As Approved by the Board of Directors on April 18, 2019

Connecticut Health Insurance Exchange
Board of Directors Regular Meeting

Connecticut Historical Society
Auditorium

Thursday, February 21, 2019
Meeting Minutes

Members Present: Robert Tessier (Vice-Chair); Cecelia Woods; Grant Ritter; Anne Foley on behalf of Secretary Melissa McCaw, Office of Policy and Management (OPM); Robert Scalettar, MD.; Commissioner Raul Pino, Department of Public Health (DPH); Theodore Doolittle, Office of the Healthcare Advocate (OHA); Nancy Navarretta on behalf of Commissioner Miriam Delphin-Rittmon, Department of Mental and Health Addiction Services (DHMAS); Victoria Veltri; Paul Philpott

Members Absent: Nancy Wyman, Chair; Roderick Bremby, Commissioner, Department of Social Services (DSS); Paul Lombardo, Acting Commissioner, Connecticut Insurance Department (CID)

Other Participants: Access Health CT (AHCT) Staff: James Michel; Rajiv Chawla; Robert Blundo; Susan Rich-Bye; Andrea Ravitz; Anthony Crowe; Glenn Jurgen; Darrell Hill; Ann Lopes
Wakely Consulting: Julie Andrews

I. Call to Order and Introductions

The Regular Meeting of the Connecticut Health Insurance Exchange Board of Directors was called to order at 9:00 a.m.

Vice-Chair Robert Tessier called the meeting to order at 9:00 a.m.

II. Public Comment

No public comment.

III. Vote

Vice-Chair Robert Tessier requested a motion to approve the January 17, 2019 Board of Directors Regular Meeting Minutes. Motion was made by Cecelia Woods and seconded by Grant Ritter. ***Motion passed unanimously.***

IV. CEO Report

James Michel, Chief Executive Officer, provided the CEO Report. Mr. Michel thanked everyone for their exceptional efforts during the last Open Enrollment (OE) period. Mr. Michel reminded the Board about the organization's mission, which is central to its operations. The Board of Directors created the Exchange's mission more than six years ago. It serves as the AHCT's foundation. It is the AHCT mission to increase the number of insured residents in Connecticut, improve healthcare quality, lower cost, and reduce health disparities through an innovative, competitive marketplace that empowers consumers to choose the health plan and provider that can give them the best value. The core of the mission is to increase the number of insured residents. Mr. Michel emphasized that as the Exchange has evolved, a deeper understanding of the rate of uninsured is needed, broken down by ethnicity, race, gender, geography, and income. These data will provide the most accurate representation of where the organization stands and how it can better direct its efforts. The Exchange is working on a plan to commission the study to provide the organization with detailed information to plan for the next three years.

Mr. Michel emphasized that currently, six organizational priorities are being addressed. The first priority is decreasing the number of qualified health plan members losing coverage due to missed premium payments and/or verification documents. Mr. Michel recited five additional priorities which include increasing minority engagement, plan utilization and healthier living, ensuring that every customer has a primary care provider, creating a better experience for individuals who transition from Medicaid to Qualified Health Plans (QHP) and those who move from QHPs to Medicare. Mr. Michel added that growing small business, and the execution of a study identifying the rate of the uninsured in Connecticut, including who they are and where they live, concluded the list of current priorities.

Mr. Michel reminded the Board that February is National Black History Month. AHCT is raising awareness about health disparities that disproportionately affect Black, African-American, and Hispanic communities. One of the most important goals for AHCT is to deepen relationships with existing and new customers, as well as those that do not currently need AHCT's services, but may need them in the future.

V. 2019 Enrollment Update

Robert Blundo, Director of Technical Operations and Analytics, briefly summarized the 2019 Enrollment Update. Paul Philpott indicated that close to 80 percent of the current business is with a single carrier. This current scenario is presenting the Exchange with potential vulnerabilities, and he inquired how that block of business is performing for that carrier. Mr.

Michel pointed out that the Health Plan Benefits and Qualifications Advisory Committee is already working to review the plans for Plan Year 2020. Decisions made pertaining to health plans may shift the percentage of business from one carrier to the other. AHCT offers its customers the opportunity to shop and compare, and the organization does not guide them on which carrier they should choose. The Exchange encourages customers to pick a plan to fits their own needs best. AHCT does not possess data indicating how the carriers are performing in their block of business. Mr. Philpott noted that most of the buying decisions are based on economics. Mr. Philpott encouraged the Connecticut Insurance Department (CID) to provide the Board with some insights about the financial results of carriers in terms of their block of business with the Exchange. Mr. Tessier agreed with Mr. Philpott regarding obtaining some information from CID.

Julie Andrews, an Actuary from Wakely, indicated that as part of the rate review process where various data are analyzed, a national trend shows that carriers are becoming more profitable or having more margin to cover administrative cost. These calculations are done by the line of business. Susan Rich-Bye added that carriers have to take into consideration that if the medical loss ratio for a plan is lower than 80/20, then they will have to refund some premium to members. Theodore Doolittle, Healthcare Advocate, indicated that the Office of the Healthcare Advocate supports the idea that Connecticut should follow the Massachusetts model of merging the small group and individual markets and requiring carriers in the state to participate through the Exchange. It is a long-term approach. Grant Ritter encouraged the Exchange to inquire with the participating carriers if they would be willing to offer other services through the Exchange. Dr. Ritter added that the Exchange might potentially invite another carrier to join AHCT with a wider array of services offered. It would be an encouragement for the carriers to stay on the Exchange.

VI. Adverse Selection Study

Susan Rich-Bye, Director of Legal and Governmental Affairs, introduced Julie Andrews from Wakely Consulting to present the 2018 Adverse Selection Study. Wakely was retained by AHCT to perform this study. AHCT is required by its enabling legislation to report annually on the impact of adverse selection on the Exchange, provide recommendations to address any negative impact reported, and provide recommendations to ensure the sustainability of the Exchange. Data for the study have been collected from various sources. Carriers' perspective was added through the survey responses. Risk factor profiles were presented. The nature of adverse selection, areas of potential adverse selection, and the study methodology were reviewed. Ms. Andrews provided a summary of various regulatory changes either being introduced or contemplated by the administration.

Ms. Andrews expressed her words of appreciation to both participating carriers in support of the study. Potential adverse selection of the grandfathered versus non-grandfathered plans in the individual marketplace was reviewed. On and off-Exchange adverse selection was summarized.

Dr. Ritter inquired whether the premiums off-Exchange reflected silver-loading. Ms. Andrews replied that they were not required to reflect this. Generally, they have been more expensive than on-Exchange options. Dr. Ritter followed-up with a question inquiring whether a large

choice of plans exists outside of the Exchange. Ms. Andrews pointed out that the number of choices has been steadily decreasing. Ms. Andrews pointed out that the medical loss-ratios have improved over time. These do not reflect the funds that the carriers received from the transitional reinsurance program, but they have been incorporated into the rate review study. Ms. Andrews pointed out that the on-Exchange enrollees continue to have higher risk-scores than individuals off-Exchange. They also have a higher average age but narrowing in that area exists compared to previous years.

Mr. Doolittle informed the Board that he has met with a group of underwriting health insurance producers, who signaled that there had been rapid increases in the last two years which, according to one of them, would eliminate the fully-insured self-funded activities of note in Connecticut starting next year. Mr. Doolittle inquired whether there are possible current changes in the marketplace that Wakely's data is not capturing. Ms. Andrews pointed that completely eliminating the small group marketplace does not seem likely. Mr. Tessier noted that employers viewed the availability of the stop-loss as health insurance, and it was one of the reasons why CID adopted regulations about them. Mr. Philpott added that the level of complexity with fully or partially self-funded plans is high, and small employers may not want to utilize it. Dr. Ritter inquired if the silver-loading will remain in place. Ms. Andrews emphasized that silver loading will continue for the 2020 Plan Year.

VII. Health Plan Benefits Qualifications Advisory Committee Update/Plan Management Update

Ann Lopes, Product Carrier Manager, provided an update on the work of the Plan Management Team as well as the Health Plan Benefits and Qualifications Advisory Committee (HPBQ AC). Ms. Lopes noted that at the January meeting of the Board, the 2020 Plan Certification Update was presented. The Certification requirements contain the federal, state, and AHCT guidance. Health insurance issuers need to be aware of all of the certification requirements with sufficient time to be able to determine the impact on rate filings, which have to be submitted to CID. The AVC was released by the Federal Government. All of the standardized plans were evaluated with the assistance of the carriers and Wakely to determine whether they are going to be in compliance with draft AVC that was released on January 24. Three of the current plans will not be in compliance for the 2020 Plan Year. Modifications to those plans need to take place to bring them in compliance. In addition, five cost-sharing reduction plans are found to be outside of the de minimis range of the AVC. Those plans will also need to be adjusted in terms of cost-sharing. Ms. Lopes provided the Board with the timeline of the Plan Management Team and HPBQ AC activities.

VIII. ACA Litigation Update

Ms. Rich-Bye provided the Board with the ACA Litigation Update. Ms. Rich-Bye indicated that a few court cases regarding the ACA are currently underway in various district court. Ms. Rich-Bye summarized two national cases. Another case about the cost-sharing reductions is also moving through the court system as well.

Texas v. Azar was filed by the Texas Attorney General and 19 other Republican state Attorneys General and Governors. They sued the Department of Health and Human Services (HHS) in the Federal District Court in Texas, arguing that the individual mandate had become unconstitutional because the Tax Cut and Jobs Act of 2017 had zeroed out the individual mandate penalty. Texas argued that the individual mandate could not be severed from the rest of the ACA since, according to the suit, it was instrumental to the functioning of the law, and that the entire law would be unconstitutional.

Sixteen Democratic states, including Connecticut and the District of Columbia, intervened in the suit in support of the ACA. Ms. Rich-Bye emphasized that the Department of Justice declined to defend the individual mandate and several other major provisions of the ACA and asked the court to strike down those provisions. It was a highly unusual move by the Federal Government not to defend the federal law. Ms. Rich-Bye elaborated that on December 14, 2018, Judge Reed O'Connor ruled that the entire ACA was unconstitutional. The timing of the ruling came at the critical time of the Open Enrollment Period. He did not issue an injunction to the law, meaning that the law is still operational pending appeal, at the request of the defending states. HHS is continuing to enforce the law pending the appeal. On January 3, 2019, the intervenor states appealed to the 5th Circuit Court of Appeals. Four additional states filed a motion to join the intervenors. The intervenors filed a motion for an expedited review because of the importance of the ACA, as it affects nearly 20 percent of the United States economy. The 5th Circuit granted the motion of those four additional states to intervene, as well as the United States House of Representatives. The Court allowed the U.S. House of Representatives to intervene through permissive intervention, because no other part of the Federal Government is defending the law in its entirety. The court denied the request for expedited review, but the briefing was scheduled. The Federal Government's brief is due on March 25, responses will be due in April, and the reply briefs are due in May. The oral arguments have not been set at this point. Ms. Rich-Bye added that regardless of what happens with the 5th Circuit of Appeals, this may end up being taken up by the United States Supreme Court.

In another ACA-related case, the state of Maryland sued the United States of America, in response to the Texas suit, in which they claimed that the Trump administration is undermining the ACA by taking the position in the Texas suit in opposition to the ACA. Maryland asked the Court to declare the ACA to be constitutional and to be enforced, and alternatively to declare that the portion of the Tax and Jobs Act that zeroed out the penalty was unconstitutional. Judge Holland ruled that Maryland had no standing to sue because it has not been harmed, since the HHS is continuing to enforce the ACA. The case was dismissed without prejudice, so Maryland can refile if the Administration stops enforcing the ACA in the future.

Ms. Rich-Bye added that the Federal Government came out with the Proposed Notice of Benefit and Payment Parameters for 2020. AHCT submitted comments in response to the proposed regulations. The Exchange also joined with other State-based Exchanges and filed joint comments on silver loading and auto reenrollment. The additional comments that AHCT filed included the

topics of the mirror-plan requirement regarding non-Hyde amendment plans, the off-Exchange Special Enrollment Period, and the prescription drug formulary changes that are being proposed.

Dr. Scalettar inquired about how AHCT works with other State-based exchanges, not only by supporting certain policies, but learning from each other about best practices. In addition, Dr. Scalettar commented that despite overcoming numerous challenges, AHCT still lost some membership, and the Exchange did not gain additional carriers in a more competitive marketplace. Dr. Scalettar also asked about AHCT's relationship with the new administration on the State level. Mr. Michel noted that a state-based exchanges organization meets every month via teleconference. Mr. Michel emphasized that every state is unique in terms of medical insurance needs, however, some challenges are experienced by all of the Exchanges. Mr. Michel stated that he has been meeting with state leaders to discuss matters that are important to AHCT. Mr. Michel told the Board that he, along with the Chief Operating Officer, Tony Crowe, will be travelling to Washington D.C. to participate in the state-based marketplaces meeting with HHS to make sure that they are aware of the issues facing AHCT and other state-based marketplaces. It is a two-day meeting.

Dr. Scalettar inquired whether there are any legislative proposals in the Connecticut General Assembly that would affect the Exchange. Ms. Rich-Bye pointed out that the deadline for legislative proposals has passed in the CGA, but legislative proposals can be brought back in the form of committee bills or in the implementer. Ms. Rich-Bye added that Mr. Michel testified on one of the legislative proposals. Mr. Michel noted that all of the legislative proposals that AHCT is currently tracking will be distributed to the Board members. Anne Foley inquired whether AHCT is seeking statutory changes to AHCT through legislative proposals. Mr. Michel noted that in many cases AHCT is defending the law as it currently stands, and not seeking statutory changes to the existing law. Ms. Rich-Bye added that AHCT is seeking a small legislative initiative, allowing AHCT to utilize the services of the State Police for fingerprinting. Ms. Foley encouraged AHCT to provide the Board with information about innovative approaches and ideas that other state-based exchanges have that could be considered in Connecticut.

IX. Future Agenda Items

Mr. Michel provided the Board with a possible list of future Board of Directors meeting agenda items. They include Fiscal Year 2020 Budget, Small Business, Uninsured Rate Survey, and Outreach efforts.

X. Adjournment

Vice-Chair Robert Tessier requested a motion to adjourn the meeting. Motion was made by Paul Philpott and seconded by Robert Scalettar. Motion passed unanimously. **Meeting adjourned at 10:32 a.m.**