

MEMORANDUM

To: Health Connector Board of Directors
Cc: Louis Gutierrez, Executive Director
From: Edward DeAngelo, General Counsel
Ashley Hague, Deputy Executive Director, Strategy & External Affairs
Date: July 14, 2016
Re: Update to Health Connector Board of Directors Bylaws - AMENDED

BACKGROUND

Health Connector staff recommends that the Board adopt updates to the Health Connector Board of Directors bylaws. This memorandum summarizes the changes proposed, which consist of (1) updates needed to reflect changes in state law or practice since original adoption of the bylaws in 2006; (2) changes to reflect current practice; and (3) changes to achieve greater administrative simplicity in Board matters. An earlier version of these proposed bylaws was circulated by memorandum to the Board in February, but was withdrawn for further revisions, which are reflected in this version. A newer version of the proposed amendments, which was very similar to the one submitted with this memorandum, was brought before the Administration and Finance Subcommittee on June 7, 2016. The Subcommittee reviewed and provided feedback on the proposed modifications that staff are now bringing before the Board for adoption, with several additions based on additional feedback from individual members of the Board.

SUMMARY OF CHANGES TO THE BYLAWS

The amendments to the bylaws include amendments needed to align with statutory changes made since 2006, or current practice of the Board not clearly delineated in the current bylaws.

Specifically, amendments have been made to reflect the change in statute designating the Secretary of Health and Human Services as Board Chair, the codification of the Health Connector's enabling act as Chapter 176Q of the General Laws, and various updates to the Open Meeting laws.

In addition, the bylaws have been updated to reflect current practice of the Board. For instance, the bylaws are amended to permit notice to Board members of scheduling and other matters by email, in addition to other channels of communication. Additionally, instead of requiring the Executive Director to act as Secretary and take meeting minutes or to appoint an Assistant Secretary, the bylaws are amended to permit the delegation of a Health Connector employee to perform that function. These changes reflect current practice.

Finally, there are changes to simplify administrative procedures. For instance, instead of requiring that the annual meeting to elect the vice-chair occur in October, the amendment would permit that meeting

any time in the final quarter of the year so that it can occur in the month most convenient given other topics on a given month's agenda.

Following review by the Administration and Finance Subcommittee, staff also propose modest adjustment in the contract approval process. In this version, we propose that the bylaws: (1) maintain the requirement that the Board vote on all contracts valued at \$250,000 or above; (2) clarify that for purposes of the vote, once the Board has approved a contract, it does not have to vote on subsequent extensions, amendments or work orders valued at less than 25% of the original agreement as long as any additional expense arising from those extensions, amendments or work orders has been otherwise contemplated in the fiscal year budget that the Board has most recently voted to adopt; (3) modify the threshold dollar range of contracts that require written notice to the Board from \$5,000 to \$15,000; and (4) require all contracts (including extensions, amendments and work orders) over \$15,000 that are not otherwise adopted by the Board to be summarized and sent to the Board five business days in advance of execution. The goal of these amendments is to preserve the Board's important function in reviewing and approving major contractual expenditures, while eliminating the need for votes on less significant modifications to already-approved contracts. Additionally, by streamlining the notice requirement for contracts below \$250,000, these revisions will reduce the amount of minutiae reported to the Board and give the Executive Director greater flexibility in entering into smaller-value contracts.

It is important to note that these changes do *not* in any way change the Health Connector's procurement practices. As before, competitive procurement will be the rule for all non-trivial contractual expenditures.

In February, staff had proposed a somewhat different set of revisions to the section on contracts, initially proposing to increase the threshold for those contracts that require Board approval from \$250,000 to \$500,000. Additionally, we had proposed authorizing the Administration and Finance Subcommittee to vote on contracts given the Subcommittee's oversight of financial matters. Finally, staff had proposed limiting contracts over \$500,000 that needed a Board vote to only those contracts that were either original Master Services Agreements over \$500,000, or extensions, amendments or work orders to a Master agreement if such contracts were valued at greater than 25% of the original, underlying agreement.

After further consideration, and with the input of the Administration and Finance Subcommittee and individual members of the Board, staff have revised their proposal as described above. We are maintaining the \$250,000 threshold as a trigger for a required Board vote. We are requiring that amendments, extensions or work orders that fall outside the budget limits will require a vote even if the value of those changes is less than 25% of the original, underlying contract.

Below is a summary of the proposed changes, as compared to the original bylaws and the proposal in February:

Proviso	Original Bylaws	February Proposal	Current Proposal
Dollar threshold which, once met, requires Board authorization to enter into a contract	\$250,000	\$500,000	\$250,000
Entity authorized to authorize contracts in excess of the aforementioned dollar figure	Health Connector Board	Health Connector Board Health Connector Administration and Finance Subcommittee	Health Connector Board
Dollar range for contracts that do not require formal vote, but do require notice to the Board	\$5,000-\$249,999	\$15,000-\$499,999	\$15,000-\$249,999
Type of notice required for aforementioned smaller dollar value contracts	Five business days prior to execution; no format specified	Written notice, no timeline specified (<i>i.e.</i> , can be after execution)	Written notice, five business days prior to execution
Type of "contract" requiring Board vote (as opposed to notice)	Any and all types, including Master Services Agreements, Extensions, Amendments and Work Orders	Any and all types, excluding Extensions, Amendments and Work Orders that cost less than 25% of the original underlying agreement	Any and all types, excluding Extensions, Amendments and Work Orders that cost less than 25% of the original underlying agreement, so long as the cost of such agreements is otherwise within the most recent fiscal year budget approved by the Board
Type of notice required for aforementioned Extensions, Amendments and Work Orders	Prior-authorization at meeting of the Board	n/a	Written notice, five business days prior to execution

BOARD RECOMMENDATION

Health Connector staff recommend that the Board adopt the updated Health Connector Board of Directors bylaws reflected in the copy attached. If the Board does so vote, the bylaws will be officially adopted.