

Colorado Commission on Affordable Health Care

MINUTES

October 27, 2014 (Revised)

In attendance were: Elisabeth Arenales (phone), Linda Gorman, Jeffrey Cain, Steve ErkenBrack, Cindy Sovine-Miller, Bill Lindsay, Ira Gorman, Rebecca Cordes, Greg D'Argonne, Chris Tholan, Dorothy Perry, Marcy Morrison, Jay Want, Susan Birch, Dee Martinez , and Marguerite Salazar.

Also in attendance: Eric Kuhn, Assistant Attorney General, State Services Section

The meeting was called to order by Bill Lindsay at 12:32pm.

Bill thanked the Daniels Fund for hosting and for all the stakeholders that came to the meeting. Executive Session will occur next and last about one hour.

Bill noted that this session would be recorded. He then stated that "this is Bill Lindsay. It is October 27, 2014. This is a meeting of the Colorado Commission on Affordable Health Care. He moved that the Commission enter into executive session for the purpose of receiving legal advice from counsel, Assistant Attorney General Eric Kuhn, on specific legal questions, pursuant to Colorado Revised Statutes section 24-6-402(3)(a)(ii) including:

- Legal advice regarding the Commission's proposed draft Conflict of Interest Policy, the Colorado Open Meetings Law, the Colorado Open records Act, and the proposed draft By-Laws."

The motion was then seconded and approved unanimously with all voting Commissioners voting. The public was then asked to leave the room and the Executive Session began at 12:36 PM.

Bill Lindsay indicated that the Executive Session had ended and made a motion to go back into open session. The motion was seconded and the vote passed unanimously, with all voting Commissioners present. The Commission adjourned from Executive Session at 1:36 PM.

Bill Lindsay then stated, "This is Bill Lindsay. The time is 1:36 PM. We have concluded the Executive Session and will be inviting the public to return and I am now turning the recorder off."

Bill Lindsay requested a ten minute break to allow the public to rejoin the meeting.

Open public meeting started on 1:46pm. Bill addressed the group and thanked the stakeholders for attending. He again thanked the Daniels Fund for hosting the meeting today. The Commission is looking for more space to hold future Commission meetings.

Approval of Minutes: Approved by Commission.

Approval of By-Laws:

X. Goal, Mission of the Commission-

Bill Lindsay noted an email that had been distributed from Commissioner Linda Gorman about the By-Laws. He asked her to comment on her thoughts on the By-Laws.

Linda Gorman noted that she felt there should be a change in the mission statement section of the By-Laws by adding one more sentence. Her feeling is that this change would broaden the mission statement and make it more reflective of the actual work needed. This idea was discussed but it was decided to leave the statement as written

The Commission then discussed section VI. Designees. It was noted that for those that are the non-voting members, they would be permitted to provide a designee. Bill Lindsay stated that there needs to be a specific person that is the assigned designee. This is to keep the continuity of discussion.

Bill Lindsay indicated that the Interim Planning Committee recommends holding annual elections for Chair/Vice-Chair. These elected representatives would thus have one-year terms, but no term limits. In so doing they would be more accountable to the Commissioners. He further recommended that the first election should occur by Jan. 31st, 2015; after the by-laws are enacted. It was noted that all Commission members would need to be all present for the vote.

Linda Gorman asked if a proxy vote be acceptable for the voting process. Commissioners commented that this is such an important event that all should make every effort to attend.

Dorothy Perry asked if email or a written vote would be acceptable. The Commissioners commented that everyone should be present. This is one of the most important actions that the Commission will take.

Steve ErkenBrack asked if an exception could be made in the case of an unforeseeable emergency. The Commission discussed this and agreed to add wording indicating that emergency absences should be included.

Linda Gorman then moved to discuss Section H (page 4): She objected to the proposed wording and indicated that the Commission's reports should include and reflect all the different viewpoints of Commissioners. She indicated that this would provide the Legislature with a more complete view of the topics being discussed, and the views on these important matters. Linda Gorman asked specifically that the Commission remove the words: 'strive' and 'when appropriate'.

Susan Birch asked what the expectation is of the Commission's reporting. She asked if each Commissioner shall have the option to include their own opinions. Is that realistic?

Greg D'Argonne commented that the Commission should strive develop a report in which we have a meaningful recommendations and work to develop consensus around those points. However, if consensus cannot be agreed the opportunity for dissenting opinions should be provided.

Commissioner Salazar noted that the main goal is for the Commission to strive that the final report is thorough and that the legislature finds the report meaningful.

Elisabeth Arenales commented that the work of the Commission should seek to provide transparency and exposure (page 5) regarding the drivers of cost. She recommended that this section be left as drafted.

Linda Gorman asked that in our work we should seek to use technology as much as possible (i.e., electronic bulletin boards, and other forms of social media, so the public can be informed about the deliberations and add their comments.

Linda Gorman then recommended that in Section H at the bottom of page 4 the Commission agree to remove the words: 'strive' and 'when appropriate' and add majority opinions will be noted in the report.

Bill Lindsay noted the section on Independent Consultants where the statute requires hiring Consultants who are bi-partisan. He noted that this will be an important effort but also a challenge. Regarding the Section that mentions Amendment 41 Bill Lindsay noted that it will be important for Commissioners to act responsibly and with sensitivity around the impressions of impropriety. He noted that Amendment 41 does not technically apply to the voting members of the Commission. Furthermore, Commissioners also have real jobs, many of which intersect with health care. Thus it is a question how to approach this matter.

This matter was discussed and it was agreed that the Commission would produce a separate document regarding this topic; it would therefore be removed from the By-Laws.

Responsibilities: Editing the paragraph & replace it to 'duties'. Definitions can be changed. Refer to the statutes for guidance on this matter. The paragraph would be deleted, expand the mission statement. Powers/duties will be covered into a different section. Referencing the bill is important but doesn't change the fact that the commission cannot change the law.

Additional: Procedural issues; with staff we can discuss process with the electronic bulletin board. At this time it will not be included in the by-laws.

Public Comment (before vote on By-Laws):

Victor Dukay- Section 21, Amendment 41- Comment to pull it out of the Commission by-laws.

Ryan Biehle- Section 7- Open meetings, meeting materials available a couple days in advance (3 business days requested).

Summary:

Bill Lindsay then thanked the public for their input and said he would attempt to restate from his notes the decisions that had been made on the By-Laws:

-Removal of section 4

-Page 2 leadership elections will be edited to reflect elections prior to January 31, 2015

-Page 4- remove last paragraph, 'strive', 'when appropriate'

-Public meetings- remove 72 hours, change to three (3) business days prior to the meeting

-Remove amendment 41- but require the Interim Planning Committee to develop a separate document with specific language and present that to the full Commission for approval.

Bill Lindsay then called for a motion to approve the By-Laws, as restated. That motion was moved and seconded. The revised By-laws were APPROVED by anonymous vote

Review of Proposed Conflict of Interest Statement and Disclosure document:

Bill Lindsay then directed the Commission's attention to the proposed Conflict of Interest Statement. He indicated that the Planning Committee had prepared this draft and now it would be important to discuss this document and obtain the full Commission's approval of it. Bill commented that the Committee felt that the Commission's process must be transparent/fair and recognize the potential for risk in this area. However, he also noted that the Commission's members have all been appointed because of their role in the health care space, and thus the potential for the appearance of impropriety exists. He then directed the Commissioners to the section labeled "Statements Pertaining to Conflicts of Interest."

Linda Gorman recommended that the Commission strike the word 'bias'. She said everyone has a bias, the issue is if it is inappropriate or designed to be self-serving.

Ira Gorman then commented that on Page 2, the focus should be on "direct, personal financial benefit."

Steve ErkenBrack- The language doesn't reflect what the Commission is trying to explain. Benefits are professional not personal.

Greg D'Argonne-Consider this verbiage: "direct economic benefit".

Linda Gorman-commented that Greg's suggestion could be appropriate but we should add to it the words "at the expense of someone else".

Cindy Sovine-Miller- I just want to clarify that at any point in time a Commission member can disclose their position and/or issues with the topic(s) and disclose their interest which might be considered by some to be a conflict.

Public Comment (before vote on Conflict of Interest Statement and Disclosure):

Bill Lindsay asked the public is anyone in attendance had comments for the benefit of the Commission.

Richard Passoth- Requests the Commission members to be transparent, but noted it is hard not to be biased. He hopes that the Commission can work through these topics with their specific expertise.

At the end of the public comment Bill Lindsay called for a motion to approve the revised Conflict of Interest statement. The motion was moved and seconded. The vote of approval was unanimous with all voting members present.

Update on Planning Committee deliberations:

Bill Lindsay then indicated that he felt that it would be important for the Commission to be informed about the work of the Planning Committee and he offered a summary.

A. Drafting of a Statement of Principles:

Bill Lindsay indicated that all agree that the structure of meetings needs to be carefully attended to so that we can ensure that the time is well spent and covers all topics assigned to the Commission in a public forum. He noted that in the Statement of Principles minor changes were made at the last meeting. Reference to electronic communication will be added.

As for the list of deliverables, tentative timeline and deadlines, Cindy Savione-Miller has worked on schedule and will share that draft with the Commission at the November meeting. Bill thanked Cindy for her work on this important aspect of the Commission's planning.

Regarding scheduling, Bill noted that after polling the Commission it was decided that the Commission meetings will be held every 2nd Monday of the each month. The meeting timeframe will be 12:30pm-3:30pm, initially. However, he noted that Commissioners should anticipate that as the work progresses, and the Commission gets into more detail, the length of meetings may have to expand. He noted that the first report is due a year from next month to the General Assembly, the goal is to stay on track with the Commission's strict deadlines. Finally, he noted that the Operating Principles are not the same as by-laws but

should be used to guide the work of the Commission nevertheless.

B. Development of procedures with CDPHE on financial reporting, policies and procedures:

Bill then asked Chris Tholan to comment on his work on the budget and financial reporting of the Commission. He said he is working with CDPHE on an MOU. The amount of \$400,000 is designed fund for the Commission (grants/donation are public). Commission will follow state fiscal rules. This work will continue in the Interim Planning Committee and more updates will be provided at future meetings. Bill then thanked Chris for his work on working with the state agencies.

C. Staffing options:

Bill Lindsay then indicated that the Interim Planning Committee has been giving a lot of its focus on staffing of the Commission. He noted that the Committee has developed a skeleton of a plan for positions such as: administrative, strategic, public affairs/ media relations, and technical/data analysis.

Bill indicated that the preliminary plan is for the Commission to issue a “Request for Information” or RFI for these services. He also indicated that some organizations have come forward to express their preliminary interest in this work. The goal is to get proposal from them and get approval from the Commission to move forward with a contract. Hopefully this will occur in the January meeting. At least that is the deadline proposed by the Interim Planning Committee. The desire is to arrange for this support via contract vs. actual employment. Bill noted that the once concern is funding. He suggested that the Commission cannot assume that there will be additional funding to support its work.

D. Election of Officers and the creation of a permanent Planning Committee

Bill asked about voting timeline specifics. He noted that there will also have to be two levels of decision making, formulating sub-committees and Ad Hoc Committees.

Steve ErkenBrack suggested that the Commission stick to the initial plan and have elections at the January meeting for the roles of Chair and Vice-chair. The other Commissioners agreed.

E. Work Plan

Finally, Bill indicated that the Interim Planning Commission has begun discussions about the actual work of the Commission and specifically what comes first, second, etc. He stated that the Interim Planning Committee was uncomfortable going too far down this path because they are only the interim appointees. He said that once this work begins it would be better to have the officially designated members in-place.

- F. Various Commissioners then commented that the Committee is on the right track and should continue with the planning efforts, knowing that any decisions will be brought back to the full Commission before actions are taken.

Public Comment on the work of the Interim Planning Committee:

Ken Connell- Congratulated the commission on the starting the work plan.

Victor Dukay- Suggested the Commission place a sense of urgency on the work plan and make sure that the Commission stays within the timeframe and accomplishes the goals established in the legislation.

Bill Lindsay thanked the public for their input. He then mentioned other business.

Other business:

As mentioned in the Interim Planning Committee's report, the next meeting of the Commission will be **Monday, Nov. 10th @12:30 PM, at location to be determined.** The meeting location will be posted on the Commission web site once it is arranged.

Bill then entertained a motion to adjourn. This was seconded and approved. The Commission then adjourned.

Adjourn: @ 3:52pm