Attendees: Louis Gutierrez, Marylou Sudders, Nancy Turnbull, Michael Chernew, Mark Gaunya, FayeRuth Fisher, Gary Anderson, Joseph Healy (who was sitting by designation on behalf of Executive Director for the Group Insurance Commission, Roberta Herman), and John Stephan (who was sitting by designation on behalf of Secretary of Administration and Finance Michael Heffernan). Rina Vertes and Lou Malzone were joining by telephone.

The meeting was called to order at 9:05.

I. Minutes: The minutes of the September 12, 2019 meeting were approved by roll call vote, John Stephan and Secretary Sudders abstained.

II. Executive Director’s Report: Mr. Gutierrez began the meeting by informing the Board that the Health Connector (CCA) had successfully completed the Open Enrollment Readiness Review (OERR) that the Center for Medicare and Medicaid Services (CMS) conducts annually to ensure Exchanges are prepared for Open Enrollment (OE). He noted that additional measures to prepare for OE are well underway and in the next week outreach events featuring the mayors in our target communities will begin. He stated that a significant portion of the day’s agenda would be focused on review of some of the regulatory underpinnings of the Health Connector that are in need of maintenance. He noted that there was a need to conform to current law, practice and real dollar values into a consistent framework for operations. He informed the Board that the proposed draft Health Connector Program regulation amendments are largely technical and would account for programs beyond ConnectorCare. He continued with a high-level summary of proposed draft Minimum Creditable Coverage regulation amendments. He stated that the
Customer Experience Project (CXP) implementation is well underway and that in addition to today’s agenda item, the Board will receive an update for each month, regardless of whether a Board meeting is held, until CXP completed. With no further updates, he thanked the Board for their guidance.

III. Proposed Amendments to Health Connector Program Regulations (VOTE): The PowerPoint presentation “Draft Connector Program Regulations Amendments” was presented by Marissa Woltmann and Andrew Egan. Ms. Woltmann began the presentation by providing background on why CCA is suggesting updates to the regulations, how the proposed draft amendments are broken up and the timeline CCA will be operating under. She stated that CCA’s programs rely on state and federal laws, paired with regulations and the agency’s operational policies and procedures to provide guidance.

Mr. Egan then provided a review of the current state of CCA’s program regulations, noting that they are largely modeled on the earlier program Commonwealth Care. He stated that the proposed draft amendments will consolidate the regulations and bring them into a single body of rules applicable to all programs, making the regulations more transparent for members. He stated that the proposed draft amendments are not intended to change operations or policies of CCA. He noted that some of the changes will be especially helpful in providing structure for the small business program, noting that recent changes in federal regulations have resulted in lack of operational detail in this space. He informed the Board that proposed draft amendments to the regulations will provide clarification around current ambiguity of effective dates of eligibility determinations and would provide a clear standard for hearing officers to operate under. Ms. Woltmann stated there is a proposed update to clarify and codify existing policies with respect to premium waivers. The update will reflect documenting existing policies, including the rule that only a portion of the premium that is equal to the minimum premium of an individual’s ConnectorCare plan type may be waived as part of a premium waiver, requiring individuals to pay the difference should they select a plan that has a premium greater than the lowest cost plan. The proposed draft regulation amendments, she continued, also include flexibility for CCA to make operational changes that will make the transfer of vendors easier and align all payment due dates to the 23rd of the month, regardless of whether the payment is for new coverage, ongoing coverage, or reinstated coverage. She stated that this alignment will make the reinstatement process easier for customers to understand and those assisting them to process.

In response to a question from Secretary Sudders, Mr. Egan noted that the last time the regulations were updated was in 2013 and that CCA is essentially catching up on overdue updates.

In response to a question from Mr. Gaunya regarding the proposed draft regulation amendments for small groups and greater clarity on what they will look like, Mr. Egan noted that the proposed draft regulation amendments will address issues such as required noticing and enrollment timelines. He continued to note that updates that are important to the operations of the small group platform that used to be addressed in federal regulations but no longer are, and therefore no clear sense of authority exists in this space. Ms. Turnbull
thanked CCA staff for their thoughtful review of the program regulations, noting that having clear and consistent regulations are a bedrock for the agency, and that it is critical to review regulations because of the many recent changes with respect to federal rules. Secretary Sudders agreed with Ms. Turnbull’s comments and added that regulations are needed to support the policy and operational work of CCA.

Mr. Egan then reviewed the proposed timeline, pointing out that there is a requirement to provide a small business impact statement, of which it is expected that there will be no impact and the statement will reflect that. In response to a question from Secretary Sudders, Mr. Egan stated that the Board would be provided with a summary of the comments received. Mr. Egan then responded to a question from Ms. Fisher regarding accessibility of the public hearing and public notice. With no additional questions, the Board voted unanimously to issue draft regulation amendments at 956 CMR 12.00.

IV. Proposed Amendments to Minimum Creditable Coverage (MCC) Regulations (VOTE): The PowerPoint presentation “Draft Minimum Creditable Coverage Regulations Amendments” was presented by Marissa Woltmann, Andrew Egan, Kayla Scire and Audrey Gasteier. Ms. Gasteier began the presentation by reminding the Board that MCC plays a critical role in the state’s health reform efforts and sets coverage standards embedded in the state’s individual mandate. She provided a brief overview of the narrow adjustments that are being proposed to the MCC regulations and outlined the areas of MCC regulations that CCA has focused on.

Ms. Scire noted that the updates are to ensure that regulations remain relevant, that they are enforceable and that they reflect market norms and the reality of the changing landscape, including the introduction of bronze plans and other plans that require particular cost sharing. Ms. Scire then provided a review of CCA’s role in defining and overseeing MCC standards, which over four million Massachusetts residents are subject to. She stated that the regulations ensure basic consumer protections and affordability but are not a substitute for Division of Insurance rules for the merged market. She continued with a review of the MCC compliance process, reminding the Board that the individual mandate’s coverage standards apply to individuals and not health insurance plans themselves. She reviewed the multiple pathways to MCC compliance, including the ability for those offering plans to self-certify and the requirement to provide 1099-HC documents annually to each subscriber. She noted that some plans are categorically compliant but that if a plan deviates then CCA has the authority to review a plan and make a determination regarding its status.

She then provided review of the three categories of the proposed draft regulation amendments, including the indexing of deductibles, as approved previously in 2013, and the authority for the Board of Directors to override or amend the indexing each year, the need to clarify standards for health arrangements established by religious organizations and technical and organizational updates.
In response to a question from Dr. Chernew regarding the Division of Insurance’s role in MCC compliance, Ms. Gasteier noted that the MCC requirement falls on an individual, not on a plan or issuer and therefore is within CCA’s domain. She elaborated that employers want to offer MCC compliant plans and that CCA has bronze plans that do not comply with MCC, noting two areas of discordance that CCA is looking to address through the regulations. Discussion regarding the role of CCA in MCC regulations continued and Secretary Sudders noted that it is important to be cognizant of the authority and impact that these regulations have on plans not purchased through CCA.

At 9:39AM Dr. Chernew temporarily assumed the role of Vice-Chair.

Ms. Woltmann then provided a detailed review of the proposed update to the MCC deductible limits. She noted that because deductibles have not risen with inflation, point of service (POS) cost-sharing has increased and has placed pressure on plan designs. She stated that there is tension between the deductible and cost-sharing, noting that if deductibles do not increase, other forms of member cost-sharing increase as a result.

Dr. Chernew commented that he would prefer to have co-pays rather than deductibles, as he believes deductibles are a bad feature of insurance, continuing that there are essentially three areas for cost-sharing: coinsurance, co-pays or the deductible. Ms. Woltmann agreed with his explanation that the review before the Board is not the Seal of Approval process, and that ultimately, we are considering standards for four million residents of the state and would like to offer flexibility in the types of plans residents could enroll in to satisfy the individual mandate. Ms. Woltmann continued with review of the balance between deductibles and POS cost-sharing noting that employees who have robust plans with higher deductibles could be subject to penalties even though the plans were within the general mix of costs. Mr. Gaunya commented on the intersection of MCC requirements with employer market plans, noting that large employers offering creditable coverage, but not meeting the deductible limits are facing penalties.

At 9:44AM Secretary Sudders resumed the role of Chair.

Ms. Woltmann provided review of the methodology that would be used to determine deductibles, noting that the same methodology serves to index other items such as out-of-pocket maximums. She informed the Board that in 2013 the Board of Directors approved this amendment to MCC regulations, and CCA has included a new provision giving the Board the authority to override any indexing they found to be unacceptable. In response to a question from Mr. Gaunya regarding indexing, Ms. Woltmann confirmed that the indexing is tied to national premium growth and so it may not reflect higher rates of growth in Massachusetts.

In response to a question from Dr. Chernew regarding the differences between the state MCC standards and federal Minimum Essential Coverage (MEC) standards, it was noted that if a person meets MCC standards then they would meet MEC requirements. MCC requirements include standards for core services beyond the required essential health
benefits (EHB) and components of it are applied to consumers beyond those in the market segments to which EHB applies.

In response to a question from Ms. Turnbull regarding the volume of people who have non-compliant employer sponsored insurance (ESI) in the last five or so years, Ms. Gasteier confirmed that CCA has not seen this as a significant problem.

Ms. Woltmann continued with review of expected impacts of indexing the deductible, with an expectation of an initial bump in deductible in the first year, followed by slower increases over time.

Mr. Egan then reviewed the proposed draft amendments to MCC regulations as they pertain to health arrangements established by religious organizations. He informed the Board that the prevalence of bad actors is increasing, citing the experience with Aliera. Mr. Gutierrez added that this is a very real concern, informing the Board that CCA was notified by a premier cancer institute that patients were coming in for treatment and discovering that the services needed would not be covered. In response to a question from Ms. Turnbull regarding Massachusetts regulations and bad actors, Mr. Egan stated that he is not familiar with how tough Massachusetts’s regulations are compared to other states’ and is not aware of states taking action to address bad actors at the individual mandate level; rather states’ Divisions of Insurance (DOI) typically would be pursuing these bad actors. Ms. Turnbull continued to note that these organizations are pernicious because they wrap themselves into the trust of consumers, and it’s difficult to identify them. Mr. Gaunya commented that he was pleased to see CCA addressing this, as this is a concern on the national level as well. He noted that we are fortunate in Massachusetts to have an engaged DOI Commissioner that takes action. Commissioner Anderson thanked leadership for their efforts and thanked his Deputy Commissioner Kevin Beagan for his involvement in a variety of areas, noting that there are real world impacts as a result of entities behaving in this way. He stated that it is important to understand plans before judging them, so this remains an on-going effort, but generally DOI is trying to stay out in front of these organizations.

Mr. Egan concluded that the proposed updates would retain space for legitimate arrangements to continue to operate, but entities that are operating falsely will no longer satisfy the requirements to meet MCC standards.

Ms. Scire concluded with a review of the technical and organizational recommendations. Secretary Sudders thanked CCA for the thoughtful restructuring and updating of the regulations and asked that there be a moment for questions and comments. Mr. Malzone noted that he generally is against raising deductibles, but he took time to recognize why this needs to be done and he feels that because he voted for these updates in 2013, it would be hard to vote against them at this time.

Ms. Turnbull commented that nobody likes higher deductibles but knows that if we don’t keep up with market standards then we penalize people with reasonable coverage. She
noted that there is a need to do a better job at controlling health care costs, but the proposed draft amendments to the regulations are sound public policy.

Mr. Egan then reviewed the timeline for the proposed draft regulations and the public hearing that will be occurring. In response to a question from Secretary Sudders he stated that there will be a four-week comment period for people to submit written comments. With no additional questions, the Board voted unanimously to issue draft regulation amendments at 956 CMR 5.00.

V. **Customer Experience Project Status Update:** The PowerPoint presentation “Customer Experience Project (CXP): Status Report” was presented by Vicki Coates, Michael Piantanida, and Jean Bernard. Ms. Coates began the presentation by reviewing the Gantt chart showing the progress and upcoming milestones for both the Contact Center Implementation and Enrollment and Premium Billing (EPB) implementation. She informed the Board that CCA holds weekly meetings with the Presidents of both the Contact Center vendor (Faneuil) and the EPB vendor (Softheon).

Mr. Piantanida reviewed of the EPB implementation that began in April, noting that steady progress has been made. He provided an overview of data conversions and activities that started in August and providing data as of late September 2019. In response to a question from Ms. Turnbull regarding the payment statistics provided, Mr. Gutierrez stated that it is good for the 95 percent that were matched. Mr. Piantanida confirmed that CCA is aiming for a 100 percent matching rate, but for where we are in the timeline that rates of matching are something to be pleased with. Mr. Piantanida continued to review the remainder of conversion rates prior to informing the Board of the activities ahead for October which include continued development and configuration in addition to logging into testing systems with Softheon.

Ms. Coates informed the Board that following their vote approving the recommendation of Faneuil as the new vendor, CCA began preparing for the kick-off meeting which occurred in early September. She reviewed stated that all items of the project were reviewed during the kick-off meeting and that CCA began baselining the project plan with Faneuil as they would need to match Softheon. She informed the Board of the need for Faneuil to build out two contact center sites and the progress that has been made. She informed the Board that NTT, the current Contact Center vendor, has been very helpful during this transition. She continued with a review of activities that are upcoming for the month of October, including the transferring of data from the current customer relations management system into the new system. In response to a question from Ms. Turnbull regarding the tight labor market’s impact on contact center staffing, Ms. Coates stated that while there is a tight labor market CCA will be monitoring staffing closely. Faneuil is known for keeping in contact with their previous employees and has historically been successful in completing their hiring requirements. Mr. Gutierrez added that Faneuil approaches staffing their call center differently from others, noting that they create career paths within the organization which helps to retain staff as opposed to churning out employees.
After Ms. Coates reviewed the progress of the Electronic Data Management Center (EDMC) for mailroom implementation. Mr. Piantanida informed the Board of the risks that are being closely managed, noting that CCA is meeting regularly with NTT leadership and staff. He informed the Board of the need to achieve compliance with the CMS footprint and that CCA is working directly with CMS to obtain the required approval. In response to a question from Ms. Turnbull, Mr. Piantanida elaborated on the need for CMS to grant approval to any Exchange in order to connect with them, which is necessary to conduct all operations of the Exchange. In response to follow up questions regarding the compliance timeline, it was noted that this is a largely technical matter and while CCA is not aware of other state’s that have been in procurement and required CMS approval, the project plan has factored in this requirement.

With no additional questions, Ms. Bernard provided a review of how CCA members will be notified of the member facing changes accompanying CXP. She informed they Board that there are already communications informing members of changes associated with CXP as part of a larger story that includes member facing enhancements such as document upload. In response to a question from Ms. Turnbull regarding member feedback, Ms. Bernard noted that a recent email poll found 85 percent of members were excited about the upcoming changes. She continued with review of a timeline of notices set to begin in April, noting that members will begin to see actual changes in June. She shared the design of new draft invoices and previous informational notices with the Board. Mr. Gutierrez paused for a moment to inform the Board that though this was Ms. Bernard’s first time before the Board, she has won national awards for her consumer communications.

Ms. Bernard continued with the approach and considerations that are factored into the language of the notices. In response to a question from Ms. Fisher, Ms. Bernard responded that the notices are automatically generated in English and Spanish, with tag lines being in a few other languages and accompanied by a babble sheet that has 18 translated languages. She continued with a review of the noticing timeline and stated that a prototype will be tested to inform a final notice. In response to a question from Ms. Turnbull, Ms. Bernard noted that CCA is always looking to share and improve training materials.

VI. Federal Policy Update: The Presentation “Federal Policy Update” was presented by Ms. Gasteier. Ms. Gasteier began the presentation with an overview of the items that would be included as part of the federal policy update. She first reviewed the Health Reimbursement Arrangement (HRA) rule that was finalized in June. She stated that CCA was working with the Division of Insurance (DOI) who has held a number of listening sessions on the rule, noting Deputy Commissioner Kevin Began’s amazing work, relative to stakeholder feedback and clear messaging on the rule. She continued to inform the Board that CCA is partnering with an outside technical assistance group and other state Exchanges to determine the impact of the rule and how to incorporate functionality on a limited timeline. She noted that with the effective date of the HRA rule being so soon, CCA is looking into how it can provide the right tools and information to consumers. In response to a question from Ms. Turnbull regarding the interest from consumers in an HRA, Ms. Gasteier noted that it is difficult to predict, but there are federal estimations that it could be a million individuals over several years at a national level. In response to a comment from Mr.
Gaunya regarding the complexity of HRAs, Ms. Gasteier stated that CCA would be very interested in working with him on how we can serve consumers better.

Ms. Gasteier continued with a reminder of the Public Charge rule that was scheduled to take effect in the coming days, though there are a number of lawsuits pending. In response to a question from Dr. Chernew, Ms. Gasteier stated that it is difficult to speculate the actual impact of the rule and this is why CCA is partnering with external groups to educate and provide appropriate resources to concerned members. She informed the Board of the resources available to members through Health Care for All and other non-government organizations, and stated that there are a number of adjacent federal policies with respect to non-citizen health care requirements.

In response to a question from Ms. Turnbull regarding the lack of clarity for states with shared Medicaid and Exchange eligibility systems, Mr. Gutierrez responded that there had been a request for additional guidance on this, but CMS has stated that this is a rule from the Department of Homeland Security (DHS) and will need to be addressed through DHS.

Ms. Gasteier then noted that CCA is still waiting for a decision on the Texas v. US lawsuit on the Affordable Care Act and that the timing of a decision right before Open Enrollment may be especially difficult. She noted that depending on what the ruling ultimately is, the implications can be profound because of the Exchange’s dependence on federal subsidies, stating that it is unclear if a stay would be issued and the case would proceed to the Supreme Court. She informed the Board that CCA has been partnering with external groups to model the potential impacts.

She stated that CCA is anticipating a number of final federal rules, including the program integrity rule, the non-discrimination ACA Section 1557 rule and the Notice of Benefit and Payment Parameters (NBPP), as CCA is particularly interested in monitoring whether the federal government is contemplating any restrictions to “silver loading” and auto-reenrollment that may be included in NBPP.

Ms. Turnbull applauded CCA for their efforts to protect and preserve while focusing on the future, something that she noted must be incredibly difficult.

Secretary Sudders commented that the Governor has been very clear on the importance of access and affordability. She stated that a lot of time is spent reading what is coming out of the federal Office of Management and Budget (OMB) and how these rules may impact Massachusetts, but there is an effort to not have anticipatory anxiety and be fact driven in the state’s responses. She informed the Board of the letter the Governor submitted in support of Attorney General Maura Healy regarding the Purdue Pharma lawsuit and the impact that opioids have had on the Commonwealth and why settling would be wrong. She continued to note that MassHealth and CCA have issued joint communications to direct members to the appropriate resources relative to immigration status and health coverage, stating that it is the agency’s job to assist people in accessing coverage, and direct people to the right places to receive expert information.
Mr. Gaunya stated that the National Association of Health Underwriters (NAHU) has an active role in meeting with legislators and actively pursuing policies that are consistent with the view of the Administration.

In conclusion, Ms. Fisher commented on the downstream impacts of a rule like public charge, questioning what will become of community health centers and community providers if people who access benefits through these providers are not seeking services as they used to.

Following this thoughtful discussion, the Board motioned and unanimously voted through roll call vote to adjourn at 10:47AM.

Respectfully submitted,

Erin E. Ryan