NDPERS BOARD MEETING
Agenda

Bismarck Location:
ND Association of Counties
1661 Capitol Way
Fargo Location:
Sanford Health Plan
1749 38th Street South

March 16, 2017 **Time: 8:30 AM**

I. MINUTES
   A. February 23, 2017

II. FLEX COMP
   A. ADP Contract – Kathy (Information)

III. RETIREMENT
   A. Retirement Contribution Policy – Sharon (Board Action)
   B. Economic Assumptions – Sparb (Board Action)

IV. GROUP INSURANCE
   A. EAP RFP – Bryan (Board Action)
   B. Ancillary Programs – Sparb & Bryan (Board Action)
   C. Vision RFP – Bryan (Information)

V. MISCELLANEOUS
   A. Legislative update – Sparb (Information)
   B. Audit Committee – Jamie (Information)

VI. DEFERED COMPENSATION
   A. Fiduciary Standards – Sparb (Information)
   B. 401(a) and 457 Deferred Compensation RFP * Executive Session - Bryan (Board Action)

*Executive Session pursuant to NDCC §§ 44-04-18.4(6), 44-04-19.1(9), and 44-04-19.2 to discuss exempt material and negotiating strategy.

Any individual requiring an auxiliary aid or service must contact the NDPERS ADA Coordinator at 328-3900, at least 5 business days before the scheduled meeting.

North Dakota
Public Employees Retirement System
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Memorandum

TO: **NDPERS Board**

FROM: **Kathy**

DATE: **March 8, 2017**

SUBJECT: **ADP Contract**

At the December 8, 2016 meeting the Board was informed of the sale of ADPs COBRA and Consumer Health Spending Account (CHSA) businesses to WageWorks. The Board inquired if this sale would present any contract issues. The question was referred to our legal counsel for review.

Following is the response provided by Jan:

I'm not sure about the exact nature of the ongoing relationship between ADP and Wageworks. If Wageworks will be considered a subcontractor or subsidiary of ADP, you don't need an amendment to the agreement because the agreement specifically allows for work to be performed by subcontractors/subsidiaries and ADP will be held responsible for their performance. However, if WageWorks is not a subcontractor or subsidiary, but an independent entity that ADP is not responsible for, then you need an amendment to the ADP agreement that basically says Wageworks will assume responsibility for ADP's obligations under this agreement. Likewise if Wageworks is not a subsidiary or subcontractor of the State, then ADP can't unilaterally transfer its business with the State to Wageworks without the State's written consent (as evidenced by an amendment) under 10.6 of the Master Agreement. This could be a basis for termination of the contract by the State without incurring an early termination fee. But again, this is dependent on the exact nature of the ongoing relationship between ADP and WageWorks.

We have discussed this issue with the ADP service team who indicated that its attorneys are in the process of reviewing how the sale of the two businesses to WageWorks will affect all current contracts. We provided ADP with Jan's response and requested they be prepared to discuss this issue at the April 27th meeting.

We are available to respond to any questions.

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Memorandum

TO: NDPERS Board

FROM: Sharon Schiermeister

DATE: March 8, 2017

SUBJECT: **Retirement Contribution Policy**

Background
In June 2012, the Governmental Accounting Standards Board (GASB) issued two new standards that substantially changed the accounting and financial reporting of public employee pension plans and the state and local governments that participate in such plans. GASB Statement No. 67, *Financial Reporting for Pension Plans,* revised existing guidance for the financial reports of most governmental pension plans. GASB Statement No. 68, *Accounting and Financial Reporting for Pensions,* revised and established new financial reporting requirements for most governments that provide their employees with pension benefits. NDPERS implemented the GASB Statement No. 67 requirements in the June 30, 2014 financial statements. Participating employers in the retirement plans administered by NDPERS implemented GASB Statement No. 68 in 2015.

As a result of these new financial reporting requirements for our employers, our external auditors included a finding as part of our audit report for June 30, 2014 relating to accuracy of census data for active employees in the retirement plans (see Attachment 1 from June 30, 2014 audit report prepared by Brady Martz and Associates). This finding was repeated in our June 30, 2015 audit report (see Attachment 2 from June 30, 2015 audit report prepared by Clifton Larson Allen).

To address this finding, we have implemented additional procedures and controls in two areas. We hired an intern in our internal audit area to allow them to expand their testing of our participating employers. In addition, we implemented a control in our PERSLink system to flag salary variances at the time the employer is reporting monthly salary and contributions for each employee. Our auditors felt that these additional procedures addressed their concerns, therefore this finding was not repeated in our June 30, 2016 audit report.

However, as a result of the control that was implemented in PERSLink which requires additional staff follow-up with employers, it has brought to light some areas requiring direction from the Board.

Overtime Pay
NDCC 54-52-01 (22) defines wages that are eligible for retirement as:

> "Wages" and "salaries" means the member's earnings in eligible employment under this chapter reported as salary on the member's federal income tax withholding statements plus any salary reduction or salary deferral amounts under 26 U.S.C. 125, 401(k), 403(b), 414(h), or 457. "Salary" does not include fringe benefits such as payments for unused sick leave, personal leave, vacation leave paid in a lump sum, overtime, housing allowances, transportation expenses, early retirement incentive pay, severance pay, medical insurance, workforce safety and insurance benefits, disability insurance premiums or benefits, or salary received by a member in lieu of previously employer-provided fringe benefits under an agreement between the member and participating employer. Bonuses may be considered as salary under this section if reported and annualized pursuant to rules adopted by the board.

The definition above excludes "overtime" from reported salary. We do not further define overtime in either the NDCC or NDAC, but it has been NDPERS interpretation that overtime includes hours worked over 40 in a week that are paid at more than the regular hourly rate (time and one-half), and also hours over 40 in a week that are paid at the regular hourly rate (an example of this is when a week has 8 hours of holiday pay and the employee works more than 32 hours during the week). It has come to our attention that employers are not consistently excluding overtime paid at the regular hourly rate when reporting wages for retirement purposes. Their interpretation of overtime is only for hours paid at time and one-half, which is common for how this would be set up in a payroll system.

Staff would like to propose the following policy to address this inconsistency:

a. Define overtime as "hours paid at more than the regular hourly rate"
b. Make the definition effective 7/1/2017 to allow us to communicate the change to our employers
c. Upon becoming aware of overtime reported in error for a member, either at the time of contribution reporting through the salary variance process or at the time of retirement when final average salary (FAS) is being reviewed, corrections would be made to that member's account as follows:
    i. Remove overtime wages (paid at more than the regular hourly rate) and related contributions for all months that were reported in error for that member
    ii. Overtime paid at the regular hourly rate would not be removed, even if it occurred prior to 7/1/2017
d. If an employer notifies PERS of a reporting error which was not identified through our salary variance or FAS review process, the employer would be advised to correct the error going forward; however, the employer has the option to initiate corrections using PERSLink Employer Self Service (ESS). The employer would also be advised that corrections may be required in the

future if a member's salary is questioned as part of the salary variance or FAS review process.

e. After 7/1/2017, if PERS becomes aware that an employer is not reporting wages and contributions for overtime hours paid at the regular hourly rate, they will be required to be reported from 7/1/2017 forward.
f. Retroactive reporting of overtime hours paid at the regular hourly rate prior to 7/1/2017 will not be accepted.

Written agreements

NDPERS has provided guidance to our employers for reporting wages and contributions for employees who are under a contract/written agreement and for employees who work in several capacities as follows:

> Retirement contributions must be paid on all work performed within the contract or agreement arrangement. Duties performed outside these arrangements will be considered incidental and similar to overtime and therefore, excluded for retirement contribution purposes.
>
> If an employee works in several capacities for the same employer and does not have any contract or written agreement, and the sum of hours meets eligibility guidelines, retirement contributions should be made on all wages earned, excluding overtime.

We have found that the definition of written agreement has not always been interpreted consistently by employers and even among NDPERS staff. In the past, staff would ask the employer if a written agreement was in place but did not require documentation. With the increased responsibility under GASB 68, copies of written documentation is now being requested to include in the member's file, however, we have been accepting documents such as job descriptions, employment letters or acknowledgement of duties which may or may not have the signatures of both the employee and employer.

Staff would like to propose the following policy to address this inconsistency:

a. Define 'written agreement' to be "a document that includes the work to be performed by the employee and is signed by both the employee and the employer".
b. Make the definition effective 7/1/2017 to allow us to communicate the change to our employers
c. Upon becoming aware of wages being reported in error for a member under this policy, either at the time of contribution reporting through the salary variance process or at the time of retirement when final average salary (FAS) is being reviewed, corrections would be made to that member's account as follows:
    i. Remove ineligible wages and contributions for that member, back to 7/1/2017
    ii. Variances prior to 7/1/2017 resulting from written agreement interpretation would not be corrected

d. If an employer notifies PERS of a reporting error which was not identified through our salary variance or FAS review process, the employer would be advised to correct the error going forward; however, the employer has the option to initiate corrections using PERSLink Employer Self Service (ESS). The employer would also be advised that corrections may be required in the future if a member’s salary is questioned as part of the salary variance or FAS review process.
e. After 7/1/2017, if PERS becomes aware that an employer is not reporting wages and contributions for eligible wages pursuant to the written agreement clarification, they will be required to be reported from 7/1/2017 forward.
f. Retroactive reporting of eligible wages prior to 7/1/2017, pursuant to the written agreement clarification, will not be accepted.

If the Board is comfortable with these proposed policies, staff would recommend sending them out to our participating employers to get their feedback. We would then bring the policies back to the Board for final approval at either the April or May meeting.

Board action requested:

Approve distribution of the proposed policies on overtime and written agreements to participating employers in the retirement plan to gather their feedback.

NORTH DAKOTA PUBLIC EMPLOYEES RETIREMENT SYSTEM
SCHEDULE OF FINDINGS
FOR THE YEARS ENDED JUNE 30, 2014 AND 2013

2014-001

Criteria:
Management of PERS is responsible for the preparation and fair presentation of the financial statements in accordance with the applicable financial reporting framework. As a result of the new governmental accounting standards requirements, this responsibility also includes verifying the completeness and accuracy of census data for the PERS, HPRS and JSND defined benefit plans.

Condition:
During our audit it was noted that management does not have in place procedures to verify the underlying payroll records of the participating employers to determine that the information provided is accurate and complete. This applies specifically to the census data for active employees in the PERS, HPRS and JSND plans.

Cause:
Currently, PERS does not have the resources available to develop and implement procedures and controls to over the underlying payroll records of the participating employers.

Effect:
Without the proper procedures and controls in place, the assessed level of risk is high over the completeness and accuracy of census data, specifically the payroll records for active participants in the census data.

Recommendation:
PERS management should review the current processes in place and determine what additional procedures and controls could be implemented to lower the assessed level of risk over the completeness and accuracy of census data. Also, management will need to evaluate the additional resources necessary to lower the assessed level of risk, and determine if it is cost-beneficial.

Views of Responsible Officials and Planned Corrective Actions:
Management will determine what additional procedures and controls could be implemented to lower the risk over completeness and accuracy of census data. It will then be determined what additional resources may be necessary to implement the new procedures.

NORTH DAKOTA PUBLIC EMPLOYEES RETIREMENT SYSTEM
SCHEDULE OF FINDINGS
FOR THE YEAR ENDED JUNE 30, 2015

2015-001- Census Data Reconciliation

Criteria:
Management of the System is responsible for the preparation and fair presentation of the financial statements in accordance with the applicable financial reporting framework. This responsibility includes verifying the completeness and accuracy of census data for the PERS, HPRS and JSND defined benefit plans.

Condition:
It was noted that management does not have procedures to verify the underlying payroll records of the participating employers to determine that the information provided is accurate and complete. This applies specifically to the census data for active employees in the PERS, HPRS and JSND plans.

Cause:
The System may not have the resources available to develop and implement procedures and controls over the underlying payroll records of the participating employers.

Effect:
Without the proper procedures and controls in place, there is a higher level of risk over the completeness and accuracy of census data, specifically the payroll records for active participants in the census data.

Recommendation:
Management should review the current processes in place and identify additional procedures that could be implemented to lower the risk over the completeness and accuracy of census data. Also, management may need to evaluate the additional resources necessary to perform the additional procedures.

Views of Responsible Officials and Planned Corrective Actions:
Management will identify additional procedures and controls that could be implemented to lower the risk over completeness and accuracy of census data. It will then be determined which additional resources may be necessary to implement the new procedures.

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Memorandum

TO: PERS Board

FROM: Sparb

DATE: March 9, 2017

SUBJECT: Economic Assumptions

This last year we did an analysis of our economic and demographic assumptions with our former actuary Segal. Since we changed actuaries to GRS this last year as well as a result of a bid they indicated they would like the opportunity to review our assumptions as well (with no charge). Attachment #1 is the product of that review and GRS will be at the board meeting to review it with you as well. One of the assumptions they review in the attachment is our return assumption (which is 8%). For your reference Attachment #2 is paper recently done by NASRA on the return assumption used by other states.

The following is some background information from GRS:

> *As you are well aware, the actuarial assumptions used in the July 1, 2016, actuarial valuations of the North Dakota Public Employees Retirement System ("NDPERS") were provided to us by the NDPERS Board and were based on an experience review for the five-year period ending July 1, 2014, performed by the prior actuary (Segal). As a result, GRS was unable to judge the reasonableness of the actuarial assumptions and methods without performing a substantial amount of additional work beyond the scope of the annual actuarial valuation, and did not do so.*
>
> *However, in order to opine on the reasonableness of the actuarial assumptions to be used in conjunction with the upcoming July 1, 2017, actuarial valuations, we have reviewed the economic assumptions (rate of inflation, investment return, wage inflation and payroll growth assumption), along with the current asset valuation method. The primary purpose of this study is to review the key economic actuarial assumptions and the asset valuation method, in light of the relevant Actuarial Standards of Practice ("ASOPs"), in order to determine their continued appropriateness.*
>
> *The Actuarial Standards Board (ASB) promulgates ASOPs for use by actuaries when rendering actuarial services in the United States. The ASB is vested by the U.S.-based actuarial organizations with the responsibility for promulgating ASOPs for actuaries rendering actuarial services in the United States. Each of these actuarial organizations requires its members, through its Code of Professional Conduct (Code), to satisfy applicable ASOPs when rendering actuarial services in the United States.*

ASOP No. 27, in particular, provides guidance to actuaries in selecting (including giving advice on selecting) economic assumptions—primarily investment return, discount rate, postretirement benefit increases, inflation, and compensation increases—for measuring obligations under defined benefit pension plans. In a public retirement system like NDPERS, it is ultimately the Retirement Board's responsibility to approve the actuarial assumptions used in the actuarial valuations. It is the actuary's duty to provide the Board with information needed to make those decisions and to make recommendations to the Board. Although the Board is the ultimate decision-making body, as the actuary to NDPERS we are still bound by ASOP No. 27 in providing advice or making recommendations to the Board.

Board Action Requested:

To determine:

1. If we should maintain the existing assumptions.
2. Or should we explore these recommendations further by having GRS attend the April meeting to give us a presentation and develop estimates of the effect on contribution requirements and long term funded status.

Gabriel Roeder Smith & Company
Consultants & Actuaries

Economic Assumptions
Attachment #1

NORTH DAKOTA PUBLIC EMPLOYEES RETIREMENT SYSTEM

2017 ECONOMIC ACTUARIAL ASSUMPTION REVIEW

GRS Gabriel Roeder Smith & Company
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February 20, 2017

Board Members
North Dakota Public Employees Retirement System
Bismarck, North Dakota

Subject: 2017 Economic Actuarial Assumption Review

Dear Members of the Board:

The actuarial assumptions used in the July 1, 2016, actuarial valuation of the North Dakota Public Employees Retirement System ("NDPERS") were provided to us by the NDPERS Board and were based on an experience review for the five-year period ending July 1, 2014, performed by the prior actuary (Segal).

As a result, GRS was unable to judge the reasonableness of the actuarial assumptions and methods without performing a substantial amount of additional work beyond the scope of the annual actuarial valuation, and did not do so.

However, in order to opine on the reasonableness of the actuarial assumptions to be used in conjunction with the July 1, 2017, actuarial valuations, we have reviewed the economic assumptions (rate of inflation, investment return, wage inflation and payroll growth assumption), along with the current asset valuation method.

The primary purpose of this study is to review the key economic actuarial assumptions and the asset valuation method to determine their continued appropriateness.

Our study includes a review of the experience and expectations associated with the following actuarial assumptions and methods:

- Price Inflation;
- Investment Return;
- Wage Inflation;
- Payroll Growth; and
- Asset Valuation Method.

Section I contains a summary of the actuarial assumption review. The results of this analysis are set forth in Section II of this report.

This assumption review is based on general economic data and target asset allocation information as provided by NDPERS Staff. All calculations have been made in conformity with generally accepted actuarial principles and practices and with the Actuarial Standards of Practice issued by the Actuarial Standards Board. Based on these items, we certify these results to be true and correct.

Future actuarial measurements may differ significantly from the current measurements presented in this report due to such factors as the following: plan experience differing from that anticipated by the economic or demographic assumptions; changes in economic or demographic assumptions; increases or decreases expected as part of the natural operation of the methodology used for these measurements (such as the end of an amortization period or additional cost or contribution requirements based on the plan's funded status); and changes in plan provisions or applicable law.

This report should not be relied on for any purpose other than the purpose stated.

The signing actuaries are independent of the plan sponsor.

The actuaries submitting this report (Lance J. Weiss, Amy Williams and David Kausch) are all Members of the American Academy of Actuaries and meet the Qualification Standards of the American Academy of Actuaries to render the actuarial opinion contained herein.

Respectfully submitted,

Gabriel, Roeder, Smith & Company

Lance J. Weiss, E.A., M.A.A.A., F.C.A.
Senior Consultant and Team Leader

Amy Williams, A.S.A., M.A.A.A., F.C.A.
Consultant

David T. Kausch, F.S.A., E.A., M.A.A.A., F.C.A., Ph.D.
Senior Consultant and GRS Chief Actuary

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SECTION I

SUMMARY

North Dakota Public Employees Retirement System
Experience Review Summary

Background

For any pension plan, actuarial assumptions are selected that are intended to provide reasonable estimates of future expected events, such as System investment returns, interest crediting, and patterns of retirement, turnover and mortality. These assumptions, along with an actuarial cost method, an asset valuation method, the employee census data and the plan's provisions are used to determine the actuarial liabilities and overall actuarially determined funding requirements for the plan. The true cost to the plan over time will be the actual benefit payments and expenses required by the plan's provisions for the participant group under the plan. To the extent the actual experience deviates from the actuarial assumptions, experience gains and losses will occur. These gains (losses) then serve to reduce (increase) future actuarially determined contributions and increase (reduce) the funded ratio.

The actuarial assumptions should be individually reasonable and consistent in the aggregate. They should also be reviewed periodically to ensure that they remain appropriate.

The actuarial cost method, for plan sponsors that use actuarially based funding policies, automatically adjusts contributions over time for differences between what is assumed and the actual experience under the plan.

The Actuarial Standards Board ("ASB") provides guidance on measuring the costs of financing a retirement program through the following Actuarial Standards of Practices ("ASOPs"):

(1) ASOP No. 4, *Measuring Pension Obligations and Determining Pension Plan Costs or Contributions*;
(2) ASOP No. 27, *Selection of Economic Assumptions for Measuring Pension Obligations*;
(3) ASOP No. 35, *Selection of Demographic and Other Noneconomic Assumptions for Measuring Pension Obligations*; and
(4) ASOP No. 44, *Selection and Use of Asset Valuation Methods for Pension Valuations*.

The recommendations provided in this report are consistent with the preceding actuarial standards of practice.

ASOP No. 27 provides guidance related to selecting economic assumptions, including the investment return, discount rate, inflation, postemployment benefit increases, compensation increases and any other related economic assumptions.

In developing specific actuarial assumptions, ASOP No. 27 requires the actuary to follow a general process of:

(1) Identifying the components of the assumption;
(2) Evaluating relevant data;
(3) Considering specific and general factors related to the measurement; and
(4) Selecting a reasonable assumption.

In evaluating relevant data, the actuary should include appropriate recent and long-term historic data, but not give undue weight to recent experience.

Further, under ASOP No. 27, an assumption is considered reasonable if:

- It is appropriate for the purpose of the measurement;
- It reflects the actuary's professional judgment;
- It takes into account historical and current economic data that is relevant as of the measurement date;
- It reflects the actuary's estimate of future experience, the actuary's observation of the estimates inherent in market data, or a combination thereof; and
- It has no significant bias (i.e., it is not significantly optimistic or pessimistic).

Also according to the ASOP No. 27, the actuary should recognize the uncertain nature of the items for which assumptions are selected and, as a result, may consider several different assumptions reasonable for a given measurement. The actuary should also recognize that different actuaries will apply different professional judgment and may choose different reasonable assumptions. As a result, a narrow range of reasonable assumptions may develop both for an individual actuary and across actuarial practice.

Asset Valuation Method

The Asset valuation method is a method used by the actuary to determine the actuarial value of assets used in an annual actuarial valuation of a defined benefit pension plan. ASOP 44 "Selection and Use of Asset Valuation Methods for Pension Valuations" applies to actuaries when performing professional services with respect to selecting or using an asset valuation method for any defined benefit pension plan that is not a social insurance program. Throughout this standard, any reference to selecting an asset valuation method also includes giving advice on selecting an asset valuation method. For instance, the actuary may advise the plan sponsor on selecting an asset valuation method, where the plan sponsor is responsible for selecting the method.

Actuarial Assumptions

The actuarial assumptions are usually divided into two categories:

- Economic assumptions, which include:
  - Assumed rate of price inflation (as measured by the change in the Consumer Price Index for all urban consumers)
    - Underlies all other economic assumptions
  - Assumed long-term rate of return on investments
    - Rate at which projected benefits are reduced to present value
  - General wage increases
    - Reflects inflationary forces on increases in pay for all members
  - Rate of payroll growth
    - Reflects expectation of growth in total payroll and affects level percent of pay actuarially determined contribution

Recommendations for the economic assumptions are based on the actuary's expectations as to the effect of future economic conditions on the operation of the plan, with input from Staff, the Board and other investment advisors. The assumptions are adopted by the Board.

- Demographic assumptions, which include the following rates:

  - Mortality
  - Retirement
  - Disablement
  - Withdrawal (other termination of employment)

  Demographic assumptions are generally based on the plan's own experience, taking into account emerging trends. Rates of salary increase due to promotion and longevity are also related to the plan's experience.

This report includes a review of the following economic assumptions only:

- Price inflation
- Investment return assumption
- Payroll growth assumption

Current Assumptions/Methods Used in the July 1, 2016, Actuarial Valuations

The actuarial assumptions used in the July 1, 2016, actuarial valuation of the North Dakota Public Employees Retirement System ("NDPERS") were provided to us by the NDPERS Board and were based on an experience review for the five-year period ending July 1, 2014, performed by the prior actuary (Segal).

These assumptions are as follows:

Price inflation: The assumed rate of price inflation used was 3.50 percent.

Investment return: The assumed rate of investment return used was 8.00 percent, net of investment expenses, annually.

Payroll growth assumption: The assumed rate of payroll growth used in amortizing the unfunded liability as a level percent of pay was 4.50 percent for the Main System and Law Enforcement and 4.00 percent for Judges.

Asset Valuation Method: The current actuarial value of assets:

- Immediately recognizes interest and dividends; and
- Recognizes the total recognized and unrecognized appreciation or depreciation from the current year (net change in fair value of investments) over a five-year period.

Key Findings and Recommendations

Gabriel, Roeder, Smith & Company ("GRS") has performed a review of the economic actuarial assumptions of NDPERS. The primary purpose of the study was to compare the actual economic experience and future expectations with the current actuarial assumptions used in the actuarial valuations.

In a public retirement system like NDPERS, it is ultimately the Retirement Board's responsibility to approve the actuarial assumptions used in the actuarial valuations. It is the actuary's duty to provide the Board with information needed to make those decisions and to make recommendations to the Board.

Following is a summary of our key findings and recommendations:

- **Price inflation**: We recommend reducing the rate of price inflation from 3.50 percent to 2.50 percent.
- **Investment return**: The investment return assumption, net of investment expenses, compounded annually, is currently 8.00 percent for all Systems except Job Service. This reflects an underlying inflation assumption of 3.50 percent and a real return assumption of 4.50 percent. We recommend reducing the investment return assumption from 8.00 percent to 7.50 percent (based on a 2.50 percent inflation assumption and a real return assumption of 5.00 percent). The decrease in the investment return assumption of 0.50 percent reflects a decrease in the inflation assumption of 1.00 percent and an increase in the real return assumption of 0.50 percent. We also recommend monitoring the assumption for continued reasonableness in the future. This is based on NDPERS maintaining the same target asset allocation in the future.
- **Payroll growth assumption**: We recommend reducing the general payroll growth assumption from 4.50 percent (which reflects an underlying general or price inflation assumption of 3.50 percent) to 3.75 percent (based on an underlying price inflation assumption of 2.50 percent) for the Main System and Law Enforcement and from 4.00 percent to 3.25 percent for Judges.
- **Asset Valuation Method:** We recommend changing the current asset valuation method (which is biased toward the actuarial value of assets being lower than the market value of assets) to a method which smooths total investment gains or losses compared to the investment return assumption (recommended to be 7.50 percent) over a five-year period.

SECTION II

EXPERIENCE ANALYSIS

Economic assumptions reflect the effects of economic forces on the projections of retirement benefits payable from the plan and in the discounting of those benefits to present value.

These assumptions are based, at their core, on the assumed level of price inflation. Each economic assumption is then developed from expected spreads over price inflation.

The key economic assumptions are:

1. Assumed Rate of Inflation – The rate of price inflation (as measured by the Consumer Price Index for all Urban consumers) which underlies the remainder of the economic assumptions.
2. Assumed Rate of Investment Return – The rate at which projected future benefits under the pension plan are reduced to present value.
3. Rate of General Annual Pay Increases – This reflects inflationary forces on increases in pay for individual members.

Rate of Inflation

Historical Inflation Results

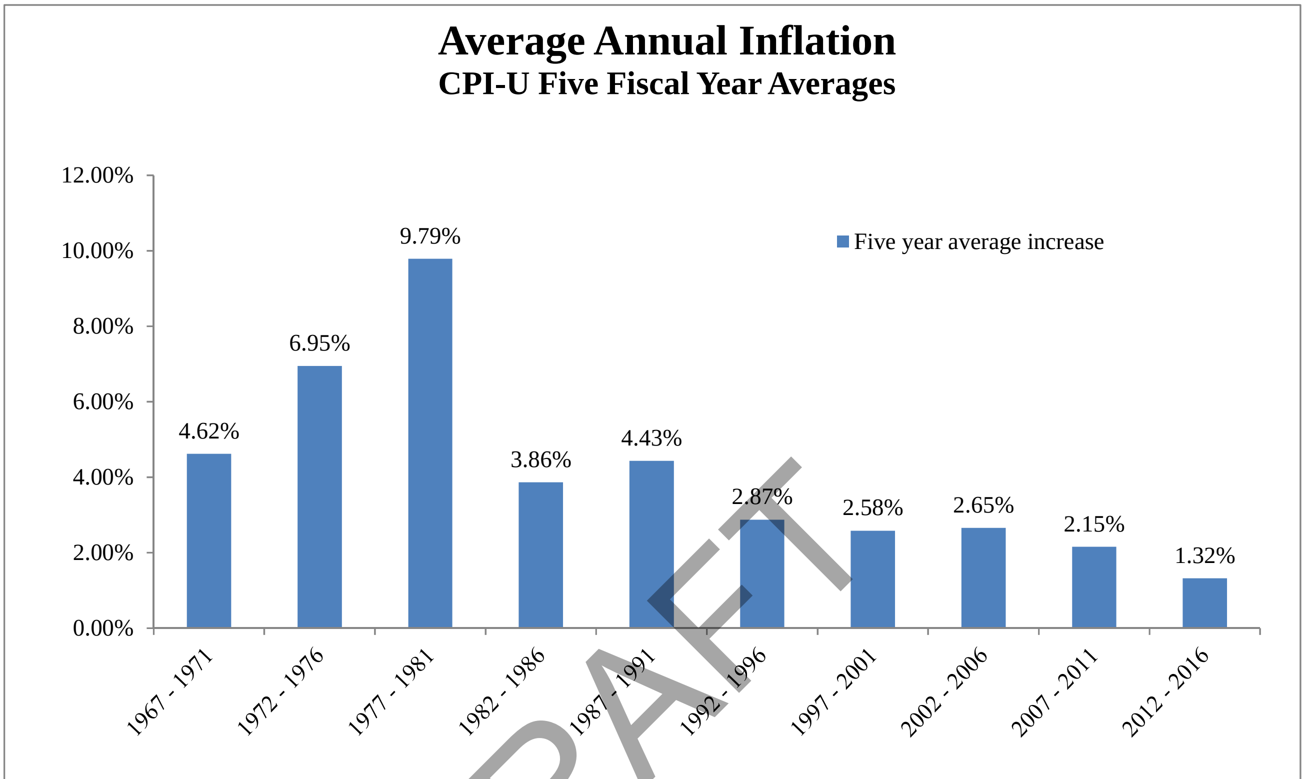
By "inflation," we mean price inflation, as measured by annual increases in the Consumer Price Index (CPI). This inflation assumption underlies all of the other economic assumptions we employ. It not only impacts investment return, but also salary increase rates and the payroll growth assumption. The current annual inflation assumption is 3.50 percent.

Over the latest five-year period from June 2011 through June 2016, the CPI-U has increased at an average rate of 1.32 percent. However, the assumed inflation rate is only weakly tied to past results.

The following table shows the average inflation over various periods, ending June 2016.

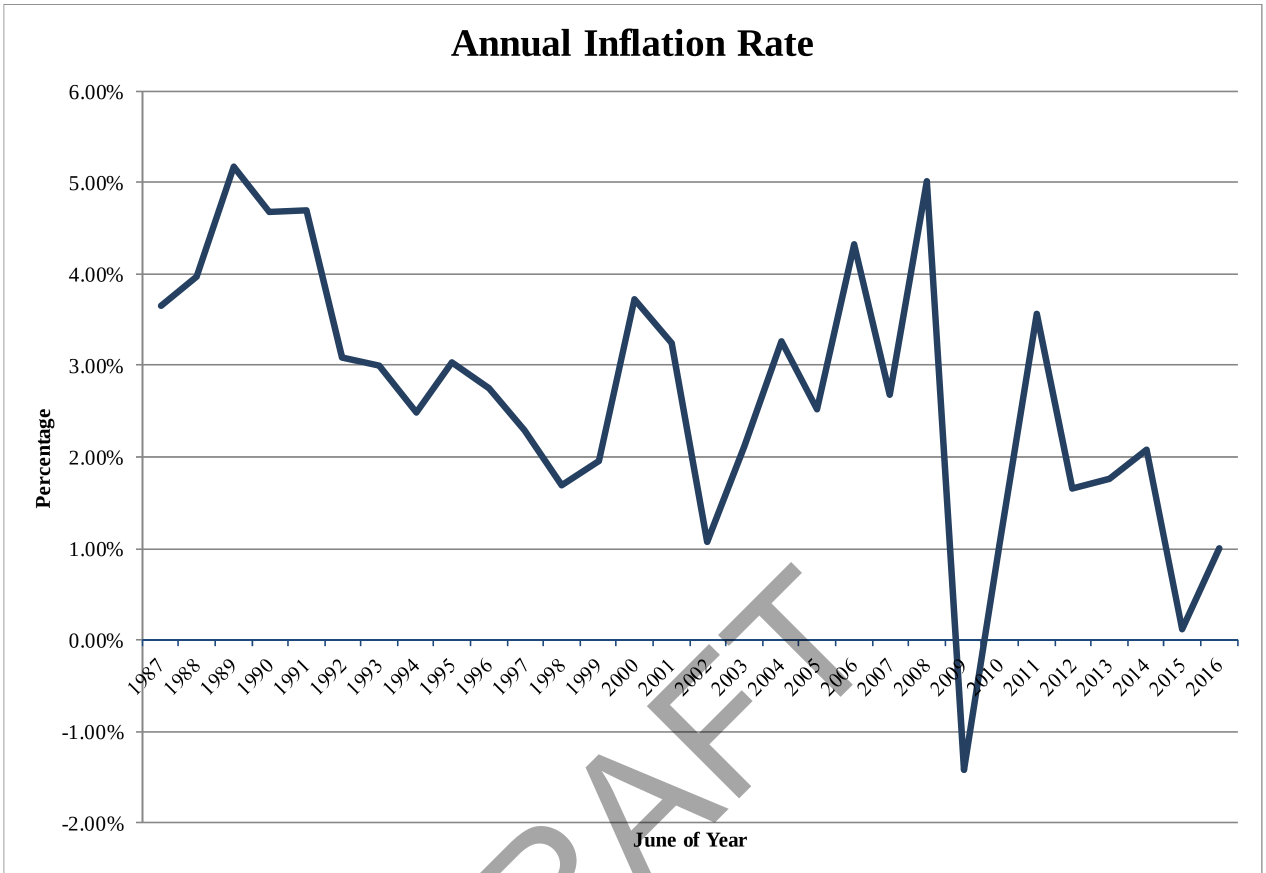
Fiscal Year	Annual Increase in CPI-U
2011-12	1.66%
2012-13	1.75%
2013-14	2.07%
2014-15	0.12%
2015-16	1.00%
3-Year Average	1.06%
5-Year Average	1.32%
10-Year Average	1.74%
20-Year Average	2.18%
25-Year Average	2.32%
30-Year Average	2.66%
40-Year Average	3.68%
50-Year Average	4.10%

The graph below shows the average inflation over 5-year periods over the last 50 years:



As the above chart illustrates, the high inflation of the 1970s and 1980s is well in the past. The geometric average price inflation was 2.66% per year over the last 30 years from June 1986 to June 2016, 2.18 percent over the last 20 years and 1.74 percent over the last 10 years.

The graph on the next page illustrates the rate of inflation on a year by year basis over the last 30 years.



Future Inflation Expectations

Since price inflation is relatively volatile and is subject to a number of influences not based on recent history, economic assumptions are less reliably based on recent past experience than are the demographic assumptions. Therefore, it is important not to give undue weight to recent experience. We must also consider future expectations as well.

One measure is the spread between yields on U.S. Treasuries and U.S. TIPS. This calculation varies depending on the maturity selected. Moreover, there may be other influences on the result such as a risk premium on Treasuries and a liquidity premium on TIPS.

The longest horizon we can use for this basis is 30 years. The yield on 30-year Treasuries as of December 30, 2016, was 3.06 percent and the yield on inflation index TIPS was 0.99 percent for a raw difference of 2.07 percent. This is close to the Federal Reserve's target inflation rate of 2.0 percent.

We also surveyed the inflation assumption used by investment consulting firms. In our sample of eight firms, the inflation assumption ranged from 1.56 percent to 2.75 percent, with an average of 2.22 percent. Based on the May 24, 2016, presentation titled "Overview of Callan's Asset Liability Study – RIO's Recommended Asset Allocation Framework," Callan's inflation assumption is 2.25 percent.

Another point of reference is the Social Security Administration's (SSA) 2016 Trustees Report, in which the Office of the Chief Actuary is projecting a long-term average ultimate annual inflation rate of 2.6 percent under the intermediate cost assumption. (The ultimate inflation assumption is 2.0 percent and 3.2 percent respectively in the low cost and high cost projection scenarios.) The Social Security Trustees report uses the ultimate rates for their 75-year projections, much longer than the longest horizon we can discern from Treasuries and TIPS.

The table on the following page presents a summary of inflation rate forecasts from various professional experts.

Summary of Forward-looking Compound Annual Price Inflation Forecasts (From Professional Experts in Forecasting Inflation)	
Investment Consultants and Forecasters Average of 8 in 2016 GRS Survey	**2.22%**
Excess Yield of Nominal Treasuries Over Inflation Indexed, December 2016	
30-Year Treasury Constant Maturity – Nominal	3.11%
30-Year Treasury Constant Maturity –Inflation Indexed	1.04%
Difference (30-Year Implied Price Inflation)	**2.07%**
20-Year Treasury Constant Maturity – Nominal	2.84%
20-Year Treasury Constant Maturity – Inflation Indexed	0.89%
Difference (20-Year Implied Price Inflation)	**1.95%**
10-Year Treasury Constant Maturity – Nominal	2.49%
10-Year Treasury Constant Maturity – Inflation Indexed	0.56%
Difference (10-Year Implied Price Inflation)	**1.93%**
Federal Reserve Bank of Cleveland	
30-Year Expectation on December 15, 2016	**2.22%**
20-Year Expectation on December 15, 2016	**2.09%**
10-Year Expectation on December 15, 2016	**1.93%**
Quarterly Survey of Professional Economic Forecasters 4Q2016 Federal Reserve Bank of Philadelphia 10-Year Forecast	**2.22%**
Federal Reserve Board's Federal Open Market Committee Long-run Price Inflation Objective (Since Jan 2012)	**2.00%**
Congressional Budget Office: *The Budget and Economic Outlook* Overall Inflation (Jan 2016)	**2.00%**
2016 Social Security Trustees Report	
GDP Deflator Ultimate Intermediate Assumption	**2.20%**
CPI-W Ultimate Intermediate Assumption	**2.60%**

Recommendation

Based on this information, our opinion is that it would be reasonable to lower the current price inflation assumption of 3.50 percent. However, we caution against lowering the price inflation assumption below 2.00 percent. (The Federal Reserve's target and the Social Security Trustees' ultimate high cost assumptions are both 2.00 percent.) We are recommending the inflation assumption be reduced from 3.50 percent to 2.50 percent. This reduction recognizes lower inflation expectations in both the near and longer term and is also consistent with the assumption used by the SSA Office of the Chief Actuary for the intermediate cost projections and closer to the inflation assumption of 2.25 percent used by NDPERS' investment consultant, Callan.

Investment Return

ASOP No. 27

Actuaries are required to comply with Actuarial Standard of Practice No. 27 (ASOP 27) in setting economic assumptions for retirement plans, including the assumed investment return rate.

In a public retirement system like NDPERS, it is ultimately the Retirement Board's responsibility to approve the actuarial assumptions used in the actuarial valuations. It is the actuary's duty to provide the Board with information needed to make those decisions and to make recommendations to the Board. Although the Board is the ultimate decision-making body, we are still bound by ASOP No. 27 in providing advice or recommendations to the Board.

According to the current ASOP No. 27 applicable to actuarial valuations with a measurement date on or after September 30, 2014, each economic assumption selected by the actuary should be reasonable. For this purpose, an assumption is reasonable if it has the following characteristics:

- It is appropriate for the purpose of the measurement;
- It reflects the actuary's professional judgment;
- It takes into account historical and current economic data that is relevant as of the measurement date;
- It reflects the actuary's estimate of future experience, the actuary's observation of the estimates inherent in market data, or a combination thereof; and
- It has no significant bias (i.e., it is not significantly optimistic or pessimistic).

Also according to ASOP No. 27, the actuary should recognize the uncertain nature of the items for which assumptions are selected and, as a result, may consider several different assumptions reasonable for a given measurement. The actuary should also recognize that different actuaries will apply different professional judgment and may choose different reasonable assumptions. As a result, a range of reasonable assumptions may develop both for an individual actuary and across actuarial practice.

Real Return

The allocation of assets within the universe of investment options will significantly impact the overall performance. Therefore, it is meaningful to identify the range of expected returns based on the fund's targeted allocation of investments and an overall set of capital market assumptions.

The following table illustrates the asset allocation framework recommended by the North Dakota Retirement & Investment Office (RIO), as shown in the presentation dated May 24, 2016.

Target Asset Allocation	
Asset Class	**RIO Proposed Mix 2B**
Global Equity - Public	51%
Global Equity - Private	7%
Global Fixed Income - Investment Grade	17%
Global Fixed Income - Non Investment Grade	5%
Global Real Assets - Real Estate	11%
Global Real Assets - Infrastructure & Timber	8%
Cash Equivalents	1%
Total	**100%**
Total Equity	**58%**
Total Fixed Income	**22%**
Total Global Real Assets	**19%**

We reviewed capital market assumptions developed and published by eight independent investment consulting firms, with varying time horizons. Four of the investment consulting firms have assumptions for longer time horizons (15 to 30 years). The remaining four firms have assumptions for shorter time horizons (10 years or less).

These investment consulting firms periodically issue reports that describe their capital market assumptions; that is, their estimates of expected returns, volatility and correlations among the different asset classes. The assumptions for most of the investment consultants are for 2016. While some of these assumptions may be based upon historical analysis, many of these firms also incorporate forward-looking adjustments to better reflect near-term and long-term expectations. The estimates for core investments (i.e., fixed income, equities and real estate) are generally based on anticipated returns produced by passive index funds.

Given NDPERS' current target asset allocation and the capital market assumptions from the investment consultants, the development of the average nominal return, net of investment expenses, is provided in the table on the following page.

Investment Consultant	Investment Consultant Expected Nominal Return	Investment Consultant Inflation Assumption	Expected Real Return (2)–(3)	Actuary Inflation Assumption	Expected Nominal Return (4)+(5)	Plan Incurred Administrative Expenses	Expected Nominal Return Net of Expenses (6)-(7)	Standard Deviation of Expected Return (1-Year)
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
1	7.42%	2.50%	4.92%	2.50%	7.42%	0.00%	7.42%	15.26%
2	7.43%	2.25%	5.18%	2.50%	7.68%	0.00%	7.68%	12.92%
3	6.98%	1.56%	5.42%	2.50%	7.92%	0.00%	7.92%	12.33%
4	7.78%	2.20%	5.58%	2.50%	8.08%	0.00%	8.08%	13.62%
5	8.05%	2.26%	5.79%	2.50%	8.29%	0.00%	8.29%	12.33%
6	8.66%	2.75%	5.91%	2.50%	8.41%	0.00%	8.41%	13.21%
7	8.17%	2.01%	6.16%	2.50%	8.66%	0.00%	8.66%	13.89%
8	8.61%	2.20%	6.41%	2.50%	8.91%	0.00%	8.91%	14.07%
Average	**7.89%**	**2.22%**	**5.67%**	**2.50%**	**8.17%**	**0.00%**	**8.17%**	**13.45%**

Based on each investment consulting firm's assumptions, we estimated the expected real return of NDPERS' portfolio (col. (4)). Next, based on the actuary's recommended inflation and investment expense assumption, we estimated the nominal return net of expenses (col. (8)). As the table shows, the average one-year nominal return (net of expenses) of the eight firms is 8.17 percent, which is higher than the current investment return assumption of 8.00 percent.

However, in addition to examining the expected one-year return, it is important to review anticipated volatility of the investment portfolio and understand the range of long-term net returns that could be expected to be produced by the investment portfolio.

The following table provides the 40th, 50th and 60th percentiles of the 20-year geometric average of the expected nominal return, net of expenses. The table also shows the probability of exceeding the current 8.00 percent assumption and alternative lower assumptions.

Investment Consultant	Distribution of 20-Year Average Geometric Net Nominal Return 40th	50th	60th	Probability of exceeding 8.00%	Probability of exceeding 7.50%	Probability of exceeding 7.25%	Probability of exceeding 7.00%	Time Horizon of Capital Market Assumptions
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	
1	5.50%	6.35%	7.20%	31.31%	36.68%	39.48%	42.35%	Unknown
2	6.19%	6.91%	7.64%	35.26%	41.89%	45.32%	48.79%	10 Years
3	6.53%	7.22%	7.92%	38.83%	45.96%	49.60%	53.25%	10 Years
4	6.48%	7.24%	8.00%	40.01%	46.50%	49.81%	53.12%	10 Years
5	6.90%	7.59%	8.29%	44.11%	51.38%	55.02%	58.63%	10-15 Years
6	6.87%	7.61%	8.35%	44.73%	51.53%	54.94%	58.32%	30 Years
7	7.01%	7.78%	8.56%	47.17%	53.67%	56.90%	60.09%	30 Years
8	7.23%	8.02%	8.81%	50.22%	56.63%	59.79%	62.90%	20 Years
Average	**6.59%**	**7.34%**	**8.10%**	**41.45%**	**48.03%**	**51.36%**	**54.68%**	

As this table indicates, the expected rate of return based on (1) NDPERS' current target asset allocation, (2) the recommended inflation assumption of 2.50 percent and (3) the capital market assumptions from the eight investment consultants is 7.34 percent. In addition, the average results of all eight firms indicate there is only about a 41.45 percent probability that NDPERS will produce an average return that exceeds 8.00 percent over the next 20 years. The average results of all eight firms indicate there is about a 48.03 percent probability that NDPERS will produce an average return that exceeds 7.50 percent over the next 20 years. In addition, the 20-year expectation for investment consultants 6 and 7 is likely lower than what is shown (because their assumptions are based on a 30-year time horizon).

Peer Group Comparison

The National Association of State Retirement Administrators (NASRA) issued a publication in February 2016, entitled "NASRA Issue Brief: Public Pension Plan Investment Return Assumptions". As stated in the Issue Brief "Among the 127 plans measured, more than one-half have reduced their investment return assumption since fiscal year 2008. The average return assumption is 7.62 percent." The issue brief includes the assumption used (or announced for use) as of February 2016 for each of the 127 plans included in the survey. Of those, about 28 percent of the plans were using an investment return assumption of 8.0 percent (or higher). However, the assumptions included in the survey do not reflect subsequent changes that were made after February 2016.

North Dakota Teachers Fund for Retirement uses an assumption of 7.75 percent and South Dakota Retirement System was using an assumption of 7.25 percent which was expected to increase to 7.50 percent after fiscal year 2017.

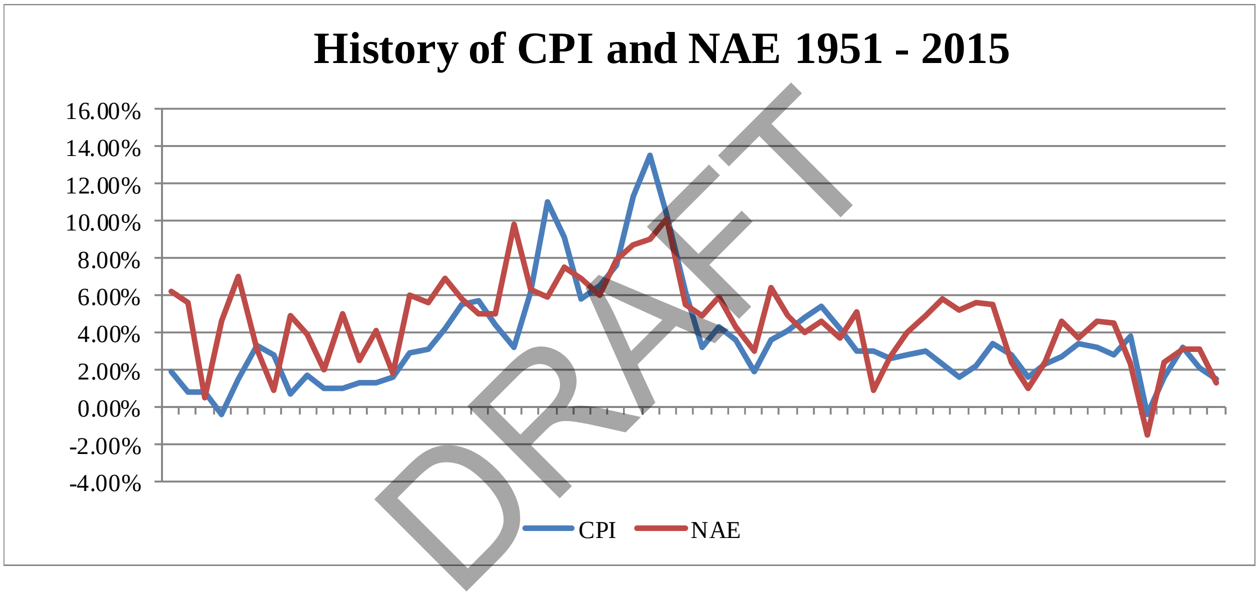
Recommendation

Based on our analysis of the expected investment return and the current target asset allocation, we recommend reducing the long-term investment return assumption to 7.50 percent for the actuarial valuation as of June 30, 2017, reflecting an inflation assumption of 2.50 percent and a real rate of return of 5.00 percent. We recommend that the assumed investment return be monitored for continued appropriateness between experience reviews. Also, any significant changes in the target asset allocation of NDPERS may warrant an additional review of the rate of return assumption. We believe that this assumption can be supported by the revised Actuarial Standard of Practice No. 27. Under the Standard, all economic assumptions must be selected to be consistent with the purpose of the measurement. The purpose of the measurement is to determine the contribution rate which will lead to the accumulation of assets to pay benefits when due. The recommended assumption of 7.50 percent is below the arithmetic mean as disclosed previously, to account for future volatility of future investment returns.

Callan's (NDPERS' current investment consultant) expected return is 7.00 percent for the next 10 years. ND RIO added 50 basis points to this return to convert their 10-year Capital Market Expectations to Long-Term Returns (of 30+ years), resulting in a return assumption of 7.50 percent. If the Board wishes to add additional conservatism to the actuarial valuation due to factors such as market volatility or liquidity concerns, they may consider decreasing the assumption below the recommended 7.50 percent assumption in a future valuation.

General Wage Increase and Payroll Growth Assumption

The NDPERS actuarial assumptions make a distinction between price inflation (currently assumed to be 3.50 percent) and the rate of payroll growth (currently assumed to be 4.00 percent for Judges and 4.50 percent for the other Systems). The National Average Earnings (NAE) series published in connection with the operation of the Social Security program is a useful proxy for measuring general changes in wage levels in the economy. Increases in NAE typically exceed increases in the Consumer Price Index (CPI), although there are periods where the patterns are reversed. The economic argument for wages exceeding prices in the long run is that CPI is based on the prices of a fixed basket of goods whereas wages reflect innovations, real productivity growth, labor supply and demand and other factors in addition to pure price inflation.



The following table shows the average inflation and increase in the NAE through 2015 (the last full year available).

Year	Annual Increase in CPI-U	Annual Increase in NAE	Excess Increase in NAE over CPI
5-Year Average	1.68%	2.91%	1.23%
10-Year Average	1.95%	2.67%	0.72%
20-Year Average	2.23%	3.39%	1.15%
25-Year Average	2.41%	3.36%	0.96%
30-Year Average	2.67%	3.56%	0.90%
40-Year Average	3.78%	4.39%	0.61%
50-Year Average	4.12%	4.78%	0.66%
60-Year Average	3.70%	4.57%	0.87%
64-Year Average	3.51%	4.54%	1.03%

Over the last 64 years, NAE has exceeded CPI 43 times and the averages over that period are 4.5 percent for NAE and 3.5 percent for CPI. The last 25 years has had fewer cases of high inflation, but the distinction between prices and wages still appears. Over the last 25 years, the average increase in NAE is 3.4 percent and the average increase in CPI is 2.4 percent.

As with the investment return assumption, past experience does not necessarily dictate future expectations. Current expectations are mixed on whether price and wage inflation will remain low in the short term, particularly due to the after effects of recent federal government spending. For a long term view, the 2016 Annual Report from the Trustees of the Social Security Administration (SSA) assumes an intermediate average ultimate CPI of 2.6 percent over the next 75 years and an ultimate intermediate growth assumption for average wages in covered employment of 3.8 percent. The SSA report provides alternate "High-cost" assumptions of 2.0 percent CPI/2.6 percent wages and "Low-cost" assumptions of 3.2 percent CPI/5.0 percent wages.

We have reviewed payroll growth history from the experience study performed by the prior actuary, Segal, for the period ending June 30, 2014. We have summarized the information from the experience study below and have estimated a total payroll increase based on no increase in the number of active members during the period.

		PERS Excluding Judges			Judges		
	Inflation	Total Covered Payroll	# Active Members	Implied Increase in Payroll (0% Member Growth)	Total Covered Payroll	# Active Members	Implied Increase in Payroll (0% Member Growth)
Average Change (5-Year)	2.02%	6.90%	2.20%	4.60%	5.10%	1.20%	3.85%
Average Change (10-Year)	2.31%	6.90%	2.40%	4.39%	4.70%	0.80%	3.87%
Average Change (15-Year)	2.43%	6.20%	2.10%	4.02%	4.00%	0.40%	3.59%
Average Change (19-Year)	2.38%	6.30%	2.10%	4.11%	4.30%	-0.20%	4.51%

Recommendation

Based on the increase in total payroll and the average inflation during the same periods of time, we concur with Segal that an increase in the productivity increase assumption is reasonable. ***We recommend increasing the assumption for productivity increases from the current assumptions by 0.25 percent.*** Combining a recommended 1.25 percent productivity increase for PERS (excluding Judges) and a 0.75 percent for Judges with a 2.50 percent inflation assumption, implies a wage growth assumption of 3.75 percent for PERS and 3.25 percent for Judges. These assumptions are summarized below:

	PERS Excluding Judges		**Judges**	
	Present Assumption	**Recommended Assumption**	**Present Assumption**	**Recommended Assumption**
Price Inflation	3.50%	2.50%	3.50%	2.50%
Productivity Increases	1.00%	1.25%	0.50%	0.75%
Total Wage Inflation	4.50%	3.75%	4.00%	3.25%

We recommend using the same assumption as the wage inflation assumption for the payroll growth assumption (which is used in amortizing the unfunded liability as a level percent of pay).

Salary Increase Assumption

Members' salaries are projected in the actuarial valuation using salary increase assumptions. For NDPERS, this assumption varies by years of service and age (and if the employer is state or non-state). The salary increase assumption is comprised of three components – price inflation, productivity increases and seniority/merit/promotion increases. Although we are recommending changes to the price inflation and productivity increase assumptions, we are not recommending a change to the current salary increase assumptions. We have reviewed the experience study performed by the prior actuary, Segal, and note that the GRS recommended inflation assumption is 0.25 percent lower than the Segal recommended assumption and the productivity increase recommendations are the same. Inflation during the experience study period was 2.0 percent (lower than both the GRS recommended assumption of 2.50 percent and the Segal recommended assumption of 2.75 percent for price inflation).

Following are the salary increase assumptions for PERS:

Service At Beginning of Year	State Employee	Non-State Employee	Law Enforcement	Judges
0	12.00%	15.00%	20.00%	
1	9.50%	10.00%	20.00%	
2	7.25%	8.00%	20.00%	
3			10.00%	
4			10.00%	
Age*				
Under 30	7.25%	10.00%	7.25%	4.00%
30-39	6.50%	7.50%	6.50%	4.00%
40-49	6.25%	6.75%	6.25%	4.00%
50-59	5.75%	6.50%	5.75%	4.00%
60+	5.00%	5.25%	5.00%	4.00%

Following are the assumptions for the Highway Patrolmen's Retirement System:

Service At Beginning of Year	Increase Rate
0	15.00%
1	10.00%
2	8.00%
Age*	
Under 36	8.00%
36 - 40	7.50%
41 - 49	6.00%
50+	5.00%

Recommendation

Based on (1) the level of salary increases during the period (given the relatively low inflation), (2) the small difference in recommendations by the two firms and (3) the fact that the seniority/merit/promotion increases recommended by Segal appear reasonable based on the data shown in the report, GRS does not believe that a change in this assumption is warranted.

Asset Valuation (i.e., Smoothing) Method

ASOP No. 44 covers the selection and use of asset valuation methods for pension valuations.

For the NDPERS actuarial valuations, the actuarial value of assets:

- Immediately recognizes interest and dividends; and
- Recognizes the total appreciation or depreciation from the current year (net change in fair value of investments) over a five-year period.

Under this method, 100 percent of the return from interest and dividends is recognized immediately and 20 percent of the return attributable to investments (net of interest and dividends and investment expenses) is recognized in the current year. Eighty (80) percent of the return attributable to investments is deferred and recognized over the next four years. As a result, there will be deferred gains from all years in which the net investment return from investments is greater than zero percent.

Because of the high probability that the return on investments will exceed interest and dividends in any individual year, the actuarial value of assets is more likely to be lower than the market value of assets (because recognition of investment returns is deferred to future years).

ASOP No. 44 Section 3.4 states "If the asset valuation method has significant systematic bias, the actuary should disclose such bias in accordance with section 4.1.". Section 3.4 provides an example of a method with a systematic bias (which is the exact method currently being used for the NDPERS valuations):

- "an asset valuation method that is designed to produce a value consistently below market value if, in all time periods relevant to the application of the asset valuation method, the actual return on market value of the assets subject to the asset valuation method were equal to the actuary's expected return on those assets (such as a method that immediately recognizes interest and dividends but defers recognition of realized and unrealized capital gains and losses)"

Based on the ASOP No. 44 guidance, GRS disclosed the asset method bias in the July 1, 2016, actuarial valuation report.

Recommendation

Although the current asset method provides some degree of conservatism by deferring a portion of all capital gains and losses (which would understate the funded ratio compared to a non-biased method), we would recommend that other economic actuarial assumptions be strengthened instead. Therefore, we recommend changing the current asset smoothing method (which is biased toward the actuarial value of assets being lower than the market value of assets) to a method which smooths total investment gains or losses compared to the investment return assumption over a five-year period.

NASRA Issue Brief:
Public Pension Plan Investment Return Assumptions

Updated February 2017

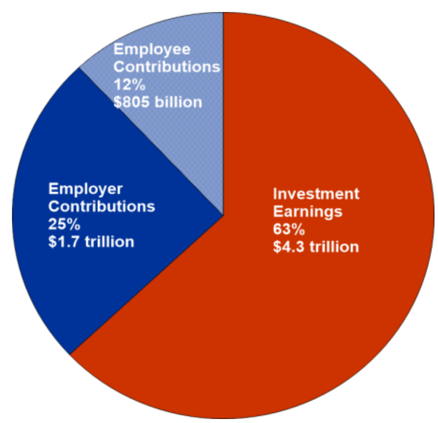
As of September 30, 2016, state and local government retirement systems held assets of $3.82 trillion.[1] These assets are held in trust and invested to pre-fund the cost of pension benefits. The investment return on these assets matters, as investment earnings account for a majority of public pension financing. A shortfall in long-term expected investment earnings must be made up by higher contributions or reduced benefits.

Funding a pension benefit requires the use of projections, known as actuarial assumptions, about future events. Actuarial assumptions fall into one of two broad categories: demographic and economic. Demographic assumptions are those pertaining to a pension plan's membership, such as changes in the number of working and retired plan participants; when participants will retire, and how long they'll live after they retire. Economic assumptions pertain to such factors as the rate of wage growth and the future expected investment return on the fund's assets.

As with other actuarial assumptions, projecting public pension fund investment returns requires a focus on the long-term. This brief discusses how investment return assumptions are established and evaluated, compares these assumptions with public funds' actual investment experience, and the challenging investment environment public retirement systems currently face.

Because investment earnings account for a majority of revenue for a typical public pension fund, the accuracy of the return assumption has a major effect on a plan's finances and actuarial funding level. An investment return assumption that is set too low will overstate liabilities and costs, causing current taxpayers to be overcharged and future taxpayers to be undercharged. A rate set too high will understate liabilities, undercharging current taxpayers, at the expense of future taxpayers. An assumption that is significantly wrong in either direction will cause a misallocation of resources and unfairly distribute costs among generations of taxpayers.

Figure 1: Public Pension Sources of Revenue, 1986-2015



Source: Compiled by NASRA based on U.S. Census Bureau

As shown in Figure 1, since 1986, public pension funds have accrued approximately $6.8 trillion in revenue, of which $4.3 trillion, or 63 percent, is from investment earnings. Employer contributions account for $1.7 trillion, or one-fourth of the total, and employee contributions total $805 billion, or 12 percent.[2]

[1] Federal Reserve, *Flow of Funds Accounts of the United States: Flows and Outstandings, Third Quarter 2016*, Table L.120
[2] US Census Bureau, Annual Survey of Public Pensions, State & Local Data

Most public retirement systems review their actuarial assumptions regularly, pursuant to state or local statute or system policy. The entity responsible for setting the return assumption, as identified in Appendix B, typically works with one or more professional actuaries, who follow guidelines set forth by the Actuarial Standards Board in Actuarial Standards of Practice No. 27 (Selection of Economic Assumptions for Measuring Pension Obligations) (ASOP 27), which prescribes the factors actuaries should consider in setting economic actuarial assumptions. ASOP 27 recommends that actuaries consider the context of the measurement they are making, as defined by such factors as the purpose of the measurement, the length of time the measurement period is intended to cover, and the projected pattern of the plan's cash flows.

ASOP 27 also advises that actuarial assumptions be reasonable, defined in subsection 3.6 as being consistent with five specified characteristics; and requires that actuaries consider relevant data, such as current and projected interest rates and rates of inflation; historic and projected returns for individual asset classes; and historic returns of the fund itself. For plans that remain open to new members, actuaries focus chiefly on a long investment horizon, i.e., 20 to 30 years, as this is the length of a typical public pension plan's funding period. One key purpose for relying on a long timeframe is to promote the key policy objectives of cost stability and predictability, and intergenerational equity among taxpayers.

The investment return assumption used by public pension plans typically contains two components: inflation and the real rate of return. The sum of these components is the nominal return rate, which is the rate that is most often used and cited. The system's inflation assumption typically is applied also to other actuarial assumptions, such as the level of wage growth and, where relevant, assumed rates of cost-of-living adjustments (COLAs). Achieving an investment return approximately commensurate with the inflation rate normally is attainable by investing in securities, such as US Treasury bonds, that are considered to be risk-free, i.e., that pay a guaranteed rate of return.

The second component of the investment return assumption is the real rate of return, which is the return on investment after adjusting for inflation. The real rate of return is intended to reflect the return produced as a result of the risk taken by investing the assets. Achieving a return higher than the risk-free rate requires taking some investment risk; for public pension funds, this risk takes the form of investments in assets such as public and private equities and real estate, which contain more risk than Treasury bonds.

Unlike public pension plans, corporate plans are required by federal regulations to make contributions on the basis of current interest rates. As Figure 2 shows, this funding method results in plan costs that can be volatile and uncertain, often changing dramatically from one year to the next. This volatility is due partly to fluctuations in interest rates and has been identified as a leading factor in the decision among corporations to abandon their pension plans. By contrast, by focusing on the long-term and relying on a stable investment return assumption, public plans experience less contribution volatility.

Figure 2: Annual change in contributions from prior year, corporate vs. public pensions

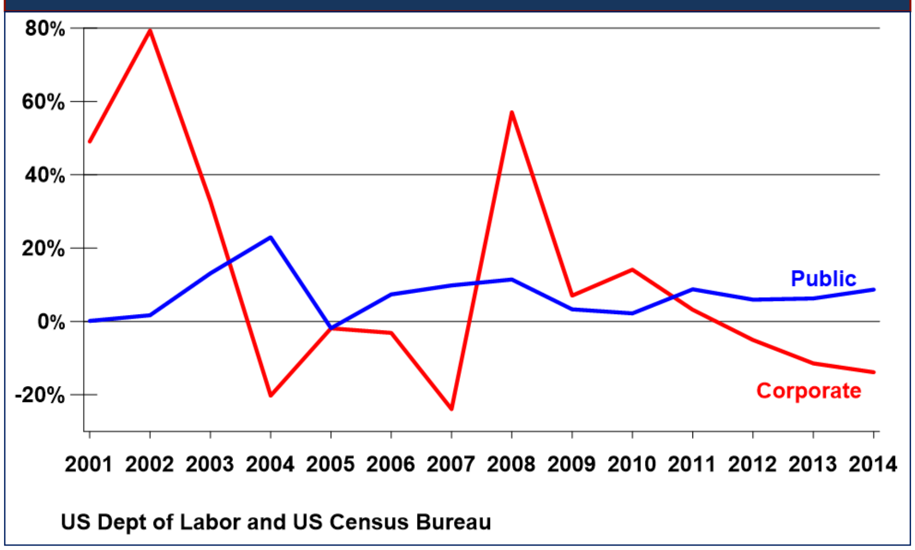


Figure 3: Median public pension annualized investment returns for period ended 12/31/2016

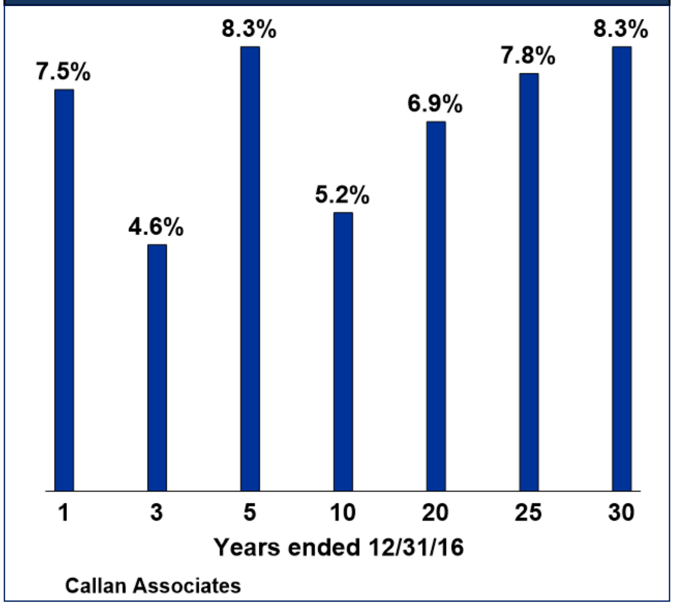
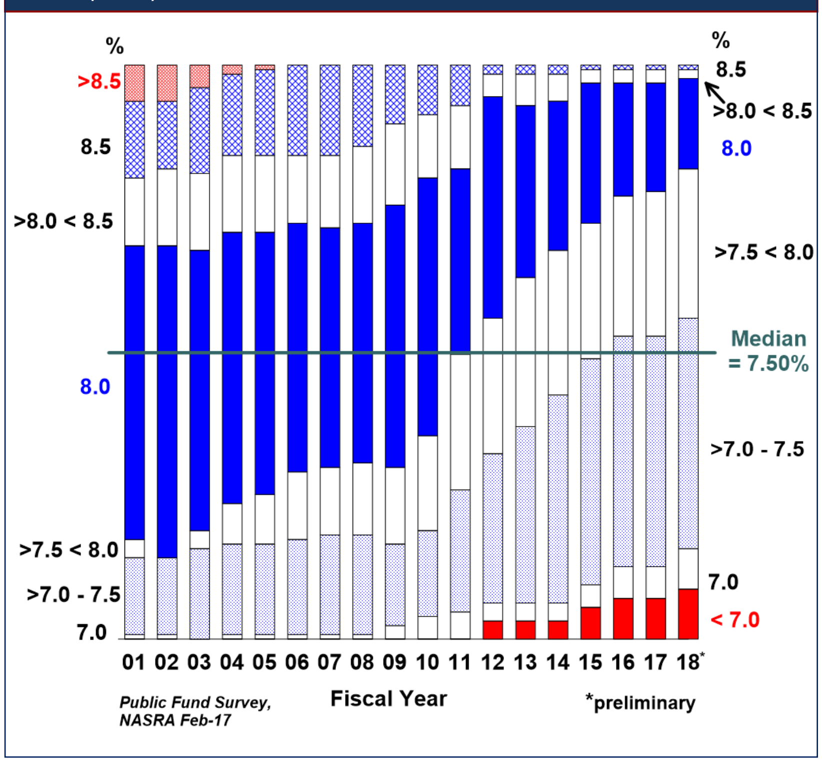


Figure 3 plots median public pension fund annualized investment returns for a range of periods ended December 31, 2016. As the higher investment returns achieved in the 1980s and the 1990s are replaced by lower returns in more recent years, average annualized returns for longer periods, such as 20 and 25 years, have begun to decline gradually. The steep market declines of 2000-02 and 2008-09 have imposed a particularly negative effect for measurement periods that incorporate those events.

In the wake of the 2008-09 decline in capital markets, and Great Recession, global interest rates and inflation have remained low by historic standards, due partly to so-called quantitative easing of central banks in many industrialized economies, including the U.S. Now in their eighth year, these low interest rates, along with low rates of projected global economic growth, have led to reductions in projected returns for most asset classes, which, in turn, have resulted in an unprecedented number of reductions in the investment return assumption used by public pension plans. This trend is illustrated by Figure 4, which plots the distribution of investment return assumptions among a representative group of plans since 2001. Among the 127 plans measured, nearly three-fourths have reduced their investment return assumption since fiscal year 2010, resulting in a decline in the average return assumption from 7.91 percent to 7.52 percent. If projected returns continue to decline, investment return assumptions are likely to also to continue their downward trend. Appendix A lists the assumptions in use or adopted for future use by the 127 plans in this dataset.

Figure 4: Change in Distribution of Public Pension Investment Return Assumptions, FY 01 to FY 18



One challenging facet of setting the investment return assumption that has emerged more recently is a divergence between expected returns over the near term, i.e., the next five to 10 years, and over the longer term, i.e., 20 to 30 years[3]. A growing number of investment return projections are concluding that near-term returns will be materially lower than both historic norms as well as projected returns over longer timeframes. Because many near-term projections calculated recently are well below the long-term assumption most plans are using, some plans face the difficult choice of either maintaining a return assumption that is higher than near-term expectations, or lowering their return assumption to reflect near-term expectations.

[3] Horizon Actuarial Services, "Survey of Capital Market Assumptions, 2016 Edition (July 2016) p4

If near-term rates indeed prove to be lower than historic norms, plans that maintain their long-term return assumption are likely to experience a steady increase in unfunded pension liabilities and corresponding costs. Alternatively, plans that reduce their assumption in the face of diminished near-term projections will experience an immediate increase unfunded liabilities and required costs. As a rule of thumb, a 25 basis point reduction in the return assumption, such as from 8.0 percent to 7.75 percent, will increase the cost of a plan that has a COLA, by three percent of pay (such as from 10 percent to 13 percent), and a plan that does not have a COLA, by two percent of pay.

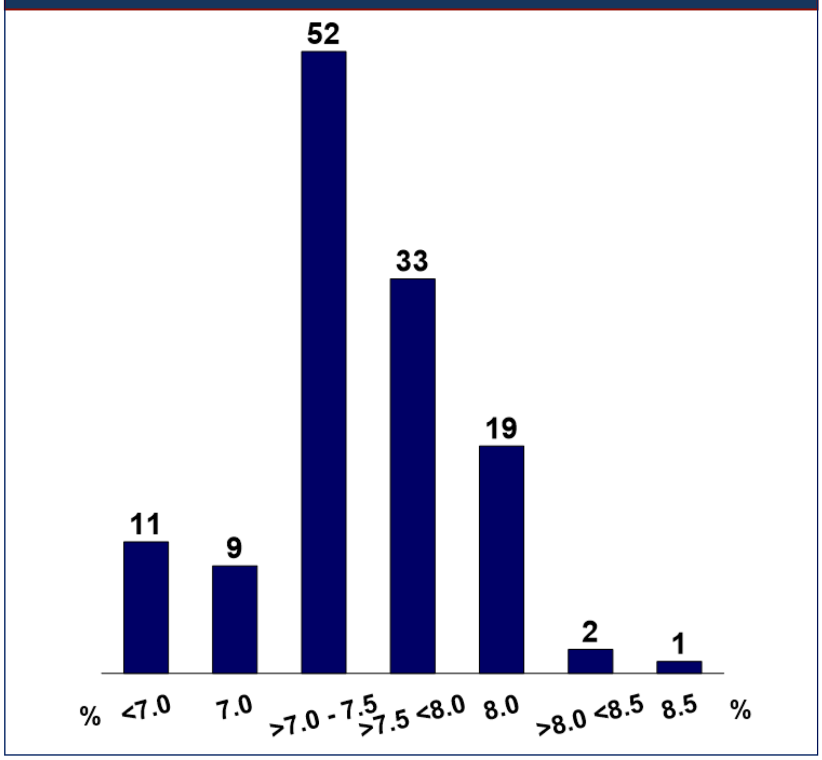
Conclusion

The investment return assumption is the single most consequential of all actuarial assumptions in terms of its effect on a pension plan's finances. The sustained period of low interest rates since 2009 has caused many public pension plans to re-evaluate their long-term expected investment returns, leading to an uprecedented number of reductions in plan investment return assumptions. Absent other changes, a lower investment return assumption increases both the plan's unfunded liabilities and cost. The process for evaluating a pension plan's investment return assumption should include abundant input and feedback from professional experts and actuaries, and should reflect consideration of the factors prescribed in actuarial standards of practice.

See Also:

- Actuarial Standards of Practice No. 27, Actuarial Standards Board
- The Liability Side of the Equation Revisited, Missouri SERS, September 2006

Figure 5: Distribution of investment return assumptions



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National Association of State Retirement Administrators

Appendix A: Investment Return Assumption by Plan

(Figures reflect the nominal assumption in use, or announced for use, as of February 2017)

Plan	Rate (%)
Alabama ERS[1]	7.875
Alabama Teachers[1]	7.875
Alaska PERS	8.0
Alaska Teachers	8.0
Arizona Public Safety Personnel	7.40
Arizona SRS	8.0
Arkansas PERS	7.5
Arkansas Teachers	8.0
California PERF[2]	7.375
California Teachers[3]	7.250
Chicago Teachers	7.750
City of Austin ERS	7.50
Colorado Affiliated Local	7.50
Colorado Fire & Police Statewide	7.50
Colorado Municipal	7.25
Colorado School	7.25
Colorado State	7.25
Connecticut SERS	6.9
Connecticut Teachers	8.0
Contra Costa County	7.25
DC Police & Fire	6.5
DC Teachers	6.5
Delaware State Employees	7.2
Denver Employees	7.75
Denver Public Schools	7.25
Duluth Teachers	8.0
Fairfax County Schools	7.5
Florida RS	7.6
Georgia ERS	7.5
Georgia Teachers	7.5
Hawaii ERS	7.0
Houston Firefighters[4]	8.5
Idaho PERS	7.0
Illinois Municipal	7.50
Illinois SERS	7.25
Illinois Teachers	7.0
Illinois Universities	7.25
Indiana PERF	6.75
Indiana Teachers	6.75
Iowa PERS	7.50
Kansas PERS	7.75
Kentucky County	6.75
Kentucky ERS	6.75
Kentucky Teachers	7.50
LA County ERS	7.50
Louisiana Parochial Employees	7.0
Louisiana SERS[5]	7.70
Louisiana Teachers[5]	7.70
Maine Local	6.875
Maine State and Teacher	6.875
Maryland PERS	7.55
Maryland Teachers	7.55
Massachusetts SERS	7.50
Massachusetts Teachers	7.50
Michigan Municipal	7.75
Michigan Public Schools	8.0
Michigan SERS	8.0
Minnesota PERF	8.0
Minnesota State Employees	8.0
Minnesota Teachers[6]	8.40
Mississippi PERS	7.75
Missouri DOT and Highway Patrol	7.75
Missouri Local	7.25
Missouri PEERS	7.75
Missouri State Employees	7.65
Missouri Teachers	7.75
Montana PERS	7.75
Montana Teachers	7.75
Nebraska Schools	7.5
Nevada Police Officer and Firefighter	8.0
Nevada Regular Employees	8.0
New Hampshire Retirement System	7.25
New Jersey PERS	7.90
New Jersey Police & Fire	7.90
New Jersey Teachers	7.90
New Mexico PERA	7.25
New Mexico Teachers	7.75
New York City ERS	7.0
New York City Teachers	7.0
New York State Teachers	7.50
North Carolina Local Government	7.25
North Carolina Teachers and State Employees	7.25
North Dakota PERS	8.0
North Dakota Teachers	7.75
NY State & Local ERS	7.0
NY State & Local Police & Fire	7.0

Ohio PERS	7.50
Ohio Police & Fire	8.25
Ohio School Employees	7.50
Ohio Teachers	7.75
Oklahoma PERS	7.25
Oklahoma Teachers	7.50
Oregon PERS	7.50
Pennsylvania School Employees	7.25
Pennsylvania State ERS	7.50
Phoenix ERS	7.50
Rhode Island ERS	7.50
Rhode Island Municipal	7.50
San Diego County	7.50
San Francisco City & County	7.46
South Carolina Police	7.50
South Carolina RS	7.50
South Dakota PERS	6.50
St. Louis School Employees	8.0
St. Paul Teachers	8.0
Texas County & District	8.0
Texas ERS	8.0
Texas LECOS	8.0

Texas Municipal	6.75
Texas Teachers	8.0
TN Political Subdivisions	7.50
TN State and Teachers	7.50
Utah Noncontributory	7.20
Vermont State Employees	7.95
Vermont Teachers	7.90
Virginia Retirement System	7.00
Washington LEOFF Plan 1[7]	7.70
Washington LEOFF Plan 2	7.50
Washington PERS 1[7]	7.70
Washington PERS 2/3[7]	7.70
Washington School Employees Plan 2/3[7]	7.70
Washington Teachers Plan 1[7]	7.70
Washington Teachers Plan 2/3[7]	7.70
West Virginia PERS	7.50
West Virginia Teachers	7.50
Wisconsin Retirement System	7.20
Wyoming Public Employees	7.75

1. The Retirement Systems of Alabama is reducing its plans' return assumptions from 8.0 percent to 7.75 percent over a two-year period.

2. CalPERS is reducing its investment return assumption from 7.50 percent to 7.0 percent over three years. In February 2017 the CalPERS Board adopted a risk mitigation policy, effective beginning FY 2021, that calls for a reduction in the system's investment return assumption commensurate with the pension fund achieving a specified level of investment return. Details are available online: https://www.calpers.ca.gov/docs/board-agendas/201702/financeadmin/item-9a-02.pdf.

3. CalSTRS is reducing its investment return assumption from 7.50 percent to 7.0 percent over two years.

4. A proposal to reform pension plans sponsored by the City of Houston includes a reduction to the investment return assumption of the Houston Firefighters plan from its current level of 8.5 percent to 7.0 percent. This lower rate is pending approval of other elements of this proposal by the Texas Legislature during its 2017 Regular Session.

5. The Louisiana State Employees' Retirement System and Teachers' Retirement System are reducing their investment return assumption from 7.75 percent to 7.50 percent by 2021 in annual increments of 0.05 percent.

6. Legislation approved by the Minnesota Legislature in 2016 would have reduced the return assumption of the Teachers' Retirement Association to 8.0 percent, but was vetoed by the governor for reasons extraneous to the assumption.

7. For all Washington State plans except LEOFF Plan 2, the assumed rate of return is being reduced gradually, from 8.0 percent to 7.50 percent, over a 10-year period.

Appendix B: Entity Responsible for Setting Investment Return Assumption for Selected State Plans

State	System	Investment Return Assumption Set By
AK	Alaska Public Employees Retirement System	Alaska Retirement Management Board
AK	Alaska Teachers Retirement System	Alaska Retirement Management Board
AL	Retirement Systems of Alabama	Retirement board
AR	Arkansas Public Employees Retirement System	Retirement board
AR	Arkansas Teachers Retirement System	Retirement board
AZ	Arizona Public Safety Personnel Retirement System	Retirement board
AZ	Arizona State Retirement System	Retirement board
CA	California Public Employees Retirement System	Retirement board
CA	California State Teachers Retirement System	Retirement board
CO	Colorado Public Employees Retirement Association	Retirement board
CO	Fire & Police Pension Association of Colorado	Retirement board
CT	Connecticut State Employees Retirement System	State Employees Retirement Commission
CT	Connecticut Teachers Retirement Board	Retirement board
DC	District of Columbia Retirement Board	Retirement board
DE	Delaware Public Employees Retirement System	Retirement board
FL	Florida Retirement System	FRS Actuarial Assumption Estimating Conference[1]
GA	Georgia Employees Retirement System	Retirement board
GA	Georgia Teachers Retirement System	Retirement board
HI	Hawaii Employees Retirement System	Retirement board
IA	Iowa Public Employees Retirement System	IPERS Investment Board
ID	Idaho Public Employees Retirement System	Retirement board
IL	Illinois State Universities Retirement System	Retirement board
IL	Illinois State Employees Retirement System	Retirement board
IL	Illinois Municipal Retirement Fund	Retirement board
IL	Illinois Teachers Retirement System	Retirement board
IN	Indiana Public Retirement System	Retirement board
KS	Kansas Public Employees Retirement System	Retirement board
KY	Kentucky Retirement Systems	Retirement board
KY	Kentucky Teachers Retirement System	Retirement board
LA	Louisiana State Employees Retirement System	Retirement board
LA	Louisiana Parochial Employees' Retirement System	Retirement board
LA	Louisiana Teachers Retirement System	Retirement board
MA	Massachusetts State Employees Retirement System	Collaborative between the legislature, state treasurer, governor, and the Massachusetts Public Employee Retirement Administration Commission
MA	Massachusetts Teachers Retirement Board	Collaborative between the legislature, state treasurer, governor, and the Massachusetts Public Employee Retirement Administration Commission
MD	Maryland State Retirement and Pension System	Retirement board
ME	Maine Public Employees Retirement System	Retirement board
MI	Michigan Public School Employees Retirement System	Retirement board
MI	Michigan State Employees Retirement System	Retirement board
MI	Municipal Employees' Retirement System of Michigan	Retirement board
MN	Minnesota Public Employees Retirement Association	Legislature
MN	Minnesota State Retirement System	Legislature
MN	Minnesota Teachers Retirement Association	Legislature
MO	Missouri Local Government Employees Retirement System	Retirement board

MO	Missouri Public Schools Retirement System	Retirement board
MO	Missouri State Employees Retirement System	Retirement board
MO	MoDOT & Patrol Employees' Retirement System	Retirement board
MS	Mississippi Public Employees Retirement System	Retirement board
MT	Montana Public Employees Retirement Board	Retirement board
MT	Montana Teachers Retirement System	Retirement board
NC	North Carolina Retirement Systems	Retirement board
ND	North Dakota Public Employees Retirement System	Retirement board
ND	North Dakota Teachers Fund for Retirement	Retirement board
NE	Nebraska Public Employees Retirement System	Retirement board
NH	New Hampshire Retirement System	Retirement board
NJ	New Jersey Division of Pension and Benefits	Retirement board and state treasurer
NM	New Mexico Educational Retirement Board	Retirement board
NM	New Mexico Public Employees Retirement Association	Retirement board
NV	Nevada Public Employees Retirement System	Retirement board
NY	New York State & Local Retirement Systems	State comptroller
NY	New York State Teachers Retirement System	Retirement board
OH	Ohio Police and Fire Pension Fund	Retirement board
OH	Ohio Public Employees Retirement System	Retirement board
OH	Ohio School Employees Retirement System	Retirement board
OH	Ohio State Teachers Retirement System	Retirement board
OK	Oklahoma Public Employees Retirement System	Retirement board
OK	Oklahoma Teachers Retirement System	Retirement board
OR	Oregon Public Employees Retirement System	Retirement board
PA	Pennsylvania Public School Employees Retirement System	Retirement board
PA	Pennsylvania State Employees Retirement System	Retirement board
RI	Rhode Island Employees Retirement System	Retirement board
SC	South Carolina Retirement Systems	Legislature
SD	South Dakota Retirement System	Retirement board
TN	Tennessee Consolidated Retirement System	Retirement board
TX	Teacher Retirement System of Texas	Retirement board
TX	Texas County & District Retirement System	Retirement board
TX	Texas Employees Retirement System	Retirement board
TX	Texas Municipal Retirement System	Retirement board
UT	Utah Retirement Systems	Retirement board
VA	Virginia Retirement System	Retirement board
VT	Vermont State Employees Retirement System	Retirement board
VT	Vermont Teachers Retirement System	Retirement board
WA	Washington Department of Retirement Systems	Legislature
WI	Wisconsin Retirement System	Retirement board
WV	West Virginia Consolidated Public Retirement Board	Retirement board
WY	Wyoming Retirement System	Retirement board

1. The Conference consists of staff from the Florida House, Senate, and Governor’s office

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Memorandum

TO: NDPERS Board

FROM: Sparb & Bryan

DATE: March 16, 2017

SUBJECT: EAP RFP

Attached is the RFP for the EAP renewal for 2017-2019. We issue the EAP RFP every two years. There are currently four active EAP contracts:

St. Alexius Employee Assistance Program
The Village Business Institute EAP
Live Well Solutions
Deer Oaks

It is time for us to select our EAP vendors for 2017-2019. In this memo, we are seeking your review of the RFP and timeline.

<u>RFP and Timeline</u>

The following is the proposed timeline:

April 1, 2017	NDPERS will issue RFP
April 28, 2017	Proposals are due
May 18, 2017	NDPERS will select vendors
May 19, 2017	List of qualified vendors will be given to agencies
June 21, 2017	NDPERS Payroll Conference
June 23, 2017	Agencies select vendors
June 28, 2017	NDPERS enters into contract with selected vendors
July 1, 2017	EAP Contract Effective Date

<u>Process for Existing Vendors</u>

The methodology that PERS has adopted for providing EAP services is called an agency based approach. Pursuant to this method, each agency is the focal point for the decision on which EAP vendor would be the most appropriate for their employees. To implement this

approach, the PERS Board establishes through the RFP process a list of qualified vendors. EAP vendors that are able to successfully meet the requirements in the RFP, and provide the service at or below the specified price, are placed on a list of qualified vendors. Each agency is offered the list and is allowed to select one vendor from that list to provide services for that agency.

Presently, PERS has four vendors who are providing services to state agencies in North Dakota. These vendors are:

1. Deer Oaks
2. CHI-St. Alexius
3. Village Family Services
4. Live Well Solutions

For the existing EAPs we are proposing that they be allowed to file a renewal instead of having to do an entirely new proposal. This renewal would indicate the price and an indication that all services offered in the original proposal still apply or specify any deviations. If they continue to be able to meet the minimum requirements, we would continue to allow them to offer their services (please note minimums are page 8 of the RFP). Concerning the search for additional vendors, we suggest that we publicize and send out the attached RFP (as updated). This means that we would place ads in the major newspapers around the state and send RFPs to any other vendors that have expressed an interest. We would start the ads in April and close the process at the end of April. We will review the renewal bids and any new proposals with you in May. Notice would then be sent to agencies allowing them to select a vendor.

Board Action Requested

Approve the above process for soliciting EAPs.

March 2017

REQUEST FOR PROPOSAL

Enrollment in the State of North Dakota's Employee Assistance Program

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Prepared by:

North Dakota Public Employees Retirement System
P.O. Box 1657
Bismarck, ND 58502-1657

I. BACKGROUND

The 1995 Legislature authorized an Employee Assistance Program (EAP), for employees of state agencies and higher education. This program allows employees to receive confidential assistance in many areas without accessing the health care system.

EAP coverage applies to approximately 115 agencies. These agencies have about 16,250 employees with about 25,000 dependents. Residence of these members is mainly in North Dakota and border cities. Eligibility for a dependent is the same as the NDPERS Group Medical Plan.

ELIGIBLE DEPENDENT - a dependent of the employee who qualifies for membership under this Benefit Plan in accordance with the requirements specified below:

A. The employee's spouse under a legally existing marriage between persons of the opposite sex.

B. The employee's or the employee's living, covered spouse's children under the age of 26 years. Children are considered under age 26 until the end of the month in which the child becomes 26 years of age. The term child or children includes:

1. Children physically placed with the employee for adoption or whom the employee or the employee's living, covered spouse has legally adopted.

2. Children living with the employee for whom the employee or the employee's living, covered spouse has been appointed legal guardian by court order.

3. The employee's grandchildren or those of the employee's living, covered spouse if: (a) the parent of the grandchild is unmarried, (b) the parent of the grandchild is covered under this Benefit Plan and (c) both the parent and the grandchild are primarily dependent on the Employee for support. If a lapse in coverage occurs due to ineligibility of the parent under this Benefit Plan, the grandchild cannot be reenrolled unless the Employee has been appointed legal guardian.

4. Children for whom the employee or the employee's living, covered spouse are required by court order to provide health benefits.

5. Children beyond the age of 26 who are incapable of self support because of intellectual disability or physical handicap that began before the child attained age 26 and who are primarily dependent on the employee or the employee's spouse for support. Coverage for such a disabled child will continue for as long as the child remains unmarried, disabled and the employee's dependent.

II. ADMINISTRATION

The Public Employees Retirement System (NDPERS) administers the EAP. The NDPERS EAP is an agency-based program with each individual agency choosing an EAP vendor. NDPERS does all agency billing and Vendor payments. Enrollment, orientation, services and reporting is the responsibility of the vendor. Individual agency reports are supplied on at least an annual basis. Overall reporting on utilization shall be reported back to NDPERS on a quarterly basis. Reporting shall include but not be limited to Cases, Services, Treatments, Referrals, and Management Training.

III. EAP PROGRAM FORMAT, SOLICITATION PROCESS AND TIME FRAMES

NDPERS has adopted a methodology for providing EAP services that is called an Agency Based Approach. Pursuant to this method each agency is the focal point for the decision on which EAP vendor would be the most appropriate for their employees. To implement this approach the NDPERS Board establishes a list of qualified vendors based upon this bid process and a renewal procedure for existing Vendors. EAP vendors that are able to successfully meet the minimum requirements are placed on a list of qualified vendors. Each agency is offered the list and allowed to select one vendor from that list to provide services to that agency's employee base. An agency may select multiple vendors for geographical reasons.

In recognition of the above, this solicitation process involves two steps. First, each new vendor must complete this RFP and be approved by the NDPERS Board. The approved vendors will be placed upon a list of qualified vendors that will be sent to each agency. Along with the list will be information on the vendor's EAP and pricing. Second, each agency will review the list of qualified vendors and select a vendor to provide services to that agency for the upcoming biennium. NDPERS will then finalize a contract with each of the selected vendors for services. The initial selection by NDPERS, to place a vendor on the list of qualified vendors, does not guarantee the vendor will be selected by any of the agencies. If not selected by any agency the vendor will not have a contract with NDPERS for services.

The estimated time frames for this solicitation process are as follows:

April 1, 2017	NDPERS will issue RFP
April 28, 2017	Proposals are due
May 18, 2017	NDPERS will select vendors
May 19, 2017	List of qualified vendors will be given to agencies
June 21, 2017	NDPERS Payroll Conference
June 23, 2017	Agencies select vendors
June 28, 2017	NDPERS enters into contract with selected vendors
July 1, 2017	EAP Contract Effective Date

IV. SCOPE OF WORK

NDPERS is seeking a vendor(s) to provide the following services:

A. Member Orientation

1) The vendor shall conduct the member orientation for state employees in the EAP. This effort will consist of the following activities:

   a) Prepare and print appropriate informational material for distribution to all employers.

   b) Conduct all presentations in a courteous, prudent and restrained manner without any pressure or harassment. The emphasis of all presentations and informational material shall be placed upon a factual representation of the features of the EAP.

   c) Attend and present information at the NDPERS Payroll Conference, if requested.

   d) Participate in NDPERS or agency wellness and benefit fairs or meetings.

2) If the EAP vendor selected by the agency is not the vendor that provided services during the 2015-2017 biennium, the EAP vendor must:

   a) Distribute informational material to all agency employees advising them of the change in vendors and supplying appropriate reference material.

   b) Hold an informational meeting for agency employees.

B. Minimum Services

1) Confidential, voluntary, in-person short-term assessment and counseling sessions for employees and families experiencing life problems of any kind. The EAP will provide counseling for problems related, but not limited to: Stress, Family, Work, Grief, Tobacco, Alcohol & Drugs, Marriage & Divorce, Depression, Parent-Child Relationships, Child/Spouse Abuse, Aging, Eating Disorders, Financial, School, Gambling, and Mental Health. Proper referrals will be made if more extensive counseling is needed or further counseling is needed, and the number of personal counseling sessions is exhausted.

2) Intervention, assessment, referral, and ongoing consultation with supervisors or employees regarding problems in the work place.

3) Consultation and case management regarding challenging work site problems such as harassment, conflict resolution, violence, critical incidents, work performance and change.

4) Educational programs including training of State supervisory personnel on the use of EAP services and employee seminars.

5) Administrative services including employee communications.

6) The table in Section VII - 9 shows the minimum requirements for selected features of the EAP.

7) All services proposed, as part of the EAP must be available within the proposed geographic area.

8) Before March 1 of each year, the vendor will provide NDPERS an aggregate report of services provided to NDPERS members for the previous calendar year.

C. Consulting

The vendor will be expected to serve as a consultant for the EAP to the agency and to the NDPERS Board, Executive Director, and NDPERS staff. In this capacity, the vendor may be expected to attend meetings to present findings and recommendations as required. The NDPERS Board meets on a monthly basis. The vendor should anticipate attending one of these meetings per biennium. The vendor must provide the following:

1) Information on proposed state and federal laws affecting the EAP.
2) General assistance to NDPERS regarding the administration of the EAP.
3) Advice in determining the eligibility and services of the EAP.
4) The effect of changes in law or administrative interpretations on the operations of the EAP.

V. NDPERS ACTIVITIES

NDPERS will assist the vendor in the following:

1) Notify the vendor of any new agencies.
2) Include information on the EAP in our NDPERS newsletters.
3) Assist the vendor with establishing contacts with each of the agencies. The payroll/personnel staffs of these agencies will set up meetings with their employees.
4) Assign an individual to act as the project leader and be the primary contact within each agency.

VI. FEES

NDPERS receives its funding for this program from the covered state agencies.

NDPERS is requesting each vendor bid this project on a fixed fee per active employee per month basis for enrollments (any changes beyond the fixed fee will not be allowed).

NDPERS will make payment to the vendor by multiplying the total monthly per employee fee by the number of employees in the agencies that chose the Vendor to contract for services. NDPERS will provide each vendor with details of each monthly premium payment electronically in the HIPAA 820 file format.

Bids exceeding $1.54 per contract (employee) per month will not meet the minimum qualification and will be disqualified from further consideration. Price per contract must be evenly divisible by two.

VII. INFORMATION REQUESTS

The proposal must contain, in a separate section, your organization's responses to the following requested information:

1) Provide a brief description of the size, structure and services provided by your organization, with special emphasis on past experience as an EAP vendor.

2) Provide, in detail, your understanding of the services NDPERS is requesting; specifically addressing the scope of work in Section IV, timeframes for delivery and how you intend to staff the project.

3) The vendor should provide the following information:

    - An organizational chart of the company which identifies its principal officers and staff members.
    - The qualifications of the vendor's staff members who will be associated with the contract (i.e., education levels and experience with EAP plans). Identify the relationship of staff to the vendor or project manager (i.e., full-time employee, part-time employee, etc.).
    - The day-to-day contact or project manager of the vendor's organization and the qualifications and authority of any such persons.
    - Describe the quality assurance guidelines or ongoing monitoring system you have in place for evaluating professional staff. Who is responsible for assuring high standards of care?

- Locations the vendor currently maintains or plans to maintain. Offices and staff located in and outside of North Dakota. Any subcontractors for EAP services. Please explain.

- Please explain how you will provide services in areas you do not have an office.

4) If some staff is not yet hired or there are plans for expansion, the vendor should provide detailed descriptions.

5) Experience and reliability of the vendor's organization is considered in the evaluation process. Therefore, the vendor is advised to submit any information, which documents successful and reliable experience in past performances; especially those performances related to the requirements of this RFP.

6) The vendor **MUST** specify the principle business of the vendor and when the vendor began working in this area.

7) Please discuss your capabilities to provide referral and evaluation services under the Omnibus Transportation Employee Testing Act of 1991. However, these services are not being requested as part of the EAP.

8) Please certify that no real or potential conflicts of interest are known. If there is a perceived conflict of interest, please include a statement proposing remedial actions that would be taken to eliminate it. No conflict of interest should exist which would prevent the vendor from representing NDPERS with respect to this proposal. Each vendor must disclose all potential conflicts of which he or she has knowledge or which may arise with respect to the representation of NDPERS on this proposal including, without limitation, any circumstances which would create the appearance of a conflict of interest. NDPERS will disqualify a potential vendor if, in NDPERS' sole judgement, such conflict would preclude effective representation by that vendor.

9) Complete the following table and questions with information on your proposed EAP. The vendor shall show where they're proposed services meets or exceeds the minimum requirements in the following table.

EAP Features	Minimum	Vendor
EAP Established	1 year	
Number of Annual Sessions Per Individual	6	
Number of Annual Sessions Per Incident	6 (Full Individual Minimum)	
Coverage	Employee and Dependents	
Staffing	Licensed Social Workers	
Appointment Timing	Within 72 hours	
Emergency Appointments	Within 24 hours	
Weekend/Holiday Appointments	Emergency	
1-800 number	Minimum one line	
Phone Counseling	Minimum one staffed line	
24 hour Crisis 'Hot' Line Staffing	Minimum one staffed line by LSW	
On-site Employee Orientation	1 per year (Smaller groups may be combined)	
On-site Seminars	None, except as noted in IV, A, 1, c & d	
Off-site Seminars	None, except as noted in IV, A,1, c & d	
Management Training	Minimum Requirements: Stress, Conflict, Crisis, Change Management	
Management Consulting	Available to all supervisory/management staff	
Additional/Specialty Services Available	@ Additional Cost	
Employee Newsletters Supervisory Newsletters Internal Marketing Material (i.e., payroll stuffers, posters, etc.)	Quarterly Biannually As needed	
Agency Reporting - Utilization	Quarterly with Annual to Date	
Price	$1.54 Maximum	
OTHER UNIQUE FEATURES		

Questions:

1. Indicate how long your organization has been in the EAP market.

2. Specify how long your organization has been in existence and whether it is a division of a parent company. Does it have an affiliation with other business entities? If so, explain the nature of these affiliations. Is it privately or publicly held?

3. Has your organization been through recent reorganization or name changes? If yes, briefly describe the nature of the reorganization and list past names of your organization.

4. Provide a summary of any and all claims, pending litigation and judgements that have been entered against your organization in the past five years that are directly related to its provision of an EAP.

5. For cases in which a plan member requires additional services beyond those available through the EAP, which are not covered by the State health plan, how do you recommend handling referrals so that members do not get the mistaken impression that these services are covered?

6. How are emergency and crisis situations handled? How do you recommend your organization be contacted in the case of emergency admissions? What is your response time?

7. For short-term counseling within the EAP, what number of sessions per individual do you recommend and why? Is this number a total per individual per year or per problem incident? Do you recommend a different number of sessions based upon incident treatment? Explain your answers.

8. Typically, what percent of cases do you resolve within the EAP through short-term counseling and what percent are referred outside the EAP?

9. If treatment outside the EAP is recommended, typically how many visits are made to an EAP counselor before outside referral is made?

10. Describe the range of counseling services available which you recommend be provided within the EAP. Will all services be offered to employees at all your locations?

11. Describe educational courses you would propose for supervisors on use of an EAP and other employee educational programs. Indicate frequency, topics and specify associated costs.

12. Describe the nature and scope of employee communications that are provided as part of your fee. Include a sample of all communication material you customarily prepare.

13. Are you able to customize written materials and communications? Is there an additional cost associated with customization?

14. Under the plan of benefits you indicate a certain number of sessions are available to each member. Please define what constitutes a session (i.e., duration or time).

15. Concerning the management training and consulting services that are part of the services proposed, please define the depth, scope and range of these services (number of sessions, hours of management consulting, etc.).

16. What services does your EAP provide relating to maintaining a drug free workplace and employee testing? To what extent are these services part of your proposal and, to the extent they are not, what is the cost for those additional services?

VIII. SUBMISSION OF PROPOSAL

A. Proposals should be prepared in a straightforward manner to satisfy the requirements of this RFP. Emphasis should be on completeness and clarity of content. Costs for developing proposals are entirely the responsibility of the Vendor and shall not be chargeable to NDPERS.

B. The bidder shall sign the proposal. The signer must be a partner or principal of the firm. An unsigned proposal will be rejected.

C. Address or deliver the RFP to:

Mr. Bryan Reinhardt
North Dakota Public Employees Retirement System
400 E Broadway, Suite 505
Bismarck, ND 58501
(701) 328-3900

D. Ten (10) copies of the proposal must be received at the above listed location by: **5:00 p.m. Central Time, on April 28, 2017.** The package the proposal is delivered in must be plainly marked **"PROPOSAL TO PROVIDE EAP SERVICES"**. In addition to the ten copies, submit an electronic copy of the proposal.

A proposal shall be considered late and will be rejected if received at any time after the exact time specified for return of proposals.

E. The policy of the NDPERS Board is to solicit proposals with bonafide intent to award a contract. This policy will not affect the right of the NDPERS Board to reject any or all proposals.

F. The NDPERS Board may request representatives of your organization appear before them for interviewing purposes. Travel expenses and related costs will be the responsibility of the organization being interviewed.

G. The NDPERS Board will award the contracts for service no later than June, 2017.

H. In evaluating the proposals, price will not be the sole factor. The NDPERS Board may consider any factors it deems necessary and proper for best value, including but not limited to: price, quality of service, response to this request, experience, staffing and general reputation.

I. The vendor must sign the attached contract and submit it with their proposal. If the NDPERS Board accepts the proposal, the contract will be signed and a copy will be returned.

J. NDPERS reserves the right to make the decision exclusively based on whatever criteria the Board deems appropriate and will decide by June, 2017.

AGREEMENT FOR SERVICES BETWEEN (Name of Contractor) AND NORTH DAKOTA PUBLIC EMPLOYEES RETIREMENT SYSTEM

(Name of Contractor) (hereinafter CONTRACTOR) has offered to provide services to the State of North Dakota acting through its Public Employees Retirement System (hereinafter NDPERS). The terms of this Contract shall constitute the services agreement ("Agreement").

CONTRACTOR and NDPERS agree to the following:

1) **SCOPE OF SERVICES:** CONTRACTOR agrees to provide the service(s) as specified in the 2017 RFP and proposal (Exhibit A).

2) **TERM:** The term of this contract shall commence July 1, 2017 and end on June 30, 2019.

3) **FEES:** NDPERS shall only pay pursuant to the terms.

4) **BILLINGS:** The Vendor shall receive monthly payment from NDPERS based on agencies enrolled and the number of active employees within those agencies. Payments shall be made by the end of the month of service.

5) **TERMINATION:** Either party may terminate this agreement with thirty (30) days written notice mailed to the other party, or as mutually agreed to by the parties. Upon any termination the CONTRACTOR shall be compensated as described in Exhibit A for services performed up to the date of termination.

In addition, PERS by written notice to CONTRACTOR may terminate the whole or any part of this Agreement under any of the following conditions:

1) If funding from federal, state, or other sources is not obtained and continued at levels sufficient to allow for purchase of the services or supplies in the indicated quantities or term.

2) If federal or state laws or rules are modified or interpreted in a way that the services are no longer allowable or appropriate for purchase under this Agreement or are no longer eligible for the funding proposed for payments authorized by this Agreement.

3) If any license, permit, or certificate required by law or rule, or by the terms of this Agreement, is for any reason denied, revoked, suspended, or not renewed.

Termination of this Agreement under this subsection is without prejudice to any obligations or liabilities of either party already accrued prior to termination.

In addition, NDPERS may terminate this Agreement effective upon thirty (30) days prior written notice to CONTRACTOR, or any later date stated in the notice:

1) If CONTRACTOR fails to provide services required by this Agreement within the time specified or any extension agreed to by NDPERS; **or**

2) If CONTRACTOR fails to perform any of the other provisions of this Agreement, or so fails to pursue the work as to endanger performance of this Agreement in accordance with its terms.

The rights and remedies of NDPERS provided in this subsection are not exclusive and are in addition to any other rights and remedies provided by law or under this Agreement.

6) **ASSIGNMENT AND SUBCONTRACTS:** CONTRACTOR may not assign or otherwise transfer or delegate any right or duty without STATE'S express written consent. However, the State expressly consents to CONTRACTOR entering into (i) subcontracts with its affiliates located in the United States, and (ii) third-party subcontracts provided that any such third-party subcontract acknowledges the binding nature of this contract and incorporates this contract, including any attachments. CONTRACTOR is solely responsible for the performance of any subcontractor to the same extent as if such performance were done by CONTRACTOR. CONTRACTOR does not have authority to contract for or incur obligations on behalf of NDPERS.

7) **ACCESS TO RECORDS AND CONFIDENTIALITY:** The parties agree that all participation by NDPERS members and their dependents in programs administered by NDPERS is confidential under North Dakota law. CONTRACTOR may request and NDPERS shall provide directly to CONTRACTOR upon such request, confidential information necessary for CONTRACTOR to provide the services described in Exhibit A. CONTRACTOR shall keep confidential all NDPERS information obtained in the course of delivering services. Failure of CONTRACTOR to maintain the confidentiality of such information may be considered a material breach of the contract and may constitute the basis for additional civil and criminal penalties under North Dakota law. CONTRACTOR has exclusive control over the direction and guidance of the persons rendering services under this Agreement. Upon termination of this Agreement, for any reason, CONTRACTOR shall return or destroy all confidential information received from NDPERS, or created or received by CONTRACTOR on behalf of NDPERS. This provision applies to confidential information that may be in the possession of subcontractors or agents of CONTRACTOR. CONTRACTOR shall retain no copies of the confidential information. In the event that CONTRACTOR asserts that returning or destroying the confidential information is not feasible, CONTRACTOR shall provide to NDPERS notification of the conditions that make return or destruction infeasible. Upon explicit written agreement of PERS that return or destruction of confidential information is not feasible, CONTRACTOR shall extend the protections of this Agreement to that confidential information and limit further uses and disclosures of any such confidential information to those purposes that make the return or destruction infeasible, for so long as CONTRACTOR maintains the confidential information.

CONTRACTOR shall not use or disclose any information it receives from NDPERS under this Agreement that NDPERS has previously identified as confidential or exempt from mandatory public disclosure except as necessary to carry out the purposes of this Agreement or as authorized in advance by NDPERS. NDPERS shall not disclose any information it receives from CONTRACTOR that CONTRACTOR has previously identified as confidential and that NDPERS determines in its sole discretion is protected from mandatory public disclosure under a specific exception to the North Dakota public records law, N.D.C.C. ch. 44-04. The duty of NDPERS and CONTRACTOR to maintain confidentiality of information under this section continues beyond the term of this Agreement.

CONTRACTOR understands that, except for disclosures prohibited in this Agreement, NDPERS must disclose to the public upon request any records it receives from CONTRACTOR. CONTRACTOR further understands that any records that are obtained or generated by CONTRACTOR under this Agreement, except for records that are confidential under this Agreement, may, under certain circumstances, be open to the public upon request under the North Dakota public records law. CONTRACTOR agrees to contact NDPERS immediately upon receiving a request for information under the public records law and to comply with NDPERS's instructions on how to respond to the request.

8) **APPLICABLE LAW AND VENUE:** This agreement shall be governed by and construed in accordance with the laws of the State of North Dakota. Any action to enforce this contract must be adjudicated exclusively in the State District Court of Burleigh County, North Dakota.

9) **MERGER AND MODIFICATION:** This Agreement shall constitute the entire agreement between the parties. In the event of any inconsistency or conflict among the documents making up this agreement, the documents must control in this order of precedence: First – the terms of this Agreement, as may be amended and Second - the state's Request for Proposal (attached in Exhibit A) and Third – CONTRACTOR's Proposal (attached in Exhibit A). No waiver, consent, modification or change of terms of this Agreement shall bind either party unless in writing and signed by both parties. Such waiver, consent, modification or change, if made, shall be effective only in the specific instances and for the specific purpose given. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Agreement.

10) **INDEMNITY:** CONTRACTOR agrees to defend, indemnify, and hold harmless the state of North Dakota, its agencies, officers and employees (State), from and against claims based on the vicarious liability of the State or its agents, but not against claims based on the State's contributory negligence, comparative and/or contributory negligence or fault, sole negligence, or intentional misconduct. This obligation to defend, indemnify, and hold harmless does not extend to professional liability claims arising from professional errors and omissions. The legal defense provided by CONTRACTOR to the State under this provision must be free of any conflicts of interest, even if retention of separate legal counsel for the State is necessary. Any attorney appointed to represent the

State must first qualify as and be appointed by the North Dakota Attorney General as a Special Assistant Attorney General as required under N.D.C.C. § 54-12-08. CONTRACTOR also agrees to defend, indemnify, and hold the State harmless for all costs, expenses and attorneys' fees incurred if the State prevails in an action against CONTRACTOR in establishing and litigating the indemnification coverage provided herein. This obligation shall continue after the termination of this Agreement.

11) **INSURANCE**

CONTRACTOR shall secure and keep in force during the term of this Agreement, from insurance companies, government self-insurance pools or government self-retention funds, the following insurance coverages:

1) Commercial general liability, including premises or operations, contractual, and products or completed operations coverages (if applicable), with minimum liability limits of $250,000 per person and $1,000,000 per occurrence.
2) Professional errors and omissions with minimum liability limits of $1,000,000 per occurrence and in the aggregate. CONTRACTOR shall continuously maintain such coverage during the contract period and for three years thereafter. In the event of a change or cancellation of coverage, CONTRACTOR shall purchase an extended reporting period to meet the time periods required in this section.
3) Automobile liability, including Owned (if any), Hired, and Non-Owned automobiles, with minimum liability limits of $250,000 per person and $1,000,000 per occurrence.
4) Workers compensation coverage meeting all statutory requirements.

The insurance coverages listed above must meet the following additional requirements:

1) Any deductible or self-insured retention amount or other similar obligation under the policies shall be the sole responsibility of the CONTRACTOR.
2) This insurance may be in policy or policies of insurance, primary and excess, including the so-called umbrella or catastrophe form and must be placed with insurers rated “A-” or better by A.M. Best Company, Inc., provided any excess policy follows form for coverage. Less than an “A-” rating must be approved by the State.
3) The duty to defend, indemnify, and hold harmless the State under this Agreement shall not be limited by the insurance required in this Agreement.
4) The state of North Dakota and its agencies, officers, and employees (State) shall be endorsed on the commercial general liability policy, including any excess policies (to the extent applicable), as additional insured. The State shall have all the benefits, rights, and coverages of an additional insured under these policies that shall not be limited to the minimum limits of insurance required by this Agreement or by the contractual indemnity obligations of CONTRACTOR.
5) The insurance required in this Agreement, through a policy or endorsement, shall include:

   a) "Waiver of Subrogation" waiving any right to recovery the insurance company may have against the State;

   b) a provision that CONTRACTOR's insurance coverage shall be primary (i.e. pay first) as respects any insurance, self-insurance or self-retention

maintained by the State and that any insurance, self-insurance or self-retention maintained by the State shall be in excess of the CONTRACTOR's insurance and shall not contribute with it;

c) cross liability/severability of interest for all policies and endorsements;

d) The legal defense provided to the State under the policy and any endorsements must be free of any conflicts of interest, even if retention of separate legal counsel for the State is necessary;

e) The insolvency or bankruptcy of the insured CONTRACTOR shall not release the insurer from payment under the policy, even when such insolvency or bankruptcy prevents the insured CONTRACTOR from meeting the retention limit under the policy.

5) CONTRACTOR shall furnish a certificate of insurance to the undersigned State representative prior to commencement of this Agreement.
6) Failure to provide insurance as required in this Agreement is a material breach of contract entitling State to terminate this Agreement immediately.
7) CONTRACTOR shall provide at least 30 day notice of any cancellation or material change to the policies or endorsements.

12) **SEVERABILITY:** If any term in this Agreement is declared by a court having jurisdiction to be illegal or unenforceable, the validity of the remaining terms must not be affected, and, if possible, the rights and obligations of the parties are to be construed and enforced as if the Agreement did not contain that term.

13) **INDEPENDENT ENTITY:** CONTRACTOR is an independent entity under this Agreement and is not a State employee for any purpose, including the application of the Social Security Act, the Fair Labor Standards Act, the Federal Insurance Contribution Act, the North Dakota Unemployment Compensation Law and the North Dakota Workforce Safety and Insurance Act. CONTRACTOR retains sole and absolute discretion in the manner and means of carrying out CONTRACTOR'S activities and responsibilities under this Agreement, except to the extent specified in this Agreement.

14) **NDPERS RESPONSIBILITIES:** NDPERS shall cooperate with the CONTRACTOR hereunder, including, without limitation, providing the CONTRACTOR with reasonable and timely access to data, information and personnel of NDPERS. NDPERS shall be responsible for the performance of its personnel and agents and for the accuracy and completeness of data and information provided to the CONTRACTOR for purposes of the performance of the Services.

15) **FORCE MAJEURE:** Neither party shall be held responsible for delay or default caused by fire, riot, terrorism, acts of God or war if the event is beyond the party's reasonable control and the affected party gives notice to the other party immediately upon occurrence of the event causing the delay or default or that is reasonably expected to cause a delay or default.

16) **ALTERNATIVE DISPUTE RESOLUTION – JURY TRIAL:** NDPERS does not agree to any form of binding arbitration, mediation, or other forms of mandatory alternative dispute resolution. The parties have the right to enforce their rights and remedies in judicial proceedings. NDPERS does not waive any right to a jury trial.

17) **NOTICE:** All notices or other communications required under this contract must be given by registered or certified mail and are complete on the date mailed when addressed to the parties at the following addresses:

NDPERS:

Sparb Collins, Executive Director
ND Public Employees Retirement System
400 East Broadway, Suite 505
PO Box 1657
Bismarck, ND 58502-1657

CONTRACTOR:

____

Notice provided under this provision does not meet the notice requirements for monetary claims against the State found at N.D.C.C. § 32-12.2-04.

18) **NONDISCRIMINATION AND COMPLIANCE WITH LAWS:** CONTRACTOR agrees to comply with all laws, rules, and policies, including those relating to nondiscrimination, accessibility and civil rights, as are applicable to CONTRACTOR. CONTRACTOR agrees to timely file all legally required reports, make required payroll deductions, and timely pay all taxes and premiums owed, including unemployment compensation and workers' compensation premiums. CONTRACTOR shall have and keep current at all times during the term of this contract all licenses and permits required by law.

19) **STATE AUDIT:** All records, regardless of physical form, and the accounting practices and procedures of CONTRACTOR relevant to this Agreement are subject to examination by the North Dakota State Auditor, the Auditor's designee, or Federal auditors. CONTRACTOR shall maintain all of these records for at least three (3) years following completion of this Agreement and be able to provide them at any reasonable time. State, State Auditor, or Auditor's designee shall provide reasonable notice.

20) **TAXPAYER ID:** CONTRACTOR'S federal employer ID number is:___________.

21) **PAYMENT OF TAXES BY STATE:** State is not responsible for and will not pay local, state, or federal taxes. State sales tax exemption number is E-2001, and certificates will be furnished upon request by the NDPERS.

22) **EFFECTIVENESS OF CONTRACT:** This Agreement is not effective until fully executed by both parties.

IN WITNESS WHEREOF, CONTRACTOR and NDPERS have executed this Agreement as of the date first written above.

NORTH DAKOTA PUBLIC EMPLOYEES RETIREMENT SYSTEM	**CONTRACTOR**
______________________________	______________________________
Sparb Collins, Executive Director ND Public Employees Retirement System	Signature
	______________________________
	Printed Name
	______________________________
	Title
______________________________	______________________________
Date	Date

Business Associate Agreement

(Revised 10-2013)

This Business Associate Agreement, which is an addendum to the underlying contract, is entered into by and between, the North Dakota Public Employees Retirement System ("NDPERS") and ________________ .

1. Definitions

a. Terms used, but not otherwise defined, in this Agreement have the same meaning as those terms in the HIPAA Privacy Rule, 45 C.F.R. Part 160 and Part 164, Subparts A and E, and the HIPAA Security rule, 45 C.F.R., pt. 164, subpart C.
b. Business Associate. "Business Associate" means ________________ .
c. Covered Entity. "Covered Entity" means the **North Dakota Public Employees Retirement System Health Plans**.
d. PHI and ePHI. "PHI" means Protected Health Information; "ePHI" means Electronic Protected Health Information.

2. Obligations of Business Associate.

2.1. The Business Associate agrees:

a. To use or disclose PHI and ePHI only as permitted or required by this Agreement or as Required by Law.
b. To use appropriate safeguards and security measures to prevent use or disclosure of the PHI and ePHI other than as provided for by this Agreement, and to comply with all security requirements of the HIPAA Security rule.
c. To implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of ePHI that it creates, receives, maintains or transmits on behalf of the Covered Entity as required by the HIPAA Security rule.
d. To mitigate, to the extent practicable, any harmful effect that is known to Business Associate of a use or disclosure of PHI or ePHI by Business Associate in violation of the requirements of this Agreement.
e. To report to Covered Entity (1) any use or disclosure of the PHI not provided for by this Agreement, and (2) any "security incident" as defined in 45 C.F.R. § 164.304 involving ePHI, of which it becomes aware without unreasonable delay and in any case within thirty (30) days from the date after discovery and provide the Covered Entity with a written notification that complies with 45 C.F.R. § 164.410 which shall include the following information:
    i. to the extent possible, the identification of each individual whose Unsecured Protected Health Information has been, or is reasonably believed by the Business Associate to have been, accessed, acquired or disclosed during the breach;
    ii. a brief description of what happened;
    iii. the date of discovery of the breach and date of the breach;
    iv. the nature of the Protected Health Information that was involved;
    v. identify of any person who received the non-permitted Protected Health Information;

vi. any steps individuals should take to protect themselves from potential harm resulting from the breach;
vii. a brief description of what the Business Associate is doing to investigate the breach, to mitigate harm to individuals, and to protect against any further breaches; and
viii. any other available information that the Covered Entity is required to include in notification to an individual under 45 C.F.R. § 164.404(c) at the time of the notification to the State required by this subsection or promptly thereafter as information becomes available.

f. With respect to any use or disclosure of Unsecured Protected Health Information not permitted by the Privacy Rule that is caused by the Business Associate's failure to comply with one or more of its obligations under this Agreement, the Business Associate agrees to pay its reasonable share of cost-based fees associated with activities the Covered Entity must undertake to meet its notification obligations under the HIPAA Rules and any other security breach notification laws;
g. Ensure that any agent or subcontractor that creates, receives, maintains, or transmits electronic PHI on behalf of the Business Associate agree to comply with the same restrictions and conditions that apply through this Agreement to the Business Associate.
h. To make available to the Secretary of Health and Human Services the Business Associate's internal practices, books, and records, including policies and procedures relating to the use and disclosure of PHI and ePHI received from, or created or received by Business Associate on behalf of Covered Entity, for the purpose of determining the Covered Entity's compliance with the HIPAA Privacy Rule, subject to any applicable legal privileges.
i. To document the disclosure of PHI related to any disclosure of PHI as would be required for Covered Entity to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 C.F.R. § 164.528.
j. To provide to Covered Entity within 15 days of a written notice from Covered Entity, information necessary to permit the Covered Entity to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 C.F.R. § 164.528.
k. To provide, within 10 days of receiving a written request, information necessary for the Covered Entity to respond to an Individual's request for access to PHI about himself or herself, in the event that PHI in the Business Associate's possession constitutes a Designated Record Set.
l. Make amendments(s) to PHI in a designated record set as directed or agreed by the Covered Entity pursuant to 45 C.F.R. § 164.526 or take other measures as necessary to satisfy the covered entity's obligations under that section of law.

3. Permitted Uses and Disclosures by Business Associate

3.1. General Use and Disclosure Provisions
Except as otherwise limited in this Agreement, Business Associate may Use or Disclose PHI and ePHI to perform functions, activities, or services for, or on behalf of, Covered Entity, specifically, **Uniform Group Insurance Consulting Services** – provided that such use or disclosure would not violate the Privacy Rule or the Security Rule if done by Covered Entity or the minimum necessary policies and procedures of the Covered Entity.

3.2. Specific Use and Disclosure Provisions

Except as otherwise limited in this Agreement, Business Associate may use PHI and ePHI:

a. For the proper management and administration of the Business Associate, provided that disclosures are Required By Law, or Business Associate obtains reasonable assurances from the person to whom the information is disclosed that it will remain confidential and used or further disclosed only as Required By Law or for the purpose for which it was disclosed to the person, and the person notifies the Business Associate of any instances of which it is aware in which the confidentiality of the information has been breached.
b. To provide Data Aggregation services to Covered Entity as permitted by 45 C.F.R. § 164.504(e)(2)(i)(B), but Business Associate may not disclose the PHI or ePHI of the Covered Entity to any other client of the Business Associate without the written authorization of the covered entity Covered Entity.
c. To report violations of law to appropriate Federal and State authorities, consistent with 45 C.F.R. §§ 164.304 and 164.502(j)(1).

4. Obligations of Covered Entity

4.1. Provisions for Covered Entity to Inform Business Associate of Privacy Practices and Restrictions

Covered Entity shall notify Business Associate of:

a. Any limitation(s) in its notice of privacy practices of Covered Entity in accordance with 45 C.F.R. § 164.520, to the extent that any such limitation may affect Business Associate's use or disclosure of PHI.
b. Any changes in, or revocation of, permission by an Individual to use or disclose PHI, to the extent that any such changes may affect Business Associate's use or disclosure of PHI.
c. Any restriction to the use or disclosure of PHI that Covered Entity has agreed to in accordance with 45 C.F.R. § 164.522, to the extent that any such restriction may affect Business Associate’s use or disclosure of PHI.

4.2. Additional Obligations of Covered Entity. Covered Entity agrees that it:

a. Has included, and will include, in the Covered Entity’s Notice of Privacy Practices required by the Privacy Rule that the Covered Entity may disclose PHI for Health Care Operations purposes.

b. Has obtained, and will obtain, from Individuals any consents, authorizations and other permissions necessary or required by laws applicable to the Covered Entity for Business Associate and the Covered Entity to fulfill their obligations under the Underlying Agreement and this Agreement.

c. Will promptly notify Business Associate in writing of any restrictions on the Use and Disclosure of PHI about Individuals that the Covered Entity has agreed to that may affect Business Associate’s ability to perform its obligations under the Underlying Agreement or this Agreement.

d. Will promptly notify Business Associate in writing of any change in, or revocation of, permission by an Individual to Use or Disclose PHI, if the change or revocation may affect Business Associate’s ability to perform its obligations under the Underlying Agreement or this Agreement.

4.2. Permissible Requests by Covered Entity

Covered Entity may not request Business Associate to use or disclose PHI in any manner that would not be permissible under the Privacy Rule or the Security Rule if done by Covered Entity, except that the Business Associate may use or disclose PHI and ePHI for management and administrative activities of Business Associate.

5. Term and Termination

a. Term. The Term of this Agreement shall be effective as of July 1, 2016, and shall terminate when all of the PHI and ePHI provided by Covered Entity to Business Associate, or created or received by Business Associate on behalf of Covered Entity, is destroyed or returned to Covered Entity, or, if it is infeasible to return or destroy PHI and ePHI, protections are extended to any such information, in accordance with the termination provisions in this Section.
b. Automatic Termination. This Agreement will automatically terminate upon the termination or expiration of the Underlying Agreement.
c. Termination for Cause. Upon Covered Entity's knowledge of a material breach by Business Associate, Covered Entity shall either:
    1. Provide an opportunity for Business Associate to cure the breach or end the violation and terminate this Agreement and the Underlying Agreement if Business Associate does not cure the breach or end the violation within the time specified by Covered Entity;
    2. Immediately terminate this Agreement and the Underlying Agreement if Business Associate has breached a material term of this Agreement and cure is not possible; or
    3. If neither termination nor cure is feasible, Covered Entity shall report the violation to the Secretary.
d. Effect of Termination.
    1. Except as provided in paragraph (2) of this subsection, upon termination of this Agreement, for any reason, Business Associate shall return or destroy all PHI received from Covered Entity, or created or received by Business Associate on behalf of Covered Entity. This provision shall apply to PHI and ePHI that is in the possession of subcontractors or agents of Business Associate. Business Associate shall retain no copies of the PHI or ePHI.
    2. In the event that Business Associate determines that returning or destroying the PHI or ePHI is not feasible, Business Associate shall provide to Covered Entity notification of the conditions that make return or destruction infeasible. Upon explicit written agreement of Covered Entity that return or destruction of PHI or ePHI is not feasible, Business Associate shall extend the protections of this Agreement to that PHI and ePHI and limit further uses and disclosures of any such PHI and ePHI to those purposes that make the return or destruction infeasible, for so long as Business Associate maintains that PHI or ePHI.

6. Miscellaneous

a. Regulatory References. A reference in this Agreement to a section in the HIPAA Privacy or Security Rule means the section as in effect or as amended.
b. Amendment. The Parties agree to take such action as is necessary to amend this Agreement from time to time as is necessary for Covered Entity to comply with the requirements of the Privacy Rule, the Security Rule, and the Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191.

c. Survival. The respective rights and obligations of Business Associate under Section 5.c, related to "Effect of Termination," of this Agreement shall survive the termination of this Agreement.
d. Interpretation. Any ambiguity in this Agreement shall be resolved to permit Covered Entity to comply with the Privacy and Security Rules.
e. No Third Party Beneficiaries. Nothing express or implied in this Agreement is intended to confer, nor shall anything this Agreement confer, upon any person other than the parties and their respective successors or assigns, any rights, remedies, obligations or liabilities whatsoever.
f. Applicable Law and Venue. This Business Associate Agreement is governed by and construed in accordance with the laws of the State of North Dakota. Any action commenced to enforce this Contract must be brought in the District Court of Burleigh County, North Dakota.
g. Business Associate agrees to comply with all the requirements imposed on a business associate under Title XIII of the American Recovery and Reinvestment Act of 2009, the Health Information Technology for Economic and Clinical Health (HI-TECH) Act, and, at the request of NDPERS, to agree to any reasonable modification of this agreement required to conform the agreement to any Model Business Associate Agreement published by the Department of Health and Human Services.

7. Entire Agreement

This Agreement contains all of the agreements and understandings between the parties with respect to the subject matter of this Agreement. No agreement or other understanding in any way modifying the terms of this Agreement will be binding unless made in writing as a modification or amendment to this Agreement and executed by both parties.

IN WITNESS OF THIS, **NDPERS** [CE] and ___________________[BA] agree to and intend to be legally bound by all terms and conditions set forth above and hereby execute this Agreement as of the effective date set forth above.

For Covered Entity:	For Business Associate:
______________________________ Sparb Collins, Executive Director ND Public Employees Retirement System	______________________________ Signature
	______________________________ Printed Name
	______________________________ Title
______________________________ Date	______________________________ Date

North Dakota
Public Employees Retirement System
400 East Broadway, Suite 505 ● Box 1657
Bismarck, North Dakota 58502-1657

Sparb Collins
Executive Director
(701) 328-3900
1-800-803-7377

FAX: (701) 328-3920 ● EMAIL: NDPERS-info@nd.gov ● https://ndpers.nd.gov

Memorandum

TO: PERS Board

FROM: Sparb & Bryan

DATE: **March 16, 2017**

SUBJECT: PERS Ancillary Programs/Collaborative Drug Therapy Program & other programs.

PERS Collaborative drug therapy program.

Section 54-52.1-17 of the North Dakota Century requires the PERS Board to:

54-52.1-17. Uniform group insurance program - Collaborative drug therapy program - Funding.

1. The board shall establish a collaborative drug therapy program that is to be available to individuals in the medical and hospital benefits coverage group. The purpose of the collaborative drug therapy program is to improve the health of individuals with diabetes and to manage health care expenditures.
2. The board shall involve physicians, pharmacists, and certified diabetes educators to coordinate health care for covered individuals with diabetes in order to improve health outcomes and reduce spending on diabetes care. Under the program, pharmacists and certified diabetes educators may be reimbursed for providing face-to-face collaborative drug therapy services to covered individuals with diabetes. To encourage enrollment in the plan, the board shall provide incentives to covered individuals who have diabetes which may include waived or reduced copayment for diabetes treatment drugs and supplies.
3. The North Dakota pharmacists association or a specified delegate shall implement a formalized diabetes management program with the approval of the prescriptive practices committee established in section 43-15-31.4, which must serve to standardize diabetes care and improve patient outcomes. This program must facilitate enrollment procedures, provide standards of diabetes care, enable consistent documentation of clinical and economic outcomes, and structure an outcomes reporting system.
4. The board shall fund the program from any available funds in the uniform group insurance program and if necessary the fund may add up to a two dollar per month charge on the policy premium for medical and hospital benefits coverage. A state agency shall pay any additional premium from the agency's existing appropriation.

Pursuant to the above, we established the PERS diabetes disease management program modeled on the Asheville program with North Dakota pharmacists. This program has been a part of the PERS plan for the last several bienniums.

Attached for your reference is the annual report on the program that was presented at the August meeting. (See attachment A) Also included are articles forwarded to us from Mike Schwab from the Pharmacists Association on pharmacist led programs. (See attachment D)

Funding for this program comes from the PERS reserves. The cost estimate is on the last page.

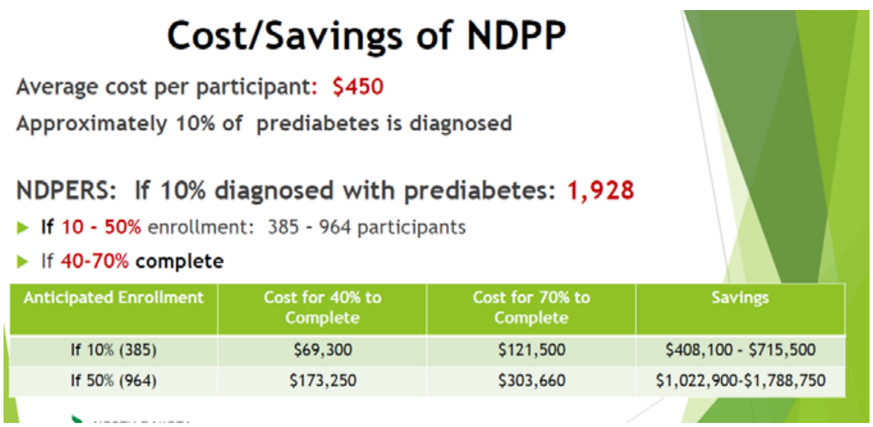
<u>Board Action Requested:</u>

Approve the program for the 2017-2019 biennium.

Other Programs.

<u>National Diabetes Prevention Program</u> (See attachment B)
At the September PERS Board meeting you heard from Jane Myers from the North Dakota Department of Health who was at the NDPERS Board meeting to talk about the National Diabetes Prevention Program (NDPP).

NDPP is a CDC recognized year long lifestyle change program. It has 16 weekly sessions for the first six months and a monthly session for the last six months. The cost of this program is $450 per participant and highlighted on the following slide:



Anticipated Enrollment	Cost for 40% to Complete	Cost for 70% to Complete	Savings
If 10% (385)	$69,300	$121,500	$408,100 - $715,500
If 50% (964)	$173,250	$303,660	$1,022,900-$1,788,750

<u>Requested Board Action:</u>

Does the board want to consider this program for the 2017 biennium and with funding from reserves or do you want to consider it further during the next biennium with a possible pilot program?

<u>Staff Recommendation</u>

Do not move forward with the program at this time due to other proposal for use of reserves.

Hypertension Program

The Pharmacy Association completed a pilot project with NDPERS members (See attachment C). Does the board want to consider this program for the 2017 biennium and with funding from reserves or do you want to consider it further during the next biennium with another possible pilot program? The cost estimate is below.

About the Patient

Level of Service July 2017-June 2019

Diabetes	July2017-June 2019
Direct Program Cost	
Provider Visits	$140,000
Patient Incentives	$ 45,000
Subtotal	$185,000
Administration Costs	
Subtotal	$20,000.00
Marketing Costs	
Direct to consumer mailings In-pharmacy marketing	$5,000.00
Subtotal	$5,000.00
Biennial Expenses	$210,000.00

Hypertension	July2017-June 2019
Direct Program Cost	
Provider Visits	$231,000
Patient Incentives	$ 40,000
Subtotal	$271,000
Administration Costs	
Subtotal	$10,000.00
Marketing Costs	
Direct to consumer mailings In-pharmacy marketing	$7,500.00
Subtotal	$7,500.00
Biennial Expenses	$288,500.00

Expense estimates are for serving ~500 patients (~200 Diabetes and ~300 hypertension) at an 5%-7% participation rate over the next biennium. Each patient would be eligible to receive a Comprehensive Medication Review (CMR-$400.00) and up to 2 Targeted Medication Reviews (TMR-$80.00) the first year and one CMR ($200.00) and one TMR ($80.00) for any subsequent years of participation in the program.

In-kind from NDPhA and NDSU: Telephone (maintaining toll free direct number for patients), office space, office supplies, Training/Credentialing/Certification of providers, patient curriculum, Clinical Coordinator, Data Analysis

Staff Recommendation

Do not move forward with the hypertension program at this time due to other proposal for use of reserves.

Attachment A

Collaborative Drug Therapy Program Annual Report

June 2015-June 2016

About The Patient— 1641 Capital Way Bismarck, ND 58501

T: 1.888.326.4657 **DD:** 701.231.6685 **E:** wbrown@aboutthepatient.net

Executive Summary

The Uniform Group Insurance Program-Collaborative Drug Therapy Program in accordance with section 54-52.1-17 of the North Dakota Century code purpose is to improve the health of individuals with diabetes in order to manage health care expenditures through face-to-face collaborative drug therapy services by pharmacists and certified diabetes educators. For covered individuals waived or reduced co-payment for diabetes treatment drugs and supplies are provided as an incentive for program participation. The North Dakota Pharmacist Association or specified delegate currently About the Patient facilitates patient curriculum based on national standards for diabetes care, enrollment procedures, documentation of clinical encounters, and assess economic/clinical outcomes. Funding of program is through the uniform group insurance program and if necessary an additional charge on the policy premium for medical and hospital benefits coverage may be added up to two dollars per month.

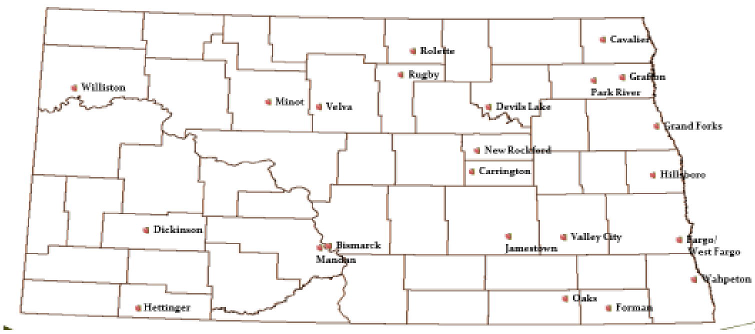
The About The Patient Program has been administering the Diabetes Management Program since July of 2008. A cost analysis of the Diabetes Management Program was conducted by the Center for Health Promotion and Prevention Research, University of North Dakota School of Medicine and Health Sciences in November of 2010. Return on investment calculation demonstrated a $71.14 pmpm health cost savings ($2.34 saved for every $1.00 spent for the program). The diabetes program was included in the 2014 impact of diabetes report to state legislators as part of NDCC 23-01-40 requirement for even-numbered years reporting. Funding and program administration by About The Patient was extended for next biennium July 2015-June 2017.

Targeted direct marketing via letter and postcards is done by the About The Patient program to inform eligible beneficiaries about the opt-in program.

CONTENTS

Diabetes Management Program

The Diabetes Management Program is an opt-in program for North Dakota Public Employee Retirement System beneficiaries with diabetes. **On a monthly basis newly eligible patients are sent a letter explaining the program as well as a wellness enrollment form.** The wellness enrollment form allows patients to choose one of 54 community pharmacy locations across North Dakota for face-to-face program participation and/or live secure video conferencing (Telepharmacy) in Edgeley, Glen Ullin, New Salem and all Thrifty White Drug locations in North Dakota.

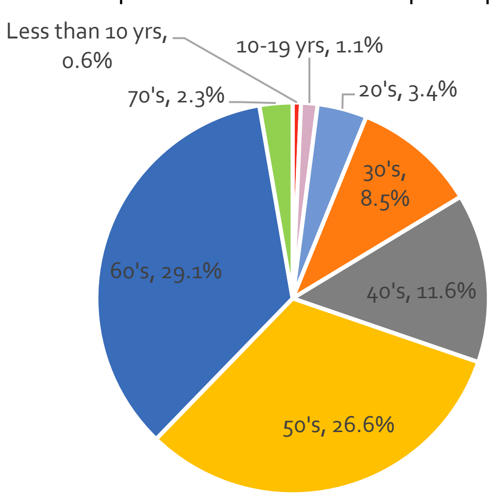


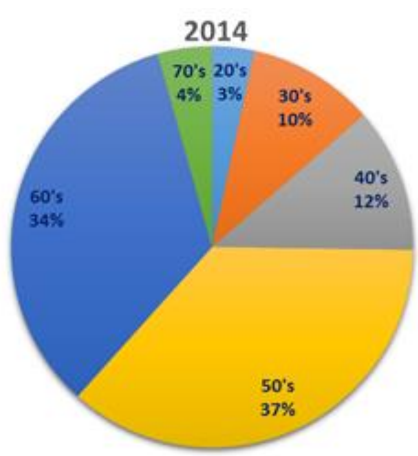
Patients are eligible for three visits within the first year and two visits per year thereafter. **By actively partaking in the program patients receive point of sale reimbursement of co-pays on diabetes medications, ACE inhibitors and testing supplies.** The patient curriculum is based on the seven self-care behaviors identified by the American Association of Diabetes Educators and principles of medication therapy management as outlined by the American Pharmacist Association. Patients are seen by a heath professional, currently a community pharmacist, who has completed additional training in diabetes management outside of their terminal degree and must document continuing education in this area on an annual basis. All patient clinical encounters are documented and billed using the North Dakota Pharmacy Services Corporations electronic medical record software MTM Express™.

Program Analysis June 2015 - June 2016

Demographics

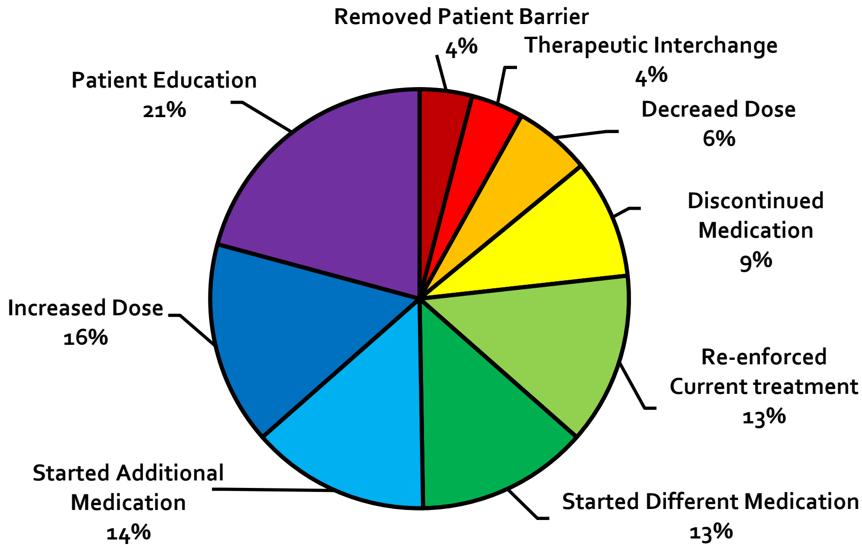
The program currently has 294 (2014=207) active patients with signed wellness agreements. Within the active patient's population 57% are male. As of June 2016 there are 2,920 eligible beneficiaries which gives an overall program participation rate of 10%. Waving co-pays at the point of sale and continued marketing has increased patient satisfaction and participation in program.





Pharmacist Interventions

From June 2015-June 2016 **there were 373 interventions made by the pharmacists** in collaboration with the patient and their primary health provider in order to manage diabetes and prevent costly complications.



Age	Gender	Intial A1C	Lastest A1C
30	Male	7.6	7.5
34	Male	5.7	5.5
38	Female	9.1	8.6
39	Female	7.1	6.6
43	Male	5.6	5.5
48	Male	8.7	7.7
53	Male	11	8.3
55	Male	10	7.2
56	Female	8.2	7.8
56	Male	6.7	5.9
56	Male	6.5	6.3
56	Female	7.2	6.7
57	Female	7.7	6.2
57	Female	8.4	8.2
59	Female	9.1	8.9
59	Female	7.5	7.1
60	Female	8.5	7.9
60	Male	9.1	5.5
60	Male	5.9	5.8
61	Female	8.3	7.9
61	Male	9.3	7.4
61	Female	8.2	7.6
61	Male	7.4	6.6
61	Female	6.5	6.3
62	Male	10	8
62	Female	9.9	8.4
63	Male	6.2	6.1
64	Female	8.2	6.8
65	Male	6.4	6
65	Female	7.1	6.1
66	Female	6.3	6.1
66	Male	6.6	6.3
66	Male	7	6.8
69	Male	7.2	6.8
73	Male	8.1	6.4
29	Female	7.4	7.4
38	Male	7	7
44	Female	7	7
54	Male	6.1	6.1
54	Male	5.5	5.5
55	Male	7.1	7.1
58	Female	6.3	6.3
59	Male	7	7
61	Male	6.2	6.2
63	Female	6.3	6.3
26	Male	7.7	8.1
37	Male	5.9	6.4
41	Female	6.3	7.6
49	Female	7	8
52	Male	6.1	6.7
53	Female	7.6	7.8
55	Female	6.5	6.6
56	Female	6.1	6.2
57	Female	6.2	6.7
59	Male	7.3	7.4
58	Female	7.9	8.1
61	Male	7.1	7.3
62	Male	6.7	6.9
62	Male	9.3	10.2
63	Male	7.1	7.6
63	Female	5.7	5.8
64	Female	7	7.1
64	Female	6.6	7.5
64	Female	7.7	8.1
64	Male	7.7	8
64	Female	8.1	8.3
67	Female	7.3	7.7
72	Male	7.1	7.2

Of the patient education 40% was related to injectable medications for diabetes control. The majority of the recommendations for increasing medication was to optimize both rapid and basal insulin requirements. The most common medication that the pharmacist provided re-enforced counseling for continued treatment was metformin.

As seen by the chart
Of the patients (n=68) with at least two recorded A1C levels more had a decrease in A1C than those that either remain the same or increased.
Decrease A1C, Maintained A1C, Increase A1C

Average fasting blood glucose 136 (Range 56-300mg/dL). According to the American Diabetes Association (ADA) controlled fasting range 80-130mg/dL.

Average random blood glucose 166 (Range 94-457mg/dL). According to the American Diabetes Association (ADA) controlled random range is less than 180mg/dL.

Patient Satisfaction with Program

Perception: Diabetes Awareness Survey (1=Strongly Disagree to 5=Strongly Agree)	2014	6/2015-6/2016
1) Ask my pharmacist questions I may have about diabetes	4.1	4.2
2) Take my medications and administer injections as instructed	4.4	4.6
3) Check and record my blood glucose at least 2 times per day or as directed	4.2	4.2
4) Describe the long term complication of uncontrolled diabetes	4.1	4.2
5) Be motivated to keep up with my diabetes self-management	4.2	4.4
6) Voice concerns to my doctor about my diabetes	4.3	4.4
7) Keep my doctor appointments	4.6	4.5

Current active patients are motivated to work with their health providers. Maintain a high level of self-efficacy with a chronic disease.

Patient Satisfaction Survey (1=Strongly Disagree to 5=Strongly Agree)	2014	6/2015-6/2016
1.) Professional appearance of the provider	4.9	5.0
2.) Appearance of the meeting area	4.6	4.9
3.) System for scheduling your appointment	4.7	4.8
4.) The provider's interest in your health	4.8	5.0
5.) How well the provider helps you manage your medications	4.8	5.0
6.) How well the provider explains possible side effects	4.7	4.9
7.) The provider's efforts to solve problems that you have with your medications	4.7	5.0
8.) The responsibility that the provider assumes for your drug therapy	4.7	4,9
9.) Ability of the provider to answer your questions about your medications	4.8	5.0
10.) Ability of the provider to answer your questions about your health problems	4.7	5.0
11.) The provider's efforts to help you improve your health or stay healthy	4.8	5.0
12.) The program services overall	4.7	5.0
13.) Ability of the provider to see you at your scheduled time	4.8	5.0
14.) Courtesy and professionalism of the staff	4.9	5.0
15.) Follow-up after the appointment	4.7	5.0
16.) The educational materials provided	4.7	5.0

Patients continue to be highly satisfied with the diabetes management program.

Budgeted Level of Service July 2015-June 2017

	July2015-June 2017
Direct Program Cost	
Provider Visits	$132,000.00
Patient Incentives	$43,000.00
Subtotal	**$175,000.00**

Administration Costs	
Subtotal	**$20,000.00**

Marketing Costs	
Direct to consumer mailings In-pharmacy marketing	$5000.00
Subtotal	**$5000.00**

TOTAL Biennial Expenses	**$200,000.00**

Expense estimates are for serving ~200 patients (~5% participation rate) over the next biennium. Each patient would be eligible to receive a Comprehensive Medication Review (CMR-$400.00) and up to 2 Targeted Medication Reviews (TMR-$80.00) the first year and one CMR ($200.00) and one TMR ($80.00) in for any subsequent years of participation in the program.

Within the first year of the biennium we have exceeded anticipated enrollment for program.

In-kind from NDPhA and NDSU: Telephone (maintaining toll free direct number for patients), office space, office supplies, Training/Credentialing/Certification of providers, patient curriculum, Clinical Coordinator, Data Analysis

Attachment B

National Diabetes Prevention Program (NDPP)

Getting Ahead of Type 2

North Dakota Public Employee Retirement System

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Jane Myers, RDN, LRD, CDE
Director, Diabetes Prevention and Control Program

Terminology

- Type 2 Diabetes – high blood glucose resulting from a deficiency of or a resistance to insulin that develops gradually. A sedentary lifestyle, obesity and genetics contribute to its development. Comprises about 90% of all diabetes.

- Prediabetes – blood glucose levels are higher than normal but not high enough to be diagnosed as type 2.

- Gestational Diabetes – occurs in some women (9.2% of women) at approximately the 24th week of pregnancy. Increased mobilization of glucose and decreased insulin sensitivity result in elevated blood glucose. Once pregnancy is complete, glucose returns to normal for most, but the women remain at increased risk for type 2.

Today's Discussion

- Diabetes and Prediabetes in North Dakota
- Economic Impact
- Risk Factors, Detection and Treatment of Prediabetes
- National Diabetes Prevention Program
- Program Criteria
- Estimated Cost/Benefits for NDPERS
- Personal Stories
- The "Ask"

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Prediabetes & Diabetes in North Dakota

>1 in 3 ND adults have prediabetes (202,000 ND adults)

15 to 30% of people with prediabetes will develop type 2 diabetes within 5 years

9 out of 10 people with prediabetes <u>do not</u> know they have it

1 out of 11 North Dakotans have diabetes

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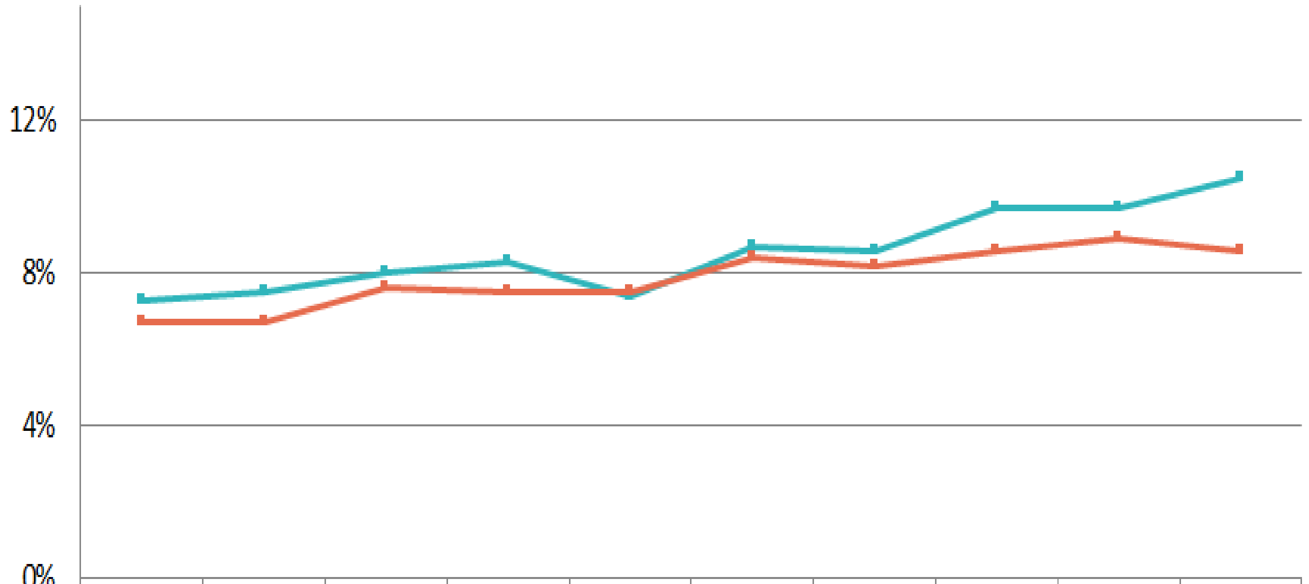
Prevalence of Diabetes in ND and US



	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014
United States	7.3%	7.5%	8.0%	8.3%	7.4%	8.7%	8.6%	9.7%	9.7%	10.5%
North Dakota	6.7%	6.7%	7.6%	7.5%	7.5%	8.4%	8.2%	8.6%	8.9%	8.6%

BRFSS 2014

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Economic Impact of Diabetes

- Diabetes care accounts for **1 in 5** U.S. healthcare dollars
- **2.3 times higher cost** than without diabetes
- Average annual medical expense - **$13,700**
- Annual cost of diabetes in ND: **$700 million**

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Impact of Diabetes - NDPERS

66,938 Members

- 52,105 Adults
- 4,600 members with diabetes claims
- 19,279 **(37%)** estimated adults with prediabetes

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Diabetes Economic Impact- NDPERS

- Estimated annual cost **$43 Million**
- **From 5th to 4th mostly costly for NDPERS**
- **Average claim paid: $11,531** (< national average of $13,700)

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Type 2 Diabetes Can Be Prevented!

- Know the risk factors
- Take action now to prevent type 2 diabetes

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Risk Factors for Prediabetes

- Overweight and obese (2/3 of population)
- Inactive
- Over age 45
- Family history of diabetes
- History of gestational diabetes
- Giving birth to a baby $\geq$9 pounds

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National Diabetes Prevention Program

Research on behalf of NIH prove that the incidence of type 2 can be reduced by 58% by:

- **5% to 7%** body weight loss
- **150 minutes/week of physical activity**

10 and 15-year follow up studies also showed reduced diabetes incidence

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NDPP Program Elements

- **Year-long** lifestyle change program
  - Facilitated by trained Lifestyle Coaches
    - community organizations
    - clinics
    - worksites
    - online

Includes a minimum of 16 weekly sessions in the first six months, followed by six monthly sessions

http://www.cdc.gov/diabetes/prevention/index.html

NATIONAL Diabetes PREVENTION PROGRAM

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North Dakota

Programs

- 16 programs currently available and 7 in development
- 50+ lifestyle coaches trained in ND
- Two master trainers in development
- Online options available

Effectiveness

- Average % weight loss
  - North Dakota 6.4%
  - Minnesota 5.0%
  - Montana 5.8%
  - South Dakota 6.4%
  - Nebraska 5.5%

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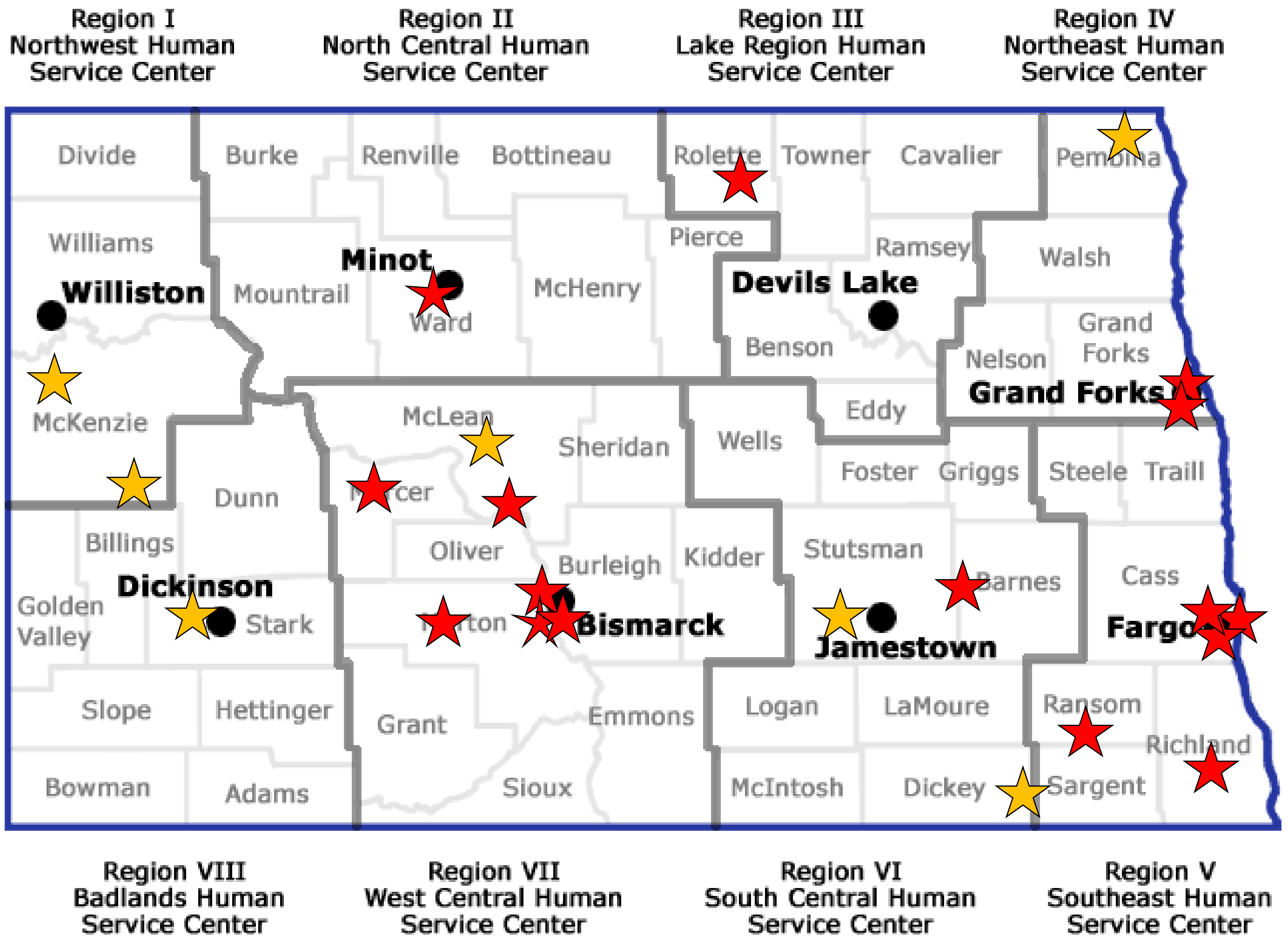
NDP In North Dakota



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DPP Certified Sites

Sites trained August 2016

NDPP Eligibility Criteria

1. **18 years of age** or older and
   - have a **BMI of >24** and
   - **No previous diagnosis of type 1 or 2** and
   - Have a blood test result in the **prediabetes range in the past year:**

     Hemoglobin A1C: 5.7%–6.4% or

     Fasting plasma glucose: 100–125 mg/dL or

     Two-hour plasma glucose (after a 75 gm glucose load): 140–199 mg/dL

   <u>or</u>

2. History of **gestational diabetes**

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CDC Prediabetes Screening Test

NATIONAL Diabetes PREVENTION PROGRAM

COULD YOU HAVE PREDIABETES?

Prediabetes means your blood glucose (sugar) is higher than normal, but not yet diabetes. Diabetes is a serious disease that can cause heart attack, stroke, blindness, kidney failure, or loss of feet or legs. Type 2 diabetes can be delayed or prevented in people with prediabetes through effective lifestyle programs. Take the first step. Find out your risk for prediabetes.

TAKE THE TEST—KNOW YOUR SCORE!

Answer these seven simple questions. For each "Yes" answer, add the number of points listed. All "No" answers are 0 points.

Yes	No	
1	0	Are you a woman who has had a baby weighing more than 9 pounds at birth?
1	0	Do you have a sister or brother with diabetes?
1	0	Do you have a parent with diabetes?
5	0	Find your height on the chart. Do you weigh as much as or more than the weight listed for your height?
5	0	Are you younger than 65 years of age and get little or no exercise in a typical day?
5	0	Are you between 45 and 64 years of age?
9	0	Are you 65 years of age or older?

Add your score and check the back of this page to see what it means.

AT-RISK WEIGHT CHART

Height	Weight Pounds	Height	Weight Pounds
4'10"	129	5'7"	172
4'11"	133	5'8"	177
5'0"	138	5'9"	182
5'1"	143	5'10"	188
5'2"	147	5'11"	193
5'3"	152	6'0"	199
5'4"	157	6'1"	204
5'5"	162	6'2"	210
5'6"	167	6'3"	216
		6'4"	221

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Know | Your | Score

IF YOUR SCORE IS 3 TO 8 POINTS

This means your risk is probably low for having prediabetes now. Keep your risk low. If you're overweight, lose weight. Be active most days, and don't use tobacco. Eat low-fat meals with fruits, vegetables, and whole-grain foods. If you have high cholesterol or high blood pressure, talk to your health care provider about your risk for type 2 diabetes.

IF YOUR SCORE IS 9 OR MORE POINTS

This means your risk is high for having prediabetes now. Please make an appointment with your health care provider soon.

HOW CAN I GET TESTED FOR PREDIABETES?

Individual or group health insurance: See your health care provider. If you don't have a provider, ask your insurance company about providers who take your insurance. Deductibles and copays may apply.

Medicaid: See your health care provider. If you don't have a provider, contact a state Medicaid office or contact your local health department.

Medicare: See your health care provider. Medicare will pay the cost of testing if the provider has a reason for testing. If you don't have a provider, contact your local health department.

No insurance: Contact your local health department for more information about where you could be tested or call your local health clinic.

Cost/Savings of NDPP

Average cost per participant: **$450**

Approximately 10% of prediabetes is diagnosed

NDPERS: If 10% diagnosed with prediabetes: 1,928

- **If 10 - 50%** enrollment: 385 – 964 participants
- If **40-70% complete**

Anticipated Enrollment	Cost for 40% to Complete	Cost for 70% to Complete	Savings
If 10% (385)	$69,300	$121,500	$408,100 – $715,500
If 50% (964)	$173,250	$303,660	$1,022,900-$1,788,750

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Weighing in on the NDPP

Medicare certification statement 3/14/16 showed:

- a savings of **$2,650 in claims** per NDPP participant
- **reduction in hospitalizations.**

NIH through NIDDK, CDC, IHS, ADA and others:

58% reduction in type 2

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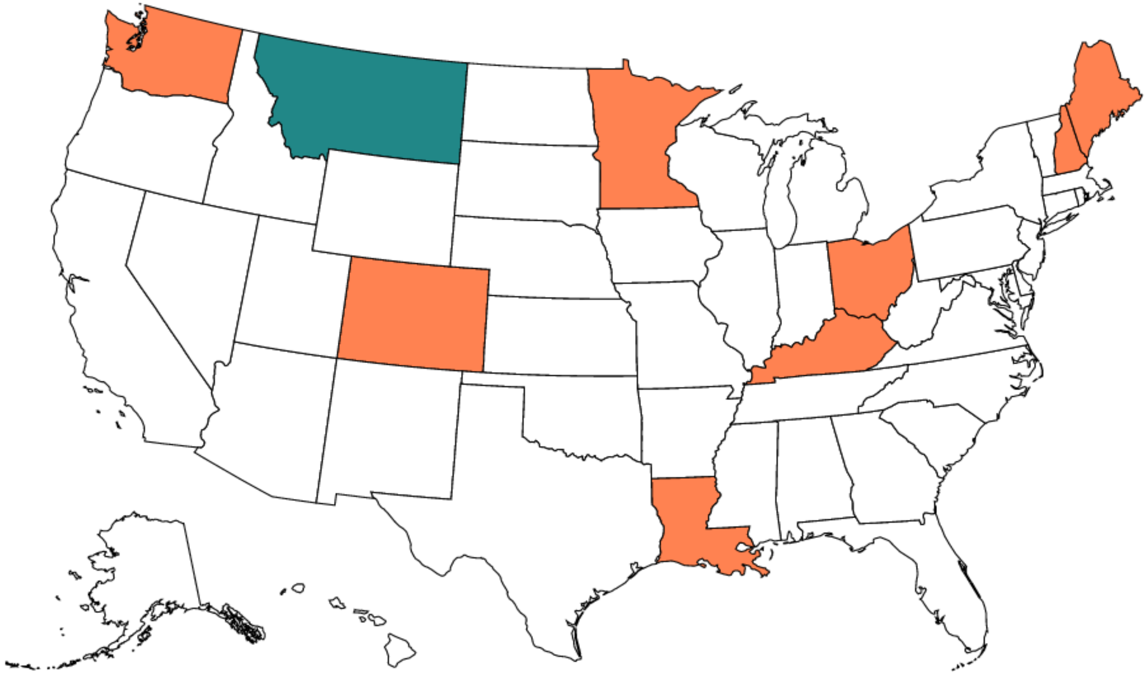
NDPP Third Party Reimbursement



State Employee Coverage

Medicaid Coverage

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The "Ask"

- Allow reimbursement for provision of the NDPP by recognized programs, using Medicare fee schedule and AMA CPT Code 0403T.
- Initiative to identify prediabetes among NDPERS members

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What participants are saying…

- "I want to tell you how much I love this program. It is not only educational but the support from you guys and from the other members is amazing."
- "It is the best program I've ever gone through. For some reason, the information provided was exactly what I needed."
- "I learned and absorbed so much more than I ever thought I would - to this day I still hear the lifestyle coaches in my head."

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Success Story

"As a result of reading the food labels and attempting to eat fewer than 33 fat grams per day, I lost 58 pounds. Because of the weight loss, I am no longer taking pain medication for my knee. In September 2012 my glucose was 94 (Range 70-99 mg/dl), so I am no longer prediabetic!"

- Eileen Tronnes Nelson, UND staff member.

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- Questions?

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Attachment C

Hypertension-control Inspiration Program

2015-2016

About The Patient— 1641 Capital Way Bismarck, ND 58501

T: 1.888.326.4657 **DD:** 701.231.6685 **E:** wbrown@aboutthepatient.net

Executive Summary

The About The Patient program received grant funding through the North Dakota Department of Health to implement a nine month pilot hypertension education program for community pharmacists and NDPERS eligible beneficiaries. Pilot locations were the Bismarck and Fargo metro areas. Three community pharmacies in Fargo/ West Fargo and four in Bismarck/Mandan completed the required education/credentialing to participate in the pilot. A total of 2,651 NDPERS beneficiaries were eligible for program participation from the Active and Medicare groups.

		9 Month Pilot			
Deliverables	**Accountability**	**Months 1**	**Months 2-4**	**Months 5-7**	**Months 8-9**
Recruit Patients	Program Director	X	X		
Credential Pharmacists	Clinical Coordinator	X			
Provide education and care to patients	Trained local Pharmacist/ Program Director		X	X	
Collect clinical and humanistic outcomes data	Clinical Coordinator		X	X	X
Data Analysis	Clinical Coordinator			X	X
Dissemination of results	Clinical Coordinator				X

CONTENTS

Hypertension-control Inspiration Program

The Hypertension-control Inspiration Program (HIP) based on Team Up, Pressure Down curriculum is an opt-in program for North Dakota Public Employee Retirement System beneficiaries with elevated blood pressure, hypertension designation or initiation of a hypertensive medication excluding individuals with end-stage renal disease. Eligible patients are sent a letter explaining the program as well as a wellness enrollment form and follow up postcards. The wellness enrollment form allows patients to choose a community pharmacy location in the Bismarck or Fargo areas of North Dakota for face-to-face program participation. Patients are eligible for three visits (One Comprehensive Medication Review (CMR) and two Targeted Medication Reviews (TMRs)) within three months. Patients are seen by a health professional, currently a community pharmacist and pharmacy technician, who have completed additional training in hypertension management outside of their terminal degree. All patient clinical encounters are documented using the North Dakota Pharmacy Services Corporation electronic medical record software MTM Express™.

Patient Activity		Visit 1	Visit 2	Visit 3
Patient Vital Signs	T/P			
Review Comprehensive Health History and Input/Update as Needed in MTM Express	T			
Answer Patient Questions	P			
Repeat Blood Pressure Measurement (If Not at Goal)	P			
With Patient Input Review and Set Medication Action Plan	P			
Provide Patient with update MAP and Personal Medication List (PML)	P			
Document Intervention(s) in MTM Express	P			
Send Necessary Recommendations or Referrals	T			
Schedule Next Appointment	T			

T: Technician Responsibility
P: Pharmacist Responsibility

Patient Activity		Visit 1	Visit 2	Visit 3
Review Immunization History and administer immunization(s) if available	P			
DRAW Tool to assess adherence	P			

Patient Activity		Visit 1	Visit 2	Visit 3
Hypertension Awareness Survey	T			
Patient Satisfaction Survey	T			

Patient Activity		Visit 1	Visit 2	Visit 3
Hypertension Process	P			
Treatment Options	P			
Adherence	P			
Medication Side Effects	P			
Diet & Sodium Intake	P			
Exercise	P			
Smoking Cessation	P			
Alcohol Use	P			

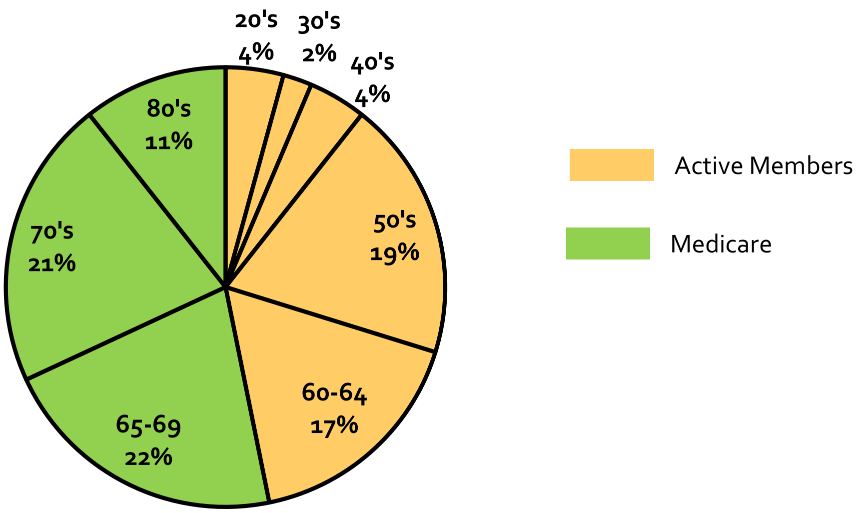
*Refer to the Patient Education Topic Guidance section for a summary of each topic.

T: Technician Responsibility
P: Pharmacist Responsibility

Program Analysis

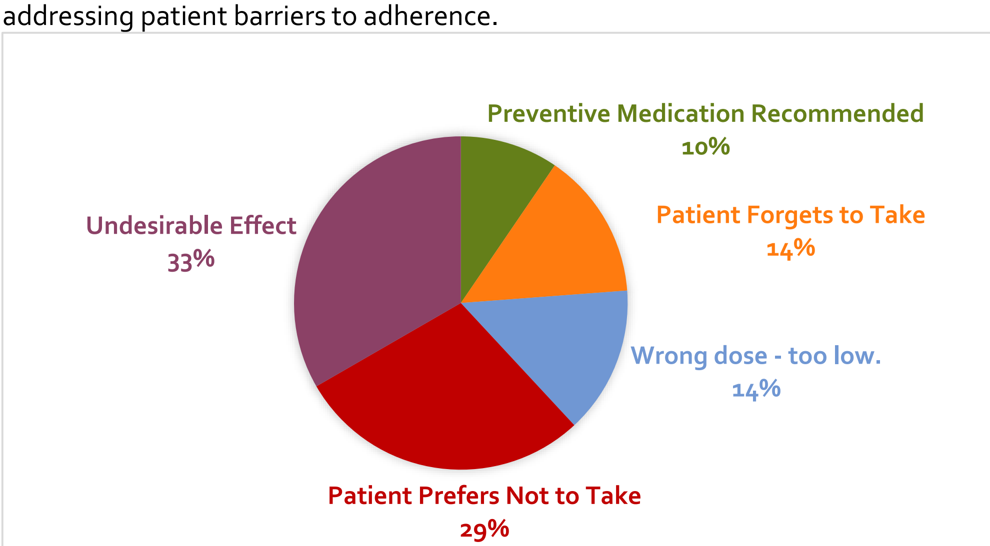
Demographics

The program has 47 patients with signed wellness agreements. Within the patients' population 66% are female. Overall program participation rate is 2%.



Pharmacist Interventions

There were 21 hypertensive medication specific interventions (September 2015-June 2016) made by the pharmacists in collaboration with the patient and when appropriate their primary health provider in order to manage hypertension and prevent costly complications. Of these interventions 76% related to addressing patient barriers to adherence.



Medication Possession Ration (MPR)

	Age	Gender	Medication	Variable MPR
Visit 1	36	Male	Lisinopril/HCTZ	0.99
			Doxazosin	0.94
Visit 1	52	Female	HCTZ	1.02
Visit 1	53	Male	Valsartan/HCTZ	1.00
			Amlodipine	1.00
Visit 1	63	Male	Losartan/HCTZ	0.98
			Metoprolol	1.08
Visit 1	68	Male	Lisinopril	1.02
Visit 1	71	Female	Losartan/HCTZ	1.03
			Diltiazem ER	0.99
Visit 1	72	Female	Amlodipine	0.97
Visit 1	73	Female	Enalapril	1.19
Visit 1	78	Female	Amlodipine	1.01
			HCTZ	0.99

Goal of MPR is to be ≥ 80%. Of patients whose MPR could be calculated, possession of medications is high with most filling a 90 day supply. Did not vary by age. Thus access to medications is not a barrier to adherence.

There were 22 patients who completed all three visits. Of these individuals average blood pressures were:

	Average SBP	Range	Average DBP	Range
Visit 1	144	125 - 210	83	72 -110
Visit 2	137	117 - 160	81	70 - 108
Visit 3	139	122 - 184	81	64 - 109

Goal blood pressure: Less than 140/90

Of the 22 patients 10 are in the Active eligible group. Ages ranged from 29-63.
Of these individuals average blood pressures were:

	Average SBP	Range	SD	Median	Average DBP	Range
Visit 1	141	125- 156	+/- 10	144	86	78 -110
Visit 2	135	117 - 159	+/- 14	132	80	70 - 108
Visit 3	137	122 - 164	+/-14	134	83	66 - 109

When patients were asked about common barriers to adherence the most common barriers were **concern of potential side effects** followed by experience of a medication side effect or feeling like they have too many medications or too many doses per day. Thus the primary focus for the pharmacist was on counseling, dispelling misconceptions, and recommending methods/tools to incorporate daily medication use. These strategies fostered increased blood pressure control.

Patient Satisfaction with Program

Patient satisfaction with the educational program (n=22) on a 5-point scale (1=very poor, 5=excellent)

1. System for scheduling your appointment	4.8
2. How well the provider helps you manage your medications	4.8
3. How well the provider explains possible side effects	4.7
4. The provider's efforts to solve problems that you have with your medications	4.8
5. The educational materials provided	4.7
6. Ability of the provider to answer your questions about your medications	4.9
7. Ability of the provider to answer your questions about your health problems	4.9
8. The provider's efforts to help you improve your health or stay healthy	4.9
9. The program services overall	4.9
10. Ability of the provider to see you at your scheduled time	4.9

Proposed Level of Service

<u>September 2016 – June 2017</u>

Spread education and credentialing of community pharmacist state wide with North Dakota Department of Health grant. This will include maintaining on-line content as well as live application events. The live courses would be in October during the NDSU homecoming in Fargo and the second to correspond with the pharmacist state convention in Minot on April 2, 2017. As part of the initial credentialing process pharmacies would document 3 patients progress through the 3 visit program. If patients are a NDPERS beneficiary, consider co-pays for hypertension medications would be waived while participating in the program by NDPERS. This would be a good step to determine beneficiary interests and participation in the program state wide.

<u>July 2017 – June 2019</u>

Added benefit to eligible beneficiaries of Active NDPERS group. Eligible individuals would have elevated blood pressure, hypertension designation or initiation of a hypertensive medication excluding individuals with end-stage renal disease. Once enrolled, patients are eligible for three visits (One CMR and two TMRs) with in the first year of the program and one CMR and TMR thereafter as long as they find the program beneficial.

Medication Therapy Management for Employee Health Plan Sponsors

Contact Fairview Medication Therapy Management:

Patients and Providers
Phone: 612-672-7005 or 866-332-3708 (toll-free)

Health Plan Sponsors
Phone: 612-672-5585

Email: mtm@fairview.org

Fairview Pharmacy Services
Medication Therapy Management
711 Kasota Ave SE
Minneapolis, MN 55414

A value-based benefit that contributes to Total Organizational Health^{sm}

Fairview Pharmacy's Medication Therapy Management (MTM) helps people manage their chronic health conditions and get the most from their medicines. Our virtual and in-person service capabilities bring the proven benefits and cost savings of MTM to your organization and its employees, no matter where they are located. See our video.

We developed MTM in 1997 in partnership with the University of Minnesota College of Pharmacy. Since then, we have cared for more than 20,000 patients and resolved over 145,000 medication-related problems, avoiding at least 30,000 costly health care events such as hospitalizations, clinic visits and emergency room visits. Organizations that have utilized Fairview MTM include the City of Duluth; the State of Minnesota; Medica; and Fairview Health Services.

Financial and Clinical Outcomes

Patient-centered MTM services can bring 3 to 1 or better return on investment (ROI) while dramatically increasing the number of participants who are reaching their health goals. In a study conducted with BlueCross BlueShield of Minnesota, Fairview MTM showed a 12 to 1 ROI when comparing the overall health care costs of patients receiving MTM to matched patients who did not.

MTM in Brief

Fairview MTM is a preventive solution for people with chronic conditions who are using multiple medications. The MTM pharmacist works individually with each patient and their other health care providers to help them manage their medications better and achieve their therapy goals. The MTM pharmacist confirms the purpose for each medication the patient is taking, ensures the safest and most effective dosages and makes sure the patient is compliant.

MTM results in healthier patients and a reduced demand for health care resources. Employers benefit from significant savings on overall health care costs and improved productivity.

Implementation Services

Fairview offers complete services to implement MTM for your organization, including:

- Pharmacist consultations by webcam, phone or face-to-face
- Operational management
- Targeting of qualified employees
- Employee engagement and communications
- Development of incentive programs
- Clinical outcomes reporting

Contact us

- Order your copy of the BlueCross BlueShield study documenting a 12 to 1 return on MTM investment.
- Call us at 612-672-5397 or e-mail us at mtm@fairview.org to learn more about how MTM can deliver cost reductions to your health plan while improving the health and well-being of your employees.

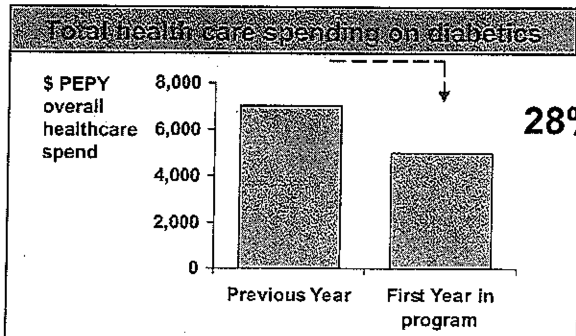
The Asheville Project: (Asheville NC)

Description of the study
(per employee per year)

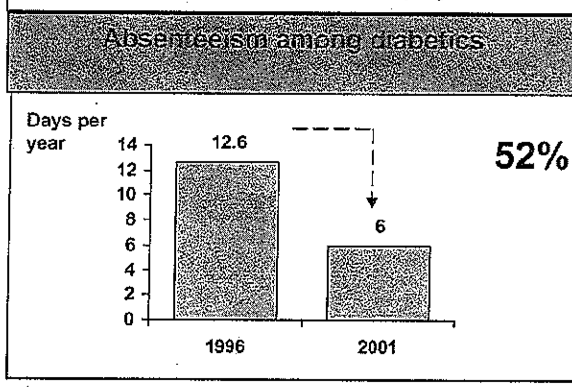
Size of group: 650 enrollees

Overview of study activities:

- Employees with diabetes received one-on-one disease management counseling from pharmacists
- Sessions were held at regularly scheduled intervals in community pharmacy setting
- Employees were given free home testing equipment and diabetes medication



28% decrease



52% decrease

Note: Estimated cost avoidance of each intervention is calculated using Bootman Johnson study. Source: Interviews with Outcomes Pharmaceutical Health Care; Journal of Managed Care Pharmacy

PubMed

Format: Abstract

Full text links

View Full-Text Article at SAGE Publications

J Pharm Pract. 2016 Oct;29(5):484-9. doi: 10.1177/0897190014568672. Epub 2015 Feb 10.

Patient Satisfaction With Pharmacist-Led Chronic Disease State Management Programs.

Schuessler TJ[1], Ruisinger JF[2], Hare SE[3], Prohaska ES[3], Melton BL[2].

Author information

Abstract

PURPOSE: To assess patient satisfaction, perception of self-management, and perception of disease state knowledge with pharmacist-led diabetes and cardiovascular disease state management (DSM) programs.

METHODS: A self-insured chain of grocery store pharmacies in the Kansas City metropolitan area administers pharmacist-led diabetes and cardiovascular DSM programs for eligible employees and dependents. A modified version of the Diabetes Disease State Management Questionnaire was used to assess patient satisfaction with the DSM programs. Demographic information was also collected. Survey items were based on a 5-point Likert scale (1 = strongly disagree and 5 = strongly agree). Patients were eligible to complete the survey if he or she had been in at least 1 DSM program for 6 months. Data were assessed using descriptive statistics and analysis of variance.

RESULTS: Across 20 pharmacies, 281 eligible participants were identified, and 46% (n = 128) completed a survey. Means for summed items relating to overall satisfaction (8 items), self-management (5 items), and knowledge (4 items) were 36.6/40 (standard deviation [SD] = 3.9), 20.9/25 (SD = 3.4), and 17.6/20 (SD = 2.1), respectively. Participant comments further indicated that the program and pharmacists are helpful and increase motivation and accountability.

CONCLUSIONS: Positive patient responses to the program support use of pharmacist-led DSM programs.

KEYWORDS: community pharmacy; disease management; patient satisfaction; pharmacists

PMID: 25670545 DOI: 10.1177/0897190014568672

PubMed

Format: Abstract

Full text links

Full Text Health Aff (Millwd)

Health Aff (Millwood). 2014 Aug;33(8):1444-52. doi: 10.1377/hlthaff.2013.1398.

The Pennsylvania Project: pharmacist intervention improved medication adherence and reduced health care costs.

Pringle JL[1], Boyer A[2], Conklin MH[3], McCullough JW[4], Aldridge A[5].

Author information

Abstract

Improving medication adherence across the health care system is an ingredient that is vital to improving patient outcomes and reducing downstream health care costs. The Pennsylvania Project, a large-scale community pharmacy demonstration study, evaluated the impact of a pharmacy-based intervention on adherence to five chronic medication classes. To implement the study, 283 pharmacists from a national community pharmacy chain were assigned to the intervention group. Collectively, they screened 29,042 patients for poor adherence risk and provided brief interventions to people with an elevated risk. Compared to a control group of 295 pharmacists who screened 30,454 patients, the intervention significantly improved adherence for all medication classes, from 4.8 percent for oral diabetes medications to 3.1 percent for beta-blockers. Additionally, there was a significant reduction in per patient annual health care spending for patients taking statins ($241) and oral diabetes medications ($341). This study demonstrated that pharmacist-provided intervention is a cost-effective tool that may be applied in community pharmacies and health care sites across the country.

KEYWORDS: Health Economics; Health Spending; Medication Adherence; Pharmaceuticals

PMID: 25092847 DOI: 10.1377/hlthaff.2013.1398

[Indexed for MEDLINE]

Publication type, MeSH terms

JAPhA Journal of the American Pharmacists Association
APhA An official publication of the American Pharmacists Association

November–December, 2012 Volume 52, Issue 6, Pages 838–840, 842–846, 848–850

The Asheville Project: Short-term outcomes of a community pharmacy diabetes care program

Carole W. Cranor, PhD
PPD Development Inc. At the time of the study she was a graduate student at the University of North Carolina–Chapel Hill, Morrisville, N.C.
Dale B. Christensen, PhD
Mescal S. Ferguson Professor and chairman, Division of Pharmaceutical Policy and Evaluative Sciences, School of Pharmacy, University of North Carolina–Chapel Hill

DOI: http://dx.doi.org/10.1331/JAPhA.2012.12542

Abstract

Objectives:
To assess short-term clinical, economic, and humanistic outcomes of pharmaceutical care services (PCS) for patients with diabetes in community pharmacies

Design:
Intention-to-treat, pre–post cohort-with-comparison group study.

Setting:
Twelve community pharmacies in Asheville, N.C.

Patients and Other Participants:
Eighty-five patients with diabetes who were employees, dependents, or retirees from two self-insured employers; community pharmacists who completed a diabetes certificate program and received reimbursement for PCS.

Interventions:
Patients scheduled consultations with pharmacists over 7 to 9 months. Pharmacists provided education, self-monitored blood glucose (SMBG) meter training, clinical assessment, patient monitoring, follow-up, and referral. Group 1 patients began receiving PCS in March 1997, and group 2 patients began in March 1999.

Main Outcome Measures:
Change from baseline in the two employer groups in glycosylated hemoglobin (A1c) values, serum lipid concentrations, health-related quality of life (HRQOL), satisfaction with pharmacy services, and health care utilization and costs.

Results:

Patients used SMBG meters at home, stored all readings, and brought their meters with them to 87% of the 317 PCS visits (3.7 visits per patient). Patients' A1c concentrations were significantly reduced, and their satisfaction with pharmacy services improved significantly. Patients experienced no change in HRQOL. From the payers' perspective, there was a significant $52 per patient per month increase in diabetes costs for both groups, with PCS fees and diabetes prescriptions accounting for most of the increase. In contrast, both groups experienced a nonsignificant but economically important 29% decrease in nondiabetes costs and a 16% decrease in all-diagnosis costs.

Conclusion:

A clear temporal relationship was found between PCS and improved A1c, improved patient satisfaction with pharmacy services, and decreased all-diagnosis costs. Findings from this study demonstrate that pharmacists provided effective cognitive services and refute the idea that pharmacists must be certified diabetes educators to help patients with diabetes improve clinical outcomes.

Keywords:
Asheville Project, pharmaceutical care, diabetes, economics, quality of life, patient satisfaction, health care costs, health outcomes

See related articles on pages 136, 160, 173, and 185.

< Previous Article November–December, 2012 Volume 52, Issue 6, Pages 838–840, 842–846, 848–850 Next Article >

Fellowships in community pharmacy research: Experiences of five schools and colleges of pharmacy
Journal of the American Pharmacists Association, Vol. 56, Issue 3

View All

PubMed

Format: Abstract

Full text links

ELSEVIER FULL-TEXT ARTICLE

Health Policy. 2015 May;119(5):628-39. doi: 10.1016/j.healthpol.2015.02.007. Epub 2015 Feb 18.

From "retailers" to health care providers: Transforming the role of community pharmacists in chronic disease management.

Mossialos E[1], Courtin E[2], Naci H[2], Benrimoj S[3], Bouvy M[4], Farris K[5], Noyce P[6], Sketris I[7].

Author information

Abstract

Community pharmacists are the third largest healthcare professional group in the world after physicians and nurses. Despite their considerable training, community pharmacists are the only health professionals who are not primarily rewarded for delivering health care and hence are under-utilized as public health professionals. An emerging consensus among academics, professional organizations, and policymakers is that community pharmacists, who work outside of hospital settings, should adopt an expanded role in order to contribute to the safe, effective, and efficient use of drugs-particularly when caring for people with multiple chronic conditions. Community pharmacists could help to improve health by reducing drug-related adverse events and promoting better medication adherence, which in turn may help in reducing unnecessary provider visits, hospitalizations, and readmissions while strengthening integrated primary care delivery across the health system. This paper reviews recent strategies to expand the role of community pharmacists in Australia, Canada, England, the Netherlands, Scotland, and the United States. The developments achieved or under way in these countries carry lessons for policymakers world-wide, where progress thus far in expanding the role of community pharmacists has been more limited. Future policies should focus on effectively integrating community pharmacists into primary care; developing a shared vision for different levels of pharmacist services; and devising new incentive mechanisms for improving quality and outcomes.

KEYWORDS: Chronic diseases; Community pharmacists; Cross-national comparison; Incentives

PMID: 25747809 DOI: 10.1016/j.healthpol.2015.02.007

[Indexed for MEDLINE]

Journal of Pharmacy Practice
26(4) 420-427

DOI: 10.1177/0897190012465992
jpp.sagepub.com
SAGE

Retrospective Analysis of Estimated Cost Avoidance Following Pharmacist-Provided Medication Therapy Management Services

Ashley R. Branham, PharmD, BCACP[1,2], Aaron J. Katz, PharmD[2], Joseph S. Moose, PharmD[1], Stefanie P. Ferreri, PharmD, CDE, BCACP[2], Joel F. Farley, PhD[2], and Macary W. Marciniak, PharmD, BCPS, BCACP[2]

Abstract

Objective: To compare the estimated cost avoidance (ECA) of pharmacist-provided medication therapy management (MTM) services among common disease states encountered in community pharmacy practice. *Design*: Retrospective analysis. Setting: Nine community pharmacies in North Carolina. Patients: Three hundred and sixty-four patients who are 65 years of age or older, a Medicare Part D beneficiary and a North Carolina resident. Interventions: An MTM pharmacist-provider conducted medication reviews to eligible patients between July 2009 and October 2009. For each encounter, patient interventions, pharmacist recommendations, and ECA were recorded. Main outcome measure: ECA. Results: In 9 pharmacy locations, 634 MTM interventions were documented during the study period. The ECA in a 4-month period yielded approximately $494 000. Comprehensive medication reviews, new prescription counseling and appropriate medication administration, and technique counseling made up nearly two-thirds of interventions. Overall, the probability that an MTM intervention would result in an ECA greater than $0 was .35. Conclusions: Pharmacist-provided MTM effectively reduced costs associated with patient medication use. Such interventions reduced costs in overall health care specifically in the areas of cardiovascular, gastroesophageal reflux disease, pulmonary, and diabetes groups.

Keywords

medication therapy management, estimated cost avoidance, community pharmacy

Introduction

There are over 10 000 prescription drugs and 300 000 over-the-counter medications available on the market.[1] As the trend of medication usage among US consumers continues to rise, the incidence of medication misuse will continue to be a significant public health concern. It is estimated that nearly 1.5 million preventable adverse events occur each year in the United States and are attributable to annual costs exceeding 3.5 billion dollars.[2] While it has been reported that nearly 93% of Americans live within 5 miles of a community pharmacy, community pharmacists have a role in identifying medication use problems, making interventions and improving medication outcomes through medication therapy management (MTM).[3] The Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (MMA) defined MTM as "drug therapy management programs provided to ensure that drugs are used appropriately in order to optimize therapeutic outcomes through improved medication use and to reduce the risk of adverse events."[4] This act has provided new financial opportunities for pharmacists to expand MTM services and provide comprehensive medication reviews (CMRs) to all eligible Medicare Part D beneficiaries.

Since the implementation of the MMA in 2003, MTM services have been developed in community pharmacies across the nation with the mission to improve patient outcomes.[5,6] Existing studies have provided examples of how MTM services resulted in significant improvements in overall medication usage, recognition of medication therapy problems, and reductions in overall health costs.[6–14] The Asheville Project, a 5-year study involving diabetic patients at 12 community pharmacies demonstrated a decrease in average direct medical costs of $1200 to $1872/patient/year.[7] In another Asheville Project study, 620 patients with hypertension and dyslipidemia were managed by pharmacists at 1 of the 12 community and hospital pharmacies. This 6-year study found a reduction in cardiovascular events by nearly 50% and cardiovascular-related medical costs decreased by 46.5%.[14] Despite the available evidence for MTM services, many potential stakeholders and third-party payers remain reluctant to reimburse pharmacists for MTM services.

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J Am Pharm Assoc (2003). 2012 Jul-Aug;52(4):519-23. doi: 10.1331/JAPhA.2012.10098.

Evaluation of outcomes of a medication therapy management program for patients with diabetes.

Pinto SL[1], Bechtol RA, Partha G.

Author information

Abstract

OBJECTIVE: To measure the impact of an employer-sponsored, pharmacist-provided medication therapy management (MTM) program on clinical outcomes and social and process measures for patients with diabetes with or without associated comorbid conditions.

METHODS: Prospective longitudinal study that took place at seven independent pharmacies in Lucas County, OH. A total of 228 patients with diabetes were enrolled. At 6-month intervals, patients were counseled by their pharmacists. Outcome measures included clinical outcomes (glycosylated hemoglobin [A1C], systolic blood pressure (SBP), and diastolic blood pressure [DBP]), social measures (caffeine intake, alcohol consumption, smoking, and exercise), and process measures (visits to ophthalmologist, podiatrist, and dentist). Wilcoxon signed-rank test and percentages were used to report findings.

RESULTS: Mean (± SD) A1C concentration decreased from 7.08 ± 1.54% to 6.89 ± 1.30% at 12 months. Patients with A1C levels greater than 7% at baseline averaged a decrease of 0.5% at 6 months and 0.75% at 12 months. Mean SBP values decreased significantly from baseline to 12 months. A total of 87 patients with a baseline SBP greater than 130 mm Hg experienced a significant change in blood pressure from baseline to 6 months (-7.1 ± 3.32 mm Hg), and 65 patients experienced a significant change in blood pressure from baseline to 12 months (-11.49 ± 0.15 mm Hg). A total of 104 patients with a baseline DBP more than 80 mm Hg experienced a significant decrease of 4.44 ± 1.25 mm Hg at 6 months. Caffeine and alcohol consumption and smoking decreased and exercise increased. In addition, the percentage of patients who visited specialists increased.

CONCLUSION: Patients with diabetes experienced improvements in multiple clinical, social, and process measures.

PMID: 22825233 DOI: 10.1331/JAPhA.2012.10098

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Memorandum

TO: NDPERS Board

FROM: Bryan Reinhardt

DATE: **March 16, 2017**

SUBJECT: **Vision Plan RFP Update**

We issued the NDPERS Vision Plan RFP in February. Proposers are required to submit a bid to provide services for eligible active and retired employees and their dependents. The table below shows that 14 firms sent in the non-disclosure agreement and were sent the NDPERS Vision Plan data. We received questions from eight vendors.

NDPERS
Group Vision NDA Disposition

Company Name	NDA Received	Confidential Data Sent	Comments
Aetna	2/9/2017	2/9/2017	
Avesis	2/7/2017	2/7/2017	
Davis Vision	2/8/2017	2/8/2017	
Dearborn National	2/13/2017	2/13/2017	
EyeMed	2/8/2017	2/23/2017	Forwarded to NDPERS for review of revisions
MESVision	2/7/2017	2/7/2017	
MetLife	2/9/2017	2/9/2017	
National Vision Administrators	2/21/2017	2/21/2017	
Noridian/BCBSND	2/24/2017	2/24/2017	
Standard Insurance	2/14/2017	2/14/2017	
Superior Vision	2/8/2017	2/8/2017	
United Health Care	2/23/2017	2/23/2017	
Unum	2/9/2017	2/24/2017	Forwarded to NDPERS for review of revisions
Vision Service Plan	2/16/2017	2/17/2017	

Below is the timeline from the RFP:

Date	Activity
February 1, 2017	RFP is issued.
February 24, 2017	Written questions regarding proposals must be received by NDPERS no later than 5:00 p.m. (CDT).
March 10, 2017	NDPERS posts responses to all questions received.
March 31, 2017	Proposals must be received by NDPERS no later than 5:00 p.m. (CDT).
May , 2017	NDPERS Board review of proposals.
June 2017	Finalist interviews and Best and Final Offers due, if deemed necessary by the NDPERS Board.
No later than August 2017	Selection and award of contract by NDPERS.

Conduent will analyze the proposals and narrow them down to 3 or 4 for NDPERS review. If you have any questions, we will be available at the NDPERS Board meeting.

North Dakota
Public Employees Retirement System
400 East Broadway, Suite 505 ● Box 1657
Bismarck, North Dakota 58502-1657

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1-800-803-7377

FAX: (701) 328-3920 ● EMAIL: NDPERS-info@nd.gov ● www.nd.gov/ndpers

Memorandum

TO: NDPERS Board

FROM: Sparb

DATE: March 16, 2017

SUBJECT: Legislative Update

LEGISLATION

Attachment #1 is a list of bills relating to PERS and actions to date. We will review this at the board meeting.

65th Legislative Assembly 2017

bill number	short name	Title	fiscal Impact	bill status	chamber/ committee	hearing date	hearing time	meeting room	committee members	
HB 1023 w/ amendments	approps	A BILL for an Act to provide an appropriation for defraying the expenses of the public employees retirement system; and to provide for a transfer.		1/3 1st reading, referred to approps 1/5 committee hearing 8:30 am 1/17 committee hearing 9:30 2/1 committee hearing 2:45pm 2/10 committee hearing, 9:30 2/13 committee hearing 11:00 am 2/16 Employee Benefits Programs Committee hearing 8am 2/20 reported back, amended DO PASS, placed on calendar 15-3-3 2/21 amendment adopted, placed on calendar 2/22 2nd reading PASSED 76-15 2/23 1st reading SENATE, referred to Senate GVA 3/2 Senate Committee hearing 10:20 am	approps Govt Ops EBPC SENATE GVA	2/16/2017 3/2/2017	8:00 AM 10:30 am	Medora Harvest Sheyenne River	**Govt Operations Division** Brandenburg, chair Randy Boehning R Brabandt L Delmore K Kempenich M Nathe D Vigesaa	**Senate GVA** N Pool man, chair K Davison B Bekkedahl R Marcellais S Meyer S Vedaa
HB 1053	recovery	Relating to increased employer and employee contributions under the public employees retirement system defined benefit and defined contribution plans.	FN 1053	1/03 1st reading, referred to approps 1/17 committee hearing 1/20 Report back, DO NOT PASS 15-0-6 placed on calendar Eleventh order 1/24 2nd reading FAILED TO PASS 0-90	DEFEATED	1/17/2017	8:30 AM			
HB 1083	approps	A BILL for an Act to provide an appropriation for defraying the expenses of the public employees retirement system; and to provide for a transfer.		1/04 1st reading, referred to approps 1/05 committee hearing 1/26 Reported back, do not pass, placed on consent calendar 19-0-2 1/27 2nd reading FAILED TO PASS 0-88-6	DEFEATED	1/5/2017 1/17/2017	8:30 AM 9:30 AM	Medora	**Govt Operations Division** Brandenburg, chair Randy Boehning R Brabandt L Delmore K Kempenich M Nathe D Vigesaa	
HB 1148	firefighter	A BILL for an Act to amend and reenact sections 54-52-01, 54-52-02.1, & 54-52-06.3 & subsections 3 & 4 of section 54-52-17 of the NDCC, relating to a public employee retirement plan for firefighters.	FN 1148	1/03 1st reading, referred to Political Subs 1/13 hearing 9am, DO PASS 14-0-1 placed on calendar 11th order 1/18 2nd reading PASSED 85-6-3 2/17 received in Senate, 1st reading, referred to GVA 3/3 Senate Committee hearing 9am	House SENATE GVA	3/3/2017	9:00 am	Prairie Room Peace Garden Sheyenne River	**Political Subdivisions** Larry Klemin, chair Pat Hatlestad Tom Beadle Rich Becker Sebastian Ertelt Ron Guggisberg Karla Hanson Mary Johnson Kim Koppelman Don Longmuir Andrew Maragos Brandy Pyle Luke Simons Nathan Toman Denton Zubke	**Senate GVA** N Pool man, chair K Davison B Bekkedahl R Marcellais S Meyer S Vedaa

updated
3/9/2017

65th Legislative Assembly 2017

HB 1403		A BILL for an Act to create and enact a new section to chapter 54 52.1 of the North Dakota Century Code, relating to public employee health benefits transparency.		1/16 1st reading, referred to Human Services Committee 1/17 referred to IB&L 1/24 committee hearing 9am 1/26 Employee Benefits Committee hearing 8 am 1/27 Employee Benefits Committee hearing 1 pm 1/30 Employee Benefits Committee hearing 4 pm 2/1 reported back amended DO PASS 13-0-1 2/2 amendment adopted, placed on calendar 2/8 Second reading, passed 91-0 2/17 1st reading SENATE, referred to Human Services committee 3/7 Senate Committee Hearing 9am	IB&L EBPC House SENATE Human Services	1/24/2017 1/27/2017 1/30/2017 3/7/2017	9:00 AM 1:00 PM 4:00 PM 9:00 am	Peace Garden Harvest Harvest Red River	**Industry, Business & Labor** George Keiser, chair Gary Sukut Tom Beadle Rick Becker Glenn Bosch Joshua Boschee Gretchen Dobervich Craig Johnson Jim Kasper Vern Laning Mike Lefor Scott Louser Emily O'Brien Dan Ruby	**Senate Human Services** Judy Lee Oley Larson Howard Anderson David Clemens Joan Heckaman Curt Kreun Merrill Piepkorn
HB 1406		A Bill for an Act to create and enact a new section to chapter 54-52.1 of NDCC, relating to public employee uniform group health insurance benefits, to provide for application, and to declare an emergency		1/16 1st reading, emergency clause referred to IB&L 1/26 Employee Benefits Committee hearing 8 am 1/26 Reported back, do pass 11-2-1, referred to appropriations 1/27 Employee Benefits Committee hearing 1 pm 1/30 Employee Benefits Committee hearing 4 pm 1/17 2nd reading, PASSED 73-13 2/20 received in Senate, 1st reading (EM) referred to GVA committee 3/2 Senate Committee hearing 9:30am	IB&L House approps PASSED SENATE GVA	1/25/2017 1/30/2017 3/2/2017	9:00 AM 4:00 pm 9:30 am	Peace Garden Harvest Sheyenne River	**Industry, Business & Labor** George Keiser, chair Gary Sukut Tom Beadle Rick Becker Glenn Bosch Joshua Boschee Gretchen Dobervich Craig Johnson Jim Kasper Vern Laning Mike Lefor Scott Louser Emily O'Brien Dan Ruby	**Govt & Veterans Affairs** N Pool man, chair K Davison B Bekkedahl R Marcellais S Meyer S Vedaa
HB 1407		A Bill for an Act to amend and reenact section 54-52.1-05 of the NDCC relating to the term of the public employee uniform group insurance contract for health benefits coverage, to provide for application, and to declare an emergency.		1/17 2nd reading, PASSED 73-12-9 2/17 2nd reading passed 73-12 2/20 received in Senate, 1st reading, referred to Senate GVA committee 3/2 Senate Committee hearing 9:45 am	IB&L EBPC House approps PASSED SENATE GVA	1/25/2017 1/30/2017 3/2/2017	9:00 AM 4:00 pm 9:30 am	Peace Garden Harvest Sheyenne River	**Industry, Business & Labor** George Keiser, chair Gary Sukut Tom Beadle Rick Becker Glenn Bosch Joshua Boschee Gretchen Dobervich Craig Johnson Jim Kasper Vern Laning Mike Lefor Scott Louser Emily O'Brien Dan Ruby	**Senate GVA** N Pool man, chair K Davison B Bekkedahl R Mercellais S Meyer S Vedaa

HB 1434	autism	A BILL for an Act to create and enact a new section to chapter 26.1 36 and a new section to chapter 54 52.1 of the North Dakota Century Code, relating to health insurance coverage for autism related services; to provide a statement of legislative intent; and to provide for a report to the legislative management.	FN 1434	1/16 1st reading, referred to House Human Services Committee 1/27 Employee Benefits Programs Committee hearing 1 pm 1/30 Committee hearing 2:45 pm 1/30 Employee Benefits Committee hearing 4 pm 2/8 reported back, DO PASS 9-2-3 placed on calendar 2/9 amendment adopted, referred to approps 2/14 2nd reading FAILED 47-43 (lacks constitutional majority) 2/15 bill reconsideration PASSED 61-29 2/17 received in Senate, 1st reading, referred to Senate Human Services Committee 3/6 Senate Committee hearing 9am	EBPC House Human Services EBPC DEFEATED reconsidered Senate Human Services	1/27/2017 1/30/2017 1/30/2017 3/6/2017	1:00 pm 2:45 PM 4:00 pm 9:00 am	Harvest Fort Union Harvest Red River	**House Human Services** Robin Weisz, chair Karen Rohr, vice Bert Anderson Dick Anderson Pamela Anderson Chuck Damschen Bill Devlin Dwight Kiefert Aaron McWilliams Todd Porter Mary Schneider Jay Seibel Kathy Skroch Greg Westlind	**Senate Human Services** Judy Lee Oley Larson Howard Anderson David Clemens Joan Heckaman Curt Kreun Merrill Piepkorn
SB 2052	telehealth	Relating to individual and group health insurance coverage of telehealth services; and to amend and reenact section 54-52.1-04.13 of the NDCC, relating to public employees retirement system uniform group insurance coverage of telehealth services.	FN 2052	1/03 1st reading 1/09 hearing 9am DO PASS 7-0-0, placed on calendar 11th order 1/10 2nd reading, PASS 46-0-1 SENATE PASSED 1/11 sent to House / received by House 2/9 introduced in House, 1st reading, referred to Human Services Committee 3/7 House Committee Hearing	 HOUSE Human Services	1/9/2017 3/7/2017	9:00:00 AM 9:00 am	Red River Ft Union	**Senate Human Services** Judy Lee Oley Larson Howard Anderson David Clemens Joan Heckaman Curt Kreun Merrill Piepkorn	**House Human Services** Robin Weisz, chair Karen Rohr, vice Bert Anderson Dick Anderson Pamela Anderson Chuck Damschen Bill Devlin Dwight Kiefert Aaron McWilliams Todd Porter Mary Schneider Jay Seibel Kathy Skroch Greg Westlind
SB 2053	technical	Relating to the definitions of retirement and retirement board, decreased employee contributions under the public employees retirement system for peace officers employed by the bureau of criminal investigation, eligibility for disability retirement and early retirement benefits under the public employees retirement system, employee enrollment, billing for the retiree health insurance credit, failure to maintain a health savings account when the high-deductible health plan is elected, payment of administrative expenses of the defined contribution plan, and penalties for employers failing to pay contributions under the defined contribution plan.	FN 2053	1/03 1st reading referred to GVA 1/05 Hearing 11am 1/09 DO PASS 5-0-1 placed on calendar 6th order 1/10 amendment adopted-placed on 11th order 1/11 2nd reading 46-0-1 engrossed passed SENATE PASSED 1/12 sent to House / received by House 2/9 introduced, 1st reading, referred to House GVA 3/2 House Committee hearing 8:30am	 HOUSE GVA	1/5/2017 3/2/2017	11:00 am 8:30 am	Sheyenne River Ft Union	**Govt & Veterans Affairs** N Pool man, chair K Davison B Bekkedahl R Marcellais S Meyer S Vedaa	**House GVA** Jim Kasper, chair Scott Louser Pam Anderson Jason Dockter Craig Johnson Daniel Johnston Karen Karls Ben Koppelman Vern Laning Christopher Olson Karen Rohr Mary Schnieder Vicky Steiner Steve Vetter

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MEMORANDUM

TO: NDPERS Board

FROM: Jamie Kinsella Jamie

DATE: March 8, 2017

SUBJECT: **November 16, 2016 PERS Audit Committee Minutes**

Attached are the approved minutes from the November 16, 2016 meeting. Those who attended the meeting are available to answer any questions you may have.

The minutes may also be viewed on the NDPERS web site at www.nd.gov/ndpers.

The next audit committee meeting is currently scheduled for May 17, 2017 at 10:00 a.m. in the NDPERS Conference Room.

Attachment

North Dakota
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MEMORANDUM

TO: Audit Committee
Jon Strinden
Arvy Smith
Pamela Anderson
Rebecca Dorwart

FROM: Jamie Kinsella, Internal Auditor

DATE: November 30, 2016

SUBJECT: **November 16, 2016 Audit Committee Meeting**

In Attendance:
Jon Strinden
Arvy Smith
Rebecca Dorwart
Representative Pamela Anderson
Jamie Kinsella
Julie McCabe
Sharon Schiermeister
Derrick Hohbein
Bryan Reinhardt

Absent:
Sparb Collins

The meeting was called to order at 10:05 a.m.

I. August 31, 2016 Audit Committee Minutes

The audit committee minutes were examined and approved by the Audit Committee.

II. Internal Audit Reports

A. Quarterly Audit Plan Status Report – A summary of the internal audit staff time spent for the past quarter was included with the audit committee materials. Of the total hours reported, 59.73% was spent in audit and 7.51% in consulting. This is in line with the audit plan of 50-60% auditing and 5-10% consulting.

B. Outstanding Issues Status Report – As stated in the Audit Policy #103, the Internal Audit Division is to report quarterly to management and the audit committee the status of the audit recommendations of the external auditors as well as any found by the internal auditor. The report has been updated to reflect what has been accomplished during August 1, 2016 through October 31, 2016.

E. Risk Management Report - The Loss Control Committee provides quarterly to the Audit Committee a copy of the Loss Control Committee's agenda from their last meeting as well as the approved minutes. Copies of the June 8, 2016 minutes and the agenda for the September 7, 2016 meeting were provided to the audit committee.

F. Report on Consultant Fees - According to the Audit Committee Charter, the audit committee should "Periodically review a report of all costs of and payments to the external financial statement auditor. The listing should separately disclose the costs of the financial statement audit, other attest projects, agreed-upon-procedures and any non-audit services provided." A copy of the report showing the actuary/consulting audit, legal, investment and administrative fees paid during the quarter ended September 2016 was attached for the audit committee's information.

G. Publications – The October 2016 publication of the Tone at the Top was provided to the audit committee for their perusal.

H. Webinars and CPE's – Ms. Kinsella and Ms. McCabe have been participating in free Webinars that the Institute of Internal Auditors provides for their members. Each 1 hour webinar provides 1 hour of continuing professional education credits. The internal auditors have attended three webinars and one 2-day seminar from August 1, 2016 through October 31, 2016. These webinars are held during the lunch hour so the internal auditors remain available to staff during normal business hours.

Meeting adjourned at 11:10 a.m.

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Memorandum

TO: PERS Board

FROM: Sparb

DATE: March 9, 2017

SUBJECT: Fiduciary Standards

Recently at our board meeting we discussed the proposed fiduciary rule by the DOL and there were two primary areas the board requested further information. First was on the status of the rule. Attachment #1 you will find an update on the status of the rule. The second attachment is a summary of the proposed rule. The third attachment is an article Kim Wassim forwarded to me that I included for your information on this subject as well.

Please note that this rule does not apply to NDPERS. Also, a significant difference between this rule and the PERS program is that when someone goes to a broker they are not joining a program such as a PERS with specific funds that are determined by the board and monitored by the board or for the other plan pursuant to a specific contract established by the board. When they go to a broker they are seeking general investment advice about the entire range of investing whereas in our program they are seeking advice about our program with specific investment products.

The second area for which more information was requested was relating to TIAA and the advice they give.

- Attachment # 4 is "TIAA fiduciary participant advice program"
- Attachment # 5 is "DoL Fiduciary Investment Advice Rule and TIAA
- Attachment # 6 is "What is the impact of the DoL rule on my employees?"

We will review the information at the board meeting and determine if any additional information is needed.

GROOM LAW GROUP CHARTERED

BENEFITS BRIEF

March 2, 2017 www.groom.com

If you have questions, please contact your regular Groom attorney or one of the attorneys listed below:

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DOL Proposes 60-Day Delay to Fiduciary Rule

On March 1, 2017 the U.S. Department of Labor ("DOL") issued notice of a 60-day delay (the "Proposed Delay") to the applicability date of the Fiduciary Rule (including both the investment advice regulation and the new and existing class exemptions). The Proposed Delay was published in the Federal Register on March 2nd. *See* Proposed Delay, 82 Fed. Reg. 12319 (Mar. 2, 2017). If the Proposed Delay is finalized in its current form, the Fiduciary Rule would begin to apply to affected entities on June 9, 2017, instead of the current date of April 10, 2017 (the "Applicability Date"). In the preamble, DOL suggests that the proposed delay would harm consumers and invites comment on whether the Proposed Delay should be finalized.

Rationale for Proposed Delay

DOL issued the Proposed Delay in response to the Presidential Memorandum on the Fiduciary Rule, 82 Fed. Reg. 9675 (Feb. 3, 2017) (the "Memorandum") directing DOL to study the Fiduciary Rule, and, if warranted, to rescind or revise it. However, the preamble to the Proposed Delay suggests that DOL has already concluded that any delay generates losses for consumers that outweigh any savings a delay may generate for the financial services industry. However, because the Memorandum requires DOL to conduct additional economic and legal analysis, DOL is considering delaying the Fiduciary Rule anyway. Under the Memorandum, DOL is required to consider three economic and legal points in determining whether the Fiduciary Rule is consistent with the priority to empower Americans to make their own financial decisions and to facilitate the ability to save for retirement, as well as other typical lifetime financial needs:

- Whether the anticipated applicability of the Fiduciary Rule has harmed or is likely to harm investors due to a reduction of Americans' access to certain retirement savings offerings, retirement product structures, retirement savings information, or related financial advice;
- Whether the anticipated applicability of the Fiduciary Rule has resulted in dislocations or disruptions within the retirement services industry that may adversely affect investors or retirees; and
- Whether the Fiduciary Rule is likely to cause an increase in litigation and an increase in the prices investors and retirees must pay to gain access to retirement services.

DOL stated that the Proposed Delay would provide DOL with time to complete this review and avoid a scenario in which the Fiduciary Rule is revised or revoked after becoming applicable. In this sense, notwithstanding the economic harm that DOL anticipates the delay

would cause, DOL believes a delay may be warranted to avoid potential disruption and confusion that could affect both the retirement services industry and consumers were the Fiduciary Rule to be abruptly changed or rolled back only shortly after the Fiduciary Rule becomes applicable.

Issues for Comment

The Proposed Delay provides for a 15-day comment period, which will end on March 17th. DOL determined that the Proposed Delay is likely to have an effect on the U.S. economy of at least $100 million and that it is a "major rule" subject to the Congressional Review Act. Importantly, DOL suggested that its existing data, derived from the regulatory impact analysis issued alongside the Fiduciary Rule, leads to the conclusion that the harm to investors arising out of the Proposed Delay would outweigh any benefit. However, DOL stated its data is "uncertain and incomplete" and solicited comments on the costs and benefits of the Proposed Delay. DOL noted that its data may overstate the benefits the Fiduciary Rule would provide to investors and understate the compliance costs that would be saved by the Proposed Delay. DOL also solicited comments on whether the Proposed Delay should be extended to a time period longer than 60 days or issue a partial delay of certain elements of the Fiduciary Rule.

In addition to the Proposed Delay, DOL solicited comments on the analysis the Memorandum requires it to undertake. DOL sought comment on several issues to assist its determination of whether the Fiduciary Rule should be revised, revoked, or further delayed. Many of the questions appear to be framed to generate responses in support of the current Fiduciary Rule. The issues include among other things:

- Whether any benefit the Fiduciary Rule would provide to investors would be offset by a reduction in access to investment advice;
- Whether the Fiduciary Rule has moved the market for investment advice and investment products to an optimal mix of advisory services and financial products;
- Whether the Fiduciary Rule has affected or will affect retirement investors' access to quality, affordable investment advice services and investment products;
- Whether any issues in the regulatory impact analysis issued alongside the Fiduciary Rule were inadequately addressed;
- Whether financial services firms anticipate changes in consumer demand for investment advice and investment products, and how such firms will respond;
- Whether financial services firms are making changes to the investment products and investment advisory services offered, and their pricing or compensation arrangements, in response to the Fiduciary Rule;
- Whether litigation would affect the market for investment products and investment advisory services and would be prone to abuse;
- Whether particular provisions of the Fiduciary Rule could be removed while still accomplishing the DOL's regulatory objective of establishing an enforceable best interest standard for investment advice; and

- Whether the financial services industry would abide by the Fiduciary Rule's standards even if the Fiduciary Rule were revoked.

DOL will accept comments related to the Memorandum generally and on these issues until April 16, 2017. Stakeholder comments on the Proposed Delay and issues related to the Memorandum will likely be critical to the effort to delay, revise, or revoke the Fiduciary Rule, and we expect voluminous comments from both Fiduciary Rule proponents and opponents.

Implications

This release has and will continue to cause confusion in the retirement services industry. The Applicability Date is fast approaching, as are compliance deadlines for sending Best Interest Contract Exemption transition notices. Resources at many financial institutions are already stretched thin given the short implementation period between the April 2016 finalization and the April 2017 Applicability Date and now must diverted to reading, understanding, monitoring and reacting to these late in the game signals that a delay may occur. However, we do recommend that financial institutions advocate for a delay in the Applicability Date so it is delayed for at least as many days as DOL needs to perform the careful analysis required by the Presidential Memorandum.

GROOM LAW GROUP

April 7, 2016

Fiduciary Rule – Executive Summary

On April 6, 2016, the U.S. Department of Labor ("DOL") made available its much-anticipated final regulation on the definition of "fiduciary" under section 3(21)(a)(ii) of the Employee Retirement Income Security Act of 1974, as amended ("ERISA"). The new rule will have a profound impact on the retirement system and how services are provided throughout the industry. The package of materials released by DOL includes the following:

- A final regulation re-defining who is a "fiduciary" by reason of providing investment advice to a plan or an IRA (the "Final Regulation");

- Final versions of the Best Interest Contract Exemption ("BIC Exemption"), related supplemental exemptions, and the new prohibited transaction class exemption for principal transactions in certain investments (the "Principal Transactions Exemption"); and

- Final amendments to several existing prohibited transaction class exemptions, including prohibited transaction class exemption PTE 84-24 ("PTE 84-24"), currently the primary source of prohibited transaction exemptive relief for the sale of insurance and annuity products to plans and IRAs.

From a broad perspective, DOL did not deviate from its original goal of significantly expanding the types of communications that constitute fiduciary investment advice, particularly with respect to rollovers. And the Final Regulation and accompanying exemptions reflect a favoring of fee-leveling over commission-based compensation. That said, the retirement industry should take some solace in the fact DOL made many improvements to the new rules. Although it still remains to be seen whether the rules will be workable, the breadth of the changes is significant, and DOL has committed to working on sub-regulatory guidance over the coming months to help with implementation.

The Final Regulation, changes to existing class exemptions, and certain elements of the BIC Exemption will be effective 60 days after the date of their publication in the Federal Register. Despite this relatively early effective date, the terms of the rules generally delay their applicability until April 10, 2017. In the case of the BIC Exemption, special transition relief further delays the applicability of most conditions until January 1, 2018.

This alert provides an executive summary of the new rules and briefly discusses the future of the Final Regulation and related exemptions.

I. Executive Summary

A. Overview

The Final Regulation – sometimes referred to as the conflicted advice rule – is the most consequential change to the laws governing retirement plans since the passage of ERISA over four decades ago. It significantly expands the universe of those who are subject to fiduciary responsibility under ERISA and the Internal Revenue Code of 1986, as amended, for providing investment advice and generally conditions the availability of exemptive relief on the adherence to a new "best interest" standard of care on those advising IRA holders. The Final Regulation is also accompanied by several new or amended prohibited transaction class exemptions (including the BIC Exemption), which will require fundamental changes to how advisers, broker-dealers, banks, insurance companies, and consultants provide services and are compensated.

The Final Regulation is the result of a long rulemaking process that began in 2010 when DOL issued its first Notice of Proposed Rule Making regarding the definition of "investment advice." The proposal was quickly withdrawn in reaction to widespread criticism and remained dormant until it was re-proposed in 2015 ("2015 Proposed Regulation"). The 2015 Proposed Regulation generated fierce debate, reflected in the thousands of comment letters submitted on both sides of the issue, testimony provided over the course of a multi-day hearing last August, and hundreds of meetings between DOL and the regulated community.

B. Key Changes in Final Regulation

Although the Final Regulation preserves many key elements of the 2015 Proposed Regulation, DOL did make several important concessions. The most significant changes include the following:

- "Hire me" – The Final Regulation clarifies that recommending oneself or one's affiliate to provide investment advice or investment management services is not, by itself, the type of recommendation that necessarily leads to fiduciary status. However, if the "hire me" recommendation is coupled with a rollover recommendation, or effectively includes a recommendation as to how to invest or manage plan or IRA assets, the adviser will not be shielded from fiduciary status. In the latter case, the adviser would likely need to use the BIC Exemption. This could substantially limit the utility of an otherwise favorable change.

- Scope of a "Recommendation" – The Final Regulation also more closely aligns the definition of a "recommendation" with FINRA guidance, indicating that communications need to be more tailored to the particular recipient to be a recommendation. The definition still includes a "suggestion," which is a broad standard, but there are specific exclusions from the definition of "recommendation" for general communications (*e.g.*, general marketing materials and other widely circulated communications).

- Participant Education – The Final Regulation excludes from the description of a "recommendation" investment education, including asset allocation models and

interactive materials that reference specific investments or products available under ERISA-covered plans (provided that certain conditions are met). Importantly, this change *does not extend to education provided to IRAs or IRA holders.*

- Exception for Sales – Under the Final Regulation, advice provided to a fiduciary independent of the adviser in the context of an arm's-length sale, loan, exchange or other investment-related transaction will not result in fiduciary status for the adviser if the independent fiduciary is a bank, insurance company, registered investment adviser, registered broker dealer, or manages or controls total assets of at least $50 million (aggregated across clients, and not limited to plan or IRA clients) and certain other conditions are met. This change should help address the "wholesaler" or "daisy chain" issue, but the relief is more conditional than expected in that it requires disclosures to otherwise sophisticated financial intermediaries and may require representations from such firms.

- Platform Exception – The Final Regulation affirms that offering a platform of investment alternatives to a fiduciary of a participant-directed defined contribution plan will not be viewed as a fiduciary recommendation, and there is language in the preamble suggesting that the "segmenting" of platforms based on general categories is permitted. DOL also clarified that platform providers may provide RFP responses or objective financial data regarding alternatives meeting objective criteria established by a plan sponsor without triggering fiduciary status.

- Welfare Plans – DOL clarified that the Final Regulation does not include recommendations with respect to welfare plans (*e.g.*, health, disability, or term life insurance policies) if those products do not have an investment component. However, DOL did not exclude HSAs from the scope of the Final Regulation, so marketing HSAs together with group health insurance will have to be carefully monitored.

C. Key Changes to BIC Exemption

DOL made important changes to the BIC Exemption that reflect the significant advocacy efforts by the financial services industry and likely make the exemption somewhat more workable for a variety of firms. From DOL's perspective, greater reliance on the BIC Exemption will further its goal of creating an actionable a best interest standard for IRAs. In this regard, DOL made the following important changes to the BIC Exemption:

- DOL eliminated the requirement that a separate written contract be entered into for recommendations to ERISA Title I plans and participants, since those plans and participants have recourse through ERISA's civil enforcement provisions. In lieu of the contract, the financial institution of the adviser making such recommendations is generally required, among other things, to provide a unilateral writing acknowledging fiduciary status and to provide disclosures. Where a financial institution proposes a rollover for purposes of providing level advice (*i.e.*, advice where compensation does not vary either at the adviser level or at the financial institution level), the financial institution is not required to provide the same warranties or disclosures, but is required to document

the specific reason or reasons the rollover recommendation was in the client's best interest.

- DOL retained the contract requirement when advisers seek to use the BIC Exemption when providing advice to IRA holders so as to provide a contract-based private right of action. The requirements for contract formation have been eased somewhat in that the contract document may be incorporated into other account opening documentation and may be signed either electronically or manually by the client. In the case of already existing accounts, a "negative consent" process is available for forming the contract (during a transition period).

- DOL eliminated the requirement that the individual adviser be a party to the BIC Exemption contract, merely requiring a contract between the client and the financial institution that employs or retains the individual adviser.

- The BIC Exemption was amended to apply to recommendations of any asset as opposed to the restricted list of assets included in the proposed exemption.

- DOL expanded the availability of the BIC Exemption to small businesses that sponsor participant-directed plans. This is intended to address the "gap" problem we brought to DOL's attention.

- The BIC Exemption contains special provisions clarifying how it can be used for recommendations of proprietary products, including a requirement that financial institutions determine that the limitations are not so severe that the adviser will generally be unable to satisfy the exemption's best interest standard and other requirements.

- DOL eliminated the annual disclosure and disclosures requiring 1, 5, and 10 year projections as well as the proposed exemption's data retention requirements. However, DOL retained the conflict of interest disclosure requirement and website disclosure requirement. The final exemption also requires certain disclosures in the contract and, in certain circumstances, prior to or at the time of a transaction (and no less frequently than annually). Moreover, those subject to the BIC Exemption can request more detailed disclosures on costs and fees.

- The BIC Exemption contains a streamlined "level fee" provision, which enables advisers and financial institutions that receive only a level fee in connection with the advice they provide to rely on the exemption without entering into a contract so long as special attention is paid and documentation is kept to show that certain specific recommendations, including a recommendation to rollover assets from an employer plan to an IRA, are in the customer's best interest. Importantly, no contract is required. However, the level fee condition extends to all affiliates, so for example, it may not provide a basis to recommend a rollover into an arrangement otherwise covered by an exemption that only requires level fees for the adviser (*e.g.*, ERISA section 408(b)(14)).

- The BIC Exemption includes a grandfathering provision that allows for receipt of compensation from previously acquired assets. The grandfather provision includes recommendations to hold, as well as systematic purchase agreements but requires that any additional advice satisfy the best interest and reasonable compensation requirements.

D. Key Changes to PTE 84-24

Consistent with its "encouragement" of the BIC Exemption, DOL has limited the circumstances in which those recommending insurance products or proprietary mutual funds may rely on PTE 84-24. The key changes to PTE 84-24 are as follows:

- PTE 84-24 is no longer available for recommendations of variable annuities, indexed annuities, and similar contracts to IRAs *or* plans. (The proposed exemption would have permitted plans to purchase variable annuities in reliance on PTE 84-24. These will now need to be covered by the BIC Exemption).

- The "commissions" covered for sales of fixed rate annuity contracts to plans and IRAs and mutual fund shares to plans have been narrowly defined (excluding, for example, revenue sharing).

- Any recommendations covered under PTE 84-24 must meet the same impartial conduct standards applicable to BIC Exemption-users.

E. Effective Date

The Final Regulation is effective 60 days after it is published in the Federal Register. However, the Final Regulation and several conditions of the BIC Exemption (*e.g.*, the acknowledgement of fiduciary status, adhering to the best interest standard, and certain conflict of interest disclosures) have a delayed applicability date of April 10, 2017. Other requirements of the BIC Exemption (*e.g.*, the contract requirement and certain representations and warranties regarding firm conflicts) will not go into full effect until January 1, 2018. In the period between publication and January 1, 2018, an interim rule that mirrors the conditions of the existing regulation will be in effect.

II. Future of the Final Regulation

Notwithstanding the issuance of the Final Regulation and related exemptions, DOL has indicated that it will work with stakeholders on further guidance. There will also be efforts this year to stop the new rules in Congress and the courts.

A. Additional DOL Guidance

The Final Regulation and related exemptions are extremely complex, and there are a number of issues that were left unaddressed. Typically, DOL provides additional guidance after the release of major regulations, and this case appears to be no exception. DOL has stated that it "will work with interested parties on compliance assistance activities and materials." The

agency also "invites stakeholders to identify areas or specific issues where they believe additional clarifying guidance is needed."

B. Potential Congressional Action

The Republican-controlled Congress is almost certain to take steps to overturn or halt implementation of the Final Regulation. In fact, a recent post on Speaker of the House Paul Ryan's blog declared that House Republicans are "determined to do everything possible to protect consumers and stop this rule." Immediately after the release of the Final Regulation, Republicans on several committees of jurisdiction released statements criticizing it.

Sources on the Hill have indicated that Congress may soon attempt to overturn the Final Regulation using the Congressional Review Act ("CRA"). The CRA creates a window of time in which Congress can utilize a "fast track" process for considering administrative rules. The process significantly limits procedural roadblocks in the Senate (*e.g.*, the filibuster) and, in essence, allows Congress to overturn a final regulation with a simple majority vote. A successful CRA challenge nullifies the rule at issue, and the agency is prohibited from reissuing the same regulation again or promulgating a regulation that is substantially similar. However, as a practical matter, CRA challenges are rarely successful because they can be vetoed by the President, and it would require a two-thirds vote in both the House and Senate to override the veto.

It is very likely that, because of certain timing requirements, any CRA challenge to the Final Regulation will occur in this Congress. The action would almost certainly be vetoed by President Obama, and it will likely be difficult for Congress to override the veto.

Another potential avenue for intervention is for Congress to pass legislation to override the Final Regulation. There have been several bills to that effect introduced. The most discussed is a pair of bipartisan sister bills – the Affordable Retirement Advice Protection Act (H.R. 4293; S. 2502) and the SAVERS Act of 2015 (H.R. 4294; S. 2505) – which would statutorily redefine "investment advice," narrowing the scope when compared to the Final Regulation. Together, the bills would also hold those providing IRA-related investment advice to a best interest standard of care and would require additional disclosures of conflicts and fees.

The bills were approved by the House Education and Workforce Committee and the House Ways and Means Committee in February on mostly party-line votes, despite their bipartisan co-sponsorship. House leadership has, in the past, indicated that the bills could be considered by the House but that they would be merged together. Similar legislation has been introduced in the Senate but does not yet have Democratic support and has not been considered by the relevant committees. President Obama would likely veto the bills if they were to pass Congress.

A third and final option for opponents is to try to halt implementation of the Final Regulation using Congress's power of the purse. Congress makes annual appropriations for government operations through specific funding bills, and those bills almost always include policy riders. In 2011, for example, DOL's funding appropriation contained a prohibition on the

use of funds to finalize the fiduciary rule as proposed in 2010. (The rider was dropped from subsequent funding bills.) Congress must pass an appropriations package before the end of September, and it is possible Congress could insert a provision halting the Final Regulation. However, Democrats in the House and Senate have previously blocked such efforts.

C. Litigation

A number of organizations have already indicated they are considering challenging the Final Regulation in court. At the moment, it is unclear exactly what arguments will be made, but there are at least two potential legal theories. First, a plaintiff could argue that DOL failed to satisfy the requirements for agency rulemaking under the Administrative Procedure Act. In other words, DOL failed to take all of the procedural steps necessary for the Final Regulation to have the force and effect of law. A second potential argument is that DOL lacked the statutory authority to promulgate all or part of the Final Regulation (*e.g.*, the authority to impose ERISA-like requirements on IRAs).

Regardless of the merits of either argument, litigation is often slow moving and may not be completed before the industry must comply with the Final Regulation. It is possible for a court to stay a rule pending the outcome of an action. However, that is often a high bar, requiring a court to determine, among other things, that the plaintiff has a likelihood of prevailing on the merits and will suffer irreparable harm if a stay is not granted.

III. Summary Materials

In addition to this executive summary, please see below for links to additional information:

- A memorandum outlining the key elements and scope of the Final Regulation;
- An outline of the finalized BIC Exemption;
- An outline of the changes to PTE 84-24;
- An outline of the finalized Principal Transactions Exemption;
- A chart showing the final amendments to existing prohibited transaction class exemptions; and
- An outline of the "Hire Me" Issue.

The Final Regulation and related exemptions raise a host of consequential issues. We will continue to provide updates as we further analyze the proposal and its implications, and we invite you to contact us for assistance in evaluating how the Final Regulation will impact your business.

Fiduciary Attachment #3

Forbes

Edward Siedle Contributor

I cover pension, money management and securities industry practices.

INVESTING 2/07/2017 @ 10:29AM 5,751 views

401(k) Investors Can Act Now To Demand Fiduciary Protection

If you are a retirement plan investor who believes that permitting financial advisers to secretly profit at your expense somehow benefits you—that is, you oppose proposed heightened fiduciary standards for retirement advisers—then this article is not for you.

Go on your merry way and do not consider the advice below on how to further protect your hard-earned savings. You can rest assured that the U.S. Chamber of Commerce and other industry trade associations that filed a legal challenge opposing the "fiduciary rule" for retirement advisers are angelically watching over you.

By way of background, a Labor Department rule that would have required financial advisers to put the interest of retirement savers ahead of their own was approved by President Obama last year. The rule is scheduled to take effect this April. On Friday, President Donald Trump issued a directive which directs the DOL to review the change, with an eye toward scrapping it. (The Labor Department has already taken the key language offline but you can see the earlier text here).

U.S. President Donald Trump, smiles while being introduced during the National Prayer Breakfast in Washington, D.C., U.S. For the first time in decades, America's oldest allies are questioning where Washington's heart is. "The world is in trouble — but we're going to straighten it out, ok? That's what I do," Trump said to an audience of religious and political leaders. Photographer: Win McNamee/ Pool via Bloomberg

The Consumer Federation of America, an association of more than 250 non-profit consumer groups, has said Trump's action "threatens to strip working families and retirees of protections they desperately need when they turn to financial advisers for help with their retirement savings. Rolling back conflict of interest protections for retirement savings will take tens of billions of dollars a year out of the pockets of hard-working Americans in order to enrich powerful Wall Street interests."

What can you do to protect yourself while the financial industry continues to flex its political muscle and delay inevitable heightened standards?

Regardless of whether a financial adviser is considered a fiduciary under any law, such as the Employee Retirement Income Security Act ("ERISA"), participants in retirement plans, can request, in writing, that the chief or "named" fiduciary of the plan (usually a Retirement Committee of the employer) require every financial adviser to the plan agree, in writing, that he or she will be held to the highest fiduciary standards under law.

In other words, send a letter to the employer Retirement Committee overseeing your plan requesting that all parties providing investment advice be required to contractually agree to be held to a fiduciary standard—regardless of whether these parties would be considered as fiduciaries under current law today.

It may also be helpful to remind your employer, who clearly is a fiduciary under current law, that it is in his best interest to contractually impose a fiduciary standard for all investment advisers—for his own protection. If investment firms secretly profit from the plan, the employer as chief fiduciary may be liable.

Worse still for the employer is if he ignores or rejects your written request and fiduciary breaches by financial advisers to the plan are subsequently uncovered. Companies sponsoring the largest 401(k) plans, such as Boeing and Wal-Mart, have been sued for fiduciary breaches involving advisers settling for $57 million and $13.5 million respectively.

Put another way, what does your employer have to gain by ignoring or rejecting plan participant requests for heightened fiduciary standards? The employer has nothing to gain opposing fiduciary standards for all investment advisers and lots to lose.

Any investment adviser that refuses to meet the higher integrity standards 401(k) participants demand today can easily (and should) be replaced.

Institutional investors, such as state and local government pensions (which are not subject to the federal ERISA statute), routinely impose—by contract—heightened ERISA fiduciary standards upon their investment advisers. Like the old Hebrew National hotdog television commercial, these pensions and their advisers voluntarily, contractually agree "to answer to an even higher authority" to protect taxpayers and beneficiaries.

You deserve the same heightened fiduciary protection for your retirement savings. Don't let Wall Street have the last word on what's good enough for you.

So what should a letter sent to an employer by a retirement plan participant look like? Here's a short sample form letter that I believe sets the proper tone.

To: Retirement Plan Committee

Dear Sirs,

As a participant in the XYZ company 401(k) Plan, I am writing to you, the "named" fiduciary of the Plan, to respectfully request that you require all parties providing investment advisory services to our Plan to agree, in writing, that they are fiduciaries to the Plan and its participants. Further, they should agree, in writing, that they will be held to the highest fiduciary standards under ERISA with respect to Plan assets.

I ask that you take this action to ensure that participants in the Plan are not harmed by any financial industry business practices which are inconsistent with the best interests of retirement savers.

I hope you will agree that as a fiduciary to the Plan, it is also in your best interests to contractually impose a fiduciary standard for all investment advisers to the Plan—for your own protection. Neither employees nor employers have anything to gain from permitting financial firms to secretly profit at the expense of the Plan and its participants.

Thank you for your anticipated assistance with this matter.

In conclusion, be aware that 401(k) investors can request that employers demand investment advisers to their defined contribution plans agree, in writing, to heightened ERISA fiduciary standards. If employers reject or ignore plan participant requests, then they do so at their own peril– knowing that systemic 401(k) abuses exist and may be present within the plan. See my report, Secrets of the 401(k) Industry for more information on systemic 401(k) abuses.

Says Barbara Roper, President of the Consumer Federation of America, "Employees need retirement plans that include the best possible investment options. This is a sensible means of bringing that about until the regulatory dust settles. Employers and employees benefit from demanding fiduciary protections."

Get together with your co-workers and let your employer know your views. Act now to reduce the risks to your retirement savings.

June 2016

TIAA

TIAA fiduciary participant advice program

As a plan sponsor, you may have questions about the fiduciary responsibilities of providing advice within a plan. TIAA can help. TIAA's role as a trusted advisor to the plan sponsor aligns with our commitment to fully support our fiduciary participant advice program.

TIAA serves as fiduciary for the participant allocation advice it provides. TIAA also supports the plan sponsor's fiduciary responsibilities when providing objective fund-level advice to employees.

Advice and guidance: What's the difference?

- TIAA provides advice as defined under ERISA and the Department of Labor's SunAmerica Advisory Opinion when it provides participants with recommendations on how to allocate their retirement plan assets among the funds available to them under their plan.
  - TIAA offers participant advice via our consultants and advisors, as well as our online advice tool, Retirement Advisor.
  - The investment fund recommendations are provided by an unbiased financial expert, Morningstar Investment Management, LLC. (Morningstar), and cover the available funds in each participant's retirement plan.
- Guidance doesn't rise to the level of advice under ERISA but is investment education. It can include allocation model portfolios. TIAA also offers financial education and guidance.

Advice supports Retirement Readiness

Plan sponsors do not have a fiduciary responsibility to offer advice or education to plan participants. Many plan sponsors, however, view their responsibilities in a broader sense to include implementing plan design features and services that drive positive plan behaviors and outcomes for their employees. Investment advice is often requested by employees and supports this broader vision of retirement readiness.

Offering advice is beneficial for those plan sponsors seeking to help their employees plan and prepare for retirement on an ongoing basis. Advice complements an attractive benefits package, and as employees near retirement age, they will have greater assurance of a sustainable income and standard of living.

In providing participant advice, TIAA accepts fiduciary responsibility for the advice provided. TIAA offers participant advice as part of its bundle of services for plan participants, and there is no additional charge to the plan when the plan sponsor offers this service to its participants. We have experienced high client adoption rates for our participant advice service.

TIAA's fiduciary role

TIAA accepts fiduciary responsibility for the investment advice provided to plan participants in accordance with its advice program. To manage liability and prevent conflicts that may result in a prohibited transaction under ERISA, the program is designed to follow a Department of Labor advisory opinion (2001-09A), the SunAmerica opinion, that allows a company providing funds to the plan to give investment advice to participants if that advice is developed by an unrelated financial expert.

Plan sponsors who choose to offer advice are responsible for prudently selecting and monitoring the performance of the advice provider they select; however, the plan sponsor is not liable for the actual advice provided. We meet our fiduciary obligations that arise from giving advice by prudently choosing the financial advice expert and continuing to monitor the advice it provides.

We selected Morningstar, a third-party Registered Investment Advisor (RIA), as the financial advice expert. While several leading financial advice experts were evaluated, we chose Morningstar for a number of reasons, including;

- Strong industry reputation and experience.
- Financial stability.
- Soundness of investment methodology.
- A philosophy of longterm investing for retirement.
- Ability to provide objective advice.[1]
- Ability to provide advice on investments offered on our platform.

Moreover, Morningstar was willing and able to successfully meet the challenge of advising participants on our unique investment accounts. The arrangement with Morningstar provides unbiased advice on all of the funds we record keep on our platform, including proprietary products such as TIAA Traditional, CREF Annuities, TIAA-CREF Mutual Funds, and non-proprietary investment options.

On an ongoing basis, the Asset Allocation and Portfolio Construction sub-committee of TIAA's Product and Client Service Governance Committee reviews Morningstar methodologies. Among other things, the committee reviews Morningstar's asset allocation frameworks, Capital Market Assumptions (CMA), policies for the introduction of new asset classes, model portfolio construction process, model portfolio performance, third party fund/investment selection processes, third party fund/investment performance, and implementation processes including risk profiling methodologies to determine that those processes are and continue to be prudent.

In addition, TIAA provides plan sponsors with the information and reports they need to demonstrate the prudent selection and monitoring of TIAA as their advice provider. We provide regular reports pertaining to the advice service so that the plan sponsor can effectively monitor the program.

Selecting and monitoring the advice provider

As with the selection of any plan service provider, fiduciaries must use prudence in the selection and monitoring of advisors who provide investment advice to plan participants. To demonstrate such procedural prudence in selecting an advice provider, the plan sponsor will want to show that it chose an advisor who will give independent advice, and who is well equipped to offer advice to participants.

However, the plan fiduciary is not liable for the actual advice given when TIAA serves as the plan's advice provider. TIAA serves as a fiduciary for the participant retirement plan advice provided under ERISA. We stand behind our offer as a trusted advisor of the plan sponsor.

Many factors enter into selecting an advice provider, for example:

- The plan fiduciary needs an objective process to assess an advice provider's qualifications, quality of services offered and reasonableness of fees.
- The process must avoid self-dealing, conflicts of interest or other improper influences. It also must assess a provider's experience and qualifications, including proper securities law registration and willingness to accept fiduciary status under ERISA.
- The advice also must be based on generally accepted investment theories.

Similarly, monitoring the advice provider requires the plan fiduciary to be vigilant of any change in information upon which selection was made; whether the provider is complying with contractual arrangements; and the quality, amount of utilization and any complaints by employees.

TIAA's investment advice

Our client-centric Advice and Guidance Services incorporate TIAA's long-term investment philosophy and are designed to help meet the specific needs of each employee. We provide personalized retirement planning and objective advice on our clients' retirement plan portfolio, taking into account their total assets, at no added cost to them.

TIAA's qualified managed account, called Retirement Plan Portfolio Manager, extends our Morningstar-based advice offer, and is covered by the same fiduciary protection. With Retirement Plan Portfolio Manager, ongoing portfolio management based on objective advice helps further ensure plan participants receive sufficient information to make informed investment decisions. (Note: Retirement Plan Portfolio Manager is an in-plan, fee-based advisory service offered by the TIAA Trust Company, FSB. Depending on the plan structure and pricing, the fee will be paid by either the plan or the participant.)

[1] "Objective advice" refers to the third party advice TIAA delivers to plan participants with respect to their employer sponsored plan options under applicable Department of Labor guidance where approved by the plan fiduciary/sponsor.

December 2016

Fiduciary Attachment #5

DoL Fiduciary Investment Advice Rule and TIAA's continued commitment to you

In April 2016, the Department of Labor (DoL) released its final Rule that updates—and greatly expands—the definition of fiduciary investment advice.

The goal of the Rule is to reduce conflicts of interest among financial firms, advisors and advice recipients (individuals and institutional clients). The DoL wants to ensure all clients receive retirement investment-related recommendations in their best interests.

While there should be minimal impact to you as a plan sponsor, we want you to understand what TIAA is doing to address the Rule, and potential next steps. As we implement changes on our end, we continue our commitment to advice, lifetime income and outcomes.

TIAA

Frequently asked questions

1. Is my plan covered by the Rule?

The Rule covers:

- Employee Retirement Income Security Act (ERISA) retirement plans
- ERISA welfare benefit plans with an investment component (e.g., retiree healthcare plans)
- Individual Retirement Accounts (IRAs)
- Keogh Plans
- Health Savings Accounts (HSAs)

Note: The Rule also applies to advice provided to individuals in non-ERISA plans when rolling over assets to an IRA or ERISA plan.

2. What are the highlights of the Rule?

- Personalized recommendations to your employees on rollovers, consolidations and other distributions will now be considered fiduciary advice
- The Rule distinguishes plan fiduciaries[1] based on defined levels of "financial expertise." As a result, there may be changes to certain investment-related institutional services you receive from TIAA
- In terms of interactions within your organization, you may need to review:
  - The investment education you provide to your own employees, and
  - The compensation structure of anyone providing advice or investment-related information

3. How will the Rule impact my employees?

Employees will still be able to receive:

- General financial, investment and retirement education on concepts such as diversification and risk/return
- General plan information such as distribution options and other plan features
- Asset allocation models and interactive resources
- Advice on in-plan investment options (sourced through Morningstar Investment Management, LLC), if you have authorized us to provide it
- Personalized investment recommendations for asset consolidation, distributions and rollovers (this will require TIAA to act as a fiduciary and will require additional analysis in creating your employees' investment recommendations)
- Advice for needs beyond their plan through our advisors

[1] Plan sponsors and consultants

4. How will the Rule affect investment-related plan sponsor services I receive from TIAA?

TIAA needs to determine if ERISA plan sponsors (or their advisors) meet the criteria of a "sophisticated fiduciary." We will ask you to complete a Fiduciary Response Form which will determine how we remain compliant in our interactions with you going forward.

Non-ERISA	ERISA *"Sophisticated Fiduciary" (Above $50M[1] or RIA—any size with financial expertise)*	ERISA *"Institutional Retail Fiduciary"(Below $50M[1]—no RIA)*
No change	No change once Fiduciary Response Form is received	Investment education and a new investment search tool We believe that these plans should consider a Registered Investment Advisor (RIA) to get advice on their plan investment lineups and will encourage them to do so

[1] In assets held, managed or controlled

Note: Although we refer to an RIA, registered broker-dealers, banks and insurance companies are also eligible to meet the "sophisticated fiduciary" criteria if other requirements are met.

5. How will the Rule impact interactions within my organization?

There's little change here. As long as certain requirements are met (e.g., compensation arrangements), the following are exempt:

- Advice from an employee to an in-house fiduciary
- Unofficial advice from one employee to another, sometimes known as "water cooler conversation"

Be on the lookout for:

- Your Fiduciary Response Form
- Periodic updates on the Rule

TIAA supports strengthening fiduciary protections for advice to plan participants. We will continue to put our participants' interests first—as we have for nearly 100 years.

For more information, call your Relationship Manager. If you are served exclusively by the Administrator Telephone Center, please call 888-842-7782, weekdays, 8 a.m. to 8 p.m. (ET). Our consultants will be happy to help you.

C37500 (12/16)

What is the impact of the DoL rule on my employees?

The definition of investment advice will expand greatly under the DoL's new fiduciary rule effective April 10, 2017. Here's a quick recap of the differences between Investment Education and Investment Advice.

Investment Education	Investment Advice
■ General* financial, investment and retirement information that does not address specific investment products or distribution options (e.g. risk and return, diversification, effects of fees and inflation, risk tolerance, longevity risks) ■ If certain conditions are met, asset allocation models and interactive material that refer to specific investments that are part of a participant's retirement plan (but not his or her IRA) ■ Employees make their own decisions *General=cannot include recommendations or refer to the appropriateness of an individual investment or distribution option under the plan.	■ More individually tailored than education and includes specific direction or "call to action" ■ Rollover, transfer, distribution and investment recommendations ■ Employee may be told what to do/not to do Note: To enable rollover or distribution recommendations, the financial professional would need to follow the "Best Interest Contract" (BIC) exemption.

TIAA

BUILT TO PERFORM.

CREATED TO SERVE.

Frequently Asked Questions

1. Can my plan participants continue to receive plan-specific investment advice from providers like TIAA?

Yes. There is guidance from DOL that permits a limited exception that enables providers to offer investment advice sourced through an independent investment expert. This will allow TIAA to continue to offer investment recommendations sourced through Morningstar Investment Management, LLC—as long as those recommendations are not coupled with rollover, transfer or other distribution-related investment advice.

2. Can you provide an example of what is allowed as education today that will become investment advice under the new rule?

Representative: *"I would go with an IRA instead of leaving your money in your employer's plan. An IRA gives you a lot more flexibility and control. It's not tied to an employer. It's your own account."*

Under the new Rule, this type of guidance would be considered investment advice, and the provider will need to follow the BIC exemption when delivering this type of direction. Among other conditions, the BIC will require the financial professional to act in the best interest of the advice recipient (and provide the required representations and disclosures).

3. How does the Rule impact employees of a non-ERISA plan?

In general, the Rule does not directly apply to investment advice provided to non-ERISA (Employee Retirement Income Securities Act) plans, such as governmental plans, but it **does apply** to advice given to a plan participant in a non-ERISA plan about whether to roll over to an IRA or ERISA plan.

TIAA is your strategic partner. We are here to answer your questions, keep you informed, and help your employees achieve their financial goals.

TIAA

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Memorandum

TO: NDPERS Board

FROM: Bryan Reinhardt

DATE: **March 16, 2017**

SUBJECT: **DC RFP Update**

We received four proposals for our DC 401(a) & 457 Companion Plan RFP. The four vendors are: TIAA, Prudential, Nationwide, and ICMA-RC.

Segal has started their proposal review process. We have an NDPERS Investment Subcommittee meeting scheduled for Friday March 10th to go over the results. After the Investment Committees review we will forward to you their recommendation and the information they reviewed from Segal. In addition Segal will be at the board meeting to review with you there findings. Here is the timeline from the DC RFP:

TASK	TARGET DATES
Release of Request for Proposal – RFP	**11/28/2016**
Receive pre-proposal questions from provider(s)	**12/12/2016**
Provide response to provider(s) proposal questions	**12/19/2016**
Deadline for proposal submission	**01/09/2017**
Finalists Presentations (if needed)	**03/30/2017**
Commence Plan Implementation	**April 2017**
Asset Transfer	**June 30, 2017**

If you have any questions, I will be available at the NDPERS Board meeting.