

# New Mexico Health Insurance Exchange Inaugural Board Meeting

Day 1 - April 29, 2013

CNM Workforce Training Center

5600 Eagle Rock Ave. NE, Albuquerque, NM 87113

## Meeting Minutes

Prepared by Tricia Warwick, DOI

### Attendees:

John Franchini, NM Superintendent (Facilitator)	Teresa Gomez
Dr. J.R. Damron	Dr. Martin Hickey
Terriane Everhart	Dr. Larry Leaming
Gabriel Parra	Patsy Romero
Ben Slocum	Jason Sandel
Dr. J. Deane Waldman	David Shaw
Sidonie Squier	

### Appointments:

Dr. J.R. Damron, Santa Fe	Governor Susana Martinez
Terriane Everhart, Las Cruces	Governor Susana Martinez
John Franchini, Santa Fe	State Statute
Teresa Gomez, Albuquerque	Senate President Pro Tem, Mary Kay Papen
Dr. Martin Hickey, Albuquerque	Speaker, W. Ken Martinez
Dr. Larry Leaming, Portales	Senate Minority Leader, Stuart Ingle
Gabriel Parra, Albuquerque	Governor Susana Martinez
Patsy Romero, Santa Fe	Senate President Pro Tem, Mary Kay Papen
Jason Sandel, Aztec	Speaker, W. Ken Martinez
David Shaw, Lovington	House Minority Leader, Don Bratton
Ben Slocum, Albuquerque	Governor Susana Martinez
Sidonie Squier, Santa Fe	State Statute
Dr. J. Deane Waldman, Albuquerque	Governor Susana Martinez

Meeting materials consisted of:

- Agenda
- Summary of NM Health Exchange Act
- Binders for Board Members – Prepared by NMHIA
- Exchange Information Packet for Board Members – Dr. Damron
- Handouts – NM Medical Insurance Pool (Available at [NMHIA.com/nmhix](http://NMHIA.com/nmhix))

Meeting began at 10:13AM – John Franchini, Superintendent of Insurance; State of New Mexico

- **Introductions (Agenda Item #4):**

Each Board Member – Round Table

- **Opening remarks (Agenda Item #1):**

**John Franchini:**

Why are we here? We are here to unite and implement the law (Obama Care). Our Governor has helped work on a bill that will now help us form an Exchange in the state of NM. I am very driven to insure that this exchange works for NM and the needs of NM citizens. Each state will have its own adaptations of this and we need to have as much input as to how our state needs this health care, and how it is to be implemented. So we need to make sure this is a state specific program.

- **Historical Perspective on Federal Legislation (Agenda Item #2):**

**Dr. J.R. Damron:**

Healthcare is the most complex issue that we have. Politics should not be in health care; but there is and we are here to do what is best for the state of NM. What happens in Washington, DC will affect all states.

History of the exchange evolved from the Federal Employer Health Benefit Plan (FEHBP) began in 1960, with 8 Million federal employees; which includes federal employees, retirees, congressional delegates. It (FEHBP) was supervised by Office of Personnel Management (OPM) in Washington, DC. This concept was a model for families so they could look at the products and select the best plan for them.

The concept was taken by Gov. Romney in Massachusetts and the first exchange was developed. Romney saw a problem of a loss of \$385 million on Medicaid waivers if nothing was done for the uninsured population. He contacted the Heritage Foundation and they came up with legislation utilizing the FEHBP model. It was an active purchaser model. The Exchange was set up in April of 2006 with 50 individuals, and a cost of \$25 million dollars. There was an employer mandate and an individual mandate. This was set up as a **Defined Benefit Model**.

Utah's Governor, Jon Huntsman, wanted to create something primarily for the small businesses. He did not want an individual mandate, and he did not want an employer mandate. He set up the exchange model and put it into the Economic Development Office in the Governor's Office. Utah's Gov. Herbert took over in late 2007. The exchange was set up as a **Defined Contribution Model**. The cost was \$600,000 and had two employees.

These two models are totally different. New Mexico is somewhere in between these two models.

President Obama was elected into office in 2008. Pres. Obama needed a model for the Federal Government. Looked at the Massachusetts model and liked it, but he wanted to federalize it to have a central benefit. In March 2010, law passes for Patient Protection Affordable Care Act, Affordable Care Act (ACA), or what is known as Obama Care. Federal Law 111-148. There were 2,400 pages of legislation, condensed down to 900 pages. 300 more pages were added with the Health Care and Education Reconciliation Act, which has also been condensed down somewhat. That was the Affordable Care Act (ACA). Section 1311 of the ACA has to do with exchanges. With the 2,700 pages of the ACA, there are 19,900 pages of regulation. For every page of legislation, there is generally about 25-50 pages of regulation that interprets the legislation. We are up to about 20,000 pages right now, and may go up to 30,000 – 35,000 pages of regulation to interpret this. Final rules regarding the exchanges and the ACA have not been promulgated yet.

Packet handed out to Board:

Core functions of Exchange and Law:

1. Eligibility – Medicaid or Tax Credit Subsidies (Fed. Service Hub)
2. Enrollment – Qualified Health Plan - Medicaid
3. Plan Management – Certification that the plans are qualified. (DOI/OSI)
4. Consumer Assistance – Navigators
5. Financial Management – Accounting, Auditing & Reporting – To state and Federal Government

Further explanation of contents of packet.

- **Explanation of the NM Exchange Act Legislation (Agenda Item #3):**

**Jason Sandel:**

*History* - New Mexico Medical Insurance Pool met with the Health Insurance Alliance 3 years ago to take an active role in the development of the NM Exchange. Legislation was passed with bipartisan support, but vetoed by the Governor. Things were different then; the issue had not been determined by the Supreme Court, etc.

In January of this year, both boards came together to develop more legislation to govern the exchange inside the state of NM. Both boards felt it was important for our state. NM is unique in the needs of its citizens.

State based exchange was looking like it would not happen in NM due to two different views and interests of legislators and our Governor. A mix of both sides and ideas was worked on to create balanced legislation to make an exchange happen. Legislation was carried by Sen. Shendo; who could exemplify our unique needs of NM communities. He convinced the legislature that a state based exchange was critical. Legislation passed and was

signed by the Governor. Now the NM Health Insurance Exchange Act is part of Chapter 54 on NM Laws. This puts us in control, rather than being part of the federal government.

The New Mexico Health Insurance Exchange (NMHIX) is created as a non-profit public corporation to provide qualified individuals and qualified employers with increased access to health insurance in our state and shall be governed by a board of directors.

This is what we (NMHIX Board) is here for.

Overview of guidelines and responsibilities of the Board, be consistent with provisions of the governmental conduct act, inspection of public records, and truly be open and transparent of meeting business.

The Board's responsibilities, duties, authorities, deadlines that must be met, and abilities were summarized.

Introduction of guest speakers – Superintendent Franchini:

Marjorie Petty – Regional 6 Director with the Department of Health and Human Services (DHHS) – Support  
Dr. John Kingsdale - Subject matter expert

- **Establish NMHIX Board Member Terms - Lots Drawn (Agenda Item #5):**

**David Barton, General Counsel with Division of Insurance**

Mr. Barton explained the responsibilities, powers and term periods under the state statute for this new board. Duties are outlined in section 3, 4 & 5 of binders.

Per the statute, the Board needs to accomplish a number of things at this (Inaugural) meeting:

- Elect Chair and Vice Chair
- Plan of Operation needs to be adopted within 60 days of enactment – 30 days have already elapsed. This is the beginning of a corporation, and you (Board) are members of that corporation. Summarization of what is to be established and implemented by this corporation and its Plan of Operations.

Superintendent of Insurance was required to convene this meeting within 30 days of enactment of the act. Going forward, the Superintendent of Insurance will be a voting member of this board. The Superintendent will have continued rule making authority in his capacity as a public official in charge of insurance matters in the state of NM. This matter will require continual interactions between the NMHIX Board and the DOI and HSD.

**Action:** Drawing of lots for term periods:

**Results:** Board members representing insurance companies – 2 year term limits:

- 1<sup>st</sup> drawing - Martin Hickey – Term ends on 6/30/2015
- 2<sup>nd</sup> drawing - Ben Slocum – Term ends on 6/30/2014

Board members representing hospitals – 3 year term limits:

- David Shaw – Term ends on 6/30/2015
- Jason Sandel – Term ends on 6/30/2016
- Dr. Larry Leaming – Term ends on 6/30/2015
- Patsy Romero – Term ends on 6/30/2016
- Teresa Gomez – Term ends on 6/30/2016

Clarification of dates – move the year drawn up by 1 year.

- **Election of Chair and Vice-Chair of the NMHIX Board (Agenda Item #6):**

**Discussion:**

1. Sidonie Squier – Concerns for any conflicts of interest in holding the positions of Chair or Vice-Chair.
2. Dr. Martin Hickey - Note observations of characteristics of any individual that might facilitate the business of the board in executing its responsibilities.

**Action:** Opens nominations for Chair – Superintendent Franchini

Ben Slocum nominated Dr Damron – 2<sup>nd</sup> by Sidonie Squire

Dr. Hickey nominated Jason Sandel – 2<sup>nd</sup> by Patsy Romero

Motion to close nominations – Superintendent Franchini - 2<sup>nd</sup> by Gabriel Parra

**Ballot Vote: 8 to 5 - Chairman is Dr. J.R. Damron**

Motion to have Vice-Chair by assent to be Jason Sandel – Superintendent Franchini – 2<sup>nd</sup> by Gabriel  
**Voice vote: Unanimous - Vice-Chair is Jason Sandel**

**Action:** Opens nominations for Treasurer – Chairman Damron  
Teresa nominated Patsy Romero – 2<sup>nd</sup> by Superintendent Franchini  
Motion to close nominations – Superintendent Franchini – 2<sup>nd</sup> – Dr. Martin Hickey  
Closed nominations with only one nominated.

**No Vote: Treasurer is Patsy Romero**

- **Board Policies (Agenda Item #7):**

**Mike Nunez, Executive Director of Health Insurance Alliance**

**Discussion:**

History of the Alliance

The Alliance has been around just under 20 years; providing access to small business and individuals.

Mission statement of the Exchange is the same as for the Alliance. Starting in Nov. 2011, we have been watching federal legislation and been active in state and national discussions on exchanges for this state as well as other states.

1. Adoption of Conflict of Interest Policy provided to Board. *Policy was given to the Board, on a slide and is available on the NMHIA website under the NMHIX tab.* We (Alliance) adopted what was CO's Conflict of Interest in general terms – which were thoroughly vetted for close to 8 months. We adopted it almost in whole.  
Discussion on this will continue on 4/30.
2. Attendance by Phone or Alternative Media  
This issue was addressed in the bill along with insufficient attendance on the board.
  - A. Concerns of attendance due to geographic diversification. Mike Nunez stated there would be a dial-in number available for meetings.
  - B. Insufficient attendance is also addressed in the bill.

The issue of when documents are submitted to the Board came up from Jason Sandel. He suggested that there be an understanding that future documents being submitted to the Board be sent in advance of meetings and done electronically. Mike Nunez said this is the usual practice.

Overview of what is included in the Board's binders – Mike Nunez

*Break for lunch – resume at 1:15PM*

- **Modification of afternoon Agenda:**

**Chairman Damron:**

Agenda was modified to skip item #8 to item #11, then 12 & 13 for the sake of time constraints to allow for public comment beginning at 4:30PM.

- **Session with CMS staff regarding 4/24/2013 progress letter (Agenda Item #11)**

**Guest Speakers:**

**Marjorie Petty, Region 6 Director with the Department of Health and Human Services (DHHS):**

Congratulated elected Board Chair and Vice –Chair. Congratulations also to everyone the legislation that has passed. The work on health plan management has been really good work and other states have been watching the work being done in NM.

NM is conditionally approved to be a state-based market place in Dec. 2012. We (DHHS/CCIIO) committed to jointly monitor progress and the meeting of benchmarks. There are a number of deadlines that have already passed and Ms. Petty is here and will support the Board in reaching the goals identified for our state.

Overview of information on Core Areas of the Exchange:

1. Eligibility and Enrolment
2. Marketplace Websites – Outreach and Educational meeting in Denver – May 21 & 22
3. State Based Small Business Health Option Program (SHOP)

HHS issued additional approval for Options of running a SHOP only has approval

- **First Year Exchange Options and Decision Timeline (Agenda Item #12)**

***Discussion:***

Flexibility of timelines; options of individual and SHOP, utilizing federal exchange for individual and SHOP through the state exchange for the first year, then going to full state-based exchange; resources, staff. What it is going to take to make it all happen. Direct discussion on these topics will continue on 4/30.

**John Kingsdale:**

Accomplishments of Mass. Exchange and how to get NM goals met.

Setting up an Eligibility and Enrolment system is 'mammoth' undertaking. Taking into consideration what states having to deal with ACA and the timelines and deadlines, Mr. Kingsdale's opinion is that we have a decent chance to make it by October 2015, but not for 2014 for a full development of an Eligibility and Enrolment determination system.

Mr. Kingsdale does feel that outreach and consumer assistance; working with navigators and in person assisters, brokers, and putting training programs together, an advertizing campaign, and outreach campaign are doable.

***Discussion:***

1. Overview by Mike Nunez of what is in process, what is already done and what is not done, and evaluation committees and RFPs. (Slides /Handout)  
Working very hard, we believe our process is solid. It doesn't seem feasible that we can make the option of a state-based marketplace exchange work at this time.
2. Overview by Superintendent Franchini - DOI has Qualified Health Plans and the Essential Health Benefits in place, and will be looking at the plans and rating them for their medals within the next few weeks. We need to get the rest caught up to move forward. DOI is here to help and support, and we are optimistic we will be an active partner in this growth. Our work was done without a Health Actuary – we have great companies in NM and they helped us get this done.
3. Interaction with the Medicaid system and evaluation committees and RFPs,  
Debate on IT systems.  
Sec. Squire, HSD gave an overview of what has occurred. HSD has almost finished building a multi-million dollar, high level IT Eligibility System a few years ago. Feds have regulation saying that they have to go thru Medicaid Eligibility System which is almost impossible to do. May be possible in a year or so – but this is optimistic.

Ben Slocum suggested getting the IT committee that did the evaluation in front of the Board and let them express where they think we are and what our options might be.

Dr, Damron stated that the IT systems are critical for the success of our operation it is also financially huge. He agrees that the IT committee should be talked to – possibility of looking to see if opening this up for re-bid. Program manager that oversees the IT to make sure that we hit benchmarks that we want to have happen for the state of NM.

4. Superintendent Franchini brought up the thought of possibly creating a multi-state Co-Op Exchange. Idaho and NM are talking about the possibility using a plan that is already in place. This will have to be discussed by the Board. Buying an off-the-shelf product is an option that may be quicker and cheaper. There are other options are available.

More comments from Mr. Kingsdale on what may be accomplished for the exchange by Oct. 1, 2014.

Whether NM goes forward with a federal marketplace or state marketplace, the infrastructure should be almost the same.

Summary of what key elements that only the states are able to do for themselves, and what is already in place in NM that can be built upon for 2014.

Call in from Nicole Comeaux, CCIIO

**Discussion:**

Options of splitting the individual and group, and the state holding onto the SHOP, and allowing the Feds. to manage the individual coverage.

Other topics were: Federal HUB services, advance premium tax credits, cost sharing reductions, Medicaid, appropriations of monies from our legislature, and navigator grants.

NM has a diverse and culturally sensitive population and much discussion will take place to make sure we come up with the funds to provide service.

NM has obtained 34 million from the federal government, of which 1 million has been used. Efforts to add an additional 25% has been requested for programs that the exchange implementation and the programs that this board would authorize. More justification on any additional monies going forward makes it a bit harder.

**Break**

Chairman Damron announced that some people were not able to hear Nicole's will put her talking points into written form with bullet points and make it available.

• **Review of Plan Management (Agenda Item #13)**

**Lisa Reid, Office of Healthcare Reform – detailed to NM Division of Insurance:**

Overview on processes of plan submission of QHP to be sold in NM.

DOI is responsible, as regulators, for reviewing and approving policies submitted by carriers to be sold in NM. There are rules in place for what needs to be in a policy that is sold in NM. Qualified Health Plans that will be sold in the exchange will have additional federal regulations that the DOI will be requiring of these plans submitted to be sold in the exchange. DOI has posted guidelines for carriers and the deadline for submitting plans is 4/30/2013. They will post information on who has submitted and information on rates and premiums. DOI has met all benchmarks for plan management that has been required by CCIIO and has been checked off. Follow up on upcoming benchmarks continues.

Superintendent Franchini did an overview of new players writing health insurance for individuals and groups are expected in the exchange. Will be competitive, but we want reasonable and fair.

Superintendent also gave a summary and discussion of Advisory Task Force Work Group. NM is one of the highest mandated states in the union. A Lovelace Group Plan was selected as the benchmark. NM was one of the 1<sup>st</sup> stated to accomplish this.

**Discussion:**

Patsy Romero - Behavioral health benefits are important and we need to make sure there aren't any gaps.

This is a work in progress and issues will be addressed. More information is available on the benchmark plan on the DOI website. The Lovelace Plan has the basic elements for NM to work from in the selling of health insurance plans.

• **Resolutions giving Executive Director authority regarding documents and funds (Agenda Item #8)**

**Mike Nunez, Executive Director of Health Insurance Alliance:**

- A. Checking accounts
- B. Procurement Policies
- C. Signing authority

1. Preparing for the future investments; resolutions and forms for setting up accounts for appropriate people once committees are formed, this resolution will allow for the opening of accounts and filing for tax status and establish the exchange.
2. Alliance Board has gone away, the resolutions that were in place and check signers will be renewed.

Finance Committee will be appointed and will be on these forms.

**Action:** Motion for adoption – Dr. Hickey / 2<sup>nd</sup> by Patsy Romero

**Discussion:**

Choice of bank, location, RFP, and monies for account.

First National Bank in Santa Fe is an interim measure. Alliance has a MOU signed with HSD for 1.6 million dollars to move forward with some activities. A small portion of this has been spent and this will be reported on tomorrow. The balance of this 1.6 and the 34 million will be drawn down from the original MOU between the Alliance and HSD. Confirmed by Sec. Squire.

**Voice vote: Motion passes unanimously**

- **Development of meeting schedule (Agenda Item #9)**

**Discussion:**

Timeline are pressing for the need of having a 2 day meeting within the next couple of weeks. Suggested that the 16<sup>th</sup> and 17<sup>th</sup> of May, there after 1 day meeting may suffice. Other days suggested and reminders of deadline dates.

David Barton mentions that a quorum is defined as a majority of the members.

**Result:** Next meetings will be held on May 16<sup>th</sup> from 8:00-12:00, and May 17<sup>th</sup> from 9:00 – 5:00.

Vice-Chair Sandel suggests a policy for proxies - to be discussed at tomorrow's meeting.

- **Funding (Agenda Item #10)**

- a) Available grant funds – Transfer of funds to NMHIX

**Discussion:**

**Sec. Squire, HSD:**

The transferring of funds has to be worked out thru MOUs between HSD and the Exchange Board. All but a very little that has to be kept back for Medicaid and operating staff, will transfer to the Exchange Board.

**Ray Mansack, General Counsel, HSD:**

CCIIO will not allow transferring of all 34 million until the exchange goes thru their application with the feds. and it has been reviewed. After this has taken place, the funds of the establishment grant will transfer. Meanwhile, HSD is proposing that a simple MOU where the board can use the funds being held by HSD, similar to a letter of credit. Requests could be submitted to HSD, with the intended purpose, and the funds could be drawn down as necessary. There are no restrictions from CCIIO to enter an agreement along these lines.

Superintendent Franchini stated that there are a lot of steps to establish the exchange as an official corporation that have to be done before funds are taken.

- b) May 15, 2013 Grant Application

**Discussion:**

Other grant amounts are available.

**Jonni Pool** (HSD) stated that the 25 % administrative supplement was submitted approximately 6 weeks ago. More information was required and was given last Thursday.

**Teresa Gomez** brought up questions on budget, and if we should be going for other grants, what deadlines are we looking at, what available funds do we have now.

Sec. Squire stated that should be no problem to get a budget of what we've spent and the balance.

**Nicole Comeaux** summary of pool of money and availability for exchanges and deadlines.

**Mike Nunez** said there ample opportunities to apply for funding on an ongoing basis. Level 1 (L1) grants are quarterly and are for the planning stages. Level 2 (L2) is an establishment grant for after our ducks are in a row, we have made a decision on a plan and we are ready to move forward with what we want. This will carry us through to January of 2015.

**Ben Slocum** asked if we can go back if needed to get more L1 monies, after we have the L2.

**Mike Nunez** will research this. Monies are only available throughout the 2014 calendar year, and beginning January 2015, exchanges will have to be self sustaining.

**Chairman Damron** stated discussion on budget will continue tomorrow as the budget is on the agenda; along with more detail on grant use and vender selection at the May 16 & 17 meeting.

**Vice-Chair Sandel** discussed the letter from CMS; outreach, education, and assistance; and pay out timeframes of getting venders paid; and looking at submitting for May 15<sup>th</sup> grant for SHOP functionality. Need to keep our options open with as much funding as we can draw down.

**Mike Nunez** responded – Three options:

- 1 State based exchange – most expensive
- 2 Hybrid – 2<sup>nd</sup> most expensive
- 3 NM Partnership – least expensive

Clarification that original grant *may* be used for IT system, and we are eligible for more grants even if we go forward with May 15<sup>th</sup> grant.

**Vice-Chair Sandel** wants to be frugal with getting monies from other federal budgets, and doesn't want to increase the dept, doesn't want to take money from sustainable programs that protect our safety.

- c) Leveraging NMHIA staff, processes and federal fund business assessment.

**Mike Nunez:**

MOU signed with HSD in December, we went thru a federal assessment to justify receiving federal funds, and we were approved. Under the new entity - NM Health Insurance Exchange, new tax ID and tax status were needed and will get done.

Alliance has been run for about 20 years with 7 knowledgeable people to offer support to the exchange being built. Alliance acts as an exchange now, offering multiple plans (handout to board) with eligibility set by state statute. We have our own Plan of Operations of which the footprint will be brought forward the exchange operations. Structure is in place with business relationships, working with groups, communities, carriers, small business and individuals. We are ready to bring all those processes. More details on this tomorrow.

**Vice-Chair Sandel** – Tasks before the board are monumental with exacerbating timelines. Carriers paying assessments to Medical Insurance Pool (MIP) with part for research on existing data sets on what the population looks like, and actuarial work and risk analysis. He stated that perhaps the most prudent way to move forward is to leverage Alliance staff along with MIP staff as MIP has a large amount of high-risk enrollees that will have to come off.

**Mike Nunez** – Structure has beginning staffing numbers, (blueprint in Board's reference books) with salary, positions, salary surveys, job descriptions.

**Gabriel Parra** – Board needs to have conversation and decision on staffing.

**Chairman Damron** requests information on Pool staffing and will discuss tomorrow.

- d) Existing HIA MOU

Sec. Squire introduces Ray HSD:

HSD's MOU has not been terminated with HIA and can be done when most beneficial to the Exchange Board, simultaneously when entering into a new MOU between HSD and HIX. Reason for not termination earlier is that when termination of MOU happens such as HIA could not incur any further obligations, property and equipment would become property of HSD. A transfer of 1.6 million to the HIA has taken place, and has not been spent. HSD is still the grantee and still dictates. Upon termination, HSD will direct HIA to turn it over to the exchange along with any other property and equipment.

- e) New MOU with DOI.

**Superintendent Franchini:**

MOU was entered into 6 months ago with HSD and HIA. Lewis and Ellis along with actuarial staff and examinations staff, accounting staff and Levett met and worked on this. It will cost about 2-2.5 million to do this correctly. There will not be ongoing expenses. When we are ready to enter into another MOU with the exchange, we are prepared.

Chairman Damron elects to hold remaining agenda items over for tomorrow and go to public comment.

## • Public Comments

1. Dick Mason – League of Women Voters of NM
2. Barbara Webber – Health Action NM
3. Page Dohammell – Southwest Woman's Law Center
4. Sheri Gonzales – Consumer – representing communities.
5. Harvey Lisht – Varela Consulting Group
6. Eric Lujan – NM Indian Counsel on Aging Health Committee
7. Chad Kirpatrick – Get Insured
8. Sheri Williams – Broker

## • Adjournment