



NORTH BROWARD HOSPITAL DISTRICT  
BOARD OF COMMISSIONERS  
**HUMAN RESOURCE MEETING**  
1700 NW 49<sup>th</sup> Street, Ste. 150  
Fort Lauderdale, FL  
APRIL 24, 2018 | 8:30 AM

**\*MINUTES**

**MEETING CALLED TO ORDER:** 8:41 am

**BOARD MEMBERS:**

- √ Commissioner Ure
- √ Commissioner Wellins

**PUBLIC COMMENTS:** No public comments at this meeting

**APPROVAL OF MINUTES:** No minutes to approve at this meeting

**TOPIC OF DISCUSSION:**

1. **INCENTIVE COMPENSATION PLAN:** FISCAL YEAR 2018 AND FISCAL YEAR 2019 & BEYOND

- **TIER-TWO EMPLOYEES**

Commissioner Wellins stated that he mentioned in last week's Board Meeting that the Incentive Compensation plan needed to be reviewed and ensure it accurately tie incentive compensation to performance metrics. The performance metrics need to take into account Compliance as an organization and as it relates to the (CIA) Corporate Integrity Agreement, patient care, quality outcomes and financial performance. Over time the single most important goal is to reduce the burden over tax payers.

Commissioner Wellins continued that in the February or March meeting, the concept of an Executive Compensation Plan was approved covering two years. The first year is the interim year and the second going forward will be a longer term plan. There needs to be an actual policy put to paper that includes who the eligible employees are, what the metrics will be, what the payment schedule will be and how to properly tie compensation to performance.

Tier-One is the Senior Management Team and Tier-Two is comprised of 268 individuals, who report to the CEO and Senior Leadership Team, as well as to all the Management within the hospital facilities. This group run the day-to-day activities at the facilities. For the most part they are not certifying employees, however the CEOs of the hospitals are. The CEO, CFO, COO and the Chief Human Resource Officer of each hospital are certifying employees under the Corporate Integrity Agreement.

Commissioner Wellins believes that the Tier-Two eligibility should be discussed first, as the accountability and level of responsibility is different from Tier-One.

Mr. Santorio stated that the report he submitted delineates the difference between the Tier-One and Tier-Two groups, as is industry standard. He also touched on how At Risk Compensation Plans are administered in the industry, which are inclusive of hospitals and systems that are under CIAs. In regards to eligibility, a Tier-Two employee is a manager level and above.

Mr. Santorio reported that in 2014, Sullivan Cotter & Associates conducted an Executive Compensation Survey, that stated 40% of Managers were eligible. In 2017 that figure increased to 70%, symbolizing that the new industry standard is to include Management level employees. At Broward Health, the Management level holds responsibilities that are consistent with Director level positions in other organizations, therefore they have been included in the Management Incentive Compensation Plan.

Commissioner Ure stated that the comparison between Broward Health's compensation pool of funds and other organizations are not the same. Private companies have stock options, restricted stock, and perhaps matches that Broward Health does not offer.

Discussion occurred regarding how to calculate eligibility for the Executive Compensation Plan in terms of length of employment. It was determined to calculate the eligibility and length of service minimum of six full calendar months of continuous employment and the Bonus or Incentive Compensation paid would be a pro-rata payment for each additional full calendar month served.

Exclusion criteria was then discussed. An exclusion from eligibility would be being written up on a disciplinary issue within the year. In addition, Commissioner Wellins stated that in the event that a Tier-Two employee already has Incentive Performance included in their original contract, they would be excluded from the new Incentive Plan as they could not be eligible for both.

Mr. Santorio reported that he has compiled recent data from six different benefit groups and one industry leader firm in health care that reviewed health care organizations in totality, as well as non-profit and safety nets. All were comparable within Broward Health's size, scope and complexity. They discuss industry standard and best practice.

Commissioner Ure wanted to mention that an incentive compensation plan already exists for Broward Health prior to now. The plan has just not been funded or distributed to any employees since fiscal year 2015. He also stated that the nursing staff, who covers a very large portion of Broward Health's

employees, had double the standard industry turnover and that the cost to the organization is exponentially greater than the cost of compensating people fairly.

Commissioner Wellins stated that as a caveat on the second half payment to the Tier-Two group, he would want two requirements met. First that Audit confirm the audited financials in October and second that the Third Annual Reporting Period would have to be completed and the Third Annual Report be submitted to the OIG on time. It sends a message that Compliance is important for the organization.

Commissioner Ure stated that he had no issues with tying the second payment for the Tier-Two group with the submission of the OIG report. He believes compliance with the CIA is at an organizational level, not just with the people that certify. He stated that he fails to see where setting a policy and standard that reflects that would be a problem. He believes the filing date and the due date to release the second amount of funds are practically synchronized anyway.

Mr. Santorio stated that the OIG emphasizes that the compliance tone is set from the top, so much so that they even go so far as to put required certifications from VP levels and above in the CIAs, including the recent ones. The issue he has is that the payment is being treated as if they were fat bonuses when in truth it was decided that instead of offering a full salary, best practice be used in offering At Risk Pay for performance, which reduced the base salaries. Our Tier-One based salaries are 19% less than the 25<sup>th</sup> percentile. The lower level managers and top tier employees are already significantly undercompensated. To consider tying payment to something not traditionally tied to incentive compensations and to a group that may not have any influence to the report seems unfair. Mr. Santorio feels obligated to point these issues out.

Commissioner Wellins stated that if the Financials are submitted and the Audit is failed, the entire organization is held accountable to something that some have no control over. He believes that the vast majority of employees were not hired on the expectation of getting the 17.5% gain share this year. Most of the people have probably been in place for a long time and haven't received their bonus in three and half years. He further mentioned that the Board, who are not being paid at all and who are strictly volunteers, are also being held accountable to the CIA, the OIG, the Tax Payers, the Governor and the 10,000 Employees and their families. The Board's main responsibility is that the Employees not lose their jobs and are not in violation of the CIA. A violation could mean that Medicare and Medicaid funding could be lost, which would then shut the organization down.

Mr. Santorio warned that Broward Health would be the first health organization in the history of CIAs to tie incentive compensation to compliance. At risk compensation should be different than employee performance.

Commissioner Wellins clarified that only this year would be affected as the future years would be based on a Balanced Score Card. The annual certification is only for 2017.

Mr. Hartfield asked for clarification from the Committee in that all they are addressing is the submission of the report, as he does not want to tie compensation to a clean certification. Commissioner Wellins confirmed this.

Mr. Hartfield reported that unless there is another Act of God, such as there was with Hurricane Irma, the report will be filed on time. November 1<sup>st</sup> is a hard deadline and the report will be submitted for better or worse.

**MOTION:**

Commissioner Ure made a motion that the HR Committee recommend to the Board to add additional criteria to be met for the second payment under the 2018 Fiscal Year Incentive Compensation Plan, to include the submission of the annual report required under the CIA in order to release the balance of the Incentive Compensation Payment for the Tier-Two employees. Seconded by Commissioner Wellins.

**Motion carried unanimously.**

**MOTION:**

Commissioner Ure made a motion that eligibility have the length of service minimum of six full calendar months of continuous employment and the Bonus or Incentive Compensation paid would be a pro-rata payment for each additional full calendar month served.

Commissioner Wellins moved to amend the motion, in that the payment is subject to the employee being eligible due to length of service, continuous employment for six months and a day or longer, any full calendar month beyond six months and a day would be paid on a prorated basis. Eligibility would also be subject to any existing policy Broward Health may have related to exemptions. The employee must be employed at the time of the payment being made and have had no disciplinary issues [to the extent that it's not otherwise covered in another policy]. This recommendation would be placed on the Discussion Agenda. Amendment accepted and seconded by Commissioner Ure.

**Motion carried unanimously.**

- **TIER-ONE EMPLOYEES**

Based on documentation provided by staff, Commissioner Wellins defined the Tier-One employees as 33 certifying employees with higher responsibilities, many which report to the Board or CEO. He believes they should be held to a stricter standard as they have ultimate responsibility for operating. Commissioner Wellins believes the payments should be slightly modified for Tier-One. He proposed that a quarter of the payment be paid out in July 2018 when the Financials are submitted. The second quarter would be paid when Mr. Hartfield, Chief Compliance Officer, submits the Third Annual Report, and the Audited Financials come in. The third quarter would be paid in the first quarter of the New Year when a response is received from the OIG reporting there are no issues with the submission related to current operations. The last quarter would be paid at the end of July 2019 when the Financials confirm Broward Health has had a second year of improvement.

Mr. Goldsmith established that the report in July of 2019 will actually be reporting the prior year as July 1<sup>st</sup> of 2018 commences that new fiscal year.

Commissioner Ure proposed that the Tier-One employees not get a 50% payment in July and instead receive full payment for the 2018 upon submission of the Annual Report and Audited Financials at the end of October or beginning of November.

Mr. Goldsmith inquired from the Committee if they are proposing that Broward Health tie compensation to the CIA Report, as he believes Mr. Hartfield just stated that he was not in favor of that.

Mr. Barrett explained that the way it works is that you could still be in compliance with the CIA and Federal Laws and Regulations, but the Board may have an exception. She further explained that it is not necessarily anything that would result in something negative, although it could. Ms. Barrett wants to make certain that the payment is not being tied to a clean exception. She further explained that employees have to be able to be open and honest and write exceptions.

Mr. Hartfield stated that the timing of when the OIG replies is not in his control. He further explained that once he submits his report, he cannot guarantee that the Monitor will respond within 60 days. He also does not want to tie the payment to employees turning in clean exceptions.

Commissioner Ure reiterated his earlier proposal that the Tier-One employees not get a 50% payment in July and instead receive full payment for the 2018 Incentive Compensation Plan be made upon submission of the Annual Report and Audited Financials at the end of October or beginning of November. He further proposed that if there is some issue that no one could possibly foresee at the moment, it should impact the following year's incentive compensation as nine months of the New Year will already have passed.

Commissioner Wellins stated that it's logical that the submission may not be a clean one as those are issues that are already known. The Monitor would need to accept it and hopefully not come back in February or March to report that Broward Health is out of compliance and receiving no Medicare or Medicaid funding. He is concerned that at that point, everyone would have already been compensated and there be no way to claw back from a compliance standpoint. Commissioner Wellins believes that the single biggest issue that the Tier-One employees are facing is the responsibility to comply with the CIA at the current time.

Mr. Santorio stated that the danger in tying the compensation to the report is that the reason the OIG does not recommend it is because the attestations alone are punishable by prison time. Tying compensation to the report incentivizes people not to report issues so that the CIA pass.

Commissioner Wellins stated they are only talking about this year. He wants to be sure that what is submitted is accurate, transparent and within standards Broward Health has and holds itself to. Commissioner Wellins stated that there will be exceptions and he is fine with it. His only concern is if the Monitor comes back and we find out that we did not include issues we should have.

Commissioner Ure stated that the problem he has is that when you're affectively dealing with the incentive compensation by holding the organization accountable on an annual basis and tying any incentive compensation to the OIG Monitors acceptance, approval, or enclosure, it would discourage full disclosure and transparency within the organization.

Commissioner Wellins stated that the above mentioned is why he wants outside advice as he is not a lawyer or a benefits consultant and this is not what he does for a living. To move forward, Commissioner Wellins would need additional counseling and understanding. He would like someone retained to speak to the Committee, to layout the framework on what's appropriate from a Benefits side and what can and cannot be done from a Legal side. He stated that he does not want to jeopardize the ability to have openness and compliance, however, he does not want to do anything that isn't going to specifically hold the Management Team accountable to doing what they say they are going to do. It is not that they won't, but if later something is written, he wants the ability to back up the decision by proving here's what we

did, he are the metrics, here is how we held everyone accountable and here is how we spent taxpayer money, without anyone questioning it.

Commissioner Ure stated that you are never going to receive transparent, objective or clear reporting from the press. In his opinion, the Board could be solid stewards and meet fiduciary obligations and none of the obligations from any standpoint involve the approval of the Sun sentinel. Ultimately he is very concerned that they not put in place any reason or obstacle that would hamper the full disclosure and transparency of the organization from any level, being Tier-One, Tier-Two or any Employee. Commissioner Ure further stated that if this organization “screws up” and this come back at any point in the future, it’s going to be a major problem and they will not be able to claw back forever with these types of issues. What will unfortunately happen is what has already happened, which is no payment of any incentive for the last three full fiscal years. Commissioner Ure stated that although a reduction in public support is a very significant goal of his, the number one priority is to provide a quality health care system to the community and the people that need it the most. Commissioner Ure agrees that having some outside independent perspective to help assist in crafting these types of macro policy issues is essential.

Ms. Capasso stated that Broward Health is already ten months into the fiscal year and she does not want anyone to lose sight of that. She agreed that Mr. Nyamora, Mr. Drakeford and herself could find a Benefits Consultant to help create something the Committee would feel comfortable with that will state that Tier-One Employees will be held to a higher standard.

Commissioner Wellins stated that his intention is that at the May 15<sup>th</sup> Human Resource Committee Meeting, two consultants come in to offer advice, one (1) Legal and (1) Benefits. If agreed upon at the Committee level, a recommendation to the May 30<sup>th</sup> Board Meeting could take place.

Mr. Santorio stated that an outside expert could be brought in, however that the information is literally public and on the internet. It includes every public and private market profile, every hospital, every safety net, what the revenues are, what the complexities are, what the industry average is, which of the top fourteen out of twelve thousand indicators are measured in a balanced scorecard and why they are consistent across the system, when compliance is included and when it is not. He feels bringing in a consultant is a waste of money. Mr. Santorio clarified that he is not opposed to bringing in outside consultants, however he feels they should be brought in to review specific items that are being presented, such as compliance requirements with the CIA and the plan the Management Team has developed because that would be \$20k versus \$200k.

Commissioner Wellins clarified that a consultant will not be creating the metrics but providing guidance on the metrics the Human resource Committee discusses and whether the percentage weights are appropriate.

Commissioner Wellins clarified that he wants an outside benefits consultant to come in and look at the plan as staff has developed it to help us understand are these the metrics that are important to our organization. He doesn’t believe that we can do this 100% internally, as he believes it needs to have a measure of independence to say ok here is what you presented, here is what we think is appropriate and let’s get to a meeting of the minds. Commissioner Wellins would like the first piece to be -how to deal with Tier-One employees for the current year. The second piece will be -looking at this incentive compensation plan going forward.

Commissioner Wellins stated that at the May 15<sup>th</sup> Committee Meeting, the Agenda item will be Fiscal Year 2018 Tier-One and Fiscal Year 2019 and Beyond. Mr. Santorio and Mr. Nyamora are to find an outside consultant for benefits. Commissioner Wellins further stated that General Counsel has already received authority from the Board to hire a Labor Counsel.

Commissioner Ure interjected that he does not believe the Board needs a Legal Consultant until after the Plan is ready to be drafted.

Commissioner Wellins clarified that the person should be identified in the event that they are needed. Once the final document is drafted he wants it to be reviewed by the legal consultant.

## **2. BOARD DESIGNEE:**

Ms. Capasso explained that the Board Designee is usually involved with the new hospital CEOs and that they are assigned to speak about Broward Health as an organization.

Ms. Barrett stated that according to the Bylaws, the Human Resource Committee shall designate a member to participate in the interview or hiring process.

### **MOTION:**

Commissioner Ure motioned to make Commissioner Wellins the New Board Designee from the HR Committee, seconded by Commissioner Wellins.

**Motion carried unanimously.**

## **3. DISCUSSION ON EMPLOYMENT CONTRACT PROCESS:**

Commissioner Wellins stated that after reflecting on how the contract process went in regards to his experience with the CEO contract, perhaps there is some improvement that should be considered. He would like to review what the process is and decide if the Board would want to see more or less added to the process. This would be related to Board reports, Board hires and Senior Leadership/Tier-One Employees to the extent that the Board needs to approve them. Commissioner Wellins clarified that he is not saying that the Board needs to get involved in the negotiation for the CEO of a hospital, he only wants to understand the process from interview, to negotiation, to preparing a document, to execution, and approval. He believes the contracts should be reviewed for form and functionality so that they are all similar across the District.

It is very difficult as a small Board of only four members who cannot speak to each other beyond the meetings or share what one may know or not know in regards to a particular hire or negotiation. If the Board were to hire someone from the outside, an understanding of terms, form or benefits of a contract would not be known. Commissioner Wellins believes it should be standardized. He would like to ask the Chair of the Board to schedule a Special Meeting in which they would have Mr. Nyamora and whoever else is involved in hiring walk through the process, to make sure the process is properly fit and makes sense.

Commissioner Wellins received a letter from Governor Scott, who raised concerns on many issues in regards to there being full transparency and understanding on the cost of hiring and where the money is being spent as a District. It is Commissioner Wellins' intention to ask that the Chair schedule a Special Board Meeting to understand all of the different contracts that the Executive Leadership have and make sure they are all consistent from an ongoing basis.

Commissioner Ure stated that there are certain specific people hired by the Board that report to the Board. Beyond those people there is a CEO for a reason and the CEO needs to be able to manage the organization. How he or she manages the organization is accountable to the Board. In addition, Commissioner Ure mentioned that the Board Designee is involved to specific interviewing and involvement on the front end of hiring certain positions.

Ms. Barrett reported that the Board Designee is involved in the process for the four CEOs at the hospitals and the CMO, COO and CFO of the System.

Mr. Santorio further explained that the Board ratifies the four CEOs of the different hospitals and the system's CMO, COO and CFO. The Board is responsible through the delegated authority of one of the Board Members in negotiating, executing, and then ratifying the contracts for the System CEO or anyone who reports to the Board.

Ms. Barrett stated that the Board may know what is within the contracts of non-Board reports, but are not really involved in the operations of looking at the COO or CFO contracts. The Chief Compliance Officer and Chief Internal Auditor also report to the Board. When the permanent Chief Internal Auditor position is filled, the Board will choose a Designee to work on the contract with that individual and then bring it to the Board for approval.

Commissioner Wellins proposed the following questions:

- What is Broward Health's contract process...step one, step two, step three?
- What are the broad generic terms for a non-board report from certain positions, such as the CEO of a hospital and CMO?
- What is the standard contract used for those type of positions?
- Do they all have the same contract? Commissioner Wellins clarified that he was not talking about compensation.
- Are details in their contracts the same, such as responsibilities, termination clauses, severability?

Commissioner Wellins clarified that he has no anticipation of getting involved in the negotiation of the contracts for such positions, however as a Board Member, he feels there should be a general understanding of the process the CEO would use to hire these positions. At the same time, in regards to Board reports, he wants to know the following:

- Who negotiates contracts?
- How are they negotiated back and forth?
- What is in the document if it is non-standard?
- What is the general process in Board reports?
- How is the Board briefed individually on a Board report?

Commissioner Wellins believes it's important that each person receive the same information if they are being asked to make a decision. In addition, he would like to know more about how the public is notified that a contract is going to be voted on? This is all something that should be standardized moving forward. Commissioner Wellins is asking for a review of the process and an establishment of a set of principles to be adopted as an organization.

Mr. Nyamora stated that Commissioner's request is unprecedented because everyone's individual situation is different from a recruiting standpoint. To suggest that there be a standard way of dealing with every recruitment would not be effective for the HR Department in securing the best talent.

Commissioner Wellins is not suggesting in becoming involved in any individual contract. He is more focused on the general process, from recruit to hire and does not want to get involved in operations.

Ms. Capasso stated that the Board should have an understanding and that she could have Mr. Nyamora put together a Flow Chart illustrating to the Board certain criteria and what patterns are followed when certain situations occur within filling positions.

Commissioner Wellins said a Simple Flow Chart is exactly what he is requesting.

Commissioner Ure stressed that anyone who is going to consider at any point in the future being CEO of this organization is going to look back at this Board as a very significant element of their decision making process. He also stressed that the Board not artificially tie the hands, or otherwise become too engaged on how certain positions are determined, as it could make it very difficult in attracting and retaining the best people. As it relates to process, he is fine with it so long as it is related to Board reports and other positions in which the Board Designee would get involved.

Commissioner Wellins stated that he does not want to tie the hands of the CEO, he simply wants to understand the processes through a Flow Chart. He does not want to in any way get into operations. He wants to fulfill his obligations as a Board member. Discussion ensued regarding who reports to the Board.

Ms. Barrett stated that the Bylaws need to be worked on in general and that at that point, the Board may decide to modify the Bylaws so that certain positions, such as the Chief Compliance Officer and/or Internal Audit Officer continue to report to the Board past the completion of the CIA permanently.

Commissioner Wellins stated that he wants to see what the community would like to see as well as the Governor.

**MOTION:**

Commissioner Wellins made a motion that the HR Committee recommend to the Chair that either a Special Board Meeting is scheduled or Regular Board Meeting is scheduled to review the employment contract process that include Board Reports, as well as a general understanding of the Flow Chart of non-Board reports and contracts that fall under the CEO's preview, seconded by Commissioner Ure.

**Motion carried unanimously.**

**Meeting Adjournment:**

**MOTION:**

Commissioner Wellins motioned to adjourn the meeting, seconded by Commissioner Ure.

**Motion carried unanimously.**

Meeting was adjourned at 10:56 am

**Authentication of Minutes:** Patricia Alfaro, Special Assistant to the Executive Office

\*Audiotape available upon request.