

## MEMORANDUM

To: Health Connector Board of Directors  
Cc: Louis Gutierrez, Executive Director  
From: Edward DeAngelo, General Counsel  
Date: October 2, 2015  
Re: Vote on Health Connector Code of Ethics

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### BACKGROUND

Board members and Health Connector employees are all considered “state employees” who are subject to the requirements of the State Ethics Laws, General Laws chapter 268A. The state ethics laws prevent state employees from participating in matters in which they have a personal financial interest, or from otherwise having a conflict of interest between their personal concerns and their state business. State employees are educated about ethics law requirements by annually reviewing a summary of the conflict of interest law and receiving training biannually.

Federal regulations governing Exchanges require that Exchanges “have in place and make publicly available a set of guiding governance principles that include ethics [and] conflict of interest standards, accountability and transparency standards, and disclosure of financial interest.” See 45 C.F.R. 155.110(d)(1). A recent external audit of the Health Connector also recommended adoption of such a document. Accordingly we are now recommending that the Board adopt a code of ethics embodying the high ethical standards that we already maintain.

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### SUMMARY OF ETHICS CODE

The proposed ethics code governs potential conflicts of interest. The core principle is that a Board or staff member cannot participate in a matter on behalf of the Health Connector when that member has a personal financial interest at stake in the matter. The definition of a personal financial interest is derived from the state ethics law. It includes an interest of the individual member, or anyone in the member’s immediate family (including spouse, parents, children, siblings, or a spouse’s parents, children and siblings). Additionally, it includes a current or potential employer. This means that, if a Board or staff member is in the process of being considered for or negotiating a job with a new employer, the Board member cannot participate in matters involving that potential employer and the Health Connector.

Further, the code states that Board or staff members may not have a financial interest in a contract with the Health Connector. This restriction is consistent with the state ethics law as well.

The code contains a restriction on outside employment. This restriction states that a Board or staff member cannot be paid by anyone other than the Commonwealth in relation to a particular matter in which they have participated while serving the Health Connector. For instance, a Board member who votes to approve a contract between the Health Connector and a particular outside entity, such as an

insurance carrier, cannot then be paid by that outside entity to work on that particular contract. Similarly, a staff member who served on a procurement team that selected a particular vendor, or who managed a particular vendor's performance under a contract, cannot then be paid by that outside entity to work on that particular contract. This restriction continues beyond the end of the Board or staff member's service for the Health Connector. In other words, a Board member who voted to award a contract to a vendor in March and then leaves the Board in April may never work for the vendor on that particular contract. The restriction on outside employment does not mean that a Board member can never work for an entity or a carrier that does business with the Health Connector. Rather, it means that the Board member cannot work on the particular matter, such as a particular contract, that the Board member voted on while serving the Health Connector.

The one significant obligation created by the proposed code, over and above what already exists under state conflict of interest law, is a requirement that Board members make a statement annually about whether they have any personal financial interests that would give rise to such a conflict. It is anticipated that, in almost all cases, Board members will disclose that they have no such conflict, because if they did have a conflict, they had a duty under state ethics law to disclose the conflict when it arose. The requirement of an annual affirmative statement that there is a lack of conflict of interest is consistent with the federal regulations regarding disclosure for Board members.

Finally, this ethics code is not intended to supplant or override the state ethics law. Rather, it is a clear public statement of the ethical obligations by which we Board and staff members already abide. Any Board member with a question about state ethics law or about the application of the code to a particular situation should feel free, as always, to contact Health Connector legal counsel and/or to seek guidance from the State Ethics Commission.

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**BOARD RECOMMENDATION**

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We recommend adoption of the proposed code of ethics, as proposed by staff and attached to this memo.