

**NH Vaccine Association – Board of Directors Meeting
March 21, 2017 – 8:30 to 10:30 a.m.
KidsVax Offices
Presiding Officer: Susan Tenney, Chair**

I. Attendance. Participating in all or part of the meeting in person (P) or by telephone (T) were the following individuals:

Directors:

Susan Tenney, Chair – Harvard Pilgrim Health Care (P)
Marcella Bobinsky, NH DHHS (P)
Laura Condon – Public Board Representative (T)
Patricia Edwards, M.D. – Healthcare Provider (P)
David Fredenburg, M.D. – Healthcare Provider (T)
Jason Margus – Anthem (T)
David Sky, NHID (P)

Others:

Larry Hart – Compass Health Analytics, Inc. (T)
Mark McCue, Esq. – Hinckley Allen (P)
Beth Anne Ptak – Meritain (T)

KidsVax®:

Fred L. Potter (P)
Nicole G. Price (P)
Claire Roberge (P)
Terry Mills (P)
Matthew Miller – WebEx Monitoring (T)

Absent:

Elaine Koskela – Cigna
Edward Moran – Public Board Representative

II. Summary of Actions Taken and/or Recommended

A. Actions Taken (votes adopted)

1. To authorize the appointment of Susan Tenney and David Fredenburg, acting together or individually, as proxies for the director selection at the June 20, 2017, Annual Meeting of members.
2. To authorize the NHVA to pay \$25,000 to the Washington Vaccine Association to be used to support WVA's efforts with regard to negotiating payment for vaccine arrearages owed by TRICARE, implementing the new federal law and other related matters that further the interests of NHVA.

B. Follow-up Task/Action Items

1. KidsVax® will make the requested amendments to the January 19, 2017, minutes and will bring them back for Board approval at the meeting scheduled for June 20.
2. Ms. Bobinsky will make an inquiry to the Commissioner as to when the return of funds for overfunding of vaccines can be expected.
3. Ms. Price will make a request to NHID and Mr. Sky to look at the All Payer Claims database to assist with the cross-border considerations.
4. KidsVax® will add an agenda item for the June meeting for further discussion regarding the feasibility study concerning quarterly payments to the State.
5. Attorney McCue will provide his legal opinion concerning quarterly vaccine payments vs. annual payments to the Board.
6. KidsVax to send the Vaccine Loss and Replacement Policy to the Board.

At approximately 8:30 a.m., a quorum having been established, Chairman Tenney called the meeting to order. The Board was surveyed for additional agenda items. Ms. Condon asked to add agenda items, including the new replenishment policy and reporting of vaccine wastage to the New Hampshire Vaccine Association ("NHVA"), as well as the new CDC October 1st inventory policy.

Ms. Condon requested several amendments to the draft minutes of the January 19, 2017, Board Meeting. Ms. Price indicated that the edits will be made as requested and the minutes will be brought back for Board approval at the next meeting scheduled for June 20.

Executive Director Report – Ms. Price presented a brief overview of her Executive Director Report. She welcomed new Board member, Dr. Patricia Edwards, to the NHVA Board. Ms. Price thanked the directors for their timely return of their Ethics Affirmation Statements and indicated that policy compliance has been met. She also reported that the working group met to discuss making payments to the State other than annually. Notes from that meeting were included in the Board materials so that everyone is aware of what was discussed.

Efforts to collect TRICARE arrears continue. The focus right now is on arrears in addition to implementing the actual Bill 719 that was passed at the end of the session in 2016. A full report will be provided during Executive Session, as the Board is considering whether NHVA will make a financial contribution to the efforts of securing those additional funds. To that end, a short memo was distributed to the directors to aid in the discussion.

Ms. Price stated that she has contacted the Governor's office regarding filling the seat of the self-insured entity on the Board and was provided with the name of the individual responsible for filling Board seats in the Governor's office. She will be reaching out to her regularly. Ms. Price's understanding is that the Governor is aware of the vacancies on the Boards generally in New Hampshire and is hopeful that a new Board member will be appointed by year end to fill this vacant position.

Ms. Condon requested a status update regarding NHVA's request from the September 26, 2016, Board meeting for the State to refund \$3,267,371 to the Association for overfunding of vaccines. Ms. Price stated that a request has been made to the Commissioner, but she does not believe those funds have yet been received. Ms. Bobinsky made a note to make an inquiry to the Commissioner as to when the return of funds can be expected.

NHVA D & O Insurance Policy – Mrs. Roberge indicated that the D & O Insurance Policy was sent to each director when it was first received. It is also included again in the Board materials as a review. This year the policy and cost are basically the same as last year in the amount of \$5,954. The policy provides coverage to the directors only.

DHHS Update – Ms. Bobinsky, Ms. Haggarty, and Ms. Price had a telephone conference to discuss cross-border vaccinations. Work is continuing, but it is not something that DHHS can fix alone because as discussed previously, DHHS does offer vaccines to any child who sees a physician over the state line. The language in the Maine statute requires that only Maine residents receive vaccines in Maine. Further discussion continues with the Maine Vaccine Board and providers that service those individuals. Contact has been made with Anthem and the Maine CDC to further discuss what can be done to assist in coming to a resolution of this concern. After further discussion, Mr. Sky suggested that if the Board is interested, NH Insurance Department may be able to provide its All Payer Claims database to assist with looking at Maine residents receiving vaccines from New Hampshire providers and New Hampshire residents receiving vaccine from Maine providers. Chairman Tenney stated she thought that would be helpful to assist in resolving this matter.

Ms. Bobinsky introduced Patricia Edwards, M.D., as a new Board member. Dr. Edwards is a practicing pediatrician in Concord and has been for many years. Dr. Edward has been a part of some of the discussions regarding the vaccine registry and has always been very accessible to DHHS and the immunization program when DHHS wants to reach out to some of the physicians for additional information. She has been willing to give her opinion and her professional feedback. DHHS recommended Dr. Edwards to the Commissioner for his appointment and they are happy to have her involvement.

Working Group Update – A summary report of the working group meeting dated February 16, 2017 is included in the Board materials. The purpose of the group was to determine if it would be a better process for NHVA to pay on a quarterly basis to the State for the vaccines purchased throughout the year instead of making one payment at the very end of the State fiscal year based exactly on the assessment that was determined eight months prior. One of the reasons DHHS reviewed this was because a year ago the State came to the Association requesting an additional \$1M+ dollars. This year, the Association, as is allowed, has asked the State to reimburse them for the over \$3M that was previously set into the books, so the assessment has been adjusted based on the amount of the funds left on the balance sheet. To assure that money is not left on either side of the ledger, the conversation was started to see if there is a way for the State to take the actual amount of vaccines purchased, give that number to the NHVA on a quarterly basis, and have the Association pay to the State that exact amount so that as the year progresses, the Association isn't looking at balances held in either the State's or the NHVA's account. It was also hoped that this would provide a more accurate true-up of the numbers that are presented to the Association on an annual basis. It would provide much less of a guesstimate and much more of an actual basis. The question being considered is whether the NHVA Board has the authority to make that change in the timing of payments. Ms. Price indicated that once it is determined if NHVA has that authority, some financial modeling will be undertaken at the April working group meeting. This will allow Dolores Cooper, Finance Administrator for the Division, to plot three actual quarters to provide a better idea of what it will look like. Mr. Sky would like DHHS to include in their analysis the time value and financial loss of investment income that the Association would suffer.

Attorney McCue stated that with respect to making quarterly payments, the statute mandates an annual payment. His interpretation is that is a minimum requirement. He does not believe the State can require quarterly payments, but if the Association and the Board in their due diligence determines that would be a more prudent or beneficial way to proceed with payments, then the Board could amend its Plan of Operation (POO) accordingly. The POO is approved by the Insurance Commissioner, after consultation with the DHHS Commissioner. It would then be a waiver by the regulators to whom this annual payment requirement benefits. If DHHS and NHID are comfortable with the process, the Association will eventually have met its annual payment obligation under the statute through making quarterly payments. Attorney McCue does not believe that the assessment process and the way the assessments are calculated can be altered. Brief discussion ensued. It was the sense of the Board that the next steps would be to create a feasibility study and add this topic to the agenda for discussion at the next meeting. Attorney McCue was asked to provide his legal opinion concerning quarterly vaccine payments in writing to the Board.

Ms. Condon requested additional information concerning the new replenishment policy and report of wastage. At the January meeting, Ms. Bobinsky mentioned this new policy requiring physicians to replenish vaccines rather than replace them. This was discussed at the working group meeting as well. Ms. Condon asked for a copy of that policy and requested that it be sent to the entire Board. It was her understanding from the last Board meeting and the task force presentation, that the policy was taking effect now but in the policy, it states that it was effective January 1, 2015. Ms. Condon asked for clarification from Ms. Bobinsky as to when the policy was put in place. She is concerned that in a spreadsheet provided by Ms. Bobinsky at the September 27, 2016, Board meeting showing actual costs, beginning balances, ending balances, expenditures, money remaining at the end of the year, and money due there is a line item in the spreadsheet, reimbursement from providers, that shows reimbursements in 2013, 2014, and 2015 from providers, but in 2016 it showed no reimbursement to the Association. Ms. Condon expressed concerns regarding it being an accountability issue. After further Board discussion, it was the sense of the Board that DHHS and the Immunization Program are under internal scrutiny, but it is not the role of this

Board. Attorney McCue stated that from his perspective the Board does not have the legal authority to challenge the costs that are provided to it by DHHS. That information is provided and is taken at face value, as an instrumentality of the State to collect the vaccine program costs, as determined by DHHS. There are other departments of State government that are looking at and confirming those costs and assessments. It is not within the fiduciary duty of this Board to investigate those. Ms. Bobinsky confirmed that DHHS is under very strict rules of the State purchasing and handling, as well as the CDC. DHHS is also obligated to work with the policies as given to them by the CDC and that guides the handling of the vaccines. She went on to state that when DHHS changed to this style of reimbursement of vaccine, she made the Board aware of the fact that there would no longer be a number in that line due to vaccine wastage because the reimbursement policy had been changed so that the providers would have to replace the vaccine and could no longer just pay for the wastage amounts. Ms. Condon stated that she does not know where that information is available to the public. As a board member appointed to serve on the Board as a public member, she looks at it from the perspective of the entire NHVA budget being funded out of consumer health insurance premiums, so there should be a report on spending and wastage for the members of the public to be assured that there is not aggressive wastage and that these policies are being followed. Extensive discussion ensued.

Ms. Condon made the motion that whatever wastage report DHHS generates from the vaccines, should also be provided to the NHVA Board as it has been in the past, and to be provided with an actual number. Chairman Tenney requested a second to this motion. There was no second to the motion, so the motion did not carry.

Ms. Condon also stated that this was brought up at the working group meeting that as of October 1, the CDC has a new policy regarding NHVA's inventory. She asked for further clarification of what that policy is and asked if the policy is in writing and is something that could be provided to the Board. Ms. Condon's understanding of the policy is that on October 1 of each year the CDC determines the value of the inventory that is being held at the warehouse for vaccines that are already owned by the State as funded to the NHVA, and a cash credit for those vaccines is issued, but the vaccines are not taken away. She asked what happens to those vaccines and if they are repurchased. Ms. Bobinsky stated that the policy dates to October 2013 and DHHS received a letter regarding this in December of 2014. The CDC now, as of October 2013, takes the amount of vaccine inventory owned by the State stored in the McKesson warehouse in Memphis, Tennessee and credits DHHS's account to close out the books. The vaccine does not move, but the books are closed and using that "cash" that DHHS has on the books, it obtains vaccines for the next quarter. It is still valued at the April 1 CDC contracted basis, so the value of vaccine does not change. If there is a need to purchase additional vaccine, it is at the same cost as all the other vaccine in inventory, so there is no loss to the State at that point. Essentially, as of October 1, CDC closes the books, DHHS receives a cash balance for what it has in storage, and they can do what they do on an annual basis and on a quarterly basis. Absolute actuals are done monthly. DHHS pulls through the vaccines that it believes it will need to distribute in the next month or the next quarter. This information does not materially impact the vaccine cost that is provided to the NHVA. There was no further discussion concerning this item and no motion was made.

New Matters – Ms. Price requested that the Board discuss the appointment of proxies for director selection at this meeting to avoid the need for a special meeting prior to the June meeting when there is the election of directors. She would like to appoint proxies now in advance of the meeting, so that once it is time to send proxies to the various entities, this step will have already been completed. Ms. Price briefly explained the proxies are appointed to help NHVA's entities to participate. For those who would be unlikely to come in person or participate, this allows them to vote because proxies have been appointed to voice their vote at the meeting. However, if the entity does decide to attend the meeting, then, of course, they can revoke the proxy and vote as they see fit when they are present at the meeting. Dr. Fredenburg and Chairman Tenney have agreed to serve as proxies again this year if that meets the Board's approval. Attorney McCue's caveat would be to make sure that the proxies are in the alternative, both are not required to be at the meeting, each of them is authorized individually and if one is absent, the other can vote the proxies. Chairman Tenney asked for further discussion. Hearing none, she asked for a motion.

Upon motion duly made by Ms. Bobinsky and seconded by Mr. Sky, it was unanimously

VOTED: To authorize the appointment of Susan Tenney and David Fredenburg, acting together or individually, as proxies for the director selection at the June 20, 2017, Annual Meeting of members.

Public Comment – There was no public comment.

Upon motion duly made by Ms. Bobinsky and seconded by Chairman Tenney, a unanimous roll call vote was taken by Chairman Tenney to move into Executive Session for purposes of discussing TRICARE arrearage and personnel matters.

Executive Session – The Board of Directors (the "Board") of the New Hampshire Vaccine Association ("NHVA") voted by unanimous roll call vote to enter executive session at approximately 9:45 a.m. to discuss legal and personnel matters. Mr. Potter updated the Board regarding the federal legislation requiring TRICARE to pay assessments to state vaccine assessment mechanisms like NHVA. He noted that the lobbying efforts supported in part by NHVA were successful and that the federal law was enacted. Mr. Potter noted that discussions were now being conducted with the TRICARE General Counsel regarding the implementation of the new law and the possible funding of arrearages owed by TRICARE to NHVA and other state agencies. Mr. Potter also conveyed to the Board the request of the State of Washington Vaccine Association ("WVA") to contribute \$25,000 to the legal costs being incurred by WVA in these efforts.

Following a discussion by the Board and upon a motion made by Mr. Sky and seconded by Ms. Bobinsky, the majority of the Board with one vote cast by Ms. Condon in opposition:

VOTED: To authorize the NHVA to pay \$25,000 to the Washington Vaccine Association to be used to support WVA's efforts with regard to negotiating payment for vaccine arrearages owed by TRICARE, implementing the new federal law and other related matters that further the interests of NHVA.

The Board then excused the executive director and staff from the executive session at approximately 10:00 a.m. to discuss personnel matters.

The Board noted its appreciation that today's Board meeting was handled smoothly and that materials were distributed in advance in a timely manner. The Board also noted that Ms. Price continues to be proactive and prepared with respect to matters to be addressed by the Board.

By unanimous roll call vote, the Board voted to end the executive session at 10:10 a.m.

Upon a motion by Ms. Bobinsky and seconded by Dr. Edwards, the Board voted to adjourn at 10:10 a.m.

Respectfully submitted,

Mark S. McCue
Secretary pro tem



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 P.O. Box 1885 • Concord, NH 03302-1885
 tel 1.855.KidsVax (543.7829)
 fax 1.855.KidsFax (543.7329)
 www.nhvaccine.org

What: New Hampshire Vaccine Association (NHVA) Board of Directors Meeting
 Date and Time: Tuesday, March 21, 2017 / 8:30 a.m. – 10:30 a.m.
 Location: KidsVax® Conference Room, 125 North State Street, Concord, NH
 Public Call-In: **Please register at:**

Registration URL: <https://attendee.gotowebinar.com/register/8632763150106873857>

After registering, you will receive a confirmation email containing information about joining the meeting.

NHVA Agendas are subject to revision up to and including the time of the meeting.

Approx. Time	Topic/[Anticipated Action]	Presented by:
8:30-8:35 a.m.	1. Welcome and Introductions a. Survey of Other Matters from Board Members b. Request for identification of individuals on conference phone	S. Tenney
8:35-8:40 a.m.	* 2. Consent Items a. Approve Board Meeting Minutes (January 19, 2017) b.	S. Tenney
8:40-8:55 a.m.	* 3. Business Updates a. Executive Director Report * b. NHVA D & O Insurance Policy (02-01-2017 – 02-01-2018) c.	N. Price C. Roberge
8:55-9:05 a.m.	4. DHHS Update a. Follow-up regarding cross-border vaccinations with Maine and New Hampshire b. Introduction of New Board Member	M. Bobinsky
9:05-9:15 a.m.	* 5. Other Matters from Board Members a. Working Group Update b.	M. Bobinsky
9:15-9:25 a.m.	6. New Matters a. Appointment of Proxies for Director Selection b.	S. Tenney N. Price
9:25-9:30 a.m.	7. Public Comment (if any)	
9:30-9:35 a.m.	8. Parking Lot Questions/Concerns (If time allows)	S. Tenney
9:35-9:55 a.m.	9. Executive Session a. TRICARE Arrears Update (with KidsVax® personnel present) b. Discussion regarding NHVA's financial contribution to TRICARE work Re: arrears c. Without KidsVax® personnel present	S. Tenney J. Walter S. Tenney
10:00 a.m.	[Adjourn] 10. Reference Documents * a. Contact Directory * b. Governing Statute * c. 2016/17 Meeting & Annual Governance Calendar * d. Proposed form of votes for this meeting * e. Directions to meeting location	

*Indicates agenda item attached



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NH Vaccine Association – Board of Directors Meeting

January 19, 2017 – 9:30 to 11:30 a.m.

KidsVax Offices

Presiding Officer: Susan Tenney, Chair

I. Attendance. Participating in all or part of the meeting in person (P) or by telephone (T) were the following individuals:

Directors:

Susan Tenney, Chair – Harvard Pilgrim Health Care (P)
 Marcella Bobinsky, NH DHHS (P)
 Laura Condon – Public Board Representative (T)
 Elaine Koskela – Cigna (T)
 Jason Margus – Anthem (P)
 David Sky, NHID (P)

Others:

Larry Hart – Compass Health Analytics, Inc. (T)

KidsVax®:

Fred L. Potter (T)
 Nicole G. Price (P)
 Claire Roberge (P)
 Terry Mills (P)
 Matthew Miller – WebEx Monitoring (T)

Absent:

David Fredenburg, M.D. – Healthcare Provider
 Edward Moran – Public Board Representative

II. Summary of Actions Taken and/or Recommended

A. Actions Taken (votes adopted)

1. To approve the Board Meeting minutes of September 27, 2016, as presented at this meeting.

B. Follow-up Task/Action Items

1. Ms. Bobinsky will provide Ms. Condon with a copy of the CDC policy requiring doctors to replenish wasted vaccine supply.
2. Set up a public meeting to discuss the feasibility of different payment options for the end of year remittance to the state with appointed members of the Board and Delores Cooper.
3. Ms. Price to follow up with Ms. Bobinsky regarding cross-border vaccinations with Maine and New Hampshire.
4. Ms. Price to reach out to the Governor's office regarding appointment to the NHVA Board.
5. Ms. Price to add TRICARE arrears and NHVA's financial contribution to the March agenda.

At approximately 9:30 a.m., a quorum having been established, Chairman Tenney called the meeting to order. The Board was surveyed for additional agenda items. Ms. Bobinsky asked to add agenda items under the DHHS update.

Upon motion duly made by Mr. Sky and seconded by Mr. Margus, it was unanimously

VOTED: To approve the Board Meeting minutes of September 27, 2016, as presented at this meeting.

Executive Director Report – Ms. Price presented a brief overview of her Executive Director Report. Governor Hassan's office had concerns about appointing someone to a New Hampshire Board who was not a New Hampshire resident. Consequently, the suggested Meritain representative, who is a New York resident, will not be appointed to the Board. Ms. Price has reached out to the new administration to determine if they want assistance from the Board or if they have someone in mind to fill the open seat for the self-insured entities.

Ms. Price provided a brief update regarding TRICARE and was happy to report that the bill passed and was signed by President Obama on December 23, 2016, to include TRICARE's participation in state universal vaccine purchase programs.

Code of Ethics Affirmation statements were sent to all Board members. Copies were supplied at the meeting as well for those directors desiring to complete their affirmation statement at the meeting.

The DHHS Adult Immunization Grant update requested by Ms. Condon at the September meeting was included for Board review.

Ms. Condon followed up on the status of the request made at the last meeting regarding a request to the Department for reimbursement of overages last year. Ms. Price informed the Board that a letter has been prepared and is ready for Chairman Tenney's signature at today's meeting. Ms. Price expects that it will go out to the Commissioner in today's mail.

Financials as of 12/31/2016 – Mrs. Roberge provided a brief overview of the 12/31/2016 financials. There were no questions by the Board.

1 **DHHS Update** – Ms. Bobinsky reported that a letter has been addressed and sent over to the Commissioner for his signature to appoint the
 2 second physician board member. A copy of the letter will be going to Susan Tenney. As soon as that letter goes out, the information will be
 3 released to the Board. That individual will be appointed prior to the next meeting.
 4

5 Lisa Morris is the new Director of Public Health. For the past 12 years, she has been the Executive Director of the Lakes Region Public
 6 Health Network. She has been very active there and is very familiar with New Hampshire's Public Health System. Ms. Morris will not be
 7 assuming this NHVA board seat and has asked Ms. Bobinsky to remain on the Board.
 8

9 Ms. Bobinsky opened discussion concerning cross-border vaccinations. New Hampshire has always taken the position that if a child comes
 10 over into New Hampshire to see their PCP, the child is vaccinated whether it's VFC, federal funds, or with private funds, and it is taken from
 11 the State supply. However, Maine has stated that they will not vaccinate New Hampshire children if they come across into Maine. Ms.
 12 Bobinsky reported that DHHS has physicians and nurses contacting them from the Maine/New Hampshire border area stating that
 13 children are not be vaccinated. After lengthy discussion, it was the sense of the Board that there needs to be a conversation with the Maine
 14 Vaccine Board (MVB) to look at working through this concern. Cross-border issues have generally been resolved between Health
 15 Departments. Maine has a statutory problem that they need assistance with.
 16

17 Delores Cooper, the DHHS Finance Administrator, has expressed an interest in meeting with the NHVA to look at the feasibility of changing
 18 to quarterly payments throughout the year so that at the end of the fiscal year there is not a large balance one way or the other on a true-
 19 up. It was determined that a statutory change would not be required as Article VI of the Plan of Operation addresses the payment
 20 procedure. After extensive discussion, Jason Margus, Marcella Bobinsky, Laura Condon, Susan Tenney, and Nicole Price were appointed to
 21 convene for a single public meeting with Ms. Cooper to develop a proposal to be brought to the Board for approval.
 22

23 **New Matters** – There was Board discussion about the addition of a November meeting to the 2017 calendar based on the need to have
 24 timely review and vetting of the Annual Report by the Board well in advance of its filing deadline. After further discussion, it was decided
 25 to keep the October meeting if needed, the January meeting, and add a November meeting for purposes of finalizing the Annual Report
 26 which can be called by the Board Chair at any time. If it is determined by the Board that the October and January meetings are not needed,
 27 they will be canceled.
 28

29 **Public Comment** – There were no members of the public.
 30

31 Upon motion duly made by Mr. Sky and seconded by Mr. Margus, a unanimous roll call vote was taken by Chairman Tenney to move into
 32 Executive Session.
 33

34 **Executive Session** – Mr. Potter updated the Board about the pursuit of TRICARE arrears. There is work being done to determine the
 35 amount due as the current arrears estimate is based on a 2012 FOIA request. KV has been in Washington meeting with TRICARE as well as
 36 members of Congress in order to move the issue of arrears as a priority that has bipartisan support and TRICARE's support. This work
 37 cannot be completed until there is a President's budget. Mr. Potter also shared that TRICARE's participation in universal vaccine programs
 38 is effective as of January 1, 2017. He also made a request to the Board for a financial contribution to the work needed to pursue the
 39 arrears.
 40

41 The board acknowledged KidsVax®'s decision to name Nicole Price to the position of Executive Director for KidsVax® assigned to the NHVA
 42 account. The Board also noted that KidsVax® has worked hard to address the Board's concerns about timeliness of documents, follow-
 43 through and meeting logistics. Overall, the Board is pleased with the assignment of Nicole to the NHVA account.
 44

45 Upon motion duly made and seconded, a unanimous roll call vote was taken to move back into public session.
 46

47 The Board returned to public session following the executive session and continued the discussion around the CDC policy of requiring
 48 doctors to replenish wasted vaccine supply. Ms. Bobinsky shared this is a CDC change that DHHS has to administer. Ms. Condon asked for
 49 a copy of the CDC policy.
 50

51 Upon motion duly made by Ms. Bobinsky and seconded by Mr. Margus, a unanimous roll call vote was taken to adjourn at 11:12 a.m.



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Self-Reporting Assessment Results

Applicable Assessment Rate:
 Number of carriers who have paid:
 Average monthly child covered lives:
 Assessment Income for the quarter:
 Interest dollars collected:

**For the Assessment
 Quarter Due on
 02/15/2017
 (As of 03/01/2017)**

\$	9.95
	74
	165,238
\$	4,932,344.35
\$	11.74

Cash and Investments as of 02/28/2017:

\$ 18,597,155.73

Remittance to be Paid to State of New Hampshire in June:

\$ 19,653,132.00

This report serves to update the Board on the items worked on since the last board meeting and highlight matters coming before the board for the March meeting.

I am happy to report that Commissioner Meyers has appointed Dr. Patricia Edwards to the Board. The statute requires the Commissioner of the Department of Health and Human Services to appoint health care provider representatives to the Board and Dr. Edward's appointment fills one of these seats. Also since the last board meeting, I received the Ethics Affirmation Statements from all board members for 2017 including our newest board member. I thank the Board for completing the statement in a timely manner and ensuring compliance in this area.

As requested by the Board, a request for the excess funds paid to the state by the NHVA for vaccine purchases in FY16 has been made to the DHHS Commissioner. Additionally, Director Bobinsky, Director Condon, Director Margus, Ms. Haggerty, Ms. Cooper and Ms. Price met to discuss different payment options for the end of the year remittance to the state. A summary of the discussion on that topic is attached to the executive director report. The working group concluded that they needed more information on the authority needed to make such a change as well as some financial modeling on different possible payment options.

The efforts to collect the TRICARE arrears as well as getting TRICARE participation in the universal vaccine purchase programs are continuing. These efforts include meeting with TRICARE general counsel to discuss operationalizing section 757 of the 2017 NDAA as well as the authorization given for payment of arrears by this section. Work is also being done on the arrearage calculation and the assessment mechanism for each state universal vaccine program.

As it relates to TRICARE, a request was made for the NHVA to make a financial contribution to the efforts undertaken for TRICARE participation and arrearage. In response, the Board requested that a discussion regarding a financial contribution to the TRICARE efforts be added to the agenda for the March meeting. Included in the board packet is a short memo that provides some additional information that could be helpful in this discussion.

Thank you for your continued efforts to ensure that the NHVA fulfills its statutory purpose.

A handwritten signature in blue ink, reading "Nicole G. Price".

Nicole G. Price, writing March 7, 2017 for the March 21, 2017 meeting



Navigators Insurance Company

One Penn Plaza
New York, NY 10119

Policy Number: NY17DOLV02811NV

DECLARATIONS

Attached to and forming part of

Not-For-Profit InNAVation Policy

This insurance is effected with

Navigators Insurance Company

**THIS IS A CLAIMS-MADE AND REPORTED POLICY
WITH COSTS OF DEFENSE INCLUDED IN THE LIMIT OF LIABILITY.
PLEASE READ THE ENTIRE POLICY CAREFULLY.**

ITEM 1. Corporation (name and address):

New Hampshire Vaccine Association
P.O. Box 1885
Concord, NH 03302

ITEM 2. Policy Period:

From: 02/01/2017
To: 02/01/2018
At 12:01 a.m. at the address shown in ITEM 1 above

ITEM 3.A. Coverage Parts Issued as Part of This Policy:

- ☒ DIRECTORS AND OFFICERS LIABILITY (INCLUDING ENTITY)
 - ☐ Optional Additional Excess Aggregate Limit of Liability
 - ☒ Optional Excess Benefit Transaction Excise Tax Coverage
- ☐ EMPLOYMENT PRACTICES LIABILITY
 - ☐ Optional Third Party Coverage
 - ☐ Optional Wage and Hour Coverage
 - ☐ Optional HIPAA Violation Coverage
- ☐ FIDUCIARY LIABILITY
 - ☐ Optional Settlement Program Coverage

ITEM 3.B. Non Liability Coverage Parts Issued as Part of This Policy:

- ☐ CRIME (if checked, refer to separate Declarations attached to the Crime Coverage Part)
- ☐ KIDNAP, RANSOM & EXTORTION (if checked, refer to separate Declarations attached to the Crime Coverage Part)



Navigators Insurance Company

One Penn Plaza
New York, NY 10119

Policy Number: NY17DOLV02811NV

ITEM 4. Limits of Liability:

- a. \$1,000,000 maximum aggregate limit of liability for all **Loss**, including **Costs of Defense**, under DIRECTORS AND OFFICERS LIABILITY Coverage Part, if purchased

SUBLIMITS: If a Limit of Liability other than "\$0" is shown below, the following optional coverages are provided subject to the sublimits shown below, which amounts will be part of and not in addition to the Insurer's maximum aggregate Limit of Liability for all **Loss**, including **Costs of Defense**, under this Coverage Part as set forth in Item 4. a. on the Declarations. In the event any other endorsement(s) to this Policy contain any other sublimit(s) and any other sublimit applies to any **Claim** to which the below sublimits apply, the Insurer shall not be liable to pay **Loss**, including **Costs of Defense**, resulting from such **Claim** in excess of the amount of the highest applicable sublimit.

- i. N/A Additional Excess Aggregate Limit of Liability Dedicated for Directors and Officers, if purchased
- ii. \$100,000 maximum aggregate Limit of Liability for all **Loss**, including **Costs of Defense**, for **Excess Benefit Transaction Excise Tax Claims**

- b. N/A maximum aggregate limit of liability for all **Loss**, including **Costs of Defense**, under EMPLOYMENT PRACTICES LIABILITY Coverage Part, if purchased

SUBLIMITS: If a Limit of Liability other than "\$0" is shown below, the following optional coverages are provided subject to the sublimits shown below, which amounts will be part of and not in addition to the Insurer's maximum aggregate Limit of Liability for all **Loss**, including **Costs of Defense**, under this Coverage Part as set forth in Item 4. b. on the Declarations. In the event any other endorsement(s) to this Policy contain any other sublimit(s) and any other sublimit applies to any **Claim** to which the below sublimits apply, the Insurer shall not be liable to pay **Loss**, including **Costs of Defense**, resulting from such **Claim** in excess of the amount of the highest applicable sublimit.

- i. N/A maximum aggregate limit of liability for all **Wage and Hour Claims**
- ii. N/A maximum aggregate Limit of Liability for all **HIPAA Violation Claims**

- c. N/A maximum aggregate limit of liability for all **Loss**, including **Costs of Defense**, under FIDUCIARY LIABILITY Coverage Part, if purchased

SUBLIMITS: If a Limit of Liability other than "\$0" is shown below, the following optional coverages are provided subject to the sublimits shown below, which amounts will be part of and not in addition to the Insurer's maximum aggregate Limit of Liability for all **Loss**, including **Costs of Defense**, under this Coverage Part as set forth in Item 4. c. on the Declarations. In the event any other endorsement(s) to this Policy contain any other sublimit(s) and any other sublimit applies to any **Claim** to which the below sublimits apply, the Insurer shall not be liable to pay **Loss**, including **Costs of Defense**, resulting from such **Claim** in excess of the amount of the highest applicable sublimit

- i. N/A maximum aggregate Limit of Liability for all **Settlement Program Expenditures** under Optional Settlement Program Coverage under FIDUCIARY LIABILITY Coverage Part.
- d. \$1,000,000 maximum aggregate limit of liability for all **Loss**, including **Costs of Defense**, under DIRECTORS AND OFFICERS LIABILITY Coverage Part, if purchased, EMPLOYMENT PRACTICES LIABILITY Coverage Part, if purchased, and FIDUCIARY LIABILITY Coverage Part, if purchased.



Navigators Insurance Company

One Penn Plaza
New York, NY 10119

Policy Number: NY17DOLV02811NV

ITEM 5. **Retentions:**

- a. Under DIRECTORS AND OFFICERS LIABILITY Coverage Part, if purchased:
 - (i) \$0 each **Claim** under Insuring Agreement A
 - (ii) \$10,000 each **Claim** under Insuring Agreement B
 - (iii) \$10,000 each **Claim** under Insuring Agreement C
- b. \$0 each **Claim** under EMPLOYMENT PRACTICES LIABILITY Coverage Part, if purchased
- c. each **Claim** under FIDUCIARY LIABILITY Coverage Part, if purchased

ITEM 6. **Prior and Pending Date:**

- a. Under DIRECTORS AND OFFICERS LIABILITY Coverage Part, if purchased: 01/09/2003
- b. Under EMPLOYMENT PRACTICES LIABILITY Coverage Part, if purchased: N/A
- c. Under FIDUCIARY LIABILITY Coverage Part, if purchased: N/A

ITEM 7. **Premium:** \$5,954.00

ITEM 8. **Optional Discovery Period Premium:** \$4,465.50

ITEM 9. **Waiver of Recourse Premium:** N/A

ITEM 10. **Forms and Endorsements Attached at Issuance:**

New Hampshire Amendatory Endorsement NAV-NFP-300-NH (06/10)
 Sublimit Endorsement for Excess Benefit Transaction Excise Tax NAV-NFP-36 (05/11)
 Anti Trust Claims Exclusion Endorsement NAV-NFP-04 (06/10)
 Medical & Healthcare Services Exclusion NAV-NFP-11 (06/10)
 OFAC Endorsement NAV-ML-002 (11/12)
 Policyholder Disclosure Notice of Terrorism



Navigators Insurance Company

One Penn Plaza
New York, NY 10119

Policy Number: NY17DOLV02811NV

In Witness Whereof, the issuing Company has caused this policy to be signed officially below and countersigned on the Declarations page by a duly authorized representative of said Company.

Emily Miner

[Emily Miner]

Secretary

Stanley Galanski

[Stanley Galanski]

President

Navigators Insurance Company

GENERAL TERMS AND CONDITIONS

THIS IS A CLAIMS-MADE AND REPORTED POLICY WITH COSTS OF DEFENSE INCLUDED IN THE LIMIT OF LIABILITY. PLEASE READ THE ENTIRE POLICY CAREFULLY.

In consideration of the payment of the premium and in reliance upon all statements made and information furnished to the insurance company shown in the Declarations (the "Insurer"), including the statements made in the **Proposal Form**, and subject to all terms, conditions and limitations of this Policy, the **Insureds** and the Insurer agree:

Section I. Defense Obligations

- A. The Insurer will have the right and duty to defend any **Claim** against any **Insured** covered under this Policy, even if the allegations in such **Claim** are groundless, false or fraudulent. The Insurer will give consideration to the **Insureds'** preference for defense counsel, but the final decision regarding the appointment of defense counsel will rest with the Insurer. The **Insureds** will have the right, at their own expense, to associate with the Insurer in the defense of any **Claim** and the negotiation of any settlement thereof.
- B. **Costs of Defense** will be part of, and not in addition to, all applicable Limits of Liability set forth in ITEM 4 of the Declarations, and the Insurer's payment of **Costs of Defense** will reduce, and may exhaust, such Limit or Limits of Liability.

Section II. Definitions

- A. "**Anniversary Date**" will mean that date and time that is exactly one (1) year after the inception date of this Policy as set forth in ITEM 2 of the Declarations, and each successive date and time that is exactly one (1) year after the previous **Anniversary Date**.
- B. "**Automatic Discovery Period**" will mean the period of thirty (30) days after the end of the **Policy Period** that may be available in accordance with Section III. Discovery – Extensions, part A.1.
- C. "**Claim**" will have, with respect to the coverage afforded in each Coverage Part attached to and forming a part of this Policy, the meaning given to that term in such Coverage Part.
- D. "**Company**" will mean the **Corporation** and any **Subsidiary**.
- E. "**Corporation**" will mean the entity named in ITEM 1 of the Declarations.
- F. "**Costs of Defense**" will mean reasonable and necessary legal fees, costs and expenses incurred in the investigation, defense or appeal of any **Claim**, including the costs of an appeal bond, attachment bond or similar bond; provided, however, that the Insurer will have no obligation to apply for or furnish any such bond.
- G. "**Discovery Period**" will mean **Automatic Discovery Period** and **Optional Discovery Period**.

- H. **“Domestic Partner”** will mean any person qualifying as a domestic partner under the provisions of any applicable federal, state, or local law or under the provisions of any formal program established by the **Company**.
- I. **“Executive Officer”** shall mean any past, present or future President, Chief Executive Officer or Chief Financial Officer of the **Company**.
- J. **“Financial Insolvency”** will mean any entity included within the term **“Company”** becoming a debtor in possession, or the appointment of a receiver, conservator, liquidator, trustee, rehabilitator or similar official to control, supervise, manage or liquidate such entity.
- K. **“Foreign Jurisdiction”** means any jurisdiction, other than the United States or any of its territories or possessions.
- L. **“Insured”** will have, with respect to the coverage afforded in each Coverage Part attached to and forming a part of this Policy, the meaning given to that term in such Coverage Part.
- M. **“Insured Person”** will have, with respect to the coverage afforded in each Coverage Part attached to and forming a part of this Policy, the meaning given to that term in such Coverage Part.
- N. **“Loss”** will mean compensatory damages, punitive or exemplary damages, the multiple portion of any multiplied damage award, settlements and **Costs of Defense**; provided, however, that **Loss** will not include salaries, wages, overhead or benefit expenses associated with any **Insured**, criminal or civil fines or penalties imposed by law, taxes, or any matter which may be deemed uninsurable under the law pursuant to which this Policy shall be construed. It is understood and agreed that the enforceability of the foregoing coverage shall be governed by such applicable law which most favors coverage for punitive or exemplary damages or the multiple portion of any multiplied damage award.
- O. **“Nonprofit Entity”** will mean any entity which is exempt from taxation under Sections 501c(3) – (10), 501c(19), 501d or 509a(1) – (3) of the Internal Revenue code of 1986, as amended, or any rule or regulation promulgated thereunder.
- P. **“Optional Discovery Period”** will mean the period of twelve (12) months after the end of the **Policy Period** that may be available for purchase in accordance with Section III. Discovery – Extensions, part A.2.
- Q. **“Policy Period”** will mean the period from the inception date of this Policy to the expiration date of this Policy as set forth in ITEM 2 of the Declarations, or to its earlier termination if applicable.
- R. **“Policy Year”** will mean
 - 1. the period from the inception date of this Policy as set forth in ITEM 2 of the Declarations to the first **Anniversary Date**, or the earlier termination of this Policy; or
 - 2. within the **Policy Period**, the period from an **Anniversary Date** to the next successive **Anniversary Date**, or the earlier termination of this Policy.
- S. **“Pollutants”** will mean any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapor, soot, fumes, acids, alkalis, chemicals and waste. Waste includes materials to be recycled, reconditioned or reclaimed.

T. “**Proposal Form**” will mean:

1. the application or proposal form attached to and forming part of this Policy, together with any materials submitted therewith; and
2. any applications or proposal forms submitted in connection with any policy in an uninterrupted series of policies issued by the Insurer of which this Policy is a renewal or replacement, together with any materials submitted therewith;

all of which will be retained on file by the Insurer and will be deemed to be physically attached to and form part of this Policy.

U. “**Related Wrongful Acts**” will mean **Wrongful Acts** which are logically or causally connected by reason of any common or related fact, circumstance, situation, transaction, event or decision.

V. “**Subsidiary**” will mean, subject to section VIII, G of these General Terms and Conditions, any **Nonprofit Entity** during any time in which the **Corporation** owns directly or through one or more subsidiaries, or controls the right to appoint, elect or designate more than fifty percent of such entity’s Directors or Trustees.

W. “**Wrongful Act**” will have, with respect to the coverage afforded in each Coverage Part attached to and forming a part of this Policy, the meaning given to that term in such Coverage Part.

Section III. Discovery – Coverage Extensions

A. In the event this Policy is not renewed for any reason, and the total premium for this Policy has been paid in full:

1. the **Insureds** will be provided with an automatic extension of the coverage provided by this Policy with respect to any **Claim** first made against any **Insured** and reported to the Insurer during the period of thirty (30) days after the end of the **Policy Period** (the **Automatic Discovery Period**), but only with respect to **Wrongful Acts** committed or attempted, or allegedly committed or attempted, before the end of the **Policy Period**. The provision of the **Discovery Period** will not in any way increase any Limit of Liability, or create a separate or additional Limit of Liability, applicable to any Coverage Part or to this Policy as a whole, and the Limits of Liability with respect to **Claims** made during the **Automatic Discovery Period** will be part of, and not in addition to, the applicable Limit or Limits of Liability as set forth in ITEM 4 of the Declarations.
2. the **Insureds** will have the right, upon payment of seventy five percent (75%) of the annual premium, (or if the **Policy Period** is other than annual, seventy five percent (75%) of the annualized premium), to an extension of the coverage provided by this Policy with respect to any **Claim** first made against any **Insured** and reported to the Insurer during the **Optional Discovery Period**, but only with respect to **Wrongful Acts** committed or attempted, or allegedly committed or attempted, before the end of the **Policy Period**. As a condition precedent to the right to purchase the **Optional Discovery Period**, the total premium for this Policy must have been paid, and a written request, together with full payment of the appropriate premium for the **Optional Discovery Period**, must be provided to the Insurer no later than thirty (30) days after the end of the **Policy Period**. The premium for the **Optional Discovery Period** is fully earned at its inception. The purchase of the **Optional Discovery Period** will not in any way increase any Limit of Liability, or create a separate or additional Limit of Liability, applicable to any Coverage Part or to this Policy as a whole, and the Limits of Liability with respect to **Claims** made during the **Optional Discovery Period** will be part of, and not in addition to, the applicable Limit or Limits of Liability as set forth in ITEM 4 of the Declarations.

- B. In the event of the death, incapacity or bankruptcy of any **Insured Person**, a **Claim** against such **Insured Person's** estate, heirs, legal representatives or assigns for a **Wrongful Act** committed or attempted, or allegedly committed or attempted, by such **Insured Person** will be deemed to be a **Claim** against such **Insured Person**. No extension of coverage will be available under this Section III.B for any **Loss** for which any estate, heirs, legal representatives or assigns of an **Insured Person** may be liable by reason of his or her own actual or alleged acts, errors, omissions, misstatements, misleading statements or breaches of duty.
- C. Subject to all other terms, conditions and limitations of and endorsements to this Policy, the coverage provided under this Policy to **Insured Persons** will be extended also to apply to the lawful spouses or **Domestic Partners** of the **Insured Persons**; provided, that the extension of coverage afforded under this Section III.C will apply only to the extent any such spouse or **Domestic Partner** is a party to a **Claim** solely in his or her capacity as a spouse or **Domestic Partner** of an **Insured Person** and such **Claim** seeks damages recoverable from marital community property, property jointly held by an **Insured Person** and his or her spouse or **Domestic Partner**, or property transferred from an **Insured Person** to his or her spouse or **Domestic Partner**. No extension of coverage will be available under this Section III.C for any **Loss** for which any spouse or **Domestic Partner** of an **Insured Person** may be liable by reason of his or her own actual or alleged acts, errors, omissions, misstatements, misleading statements or breaches of duty.

Section IV. Limit of Liability

- A. With respect to each Coverage Part, the Insurer will be liable to pay one hundred percent (100%) of **Loss** in excess of the applicable retention amount set forth in ITEM 5 of the Declarations, up to the Limit of Liability applicable to such Coverage Part as set forth in ITEM 4 of the Declarations.
- B. The Insurer's maximum aggregate Limit of Liability per **policy year** under this Policy for all **Loss** will be the amount set forth in ITEM 4.d of the Declarations, regardless of the number of **Insureds**, the number of **Claims**, the number of Coverage Parts, the time of payment or the Coverage Part or Coverage Parts under which such **Loss** is paid.
- C. If the Insurer's maximum aggregate Limit of Liability per **policy year** with respect to any **Claim** is or has been exhausted by the payment of **Loss**, all obligations of the Insurer in connection with such **Claim** will be completely fulfilled and exhausted, and the Insurer will have no obligation to make any further payments of **Loss** or to advance any **Costs of Defense** in connection with such **Claim** or to defend or continue to defend such **Claim**. If the Insurer's maximum aggregate Limit of Liability per **policy year** under this Policy is exhausted by the payment of **Loss**, all obligations of the Insurer under this Policy for the **policy year** will be completely fulfilled and exhausted, and the Insurer will thereafter have no obligation to make any further payments of **Loss**, to advance any **Costs of Defense** or to defend or continue to defend any **Claim**; under such circumstances, the entire **policy year** premium for this Policy will be deemed to have been fully earned.

Section V. Retention

- A. One retention shall apply to each and every **Claim**. If a **Claim** gives rise to coverage under more than one Coverage Part, the retention applicable to **Loss** under each such Coverage Part will be applied separately to that **Loss** payable under such Coverage Part; provided,

however, that the sum of all such retentions will not exceed the largest single retention applicable to such **Claim** under any applicable Coverage Part. The retention amount will be borne by the **Insureds** uninsured at their own risk.

- B. No retention will apply to **Loss** incurred by any **Insured Person** for which the **Company** is neither required nor permitted to provide advancement or indemnification, or for which the **Company** is required or permitted to provide advancement or indemnification but is unable to do so solely by reason of its **Financial Insolvency**.
- C. If, prior to institution of arbitration proceedings or service of suit or within 60 days of the institution of such proceedings or service of suit, the insurer and the **Company** agree to use a process of non-binding intervention by a neutral third party to resolve any **Claim** reported to the insurer, and if such **Claim** is resolved through such process, the insurer will reduce the applicable retention by fifty percent or ten thousand dollars (\$10,000), whichever is less.

Section VI. Allocation, Costs of Defense and Settlements

- A. If a **Claim** made against any **Insured** includes both covered and uncovered matters, or is made against any **Insured** and others, the **Insureds** and the Insurer recognize that there must be an allocation between **Loss** and uninsured damages, settlement amounts and other liabilities in connection with such **Claim**. The **Insureds** and the Insurer will use their best efforts to agree upon a fair and proper allocation. If no agreement can be reached, the Insurer will advance **Costs of Defense** based on what it believes is a fair and proper allocation until such time as the issue can be resolved.
- B. The **Insureds** may not incur **Costs of Defense**, or admit liability, offer to settle, or agree to any settlement in connection with any **Claim** without the express prior written consent of the Insurer, which consent shall not be unreasonably withheld. The Insurer will not be liable for any admission, assumption or stipulation of liability, settlement or **Costs of Defense** to which it has not consented.

Section VII. Notice

- A. As a condition precedent to their rights under this Policy in connection with any **Claim**, the **Insureds** must give the Insurer written notice of such **Claim** as soon as practicable after such **Claim** is made, but in no event later than sixty (60) days after the end of the **Policy Period**, or during any applicable **Discovery Period**. Subject to the foregoing, written notice of a **Claim** will be deemed to have been given as soon as practicable if such notice is given not later than sixty (60) days after the Chairman of the Board of Directors, President, Chief Executive Officer, Chief Financial Officer, General Counsel, or Risk Manager of the **Company** first becomes aware of such **Claim**.
- B. If, during the **Policy Period** or **Discovery Period**, any **Insured** first becomes aware of any circumstances which may reasonably be expected to give rise to a **Claim** being made against an **Insured** and the **Insured** gives written notice to the Insurer of:
 1. the circumstances;
 2. the **Wrongful Act** allegations anticipated; and
 3. the reasons for anticipating such a **Claim**;

with full particulars as to the dates, persons and entities involved, then a **Claim** which is subsequently made against such **Insured** and reported to the Insurer alleging, arising out of, based upon or attributable to such circumstances or alleging any **Wrongful Act** which is the same as or related to any **Wrongful Act** alleged or contained in such circumstances, shall be considered made at the time the Insurer received such written notice.

- C. Written notice to the Insurer under Sections VII.A and B above must be given to:

Navigators Insurance Company
One Penn Plaza
New York, NY 10119
ATTN: Navigators Pro Claims Department

or by email: navproclaims@navg.com

Section VIII. General Conditions

A. **Worldwide Coverage**

The coverage provided by this Policy will apply to **Claims** made, and to **Wrongful Acts** committed or attempted or allegedly committed or attempted, anywhere in the world.

B. **Interrelationship of Claims**

All **Claims** involving the same **Wrongful Act** or **Related Wrongful Acts** of one or more **Insureds** will be considered a single **Claim**, and will be deemed to have been made on the earlier of the following dates: (1) the earliest date on which any such **Claim** was first made; or (2) the earliest date on which any such **Wrongful Act** or **Related Wrongful Act** was reported under this Policy or any other policy providing similar coverage.

C. **Advancement and Indemnification**

The certificate of incorporation, charter or other organizational documents of each entity included within the term "**Company**," including by-laws and resolutions, will be deemed to require advancement and indemnification of **Loss** to the **Insured Persons** to the fullest extent permitted by law.

D. **Other Insurance**

All **Loss** payable under this Policy will be specifically excess of, and will not contribute with, any other valid and collectible insurance, including but not limited to any other insurance under which there is a duty to defend, unless such other insurance is specifically excess of this Policy. This Policy will not be subject to the terms of any other insurance policy or program.

E. **Cancellation or Non-Renewal**

1. This Policy may be cancelled by the **Corporation** at any time by written notice to the Insurer. Upon cancellation, the Insurer shall retain the customary short rate portion of the premium. Return or tender of any unearned premium will not be a condition of cancellation. This Policy may be cancelled by the Insurer only for non-payment of premium;
2. The Insurer will not be required to renew this Policy. If the Insurer elects not to renew this Policy, the Insurer will provide the **Corporation** with no less than thirty (30) days advance notice thereof. An offer by the Insurer to renew on different terms will not constitute non-renewal.

F. Representations and Severability

It is agreed by the **Insureds** that the particulars and statements contained in the **Proposal Form** and any information provided therewith (which shall be on file with the Insurer and be deemed attached hereto as if physically attached hereto) are the basis of this Policy and are to be considered as incorporated in and constituting a part of this Policy. It is further agreed by the **Insureds** that the statements in the **Proposal Forms** or in any information provided therewith are their representations, that they are material and that this Policy is issued in reliance upon the truth of such representations; provided, in the event that the **Proposal Form** contains misrepresentations made with the actual intent to deceive, or contains misrepresentations which materially affect either the acceptance of the risk or the hazard assumed by Underwriters under this Policy, this Policy shall be void and have no effect whatsoever with respect to those **Insureds** who made or had knowledge of such misrepresentations. Knowledge of any matter which may give rise to a **Claim** or any misrepresentation made by an **Executive Officer** shall be imputed to the **Company**, but will not be imputed to any **Insured Person** who had no knowledge of the matter which may give rise to a claim or the misrepresentation.

G. Changes in Exposure

1. If, during the **Policy Period**, the **Company** acquires the assets of another **Nonprofit Entity** or acquires a **Subsidiary** or any other **Nonprofit Entity**, by merger, consolidation or otherwise, the coverage afforded under this Policy will be available for **Loss** resulting from **Claims** made during the **Policy Period** or, if purchased, the **Discovery Period**, against any such entity or any **Insured Persons** thereof for **Wrongful Acts** committed or attempted, or allegedly committed or attempted, by them after the effective date and time of such acquisition. If, however, such assets or the assets of the **Nonprofit Entity** so acquired exceed thirty-five percent (35%) of the total assets of the **Company** as of the date of the most recently audited financial statements of the **Company** or the number of employees of the entity so acquired exceeds thirty-five percent (35%) of the number of the **Company's** employees as of the date of the most recently audited financial statements of the **Company**, such coverage will be available only for ninety (90) days after the effective date and time of such acquisition or until the end of the **Policy Period**, whichever is earlier, unless written notice of such acquisition is given to the Insurer, together with such additional information as the Insurer may request, and the Insurer agrees by written endorsement to this Policy to provide such additional coverage on such terms, conditions and limitations, and for such additional premium, as the Insurer may require. If, however, this Policy contains a Fiduciary Liability Coverage Part, this Section VIII.G.1 will not apply to or operate to extend coverage under such Coverage Part unless the Insurer so agrees by written endorsement to such Coverage Part;
2. If, during the **Policy Period**, any entity ceases to be a **Subsidiary**, the coverage afforded under this Policy in respect of such entity and any **Insureds** thereof by reason of their service with or relationship to such entity will continue to apply to **Claims** made during the **Policy Period** or, if purchased, the **Discovery Period**, against them for **Wrongful Acts** committed or attempted, or allegedly committed or attempted, by them before such entity ceases to be a **Subsidiary**, but such coverage will cease with respect to **Claims** against any such entity or any such **Insureds** for **Wrongful Acts** committed or attempted, or allegedly committed or attempted, by them after such entity ceases to be a **Subsidiary**;
3. If, during the **Policy Period**, a transaction occurs wherein another person, entity, or group of affiliated persons and/or entities gains control of the **Corporation** through the ownership of more than fifty percent (50%) of the voting stock of the **Corporation**, or the **Corporation** merges into another entity or consolidates with another entity such that the

3. **Corporation** is not the surviving entity, the coverage afforded under this Policy will continue to apply to **Claims** made during the **Policy Period** or, if purchased, the **Discovery Period**, against any **Insured** for **Wrongful Acts** committed or attempted, or allegedly committed or attempted, before the effective date of such transaction, but coverage will cease with respect to **Claims** against the **Insureds** for **Wrongful Acts** committed or attempted, or allegedly committed or attempted, thereafter. Under such circumstances, the **Insureds** may no longer cancel the Policy and the entire premium for this Policy will be deemed to have been fully earned as of the effective date of such transaction;
4. If, during the **Policy Period**, the **Company's** or any **Subsidiary's** tax status changes from exempt to nonexempt status, the coverage afforded under this Policy in respect of the entity to which such change applies, and any **Insureds** thereof by reason of their service with or relationship to such entity will cease to apply 90 days after such change occurs unless and until:
 - a. written notice of such change is given to the Insurer, together with such additional information as the Insurer may request; and
 - b. the Insurer agrees in writing to provide such additional coverage on such terms, conditions and limitations, and for such additional premium, as the Insurer may require.

H. **Assistance, Cooperation and Subrogation**

1. The **Insureds** agree to provide the Insurer with all information, assistance and cooperation that the Insurer may reasonably request, and to do nothing which would in any way increase the Insurer's exposure under this Policy or prejudice the Insurer's actual or potential rights of recovery;
2. In the event of a **Claim**, the **Insureds** shall, as soon as practicable, furnish the Insurer with copies of reports, investigations, pleadings and other papers in connection therewith;
3. In the event of any payment under this Policy, the Insurer will be subrogated to all of the **Insureds'** rights of recovery and the **Insureds** will execute all papers required and do everything that may be necessary to secure such rights, including the execution of such documents as may be necessary to enable the Insurer to effectively bring suit in the name of any **Insured**.

I. **Assignment**

Assignment of interest under this Policy will not bind the Insurer until its consent is endorsed hereon.

J. **Conformity to Statute**

Any terms of this Policy which are in conflict with the terms of any applicable laws are hereby amended to conform to such laws.

K. **No Action Against the Insurer**

1. No action shall be taken against the Insurer unless, as a condition precedent thereto, there shall have been full compliance with all the terms of this Policy, and until the **Insureds'** obligation to pay shall have been finally determined by an adjudication against the **Insureds** or by written agreement of the **Insureds**, the claimant or claimants and the Insurer;

2. No person or organization shall have any right under this Policy to join the Insurer as a party to any **Claim** against the **Insureds**; nor may the Insurer be impleaded by any **Insured** or such **Insured's** legal representative in any such **Claim**.

L. Corporation Represents Insureds

By acceptance of this Policy, the **Corporation** is designated to act on behalf of the **Insureds** for all purposes under this Policy, including but not limited to the giving and receiving of all notices and correspondence, the cancellation or non-renewal of this Policy, the payment of premiums, and the receipt of any return premiums that may be due under this Policy.

M. Bankruptcy or Insolvency

No bankruptcy or insolvency of any **Insured** will relieve the Insurer of any of its obligations under this Policy.

N. Application of Coverage Parts

All Coverage Parts are subject to these GENERAL TERMS AND CONDITIONS. Except as stated in these GENERAL TERMS AND CONDITIONS or unless specifically stated otherwise in any Coverage Part or endorsement, the provisions of each Coverage Part will apply only to that Coverage Part and will in no way limit, increase or affect the coverage afforded under any other Coverage Part. If any provision in these GENERAL TERMS AND CONDITIONS is inconsistent or in conflict with the terms and conditions of any Coverage Part, the terms and conditions of that Coverage Part will control for the purposes thereof.

O. OFAC Disclosure

The Office of Foreign Assets Control ("OFAC") administers and enforces U.S. sanctions policy, based on Presidential declarations of "national emergency." OFAC has identified and listed numerous foreign agents, front organizations, terrorists, terrorist organizations and narcotics traffickers as "Specially Designated Nationals and Blocked Persons"; this list can be located on the website for the United States Department of the Treasury (www.treas.gov/ofac). In accordance with OFAC regulations, if it is determined that any **Insured**, or any person or entity claiming the benefits of this insurance, has violated U.S. sanctions law or is a Specially Designated Nationals and Blocked Person, as identified by OFAC, this insurance will be considered a blocked or frozen contract and all provisions of this insurance will be immediately subject to OFAC. When an insurance policy is considered to be such a blocked or frozen contract, no payments or premium refunds may be made without authorization from OFAC. Other limitations on premiums and payment may also apply.

P. Headings

The headings of the various sections of this Policy are intended for reference only and are not to form part of the terms and conditions of coverage.

Q. Entire Agreement

By acceptance of this Policy, the **Insureds** agree that this Policy (including the Declarations, the **Proposal Form** and the Coverage Parts specified in ITEM 3 of the Declarations), and any written endorsements attached hereto constitute the entire agreement between the parties relating to this insurance. The terms, conditions and limitations of this Policy can be waived or changed only by written endorsement.

DIRECTORS AND OFFICERS LIABILITY COVERAGE PART

THIS IS A CLAIMS-MADE AND REPORTED POLICY WITH COSTS OF DEFENSE INCLUDED IN THE LIMIT OF LIABILITY. PLEASE READ THE ENTIRE POLICY CAREFULLY.

In consideration of the payment of the premium and in reliance upon all statements made and information furnished to the insurance company shown in the Declarations (the "Insurer"), including the statements made in the **Proposal Form**, and subject to all terms, conditions and limitations of this Policy, the **Insureds** and the Insurer agree:

Section I. Insuring Agreements

Provided that a **Claim** is first made against an **Insured** during the **Policy Period** or the **Discovery Period**, if purchased, and further that such **Claim** is reported to the Insurer in accordance with Section VII. Notice of the GENERAL TERMS AND CONDITIONS:

- A. The Insurer will pay to or on behalf of the **Insured Persons** all **Loss** which the **Insured Persons** are legally obligated to pay as a result of a **Claim** against the **Insured Persons** for a **Wrongful Act** by the **Insured Persons**, except for **Loss** which the **Company** actually pays as advancement or indemnification.
- B. The Insurer will pay to or on behalf of the **Company** all **Loss** which the **Insured Persons** are legally obligated to pay as a result of a **Claim** against the **Insured Persons** for a **Wrongful Act** by the **Insured Persons**, but only to the extent the **Company** is required or permitted by law to pay such **Loss** to or on behalf of the **Insured Persons** as advancement or indemnification.
- C. The Insurer will pay to or on behalf of the **Company** all **Loss** which the **Company** is legally obligated to pay as a result of a **Claim** for a **Wrongful Act** by the **Company**.

Section II. Definitions

- A. "Claim" will mean:
 - 1. a written demand for monetary or non-monetary relief made against any **Insured**;
 - 2. any written request for any **Insured** to toll or waive any potentially applicable statute of limitations;
 - 3. a civil, criminal, administrative or arbitration proceeding brought against any **Insured** seeking monetary or non-monetary relief and commenced by the service of a complaint or similar pleading, the return of an indictment or criminal information, or the receipt or filing of notice of charges or similar document;
 - 4. an administrative or regulatory investigation of an **Insured Person** which is commenced by the filing or issuance of a notice of charges, formal investigative order or similar document specifically identifying in writing such **Insured Person** as a person against whom a **Claim**, as defined in parts 1 – 3 of this definition, may be brought; or
 - 5. an extradition order or similar document filed against any **Insured**.
- B. "Employee" will mean:
 - 1. any individual whom the **Company** compensates by wages, salary and/or commissions and whose labor or service is directed by the **Company**, whether such individual performs such labor or service on a full-time, part-time, seasonal or temporary basis;
 - 2. any individual who performs labor or services for the **Company** as a volunteer; and

3. any individual who is leased or loaned to the **Company** to perform labor or service for the **Company**, but only if the **Company** provides indemnification to such individual in the same manner and to the same extent as to its other **Employees**.
- C. For purposes of this Coverage Part, the term “**Insured**” will mean the **Company** and all **Insured Persons**.
- D. For purposes of this Coverage Part, the term “**Insured Person**” will mean:
1. any past, present or future duly elected or appointed director, officer, trustee or member of the board of managers or any committee of the **Company**;
 2. any executive of the **Company** located outside of the United States of America who holds a position with respect to the **Company** equivalent to any position described in Sections II.B.1 or II.B.2 above; or
 3. any **Employee**.
- E. For purposes of this Coverage Part, the term “**Loss**” will include pre-and post-judgment interest. “**Loss**” shall not include:
1. any portion of damages, judgments or settlements arising out of any **Claim** alleging that the **Company** paid an inadequate price or consideration for the purchase of the **Company’s** securities;
 2. any costs or fees incurred by the **Company** to comply with an order for injunctive or other non-monetary relief, or to comply with an agreement to provide such relief, or any costs or fees awarded in connection with such compliance or agreement;
 3. any amount not indemnified by the **Company** for which an **Insured** is absolved from payment by reason of any covenant, agreement or court order;
 4. any amount incurred by an **Insured** in the defense of investigation of any action, proceeding or demand that is not then a **Claim** even if (a) such amount also benefits the defense of a covered **Claim**, or (b) such action, proceeding or demand subsequently gives rise to a **Claim**;
 5. any amount allocated to non-covered loss.
- With respect to any **Claim** arising out of any Public or Private Offering of Securities of the **Company**, the Insurer shall not assert that the portion of any settlement and/or **Costs of Defense** of that **Claim** which relates to any alleged violations of Section 11 or 12 of the Securities Act of 1933, as amended, constitutes uninsurable loss and shall treat that portion of such settlement and/or **Cost of Defense** as constituting **Loss** under the Policy.
- F. “**Outside Capacity**” will mean service by an **Insured Person** as a director, officer, trustee, regent, governor or equivalent executive of an **Outside Entity**, but only if such service is with the knowledge and consent of, or at the request of, the **Company**.
- G. “**Outside Entity**” will mean any **Nonprofit Entity** other than the **Company**.
- H. “**Personal Injury**” will mean false arrest, wrongful detention or imprisonment, malicious prosecution, defamation including libel, slander, publication of material in violation of a person’s right of privacy, invasion of privacy or wrongful entry or eviction.
- I. “**Publishers Liability**” shall mean infringement of copyright, trademark, trade name, trade dress, service mark, unauthorized use of title, plagiarism or misappropriation of ideas, but only with respect to materials that are in connection with and a regular part of the **Insured’s** own publications. “**Publishers Liability**” does not mean infringement or misappropriation of patents or trade secrets.

- J. For purposes of this Coverage Part, the term “**Wrongful Act**” will mean:
1. any actual or alleged act, omission, error, misstatement, misleading statement, neglect or breach of duty, including any actual or alleged **Personal Injury** or **Publishers Liability**, by any **Insured Person** in his or her capacity as such with the **Company**;
 2. any matter claimed against any **Insured Person** solely by reason of his or her status with the **Company**;
 3. any actual or alleged act, omission, error, misstatement, misleading statement, neglect or breach of duty by any **Insured Person** in his or her **Outside Capacity**; or
 4. any actual or alleged act, omission, error, misstatement, misleading statement, neglect or breach of duty by the **Company**.
- K. “**Securities Laws**” will mean the Securities Act of 1933, Securities Exchange Act of 1934, Investment Company Act of 1940, any state “blue sky” securities law, or any other federal, state or local securities law or any amendments thereto or any rules or regulations promulgated thereunder or any other provision of statutory or common law used to impose liability in connection with the offer to sell or purchase, or the sale or purchase, of securities.

Section III. Exclusions

The Insurer will not be liable under this Coverage Part to make any payment of any **Loss** in connection with any **Claim** made against any **Insured**:

- A. brought about or contributed to by:
1. the gaining by any **Insured** of any profit, advantage or remuneration to which such **Insured** was not legally entitled; or
 2. the deliberately fraudulent or criminal acts of any **Insured**;
- provided, however: (i) this exclusion shall only apply if it is finally adjudicated such conduct in fact occurred; (ii) this exclusion shall not apply to coverage provided under INSURING AGREEMENT B;
- B. based upon, arising out of, relating to, directly or indirectly resulting from or in consequence of, or in any way involving any **Wrongful Act** or **Related Wrongful Act** or any fact, circumstance or situation which has been the subject of any notice given under any other policy of which this Coverage Part is a renewal or replacement;
- C. based upon, arising out of, relating to, directly or indirectly resulting from or in consequence of, or in any way involving any prior and/or pending civil, criminal, administrative or investigative proceeding involving the **Company**, any **Insured** as of the Prior and Pending Date stated in ITEM 6 of the Declarations, or any individual or related fact, circumstance or situation underlying or alleged in such proceeding;
- D. based upon or arising out of:
1. bodily injury, sickness, disease, mental anguish, emotional distress or death of any person, loss of consortium; or
 2. damage to, destruction or loss of use of any property, including the loss of use property not damaged or destroyed;
- E. based upon, arising out of, relating to, directly or indirectly resulting from or in consequence of, or in any way involving any actual or alleged violation of the Employee Retirement Income Security Act of 1974, as amended, or any rules or regulations promulgated thereunder;
- F. for any actual or alleged act, omission, error, misstatement, misleading statement, neglect or breach of duty by

any **Insured Person** in his or her capacity as an **Employee**, director, officer, trustee, regent, governor or equivalent executive of any entity other than the **Company** or an **Outside Entity**, even if directed or requested by the **Company** to serve in such capacity;

- G. for any **Wrongful Act** of any **Insured Person** in his or her **Outside Capacity** with respect to any **Outside Entity**, if such **Claim** is brought by or on behalf of the **Outside Entity** or any **Employee**, director, officer, trustee, regent, governor or equivalent executive thereof;
- H. by or on behalf of any **Insured** or any security holder of the **Company**; provided, however, that this exclusion shall not apply to any **Claim**:
 - 1. brought by any **Insured** where such **Claim** is in the form of a cross-claim or third party claim for contribution or indemnity which is part of and results directly from a **Claim** which is not otherwise excluded by the terms of this Coverage Part; or
 - 2. brought by any security holder of the **Company**, whether directly or derivatively, if the security holder bringing such **Claim** is acting totally independently of, and without the solicitation, assistance, active participation or intervention of, the **Company** or any **Insured Person**;
 - 3. brought in any bankruptcy proceeding by or against any entity included within the term "**Company**" by any creditors committee, examiner, trustee, receiver, liquidator or rehabilitator appointed with respect to such entity;
 - 4. brought by any **Insured Person** who has neither served in such capacity nor as consultant to any entity included within the term "**Company**" for at least three (3) years prior to such **Claim** having been first made;
 - 5. brought by any **Insured Person** of any entity included within the term "**Company**" formed and operating outside the United States of America or any of its territories or possessions against such **Company** or any **Insured Person** thereof, if such **Claim** is brought and maintained outside the United States of America, Canada or any other common law jurisdiction; or
 - 6. arises out of, is based upon, or is attributable to any whistleblower activity, including but not limited to any such activity protected under the Sarbanes-Oxley Act of 2002, the False Claims Act, or any similar federal, state, local or foreign law or statute;
- I. based upon, arising out of, relating to, directly or indirectly resulting from or in consequence of, or in any way involving:
 - 1. actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of **Pollutants** or radiation;
 - 2. any loss, cost or expense arising out of any:
 - a. Request, demand, order or statutory or regulatory requirement that any **Insured** or others test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of, **Pollutants**; or
 - b. **Claim** or suit by or on behalf of a governmental authority for damages because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralizing, or in any way responding to, or assessing the effects of, **Pollutants**;
- J. based upon, arising out of, relating to, directly or indirectly resulting from or in consequence of, or in any way involving any initial public offering of the **Company's** securities or any registration statement or prospectus related thereto;
- K. based upon, arising out of, relating to, directly or indirectly resulting from or in consequence of, or in any way involving the actual or alleged violation of any **Securities Laws**; provided, however, that this exclusion will not

apply to the extent that such **Claim** is based upon, arising out of, relating to, directly or indirectly resulting from or in consequence of, or in any way involving the **Company's** offer or sale of debt securities of the **Company** in a transaction that is (or in a series of transactions that are) exempt from registration under the Securities Act of 1933, as amended, and under the rules and regulations promulgated thereunder;

- L. for any **Wrongful Act** of any **Subsidiary** or the **Insured Persons** of such **Subsidiary** or any entity that merges with the **Company** or the **Insured Persons** of such entity that merges with the **Company** occurring:
 - 1. prior to the date such entity became a **Subsidiary** or was merged with the **Company**;
 - 2. subsequent to the date such entity became a **Subsidiary** or was merged with the **Company** which together with a **Wrongful Act** occurring prior to the date such entity became a **Subsidiary** or was merged with the **Company**, would constitute **Related Wrongful Acts**; or
 - 3. subsequent to the date the **Corporation** ceased to own, directly or indirectly, more than fifty percent (50%) of the voting stock of such **Subsidiary**;
- M. based upon, arising out of, relating to, directly or indirectly resulting from or in consequence of, or in any way involving any liability under any contract or agreement; provided, however, that this exclusion will not apply to the extent the **Company** would have been liable in the absence of such contract or agreement;
- N. based upon, arising out of, relating to, directly or indirectly resulting from or in consequence of, or in any way involving any actual or alleged:
 - 1. employment-related **Wrongful Act**;
 - 2. discrimination against or harassment of any person or entity that is not an **Insured**;
- O. based upon, arising out of, relating to, directly or indirectly resulting from or in consequence of, or in any way involving any actual or alleged infringement or misappropriation of patent or trade secret;
- P. based upon, arising out of, relating to, directly or indirectly resulting from or in consequence of, or in any way involving any actual or alleged unintentional violation of any common law or any federal, state or local statutory law concerning political campaign contributions, including the Federal Election Campaign Act of 1971, as amended, and Chapters 95 and 96 of the Internal Revenue Code of 1986, and amendments thereto.

For the purpose of determining the applicability of the foregoing exclusions, no **Wrongful Act** of any **Insured Person** shall be imputed to any other **Insured Person**, and only the **Wrongful Acts** of any president, chief executive officer or chief financial officer of the **Company** shall be imputed to the **Company**.

Section IV. Claims Against Insured Persons for Wrongful Acts in Their Outside Capacity

- A. In the event a **Claim** is made against an **Insured Person** for **Wrongful Acts** in his or her **Outside Capacity** with respect to any **Outside Entity**, the coverage afforded under this Coverage Part in respect of such **Claim** will be specifically excess of, and will not contribute with, any insurance available to such **Insured Person** from such **Outside Entity** and any advancement or indemnification such **Outside Entity** is required or permitted to make to such **Insured Person**. If the Insurer shall have issued any policy or policies of insurance to such **Outside Entity**, payment by the Insurer under any such policy in respect of such **Claim** will reduce and may therefore exhaust, by the amount of such payment, the Insurer's Limit of Liability available under this Coverage Part for such **Claim**.
- B. For purposes of this Section IV, the certificate of incorporation, charter or other organizational documents of each **Outside Entity**, including by-laws and resolutions, will be deemed to require advancement and indemnification of **Loss** to such **Outside Entity's** directors, officers, trustees, regents, governors and equivalent executives to the fullest extent permitted by law.

Section V. Additional Excess Aggregate Limit of Liability

- A. Notwithstanding anything in this Policy or this Coverage Part to the contrary, the Additional Excess Aggregate

Limit of Liability dedicated for Directors and Officers will be an additional Excess Limit of Liability in an aggregate amount not to exceed the amount stated in Item 4.a.i of the Declarations, which amount is in addition to and not part of the Limits of Liability stated in Item 4.a. of the Declarations.

In the event the Additional Excess Aggregate Limit of Liability dedicated for Directors and Officers is exhausted by payment of **Loss**, or has been tendered to or on behalf of Directors and Officers, then any and all obligations of the Insurer hereunder shall be deemed to be completely fulfilled and extinguished.

- B. No coverage shall be provided by Section V of this Coverage Part for the first **Claim** made for which coverage is provided under this Coverage Part. This Additional Excess Aggregate Limit of Liability dedicated for Directors and Officers is available solely for **Loss** resulting from any subsequent **Claim** that is covered under INSURING AGREEMENT A of this Coverage Part. The first **Claim** made for which coverage is provided under this Coverage Part shall be determined by the chronological time such **Claim** was made regardless of when coverage is acknowledged by the Insurer.
- C. The Additional Excess Aggregate Limit of Liability dedicated for Directors and Officers shall be excess of any insurance available to pay **Loss** for such **Claims**, including this Policy and all insurance that is specifically excess to this Policy. Such excess insurance must be completely exhausted by payment of loss, damages or costs of defense, as those terms are defined by such excess insurance, before the Insurer shall have any obligation to make any payment on account of the Additional Excess Aggregate Limit of Liability dedicated for Directors and Officers.
- D. For purposes of this provision only, Directors and Officers shall only mean:
 - 1. any past, present or future duly elected or appointed director, officer, trustee or member of the board of managers or any committee of the **Company**;
 - 2. any executive of the **Company** located outside of the United States of America who holds a position with respect to the **Company** equivalent to any position described in Sections V.D.1 above.

Section VI. Waiver of Retention under Certain Circumstances

- A. No retention will apply under this Coverage Part to **Loss** incurred by the **Insured Persons** if advancement or indemnification of such **Loss** by the **Company** is neither required nor permitted under applicable law or, if advancement or indemnification of such **Loss** by the **Company** is required or permitted under applicable law, such advancement or indemnification is not made solely by reason of the **Company's Financial Insolvency**.
- B. If, in connection with any **Claim**, a final adjudication, with prejudice, pursuant to a trial, motion to dismiss or motion for summary judgment or a complete and final settlement, with prejudice, establishes that no **Insured** is liable for any **Loss** in connection with such **Claim**, no retention will apply to **Costs of Defense** incurred in connection with such **Claim** and, subject to all other terms, conditions and limitations of this Policy applicable to this Coverage Part, the Insurer will reimburse the **Insureds** for any covered **Costs of Defense** paid by them in connection with such **Claim**.

Section VII. Order of Payments

- A. **Loss** covered under this Coverage Part will be paid by the Insurer in the following order:
 - 1. first, the Insurer will pay such **Loss** covered under INSURING AGREEMENT A of this Coverage Part;
 - 2. with respect to whatever amount of the Insurer's Limit of Liability under this Coverage Part remains after the payment of **Loss** covered under INSURING AGREEMENT A of this Coverage Part, the Insurer will then pay such **Loss** covered under INSURING AGREEMENT B of this Coverage Part; and
 - 3. with respect to whatever amount of the Insurer's Limit of Liability under this Coverage Part remains after the payment of **Loss** covered under INSURING AGREEMENTS A and B of this Coverage Part, the Insurer will then pay such **Loss** covered under INSURING AGREEMENT C of this Coverage Part; and

4. with respect to whatever amount of the Insurer's Limit of Liability under this Coverage Part remains after the payment of **Loss** covered under INSURING AGREEMENTS A, B and C of this Coverage Part, the Insurer will then pay such other **Loss** covered under this Coverage Part.
- B. Nothing in this Section VII is intended, nor shall it be construed, to increase the Insurer's maximum aggregate Limit of Liability applicable to **Loss** under this Coverage Part.

This endorsement, effective 12:01 am, 02/01/2017 forms part of

Policy number: NY17DOLV02811NV

Issued to: New Hampshire Vaccine Association

By: Navigators Insurance Company

NEW HAMPSHIRE AMENDATORY ENDORSEMENT

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

- I. **Section III., Discovery –Coverage Extensions** of the General Terms and Conditions is deleted in its entirety and replaced with the following:

- A. If the Insurer or the **Corporation** cancels or terminates this Policy for any reason, including nonpayment of premium, the Insurer will provide at no additional charge an automatic sixty (60) day **Discovery Period**. The Limit of Liability for the automatic **Discovery Period** shall be part of, and not in addition to the Limit of Liability for the **Policy Period**. The Insurer shall send the **Corporation** and the agent, written notice on the date of termination advising the **Corporation** of the automatic **Discovery Period** and the availability of, the premium for, and the importance of purchasing the optional **Discovery Period**.

Upon expiration of the automatic **Discovery Period**, the **Corporation** shall have the right, upon payment of one hundred percent (100%) of the annual premium, (or if the **Policy Period** is other than annual, one hundred percent (100%) of the annualized premium), to an extension of the coverage provided by this Policy with respect to any **Claim** first made against any **Insured** during the period of twelve (12) months after the end of the **Policy Period**, but only with respect to any **Wrongful Act** committed or alleged to have been committed before the end of the **Policy Period**. This twelve (12) month period shall be referred to in this Policy as the optional **Discovery Period**.

- B. As a condition precedent to the right to purchase the optional **Discovery Period**, the total premium for this Policy must have been paid, and a written request together with payment of the appropriate premium for the optional **Discovery Period** must be provided to the Insurer no later than thirty (30) days after the end of the **Policy Period**.
- C. The fact that the coverage provided by this Policy may be extended by virtue of the purchase of the optional **Discovery Period** shall not in any way increase the Limit of Liability stated in Item 3 of the Declarations. For purposes of the Limit of Liability, the optional **Discovery Period** is considered to be part of, and not in addition to, the **Policy Period**.
- D. Once paid, the optional **Discovery Period** may not be cancelled.

- II. **Section VIII., General Conditions, E. Cancellation or Nonrenewal** of the General Terms and Conditions is deleted in its entirety and replaced with the following:

E. **Cancellation or Nonrenewal**

- (1) This Policy may be cancelled by the **Corporation** at any time by written notice or surrender of this Policy to the Insurer, stating when thereafter the cancellation shall be effective. Upon cancellation by the **Corporation**, the Insurer shall retain the customary short rate proportion of the premium earned hereon. The **Insurer** will refund any unearned premium within thirty (30) days.
- (2) This Policy may also be cancelled, with or without the return by tender of the unearned premium, by or on behalf of the Insurer by delivering to the **Corporation** named in the Policy or by sending to the **Corporation**, written notice stating when the cancellation shall be effective. The Insurer shall refund any unearned premium pro rata.
- (3) Notice of cancellation by the Insurer shall be provided to the **Corporation's** last known address at least

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sixty (60) days before cancellation is to be effective, except for nonpayment of premium or substantial increase in the risk insured in which case written notice will be provided ten (10) days prior to cancellation. The reason or reasons for cancellation by the Insurer will accompany or be included in the notice. The earned premium will be calculated on a pro rata basis. The Insurer will refund any unearned premium on or before thirty (30) days after the effective date of cancellation.

- (4) If this Policy has been in effect for sixty (60) days or more, or if this Policy is a renewal, the Insurer will not cancel this Policy unless cancellation is based on one or more of the following reasons:
- (a) nonpayment of premium;
 - (b) fraud or material misrepresentation affecting the Policy or in the presentation of a **Claim** under the Policy;
 - (c) failure of the Insured to comply with the terms or conditions of this Policy; or
 - (d) substantial increase in the risk insured, provided that cancellation for this reason will be effective only after prior approval of the New Hampshire Commissioner of Insurance.
- (5) Notice of cancellation mailed to the **Corporation** will be by certified mail (except that notice of cancellation may be by certified mail or certificate of mailing if cancellation is for nonpayment of premium). If notice is mailed, proof of mailing will be sufficient proof of notice.
- (6) The Insurer may choose not to renew this Policy, or to condition renewal with an increase in premium of more than twenty-five percent (25%) of the current Policy's premium, by delivering or mailing written notice to the **Corporation** at the address shown on the Policy. The Insurer will provide written notice of nonrenewal or such conditional renewal at least sixty (60) days prior to the expiration of the Policy Period. The Insurer will not be required to provide notice of nonrenewal if the Insurer has manifested a willingness to renew or if the **Corporation** has failed to pay any advance premium required by the Insurer for renewal. Renewal of the Policy will not constitute a waiver or estoppel with respect to grounds for cancellation that existed before the effective date of such renewal.
- (7) If the Insurer has received the necessary information to issue a renewal policy, the Insurer will confirm in writing their intention to renew, and the premium at which the Policy is to be renewed. Notice of such renewal will be provided to the **Corporation** at least thirty (30) days prior to the expiration of the Policy Period. In the event the Insurer fails to provide such notice to the **Corporation**, the Policy will be continued until thirty (30) days after delivering or mailing such confirmation. The premium for any such continuation of the Policy Period will be calculated pro rata based on the premium for the expiring Policy or rates since approved by the New Hampshire Commissioner of Insurance. Notwithstanding the foregoing, the Insurer will not be required to provide confirmation of their offer to renew where the **Corporation** has accepted the renewal policy.
- (8) For the purpose of this Policy, notice of cancellation or nonrenewal given to the **Corporation** shown in the Declarations shall be deemed to be notice to all Insureds hereunder.

All other terms and conditions of this Policy remain unchanged.

This endorsement, effective 12:01 am, 02/01/2017 forms part of

Policy number: NY17DOLV02811NV

Issued to: New Hampshire Vaccine Association

By: Navigators Insurance Company

SUBLIMIT ENDORSEMENT FOR EXCESS BENEFIT TRANSACTION EXCISE TAX CLAIMS

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

In consideration of the premium paid for this policy, it is agreed that under the Directors & Officers Liability Coverage Part, Section II. Definitions is hereby amended as follows:

1. The following definition is added:

"Excess Benefit Transaction Excise Tax Claim" means any **Claim** based upon, arising out of, related to, directly or indirectly resulting from, or in any way involving any excise tax imposed by the Internal Revenue Service, pursuant to Section 4958(a)(2) of the Internal Revenue Code, 26 U.S.C. 4958(a)(2), on an **Insured Person** as a result of such Insured Person's participation in an excess benefit transaction as defined in Section 4958(c) of the Internal Revenue Code, 26 U.S.C. 4958(c)

2. Subsection E. definition of **"Loss"** is hereby deleted in its entirety and replaced by the following:

E. For purposes of this Coverage Part, the term **"Loss"** will include pre-and post-judgment interest and any **"Excess Benefit Transaction Excise Tax Claim"**. **"Loss"** shall not include:

1. any portion of damages, judgments or settlements arising out of any **Claim** alleging that the **Company** paid an inadequate price or consideration for the purchase of the **Company's** securities;
2. any costs or fees incurred by the **Company** to comply with an order for injunctive or other non-monetary relief, or to comply with an agreement to provide such relief, or any costs or fees awarded in connection with such compliance or agreement;
3. any amount not indemnified by the **Company** for which an **Insured** is absolved from payment by reason of any covenant, agreement or court order;
4. any amount incurred by an **Insured** in the defense of investigation of any action, proceeding or demand that is not then a **Claim** even if (a) such amount also benefits the defense of a covered **Claim**, or (b) such action, proceeding or demand subsequently gives rise to a **Claim**;
5. any amount allocated to non-covered loss.

With respect to any **Claim** arising out of any Public or Private Offering of Securities of the **Company**, the Insurer shall not assert that the portion of any settlement and/or **Costs of Defense** of that **Claim** which relates to any alleged violations of Section 11 or 12 of the Securities Act of 1933, as amended, constitutes uninsurable loss and shall treat that portion of such settlement and/or **Cost of Defense** as constituting **Loss** under the Policy.

All other terms and conditions of this Policy remain unchanged.

This endorsement, effective 12:01 am, 02/01/2017 forms part of

Policy number: NY17DOLV02811NV

Issued to: New Hampshire Vaccine Association

By: Navigators Insurance Company

ANTI-TRUST CLAIMS EXCLUSION ENDORSEMENT

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

Applicable to all Coverage Parts, the following exclusion is added:

In consideration of the premium paid for this policy, it is agreed that the Insurer will not be liable to make any payment of any **Loss** in connection with any **Claim** made against any **Insured** based upon, arising out of, directly or indirectly resulting from, or in any way involving any actual or alleged price fixing, restraint of trade, monopolization, unfair trade practices or violation of the Federal Trade Commission Act, the Sherman Anti-Trust Act, the Clayton Act, or any other statute or law regulating anti-trust, monopoly, price fixing, price discrimination, predatory pricing or activities in restraint of trade.

All other terms and conditions of this Policy remain unchanged.

This endorsement, effective 12:01 am, 02/01/2017 forms part of

Policy number: NY17DOLV02811NV

Issued to: New Hampshire Vaccine Association

By: Navigators Insurance Company

MEDICAL & HEALTHCARE SERVICES MALPRACTICE EXCLUSION ENDORSEMENT

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

Applicable to all Coverage Parts, the following exclusion is added:

In consideration of the premium paid for this policy, it is agreed that the Insurer will not be liable to make any payment of any **Loss** in connection with any **Claim** made against any **Insured** based upon, arising out of, relating to, directly or indirectly resulting from, or in any way involving any actual or alleged:

- A. medical malpractice; or
- B. provision of or failure to provide any medical or healthcare services.

All other terms and conditions of this Policy remain unchanged.

OFAC ENDORSEMENT

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

U.S. ECONOMIC AND TRADE SANCTIONS LIMITATIONS CLAUSE

No insurer shall be deemed to provide cover and no insurer shall be liable to pay any claim or provide any benefit hereunder to the extent that the provision of such cover, payment of such claim or provision of such benefit would expose that insurer to any sanction, prohibition or restriction under the trade or economic sanctions, laws or regulations of the United States of America.

The United States of America trade or economic sanctions, laws or regulations shall include, but not be limited to, those sanctions administered and enforced by the U.S. Treasury Department's Office of Foreign Assets Control (OFAC).

All other terms, conditions and exclusions of this Policy remain unchanged.

**POLICYHOLDER DISCLOSURE
NOTICE OF TERRORISM
INSURANCE COVERAGE**

Coverage for acts of terrorism is included in your policy. You are hereby notified that under the Terrorism Risk Insurance Act, as amended in 2015, the definition of act of terrorism has changed. As defined in Section 102(1) of the Act: The term “act of terrorism” means any act that is certified by the Secretary of the Treasury—in consultation with the Secretary of Homeland Security, and the Attorney General of the United States—to be an act of terrorism; to be a violent act or an act that is dangerous to human life, property, or infrastructure; to have resulted in damage within the United States, or outside the United States in the case of certain air carriers or vessels or the premises of a United States mission; and to have been committed by an individual or individuals as part of an effort to coerce the civilian population of the United States or to influence the policy or affect the conduct of the United States Government by coercion. Under your coverage, any losses resulting from certified acts of terrorism may be partially reimbursed by the United States Government under a formula established by the Terrorism Risk Insurance Act, as amended. However, your policy may contain other exclusions which might affect your coverage, such as an exclusion for nuclear events. Under the formula, the United States Government generally reimburses 85% through 2015; 84% beginning on January 1, 2016; 83% beginning on January 1, 2017; 82% beginning on January 1, 2018; 81% beginning on January 1, 2019 and 80% beginning on January 1, 2020, of covered terrorism losses exceeding the statutorily established deductible paid by the insurance company providing the coverage. The Terrorism Risk Insurance Act, as amended, contains a \$100 billion cap that limits U.S. Government reimbursement as well as insurers’ liability for losses resulting from certified acts of terrorism when the amount of such losses exceeds \$100 billion in any one calendar year. If the aggregate insured losses for all insurers exceed \$100 billion, your coverage may be reduced.

The portion of your annual premium that is attributable to coverage for acts of terrorism is \$0.00, and does not include any charges for the portion of losses covered by the United States government under the Act.

YOU SHOULD ALSO KNOW THAT UNDER THE TERRORISM RISK INSURANCE ACT, AS AMENDED, ANY LOSSES RESULTING FROM CERTIFIED ACTS OF TERRORISM UNDER YOUR POLICY COVERAGE MAY BE PARTIALLY REIMBURSED BY THE UNITED STATES GOVERNMENT AND MAY BE SUBJECT TO A \$100 BILLION CAP THAT MAY REDUCE YOUR COVERAGE. THE PORTION OF YOUR PREMIUM ATTRIBUTABLE TO SUCH COVERAGE IS SHOWN ABOVE.

If you have any questions about this notice, please contact your agent or Broker.

NH Vaccine Association – Assessment Process Improvement Task Force
February 16, 2017 – 9:00 – 10:00 a.m.
Conference Call

I. Attendance. Participating in the meeting by telephone were the following individuals:

Working Group:

Marcella Bobinsky, DHHS
Jason Margus, Anthem
Laura Condon, Public Board Representative
Colleen Haggarty, DHHS Immunization Chief
Dolores Cooper – DHHS Finance
Representative

KidsVax:

Nicole Price

II. Meeting Outcomes/Follow up Tasks/Action Items

1. DHHS will provide the group a report on the entire CDC process regarding the changed inventory directive.
2. KV to follow up with Mark McCue regarding the permissibility of the NHVA Board changing how payment is made to the State for vaccines.
3. DHHS and KV to work on timing and cash flow modeling for three quarters.
4. DHHS will provide the wastage numbers as it relates to the flu vaccine.
5. KV to schedule the next meeting in April.

III. Meeting Notes

The meeting began at approximately 9:00 a.m.

Director Bobinsky began with a brief history explaining that the thoughts of when the state receives payment from the NHVA could occur other than at the end of the fiscal year when payers started making quarterly payments for their assessments. Additionally, with the connectivity now occurring between the DHHS and CDC systems there is greater ability to track purchases and actual use/orders of vaccines.

Director Bobinsky proposed considering NHVA make quarterly payments to the State for vaccines. A discussion took place around this idea. Would there be quarterly reports from DHHS? DHHS explained that they could produce reports showed how much vaccine was purchased from a pharmaceutical company, but it would not give a vaccine for vaccine breakdown. These would be the invoices DHHS uses for their financial statements. Currently, DHHS purchases vaccines at the CDC contract price from the pharmaceutical companies. These vaccines sit in a warehouse until they are needed (ordered) by providers. DHHS then pays the invoices for the ordered vaccines. Once the vaccines are sent to the warehouse, DHHS owns the vaccines. This all occurs in real time. There was a discussion regarding wastage and a request for the wastage numbers for the flu vaccine.

The working group would like to know if the NHVA Board has the authority to make a change in the timing of the payment to the State for vaccines.

Director Bobinsky also shared that there is a new CDC directive. On October 1st, (Federal fiscal year), the CDC will determine the inventory held by DHHS and issue a cash credit for the vaccines sitting in inventory. CDC will not physically take the vaccines away. During this time, no purchases will be made while CDC determines the inventory held at the beginning of the fiscal year. This directive has been in

effect since 2013. This is a change and this information is something that could also be factored into the assessment rate setting. This could increase the accuracy of determining the vaccine needs for the following year. There were questions regarding this new directive and DHHS offered to provide a report on the entire process covered by the CDC directive.

In addition to having the authority to make a change, the working group would also like to see some modeling of cash flow numbers and timing. DHHS and KV will work together to provide this information. After further discussion, it was decided that the modeling would be for 3 quarters and the group would meet again in April.

The meeting was adjourned at 9:51 a.m.



c/o KidsVax®, LLC
 P.O. Box 1885 • Concord, NH 03302-1885
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 fax 1.855.KidsFax (543.7329)

BOARD OF DIRECTORS

Insurer Representatives [RSA 126-Q:3, III.(a)]

Jason Margus, F.S.A., M.A.A.A.
 Anthem Blue Cross & Blue Shield
 1155 Elm Street, Suite 200
 Manchester, NH 03101-1505

Telephone: 603-541-2021
 E-mail: Jason.margus@anthem.com

Elaine Koskela
 Senior Contract Manager
 CIGNA Health Care
 Two College Park
 Hooksett, NH 03106

Telephone: 603-268-7193
 E-mail: Elaine.Koskela@Cigna.com

Susan Tenney
 Manager, Network Contracting
 Harvard Pilgrim Health Care-NE
 650 Elm Street, 7th Floor
 Manchester, NH 03101

Telephone: 603-656-9594
 Facsimile: 603-656-9565
 E-mail: Susan_Tenney@hphc.org

Healthcare Provider Representatives [RSA 126-Q:3, III.(b)]

Patricia M. Edwards, M.D.
 Concord Pediatrics
 Pillsbury Medical Office Building
 248 Pleasant Street, Suite 1700
 Concord, NH 03301

Telephone: 603-224-1929
 E-mail: drpatedwards@yahoo.com

David Fredenburg, M.D.
 27 Hazelwood Road
 Hudson, NH 03051

Telephone: 603-598-0996
 Cell: 603-321-6664
 E-mail: fredenburg.david@gmail.com

Governmental Representatives [RSA 126-Q:3, III.(c)&(d)]

David Sky, F.S.A., M.A.A.A.
 Life, Accident and Health Actuary
 New Hampshire Insurance Department
 21 South Fruit Street, Suite 14
 Concord, NH 03301

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 Facsimile: 603-271-1406
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Marcella J. Bobinsky, MPH
 Chief, Bureau of Public Health Systems
 Policy and Performance Division of
 Public Health Services
 New Hampshire Department of Health and Human Services
 29 Hazen Drive
 Concord, NH 03301-6504

Telephone: 603-271-4110
 E-mail: Marcella.Bobinsky@dhhs.nh.gov

Representatives of Self-Insured Entities [RSA 126-Q:3, III.(e)]

[Currently vacant]
 (Appointed by the Governor and Council)

Members of the Public [RSA 126-Q:3, III.(f)&(g)]

Edward P. Moran
Former State Legislator
19 Ministerial Road
Bedford, NH 03110
(Appointed by the Speaker of the House)

Telephone: 603-472-5912 x2016
E-mail: edpmoran@gmail.com

Laura Condon
12 Brick Mill Road
Bedford, NH 03110
(Appointed by the President of the Senate)

Telephone: 603-471-0787
E-mail: vaxchoicenh@gmail.com

NEW HAMPSHIRE GOVERNMENTAL AUTHORITIES

NH Department of Health & Human Services

Jeffrey A. Meyers, Commissioner
NH Dept. of Health & Human Services
129 Pleasant Street
Concord, NH 03301

Telephone: 603-271-4331
Facsimile: 603-271-4912
Assistant: Kathleen Henderson 603-271-4334
E-mail: kHenderson@dhhs.state.nh.us

NH Insurance Department

Roger A. Sevigny, Commissioner
New Hampshire Insurance Department
21 South Fruit Street, Suite 14
Concord, NH 03301-2430

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Facsimile: 603-271-7851
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KidsVax®

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Supporting Independent Contractors

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BOARD GOVERNANCE ROLES

Officers

Chair: Susan Tenney
Vice-Chair: David Sky
Treasurer: David Fredenburg, M.D.
Secretary: Elaine Koskela

Finance/Audit Committee

David Fredenburg, M.D. – Chairman
Susan Tenney – Vice-Chair
David Sky
Laura Condon
Jason Margus

Legislative Task Force

Susan Tenney
David Sky (or his designee)
Ms. Bobinsky
Ms. Koskela
Mark McCue, Esq. (provide legal counsel)

Governance Committee

David Sky – Chairman
Susan Tenney
Laura Condon
Mark McCue, Esq. (provide legal counsel)

Assessment Process Improvement Task Force

David Sky – Chairman
Susan Tenney
Jason Margus
Laura Condon
Dolores Cooper, DHHS Finance Representative

**N.H. RSA 126-Q:1—Q:9
NEW HAMPSHIRE VACCINE ASSOCIATION**

[N.H. RSA 126-Q as amended by HB664 (2013 legislative session)]

126-Q:1 Definitions.

In this chapter:

- I. “Assessable coverage” means:
 - (a) Health coverage as defined in RSA 420-G:2, IX;
 - (b) Stop loss coverage that conforms with RSA 415-H:3, or other group excess loss insurance purchased against the risk that any particular claim, or total liability, will exceed a specified dollar amount; or
 - (c) Group health plan, as defined by 42 U.S.C. 300gg-91(a).
- II. “Assessable entity” means any:
 - (a) Health maintenance organization, as defined by RSA 420-B:1, VI.
 - (b) Third party administrator, as defined by RSA 402-H:1, I.
 - (c) Entity providing administrator services and required to register with the insurance commissioner under RSA 402-H:11-a or RSA 402-H:11-b.
 - (d) Insurance company licensed pursuant to RSA 401:1, IV.
 - (e) Health service corporation, as defined by RSA 420-A:1, III.
- III. “Assessable lives” means all children under 19 years of age residing in the state who have assessable coverage written or administered by an assessable entity, with the exception of children whose vaccines are paid for under the federal Vaccines for Children program, established under 42 U.S.C. section 1396s.
- IV. “Assessment” means the assessable entity’s liability with respect to childhood vaccines determined in accordance with this chapter. For purposes of rate setting and medical loss ratio calculations, all association assessments are considered pharmaceutical or medical benefit costs and not regulatory costs. In the event of any insolvency or similar proceeding affecting any payer, assessments shall be included in the highest priority of obligations to be paid by or on behalf of such payer.
- V. “Association” means the New Hampshire vaccine association.
- VI. “Board” means the board of directors of the New Hampshire vaccine association.
- VII. “Commissioner” means the commissioner of the department of health and human services.
- VIII. “Estimated vaccine cost” means the estimated cost to the state over the course of a state fiscal year of the purchase, distribution, and administration of vaccines purchased at the federal discount rate by the department of health and human services.
- IX. “Provider” means a person licensed by this state to provide health care services to persons or a partnership or corporation made up of those persons.
- X. “Total non-federal program cost” means the estimated vaccine cost less the amount of federal revenue available to the state for the purchase, distribution, and administration of vaccines.

updated RSA 126-Q

- XI. “Vaccine” means any preparations of killed microorganisms, living attenuated organisms, or living fully virulent organisms that are approved by the federal Food and Drug Administration and recommended by the Advisory Committee on Immunization Practices of the Centers for Disease Control and Prevention and have been authorized by the commissioner of the department of health and human services for administration to children of the state of New Hampshire under the age of 19 years for the purposes of producing or artificially increasing immunity to particular life-threatening and disabling diseases.

126-Q:2 Creation of Association.

There is hereby created a nonprofit corporation to be known as the New Hampshire vaccine association. The association is formed to assess assessable entities for the cost of vaccines provided to certain children in New Hampshire.

126-Q:3 Powers and Duties

- I. The New Hampshire vaccine association shall be comprised of all assessable entities.
- II. The New Hampshire vaccine association shall be a not-for-profit, voluntary corporation under RSA 292 and shall possess all general powers of a not-for-profit corporation.
- III. The board of directors shall include:
 - (a) Three representatives selected from the assessable entities currently writing, maintaining child, or administering assessable coverage through a voting process where votes are based on assessable lives. The plan of operation shall provide details for this selection process.
 - (b) Two health care provider representatives appointed by the commissioner.
 - (c) The commissioner of the department of health and human services, who shall serve as an ex-officio member.
 - (d) The commissioner of the department of insurance who shall serve as an ex-officio member.
 - (e) One member appointed by the governor and council who shall represent self-insured entities.
 - (f) One public member appointed by the speaker of the house of representatives.
 - (g) One public member appointed by the president of the senate.
- IV. The directors' terms and appointments shall be specified in the plan of operation adopted by the New Hampshire vaccine association.
- V. The board of directors of the association shall:
 - (a) Prepare and adopt articles of association and bylaws.
 - (b) Prepare and adopt a plan of operation.

updated RSA 126-Q

- (c) Submit the plan of operation to the commissioner of insurance for approval after the consultation with the commissioner.
- (d) Conduct all activities in accordance with the approved plan of operation.
- (e) On an annual basis, no later than November 1 of each year, establish the amount of the assessment for the succeeding year.
- (f) Enter into contracts as necessary or proper to collect and disburse the assessment.
- (g) Enter into contracts as necessary or proper to administer the plan of operation.
- (h) Sue or be sued, including taking any legal action necessary or proper for the recovery of any assessment for, on behalf of, or against members of the association or other participating person.
- (i) Appoint from among its directors, committees as necessary to provide technical assistance in the operation of the association, including the hiring of independent consultants as necessary.
- (j) Determine an assessment amount and collect payments from assessed entities in accordance with RSA 126-Q:4.
- (k) Submit an annual report to the commissioner of insurance, in a manner and form determined by the commissioner, listing the association membership base, providing a count of assessable lives by assessable entity, identifying changes in assessable lives by assessable entity, describing the collection of assessments, listing payment delinquencies, and containing such other related information as the commissioner may require.
- (l) Allow each assessable entity up to 45 days after the closing of each calendar quarter to report its assessable lives and remit its corresponding assessment amount as calculated pursuant to RSA 126-Q:4.
- (m) Collect assessments from assessable entities as calculated under RSA 126-Q:4 and deposit said assessments less the association's administrative costs annually and reserves with the state treasurer to the credit of the vaccine purchase fund established pursuant to RSA 141-C:17-a. At the written request of the association following a majority vote of the board of directors, any funds forwarded to the state treasurer for the vaccine purchase fund remaining unexpended for childhood vaccines, shall promptly be returned to the association.
- (n) Be authorized to enter into one or more agreements with other applicable authorities in surrounding states to reduce the risk of duplicate assessments and to assure availability of vaccines for children who are residents of this state but who receive vaccination services in other states. Any costs relating to any such agreement shall be considered additional vaccine costs of the program for purposes of determining the association's assessments.
- (o) Adopt procedures by which affiliated assessable entities calculate their assessment on an aggregate basis and procedures to ensure that no assessable life is counted more than once. Unless otherwise determined by the board, the assessable entity responsible for the payment of the

updated RSA 126-Q

provider's administrative costs for childhood vaccines shall be the entity responsible for reporting assessable lives and payment of the corresponding assessment.

- (p) Submit an annual report regarding the association's activities, its financial reports, and any newly-approved vaccines adopted by the department of health and human services to the president of the senate, the speaker of the house of representatives, and the governor.
- (q) Perform any other functions as may be necessary or proper to carry out the plan of operation.

126-Q:4 Assessment Determination.

- I. The board shall determine an assessment for each assessable entity in accordance with this section, except that no assessment shall be made based on children excluded from assessable lives whose vaccines are paid for under the federal Vaccines for Children program, established under 42 U.S.C. section 1396s. An assessment determination made pursuant to this section is a pharmaceutical cost and not a regulatory cost for purposes of calculating the carrier's medical loss ratio.
- II. In determining the assessment amount, the board shall:
 - (a) Estimate the total non-federal program cost for the succeeding year;
 - (b) Add its anticipated operating costs for the succeeding year and such additional working capital reserves as may be established by the board from time to time;
 - (c) Add a reserve of up to 10 percent of the anticipated cost under subparagraph (a) for unanticipated costs associated with providing vaccines to children covered; and
 - (d) Subtract the amount of any unexpended assessments collected in the preceding year along with any unexpended interest accrued to the fund during the preceding year.
- III. The board shall include in its plan of operations, details regarding the timing for assessment collections, and the form and format assessable entities shall use to calculate assessments.
- IV. The board shall include in its plan of operation details regarding payment due dates, grace periods, late payment fees, interest, and other details regarding the collection of assessments.
- V. The board may determine an interim assessment for new vaccines or unanticipated shortfalls in the association's ability to meet childhood vaccine funding needs. The board shall calculate the interim assessment in accordance with paragraph II, and the interim assessment is payable the calendar quarter that begins no less than 30 days following the establishment of the federal contract price. The board shall not impose more than one interim assessment per year, except in the case of a public health emergency declared in accordance with state or federal law.
- VI. In the event that the association discontinues operation for any reason, any unexpended assessments, including unexpended funds from prior assessments in

updated RSA 126-Q

the state vaccine purchase fund, shall be refunded to payees in proportion to the respective assessment payments by payees over the most recent 8 quarters prior to discontinuation of association operations.

126-Q:5 Powers and Duties.

In addition to the duties and powers enumerated elsewhere in this chapter:

- I. The commissioner of insurance shall, after notice from the association, issue a show cause order to any assessable entity that fails to comply with the association's plan of operation. In addition to late fees and other penalties imposed by the association, assessable entities may, after a finding of just cause, be subject to a minimum fine of \$5,000, a maximum fine of 25 percent of the total amount of delinquent assessments, and licensure suspension.
- I-a. The insurance commissioner shall annually review the assessment report required under RSA 126-Q:3, V(k) to ensure that all assessable entities are participating in the association and that all assessable entities have accurately reported assessable lives. The association shall remedy any problem identified by the commissioner with respect to assessable entities and assessable lives.
- II. The commissioner and the commissioner of insurance may adopt rules, pursuant to RSA 541-A, as necessary to carry out the purposes of this chapter.

126-Q:6. Examinations and Annual Reports

The board of directors shall submit to the commissioner, no later than 120 days after the close of the association's fiscal year, a financial report in a form approved by the commissioner.

126-Q:7. Exemption From Taxes

The association shall be exempt from payment of all fees and all taxes levied by this state or any of its subdivisions, except taxes levied on real property.

126-Q:8. Immunity From Liability

There shall be no liability on the part of and no cause of action of any nature shall arise against any association member or its agents or employees, the association or its agents or employees, members of the board of directors, or the commissioner or the commissioner's representatives, for any action or omission by them in the performance of their powers and duties under this chapter.

126-Q:9. Severability of Chapter

If any provisions of this chapter or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the chapter which can be given effect without the invalid provisions or applications, and to this end the provisions of this chapter are severable.

Meeting Schedule – 2017

January 2017			
Board of Directors Meeting	Thursday, January 19, 2017	KidsVax®, LLC Concord	9:30 – 11:30 a.m.
March 2017			
Board of Directors Meeting	Tuesday, March 21, 2017	KidsVax®, LLC Concord	8:30 – 10:30 a.m.
June 2017			
Audit Committee Meeting	Tuesday, June 20, 2017	KidsVax®, LLC Concord	8:30 – 9:15 a.m.
Annual Board of Directors Meeting			9:30 – 11:30 a.m.
September 2017			
Audit Committee Meeting	Tuesday, September 26, 2017	KidsVax®, LLC Concord	8:30 – 9:15 a.m.
Board of Director Meeting			9:30 – 11:30 a.m.
October 2017			
Board of Directors Meeting (if needed)	Thursday, October 19, 2017	Teleconference & In-Person at KidsVax®	8:30 – 10:00 a.m.



NHVA 2017 Calendar: Year at a Glance

Jan	Feb	Mar	April	May	June	July	Aug	Sept	Oct	Nov	Dec
Publish Q2 Quarterly Financial Report Board Meeting Ethics Affirmation Statements Due	Quarterly Assessment	Audit Committee Meeting Board Meeting	Publish Q3 Quarterly Financial Report	Quarterly Assessment	Audit Committee Meeting Annual Board Meeting Conflict of Interests Statements Due		Quarterly Assessment Publish Q4/FYE Annual Financial Report	Draft VaxFacts Audit Committee Meeting Board Meeting to Set Assessment Rates	Publish Q1 Quarterly Financial Report Board Meeting if needed (TBD) Submit to DHHS Comm. Financial reports from FYE Annual (k) Report to Comm. of Insurance Notify Payers of New Rate as of 1/1/17	Quarterly Assessment	Annual (p) Report to the Governor, Senate President & Speaker of the House



NHVA 2017 Quarterly Meeting Calendar

First Quarter

January	February	March
<p>Publish Q2 Quarterly Financial Report</p> <p>Jan 19: Board Meeting</p> <p>New Assessment Rate Effective January 1</p>	<p>Feb 15: Quarterly Assessment</p>	<p>Mar 21: Audit Committee Meeting</p> <p>Mar 21: Board Meeting</p>
<p>Other Activities</p> <p>1. Complete Annual Ethics Affirmation</p>	<p>Other Activities</p>	<p>Other Activities</p>

Second Quarter

April	May	June
<p>Publish Q3 Quarterly Financial Report</p>	<p>May 15: Quarterly Assessment</p>	<p>Jun 20: Audit Committee Meeting</p> <ol style="list-style-type: none"> NHVA Expense Budget for 2016/2017 Review letter of engagement for Carew & Wells, auditors <p>Jun 20: Annual Board Meeting</p> <ol style="list-style-type: none"> Report on Proxy Submissions Count and Certify Votes for 3 representatives of Assessable Entities under HB664 Adjourn Annual Meeting Review collection results Recommend next year's expense budget Select Directors for term beginning September 1 Elect Officers & Appoint Committees Review Report of Administrator for year's operations Review Discharge of Director Duties
<p>Other Activities</p>	<p>Other Activities</p> <ol style="list-style-type: none"> Work with auditor on FYE 06/30/2016 audit. 	<p>Other Activities</p> <ol style="list-style-type: none"> Conflict of Interests Statements Due

Third Quarter

July	August	September
	August 15: Quarterly Assessment Publish Q4/FYE Financial Report	Sep 26: Audit Committee Meeting with outside auditor <ol style="list-style-type: none"> Review audit report Executive Session Sep 26: Board Meeting <ol style="list-style-type: none"> Accept audit report & authorize release of prior year's financials Set assessment rate for 2018 Executive Session (Administrator's personnel excused) Review 2018 calendar dates
Other Activities <ol style="list-style-type: none"> Work on FYE 06/30/2016 audit. 	Other Activities <ol style="list-style-type: none"> Work on Assessment Setting 	Other Activities <ol style="list-style-type: none"> Draft annual report in condensed "VaxFacts" format Work on Annual (k) report

Fourth Quarter

October	November	December
<p>Publish Q1 Quarterly Financial Report</p> <ol style="list-style-type: none"> 1. Submit to DHHS Commissioner the financial reports from fiscal year end (126-Q:6) <p>Annual (k) Report to Commissioner of Insurance</p> <ol style="list-style-type: none"> 2. Association membership base 3. Count of assessable lives by assessable entity 4. List of payment delinquencies <p>October 19: Board Meeting if needed</p> <ol style="list-style-type: none"> 1. Review Fiscal Year Cost Savings Analysis <p>Other Activities</p> <ol style="list-style-type: none"> 1. Notify payers of new rate effective January 1. 	<p>November 15: Quarterly Assessment</p> <p>Other Activities</p> <ol style="list-style-type: none"> 1. Work on Annual Report for Governor, Senate President & Speaker of the House 	<p>Annual Report – Governor, Senate President & Speaker of the House</p> <ol style="list-style-type: none"> 1. Association activities 2. Financial reports 3. Newly offered vaccines <p>Other Activities</p> <ol style="list-style-type: none"> 1. Work on Annual Report for Governor, Senate President & Speaker of the House 2. Website Review



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March 21, 2017
Proposed Form of Votes

The following are suggested forms of votes only. They are intended to be an aid to facilitate work by individual directors. All board policy and the final form of votes is exclusively the province of the Board acting collectively as a Board of Directors.

Items under Agenda Section 2:

VOTED: To approve the minutes of the January 19, 2017 Board meeting.

[To approve the minutes of the January 19, 2017 Board meeting with the changes suggested at this meeting.]

Items under Agenda Section 6:

VOTED: To authorize the appointment of Susan Tenney and David Fredenburg as proxies for the director selection at the June 20, 2017, Annual Meeting of members.

[To authorize the appointment of Susan Tenney and David Fredenburg as proxies for the director selection at the June 20, 2017, Annual Meeting of members with the changes suggested at this meeting.]

DIRECTIONS TO KIDSVAX®

125 North State Street [at the corner of North State Street and Franklin Street], Concord, NH
Please call (603) 491-8044 or (855) 556-4103 with questions.

From the North:

- Take I-93 South.
- Merge onto US-202 W via Exit 15W toward US-3/North Main Street/Downtown.
- Turn left at the traffic lights onto North Main Street/US-3/US-202 W.
- Take the first right onto Franklin Street (Friendly's Restaurant is on the corner).
- At the rotary on Franklin and North State Streets, proceed half way around the rotary onto Franklin Street.
- Take the first right into the parking lot. KidVax® is located in the yellow Victorian house on the corner of Franklin and North State Streets.

From the South:

- Take I-93 North.
- Merge onto US-202 W via Exit 15W toward US-3/North Main Street/Downtown.
- Turn left at the traffic lights onto North Main Street/US-3/US-202 W.
- Take the first right onto Franklin Street (Friendly's Restaurant is on the corner).
- At the rotary on Franklin and North State Streets, proceed half way around the rotary onto Franklin Street.
- Take the first right into the parking lot. KidVax® is located in the yellow Victorian house on the corner of Franklin and North State Streets.

Please click here for further details: <http://mapq.st/1DAoTFC>

