



ADVOCACY & BENEFITS COUNSELING FOR HEALTH

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MEMORANDUM*

To: Board Members of Wisconsin United for Health Foundation

From: **ABC for Health** Contact: Bobby Peterson, Public Interest Lawyer
Wisconsin Citizen Action Contact: Darcy Haber, Health Care Campaign Director

Re: **How MCW and UW Medical School Plans for BC/BS Conversion Funds violated the Insurance Commissioner's Order**

Date: June 24, 2003

* Revised

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Introductory Comments

The proceeds from the conversion of Blue Cross Blue Shield (BCBS) to a for-profit corporation create a once in a lifetime opportunity to transform the public health landscape in Wisconsin. Through the unprecedented allocation of over 600 million dollars of public capital, Wisconsin's medical schools were trusted to take a leadership role to serve the public health needs of the people of Wisconsin. And given that our nation's health care system is collapsing around us, this opportunity couldn't have come at a better time.

Sadly, the self-serving plans developed by the schools have forsaken Wisconsin's progressive and innovative traditions and have violated the rules and intent for the BCBS conversion funds set forth by Order of the Insurance Commissioner. The schools have developed a series of vague and self-serving proposals that supplant funds that are or may be available from a wide variety of other sources. In fact, the plans bear so little relationship to actual need, that when the schools found out two weeks ago that the amount of money in question was double what the analysts were expecting, they did not change one aspect of their respective plans. In behaving like a bottomless pit, the schools have confused a mission of serving the needs of the people of Wisconsin and serving the needs of the schools as prioritized by the Deans Farrell and Bolger. Specifically, the medical schools have ignored or deliberately disregarded core tenets in the Insurance Commissioner's Order designed to protect and preserve this public resource.

These core tenets – the saliency of the original purpose of Blue Cross Blue Shield, where these funds came from, and the fact that the endowment is essentially public capital – have been lost sight of throughout the conversion process. The Commissioner's Order notes that the original mission of Blue Cross Blue Shield as created by the Wisconsin Legislature in 1939. BCBS was incorporated as a non-profit insurance corporation "to ease the burden of payment for hospital services, particularly in the low income groups." (Wis. Stats. 182.032 (1939) as quoted in Insurance Commissioner's Order, 4). Additionally, in 2001, the Commissioner wrote, "the conversion funds are best viewed as public capital charged with a particular purpose." (ICO, 15).



The fact that the schools have ignored the core historical tenets and original charitable mission of Blue Cross is underscored by Dean Farrel and Bolger's continual references to the funds as a "gift" or grant given directly to the schools themselves. As stated in the Medical College of Wisconsin plan, "MCW . . . became the beneficiary of a gift of the value of Blue Cross & Blue Shield Unity Wisconsin...MCW and UWMS were designated as beneficiaries of the new foundation" (MCW plan, p. 2). Governor Doyle recently stepped in the path of Dean Farrell's singular drive to misappropriate these scarce public dollars to construct a research complex that Farrell ultimately conceded could be funded elsewhere. These statements and actions arrogantly contradict the Insurance Commissioner's definition of the funds as "public capital charged with a particular purpose."

The schools' plans must be rejected by WUHF and returned to the schools for redrafting to not only reflect the original values of Blue Cross but also to fully comply with the Commissioner's Order.

ORDERED: THE PURPOSE OF THE CONVERSION FUNDS IS TO PROMOTE PUBLIC HEALTH INITIATIVES THAT WILL GENERALLY BENEFIT THE WISCONSIN POPULATION. (ICO, 9.)

The Commissioner's Order clarifies that both the 65% research and the 35% education and outreach portions of the conversion funds must be used for "public health" as defined in the Order. (ICO, 9). As used in the Commissioner's Order, "public health" is defined as "population health focused on the broader determinants of health in communities, such as prevention efforts to promote healthy life styles for women, children and families; disease prevention and control; and control of environmental agents that negatively impact health" (Commissioner's Order, p. 29).

UWMS AND MCW VIOLATIONS:

Both schools have ignored this requirement altogether as it pertains to the 65% research portion. Both school's plans presume that any medical research and education they engage in is a public health initiative that will generally benefit the Wisconsin population as long as there is some attempt to translate that research into practice. However, the schools have failed to take into account the way "public health" was specifically defined in the Commissioner's Order. This definition narrows the amorphous term "public health" and clarifies that much of the traditional medical



research and education initiative proposed by the medical schools would not qualify for funding with these funds.

Medical College of Wisconsin Plan Violation

The MCW allocates public funds to self-serving initiatives that ignore their legal requirement to promote public health that will benefit the Wisconsin population. MCW's plan includes the development of a "Clinical Skills and Learning Center", as well as plans to develop their faculty, curriculum and library services (MCW plan, p. 22-23). Lastly, MCW would like to provide increased student scholarships (MCW plan, p. 22-23). These are not public health initiatives that will generally benefit the Wisconsin population and thus cannot be funded with either the 65% or the 35% of the conversion funds.

Particularly egregious violations within the MCW plan for the use of the funds include:

- The MCW plans to develop a Clinical Skills and Learning Center that will include standard exam rooms, procedure rooms and a patient simulation area. This seems like a fairly standard instructional project not related to the goal of furthering public health.
- The ambiguous goal of "faculty development" is very different than the specific goal in the Commissioner's Order of funding education and research. The goal of faculty development is overly broad that it might include compensation enhancements or other employment perks.
- Enhancing the MCW curriculum and library will not directly benefit the general Wisconsin population.
- General student scholarships are unrelated to the goal of improving public health. However, scholarships for students who express a desire and intent to work with underserved populations might be an appropriate expenditure.



Ordered: 35% of Funds Intended for Public Health Initiatives Only

35% of the public's money is to be expended only for public health and public health community-based initiatives. No portion of the public health allocated percentage of funds may be expended for health care provider education or medical research unless it is substantially for public health (Commissioner's Order, p. 27-28). As used in the Commissioner's Order, **public health** is defined as population health focused on the broader determinants of health in communities, such as prevention efforts to promote healthy life styles for women, children and families; disease prevention and control; and control of environmental agents that negatively impact health (Commissioner's Order, p. 29).

Medical College of Wisconsin Plan Violations

The Medical College of Wisconsin (MCW) proposes using the public health portion of the public's money to address broad programming goals including Information Systems, Outcomes Research and Science Education (MCW plan, p. 15). These are not related to public health and it certainly isn't a community-based initiative. This proposed expenditure should not be taken out of the 35% portion and is not even appropriate for the 65% portion without a detailed explanation of how these programming goals constitute a public health initiative as public health is defined in the Order. (Commissioner's Order, p. 29).

MCW includes some of their major Centers and initiatives in the list of opportunities for partnerships. The list includes the Center for the Advancement of Urban Children, Center for AIDS Intervention Research, Center for Science Education, Firearm Injury Center, Health Policy Institute, Injury Research Center, and Women's Health Initiative, most of which are inappropriate for the 35% portion of the funds, and one of which would not qualify for any funding since it is not a public health initiative as defined in the Order.

Moreover, to the extent that most of the initiatives are focused on research and/or education, they must be funded by the 65%, not the 35%. While the Commissioner's Order doesn't prohibit the 35% from funding any research, the research generated must be incidental to a public health project or goal. Any other interpretation of the



Commissioner's Order would render the distinction between the 35% and the 65% meaningless.

- The Center for Science Education brings science professionals together to teach middle and high school students about scientific discovery, the natural world and scientific literacy. (<http://instruct.mcw.edu/cse>) The Center's new initiatives address teacher education, expanding curriculum, and educational technology. (<http://instruct.mcw.edu/cse/strategic%20plan%20pdf.pdf>) **This does not qualify as a public health initiative as defined in the Order. Therefore, it cannot be funded with the 35% or the 65%. (Also see supplanting violation, page 7.)**
- The mission of the Center for AIDS Intervention Research "is to develop, conduct, and evaluate new interventions to prevent HIV among persons most vulnerable to the disease. CAIR's research also focuses on the prevention of adverse health and mental health outcomes among persons living with HIV infection and their loved ones." (<http://www.cair.mcw.edu/about.html>) **The prevention aspect of this work may qualify as a public health initiative as defined in the Order but as a research-oriented initiative, it must not be funded by the 35%. (Also see supplanting violation, page 7.)**
- The Firearm Injury Center "is an academically based research organization dedicated to the prevention of firearm and other violent injuries and deaths. The Center compiles and disseminates comprehensive, objective, accurate information and analysis of firearms and firearm-related morbidity and mortality. Researchers, policymakers, community agencies, and the mass media are among the primary audiences for this information." (<http://www.mcw.edu/fic>) **This may qualify as a public health initiative as defined in the Order but as a research-oriented initiative, it must not be funded by the 35%.**
- The Health Policy Institute "is the home for the College's academic programs in the disciplines of epidemiology, biostatistics, health services research, bioethics and health policy." (<http://www.mcw.edu/hpi/index.htm>) They also list a Public Health division, (<http://www.mcw.edu/hpi/Pages/divisions.htm>) which appears devoted to a self-guided distance learning Master in Public Health Degree Program. (<http://instruct.mcw.edu/prevmed>) **Some of these programs may qualify as a public health initiative as defined in the Order but is such a academic/education-oriented initiative, it must not be funded by the 35%. (Also see supplanting violation, page 7.)**



- The Injury Research Center solicits applications for research projects including their current profiles for Quality of Life After Trauma, Risk Factors for Medical Injury, Critical Biomechanics of Penetrating Brain Injury, Violence Related Fatalities and Injuries in Wisconsin, and Injury Fatalities of U.S. International Travel. (<http://www.mcw.edu/irc/projects.html>) **These programs may qualify as a public health initiative as defined in the Order but they are such research-oriented initiatives, they must not be funded by the 35%. (Also see supplanting violation, page 7.)**

“The Women's Health Initiative is a major research study of women and their health. It will help decide how diet, hormone therapy, and calcium and vitamin D might prevent heart disease, cancer, and bone fractures.” **This certainly qualifies as a public health initiative but is such a research-oriented initiative; it must not be funded by the 35%. (Also see supplanting violation, page 7.)** (<http://www.mcw.edu/html/ov-whi.html>)

- The Center for the Advancement of Urban Children offers programs that may appropriately be funded from the 35% public health money, including Project UJIMA. Project UJIMA provides “integrated violence intervention and prevention services to children and youth.” However, the Center for the Advancement of Urban Children also offers reading programs, programs to prepare medical professionals to deal with low-income clients, research about asthma services and surveys about the need for acute health care. **To the extent that some of these would be considered public health initiatives, they are research/education oriented and thus should not be funded by the 35%. (<http://www.mcw.edu/peds/compeds/clinical.html>)**

University of Wisconsin Medical School Plan Violation

As mentioned previously in the opening remarks, the UWMS intends to use some of the 35% to reorganize its curriculum. Though this is a fine goal for the medical school, it is not appropriately funded with the 35%. The University of Wisconsin Medical School (UWMS) indicates an interest in shifting its current focus of clinical medicine to include a greater focus on population health improvement (UWMS plan, p. 14). Their plan expects the Public Health Partnership Program to support this “transformation” by providing education and training to public health practitioners (UWMS plan, p. 14). Their vision is to transform the school into a “School of Medicine and Public Health,” promoting research, teaching and service in population health (UWMS plan, p. 15). UWMS cannot use the 35% to restructure its teaching program. Rather, the money must



be spent directly on public health initiatives (Commissioner's Order, p. 27) "focused on the broader determinants of health in communities, such as prevention efforts to promote healthy life styles for women, children and families; disease prevention and control; and control of environmental agents that negatively impact health" (Commissioner's Order, p. 29).

In addition, the UW Medical School plan specifies five pet projects already associated with the medical school to fund with a portion of the 35%. Two of these projects – "Native American Health Research" and "Continuing Education Through Regional/Statewide Conferences on Public Health Topics" – are research/education focused and thus should be funded with the 65%. (Also see supplanting violation, p.7.)

Ordered: Collaboration with Community Organizations

"A substantial portion of [the funds dedicated to public health] must be spent in collaboration with community organizations" (Commissioner's Amended Order, p. 2).

Public Comments

"Community-based organizations that have experience promoting public health can offer valuable assistance for effective use of the conversion funds" (Commissioner's Order, p. 10).

"The medical schools are not fully informed concerning the public health needs of all sectors of the state population" (Commissioner's Order, p. 11).

"Community-based organizations should have access to the conversion funds on reasonable terms" (Commissioner's Order, p. 11).

Medical College of Wisconsin Plan Violation

MCW misunderstands their responsibility as a trustee of the public's money and understates the role of community organizations in carrying out the mission of the public's money. First, MCW states, "[Blue Cross] provides a unique opportunity for the Medical College of Wisconsin to meet these challenges to improve the health of the public" (MCW plan, p. 2). This statement ignores the required substantial involvement of community organizations in public health projects (Commissioner's Amended Order, p. 2).



University of Wisconsin Medical School Plan Violation

The UWMS plan underestimates what it means for a substantial amount of the 35% to be spent in collaboration with community organizations. Their plan states: "The Oversight and Advisory Committee (OAC) determined that at least 51%, with a goal of 2/3, of the start-up funds and endowment income from the Public Health Partnerships Program will be available for community-based initiatives" (UWMS plan, p. 14). To comply with the stipulation that "a substantial portion . . . must be spent in collaboration with community organizations," (Commissioner's Amended Order, p. 2) surely more than 51% of the funds must find their way out of the medical school coffers. Moreover, the OAC is planning to require "an actively engaged UW Medical School faculty and/or academic staff partner" on each and every partnership. Of course, such a partnership will divert a significant percentage of each "community grant" right back to the medical school. While faculty involvement may be helpful in certain circumstances, making it a requirement is not appropriate, and is, indeed, a very self-serving move by the UW Medical School.

Ordered: Supplanting of Available Funds Not Allowed

"The [public's money] may not be used to supplant funds or resources that are or may be available from other sources. The medical schools, for each proposal approved, and for each program funded, must make a written determination that the application of the funds will not supplant other resources that may be available to accomplish the same purpose" (Commissioner's Order, p. 30).

Medical College of Wisconsin Plan Violation

MCW intends to use the public's money to fund research in Cardiovascular Disease, Cancer, Neuroscience, Genetics, Functional Imaging, Bioinformatics, Biotechnology and Bioengineering, (MCW plan, pp. 18-22) yet there are numerous other funding sources for these fields of research. (See attached list). Moreover, MCW's statements express their general misunderstanding of the broad supplanting clause in the Commissioner's Order. The Medical College of Wisconsin said that it "will not supplant federal, state or local government appropriations, or internal MCW non-grant funds" (MCW plan, p. 25). MCW further misstated the Commissioner's Order by stating that its advisory report "will include an evaluation of the programs or projects funded; whether the Funds are supplanting federal, state or local government appropriations or internal MCW non-grant funds." (MCW plan, p. 26).

The Medical College of Wisconsin had a total budget of \$432,293,000 with a net gain of \$18,027,000 for the 2001-2002 fiscal year. Of their revenue, \$100,446,000 was derived



from “Grants and Contracts” which presumably includes all research funding. A cursory review of the Medical College’s proposals for the use of the Blue Cross Blue Shield windfall reveals numerous cases of duplication of either existing funds or funds which the Medical College might potentially be eligible to receive from other sources:

Proposal Area	Examples of Similar Projects Already Funded in 2003	Total Funding Amount (from NIH)
Research Priority: Genetics	Establishment of a Center for Proteomics, “[To study] proteins in cells, tissues and organs in parallel.” Proteomics is closely linked to genetics; each gene codes for the assembly of a single protein.	\$15,600,000 for 7 years (the largest single research grant ever received by the MCW)
Research Priority: Functional Imaging	“fMRI Index as a Risk Marker for Alzheimer’s Disease”; a project to develop a magnetic resonance imaging techniques for early detection of Alzheimer’s.	\$1,800,000 for 5 years
Research Priority: Cardiovascular Disease	“Nitric Oxide Mediated Oxidation/Nitration in Membranes”; a project to study certain chemical reactions that may damage the lining of blood vessels.	\$1,500,000 for 5 years

By examining a variety of sources for health funding, we also found the following potential funding sources that the Medical College of Wisconsin could easily qualify for:

Proposal Area	Other Potential Funding Program	Source
Community Partnerships	Alzheimer’s Disease Program Grants	Helen Bader Foundation
	Health Program Grants	Alan Cummings



		Foundation
Center for the Advancement of Urban Children	Social and Demographic Studies of Race and Ethnicity in the United States	National Institutes of Health
Center for AIDS Intervention Research	Global Health Program grants Secondary Analysis of Existing Alcohol and HIV/AIDS Data Sets	Bill & Melinda Gates Foundation National Institutes of Health
Women's Health Initiative	Women's Mental Health in the Pregnancy and Postpartum Period Research Grants	National Institutes of Health Wisconsin Women's Health Foundation
Firearm Injury Center	Research on Children Exposed to Violence	National Institutes of Health
Health Policy Institute	Knowledge Integration Across Distributed Heterogeneous Data Sources Health program grants	National Institutes of Health Public Welfare Foundation
Injury Research Center	Research Centers in Trauma, Burn and Perioperative Injury	National Institutes of Health
Research Priorities: Cardiovascular Disease	Unrestricted Cardiovascular Research Grants	Bristol-Myers Squibb Foundation
Research Priorities: Cancer	High-Impact Pilot Studies in Cancer Biology	National Institutes of Health



	Exploratory Studies in Cancer Detection, Diagnosis and Prognosis	National Institutes of Health
Research Priority: Neuroscience	Unrestricted Neuroscience Research Grants	Bristol-Myers Squibb Foundation
	Neuroscience Cluster Awards	National Science Foundation
	Human Brain Project Phases I & II	National Institutes of Health
Library Services	Internet Access to Digital Libraries	National Library of Medicine
	Information System Grants	National Library of Medicine

THE UNIVERSITY OF WISCONSIN MEDICAL SCHOOL VIOLATIONS

The University of Wisconsin Medical School had a total budget for the 2001-2002 fiscal year of \$338,000,000 with research funding and support from both federal and nonfederal sources totaling \$167,600,000. In 2001, the UW Medical School realized gains of over \$3,000,000. Here as well, many of the proposed projects – in the areas of both research and public health – put forward to utilize the Blue Cross Blue Shield funds are duplicative of existing or potentially available funds from other sources.

Below are listed just a few examples of duplication of existing funds we have found. These examples are by no means exhaustive and we surveyed only projects funded by the National Institutes of Health (which are public records):



Proposal Area	Examples of Similar Projects Already Funded in 2003	Total Funding Amount (from NIH)
Wisconsin Population Health Research Network	Two projects on large-scale studies of public health: a "Survey Research Shared Service" by the UW Comprehensive Cancer Center and "New Statistical Methods of Demographic Data Analysis"	\$833,276 for first year
Disease Genomics and Regenerative Medicine (with research priorities of: aging, cancer, neuroscience, cardiovascular and respiratory diseases, population and community health science, rural health and women's health)	Six projects on the genetic bases of diseases – particularly cancer and neuroscience: "Antileukemia Action of Perilyl Alcohol", "Gene Expression, Caloric Restriction and Aging", "Human RNA Binding", "A Novel Genetic Modifier of Mammary Tumors", "Mechanisms of ATR Targeting," and "Role of PKC in Tumor Promotion".	\$1,488,002 for first year
Molecular Medicine and Bioinformatics (with research priorities as given above)	Five projects on molecular mechanisms of disease and disease treatment: "Chromosome Structure and Gene Expression", "Clinical Development of HU14.18 IL2", "Molecular Mechanisms of Myotonic Dystrophy Mutation", "Free Radicals and Mitochondria in Neuronal Apoptosis," and "Role of Syndecan-1 in Mouse Mammary Neoplasia".	\$1,164,052 for first year

Here as well, we were able to identify many sources of potential funding that the UW Medical School could be eligible to apply for but for which they proposed to use Blue Cross Blue Shield funding for:



Proposal Area	Other Potential Funding Program	Source
Establishment of a Center for Urban Population Health Research	Minority Research Infrastructure Support Program Social and Demographic Studies of Race and Ethnicity in the United States	Agency for Health Care Research and Quality National Institutes of Health
Native American Health Research	Epidemiology Cooperative Agreements	Indian Health Service
Regional/ Statewide Conferences	Large & Small Grant Programs for Conference Support	Agency for Health Care Research and Quality
"Emerging Opportunities"	Quick-Trials for Novel Cancer Therapies Innovations in Biomedical Computational Science and Technology	National Institutes of Health National Library of Medicine
Disease Genomics & Regenerative Medicine (research)	Novel Genetic Methods to Map Functional Neuronal Circuits and Synaptic Change Genes and Genome Systems Cluster Awards	National Institutes of Health National Science Foundation
Molecular Medicine and Bioinformatics (research)	Molecular Targets for Cancer Drug Discovery Exploratory Grants Biomolecular Systems Cluster Awards	National Institutes of Health National Science Foundation



For both these and other projects, there are ample sources of funding available through federal sources. The National Science Foundation, National Institutes of Health, the Centers for Disease Control, the Indian Health Service, the Environmental Protection Agency and other such agencies all have major grant-making programs dedicated to biomedical and disease research – particularly cancer and genetics projects which constitute much of the proposed research uses of this money. We believe we are justified in saying that there are ample federal research dollars available for identical projects.

On top of this, there are the huge resources of the private sector. Biotechnology and pharmaceutical concerns provide large amounts of funding for research into cures for diseases. The more prevalent the disease, the easier it is to obtain funding for a potential treatment or cure. Thus, projects related to cancer, cardiovascular disease and geriatric medicine – all listed as top research priorities by the Medical College of Wisconsin and the UW Medical School – should be obtainable from other sources.

CONCLUSION

The insularity and self-serving nature of the medical school plans can best be seen by what they fail to support and blithely ignore. In a glaring and callous omission the plans developed under the pressure and prodding of Deans Bolger and Farrel, completely leave out any strategy to address Wisconsin's uninsured. The number of uninsured continues to grow in our state. Over the course of the last two years, an estimated 1,100,000 people in Wisconsin, including children, were uninsured for all or part of that time. Even in the face of the doubling of the value of the funds that will be directed to the schools due to the proposed purchase of Blue Cross by Wellpoint, the schools' respective Deans are unmoved. The schools will reap the benefit of significantly more of the public's money but reflect no change in the plans to help the uninsured.

The schools seem to have an endless appetite for the public's resources and act like bottomless pits of need despite combined annual budgets of nearly 800 million dollars and combined excess revenues of 21 million dollars for 2002. This attitude of greed is unacceptable. Most families are only one paycheck away from joining the swelling ranks of the uninsured. The selfish nature of this action by Deans Farrel and Bolger to ignore the plight of the uninsured flies in the face of critical emerging needs of people in Wisconsin and tramples the notion of our progressive traditions and the Wisconsin idea.