

# **AGENDA**

## **Board Meeting**

**March 6, 2019, 8:30am-10:30am**

**1 Pillsbury Street, 3rd Floor Conference Room, Concord, NH**

**Call In #: 1-646-876-9923 Meeting ID: 480 643 638**

<b>Time</b>	<b>Agenda Item</b>
<b>8:30-8:35</b>	<b>1. Welcome &amp; Roll Call (Tenney)</b>
<b>8:35-8:45</b>	<b>2. Review and Acceptance of Minutes (Tenney)</b> <ul style="list-style-type: none"> <li>a. January 3, 2019 Board Meeting Minutes – <b>Vote</b></li> <li>b. January 16, 2019 Board Meeting Minutes – <b>Vote</b></li> <li>c. January 16, 2019 Executive Session Meeting Minutes – <b>Vote</b></li> </ul>
<b>8:45-9:10</b>	<b>3. Executive Director Report (Miller)</b> <ul style="list-style-type: none"> <li>a. Q4 2018 Assessment Status</li> <li>b. Specific Payer Assessment Adjustments <ul style="list-style-type: none"> <li>i. Tufts Health Plan Arrearage Assessments</li> <li>ii. Employee Benefit Plan Administration Refund Request</li> </ul> </li> <li>c. D&amp;O Insurance Renewal Update</li> <li>d. RFI for Financial Management Services Update</li> </ul>
<b>9:10-9:20</b>	<b>4. Plan of Operation Changes (Miller)</b> <ul style="list-style-type: none"> <li>a. Plan of Operation Changes – <b>Vote</b></li> </ul>
<b>9:20-9:40</b>	<b>5. TRICARE Update (Tenney/Miller)</b> <ul style="list-style-type: none"> <li>a. Washington Vaccine Association Request for Funds Discussion</li> <li>b. Specific Assessment Changes</li> </ul>
<b>9:40-9:55</b>	<b>6. DHHS Updates (Daly)</b> <ul style="list-style-type: none"> <li>a. Cross-border ME and NH Progress</li> </ul>
<b>9:55-10:10</b>	<b>7. New Matters (Tenney)</b> <ul style="list-style-type: none"> <li>a. Director Selection Proxies for Assessable Entities for June 19, 2019 Annual Meeting – <b>Vote</b></li> <li>b. Open Board Seat (G&amp;C Designated)</li> <li>c. Board Governance Survey Discussion</li> </ul>
<b>10:10-10:20</b>	<b>8. Public Comment (Tenney)</b>
<b>10:20-10:30</b>	<b>9. Executive Session (Tenney)</b>
<b>10:30</b>	<b>10. Adjournment</b>

### **Future Meetings:**

- April TBD, 2019, Audit Committee Meeting
- May 22, 2019, Board Meeting, 8:30am
- June 19, 2019, Audit Committee, 8:30am
- June 19, 2019, Board Meeting, 10:00am, Annual Meeting
- September 13, 2019, Audit Committee, 8:30am
- September 25, 2019, Board Meeting, 8:30am

**Directions:** <https://nhvaccine.org/wp-content/uploads/2018/09/DIRECTIONS-TO-HELMS.pdf>

## Meeting Minutes

**[Revised January 24, 2019; Revised February 12, 2019]**

### **NHVA Board of Directors Telephonic Meeting**

**January 3, 2019, 7:30am**

#### **1. Welcome and Introductions (Tenney).**

a. The board meeting was called to order by Chairwoman Tenney at 7:32AM.

b. Mr. Miller recorded attendance:

NAME	Y/N/E
Patrick Miller	Yes
Laura Condon	Yes
Beth Daly	Yes
Patricia Edwards, MD	Yes
Sean Lyons	Yes
Jason Margus	Yes
Edward Moran	Yes
David Sky	Yes
Susan Tenney	Yes
Janice Valmassoi, MD	Excused Absence
Mark McCue, Esquire	Yes
Other: Public Member Leah Chase	Yes

c. Ms. Condon stated that she was recording the meeting.

#### **2. Review and Approval of Annual Report (Miller) – Vote Required**

a. Chairwoman Tenney stated that the purpose of today's meeting was to review and approve the 2017-18 Annual Report document previously circulated to the board members by Mr. Miller. Chairwoman Tenney asked if any members of the board had comments on the report. Ms. Condon stated that she ~~did have~~had comments. She began by thanking Mr. Miller for his work on the draft report. ~~She stated that it was fact-based.~~ On page 1, paragraph 2, sentence three, she ~~asked~~requested if the words "higher vaccinations rates" ~~could be~~ replaced d with the words "higher immunization rates" ~~for consistency purposes~~. There were no objections to this request. Ms. Condon then asserted that the letter on page 2 from the New Hampshire Department of Health and Human Services (DHHS) should not be

included in the Annual Report. She stated that the Annual Report should be a summary only of Association activity, and that DHHS has other opportunities to report on its own activities. Ms. Condon expressed her belief that the DHHS letter is focused on vaccination rates rather than health outcomes, and that its inclusion in the Annual Report is insensitive to those members of the public who are concerned about the cost and efficacy of vaccinations. ~~Ms. Condon stated that she did not believe that the letter and graphic on page 2 from the New Hampshire Department of Health and Human Services (DHHS) should be included in the Annual Report. Ms. Condon stated that the letter made it appear as if vaccines were being marketed, and given that some vaccines have had harmful effects for specific individuals, that the DHHS message was insensitive to those harmed. Ms. Condon had specific objection to the section of the DHHS message which referenced the awards received in 2018 by DHHS from the US Centers for Disease Control and Prevention (CDC).~~ There was group discussion regarding Ms. Condon's comments, and, Ms. Daly stated that a letter from DHHS had been requested by the board and was included in previous annual reports, and that Ms. Condon's concerns were addressing those of a very small minority. There was additional group discussion regarding the inclusion of the DHHS letter in the annual report, and with the exception of Ms. Condon, there were no other objections to inclusion of the DHHS letter in the Annual Report.

- b. Chairwoman Tenney asked if there was any additional comment on the draft 2017-18 Annual Report document, and if not, if someone would make a motion to accept the report. A motion was made by Mr. Sky: "To accept the Annual Report as drafted with the change in wording on page 1, paragraph 2, sentence three, from the words "higher immunization rates" to "higher vaccination rates"." The motion was seconded by Mr. Moran. Ms. Condon asked for a roll call vote, the results being recorded as:

<b>Motion:</b> "To accept the Annual Report as drafted with the change in wording on page 1, paragraph 2, sentence three, from the words "higher immunization rates" to "higher vaccination rates".					
	<b>Motion</b>	<b>2nd</b>	<b>Yes</b>	<b>No</b>	
Laura Condon				X	
Beth Daly			X		
Patricia Edwards, MD			X		
Sean Lyons			X		
Jason Margus			X		
Edward Moran		Second	X		
David Sky	First		X		
Susan Tenney			X		

Janice Valmassoi, MD					Excused Absence
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- 49
- 50 c. Chairwoman Tenney stated that the motion had passed, and subsequently thanked
- 51 the board members for their review and discussion of the 2017-18 Annual Report.
- 52 d. Mr. Miller stated that he would forward a cover letter, the Annual Report, and
- 53 copies of the Audited Financial Statements to the Governor, Senate President, and
- 54 House Speaker as required by statute.

55

56 3. Adjournment

- 57 a. A motion was made by Mr. Moran to adjourn the meeting. It was seconded by Dr.
- 58 Edwards. There was no discussion and all voted in favor. The meeting was adjourned
- 59 by Chairwoman Tenney at 7:49AM, and she thanked all attendees for their
- 60 participation.

61

62 Respectfully submitted by

63 ~~Patrick B. Miller, MPH~~ Sean Lyons

64 ~~Executive Director~~ Board Secretary

65 ~~January 8~~ February 12, 2019

**DRAFT**  
**[REVISED February 12, 2019]**

**MINUTES**  
**Board of Directors Meeting**  
**January 16, 2019**  
**9:30am**  
**Presiding Officer: Edward Moran, Vice-Chair**

A meeting of the of the Board of Directors of the New Hampshire Vaccine Association (NHVA) was held in person at the offices of Helms & Company, Inc. in Concord, NH with a quorum present.

The meeting was called to order by Edward Moran, Vice Chair, at 9:34 a.m.

**I. Welcome and Introductions**

**Attendance** – The following individuals attended the meeting, including by phone (P) as indicated:

**Committee Members:**

Susan Tenney, HPHC, Chair, *absent*  
Laura Condon, Public Member  
Elizabeth Daly, NH DHHS  
Patricia Edwards, MD, Healthcare Provider  
Sean Lyons, Cigna  
Edward Moran, Public Member  
Jason Margus, Anthem  
David Sky, NHID  
Janice Valmassoi, MD, Healthcare Provider

**Other Attendees:**

Patrick Miller, Helms & Company, Inc.  
Erin Meagher, Helms & Company, Inc.  
Keith Nix, Helms & Company, Inc.  
Mark McCue, Esq., Hinckley Allen (P)  
Laurie Bender, Hopkinton, NH, Member of the Public  
Leah Chase, Weare, NH Member of the Public (P)  
Jessica Kliskey, Stratham, NH, Member of the Public  
Lorriisa Trexler, RN, Member of the Public (P)

Mr. Moran welcomed the Board and introduced Janice Valmassoi, MD, Pediatrician, new Board member representing the Healthcare Provider community as appointed by the Commissioner of Health and Human Services. Each attendee in the room introduced themselves and those on the phone were identified. Ms. Condon stated that she was recording the meeting for her records.

**II. Review of Prior Board Meeting Minutes: September 26, 2018 Board Meeting and Executive Committee Meeting Minutes; December 21, 2018 Executive Committee Meeting Minutes; and January 3, 2019 Board Meeting Minutes.**

Mr. Moran asked if there were any updates to the September 26, 2018 Board Meeting minutes. No changes were presented.

**VOTE RECORDED:** *On a motion by Ms. Daly, seconded by Dr. Edwards, it was unanimously*  
**VOTED:** *To accept the September 26, 2018 Board Meeting minutes as presented.*

Mr. Moran asked if there were any updates to the September 26, 2018 and the December 21, 2018 Executive Committee Meeting minutes. No changes were presented.

**VOTE RECORDED:** *On a motion by Mr. Sky, seconded by Dr. Edwards, it was unanimously*  
**VOTED:** *To accept the September 26, 2018 and December 21, 2018 Executive Committee Meeting minutes as presented.*

Mr. Moran asked if there were any changes to the January 3, 2019 Board Meeting minutes. Ms. Condon provided suggested changes to Mr. Miller the evening prior to the meeting and they were subsequently shared with Attorney McCue. Mr. Miller suggested that due to the extent of the changes being suggested, that approval of these minutes be held until to the next meeting allowing Mr. Miller to work with Ms. Condon and Attorney McCue on the changes. Ms. Condon and other board members agreed with this approach.

### **III. Executive Director Report**

Mr. Miller reviewed the items in the meeting packet with the Board. The first document was the Statement of Financial Position – year-to-date financials for the last six months ending December 31, 2018. These are unaudited and are provided to inform the Board where NHVA is to date. From an asset perspective at the end of the year most of the funds were with the Bank of New Hampshire (“BONH”) ICS promontory account. The monies are distributed across many different banks nationally which allows for a higher interest rate and insurance protection. There were no questions.

Statement of Change in Net Assets, also reflecting the last six months, was reviewed by Mr. Miller. He pointed out the assessment income was approximately \$64K above budget, and the interest income was up significantly to nearly \$47K above budget. Overall, for the first six months of the year, the NHVA administrative budget is \$640 over budget. Chief factors impacting the budget include: legal and audit are under budget, management is over budget with part of to the reason tied to transition from KidsVax, insurance is up slightly but should level off by year-end. Finally, at the bottom of the page there is an overview of the past two quarters for assessment collection including the number of covered lives filed. Mr. Condon asked about a line item not shown – interest penalties for late payers. Ms. Meagher explained that all filings received last quarter were received on time, therefore no interest dollars were assessed. Ms. Condon then asked why there was not a dollar amount in the “6 Months Budget” column reflecting payments made to DHHS. Mr. Miller explained it was only reflected in the “Annual Budget” column (\$9,234,656) because it will not be paid out until the end of the fiscal year, instead of during the six months reflected in the Statement. The amount reflected is the anticipated payment amount for DHHS vs. the assessment amount. This amount is less than prior years as NHVA voted in September 2018 to reduce the overpayment amount DHHS is holding on their books.

Mr. Miller then reviewed the Statement of Cash Flow, six months ending December 31, 2018. This report focuses primarily on receipts. Dr. Edwards inquired about the investment income going down, specifically the \$2,449 listed on the statement. Mr. Nix advised these dollars are deducted from this short-term investment account as the interest earned has created an overage for the account requiring the additional dollars to be moved into another, higher interest-bearing account.

Clarification of the definition of each quarter was discussed. Since NHVA operates on a fiscal year, July to June, Q1 encompasses July, August, September as it reflects the fiscal year vs. a calendar year.

Mr. Miller also noted that the TRICARE settlement of \$3.9M was received after December 31<sup>st</sup> so it is not reflected in any of the statements reviewed.

Mr. Miller distributed a copy of a memo he issued to the Audit Committee on November 21, 2018. This FYTD Assessment Summary memo is a new document that he will provide quarterly to the Audit Committee. He provided an update on the Assessable Entity files indicating we began the FYQ1 assessment collection with 283 entities in our



88 database. During the course of the quarter, NHVA received 110 signed Permanent Zero Covered Lives Certificates,  
89 closed 29 files due to entities no longer being licensed or left the market, etc., and received 32 new registrations. As  
90 a result, the FYQ2 assessment collection began with a total of 176 assessable entities. Ms. Meagher clarified that  
91 the total assessable lives does not mean we will receive assessment filings from each entity in each quarter.  
92

93 The NHVA Interest Earnings by Month (January CY2016 – December CY2018) chart was reviewed by Mr. Miller. Two  
94 interest increases were successfully secured from BONH by Helms for the ICS promontory account. In mid-August  
95 2018 the interest rate was increased from 0.01% to 1.25%. After meeting with the BONH in November 2018, they  
96 agreed to increase the rate again from 1.25% to 2.00%. A Federal rate increase took place in December 2018, and  
97 Mr. Miller has requested BONH to consider an additional rate increase above the 2.0% and is waiting to hear back  
98 from BONH. Based on what Helms believes is feasible for interest income, the goal is to earn enough to cover NHVA's  
99 administrative costs annually.  
100

101 Based on how BONH is structured, Mr. Miller believes NHVA will be limited as to how much interest can be earned  
102 under the ICS promontory account. If NHVA took a more active cash management and investment strategy, Mr.  
103 Miller believes a rate closer to 3.0% is achievable. He proposed conducting an RFI/RFP process to solicit investment  
104 opportunities this spring to bring back to the Board for consideration. Dr. Valmassoi asked if there were legislative  
105 controls or risk assessments on how NHVA can invest its funds or rules on how large the account can be. Mr. Miller  
106 indicated there are not any legislative restrictions, however, NHVA does have an investment policy<sup>1</sup> that the Board  
107 has adopted to include specific, permissible investment instruments for participation. Mr. Miller stated that the  
108 Board voted in September to create a reserve fund of \$5M over the next 24 months; currently, there is a reserve  
109 account in the amount of \$250K.  
110

111 Discussion ensued debating conducting an RFI process vs. an RFP process. Mr. Miller recommended the RFI process  
112 to obtain initial proposals, and that this falls under the Helms & Company, Inc. ("Helms") management contract and  
113 no additional administrative costs would be incurred by NHVA. Mr. Sky suggested the RFI process run through the  
114 Audit Committee. Mr. Miller agreed, and the board's consensus was for Helms and the Audit Committee to move  
115 forward on the RFI process. The results of the RFI process will be brought back to the Board for future consideration.  
116

#### 117 **IV. TRICARE Update**

118

119 Mr. Miller referenced the September 12, 2018, letter from the Washington Vaccine Association (WVA) in the meeting  
120 package and NHVA's response letter dated October 2, 2018. In brief, the WVA letter requested additional funds  
121 from NHVA to help cover WVA's cost for the TRICARE settlement work. The NHVA letter stated that the NHVA board  
122 would take up this issue once a settlement was reached. The WVA letter included a breakdown of WVA's analysis of  
123 an equitable TRICARE project cost share for arrearage recovery, including a total NHVA share of \$200,394, of which  
124 WVA reflects \$50,000 paid to date leaving an outstanding balance of \$150,394 as of September 12, 2018. General  
125 discussion and deliberation took place regarding an appropriate response to be made to WVA. During the discussion  
126 several things were recognized, including the figures outlined in the table were calculated in early September so only  
127 \$50K is listed as NHVA's payments received by WVA. Between July and December 2018, NHVA paid an additional  
128 \$120K (\$20K per month) as authorized by the board at the June 2018 meeting. Mr. Miller stated that Vermont and  
129 Alaska have reached settlements with TRICARE since September 12, 2018, and that Rhode Island is still being settled.  
130 Mr. Sky asked Mr. Miller to recalculate the WVA equitable share table in the WVA memo so that it included the  
131 finalized settlement numbers for NHVA and the other, settled states, with the intention of determining if the NHVA  
132 fair share is still \$150,451. Mr. Miller will ask WVA for an update to meet Mr. Sky's request. Mr. Miller will share the  
133 response from WVA.  
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<sup>1</sup> <https://nhvaccine.org/wp-content/uploads/2018/09/Investment-Policy-Approved-2016-03-09.pdf>

Ms. Condon mentioned her concerns about the large amount of money paid to WVA by NHVA without any formal contract in place and questioned the Board's authority to do this. Attorney McCue stated the Board does have the authority if not the obligation to seek arrearages from entities that should be paying assessments. The Board had the authority to engage any necessary consultants, lobbyist, attorneys to assist in those efforts that the Board deems prudent. Attorney McCue clarified that there is no legal obligation to pay WVA. However, it is within the Board's fiduciary duties and notions of fairness to pay a fair amount to what is effectively your agent (WVA working on behalf of NHVA and others).

Mr. Miller also mentioned he had expressed concern to Karen Carew of Carew & Wells, NHVA Auditors, about there being no contract in place with WVA. The email chain with the agreement to participate in this effort along with the Board vote from last spring authorizing the \$20K incremental payments to WVA will be used by the auditors for their auditing efforts in the summer of 2019.

Mr. Miller let the Board know that Mr. Fred Potter from KidsVax is continuing to work with WVA, TRICARE, and the Congressional delegation to determine if there is a way to have the final arrearage owed states to be paid in a timelier manner. For NHVA to collect the final arrearage of \$1,492,489, it will develop an assessment process for the two carriers who administer TRICARE lives in New Hampshire. It is projected that this will take between five to seven years to collect these funds. Mr. Miller reported that Mr. Potter has indicated to Mr. Miller and Ms. Tenney that KidsVax would be open to receiving additional monies from the Board to help with their ongoing settlement efforts. No action was taken regarding additional monies for KidsVax' ongoing efforts.

Mr. Miller stated that a copy of the TRICARE letter outlining the settlement is included in the meeting package.

#### **V. Department of Health & Human Services Update**

Ms. Daly reported that for the first half of the fiscal year (July 1 through December 31, 2018) DHHS has paid out \$5.5M for vaccine purchases.

The CDC credit that is received each year at the end of the Federal Government's fiscal year (September 30, 2018) totaled \$1.8M which was approximately \$1M less than in recent, prior years. This credit is created when the CDC clears the virtual shelves at the end of their fiscal year. The dollar value for the vaccines that are earmarked for New Hampshire is credited to DHHS and those funds are used first to buy vaccines to stock the virtual shelves for the current Federal fiscal year which began October 1, 2018. State funds are used to pay the balance of the vaccines throughout the rest of the year. Ms. Daly mentioned this is the smallest credit DHHS has ever received. They normally range between \$2M-\$3M.

The DHHS annual immunization conference is scheduled for September 26, 2019, and Ms. Daly expressed invited the board members to attend. Additional information will be shared with the board as the event details emerge.

Ms. Daly updated the board on the Maine-New Hampshire cross-border issue. Colleen Haggerty, Section Chief of the Immunization Program, has been speaking with her counterpart in Maine to discuss a solution. Maine law currently prevents physicians in Maine from paying for vaccines for New Hampshire resident children, and as a result those children that see pediatricians in Maine must receive their vaccines by another doctor physically located in New Hampshire. New Hampshire law allows New Hampshire physicians to vaccinate children residing in other states, so this is a one-way issue. The Maine Vaccine Board (MVB) is working with the Maine Attorney General to potentially sign a Memorandum of Understanding ("MOU") between New Hampshire and Maine to allow the Maine physicians to provide vaccines for New Hampshire resident children. It is believed that this affects a few hundred patients. It was mentioned that New Hampshire has reciprocity with Vermont and Massachusetts and thus do not experience this problem with those bordering states. There was a memo issued last year to the Board with details



pulled from the all payer claim database describing the problem. Ms. Daly will send the memo to Mr. Miller for distribution to the group, although Ms. Daly did not believe the memo would add any additional value at this time.

#### **VI. New Matters**

Mr. Moran asked if anyone had any new matters they would like to bring up or discuss. No one had any additional comments or discussion topics.

#### **VII. Public Comments**

Jessica Kliskey expressed appreciation for being able to listen to the Board meeting. Ms. Kliskey stated she was amazed at the amount of money that New Hampshire spends on vaccines and questioned what New Hampshire does for vaccine injuries. She asked how are parents that have children with injuries as a result of receiving a vaccine helped. Dr. Edwards clarified that efforts for vaccine injuries are handled at a Federal level vs. at a state level and do not include NHVA. Ms. Kliskey stated her belief that autism is a result of vaccine injury and mentioned anxiety and depression being linked to vaccines. She asked if there is any consideration by the Board to address this. Dr. Edwards clarified that the mission of NHVA is to assist with controlling costs of vaccines by purchasing them in bulk from the US Centers for Disease Control and Prevention ("CDC") for the entire state of New Hampshire, and that it would be appropriate for Ms. Kliskey's concerns to be addressed with the state legislature to effect change at a Federal level.

Laurie Bender and Leah Chase also expressed gratitude for being able to listen in on the meeting and had no further comments.

Mr. Moran briefly discussed the state of vaccine costs in the context of media coverage of increased pharmaceutical costs overall and stated that it appears that not much effort is being done to actively reduce vaccine costs. He asked if anyone was aware of any initiatives. Ms. Daly explained that the state receives reduced vaccine pricing from the CDC to ensure the lowest price for New Hampshire.

#### **VIII. Executive Session**

Mr. Moran asked if there were any topics for discussion in Executive Session. Mr. Miller advised there was one. Mr. Moran asked the members of the public to leave the meeting and thanked them for their participation.

Executive Session minutes without Administrator present respectfully submitted by Mark S. McCue, Secretary pro tem and published separately.

By unanimous roll call vote, the Board voted to end the executive session at 11:20 a.m., and then the Board voted to close the meeting.

Draft Board minutes respectfully submitted by  
Patrick Miller, Helms & Company, Inc. Sean Lyons  
Board Secretary  
January 24 February 12, 2019

# # #

## NEW HAMPSHIRE VACCINE ASSOCIATION

### *Board of Directors - Execution Session Minutes 01/16/19*

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 10:55 a.m. to discuss a request by the NHVA's Administrator, Helms & Company, for additional compensation for work performed under its contract with NHVA (the "Administrator Contract").

The Board discussed the nature of the request and the circumstances under which the additional work was required. Attorney McCue described the amendment to the KidsVax contract for the transition period, and certain of the Administrator Contract provisions. The Board discussed whether the additional work was included within the Administrator Contract scope of services and existing compensation provisions, and sought to understand the nature of a previous payment to Helms. The Board concluded that the work was in addition to the scope of services required under the Administrator Contractor, that NHVA will benefit from such work and that the requested compensation is reasonable, although the Board noted that any future requests for additional compensation should be reviewed and approved by the Board prior to the performance of any additional services.

Upon a motion duly made and seconded, the Board unanimously

VOTED: To reimburse Helms & Company an amount of \$15,000 in addition to the compensation required under the Administrator Contract to offset some of the costs of redesigning the assessment process and tools.

There was no other business for executive session.

By unanimous roll call vote, the Board voted to end the executive session at 11:20 a.m., and then the Board voted to close the meeting.

Respectfully submitted,

*Mark S. McCue*

Secretary pro tem

**NEW HAMPSHIRE VACCINE ASSOCIATION**

**Plan of Operation**

WHEREAS, the New Hampshire General Court has enacted New Hampshire Revised Statutes Annotated ("RSA") Chapter 126-Q (the "Act") establishing a mechanism to assess insurers for the costs of vaccines provided to certain children in New Hampshire;

WHEREAS, the Act authorizes the formation of a not-for-profit, voluntary corporation known as the New Hampshire Vaccine Association (the "Association");

WHEREAS, the Association is governed by a Board of Directors (the "Board");

WHEREAS, the Act requires the Board to develop a Plan of Operation (the "Plan");

WHEREAS, the legislature has amended the Act from time to time and the Board, following such amendments, has updated the Plan to implement changes in the Act; and

WHEREAS, the Board has developed the following Plan as required by the Act:

**ARTICLE I**

**Effective Date / Amendment**

This Plan and any amendments to same may be recommended from time to time by the Board and shall become effective upon the approval of the Commissioner of the Department of Insurance (the "Insurance Commissioner") after consultation with the Commissioner of the Department of Health and Human Services (the "HHS Commissioner"). The Board may propose amendments at any time. Amendments may include a retroactive effective date if such date is proposed in the amendments and approved by the Insurance Commissioner. The completion of any blanks in the exhibits will not constitute an amendment to this Plan, but the change in the structure or substance of any exhibit will be considered an amendment requiring approval.

**ARTICLE II**

**Conformity to Act; Immunity from Liability; Certain Definitions**

The Association shall perform its functions under this Plan and in accordance with the Act, which is hereby incorporated as part of this Plan. Nothing in the Articles, the Bylaws, this Plan, or the actual operation of the Association shall create any private right of action against (1) any member of the Board, (2) the Association, (3) any administrator or executive director of the Association, (4) the Insurance Commissioner, (5) the HHS Commissioner or (6) any employee, personal representative, or agent of any of the foregoing. All such persons shall at all times enjoy immunity from liability to the fullest extent afforded by provision of any law, including, without limitation, RSA 126-Q:8 and RSA 292:2. Terms used but not defined in this Plan which are defined in RSA 126-Q:1 shall have the meanings set forth in that statute.

### ARTICLE III

#### Management of the Association and its Assets; Board

The Association shall have no employees. Rather, the Board shall select one or more third parties to provide services needed to administer the Association and to implement the steps contemplated in the Plan. Included among such third parties, the Board may retain an administrator (the "Administrator") to serve as its executive director and manage the day-to-day affairs of the Association. The Board shall be constituted as set forth in the Bylaws. Provisions in the Bylaws covering Board selection are hereby incorporated by reference in this Plan.

### ARTICLE IV

#### Public Awareness

The Board may establish and maintain public awareness of the Association through (1) maintenance of a website containing information about its meetings, descriptive data and downloadable copies of the Association's Articles and Bylaws, together with this Plan and such other data as the Board or the Administrator may determine to be helpful or necessary from time to time and (2) publication, via e-mail or otherwise, of a summary annual report. If, in the judgment of the Board, additional efforts are helpful or necessary to establish and maintain public awareness of the Association, the Board shall be authorized to undertake such additional efforts. The Board shall include the estimated costs for its public awareness program in its annual budget.

### ARTICLE V

#### Governance / Administrative Expenses / Accounting / Financial Reporting

**A. Governance.** The Board shall conduct its operations in accordance with the Annual Event and Meeting Calendar set forth as **Exhibit A**. The Board may from time to time make such adjustments to the dates of events listed on **Exhibit A** as it may determine to be appropriate.

**B. Financial and Other Records.** Monthly, quarterly, and annual financial records shall be maintained and distributed by the Administrator in accordance with the schedule set forth in **Exhibit B**.

**C. Assessment Determination and Administrative Expenses.** The Board shall be authorized to expend monies for the payment of administrative expenses, including but not limited to, the following types of expenses: fees for professional services, including legal, actuarial, accounting, auditing or any other services that are helpful or necessary to provide assistance in the operation of the Association; travel expenses, and other administrative expenses deemed helpful or necessary by the Board to conduct operations effectively. The Association's financial records shall segregate administrative expenses for the benefit of the Board in managing such expenses.

**D. Auditing.** The Association shall retain an independent CPA firm to conduct an annual audit of the financial statements of the Association. The audit shall be conducted in accordance with generally accepted auditing standards, and an opinion shall be rendered by the CPA firm as to whether the Association's financial statements are fairly stated in accordance with generally accepted accounting principles. In conjunction with the annual audit, the CPA firm shall produce a management letter for the benefit of the Board. The results of the annual audit, together with the management letter, shall be presented to the Board's audit committee and forwarded to the entire board. The CPA firm selected by the Association must be authorized to do business in the State of New Hampshire.

92  
 93 **E. Budgeting.** The Board shall develop an annual expense budget in the format ~~shown in~~  
 94 **Exhibit C** prior to the commencement of each fiscal year. The Board shall be entitled to assume that adequate  
 95 internal control policies and procedures with respect to the handling of Association assets and liabilities by  
 96 the Administrator including but not limited to, cash, cash receipts, cash disbursements, assessments,  
 97 premiums, claims payments, investments, accounts payable, and administrative expenses, are in place, but  
 98 may, in its discretion, at any time, engage the CPA firm to review such policies and procedures.  
 99

100 **F. Bank Accounts.** Money and marketable securities shall be kept in bank accounts and  
 101 investment accounts as approved by the Board. The Association shall deposit receipts and make  
 102 disbursements from these accounts. All bank accounts / checking accounts shall be established in the name  
 103 of the Association, and shall be approved by the Board. Authorized check signers shall be approved by the  
 104 Board. Two signatures shall be required on all checks in excess of \$5,000.00.  
 105

106 **G. Examination and Annual Reports.** The Association shall be subject to examination by the  
 107 HHS Commissioner or the Insurance Commissioner. The Board shall submit to each commissioner each  
 108 year, not later than 120 days after the Association's fiscal year, a financial report and a report of its activities  
 109 during the preceding fiscal year. The Association's fiscal year shall be the 12 months ending June 30. Not  
 110 later than December 31 each year, the Association shall submit an annual report regarding the Association's  
 111 activities, its financial reports, and any newly-approved vaccines adopted by the Department of Health and  
 112 Human Services to the President of the Senate, the Speaker of the House of Representatives, and the  
 113 Governor.  
 114

## 115 **ARTICLE VI**

### 116 **Assessment Collections / Remittance to State Treasurer / Assessment Revenue Recognition**

117  
 118 On behalf of the Board, the Administrator shall bill and collect assessments in accordance with the  
 119 schedule in **Exhibit A**, and render periodic financial reports as scheduled in **Exhibit B**.  
 120

121 Upon request from time to time, the HHS Commissioner shall cause to be delivered to the  
 122 Administrator the remittance request for the state fiscal year along with such other reasonably available  
 123 DHHS data as may be helpful to the Board for its assessment rate setting work.  
 124

125 Not less frequently than annually, the Board shall review and establish a quarterly child covered lives  
 126 assessment rate using a rate-setting spreadsheet tool developed and updated from time to time by the  
 127 Administrator and approved by the Board. The spreadsheet shall incorporate all factors set forth in RSA 126-  
 128 Q:4, II. The approved spreadsheet tool shall be published on the Association's website in .pdf form, showing  
 129 the most recent calculations, and, as published from time to time, is hereby incorporated by reference.  
 130

131 The Association shall undertake reasonable efforts to provide Assessable Entities not less than ninety  
 132 (90) days' notice of the effective date of any assessment rate change. Notice shall be deemed given when  
 133 posted to the Association's website. The Administrator shall also undertake to send e-mail notices of any  
 134 assessment rate change using one or more of the e-mail addresses filed by the Assessable Entity using the  
 135 Association's self-reporting assessment system.  
 136

137 Assessable Lives shall be reported by Assessable Entities and assessments shall be due from  
 138 Assessable Entities for each quarter ending in September, December, March, and June forty-five (45) days  
 139 after the end of each quarter, i.e., November 15, February 15, May 15, and August 15. For the Association's

financial statement preparation and reporting purposes, assessment revenues shall be considered revenue in the period in which the assessment payments were due notwithstanding the fact that the measurement period for covered lives may be in a prior period. Therefore, each fiscal year ending June 30 shall include as revenue the assessments due for payment during the fiscal year July 1 through June 30 and not the assessment due the following August 15 (which is determined based upon covered lives of Assessable Entities in April, May, and June of the reporting year). Every attempt should be made to not carry forward assessment revenues due across quarters.

The Association shall endeavor to maintain assessment equity by proportionately matching, as near as is reasonable, the assessments to those payers who have child beneficiaries who access state supplied vaccines funded by the Association. It may from time to time enter into agreements with other states as contemplated by RSA 126-Q:3, V(n) and adopt policies or procedures as contemplated by RSA 126-Q:3, V(p) to support equitable allocation of assessments among Assessable Entities. No Assessable Entity shall be required to report as an Assessable Life or pay an assessment for such life where vaccines with respect to such life clearly are paid for, in fact, by another state or by the federal government in programs such as the federal Vaccine For Children ("VFC") program or on-base immunization of TRICARE military beneficiaries using Department of Defense purchased vaccine supply. Assessable Lives shall be reported on a self-reporting online assessment system developed by the Administrator and updated from time to time as directed by the Board.

A late fee equal to product of (i) the number of days late times (ii) .000493 times (iii) the amount past due will be added to amounts due for any assessment payment received by the Administrator after its due date. The Administrator shall follow up with respect to any late assessment receipts in accordance with the protocol set forth in **Exhibit D**. Late payment interest shall be collected in accordance with the Association's Late Payment Interest Policy, as revised from time to time.

The Association shall remit the amount initially requested for the respective fiscal year to the New Hampshire State Treasurer (or to such other state official as may be designated by the Department of Health and Human Services from time to time), to the credit of the vaccine purchase fund established pursuant to RSA 141-C:17-a, on or before June 30 each year. The timing of the actual expenditure of those funds by any state agency shall have no impact in determining any credit for any surpluses in the Association's assessment calculations. Rather amounts considered as surpluses or shortfalls for the subsequent year's assessment determination shall be only those amounts above or below the targeted Net Remittance established by the Board for the prior year.

## ARTICLE VII

### Penalties/Adjustments and Dispute Resolution

#### A. Penalties / Adjustments:

**1. Background.** Given numerous factual determinations and tasks to be performed by insurers relative to their calculations of Assessable Lives as reported to the Association, it is expected that all Assessable Entities will exercise the highest degree of good faith and due diligence in all aspects of their relationship with the Association. Errors may occur, however, and it is appropriate that the sanctions applicable to such errors be detailed.

**2. Errors Related to Assessments.** All Assessable Entity errors related to the assessment shall require the immediate payment of additional amounts due plus interest calculated from the date such sum should have been paid, plus an administrative charge as established by the Board.



188  
189                   **3. Gross Negligence and Intentional Misconduct.** If the Board determines that  
190 the nature or extent of the errors of a particular Assessable Entity may reflect gross negligence  
191 or intentional misconduct, the Board shall refer its findings to the Insurance Commissioner for  
192 appropriate action.

193  
194                   **4. Interest and Administrative Charges.** All interest payments required under  
195 this Plan of Operation shall be calculated from the date the incorrect payment occurred or correct  
196 payment should have been made through the date of payment. The Administrative charges shall  
197 be established by the Board and may be waived by the Board.

198  
199                   **B. Time Considerations with respect to Assessment Payment Adjustments.** Once  
200 assessment rates are set by the Board in any year, any adjustment for Assessable Entity over reporting of  
201 Assessable Lives or overpayments shall be considered first by the Board in connection with the assessment  
202 determination for the following year and may, depending upon the cash flow needs of the Association, be  
203 spread over multiple years. No request for reconsideration of any assessment or refund of payment made  
204 shall be considered by the Association with respect to any request which is not filed with the Association, in  
205 writing, on or before that date which is six (6) months after the first due date for the immediately following  
206 assessment year after the overpayment error. It is expected that each fiscal year's first due date will be  
207 August 15 and that, consequently, any request for reconsideration or refund must be filed no later than the  
208 following February 15. Any underpayment due to late payments or underreporting of Assessable Lives shall  
209 be made by Assessable Entity at the earliest possible date and shall include interest and administrative  
210 charges as set forth above.

211  
212                   **C. Assessable Entity Appeal of Disputes to Board.** Assessable Entities may request  
213 permission to appear before the Board at any time in connection with any dispute with the Association. No  
214 request or appeal relating to assessments shall be heard until the protesting party has paid the assessment in  
215 full. Any assessment amount paid under protest shall be held in an interest-bearing account (which may be  
216 commingled with other accounts of the Association) with principal and interest to be paid to the prevailing  
217 party upon final resolution of the protest.

218  
219                   **D. Arbitration.** All disputes and differences that cannot be agreed upon by the parties will be  
220 decided by arbitration. The arbitrator(s) will have the authority to interpret this Plan of Operation and in  
221 doing so, shall consider the customs and practices of the insurance industry. The arbitration shall be  
222 conducted under the auspices of the American Arbitration Society in accordance with its commercial  
223 arbitration rules. Such arbitration shall be held in Concord, New Hampshire. This agreement to arbitrate  
224 shall be enforceable and judgment upon any award may be entered in any court having jurisdiction, which  
225 the parties hereby stipulate and agree, will include any court of appropriate subject matter jurisdiction  
226 located within the State of New Hampshire. Reasonable costs of arbitration shall be borne equally by the  
227 parties and each party shall pay the cost of its own personnel and counsel involved in such proceedings.

## 228 229                   **Article VIII Termination**

230  
231                   The Association shall continue in existence subject to termination in accordance with applicable  
232 requirements of the laws of the State of New Hampshire and the United States of America. In case of  
233 enactment of a law or laws which in the determination of the Board and the HHS Commissioner shall result  
234 in the termination of the Association, the Association shall terminate and conclude its affairs in a manner to  
235 be determined by the Board with the approval of the HHS Commissioner. Prior to any liquidation and

distribution pursuant to the Articles of Agreement, all statutory liabilities under RSA 126-Q will be satisfied in full.

In accordance with RSA 126-Q:3, V(c), the foregoing Plan of Operation has been approved following consultation with the Commissioner of the New Hampshire Department of Health and Human Services.

New Hampshire Insurance Department

By: \_\_\_\_\_

Date: \_\_\_\_\_, 201~~9~~<sup>19</sup>

~~Roger A. Sevigny~~John R. Elias, Commissioner

**Exhibit A**  
**NEW HAMPSHIRE VACCINE ASSOCIATION**  
**Annual Event & Meeting Calendar<sup>1</sup>**

<u>Date</u>	<u>Event</u>	<u>Statutory/Bylaws Reference</u>
<del>1.</del> <u>By</u> 3 <sup>rd</sup> Week of January	<b>Board of Directors Meeting</b>	
<del>4.</del> <u>2.</u> February 15	Calendar Quarter ending Dec. 30 prior year Covered Lives Assessment Due	RSA 126-Q:3, V.(l)
<del>3.</del> <u>By</u> 3 <sup>rd</sup> Week of March	<b>Board of Directors Meeting</b>	
	<u>a. Review collections results</u>	
	<u>b. Assessable Entity board member proxy selection</u>	<u>Bylaws Section 3.A.</u>
<del>2.</del> <u>4.</u> <u>By</u> 4 <sup>th</sup> Week of April	<b>Audit Committee Meeting</b>	
	<u>a. Review collections results</u>	
	<del>b.</del> <u>Review and recommend next year's expense budget</u>	
4. May 15	Calendar Quarter ending March 30 Covered Lives Assessment Due	RSA 126-Q:3, V.(l)
5. 3 <sup>rd</sup> Week of June	<b>Board of Directors Annual Meeting</b>	
	<u>a. Adopt next fiscal year's <u>expense</u> budget</u>	RSA 126Q:3, V.
	<u>b. Select Directors for terms beginning August 1</u>	
	<u>c. Review Report of Administrator for year's operation</u>	
	<u>d. Review Discharge of Director Duties</u>	
	<del>d.e.</del> <u>Confirm and Ratify Assessment due June 30 to State Treasurer</u>	
	<u>f. Executive session (Administrator's personnel excluded)</u>	
<del>6.</del> <u>June 30</u>	<u>Remit Assessment to State Treasurer</u>	<u>RSA 126-Q:3, v.(n)</u>
<del>7.</del> <u>June 30</u>	NHVA Fiscal Year End for Prior Year	
<del>6.</del> <u>8.</u> August 15	Calendar Quarter ending June 30 Covered Lives Assessment Due	RSA 126-Q:3, V.(l)
<del>7.</del> <u>9.</u> 4 <sup>th</sup> Week of September	<b>Audit Committee (in person)</b>	
	<u>a. Meet with outside auditors</u>	
	<u>b. Review audit report</u>	
	<u>c. Executive session (Administrator's personnel excluded)</u>	
	<b>Board of Directors Meeting</b>	
	<u>a. Accept the Audit Committee's audited financials</u>	
	<u>b. HHS vaccine budget and forecast</u>	RSA 126-Q4, 1
	<u>c. Finalize Assessment Rate for next year effective January 1</u>	
<del>8.</del> <u>10.</u> 3 <sup>rd</sup> Week of October	<b>Board Meeting (if needed)</b>	
	<u>a. Accept audit report and release prior year's financials</u>	RSA 126-Q:6
	<u>b. Set current year's assessment if not done earlier</u>	RSA 126-Q:3, V.(e)
<del>11.</del> <u>November 1</u>	Assessment determination due; Notify Payers	RSA 126-Q:3, V.(e)
<del>9.</del> <u>12.</u> November 15	Calendar Quarter ending September 30 Covered Lives Assessment Due	RSA 126-Q:3, V.(l)
<del>13.</del> <u>By</u> 4 <sup>th</sup> week of November <del>30</del>	<b>Board Meeting (telephonic)</b>	
	<u>Review and Approve Annual Report</u>	
<del>10.</del> <u>14.</u> <u>By</u> December 31	<u>Submit Annual Report</u>	<u>RSA 126-Q:3, V.(k)</u>

<sup>1</sup> All meeting dates are approximate. Actual meeting dates may be established by the Board Chair or Executive Director in consultation with Board members.

**Exhibit B**

**NEW HAMPSHIRE VACCINE ASSOCIATION  
Schedule of Financial Statements**

Financial statements will be released on the following schedule:

- a. Monthly Bank Reconciliation: To Audit Committee members and any Board member requesting copies 15 business days after the close of each month.
- b. Unaudited Quarterly Statements: To the full Board 20 business days after the close of each quarter.
- c. Annual Statements: Management's statements will be ready for internal review 60 business days after the close of the year; full statements will be released to the public as soon as the audit is completed and the audit report accepted by the Board.

## Exhibit C

## NEW HAMPSHIRE VACCINE ASSOCIATION

Estimated Expense Budget Format

1	Administrative Fees	337	\$
2	Subcontractors		\$
3	Subtotal		\$
4	Bank Fees		\$
5	Board Meeting Expense		\$
6	Dues and Subscriptions		\$
7	Insurance Expense (D&O)		\$
8	Licenses and Fees		\$
9	Postage & Shipping		\$
10	Professional Fees - Audit		\$
11	Professional Fees - Legal		\$
11	Public Information Expense		\$
12	Website		\$
13	Subtotal		\$
14	Total Budget		\$

Budget Notes:  
As applicable/necessary

**Exhibit D**

**NEW HAMPSHIRE VACCINE ASSOCIATION**

**Follow-up for Past Due Assessments**

**Protocol A:** for all carriers falling within the top 90% of assessments due

- Make a phone call one business day after due date
- Send an email ~~fax~~ reminder five business days after due date
- Send a letter reminder three business days after the ~~fax~~ email reminder with a copy to the board of directors

**Protocol B:** for all carriers falling within the 90% to 98% of assessments due

- Make a phone call three business days after due date
- Send an email ~~fax~~ reminder seven business days after due date
- Send a letter reminder five business days after the email ~~fax~~ reminder with a copy to the board of directors

**Protocol C:** for all carriers falling within the 98% to 100% of assessments due

- Make a phone call five business days after due date
- Send an email ~~fax~~ reminder eight business days after due date
- Send a letter reminder ten business days after the email ~~fax~~ reminder and put on delinquency report to the board of directors

In addition to the above, report to the Commissioner of Insurance as required by RSA 126-Q:3, V(k). At the Annual Meeting of the Board, recommend collection / follow up activity for any remaining delinquencies and follow up in accordance with Board instruction. In light of RSA 126-Q:5, I, however, it is contemplated that any collection follow up after six months of notification would be handled by the Department of Insurance pursuant to that statute.