

MINUTES

North Dakota Public Employees Retirement System Tuesday, January 11, 2022 8:30 A.M.

Members in Person: Ms. Kim Wassim
Ms. Yvonne Smith
Senator Dick Dever

Members Via Teams: Chairperson Mona Rindy
Representative Pamela Anderson
Mr. Adam Miller
Mr. Troy Seibel
Ms. Casey Goodhouse

Members Absent: Mr. Dirk Wilke

Others: Mr. Scott Miller, NDPERS
Mr. Derrick Hohbein, NDPERS
Ms. Rebecca Fricke, NDPERS
Mr. Bryan Reinhardt, NDPERS
Mr. Dean DePountis, Office of Attorney General
Mr. Drew Rasmussen, Deloitte Consulting
Mr. Chris Sears, IceMiller Legal Counsel

Chairperson Mona Rindy called the meeting to order at 8:30 A.M. Roll call was taken, and a quorum was present.

Chairperson Rindy called for any questions or comments regarding the minutes of the December 14, 2021, meeting.

SENATOR DEVER MOVED TO APPROVE THE MINUTES OF THE DECEMBER 14, 2021, BOARD MEETING. THE MOTION WAS SECONDED BY MS. SMITH AND CARRIED BY VOICE VOTE. THE MINUTES WERE APPROVED.

PRESENTATIONS

Pharmacy Benefit Manager (PBM) Overview

Mr. Drew Rasmussen of Deloitte Consulting presented information about the evolution of the Pharmacy Benefit Manager, core functions of the PBM, PBM revenue sources, and federal and state regulation that impact PBMs. He explained how PBMs are intermediaries between health insurers, drug manufacturers and pharmacies that manage drug benefits for plan sponsors. PBMs create market power through scale. PBMs aggregate members, benefit plans, and drug purchasing. They create pharmacy networks and drug lists to negotiate discounts and price concessions from drug manufacturers and pharmacies in an effort to lower costs. He emphasized PBMs are for-profit entities and not fiduciaries for their plan sponsor clients. Mr. Rasmussen gave a historical account of the growth of the PBM industry and today's PBM market. He discussed the role of PBMs in Part D Compliance for Medicare eligible populations. Mr. Rasmussen shared information about revenue sources—the traditional spread versus pass-through and rebates. He provided the Board with a regulation snapshot of Rutledge

versus Pharmaceutical Care Management Association (PCMA) (2020) where the Supreme Court ruled 8-0 that ERISA did not preempt an Arkansas law regulating PBMs, and PCMA versus Wehbi (2021) where the Eighth Circuit Court followed Rutledge and cleared the way for further state regulation of PBMs.

Discussion followed.

The Board took a short break at 9:56 A.M. The Board Meeting resumed at 10:06 A.M., a quorum was present.

GROUP INSURANCE

Humana Transition

Mr. Scott Miller provided information about communication received from some pharmacies with concern about Humana's lower reimbursement for certain drugs. Mr. Scott Miller discussed a provision in the contract between NDPERS and Humana that requires Humana to comply with state law. He shared insight about two court cases that indicate a strong possibility that North Dakota statute may be preempted by federal law. At the recommendation of Mr. Dean DePountis, staff sought outside legal advice from IceMiller. Chris Sears from IceMiller provided an attorney-client protected memo. The Board decided not to waive attorney-client privilege and reviewed the document with counsel in Closed Session.

MS. WASSIM MOVED TO ENTER INTO EXECUTIVE SESSION PURSUANT TO N.D.C.C. §44-04-19.2(1), §44-04-19.1(1), §44-04-19.1(2), AND §44-04-19.1(9) FOR ATTORNEY CONSULTATION. THE MOTION WAS SECONDED BY SENATOR DEVER.

Ayes: Senator Dever, Ms. Goodhouse, Representative Anderson, Mr. Seibel, Mr. Adam Miller, Ms. Wassim, Ms. Smith, and Chairperson Rindy

Nays: None

Absent: Mr. Wilke

MOTION PASSED

All members named above, attorney Dean DePountis, attorney Christopher Sears (IceMiller), NDPERS staff members Scott Miller, Rebecca Fricke, Derrick Hohbein, Lindsay Schaf, Bryan Reinhardt, Mandy Nagel, Jan Lund and Shawna Zastoupil were in attendance for the Executive Session (closed meeting, electronically recorded) which began at 10:41 A.M.

Ms. Smith left the meeting at 11:00 A.M.

The meeting returned to Open Session at 11:23 A.M., a quorum was present.

THE BOARD PROVIDED GUIDANCE TO STAFF ON HOW TO PROCEED.

MISCELLANEOUS

Operations Update

Mr. Derrick Hohbein presented an operational update of work done and progress made on projects since last reporting at the July 2021 Board Meeting. He reviewed progress made on several strategic planning initiatives. Mr. Hohbein discussed virtual Lunch-n-Learn sessions conducted in November and December. Counseling staff presented member education information on the topics of Service Purchases and Understanding Retiree Health Insurance Credit. There were 426 members logged in for the November session and 309 members logged in to view the RHIC presentation in December. Staff also hosted two virtual annual enrollment events this past fall. The first topic was an overview of insurance benefit election options available during annual enrollment. The second presentation focused on the advantages of participating in flexible spending account(s) and featured ASIFlex as the guest speaker. Both virtual events were well received by members and employers with almost 700 attendees viewing the Teams Live Events.

He discussed several projects, completed and in progress, that are not part of the strategic plan.

Mr. Hohbein concluded his report with a review of work efforts on some strategic plan initiatives that are slated to begin in the first half of 2022.

A copy of two achievement awards were included in the board materials.

Annual Comprehensive Financial Report (ACFR)

Mr. Derrick Hohbein reported that the 2021 annual comprehensive financial report has been completed. Participating employers have been notified that the report is available on the NDPERS website.

Quarterly Consultant Fees

Mr. Derrick Hohbein shared a quarterly report of consulting, investment and administrative fees paid in Quarter 3.

Strategic Planning

Mr. Scott Miller presented the staff's proposed 3-year strategic planning goals. The goals and timelines are based on Board discussion during the November 2021 Planning Meeting. Discussion followed.

MS. WASSIM MOVED TO APPROVE THE 3-YEAR STRATEGIC PLANNING GOALS AND TIMELINES AS PRESENTED. THE MOTION WAS SECONDED BY REPRESENTATIVE ANDERSON.

Ayes: Representative Anderson, Senator Dever, Ms. Goodhouse, Mr. Adam Miller, Mr. Seibel, Ms. Wassim, and Chairperson Rindy

Nays: None

Absent: Mr. Wilke and Ms. Smith

MOTION PASSED

Administrative Rules Update

Mr. Scott Miller reported the Administrative Rules have been approved by the Office of the Attorney General and are on track for consideration at the March meeting of the Administrative Rules Legislative Committee. The new rules will take effect April 1, 2022, provided there are no holds placed on them by the Committee.

Legislative Relations

Mr. Scott Miller provided comments on the recent Health Care Committee meeting where he presented information on the RFP process and the NDPERS Board's selection of Humana for Medicare Part D. Discussion followed. The Board congratulated Mr. Scott Miller on a job well done.

The Legislative Retirement Committee was attended by a few NDPERS Board Members and Mr. Scott Miller. The Committee interviewed Milliman Consulting, the only respondent to Legislative Council's Actuarial Consultant RFP.

Assurance NM

Mr. Bryan Reinhardt conducted a test of the emergency communication network. Trustees were asked to notify Bryan if they did not receive the communication.

Chairperson Rindy called for any other business or comments.

With no further business, the meeting was adjourned at 12:15 P.M.

Prepared by,

Jan Lund
Assistant to the Board