



ADVOCACY & BENEFITS COUNSELING FOR HEALTH, INC.

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July 1, 2010

Sean Dilweg
Commissioner of Insurance
125 South Weber Street
Madison, WI 53703

Dear Commissioner Dilweg:

ABC for Health, Citizen Action of Wisconsin, and Disability Rights Wisconsin understand that the board of the Wisconsin United for Health Foundation (WUHF) will be meeting on July 15 to review the Legislative Audit Bureau's report on medical education, research, and public health grants.

Our agencies have concerns about the current system for distributing the Blue Cross-Blue Shield conversion funds, as described in the audit report. These funds represent Blue Cross-Blue Shield's payback to the people of Wisconsin, as part of the company's 2001 conversion to a for-profit entity, for years of tax-exempt status. The purpose of the funds is to promote public health initiatives that will benefit the people of Wisconsin. However, the Audit Bureau Report suggests that these funds were periodically used to benefit their own institutions, rather than the public's health.

Our comments stem from decades of ground-level advocacy for Wisconsin families and individuals. Advocacy and Benefits Counseling (ABC) for Health, Inc., is a nonprofit, public interest law firm dedicated to ensuring health care access for Wisconsin children and families, particularly those with special needs or who are at risk. Citizen Action of Wisconsin is an issue-focused coalition of individuals and organizations committed to achieving social, economic, and environmental justice. Disability Rights Wisconsin is a private nonprofit organization designated by the Governor to ensure the rights of all state citizens with disabilities through individual advocacy and system change.

1. Misdirection of funds

Recommendations: Our agencies (ABC for Health, Citizen Action of Wisconsin, and Disability Rights Wisconsin) recommend that all medical school projects funded by conversion resources must show a direct benefit to the people of Wisconsin. In addition, both schools should lift their requirements that an academic partner be involved in all public health projects.

The Insurance Commissioner's March 2000 order states that the purpose of the conversion funds is to "promote public health initiatives that will generally benefit the Wisconsin population." The Legislative Audit Bureau's report reveals that many funded projects failed to directly benefit Wisconsin's citizens.

- **Medical Education and Research Grants**

A number of research grants support core medical school activities, including student education, faculty recruitment, and equipment purchases. The Audit Bureau reports that four of 20 reviewed research grants awarded by the Medical College of Wisconsin spent more than \$50,000 each on an equipment purchase



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(28). Another four projects spent a portion of the award on faculty recruitment (28). As the audit report points out, these core medical school expenses do not directly relate to Wisconsin's public health (90).

In addition, many research projects funded by both schools lack a focus on Wisconsin-specific public health issues. Research projects should investigate local health issues, rather than national health issues which are under the purview of the NIH and other federal funding.

Appropriate research projects include those that investigate health issues and problems of access endemic to specific Wisconsin populations. When projects investigate issues of national concern, such as cancer, obesity, or Alzheimer's disease, they should do so from a Wisconsin-specific perspective. Investigators should ask how these health issues are affected by local environmental and cultural factors.

- **Public Health Grants**

The Commissioner's order requires that the public health allocation fund only "public health and public health community based initiatives," but the audit found that only a portion of the funding is reaching communities. More than 35% of MCW's and almost 29% of UW's public health grant expenditures were spent directly by the schools or paid to the schools' faculty and staff (34, 69, 92). The money went in part to pay salaries and benefits to the projects' required academic partners (32, 67, 92).

One applicant for a MCW public health implementation grant told ABC for Health that her academic partner expected 30% to 40% of the grant award. The academic partner reported that a 60/40 split between the community partner and the faculty participant was typical for MCW public health grants. The proposed project would not be viable if it had to budget this much for the academic partner.

Both schools should lift their requirements that an academic partner participate in all public health projects.

Proposed revisions to order:

The purpose of the conversion funds is to promote public health initiatives that will *specifically* benefit the Wisconsin population (9).

7a & 8a. Focus on public health (25, 27). The majority of public health funds should directly support community based initiatives, and the schools should not require the participation of an academic partner.

2. Violations of supplanting prohibition

Recommendation: Our agencies recommend that the OCI require grant seekers to conduct a reasonable investigation of other funding sources and opportunities.

The March 2000 order states that "the funds may not be used to supplant funds or resources that are 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." According to the audit report, many of the grants may be violating this rule.



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First, expenditures on faculty recruitment, equipment purchases, and student education appear to supplant the schools' operational budgets (90). Public health funds should not pay for the schools' normal operating costs.

In addition, many funded research projects investigate national health problems, such as cancer and Alzheimer's disease, while federal funding is available for much of this research. As mentioned above, the conversion funds should support investigations of Wisconsin-specific health issues. The funds should not support research projects that duplicate the efforts of NIH-funded investigations at other institutions.

Both schools, in their written responses to the audit report, argue that the supplanting provision is too restrictive. They say that a prohibition on funding that "may be available" is impractical. While an exhaustive search of all possible funding sources may be impractical, every grant applicant should conduct a reasonable investigation into other funding sources.

If investigators begin, as they should, with the goal of researching Wisconsin-specific health issues, rather than national issues, they are less likely to find a surplus of funding sources.

Proposed revision to order:

16. Supplanting of other resources prohibited (30). The conversion funds may not supplant funds or resources that are available from other sources, and grant applicants must conduct a reasonable and "duly diligent" investigation of other funding sources and opportunities.

3. Conflicts of interest

*Recommendation: Our agencies recommend that the OCI revise the Commissioner's order and reform the grant decision making and grant review process. To resolve the problem of widespread conflicts of interest, our agencies recommend that the independent WUHF board, rather than the schools, should have the authority to distribute **the portion of the conversion funds reserved for public health grants**. Only by transferring this authority to an independent body can we remove conflicts of interest from the granting process.*

The audit report reveals that conflicts of interest contaminate the granting process.

The audit report describes a handful of cases in which members of oversight and advisory committees had a personal interest in grants under review. The report recommends that the oversight and advisory committees at both schools "amend their conflict-of-interest policies to require that members abstain from voting on project proposals submitted by organizations with which they have an employment or other financial relationship and absent themselves during deliberations on proposals by these organizations" (88).

The report also reveals a broader conflict. At both schools, the Dean has the authority to allocate medical education and research funds without making those funds available to competitive proposals. This amounts to a Dean's slush fund and is not in the best interest of the people of Wisconsin. At MCW, the Dean awarded more than 70% of the education and research grants on a noncompetitive basis (91). In the next five-year plan, all education and research grants will be awarded noncompetitively (22). At UW, 82% of education and research funds awarded went to noncompetitive grants (57). The needs of the



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Deans are not identical to the needs of the public, and the Deans should not have this level of discretionary authority over funds intended to benefit the health of Wisconsin citizens.

Finally, there is a fundamental and insuperable difficulty in having a committee of an organization determine the distribution of funds among third parties and that very organization. The interests of the committees, which are subalterns of the medical schools, are unavoidably linked to those of their parent organizations. Yet, each school has a public health committee that is tasked with neutrally distributing funds between the medical school and third party community organizations. It would be unfair to charge the medical schools with the impossible task of maintaining a neutral yet dependent committee. Moreover, attempting to create such a committee within each school would require expensive and time consuming screening procedures. Instead, a pre-existing, independent third-party organization with expertise in public health should be charged with governing and enforcing the distribution of grants.

Proposed revision to order:

24. The Deans do not have the authority to allocate funds at their discretion; instead, all funds will be awarded through a competitive granting process. For the portion of the funds reserved for public health grants, WUHF will review grant proposals and make all funding decisions. WUHF's budget will be expanded to cover costs associated with this expanded role.

4. Inadequate oversight and enforcement

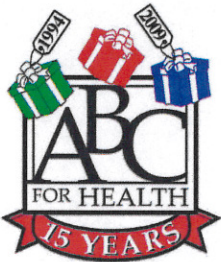
Recommendation: Our agencies recommend that the OCI create an enforceable order that permits investigation and enforcement of violations of the Insurance Commissioner's order.

The problems of misdirection of funds, violations of the prohibition against supplanting, and conflicts of interest all relate to a fourth problem: lack of adequate oversight. A better oversight and enforcement mechanism could ensure that the conversion funds are spent appropriately and ethically. Effective enforcement also must include penalties for noncompliance.

In addition, better oversight could help ensure that funding goes to worthy projects. The audit report reveals that not all funded projects articulated clear and realistic objectives (5, 23). For example, a \$6.8 million, noncompetitive grant was one of seven UW-funded projects that failed to provide specific, measurable objectives (61, 71). Five projects funded by MCW similarly failed to state clear objectives (23, 37).

Proposed revision to order:

10. Accountability for distribution of funds (22). The Legislative Audit Bureau will conduct an annual, independent compliance review. Unlike the PCHOACs, the Audit Bureau is completely independent of the schools, and is therefore better suited to review the schools' granting programs. In addition, the WUHF board, in concert with the Insurance Commissioner, will have explicit authority to enforce the Commissioner's order and to investigate suspected violations. A watchdog function must include the ability to investigate and enforcement authority, particularly as it relates to oversight of funding decisions and the possible supplanting of program funds. WUHF must also have the authority to refer noncompliant actions to the OCI for enforcement actions and penalties.



5. 35/65 Split

Recommendation: Our agencies recommend that the OCI reevaluate the current 35/65 distribution of funds between public health and medical education and research.

Over the past decade, the 35/65 split has not changed, despite an increase in the fund amount and other funding that is newly available, and despite evolving threats to the public health of Wisconsin. An OCI hearing should gather input on demonstrable needs and other available funds to set funding target levels.

Proposed revision to order:

7c. Funds allocated with a public health priority (26): The Commissioner will convene a workgroup of public health professionals, independent of both schools, to reevaluate the public health allocation, based on a review of public health needs in Wisconsin. This workgroup will meet annually to reassess the distribution of funds between medical education and research and public health. The PCHOACs, which are not independent of the schools, will not determine the public health allocation.

Thank you for the opportunity to comment on the Legislative Audit Bureau's report. We look forward to continuing discussion with you about these issues.

Sincerely,

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cc: Senator Kathleen Vinehout
Wisconsin Public Health Association
WUHF c/o Charles Henderson