MINUTES

**METROPOLITAN EMPLOYEE BENEFIT BOARD**

**PENSION COMMITTEE**

**May 29, 2014**

The Metropolitan Employee Benefit Board’s Pension Committee met on Thursday,May 29, 2014 in the Sonny West Conference Room, Howard Office Building, 700 2nd Avenue North, Nashville, Tennessee, at approximately 9:30 a.m.

Committee Members present: Chair: W. Todd Henry; Vice-Chair: Stephanie Bailey; Members: B. R. Hall, Sr., and Richard Riebeling. Alternate member(s): Christine Bradley and Edna J. Jones.

Committee Member Stephanie Bailey was unable to be present. Christine Bradley served as alternate.

Benefit Board Member Veronica Frazier was present.

Others present: Christina Hickey, Metro Human Resources, Nicki Eke, Attorney, Metro Legal Department and Dr. Susan L. Warner, Civil Service Medical Examiner.

# **BENEFIT BOARD ITEMS**

The Human Resources staff submitted the following for the Committee’s consideration and appropriate action:

1. Compliance agreement review.

Todd Henry informed the Committee that this Committee meeting was convened at the request of the Board Chair.

Edna Jones stated that the issue of compliance needs to be addressed regarding disability pensioners and positive drug screens documented in their medical record. She stated that disability pensions have been terminated for failing to be compliant with classes and licensure and a positive drug screen is a violation of their pain management agreement with their physician and therefore should be monitored.

Todd Henry reviewed what the disability pension agreement form states under number 4 regarding compliance, “I will comply with any mandated programs or treatments assigned to me as such participation and rehabilitation program, general education development, (GED), or on the job training”. He stated that statement would include any kind of medical issue that came forth. He also stated that Eckman/Freeman and Alternative Service Concepts, (ASC) should notify the Human Resources, (HR), staff/Board on any type of violation of the agreement and that the Civil Service Medical Examiner should be the first point of contact before bringing it to the Board.

Christina Hickey, HR staff, indicated that when there is a non-compliance issue, HR staff would bring that to the Board for review and/or appropriate action.

Dr. Susan Warner, Civil Service Medical Examiner, (CSME), requested clarification regarding positive drug screens on past cases.

There was discussion that if they are currently on a disability, the file should be reviewed by the physician to determine a legitimate reason for the positive drug screen, if not it needs to be brought to the Board for assistance with becoming compliant with the rules.

There was some discussion of the case, (a pensioner brought up for re-exam that had two positive drug tests in the medical record and was no longer under pain management with the treating physician) that was brought to the Board’s attention by the CSME.

Nicki Eke, Legal Department, stated that whatever the Board adopts would have to be going forward versus retroactively.

There was some discussion of relying on the report of a failed drug test from the physician as the standard versus having one done by the service that Metro uses.

Nicki Eke stated that if the drug testing was part of the treatment for the disability, you would have to go with the medical treatment that is part of the disability program. She stated that bringing in another drug testing program raises legal issues.

B.R. Hall asked for a copy of the pain management policy and questioned the authority to check disability pensioners for drugs.

Dr. Susan Warner stated that when a pensioner or a patient has pain management treatment, that physician institutes a contract with the patient stating that they will not receive drugs of a certain class from another doctor, take someone else’s drugs or use illegal drugs.

B.R. Hall asked for Metro’s policy on pain management and stated that is a policy between the physician and the individual.

There was some discussion of what the disability pension agreement form states under number 4 and B.R. Hall stated that is a contract with the physician and cannot see where any rules with Metro has been violated.

It was discussed that as a part of their receipt of a disability pension is that they have to undergo certain treatment to get better and if they violate that pain management agreement, they have violated the agreement with Metro as a requirement for a disability pension.

There was discussion of someone returning to work that has had a positive drug screen and that being a return to work procedure. There was discussion that when they return to work they become an employee and at that time they would be governed by the policies of an employee. There was also discussion of paying a disability pension to someone whom the Board knowingly uses drugs and having a standard of accountability.

Nicki Eke, Legal Department, stated she does not want to single out drug testing, however, the issue is you have a pensioner who has a prescribed course of treatment from their physician to help them recover from either an in line of duty injury or from a medical injury/illness. She stated that whether or not they are following that prescribed course of treatment, and if they are not, what are the consequences.

The Committee discussed that once there is a violation of the agreement, our vendors, (ASC, Eckman/Freeman), make the CSME aware of the situation for her to bring it to the attention of HR for resolution. If the individual fails to comply, then it should be brought to the attention of the Board.

Nicki Eke, Legal Department, clarified that any drug test that is not something that is initiated by the Board, it is just something that the physician has determined as part of the treatment, is what professionally the physician is supposed to do and it’s not something that the Board has imposed on any physician or a requirement that any employee be tested for drugs.

It was noted that a violation of any kind be brought to HR staffs attention and then, if necessary, to the Board and the Committee questioned why this was not brought forward in the past.

Richard Riebeling moved that the vendors bring any violations of the disability pension agreement to HR staff for review, in conjunction with appropriate parties, and then to the Board for action if necessary. B.R. Hall seconded and the Committee approved without objection.

With nothing further presented, the meeting adjourned at approximately 9:55 a.m.

ATTEST: APPROVED:

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***Ms. Veronica T. Frazier, Director Mr. W. Todd Henry, Chair***

***Human Resources Pension Committee***