

A regular meeting of the Board of Directors of the Washington Township Health Care District was held on Monday, November 15, 2021 via Teleconference. Director Nicholson called the meeting to order at 6:01 p.m. and led those present in the Pledge of Allegiance.

CALL TO ORDER

Roll call was taken. Directors present: William Nicholson, MD; Jeannie Yee; Bernard Stewart, DDS; Jacob Eapen, MD; Michael Wallace

ROLL CALL

Also present: Kimberly Hartz, Chief Executive Officer; Chris Henry, Chief Financial Officer; Ed Fayen, Executive Vice President & Chief Operating Officer; Tina Nunez, Vice President; Larry LaBossiere, Chief Nursing Officer; Paul Kozachenko, Legal Counsel; Dee Antonio, District Clerk

Director Nicholson welcomed any members of the general public to the meeting. He noted that in order to continue to protect the health and safety of the members of the Board, District staff, and members of the public from the dangers posed by the SARS-CoV-2 virus, the Brown Act allows a local agency to continue to hold its meetings remotely as opposed to being required to meet in-person. Section 54953(e)(3) of the Government Code requires that the Board make certain findings every 30 days to continue meeting remotely. One such finding is that “state or local officials continue to impose or recommend measures to promote social distancing.” The Alameda County Health Officer continues to recommend social distancing and the wearing of masks indoors, as referenced by the Alameda County Health Care Services Public Health Department COVID-19 website at www.covid-19.acgov.org. The Board made such a finding at its meeting earlier in the month.

OPENING REMARKS

Director Nicholson presented the Consent Calendar for consideration:

CONSENT CALENDAR

- A. Resolution No. 1233: Amendments to Retirement Plan
- B. Boilers for Steamer and Kettle

In accordance with District law, policies, and procedures, Director Eapen moved that the Board of Directors approve the Consent Calendar, items A and B. Director Yee seconded the motion.

Roll call was taken:

William Nicholson, MD – aye
Jeannie Yee – aye
Bernard Stewart, DDS – aye
Jacob Eapen, MD – aye
Michael Wallace – aye

The motion unanimously carried.

There were no oral or written communications.

COMMUNICATIONS

In accordance with Health & Safety Code Sections 32106, 32155 and California Government Code 54956.9(d)(2), Director Nicholson adjourned the meeting to closed session at 6:06 p.m., as the discussion pertained to a Conference involving trade secrets pursuant to Medical Staff and Quality Assurance Committee, Health & Safety Code section 32155, Conference with Legal Counsel-Anticipated litigation

ADJOURN TO CLOSED SESSION

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pursuant to government code section 54956.9(d)(2), Conference involving Personnel Matters, and consideration of closed session Minutes: October 13, 18, and 27, 2021. Director Nicholson stated that the public has a right to know what, if any, reportable action takes place during closed session. Since this is a Teleconference call and we have no way of knowing when the closed session will end, the public was informed they could contact the District Clerk for the Board's report beginning November 16, 2021. He indicated that the minutes of this meeting will reflect any reportable actions.


Director Nicholson reconvened the meeting to open session at 8:40 pm. The District Clerk reported that the Board approved the Closed Session Minutes of October 13, 18, and 27, 2021 and the Medical Staff Credentials Report in closed session by unanimous vote of all Directors present:


*RECONVENE TO OPEN
SESSION & REPORT ON
CLOSED SESSION*

William Nicholson, MD
Jeannie Yee
Bernard Stewart, DDS
Jacob Eapen, MD

There being no further business, Director Nicholson adjourned the meeting at 8:40 pm.

ADJOURNMENT

DocuSigned by:

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William Nicholson, M.D.
President

DocuSigned by:

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Michael J. Wallace
Secretary

RESOLUTION NO. 1233

**RESOLUTION OF THE BOARD OF DIRECTORS OF WASHINGTON
TOWNSHIP HEALTH CARE DISTRICT AUTHORIZING CHIEF
EXECUTIVE OFFICER TO EXECUTE AMENDMENTS TO RETIREMENT
PLAN**

WHEREAS, the Washington Township Health Care District is a local health care district (“District”) that owns and operates a general acute care hospital and provides essential healthcare services to the population residing within the District’s political boundaries, including the cities of Fremont, Newark, Union City, parts of South Hayward and Sunol;

WHEREAS, the District maintains a pension program for employees and retirees pursuant to section 401(a) of the Internal Revenue Code (“Code”); and

WHEREAS, the Chief Executive Officer has determined, based on advice from the District’s Special Counsel, Ken Ruthenberg, that District will need to amend its Retirement Plan to correct a typographical error as more fully described in the Amendment No. 6 to the Washington Township Health Care District Retirement Plan attached to this Resolution as Exhibit A; and

WHEREAS, the Chief Executive Officer has determined, based on advice from the District’s Special Counsel, Ken Ruthenberg, that due to recent changes in the law, the District will need to amend its Retirement Plan as more fully described in Amendment No. 7 to the Washington Health Care District Retirement Plan attached to this Resolution as Exhibit B.

NOW THEREFORE, be it resolved that:

1. The Chief Executive Officer is hereby authorized, on behalf of the District, to execute the Amendments attached to this Resolution as Exhibit A and Exhibit B for the purposes set forth in this Resolution.

2. The Chief Executive Officer is hereby authorized to take any and all actions necessary to execute any and all instruments and do any and all things deemed by her to be necessary or desirable to carry out the intent and purposes of this Resolution.

Passed and adopted by the Board of Directors of the Washington Township Health Care District this 15th day of November, 2021 by the following vote:

AYES: Directors Nicholson, Yee, Stewart, Eapen, Wallace

NOES:

ABSENT:

DocuSigned by:

William Nicholson

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William F. Nicholson, MD
President, Board of Directors
Washington Township Health Care
District

DocuSigned by:

Michael Wallace

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Michael J. Wallace
Secretary, Board of Directors
Washington Township Health Care District

**AMENDMENT NO. 6
TO THE
WASHINGTON TOWNSHIP HEALTH CARE DISTRICT
RETIREMENT PLAN**

This Amendment No. 6 (Amendment) to the Washington Township Health Care District Retirement Plan (Plan) is adopted by Washington Township Health Care District (Employer).

RECITALS

Whereas:

- A. The Employer established the Plan as a tax qualified plan under section 401(a) of the Internal Revenue Code (Code) and a "governmental plan" under Code section 414(d) and section 3(32) of the Employee Retirement Income Security Act of 1974.
- B. The Employer amended the Plan in 2013 to comply with the applicable provisions of the California Public Employees' Pension Reform Act of 2013 (PEPRA) as amended by Senate Bill 13.
- C. The Employer has determined that the 2013 PEPRA amendment contained a typographical error in the definition of "New Participant."
- D. The Employer wishes to correct this typographical error and to clarify this provision.
- E. The plan document for the Plan gives the power to amend the Plan to the Employer's Board of Directors, provided that the Employer's Chief Executive Officer may amend the Plan in order to make necessary clarifications to the Plan and to maintain the Plan in compliance with the applicable laws, rules and regulations.

OPERATIVE PROVISIONS

Now, therefore, the Employer amends the Plan effective as of January 1, 2013 by amending and restating the definition of "New Participant" in section 1 of the PEPRA Provisions to read as follows:

1. *New Participant.*

For purposes of these PEPRA Provisions, "New Participant" means a participant who either (i) becomes a member of any "public retirement

system" for the first time on or after January 1, 2013 and was not a member of any other "public retirement system" prior to January 1, 2013, (ii) becomes a member of a "public retirement system" for the first time on or after January 1, 2013 and was a member of another California "public retirement system" prior to January 1, 2013, but was not subject to reciprocity under California Government Code section 7522.02(c), or (iii) was an active member in a retirement system and, after a break in service of more than six (6) months, returned to active membership in the system with a new employer; provided, however, that for purposes of (iiii), a change in employment between State entities or from one school employer to another shall not be considered as service with a new employer. For purposes of this provision, "public retirement system" means a California "public retirement system," as that term is defined in California Government Code section 7522.04(j).

All other provisions of the Plan as in effect prior to this Amendment shall remain unchanged by this Amendment.

Executed this _____ day of _____, 2021.

Washington Township Health Care District

By: _____

Title: Chief Executive Officer

**AMENDMENT NO. 7
TO THE
WASHINGTON TOWNSHIP HEALTH CARE DISTRICT
RETIREMENT PLAN**

This Amendment No. 7 (Amendment) to the Washington Township Health Care District Retirement Plan (Plan) is adopted by Washington Township Health Care District (Employer).

RECITALS

Whereas:

- A. The Employer established the Plan as a tax qualified plan under section 401(a) of the Internal Revenue Code (Code) and a "governmental plan" under Code section 414(d) and section 3(32) of the Employee Retirement Income Security Act of 1974.
- B. The plan document for the Plan generally allows disability retirement benefits that are paid retroactively with no time limit on the retroactive nature of such payments, which can result in a significant negative impact on the Plan's funding.
- C. The Employer would like to update the plan document for the Plan to limit the retroactivity of disability retirement benefits and to clarify the interest rate to be used for calculating such amounts.
- D. The plan document for the Plan provides that the required beginning date for distributions pursuant to Code section 401(a)(9) is based in part upon the participant's attainment of age 70-1/2.
- E. Congress recently amended Code section 401(a)(9) to change age 70-1/2 to age 72 for certain participants.
- F. The Employer would like to update the plan document for the Plan to reflect this legislative change.
- G. The plan document for the Plan gives the power to amend the Plan to the Employer's Board of Directors, provided that the Employer's Chief Executive Officer may amend the Plan in order to make necessary clarifications to the Plan and to maintain the Plan in compliance with the applicable laws, rules and regulations.

OPERATIVE PROVISIONS

Now, therefore, the Employer amends the Plan as follows:

1. Effective as of January 1, 2021, section 2.04, "Actuarial Equivalent," is amended by adding new subsection D to read as follows:

The interest rate used to accumulate retroactive payments during a Plan Year shall be the Applicable Interest Rate for the Applicable Lookback Month for the Plan Year.

2. Effective as of January 1, 2021, subsection B of section 5.05, "Disability Benefit," is amended and restated to read as follows:

B. The disability retirement benefit shall commence on the first day of the month coincident with or next following the later of (i) the Participant's disability onset date (as established under the Social Security Administration's disability determination for the Participant to the effect that the Participant is totally disabled under Title II of the federal Social Security Act) or (ii) the date that is twelve (12) months prior to the Administrator's receipt by the Administrator of the Participant's application for disability retirement benefits.

3. Effective as of January 1, 2020, paragraph 2 of subsection B, "Required Minimum Distributions," of section 8.05, "Commencement Of Payment Of Benefits," is amended and restated to read as follows:

2. For purposes of the preceding provision, the Required Beginning Date shall be April 1 of the calendar year following the later of:

a. The calendar year in which the Participant retires; or

b. Whichever of the following is applicable:

(1) If the Participant attains age seventy and one-half (70-1/2) on or before December 31, 2019, the calendar year in which the Participant attains age seventy and one-half (70-1/2); or

(2) If the Participant attains age seventy and one-half (70-1/2) after December 31, 2019, the calendar year in which the Participant attains age seventy-two (72).

4. Effective as of January 1, 2020, subparagraph b of paragraph 2 of subsection C, "Required Minimum Distributions Of Death Benefits," of

section 8.07, "Payment Of Death Benefits," is amended and restated to read as follows:

b. If any portion of the Participant's interest is payable to (or for the benefit of) a designated Beneficiary, such portion shall be distributed over the life of such designated Beneficiary (or over a period not extending beyond the life expectancy of such designated Beneficiary) and such distribution shall begin by the end of the calendar year following the calendar year of the Participant's death; provided however, that:

- (1) If the designated Beneficiary is the Participant's surviving spouse, then the date on which the distributions are required to begin shall not be earlier than the date on which the Participant would have attained either (i) age seventy and one-half (70-1/2) if the Participant attains age seventy and one-half (70-1/2) on or before December 31, 2019 or (ii) age seventy-two (72) if the Participant attains age seventy and one-half (70-1/2) after December 31, 2019; and*
- (2) If the surviving spouse dies before the distributions to such spouse begin, this provision shall be applied as if the surviving spouse were the Participant.*

All other provisions of the Plan as in effect prior to this Amendment shall remain unchanged by this Amendment.

Executed this _____ day of _____, 2021.

Washington Township Health Care District

By: _____

Title: Chief Executive Officer