

November 21st Meeting of the Universal Health Plan Governance Board



Universal Health Plan
Governance Board

Welcome Remarks – Chair Bellanca

- Tech Check
- Roll Call and Introductions
- Written Public Comment Review
- Agenda Review

Agenda

- Welcome, Roll Call, Agenda Review
- Approve Minutes
- Public Comment (if needed)
- Executive Director's Report
- Employee Retirement Income Security Act (ERISA) Overview, Analysis, and Discussion
- Break
- Executive Session
- Public Meetings Law Board Discussion and Next Steps
- Legislative Status Report
- 2025 Meeting Schedule
- Committee Updates
- Committee Communications & Coordination
- Board Outreach: Meeting Take-aways and Outreach
- Public Comment
- Adjourn

Approve October Board Meeting Minutes

- *Chair Bellanca*

Public Comment

Executive Director's Report

- Director Cowling

Employee Retirement Income Security Act (ERISA) Overview and Analysis

- Erin Fuse Brown and Elizabeth McCuskey

OREGON UNIVERSAL HEALTH PLAN GOVERNANCE BOARD

NOV. 21, 2024

ERISA Review

Prof. Elizabeth Y. McCuskey & Prof. Erin C. Fuse Brown

Discussion

1. How does the framework align with ERISA?
2. How can private insurance offerings be limited consistent with ERISA?
3. How might different revenue systems for public and private employers impact the ERISA analysis?

1. How does the framework align with ERISA?

- **Supreme Court Help** *Rutledge v. PCMA* (2020)
NY BCBS v. Travelers (1995)
- **Overall Framework** **Funding** + non-duplication + provider participation
- **Payroll Tax**
 - ✓ Pay-or-play cases: *Golden Gate* and *City of Seattle*
 - ✓ Mandatory, keyed to wages
 - ✓ Non-exorbitant rate
 - ✓ Out of state employers?

Note: SALT issue?

2. How can private insurance offerings be limited consistent with ERISA?

- **Coverage Duplication**

- ✓ Complementary, Supplementary

- ✓ Substitutive

- ✓ Employer self-funded option

- **Provider Participation**

- **Reimbursement**

- **Subrogation, recoup**

3. How might different revenue systems for public and private employers impact the ERISA analysis?

State laws may impermissibly “relate to” ERISA plans by

making “**reference to**” ERISA plans,

acting “**immediately and exclusively** upon ERISA plans.”

or by making “the existence of ERISA plans . . . **essential to the law’s operation.**”

References:

Rutledge v. PCMA (Dec. 2020)

Golden Gate Restaurant Ass'n v. City and County of San Francisco (2008)

ERISA Indus. Comm. v. City of Seattle (2021)

Fuse Brown & McCuskey, *Federalism, ERISA, & State Single-Payer Health Care*, 186 U. PA. L. REV. 389 (2020)

Fuse Brown & McCuskey, *Could States Do Single Payer?*, HEALTH AFFAIRS BLOG (Jul. 22, 2019)

Fuse Brown & McCuskey, *The Implications of Rutledge v. PCMA For State Health Care Cost Regulation*, HEALTH AFFAIRS BLOG (Dec. 17, 2020)

Elizabeth Y. McCuskey
mccuskey@bu.edu

Erin C. Fuse Brown
efusebrown@gmail.com

ERISA Discussion and Next Steps

1. Are there additional policy questions that the board has?
2. What does this ERISA analysis mean for committee work?
3. How does this discussion align with the Joint Task Force's recommendations regarding ERISA?

Break

We will reconvene at 10:30 am

There is a “grab ‘n go” café located on the basement level

Executive Session

Pursuant to ORS 192.660(2)(f)

Not open to the public, with the exception of media and staff

Three Options for Discussion

1. No change to the current Policies and Procedures
2. Update slightly to allow for more interaction between board members
3. Delete current policy and just encourage board and committee members to follow the law

Option 1

Keep current policy as is, no change.

- So as to prevent any inadvertent non-public convening of a quorum of the board and avoid any appearance of board business being discussed or conducted other than in a properly noticed public meeting, members **should avoid** communicating with other members of the board on any matter relating to the board, board business, or the member's work and participation as a member of the board matter. Accordingly, when sending email to, or replying to email from, the Executive Director or other board staff, members of the board should ensure that other board members are not copied on such email correspondence (e.g., members generally should not use the "Reply All" function when communicating by email)."

Option 2:

Update slightly to allow for more interaction between board members

- So as to prevent any inadvertent non-public convening of a quorum of the board and avoid any appearance of board business being discussed or conducted other than in a properly noticed public meeting, members ~~should avoid limit communication~~ with other members of the board on any ~~matter relating to the board, that could be considered deliberations on board~~ business, or the member's work and participation as a member of the board matter.
- Accordingly, when sending email to, or replying to email from, the Executive Director or other board staff, members of the board should ensure that other board members are not copied on such email correspondence unless asking for ~~educational or factual information~~ (e.g., members generally should not use the "Reply All" function when communicating by email)."

Option 3:

Delete current policy – follow public meetings law

- ~~• So as to prevent any inadvertent non-public convening of a quorum of the board and avoid any appearance of board business being discussed or conducted other than in a properly noticed public meeting, members should avoid communicating with other members of the board on any matter relating to the board, board business, or the member's work and participation as a member of the board matter.~~
- Board members should familiarize themselves with current Oregon Public Meetings law and changes created by House Bill 2805 (2023) and make efforts to avoid the inadvertent non-public convening of a quorum. A best practice to help follow the law Accordingly, when sending email to, or replying to email from, the Executive Director or other board staff, members of the board should ensure that other board members are not copied on such email correspondence (e.g., members generally should not use the “Reply All” function when communicating by email).”

Public Meetings Law Motion

Does the board want to amend their current policies and procedures?

Legislative Status Report

- Director Cowling

Legislative Status Report Motion

I move to approve the draft Legislative Status Report, dated November 21, 2024, to be submitted to the Interim Committee on Health Care on December 1, 2024.

2025 Meeting Schedule

- *Chair Bellanca*

2025 UHPGB Meeting Schedule Motion

I approve continuing to meet on the third Thursday of every month from 9 a.m. – 12 p.m.

2025 UHPGB Meeting Schedule Discussion

- Does the board want to travel in late summer/early fall of 2025 and combine monthly board meetings with public engagement events?
- If so, where should the board travel?
- How many board meetings should be hosted an alternate location? 3? 4?

Committee Updates

- *Committee Chairs*

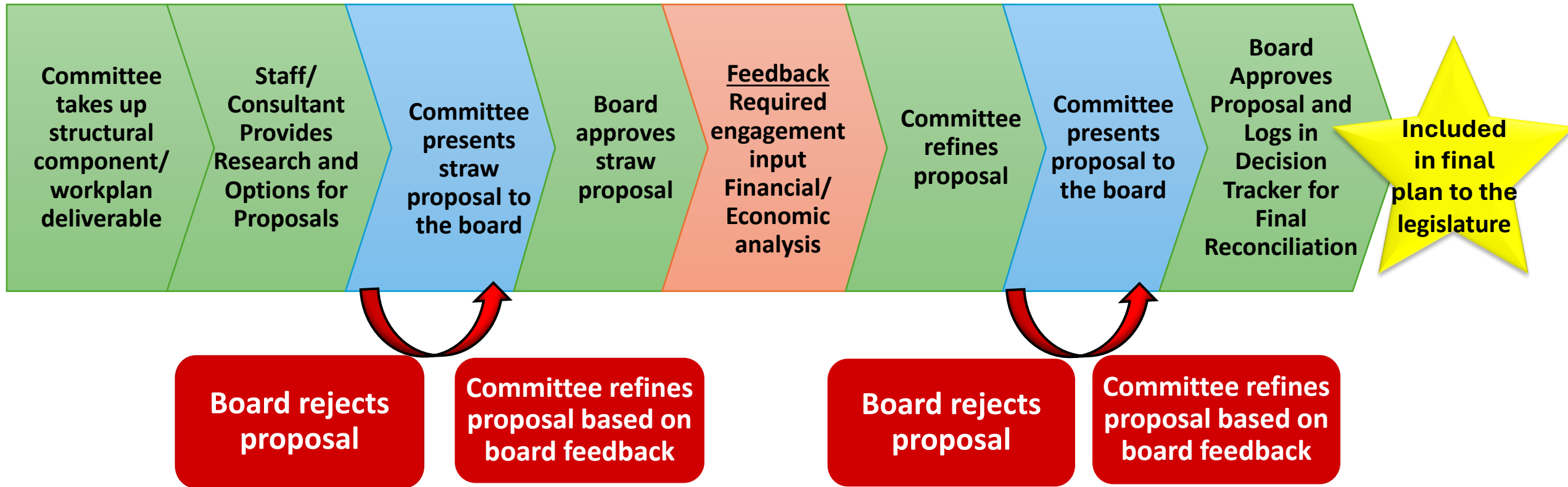
Committee Updates

- Finance and Revenue
 - Chair Cherryl Ramirez, delivered by Director Cowling and Chair Bellanca*
- Community Engagement and Communications
 - Co-chairs Amy Fellows and Michelle Glass*
- Plan Design and Expenditures
 - Chair Debbie Diaz*

Committee Communications & Coordination

- Vice-chair Richardson

Board Decision Making Process



Information Sharing Between Committees

UHPGB Committee Meeting Summary

Attendees	
Absent	
Date/Time	
Meeting Video Recording	
Meeting Purpose	Enter agenda items and video start times for each topic
Committee Member Follow-up Questions/Next Steps	
Questions Regarding Specific Agenda Items	<ul style="list-style-type: none">•
General Feedback/Suggestions	<ul style="list-style-type: none">•
Additional Resources Needed	<ul style="list-style-type: none">•
Committee Member Follow-up Tasks	<ul style="list-style-type: none">•
Items to be Discussed with Other Committees	<ul style="list-style-type: none">•

Upcoming Meetings: List date/time/registration link

Committee Coordination Discussion

Meeting summaries can be used to share information between committees, what are other mechanisms are needed to ensure committee coordination?

1. Do we need board member ambassadors between committees?
2. Can committees ask other committees policy questions?
3. Does the board need to review those policy questions?

Board Outreach: Meeting Takeaways and Outreach

- Chair Bellanca

Public Comment

Adjourn

“Not everything that is faced can be changed; but nothing can be changed until it is faced.”

- James Baldwin



Universal Health Plan
Governance Board
