant’s experience of the investment menu. Participants’ perspectives are the most important, because it’s their interpretation of the choices you provide that will drive the choices they make. If your participants don’t really speak the language of “growth vs. value,” “inflation-protection,” or “passive vs. active,” then it’s unlikely they will make decisions built around those concepts.</p> <p>While a great deal of effort and energy is devoted to selecting and monitoring individual mutual funds, recent trends show that many participants are seeking an easy to use pre-packaged “diversified” investment option. These options include risk-based funds, balanced funds, and target date funds. Because these options provide participants with a range of advantages not available from other choices – and because they have been endorsed in the ERISA market as defaults – these funds have grown to the point that across the marketplace they are receiving 50% or more of new fund flows. The key benefit is that these options offer a fully diversified portfolio with an automatic rebalancing.</p> <p>Selecting pre-diversified options does introduce some complexity at the plan sponsor level, while reducing plan complexity for participants utilizing these options. While providing oversight to these options can be complex, pre-diversified options are becoming the primary destination for new investment in public defined contribution plans, and their use has been shown to significantly improve participant asset allocations. As a result, it is considered a consensus</p>	<p>Each record keeper has its own lineup of investment options. This is a key differentiator among them.</p> <p>Most of the lineups consist of funds in each available investment category, as this allows record keepers to seem more competitive.</p> <p>Each record keeper provides a suite of target date funds, which is the designated default investment option.</p> <p>A self-directed brokerage window is not available for this plan.</p> <p>Many of the funds use retail shares, which allow the record keepers to receive compensation by way of various forms of revenue sharing. Due to this method of compensation, revenue is difficult to determine. Record keepers provide a report of revenue to the plan sponsor on an annual basis.</p>	<p>There is a single lineup of investment options across both plans. The fund lineup is fairly streamlined and consists of a suite of target date funds, which is the designated default investment option.</p> <p>A self-directed brokerage window is available and allows access to investment options not available in the general lineup.</p> <p>The vast majority of funds use institutional shares, which do not share revenue. The record keeper is paid an explicit fee based on total assets in the plans. Any revenue shared by funds is allocated back to participant accounts.</p>

<p>best practice in the industry to focus significant attention – both from plan communication and investment perspectives – on the pre-diversified option as a centerpiece of the modern defined contribution plan.</p> <p>Self-directed brokerage windows are present in many DC plans. Through these windows, it is possible to gain access to investment options that are not reviewed or approved by plan fiduciaries, but that may suit the specific investment needs of individual plan participants.</p> <p>Historically, defined contribution plans have used “retail shares” of nationally recognized mutual funds. These mutual funds, along with their various share classes, have ticker symbols available on numerous financial tracking services. Retail shares of a mutual fund often have a higher cost than other vehicles. As fund assets increase, plan sponsors will have increased negotiating power and will have access to more institutionally-oriented vehicles, such as separate accounts, commingled collective trusts, and institutional mutual funds.</p>		
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<b>COMMUNICATIONS AND PARTICIPANT EDUCATION</b>		
<b>NAGDCA Best Practice</b>	<b>S. C. Optional Retirement Program</b>	<b>S. C. Deferred Compensation Program</b>
<p><b>What to Communicate</b> – The challenge plan sponsors face with their retirement program communications is considerable. Participants crave simplicity, and yet there is inherent complexity to the rules, benefits and services of our plans. Participants also want to feel confident, but for many of them, investing raises fear and anxiety. As a plan sponsor, you must transform complexity into simplicity, and fear into action. Here are examples of important information participants need to know to be successful in a defined contribution plan:</p> <ul style="list-style-type: none"> <li>▪ The plan offers a way to help save for retirement.</li> <li>▪ There are two tax-advantaged ways to save: pre-tax or after-tax dollars.</li> <li>▪ Different contribution limits exist for different types of participants.</li> <li>▪ Contribute as much as you can afford.</li> <li>▪ If there’s an employer match, don’t leave money on the table.</li> <li>▪ Investing doesn’t need to be scary – diversifying helps manage risk, and you determine your risk level.</li> <li>▪ You have access to your assets in the event of an unforeseen emergency.</li> <li>▪ How you take money out of the plan is just as important as how you put it in.</li> <li>▪ Updating beneficiary designations is an important aspect of maintaining your account.</li> </ul>	<p>Each year, an annual meeting is held where the record keepers, investment consultant, and plan sponsor meet to discuss priorities and areas of focus for the upcoming year.</p> <p>Record keepers consider these priorities when planning communication initiatives. However, approaches to communication and education may vary, as this is a key differentiator among record keepers. Retirement plan counselors are not dedicated to the plan.</p>	<p>The formal marketing plan is reviewed and updated annually based on the priorities of the plan sponsor.</p> <p>The record keeper is responsible for administering this plan, and non-performance fees are assigned if goals are not achieved.</p> <p>This process allows the plan sponsor to have full control over communication and education initiatives. Retirement plan counselors are dedicated to the Program.</p>
<p><b>Fees and Expenses</b> – Fee disclosure is a challenging responsibility. Fee structures among investment and service providers, and even within the plan design structure, are diverse and complex. Participants, and often even plan sponsors, find it difficult to understand how much they are paying and what they are paying for. The Department of Labor recently created new fee disclosure requirements for ERISA plans. Even though governmental retirement plans are exempt from ERISA requirements, we believe it is a best practice to disclose all fees clearly and regularly. When communicating fees, it is also helpful to “translate” them in ways that participants can understand.</p>	<p>Details on investment option fees are posted quarterly to the website.</p> <p>Record keepers provide an annual report of revenue to the plan sponsor.</p>	<p>Recordkeeping and other fees are clearly disclosed to participants via education materials and website notifications.</p> <p>The record keeper discloses fees to the plan sponsor via a monthly plan sponsor fee disclosure.</p>

<p><b>Annual Updates and Regulatory Changes</b> – The benefits and rules associated with defined contribution plans are fluid and always changing as legislation is modified, regulations are clarified, contribution limits change, etc. It is important for the plan sponsor to stay up-to-date on these changes and relay this information to participants in a timely manner. In addition, as plans make changes (by changing investment options, for example) plan sponsors must be aware of their obligations to communicate those changes according to regulatory requirements, protecting both the plan participant and the plan sponsor.</p>	<p>While providing annual updates is not a formal procedure, participants receive notification of changes (e.g. changes to investment options) at least 30 days prior to the change date.</p>	
<p><b>Summary Plan Description</b> – A primary resource for documenting and disclosing the plan’s policies, procedures, and provisions is the “Summary Plan Description” (SPD) or “Plan Prospectus”. The goal of the SPD is to communicate technical information in clear and simple language. This document should be made available to all eligible employees and participants. This document is a powerful one-stop guide for, not only the participant but, the plan sponsor in documenting important rules and meeting disclosure requirements.</p>	<p>The Select Your Retirement Plan guide is available to participants, which clearly communicates technical details about the plan.</p>	<p>The Program Features and Highlights guide is available to participants, which clearly communicates technical details about the plan.</p>
<p><b>How to Communicate</b> – When establishing your communication plan, it’s critical to consider the various methods of communication individuals receive and answer. Some are visual learners, others are auditory learners and others have a hands-on learning preference. As your communication program is developed, utilize different means to ensure you are incorporating enough methods of communication to meet all of their learning styles.</p> <p>In developing your communications program, you should explore all potential communication methods:</p> <ul style="list-style-type: none"> <li>▪ One-on-one Counseling</li> <li>▪ Websites and Web-Based Information Tools</li> <li>▪ Call Centers</li> <li>▪ Quarterly Statements and Newsletters</li> <li>▪ Group Education</li> <li>▪ Social Media</li> </ul>	<p>Record keepers provide various methods of communication, which are utilized at their discretion.</p>	<p>The record keeper provides various methods of communication.</p> <p>Due to the multi-employer structure, the primary methods of communication are via email and direct mail.</p> <p>The primary methods of education are group presentations and one-one-one counseling sessions.</p>
<p><b>Focus Groups</b> – Focus groups are your communication program’s best friends. There is a general tendency on the part of many service providers and plan sponsors to build their communication materials around: (a) the complexity of the subject matter that they work with every day and/or (b) a “full disclosure” orientation which is geared towards including every single fact and nuance that relates to a particular topic. Large doses of complexity and disclosure can make for absolute confusion at the participant level, and there is no greater resource for calling this out than testing the materials on participants before they’re finalized.</p> <p>Test everything if you can, including forms, your website, and even your group presentations. Your participants are the most valuable resource you have in designing an effective communications program.</p>	<p>Focus groups are not currently being utilized.</p>	
<p><b>Measuring Success</b> – How do you know if your efforts are effective? There are two methods to help you determine the success of your education program – testing participant behavior, and surveys.</p> <p>Periodically obtain reports showing customer behavior, such as contribution rates, loans, withdrawals, rollovers, and investment choices. Measure changes in activity to detect patterns. Also, after a targeted promotion, you could test</p>	<p>Contributions are analyzed on a quarterly basis. A consolidated report is provided each year to observe participant behavior. Surveys are not currently being utilized.</p>	<p>Plan activity reports are analyzed on a quarterly basis to observe participant behavior.</p> <p>Random electronic surveys are conducted</p>

<p>the change in behavior to see if there was a response to your promotion.</p> <p>Surveys are a tool that can be used to determine if people are receiving and understanding your information. On-line survey tools are easy to use, but may be limited to individuals willing to participate on-line. Exit surveys (from seminars and after counseling sessions) and telephone surveys are also good options. Surveys are good tools to test knowledge, but may not accurately test behavior. Participants may indicate that they “intend” to take action, but never get around to making a change.</p>	<p>A retirement readiness study is currently being conducted by the investment consultant and should provide better insight regarding retirement outcomes.</p>	<p>at the completion of call center or website interactions. Exit surveys are utilized after seminars and one-on-one consultations.</p>
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<p align="center"><b>PLAN SPONSOR EDUCATION</b></p>		
<p><b>NAGDCA Best Practice</b></p>	<p><b>S. C. Optional Retirement Program</b></p>	<p><b>S. C. Deferred Compensation Program</b></p>
<p><b>Stay Informed</b> – Attend periodic webcasts that will allow you to participate in panel discussions and receive information from the convenience of your office, instead of having to travel for on-site meetings.</p>	<p>The Board of Directors of PEBA has an education policy, which requires each Board Member to receive at least 18 hours of relevant education every two years.</p>	
<p><b>Build Your Peer Network</b> – Attend annual conferences. NAGDCA presents an annual conference each fall, which focuses on current topics to help experienced and novice members learn about and apply best practices from the industry. In addition, the annual conference provides significant networking opportunities with other administrators and plan professionals. Also, utilize surveys to review narrative overviews of the key areas involved in administering governmental plans.</p>	<p>In addition to attending the NAGDCA conference each year, PEBA staff members participate in periodic conference calls and webcasts to learn and take advantage of valuable networking opportunities.</p> <p>Consultants also play an instrumental part in helping to ensure that the plans remain in line with industry trend and best practices.</p>	
<p><b>Stay Abreast of IRS Notices, Legislative Changes, and Industry Research</b> – Plan sponsors need to understand and anticipate current trends in plan design and be aware of potential legislation and its impact on their plans.</p>		
<p><b>Personal Commitment to Ongoing Training and Personal Development</b> – Offer development and training services to staff and trustee/board members through individuals certified in the areas of financial planning, retirement education and administration, with a broad and deep expertise in such services and associated fiduciary responsibilities.</p>		



## MEMORANDUM

**To:** The South Carolina Public Employee Benefit Authority (PEBA)

**From:** Rosemary E. Guillette, Senior Consultant, Segal Rogerscasey  
Robert Liberto, Senior Vice President, Segal Rogerscasey

**Date:** October 3, 2013

**Re:** "Best Practices"

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This memo is in response to questions surrounding the use of "Best Practices" within the State of South Carolina Defined Contribution Program. Segal Rogerscasey advocates that all our clients use "Best Practices" within their Defined Contribution Programs. These practices include a "best in class" approach to choosing investment managers, an open architecture format with clear record keeping fees, fee disclosure to all participants, descriptive investment policy guidelines outlining both risk and performance standards for the funds, and the lowest share class options for participants. We recommend that clients reduce or eliminate revenue sharing if possible and charge a record keeping basis point fee on a per participant basis.

The State of South Carolina has always been responsive to all our recommendations and has implemented all the practices above with the exception of fee disclosure to all participants. The fee disclosure statements have not been released for approval by Great-West yet as they are awaiting further guidance from the SEC. Once this guidance has been received, we were told that the statements will be released for approval to the participants.

As was discussed at the last meeting, there are always ways to further optimize the Defined Contribution Program. At the State of South Carolina, this is discussed and implemented each year through the development of strategic objectives and a strategic plan. Some of the topics that would be important to explore would be the implementation of annual benefit statements detailing both defined benefit and defined contribution information, significantly increasing the participation rate through auto-enrollment and auto-escalation, regular gap analysis, exploring further ways to lower fees to participants, and the development of a target rate of readiness for all participants.

Please let us know if there are further questions or concerns regarding your Program.

cc: Matthew Davis, Program Manager, State of South Carolina Defined Contribution Program