



Connect for Health Colorado

Proposed
AMENDMENTS
to the
Articles of
Governance

December 15, 2018

OFFICIAL NOTICE

This booklet contains notice of the proposed amendments to be considered by the Board of Directors of Connect for Health Colorado, the Colorado Health Benefit Exchange during the January Board meeting (January 14, 2019).

Having the proposed amendments in hand this early allows time to consider the merits and discuss, as well as allowing the public and stakeholders to weigh in with their opinions. Another goal is to allow for the expeditious handling of these amendments during a Board meeting.

In addition to stating the amendments in a formal manner, the proposed amendments are presented in three-column format: **Current Wording**; **Proposed Amendment**; and **If Adopted, Will Read**. Below each is the original proposed source, the rationale, the bylaws committee's recommendation, which may include a proposed amendment, and the bylaws committee's rationale for the recommendation if other than adoption.

COHBE Bylaws Committee
Nathan Wilkes, *Chairman*

Formatting used in printing the proposed bylaw amendments:

Underlined print = insert or add

~~Line through print~~ = strike out

Preface to Bylaws Amendments

The following proposed amendments to the Articles of Governance are presented in the order it is anticipated they will be considered. These amendments have been arranged to take into consideration the principles of supersedence and conformity.

The principle of supersedence is reflected in the following from *Robert's Rules of Order Newly Revised*:

If notice is given of several amendments which conflict so that all cannot be given effect, the chair should arrange them in a logical order, much as in the case of filling blanks (12), generally taking the least inclusive amendment first and the most inclusive last so that the last one adopted is given effect. Such arrangement of the amendments can be altered by the assembly by a majority vote without debate. Adoption of such an arrangement by unanimous consent or a formal vote is not subject to a motion to Reconsider, nor may a later, separate amendment be offered as a substitute for a pending one. However, as already stated on page 592, all bylaw amendments of which notice was given should be considered, as a matter of the rights of their proposers, and a bylaw amendment is not dropped simply because it would conflict with one previously adopted. This procedure does not violate the normal parliamentary rule as might appear, because when any bylaw amendment is adopted, that amendment becomes a part of the bylaws immediately; and it is the bylaw language as thus amended, rather than the previous language, which any bylaw amendments subsequently considered would now propose to modify. If an amendment that has not been considered no longer presents a rational proposition because it was applicable only to language which has disappeared from the bylaws in this process, such a bylaw amendment must, of course, be dropped; but this situation should generally not arise if the amendments are taken up in proper order as indicated above. [RONR (11th ed.), p. 593, l. 35 to p. 594, l. 27]

Thus when there are amendments that might supersede one another if adopted later, these have been arranged so as to allow for the consideration of the least inclusive amendment first in order for the assembly to have the maximum flexibility in its deliberations.

The principle of conformity is found, in its most explicit standard,

. . . where all of the individual amendments must be made, if any one of them is made, in order to leave a coherent resolution pending if the motion to amend is adopted. [RONR (11th ed.), p. 274, ll. 13-16]

However, there is additional indirect guidance. The language just quoted is followed by the sentence, "Such proposed amendments may not be divided." [*Id.* ll. 17-18]

In addition, the following should be noted in relation to the principle of conformity.

[A] series of amendments to a main motion (or conceivably to a primary amendment such as a substitute) may be offered in one motion. Unless these amendments meet the standard for conforming amendments given on pages 273–74, any member may demand a separate vote on one or more of them.¹ [*Id.* at 275, ll. 7-14]

¹Although the text by its terms applies to subsidiary motions to amend, its logic applies as well to a series of main motions that are instances of *Amend Something Previously Adopted* – such as bylaws amendments.

If a series of amendments offered together may not be divided, it may be inferred then that they are conforming amendments—certainly they are treated in the same way. In this connection members should note that:

A motion cannot be divided unless each part presents a proper question for the assembly to act upon if none of the other parts is adopted, and unless the effect of adopting all of the parts will be exactly the same—no more, no less—as adoption of the compound main question. Thus, if it is moved to establish a committee and give it instructions, this motion is indivisible because, should the part establishing the committee fail, the part giving the committee instructions would be absurd. [*Id.* p. 272, ll. 19-28.]

Thank you to the other members of the Bylaws Committee, Adela Flores-Brennan and Sharon O’Hara, and to the other Board members for their diligent consideration, and to Connect for Health Colorado staff, including general counsel Alan Schmitz, for bringing many of the issues to light.

Nathan Wilkes

Bylaws Committee chair

CONTENTS

Table of Contents

OFFICIAL NOTICE	2
PREFACE TO BYLAWS AMENDMENTS	3
CONTENTS	5
AMENDMENT 1: NAME	6
AMENDMENT 2A: LEGISLATIVE COMMITTEE NAME	7
AMENDMENT 2B: LEGISLATIVE COMMITTEE NAME	8
AMENDMENT 3: INITIAL OPERATIONAL AND FINANCIAL PLAN	9
AMENDMENT 4: OFFICER ELECTIONS	10
<i>CONFORMING AMENDMENT 4A: Officer Elections</i>	11
AMENDMENT 5: GRANTS	12
AMENDMENT 6: REVIEWS AND CONSIDERATIONS.....	13
AMENDMENT 7: ANNUAL REPORT	15
AMENDMENT 8: BOARD MEMBERSHIP.....	16
AMENDMENT 9: MEETINGS	18
AMENDMENT 10: TRANSFER OF MONEYS.....	19
AMENDMENT 11: MINUTES, ALTERNATIVE 1	20
AMENDMENT 11: MINUTES, ALTERNATIVE 2	21
AMENDMENT 12: COMPENSATION.....	22
AMENDMENT 13: DELEGATION OF AUTHORITY.....	23

PROPOSED AMENDMENTS

AMENDMENT 1: Name

Amend Article I, Name, by striking the Section and replacing with “Name. The Colorado Health Benefit Exchange (“COHBE”), doing business as Connect for Health Colorado, operates as a nonprofit, unincorporated public entity created pursuant to the Colorado Health Benefit Exchange Act, C.R.S. §10-22-101 *et seq.* (“the Act”) as an instrumentality of the state.”

CURRENT WORDING	PROPOSED AMENDMENT	IF ADOPTED WILL READ
<p>Name. This organization shall be known as the Colorado Health Benefit Exchange, hereinafter to be referred to as “COHBE.”</p> <p>COHBE operates as a nonprofit, unincorporated public entity created pursuant to the Colorado Health Benefit Exchange Act, C.R.S. §10-22-101 <i>et seq.</i> (“the Act”).</p>	<p>Name. This organization shall be known as the Colorado Health Benefit Exchange, hereinafter to be referred to as (“COHBE.”), <u>doing business as Connect for Health Colorado,</u> COHBE operates as a nonprofit, unincorporated public entity created pursuant to the Colorado Health Benefit Exchange Act, C.R.S. §10-22-101 <i>et seq.</i> (“the Act”) <u>as an instrumentality of the state.</u></p>	<p>Name. The Colorado Health Benefit Exchange (“COHBE”), doing business as Connect for Health Colorado, operates as a nonprofit, unincorporated public entity created pursuant to the Colorado Health Benefit Exchange Act, C.R.S. §10-22-101 <i>et seq.</i> (“the Act”) as an instrumentality of the state.</p>

Proviso: none

Proposed by: staff

Rationale: The organizational name is specified by statute, and clarifying terminology is added here to include DBA name and “instrumentality of the state.”

Bylaws Committee Recommendation: The Bylaws Committee recommends that this amendment BE adopted.

AMENDMENT 2A: Legislative Committee Name

Amend Article IV, Board of Directors, Section Q., Officers, Subsection 1, by striking “Legislative Health Benefit Exchange Implementation Review Committee” and inserting “Colorado Health Insurance Exchange Oversight Committee.”

CURRENT WORDING	PROPOSED AMENDMENT	IF ADOPTED WILL READ
<p>The Chair shall preside over all meetings of the Board, provide such guidance to and oversight of the Executive Director as shall be necessary between meetings of the Board, and generally ensure that all actions of the Board are carried into effect by the Executive Director or the responsible Board committee. The Chair shall identify and appoint Board committee chairs and board liaisons to the Legislative Health Benefit Exchange Implementation Review Committee and to technical and advisory groups. The Chair shall perform such other duties as are incident to the office of Chair.</p>	<p>The Chair shall preside over all meetings of the Board, provide such guidance to and oversight of the Executive Director as shall be necessary between meetings of the Board, and generally ensure that all actions of the Board are carried into effect by the Executive Director or the responsible Board committee. The Chair shall identify and appoint Board committee chairs and board liaisons to the Legislative Health Benefit Exchange Implementation Review Committee <u>Colorado Health Insurance Exchange Oversight Committee</u> and to technical and advisory groups. The Chair shall perform such other duties as are incident to the office of Chair.</p>	<p>The Chair shall preside over all meetings of the Board, provide such guidance to and oversight of the Executive Director as shall be necessary between meetings of the Board, and generally ensure that all actions of the Board are carried into effect by the Executive Director or the responsible Board committee. The Chair shall identify and appoint Board committee chairs and board liaisons to the Colorado Health Insurance Exchange Oversight Committee and to technical and advisory groups. The Chair shall perform such other duties as are incident to the office of Chair.</p>

Proviso: none

Proposed by: staff

Rationale: Name change of associated legislative oversight committee, corrected for current name.

Bylaws Committee Recommendation: The Bylaws Committee recommends that this amendment BE adopted.

AMENDMENT 2B: Legislative Committee Name

Amend Article IV, Board of Directors, Section R., Executive Director, by striking “Legislative Health Benefit Exchange Implementation Review Committee” and inserting “Colorado Health Insurance Exchange Oversight Committee.”

CURRENT WORDING	PROPOSED AMENDMENT	IF ADOPTED WILL READ
<p>The Board shall appoint an Executive Director to administer COHBE, subject to approval by the Legislative Health Benefit Exchange Implementation Review Committee of the General Assembly. The Executive Director shall be responsible for the day-to-day operations of COHBE, in accordance with the policies and guidelines delineated by the Board. The Executive Director shall report directly to the Board.</p>	<p>The Board shall appoint an Executive Director to administer COHBE, subject to approval by the Legislative Health Benefit Exchange Implementation Review Committee <u>Colorado Health Insurance Exchange Oversight Committee</u> of the General Assembly. The Executive Director shall be responsible for the day-to-day operations of COHBE, in accordance with the policies and guidelines delineated by the Board. The Executive Director shall report directly to the Board.</p>	<p>The Board shall appoint an Executive Director to administer COHBE, subject to approval by the Colorado Health Insurance Exchange Oversight Committee of the General Assembly. The Executive Director shall be responsible for the day-to-day operations of COHBE, in accordance with the policies and guidelines delineated by the Board. The Executive Director shall report directly to the Board.</p>

Proviso: none

Proposed by: staff

Rationale: Name change of associated legislative oversight committee, corrected for current name.

Bylaws Committee Recommendation: The Bylaws Committee recommends that this amendment BE adopted.

AMENDMENT 3: Initial Operational and Financial Plan

Amend Article III, Articles of Governance, by striking Section C., Initial Operational and Financial Plan.

CURRENT WORDING	PROPOSED AMENDMENT	IF ADOPTED WILL READ
<p>Initial Operational and Financial Plan. COHBE shall develop an initial operational and financial plan for submission to the Legislative Health Benefit Exchange Implementation Review Committee of the Colorado General Assembly as required by C.R.S. § 10-22-106(1)(b).</p>	<p>Initial Operational and Financial Plan. COHBE shall develop an initial operational and financial plan for submission to the Legislative Health Benefit Exchange Implementation Review Committee of the Colorado General Assembly as required by C.R.S. § 10-22-106(1)(b).</p>	

Proviso: none

Proposed by: staff

Rationale: As this Section refers to initial operations, it is no longer relevant to steady-state operations. Only the initial operational and financial plan was subject to approval by the legislative review committee.

Bylaws Committee Recommendation: The Bylaws Committee recommends that this amendment BE adopted.

AMENDMENT 4: Officer Elections

Amend Article IV, Board of Directors, Section Q., by striking “Initial officer elections shall take place upon adoption of these Articles of Governance, with the initial term beginning immediately and expiring July 1, 2012, or until their successors are elected” and inserting “Elected officers shall serve a two (2) year term or until their successors are elected.”

CURRENT WORDING	PROPOSED AMENDMENT	IF ADOPTED WILL READ
<p>Officers. The elected officers of the Board shall be a chair, vice-chair, and secretary. Each of the elected officers shall serve a two (2) year term and shall be elected biennially by the Board from among its members at its annual meeting falling in even numbered years. Nominations shall be made by members of the Board at the meeting prior to the annual meeting and immediately before election. Officers shall be elected independently in order of their listing in these Articles of Governance. Officers may serve no more than two consecutive terms and an officer who has served for more than one-half of a term shall be deemed to have served a full term. Initial officer elections shall take place upon adoption of these Articles of Governance, with the initial term beginning immediately and expiring July 1, 2012, or until their successors are elected.</p>	<p>Officers. The elected officers of the Board shall be a chair, vice-chair, and secretary. Each of the elected officers shall serve a two (2) year term and shall be elected biennially by the Board from among its members at its annual meeting falling in even numbered years. Nominations shall be made by members of the Board at the meeting prior to the annual meeting and immediately before election. Officers shall be elected independently in order of their listing in these Articles of Governance. Officers may serve no more than two consecutive terms and an officer who has served for more than one-half of a term shall be deemed to have served a full term. Initial officer elections shall take place upon adoption of these Articles of Governance, with the initial term beginning immediately and expiring July 1, 2012, or until their successors are elected. <u>Elected officers shall serve a two (2) year term or until their successors are elected.</u></p>	<p>Officers. The elected officers of the Board shall be a chair, vice-chair, and secretary. Each of the elected officers shall serve a two (2) year term and shall be elected biennially by the Board from among its members at its annual meeting falling in even numbered years. Nominations shall be made by members of the Board at the meeting prior to the annual meeting and immediately before election. Officers shall be elected independently in order of their listing in these Articles of Governance. Officers may serve no more than two consecutive terms and an officer who has served for more than one-half of a term shall be deemed to have served a full term. Elected officers shall serve a two (2) year term or until their successors are elected.</p>

Proviso: none

Proposed by: Bylaws Committee, based on staff request

Rationale: Language relating to initial officer elections is outdated and is updated to reflect more appropriate general language.

Bylaws Committee Recommendation: The Bylaws Committee recommends that this amendment BE adopted, along with the following conforming amendment.

Bylaws Committee Rationale: The phrase “or until their successors are elected” is important here. Without it, the only mechanism to change the officers for need or cause is through a disciplinary hearing, as the two-year term is fixed. The subsequent conforming amendment also clears up this error.

CONFORMING AMENDMENT 4A: Officer Elections

Amend Article IV, Board of Directors, Section Q., by striking “shall serve a two (2) year term and.”

CURRENT WORDING	PROPOSED AMENDMENT	IF ADOPTED WILL READ
Board shall be a chair, vice-chair, and secretary. Each of the elected officers shall serve a two (2) year term and shall be elected biennially by the Board from among its members at its annual meeting falling in even numbered years.	Board shall be a chair, vice-chair, and secretary. Each of the elected officers shall serve a two (2) year term and shall be elected biennially by the Board from among its members at its annual meeting falling in even numbered years.	Board shall be a chair, vice-chair, and secretary. Each of the elected officers shall be elected biennially by the Board from among its members at its annual meeting falling in even numbered years.

Proviso: none

Proposed by: Bylaws Committee, based on staff request

Rationale: This corrects the fixed-term statement as identified in Amendment 4.

Bylaws Committee Recommendation: The Bylaws Committee recommends that this amendment BE adopted only if Amendment 4 is adopted.

AMENDMENT 5: Grants

Amend Article V, Powers of the Board, Section I., Planning and Establishment Grants, by striking the section and replacing with “Grants. The Board may apply for grants made available to COHBE and apply for, receive, and expend other gifts, grants, and donations.”

CURRENT WORDING	PROPOSED AMENDMENT	IF ADOPTED WILL READ
<p>Planning and Establishment Grants. The Board shall apply for planning and establishment grants made available to COHBE pursuant to the federal act and apply for, receive, and expend other gifts, grants, and donations. Each grant application is subject to the review and unanimous approval of the Board Chair and the Chair and Vice-Chair of the Legislative Health Benefit Exchange Implementation Review Committee of the General Assembly. In the event there is not unanimous approval, each grant application is subject to review and the majority approval of the Legislative Health Benefit Exchange Implementation Review Committee as required by C.R.S. § 10-22-106(c).</p>	<p>Planning and Establishment Grants. The Board shall <u>may</u> apply for planning and establishment grants made available to COHBE pursuant to the federal act and apply for, receive, and expend other gifts, grants, and donations. Each grant application is subject to the review and unanimous approval of the Board Chair and the Chair and Vice-Chair of the Legislative Health Benefit Exchange Implementation Review Committee of the General Assembly. In the event there is not unanimous approval, each grant application is subject to review and the majority approval of the Legislative Health Benefit Exchange Implementation Review Committee as required by C.R.S. § 10-22-106(c).</p>	<p>Grants. The Board may apply for grants made available to COHBE and apply for, receive, and expend other gifts, grants, and donations.</p>

Proviso: none

Proposed by: staff

Rationale: The amendment removes language specific to initial planning and establishment grants and is no longer applicable to steady-state operations.

Bylaws Committee Recommendation: The Bylaws Committee recommends that this amendment BE adopted.

AMENDMENT 6: Reviews and Considerations

Amend V, Powers of the Board by striking Section K., Reviews and Considerations, and renumbering subsequent Sections as appropriate.

CURRENT WORDING	PROPOSED AMENDMENT	IF ADOPTED WILL READ
<p><u>Reviews and Considerations.</u> The Board shall make the following reviews and considerations as directed in C.R.S. §§ 10-22-106(f)-(k):</p> <ol style="list-style-type: none"> 1. Review the internet portal operated and maintained by the Secretary of Health and Human Services and the model template for an internet portal made available by the Secretary for use by the state exchanges and review other appropriate internet portals. The review must include an examination as to whether the model template may be used to direct individuals and employers to health plans, to assist individuals and employers in determining whether they are eligible to participate in the exchange or eligible for a premium tax credit or cost-sharing reduction, and to present standardized information regarding health plans offered through the exchange to assist consumers in making health insurance choices. 2. Consider the desirability of structuring the exchange as one entity that includes two underlying entities to operate in the individual and the small employer markets, respectively; 3. Consider the appropriate size of the small employer market under the exchange, taking into consideration the definition of "small employer" pursuant to C.R.S. § 10-16-102; 	<p>Reviews and Considerations. The Board shall make the following reviews and considerations as directed in C.R.S. §§ 10-22-106(f)-(k):</p> <ol style="list-style-type: none"> 1. Review the internet portal operated and maintained by the Secretary of Health and Human Services and the model template for an internet portal made available by the Secretary for use by the state exchanges and review other appropriate internet portals. The review must include an examination as to whether the model template may be used to direct individuals and employers to health plans, to assist individuals and employers in determining whether they are eligible to participate in the exchange or eligible for a premium tax credit or cost-sharing reduction, and to present standardized information regarding health plans offered through the exchange to assist consumers in making health insurance choices. 2. Consider the desirability of structuring the exchange as one entity that includes two underlying entities to operate in the individual and the small employer markets, respectively; 3. Consider the appropriate size of the small employer market under the exchange, taking into consideration the definition of "small employer" pursuant to C.R.S. § 10-16-102; 	

<p>4. Consider the unique needs of rural Coloradans as they pertain to access, affordability, and choice in purchasing health insurance;</p> <p>5. Consider the affordability and cost in the context of quality care and increased access to purchasing health insurance; and</p> <p>6. Investigate requirements, develop options, and determine waivers, if appropriate, to ensure that the best interests of Coloradans are protected.</p>	<p>4. Consider the unique needs of rural Coloradans as they pertain to access, affordability, and choice in purchasing health insurance;</p> <p>5. Consider the affordability and cost in the context of quality care and increased access to purchasing health insurance; and</p> <p>6. Investigate requirements, develop options, and determine waivers, if appropriate, to ensure that the best interests of Coloradans are protected.</p>	
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Proviso: none

Proposed by: staff

Rationale: While historically interesting, this section does not apply to steady-state operations. The language remains in Colorado Revised Statutes for reference, so is eliminated here.

Bylaws Committee Recommendation: The Bylaws Committee recommends that this amendment BE adopted.

AMENDMENT 7: Annual Report

Amend Article VI, Records and Reports, by striking “the planning and establishment of.”

CURRENT WORDING	PROPOSED AMENDMENT	IF ADOPTED WILL READ
No later than January 15 of each year, the Board shall submit a written report to the Governor and the General Assembly concerning the planning and establishment of the exchange and present the report to the Senate Health and Human Services Committee and the House of Representatives Health and Environment Committee, or their successor committees.	No later than January 15 of each year, the Board shall submit a written report to the Governor and the General Assembly concerning the planning and establishment of the exchange and present the report to the Senate Health and Human Services Committee and the House of Representatives Health and Environment Committee, or their successor committees.	No later than January 15 of each year, the Board shall submit a written report to the Governor and the General Assembly concerning the exchange and present the report to the Senate Health and Human Services Committee and the House of Representatives Health and Environment Committee, or their successor committees.

Proviso: none

Proposed by: staff

Rationale: Removal of references to “planning and establishment” to reflect appropriate steady-state operations.

Bylaws Committee Recommendation: The Bylaws Committee recommends that this amendment BE adopted.

AMENDMENT 8: Board Membership

Amend Article IV, Board of Directors, Section A., Membership; Tenure, Subsection 1, by striking “Of the members first appointed, in order to ensure staggered terms, four of the Governor’s appointees shall serve for a term of two years and the remaining Governor’s appointee and other initial appointees shall serve for a term of four years. Thereafter, the terms of the members shall be for four years.” and inserting “Appointments are staggered such that four of the Governor’s appointees are seated for a four-year cycle and the remaining Governor’s appointee and all legislative appointees are seated for a four-year cycle, offset by two years.”

CURRENT WORDING	PROPOSED AMENDMENT	IF ADOPTED WILL READ
<p>Membership; Tenure. COHBE shall have and maintain a Board of Directors as provided by C.R.S. § 10-22-105. The Board shall consist of nine (9) voting members and three (3) non-voting members.</p> <p>1. The nine (9) voting members of the Board shall be appointed as follows:</p> <p style="padding-left: 40px;">a. The Governor shall appoint five (5) voting members to the Board. The Governor shall not appoint more than three members from the same political party.</p> <p style="padding-left: 40px;">b. The President of the Senate, the Minority Leader of the Senate, The Speaker of the House of Representatives, and the Minority Leader of the House of Representatives shall each appoint one (1) voting member to the Board.</p> <p style="padding-left: 40px;">c. Of the members first appointed, in order to ensure staggered terms, four of the Governor’s appointees shall serve for a term of two years and the remaining Governor’s appointee and other initial appointees shall serve for a term of four years. Thereafter, the terms of the members shall be for four years.</p> <p>2. The three (3) non-voting members of the Board shall be:</p> <p style="padding-left: 40px;">a. The Executive Director of</p>	<p>Membership; Tenure. COHBE shall have and maintain a Board of Directors as provided by C.R.S. § 10-22-105. The Board shall consist of nine (9) voting members and three (3) non-voting members.</p> <p>1. The nine (9) voting members of the Board shall be appointed as follows:</p> <p style="padding-left: 40px;">a. The Governor shall appoint five (5) voting members to the Board. The Governor shall not appoint more than three members from the same political party.</p> <p style="padding-left: 40px;">b. The President of the Senate, the Minority Leader of the Senate, The Speaker of the House of Representatives, and the Minority Leader of the House of Representatives shall each appoint one (1) voting member to the Board.</p> <p style="padding-left: 40px;">c. Of the members first appointed, in order to ensure staggered terms, four of the Governor’s appointees shall serve for a term of two years and the remaining Governor’s appointee and other initial appointees shall serve for a term of four years. Thereafter, the terms of the members shall be for four years. <u>Appointments are staggered such that four of the Governor’s appointees are seated for a four-year cycle and the remaining Governor’s appointee and all</u></p>	<p>Membership; Tenure. COHBE shall have and maintain a Board of Directors as provided by C.R.S. § 10-22-105. The Board shall consist of nine (9) voting members and three (3) non-voting members.</p> <p>1. The nine (9) voting members of the Board shall be appointed as follows:</p> <p style="padding-left: 40px;">a. The Governor shall appoint five (5) voting members to the Board. The Governor shall not appoint more than three members from the same political party.</p> <p style="padding-left: 40px;">b. The President of the Senate, the Minority Leader of the Senate, The Speaker of the House of Representatives, and the Minority Leader of the House of Representatives shall each appoint one (1) voting member to the Board.</p> <p style="padding-left: 40px;">c. Appointments are staggered such that four of the Governor’s appointees are seated for a four-year cycle and the remaining Governor’s appointee and all legislative appointees are seated for a four-year cycle, offset by two years.</p> <p>2. The three (3) non-voting members of the Board shall be:</p> <p style="padding-left: 40px;">a. The Executive Director of the Department of Health Care Policy and Financing, or his or her</p>

<p>the Department of Health Care Policy and Financing, or his or her designee.</p> <p>b. The Commissioner of Insurance, or his or her designee.</p> <p>c. The Director of the Office of Economic Development and International Trade, or his or her designee.</p>	<p><u>legislative appointees are seated for a four-year cycle, offset by two years.</u></p> <p>2. The three (3) non-voting members of the Board shall be:</p> <p>a. The Executive Director of the Department of Health Care Policy and Financing, or his or her designee.</p> <p>b. The Commissioner of Insurance, or his or her designee.</p> <p>c. The Director of the Office of Economic Development and International Trade, or his or her designee.</p>	<p>designee.</p> <p>b. The Commissioner of Insurance, or his or her designee.</p> <p>c. The Director of the Office of Economic Development and International Trade, or his or her designee.</p>
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Proviso: none

Proposed by: Bylaws Committee, based on request from staff

Rationale: Cleaning up language around initial appointments to better reflect steady-state operations. Also, while the entire section reflects defined Colorado Revised Statute (and thus supersedes these Articles of Governance), it remains included here in clearer language to aid the reader who may not be aware of the Statute language.

Bylaws Committee Recommendation: The Bylaws Committee recommends that this amendment BE adopted.

AMENDMENT 9: Meetings

Amend Article IV, Board of Directors, Section I., Regular Meetings, by striking “Unless otherwise determined by the Board, the Board shall hold no fewer than ten (10) regular meetings per year.” and inserting “The Board shall determine the number and frequency of regular meetings per calendar year.”

CURRENT WORDING	PROPOSED AMENDMENT	IF ADOPTED WILL READ
<p>Regular Meetings. Unless otherwise determined by the Board, the Board shall hold no fewer than ten (10) regular meetings per year. With the approval of all members present at a given meeting, any scheduled meeting may be advanced or postponed to another date. All meetings shall be open to the public except when the Board meets in executive session, as further described in Section K of this Article IV. The Executive Director shall post notice of the date, time, place, and anticipated agenda items of each regular meeting of the Board or Board committee on COHBE’s web site at least two (2) days prior to the meeting. The agenda may be amended after it is posted where new items for discussion come to the attention of the Board or Board Committee. The Board or Board committee shall post the amended agenda as soon as practicable, and shall make the amended agenda available to the public at the meeting. The annual meeting of the Board shall be the first meeting occurring on or after the first day of July of each year.</p>	<p>Regular Meetings. Unless otherwise determined by the Board, the Board shall hold no fewer than ten (10) regular meetings per year. <u>The Board shall determine the number and frequency of regular meetings per calendar year.</u> With the approval of all members present at a given meeting, any scheduled meeting may be advanced or postponed to another date. All meetings shall be open to the public except when the Board meets in executive session, as further described in Section K of this Article IV. The Executive Director shall post notice of the date, time, place, and anticipated agenda items of each regular meeting of the Board or Board committee on COHBE’s web site at least two (2) days prior to the meeting. The agenda may be amended after it is posted where new items for discussion come to the attention of the Board or Board Committee. The Board or Board committee shall post the amended agenda as soon as practicable, and shall make the amended agenda available to the public at the meeting. The annual meeting of the Board shall be the first meeting occurring on or after the first day of July of each year.</p>	<p>Regular Meetings. The Board shall determine the number and frequency of regular meetings per calendar year. With the approval of all members present at a given meeting, any scheduled meeting may be advanced or postponed to another date. All meetings shall be open to the public except when the Board meets in executive session, as further described in Section K of this Article IV. The Executive Director shall post notice of the date, time, place, and anticipated agenda items of each regular meeting of the Board or Board committee on COHBE’s web site at least two (2) days prior to the meeting. The agenda may be amended after it is posted where new items for discussion come to the attention of the Board or Board Committee. The Board or Board committee shall post the amended agenda as soon as practicable, and shall make the amended agenda available to the public at the meeting. The annual meeting of the Board shall be the first meeting occurring on or after the first day of July of each year.</p>

Proviso: none

Proposed by: staff

Rationale: To permit adjustments to the Board meeting calendar based on need, or lack thereof, for regular meetings – such as moving to a Board meeting cadence of every two months.

Bylaws Committee Recommendation: The Bylaws Committee recommends that this amendment BE adopted.

AMENDMENT 10: Transfer of Moneys

Amend Article V, Board of Directors, by striking Section M, Transfer of Moneys, and inserting “Transfer of Moneys and Investment. Moneys received by the Board must be transferred directly to COHBE for the purposes of the Act. The Board may authorize the prudent investments of funds (excluding funds received from federal or state agencies) to preserve principal and provide a prudent yield consistent with the maintenance of liquidity needs and capital stability pursuant to an investment policy adopted by the Board. Investments shall be made for the sole interest and exclusive purpose of the COHBE. The Board shall direct that such assets must be invested with the care, skill and diligence that a prudent investor acting in this capacity would use to comply with applicable controlling statutes and regulations.”

CURRENT WORDING	PROPOSED AMENDMENT	IF ADOPTED WILL READ
<p>Transfer of Moneys. Moneys received by the Board for the implementation of this article must be transferred directly to COHBE for the purposes of the Act. The Board shall deposit any moneys received in a banking institution as described in Section H of this Article V.</p>	<p>Transfer of Moneys and Investment. Moneys received by the Board for the implementation of this article must be transferred directly to COHBE for the purposes of the Act. The Board shall deposit any moneys received in a banking institution as described in Section H of this Article V. <u>The Board may authorize the prudent investments of funds (excluding funds received from federal or state agencies) to preserve principal and provide a prudent yield consistent with the maintenance of liquidity needs and capital stability pursuant to an investment policy adopted by the Board. Investments shall be made for the sole interest and exclusive purpose of the COHBE. The Board shall direct that such assets must be invested with the care, skill and diligence that a prudent investor acting in this capacity would use to comply with applicable controlling statutes and regulations.</u></p>	<p>Transfer of Moneys and Investment. Moneys received by the Board must be transferred directly to COHBE for the purposes of the Act. The Board may authorize the prudent investments of funds (excluding funds received from federal or state agencies) to preserve principal and provide a prudent yield consistent with the maintenance of liquidity needs and capital stability pursuant to an investment policy adopted by the Board. Investments shall be made for the sole interest and exclusive purpose of the COHBE. The Board shall direct that such assets must be invested with the care, skill and diligence that a prudent investor acting in this capacity would use to comply with applicable controlling statutes and regulations.</p>

Proviso: none

Proposed by: staff

Rationale: Rewording to eliminate start-up “implementation” language and adding steady-state language around investment policy.

Bylaws Committee Recommendation: The Bylaws Committee recommends that this amendment BE adopted.

AMENDMENT 11: Minutes, ALTERNATIVE 1

Amend Article IV, Board of Directors, Section Q., Officers, Subsection 3, by striking “The Secretary shall sign the minutes before distribution.”

CURRENT WORDING	PROPOSED AMENDMENT	IF ADOPTED WILL READ
The Secretary shall ensure that minutes are kept of all meetings of the Board, Board committees, and technical and advisory groups, that electronic recordings are made of every executive session of the Board, and that the minutes are accurate. The Secretary shall sign the minutes before distribution. The Secretary shall perform such other duties as are incident to the office of Secretary.	The Secretary shall ensure that minutes are kept of all meetings of the Board, Board committees, and technical and advisory groups, that electronic recordings are made of every executive session of the Board, and that the minutes are accurate. The Secretary shall sign the minutes before distribution. The Secretary shall perform such other duties as are incident to the office of Secretary.	The Secretary shall ensure that minutes are kept of all meetings of the Board, Board committees, and technical and advisory groups, that electronic recordings are made of every executive session of the Board, and that the minutes are accurate. The Secretary shall perform such other duties as are incident to the office of Secretary.

Proviso: none

Proposed by: staff

Rationale: Colorado Revised Statute is silent on the requirement for signatures on approved minutes, and this is an extra step required before public distribution of minutes, which generally happens electronically. We publish a draft version prior to approval, which meets Colorado Sunshine Law minimum requirements to be “taken and promptly recorded, and such records shall be open to public inspection.”

Bylaws Committee Recommendation: The Bylaws Committee recommends that Alternative 2 be adopted instead, to preserve signature but better clarify how minutes are recorded and eliminate a step required to make minutes publicly available.

Bylaws Committee Rationale: The minutes are the legal proceeding of the organization and signature establishes evidence of the original document’s authenticity. This act should happen after the Board approves the minutes at a following meeting, but before being placed into the official record.

AMENDMENT 11: Minutes, ALTERNATIVE 2

Amend Article IV, Board of Directors, Section Q., Officers, Subsection 3, by striking “The Secretary shall sign the minutes before distribution” and inserting “Recording of the minutes may be delegated to staff, but the Secretary shall sign the minutes upon Board approval.”

CURRENT WORDING	PROPOSED AMENDMENT	IF ADOPTED WILL READ
<p>The Secretary shall ensure that minutes are kept of all meetings of the Board, Board committees, and technical and advisory groups, that electronic recordings are made of every executive session of the Board, and that the minutes are accurate. The Secretary shall sign the minutes before distribution. The Secretary shall perform such other duties as are incident to the office of Secretary.</p>	<p>The Secretary shall ensure that minutes are kept of all meetings of the Board, Board committees, and technical and advisory groups, that electronic recordings are made of every executive session of the Board, and that the minutes are accurate. The Secretary shall sign the minutes before distribution. <u>Recording of the minutes may be delegated to staff, but the Secretary shall sign the minutes upon Board approval.</u> The Secretary shall perform such other duties as are incident to the office of Secretary.</p>	<p>The Secretary shall ensure that minutes are kept of all meetings of the Board, Board committees, and technical and advisory groups, that electronic recordings are made of every executive session of the Board, and that the minutes are accurate. Recording of the minutes may be delegated to staff, but the Secretary shall sign the minutes upon Board approval. The Secretary shall perform such other duties as are incident to the office of Secretary.</p>

Proviso: none

Proposed by: Bylaws Committee

Rationale: Minutes are the official record of the organization, and signature establishes authenticity. By eliminating “before distribution” draft minutes can be made public in the spirit of the Colorado Sunshine Law.

Bylaws Committee Recommendation: The Bylaws Committee recommends that this Amendment BE adopted.

Bylaws Committee Rationale: The minutes are the legal proceeding of the organization and signature establishes evidence of the original document’s authenticity. This act should happen after the Board approves the minutes at a following meeting, but before being placed into the official record.

AMENDMENT 12: Compensation

Amend Article IV, Board of Directors, Section F. Compensation, by striking “Per diem and reimbursement expenses shall be paid through grant moneys received by the Board.”

CURRENT WORDING	PROPOSED AMENDMENT	IF ADOPTED WILL READ
<p>Compensation. Members of the Board shall serve without compensation, except that they may receive a per diem and reimbursement for travel and other necessary expenses while engaged in the performance of official duties of the Board. Per diem and reimbursement expenses shall be paid through grant moneys received by the Board.</p>	<p>Compensation. Members of the Board shall serve without compensation, except that they may receive a per diem and reimbursement for travel and other necessary expenses while engaged in the performance of official duties of the Board. Per diem and reimbursement expenses shall be paid through grant moneys received by the Board.</p>	<p>Compensation. Members of the Board shall serve without compensation, except that they may receive a per diem and reimbursement for travel and other necessary expenses while engaged in the performance of official duties of the Board.</p>

Proviso: none

Proposed by: staff

Rationale: To allow for per diem and reimbursement expenses through general funds.

Bylaws Committee Recommendation: The Bylaws Committee recommends that this amendment **NOT** BE adopted.

Bylaws Committee Rationale: Colorado Revised Statutes currently requires Exchange Board per diem and reimbursement expenses to be paid through grant moneys received (not just during implementation), so changing this would open the organization up to problems if future per diems or travel reimbursements were paid from general funds.

AMENDMENT 13: Delegation of Authority

Amend Article IV, Board of Directors, Section S., Committees, by inserting “The Board may delegate its authority to a committee to take any action at a committee level not otherwise statutorily reserved for the Board as a whole and shall document such delegation.” before “Each committee shall appoint a chair...”

CURRENT WORDING	PROPOSED AMENDMENT	IF ADOPTED WILL READ
<p>Committees. The Board may create one or more committees and shall appoint one or more members of the Board to serve on them. Each committee shall have the authority given by the Board at its creation, except that no committee shall have the authority to (i) adopt, amend, or repeal the Articles of Governance, (ii) elect, appoint or remove any director or officer; (iii) approve disposition of all or substantially all of the assets of COHBE; or (iv) take any action designated in the Act as a decision for the Board. Each committee shall appoint a chair, conduct its meetings in accordance with the provisions of the Articles of Governance applicable to meetings of the Board and maintain minutes of each meeting of the committee, including a statement as to each matter considered and the action taken with regard to each. Board committees created under this section are state public bodies as defined by C.R.S. § 24-6-402(1)(d) and are authorized to enter executive session as described in Section K of this Article IV. The term “Board committee” as used in these Articles of Governance shall refer to a committee created under this Section S of Article IV of these Articles of Governance. Nothing in this subsection shall prohibit the Board from creating from time to time <i>ad hoc</i> advisory groups to provide advice and assistance in specialized areas of expertise and with such membership, procedures, and responsibilities as established by the Board.</p>	<p>Committees. The Board may create one or more committees and shall appoint one or more members of the Board to serve on them. Each committee shall have the authority given by the Board at its creation, except that no committee shall have the authority to (i) adopt, amend, or repeal the Articles of Governance, (ii) elect, appoint or remove any director or officer; (iii) approve disposition of all or substantially all of the assets of COHBE; or (iv) take any action designated in the Act as a decision for the Board. <u>The Board may delegate its authority to a committee to take any action at a committee level not otherwise statutorily reserved for the Board as a whole and shall document such delegation.</u> Each committee shall appoint a chair, conduct its meetings in accordance with the provisions of the Articles of Governance applicable to meetings of the Board and maintain minutes of each meeting of the committee, including a statement as to each matter considered and the action taken with regard to each. Board committees created under this section are state public bodies as defined by C.R.S. § 24-6-402(1)(d) and are authorized to enter executive session as described in Section K of this Article IV. The term “Board committee” as used in these Articles of Governance shall refer to a committee created under this Section S of Article IV of these Articles of Governance. Nothing in this subsection shall prohibit the Board from creating from time to time <i>ad hoc</i> advisory groups to provide advice and assistance in specialized areas of expertise and with such membership, procedures, and responsibilities as established by the Board.</p>	<p>Committees. The Board may create one or more committees and shall appoint one or more members of the Board to serve on them. Each committee shall have the authority given by the Board at its creation, except that no committee shall have the authority to (i) adopt, amend, or repeal the Articles of Governance, (ii) elect, appoint or remove any director or officer; (iii) approve disposition of all or substantially all of the assets of COHBE; or (iv) take any action designated in the Act as a decision for the Board. The Board may delegate its authority to a committee to take any action at a committee level not otherwise statutorily reserved for the Board as a whole and shall document such delegation. Each committee shall appoint a chair, conduct its meetings in accordance with the provisions of the Articles of Governance applicable to meetings of the Board and maintain minutes of each meeting of the committee, including a statement as to each matter considered and the action taken with regard to each. Board committees created under this section are state public bodies as defined by C.R.S. § 24-6-402(1)(d) and are authorized to enter executive session as described in Section K of this Article IV. The term “Board committee” as used in these Articles of Governance shall refer to a committee created under this Section S of Article IV of these Articles of Governance. Nothing in this subsection shall prohibit the Board from creating from time to time <i>ad hoc</i> advisory groups to provide advice and assistance in specialized areas of expertise and with such membership, procedures, and responsibilities as established by the Board.</p>

Proviso: none

Proposed by: staff

Rationale: To allow the Board of Directors to delegate Board decision-making authority to a committee and have any such action taken be in force without the need for the Board to ratify or adopt the decision of the delegate.

Bylaws Committee Recommendation: The Bylaws Committee recommends that this amendment **NOT** BE adopted.

Bylaws Committee Rationale: As a general principle, a board cannot delegate its authority – empowering a subordinate group to act independently in its name – except as may be authorized by the bylaws. This practice is atypical but when included in bylaws, it is normally done with a narrow and specific scope, so as not to subvert the rule of the Board or create a crisis of power by giving a minority of the Board the ability to act with the power and force of the full Board.

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