

The Board of Regents, State of Iowa, met telephonically on Wednesday, December 29, 2004 at 5:00 p.m. The following individuals participated.

Members of the Board of Regents, State of Iowa, present via telephone

Bob Downer, President Pro Tempore, presiding
Amir Arbisser
Mary Ellen Becker
Owen Newlin
Sue Nieland
Jenny Rokes

Present at the Office of the Board of Regents

Regent David Neil
Executive Director Nichols
Deputy Executive Director Steinke
Marcia Brunson
Joan Racki
Barbara Boose
Barb Briggie
Tom Evans
Sheila Doyle
Bob Waste, Wellmark
Peter Roberts, Wellmark
Cliff Gold, Wellmark
Joe DuBray, Wellmark
Charlotte Eby – Lee Newspapers
Attorney General Tom Miller
Diane Stahle, Attorney General's Office

Present at Iowa State University via telephone

President Gregory Geoffroy
John McCarroll

Present at State University of Iowa via telephone

Anthony DeFurio
Donna Katen-Bahensky
Linda Kettner
Pat Thompson, Faculty Practice Plan, Iowa City

Present from Orlando, Florida via telephone

President David Skorton
Steve Parrott

Present at the University of Northern Iowa via telephone

President Robert Koob

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BOARD OF REGENTS, STATE OF IOWA

The following business was transacted by telephone on Wednesday, December 29, 2004, at 5:00 p.m., with the President Pro Tempore, Regent Downer, presiding.

REVIEW OF PROVIDER CONTRACTS OF THE UNIVERSITY OF IOWA, UNIVERSITY OF IOWA HOSPITALS AND CLINICS, AND THE UNIVERSITY OF IOWA COLLEGE OF MEDICINE, AND TO CONSIDER REAFFIRMING THE AUTHORITY OF THOSE ENTITIES REGARDING SUCH CONTRACTS.

Individuals participating in the meeting by telephone introduced themselves.

Members of the Board office in Urbandale introduced themselves. Regent David Neil stated he has revoked his potential conflict of interest that he originally signed when he joined the Board of Regents, as he has resigned from the Board of Wellmark effective December 28, 2004. He stated he plans on being involved in this very important issue.

Barb Briggie identified the rest of the individuals attending the telephonic meeting.

Executive Director Nichols stated to Regent Downer that a quorum of the Board was present.

Executive Director Nichols reported that Regent Rose Vasquez had communicated with him in the previous 24 hours that she received notice of the meeting and was aware of the agenda item to be discussed. She stated to the Executive Director at that time that, due to the fact she is an employee of Principal Financial Group as stated in the disclosure of potential conflict she filed when she joined the Board, she would not be participating in the meeting.

Regent Downer stated he assumed that President Forsyth was not present due to conflicts related to his position with Wellmark. Executive Director Nichols stated he could not speak for President Forsyth, as he had not received from him a specific communication, but that interpretation would be consistent with President Forsyth's earlier declaration.

Regent Downer stated his understanding that Regent Neil's resignation from the Wellmark Board on December 28, 2004, represented a modification of the statement he had filed with the Board earlier. Regent Downer asked Attorney General Tom Miller if this was sufficient to resolve issues with respect to conflict of interest.

Attorney General Miller stated that would take care of the basic question of Regent Neil's potential conflict of interest. Based on what was known at that point, he felt the meeting could proceed.

Regent Downer discussed how the University of Iowa has increased the oversight that has been provided, since he has been on the Board, for the University of Iowa Hospitals and Clinics and the Faculty Practice Plan, and has sought to involve the Board more in governance matters with respect to oversight of the hospitals. The proposed resolution is along those lines. He said he doesn't know whether this type of resolution has been adopted previously, but it was his understanding there has been a delegation of these matters, at least practically, over the years, with respect to supervisory authority over these areas of the University of Iowa.

Regent Downer asked for a motion and a second for adoption of the resolution, after which the floor was opened for discussion. (The resolution is attached to these minutes.)

Regent Arbisser moved Regent Rokes seconded
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Being moved and seconded, the matter was placed before the meeting.

Regent Downer asked if President Skorton had any comments to make or would recognize others from the University of Iowa to comment.

Comments from President Skorton – University of Iowa

President Skorton stated he would speak for the University of Iowa. He put the situation in context by saying that daily in the Regent enterprise, the various institutions are engaged in hundreds, if not thousands, of individual agreements with external bodies, whether those bodies be federal agencies for various kinds for research or for student aid. Owning and operating health science centers require dozens and dozens of contracts with either insurance companies directly or what are called "network companies."

President Skorton said the way the Board of Regents has effectively exercised governance functions is to delegate many management responsibilities to the chief executive of each of the institutions, in this case, the President of the University of Iowa. For the agility and survival of independent enterprises, whether they are research, student aid, health care or otherwise, it is essential the leadership of the University continue to have delegated authority to deal with these types of matters. President Skorton added, "It is very important and gratifying that there is a resolution in front of the Board that reaffirms the authority and delegation of this management responsibility at the University of Iowa, through the sub-delegation to the University of Iowa Faculty Practice Plan and University of Iowa Hospitals and Clinics for the contracts that deal with health care reimbursements."

President Skorton stated his understanding of the resolution is that it is a vote of confidence by the Board in his ability to exercise this authority in a responsible fashion.

In closing, President Skorton felt this was the only way such very large, complex institutions could be managed and governed. He hoped that the Board would reiterate its confidence in this method of handling these hundreds of agreements.

Regent Downer asked for questions.

Regent Neil asked who authored the resolution. Regent Downer stated he was not aware of who the specific author was. President Skorton said the sum and substance of the resolution came from the University of Iowa and that he would take responsibility for the resolution.

Regent Neil asked why the meeting was being held between Christmas and New Year's on short notice, concerning what he felt was an extremely important item that affects the general population of the state of Iowa.

Regent Downer stated that there had been negotiations for a number of months regarding one of the payor contracts. Regent Arbisser, Chair of the Regents' University of Iowa Hospitals and Clinics Executive Board Committee, and President Skorton last month expressed concerns that because the matter did not appear to be progressing between the parties, that efforts be increased to reach resolution. However, he said, no understanding has been reached. There has been daily contact among participants in the negotiation process for a substantial length of time. Because a resolution was not likely to be reached by the contract's December 31, 2004, notice of termination deadline, this Board of Regents meeting was scheduled. The President Pro Tem and Regent Arbisser felt that the matter should go before the Board. It was hoped that resolution would have been achieved before the meeting.

Regent Neil asked who were the parties to the agreement. President Downer said the agreement was a third-party payor contract between various University of Iowa health care entities and Wellmark Blue Cross/Blue Shield.

Regent Neil asked how long Blue Cross/Blue Shield has had a payment contract with the University. President Skorton was not sure of the length of time. Donna Katen-Bahensky said the specific universal agreement currently being discussed was signed in 1998.

Regent Neil stated that although the current agreement has been in effect since 1998, Blue Cross/Blue Shield has had a relationship with the University of Iowa for 65 years.

President Skorton affirmed the long-term relationship between the University of Iowa and Wellmark Blue Cross/Blue Shield. Since fiscal year 1999, the University of Iowa has been the signatory to the universal contracts. Universal contract terms are automatically renewed each year, without an option for negotiation of the contract terms.

The contract terms give the University of Iowa, as contractor, two options: to continue to accept reimbursement or terminate the agreement. President Skorton described his intention as twofold:

- (1) to have closer contact with the Board of Regents, serving in the capacity of Board of Trustees of the University of Iowa Hospitals and Clinics and as the governance

oversight for the academic portion of the University, which includes the University of Iowa, Carver College of Medicine, and the Faculty Practice Plan; and

- (2) to continue the relationship with Wellmark in a fashion that's mutually beneficial to the partner on the private side, as well as the partner on the public side.

President Skorton feels his charge from the Board of Regents is an appropriate management and stewardship function. It is his judgment that negotiations and discussions needed to occur concerning the terms of this agreement. Both parties have been actively involved in these discussions for over six months. Because the University's ability to continue negotiations on the current contract would end at midnight on December 21, 2004, without a notice of terminating, this meeting was called.

Regent Neil referred to the hiring date of President Skorton and discussions regarding the financial viability of the Hospitals and Clinics and the commitments President Skorton made at that time, which Regent Neil believes have not been fulfilled. He referred specifically to the whole agreement between the Hospitals and Clinics and Faculty Practice Plan, and how the shared services are paid, which affects the cost of health care.

President Skorton stated that information had been delivered to the Chair of the UIHC Executive Board Committee. Regent Arbisser, the Committee Chair, stated the information had been transmitted several months previous and will be on the docket in one of the first two Committee meetings in 2005. The information had not been circulated to the rest of the Board, because additional questions had been asked of President Skorton.

Regent Neil commented on the ramifications of canceling the contract. He said he believes patients would be balance-billed for services rendered by the University of Iowa.

Regent Becker asked for clarification of how this would affect clients.

Regent Neil said that without a contract between Blue Cross/Blue Shield and the University of Iowa, the insurance company would reimburse the University of Iowa Hospitals and Clinics for the reasonable and customary fees they determine. Then the patient would be balance-billed. In addition, the insurance company most likely would pay directly to the patient. Therefore, the hospital would have to "chase down" the patient to collect. That was the subject of a bill in the Iowa Legislature two years ago, which was vetoed by the Governor. The case in point that was used in the Legislature at that time, Regent Neil said, was a patient who had surgery in a hospital in western Iowa. The insurance company reimbursed him what it felt was a reasonable and customary charge. He then bought a new truck. The hospital did not get payment for its services. Regent Neil feels Iowa citizens are going to have more hospital bills than they've gotten in the past from the University of Iowa, which leaves nothing to control the cost of health care.

Regent Neil described the Board of Regents' charge as follows: Iowa Code, Chapter 263(A) 6, gives the Board of Regents the responsibility to establish fees, increase fees and collect the rates of fees for services. He said he feels by taking up this resolution, the Regents are abdicating governance authority over the University by giving it carte blanche

to terminate or sign any contract. The Board should have confidence in the people hired to run these institutions. However, as he was told at the last Board meeting, the best negotiating individuals were not present during the negotiations. There was a change in the Board of Regents' representatives who interfaced with Wellmark. As Regent Neil understands it, Wellmark offered the University of Iowa Hospitals and Clinics a 60-day extension of this agreement, which UIHC turned down. He feels that it is time for all the contracts with insurance companies, including rates and fees, be established based on experience and the resources provided by the hospitals or the doctors.

He concluded by stating he would like to have an explanation of why the 60-day extension offer was not accepted, why the people of Iowa are put in jeopardy at this late date, and why the Regents can't get the data on the table and make intelligent decisions needed to affect the cost of health care.

Regent Becker commented that she was insured through her agency by Principal Financial Group with a different kind of agreement. Her agency is now covered by Blue Cross/Blue Shield. She found that what the agency had before was not quite as convenient but was not a barrier in terms of health care and her use of University Hospitals. She doesn't feel that the ramifications would be as bad as described. Because Regent Neil, while serving on the Wellmark Board, did not have access to all information about the impact of the Wellmark contract on the University of Iowa Hospitals and Clinics, she asked the Regents to keep their perspective and remember their roles.

Regent Neil stated that from 1978, he handled all the insurance for the Deere and Company workers in Waterloo, Iowa. He said he spent a great deal of time chasing down and trying to prove underpayments on the part of insurance companies to providers. He feels that as the balance bills occur with no contract in place, and the patient gets paid directly, rather than the hospital, the University of Iowa Hospitals and Clinics accounts receivable will naturally go up. He feels there is a problem with accounts receivable. He referred to the meeting in Ames where the new accounts receivable program was presented, showing the dollars which had been lost under the old program, which no one could quantify. He feels that when there is a 60-day notice on the table to extend the contract, it should be taken advantage of, to allow the Regents to get the data presented and make intelligent decisions. He feels this is in the best interest of the state of Iowa.

Regent Nieland asked to be recognized and wanted to ask several questions. If the Board adopts the resolution, will it set a precedent every time there is a contract dispute, that the Regents formally support the management of University of Iowa, the University of Northern Iowa, or other parts of the enterprise?

Regent Downer responded by saying that he made the determination this was a matter that should come before the Board. This was done in conjunction with Regent Arbisser, because of the large number of conflicts of interest that were present relative to the Board's size. It appeared this was a matter that would properly come before the Board, whereas another matter that did not have those potential issues attached to it would not come before the Board.

Regent Nieland stated that at her December briefing, President Skorton was emphatic that the Regents were being briefed as a courtesy and that the Board really had no authority. She is puzzled by the resolution. The larger question appears to be how the adoption of this resolution will affect the rest of the enterprise in terms of the Board's relationship with the Legislature and the Governor. She feels this resolution has frightening implications.

President Skorton was recognized. He said he shares many of the concerns that were raised, which is the reason he has diligently worked to bring about an agreement. He feels the Board of Regents hired him as the Executive of the University of Iowa to perform a management and stewardship function of public resources, and it is his personal judgment that the terms governing the relationship between the contracting parties be altered.

President Skorton said that agreements with outside entities are many times negotiated before and after terminations occur. He believes that for him to speak to the contract issues at a particular point in a long six- or eight-month negotiation would be unwise and unfair to both parties. He also stated that discussion concerning whether the negotiating team on either side was an appropriate team and did the right thing, is not appropriate for a public airing. As President of the University, he is responsible for the people hired at the University, and they have his full confidence in the job they were hired to do.

President Skorton addressed the scenario presented by Regent Neil about what might happen after a potential termination. If the University would give notice, it would be notice of intent to terminate, and the contract would actually be terminated December 31, 2005. The relationship would not be terminated as of December 31, 2004; rather, that is the last possible date to signal a termination for a year hence.

President Skorton stated it remains his intention to continue the University's long relationship with Wellmark. He has been an active participant in an administrative position in that relationship since 1979. However, his primary duty and loyalty are to the public entity represented by the University of Iowa.

President Skorton said he is also concerned about the political ramifications. He feels this is a business decision that occurs hundreds of times yearly at all three universities, not a political decision. What happens to patients throughout the state of Iowa will depend on the eventual culmination of the discussion. His understanding of the resolution is that it is in effect a vote of confidence of his management of the University of Iowa.

President Skorton stated that he did not feel that it was appropriate to discuss the details of the Wellmark contract issue in public at this meeting. He feels this is a re-affirmation of authority that has been formally delegated to the University President by the Board, just as the director of the University of Iowa Hospitals and Clinics reports to the Trustees of the Board, through President Skorton. He does not feel it is wise to over-emphasize risks that are real but that do not have to come to fruition.

Regent Arbisser asked for the floor. He said he and Regent Downer have been actively involved with this process for the past few months, along with a team at the University Hospitals and Faculty Practice Plan and President Skorton's team. During the process,

the teams have expressed their desire to maintain this long-term relationship, as long as it was mutually fruitful. Regent Arbisser feels there has been considerable effort by the parties to keep the discussions moving forward. He stated the meeting was not called because of a lack of attention on anyone's part to resolve differences.

He added that part of the reason to have this meeting is to continue to define roles, as many people have become involved in the discussions at so many levels. This definition would help redirect future discussions to exactly those who must be involved. He and Regent Downer feel that an extension, if there are no pre-negotiated requirements that go along with that, would be beneficial. Having an extension does not mean that there's going to be an agreement; it simply means everyone is interested in keeping the door open. However, the Wellmark offer for an extension contained requirements that put up stumbling blocks that make it very difficult for the two parties to even agree to continue discussions.

Regent Neil commented that with resource-based contracts, there is an exchange of data between the parties.

Regent Arbisser agreed and added that normally the data that go in this type of discussion is the Medicare data that were transmitted to Wellmark several months ago. He said part of the difficulty is the different expectations of what those data should include, but he didn't want to get into specifics. Regent Neil said it would seem that a 60-day "cooling-off period" – a contract extension – and the full exchange of data would make sense for the longevity of the relationship. He feels the parties are separating, and that will have large implications if an agreement is not reached. It will affect the 2006 budget and the cost of health care for employees at the University of Iowa or any organization that has Wellmark-covered employees.

Regent Neil stated that when he served on the Wellmark Board, he served with no remuneration. He said he would question Wellmark as hard as he questions anyone else. If he feels Wellmark is wrong, he would say so. When it comes to the cost of health care, it's been his passion to try to get a handle on it. He feels that everything that has been working well is "going out the window." He wants the data made available, to make the arguments, and to come to some kind of honest judgment as to what is right for Iowans.

Regent Becker mentioned that there had been some previous informal discussions about the UIHC's contract Wellmark that Regent Neil was not a part of due to his previous conflict that addressed some of these issues.

Regent Neil said he does not feel that the resolution before the Board is a conflict of interest, even if he was still on the Wellmark Board. He had discussed the situation with Attorney General Miller earlier in the afternoon and disagreed with Mr. Miller that there was a conflict of interest. He feels the Board is headed on a collision course by going down this road. He also feels the Board is not fulfilling its responsibilities under the Code of Iowa by this grant of authority, without more oversight, to President Skorton, the Hospitals or others. He feels the Board has a responsibility and should be very concerned about where

this is headed. He urged the Board to give this heavy consideration before passing judgment, when there is another option available.

Regent Becker asked if in a public session, such as was being held, whether the Board should negotiate business contracts with Wellmark representatives present.

Regent Neil said the Board should tell the University of Iowa to accept the 60-day extension, provide the data and see what the costs are.

Regent Becker spoke “only for herself” by saying she did not want to tie the hands of the University of Iowa for an extension. If there were no stipulations on the extension, it might be a different situation. It was her understanding that part of the discussion had to do with stipulations that Wellmark was putting on that extension, and that she was not personally aware of the details of the stipulations.

President Skorton stated this was a business decision, and to make it political would further polarize and increase the difficulty of subsequent discussions that are needed. He has stated to the Board his continuing intention of developing a method to have a longer term relationship with Wellmark. He has stated to the Board his intention of continuing to do the best he can as a steward of public funds in this situation. He does not intend to discuss details of negotiations that are ongoing between the parties in a public open session, just as he wouldn't discuss the hundreds of existing contracts. The University delivers to the Board detailed financial reports on research, academic and health care missions on a regular basis. He feels the University is one of the most well-managed, finely honed health care operations in the world, due to decades of outstanding leadership. President Skorton felt that forcing the discussion of small details of many months of discussions would have a polarizing effect on what has been characterized as a “dispute.” He asked the Regents to give him their vote of confidence.

Regent Neil stated that if his memory was correct, the bottom line of UIHC was 1.6%, which is barely in the black. That figure used to run around 5-6%.

President Skorton responded that the bottom line is one of the reasons he is concerned about the University's rate of reimbursement from all the contracted parties. He stated that it is his responsibility to make sure the University maximizes fair reimbursements from every source.

Regent Neil stated that was also his concern and feels that is why the Board should step back, get the data and improve the bottom line. He feels the resolution will separate people into corners. He feels the resolution goes too far and the Regents are giving up their rights and responsibilities. He feels the Board has a responsibility to see that this is a solvent institution. He feels the Board also has a duty to make sure that cost-effective health care is delivered at UIHC. He feels the data need to be made available, reviewed, and understood fully, to get to a fair reimbursement for the citizens of Iowa.

Regent Downer asked if there was further discussion on the resolution, as moved and seconded.

Regent Newlin asked for the floor. He stated his full confidence in Regent Downer, Regent Arbisser and President Skorton and is ready for the motion.

Regent Downer asked for further discussion.

Regent Nieland said that judging from the level of discord at the meeting, she feels the Board is making a mistake in making a decision at this time. She does not have confidence in the way things have moved, as the Regents are brought a little bit into the process of governance of the hospital. She felt very uncomfortable with any kind of resolution at the “ninth hour.” She feels it is probably not a good way to make public policy. She agreed with Regent Becker regarding not tying the Hospitals’ hands; however, she stated this was the first time she had heard that the resolution is a vote of confidence in President Skorton. She feels this is only one part of the enterprise, albeit a big part. She wanted to know how it would affect Iowa State and the University of Northern Iowa. She stated the Board has never talked about that issue among themselves, only in small groups. She feels the issue is too big to casually discuss at a 5 o’clock telephone meeting on December 29.

Regent Becker wondered if the Board should have pushed this to an earlier discussion. She said she believes the discussion was put off in the interest of the Hospitals’ trying to see if they could come to an agreement with Wellmark and their thinking that perhaps it might not be possible at the last regular meeting. She feels it puts the Board on the spot to make a decision before December 31. She understands the Board was trying to get a few more weeks of time, which was why the meeting is being held. She feels that to keep the option open for a contract down the line, given the December 31 deadline for a notice of termination, a decision does need to be made today.

Regent Neil stated the intent of his “No” vote was that it was a broad, sweeping resolution that negates the Board’s responsibility under the law. He feels that an alternative is available to the University and the Board, which is the 60-day extension.

Regent Downer commented that because of the various locations of the participants, he would like to request a roll call vote on the resolution and asked that Executive Director Nichols call the roll of the Board members.

Vote for or against the Resolution

Board of Regents Members	Aye	Nay
Regent Arbisser	X	
Regent Becker	X	
Regent Downer	X	
Regent Neil		X
Regent Newlin	X	
Regent Nieland		X
Regent Rokes	X	

The motion was adopted with five votes in favor and two votes opposed.

Regent Downer asked if there was further business to come before the meeting.

Regent Neil asked that all correspondence and all data between the University and the parties and all contracts that may or may not be entered into by the University be provided to him.

Regent Downer noted the request.

Regent Downer asked if there was further business to come before the meeting.

Regent Downer entertained the motion for adjournment.

Regent Arbisser moved Regent Becker seconded

It was moved and seconded that the meeting be adjourned. Those in favor signified by saying Aye. Adjournment passed unanimously.

The meeting was adjourned at 5:58 p.m.

Gregory S. Nichols
Executive Director

Resolution
of the
Board of Regents, State of Iowa
December 29, 2004

WHEREAS, the financing of health care has become an increasingly complex web of contracts and payment terms between providers and third party payors, requiring intensive management expertise; and

WHEREAS, the Board of Regents, State of Iowa has historically delegated to the management of the University of Iowa, the University of Iowa Hospitals and Clinics and the Carver College of Medicine Faculty Practice Plan the authority to negotiate and execute provider contracts with third party payors; and

WHEREAS, in the regular course of business it may become necessary to terminate provider contracts in accord with the terms of the contract (either to terminate the relationship with the payor or to establish new terms defining the relationship);

NOW THEREFORE, BE IT RESOLVED that the Board of Regents, State of Iowa reaffirms the authority of the management of the University of Iowa, the University of Iowa Hospitals and Clinics and the Carver College of Medicine Faculty Practice Plan to negotiate, execute or terminate contracts with third party payors, according to the terms of the contract; and

BE IT FURTHER RESOLVED that the Board specifically affirms its confidence in management's ability to exercise this authority in a responsible fashion.