



Tangled Up In Blue Corporate Un-Accountability in the Proposed Premera Conversion

Premera: The non-profit health insurer that had no plans to go for-profit

In February 2000, top executives from Premera Blue Cross assured Washington legislators and the public that the non-profit health insurer had no plans to go for-profit. “Premera Blue Cross has served the people of this state as a non-profit from its inception in 1945. We have no plans to convert to for-profit status, and the issue of conversion is not even under consideration by the company,” wrote then Chief Executive Officer and Vice Chair of the Board of Directors, Betty Woods, and then President Chief Operating Officer and CEO elect, H.R. Brereton “Gubby” Barlow, in a February 17, 2000 letter. This letter was addressed to Senator Pat Thibaudeau, then Chair of the Senate Health and Long Term Care Committee.

Yet on May 31, 2002 Premera announced its intention to convert and become a for-profit. What’s at stake in the deal?—nothing less than the future of health care access in Washington and the protection of the estimated \$2 billion in non-profit assets that Premera currently holds.

And who really stands to benefit if Premera goes for-profit? As currently proposed, Washington could wind up with a for-profit Premera run by executives without adequate corporate accountability. This raises questions about who will really profit from the deal.

Why worry about Premera’s corporate accountability?

If the proposed conversion is approved, it will create the largest for-profit health insurer in our state. How this company acts, both as a player in the health system and as a corporate citizen, is critically important for our state’s health.

Past health insurer conversions have resulted in top executives making millions from the deals. The Premera Watch Coalition needs full access to the Premera conversion documents in order to “follow the money” and determine who, if anyone, is making private profit from the nonprofit assets held by Premera. As in recent corporate scandals, companies with little corporate accountability may fall victim to the avarice of well-placed executives and the compromised decisions of hand-picked board members.

December 16, 2002. The Premera Watch Coalition includes the following organizations: Children’s Alliance, Northwest Federation of Community Organizations, Northwest Health Law Advocates, Service Employees International Union State Council, Washington Academy of Family Physicians, Washington Association of Churches, Washington Citizen Action, Washington Protection and Advocacy System, Washington State NOW, and Welfare Rights Organizing Coalition.

Insulating the Board of Directors and management of for-profit Premera?

The documents made public so far reveal that Premera proposes a complex web of agreements and definitions designed to protect the initial board and management of the for-profit company. Premera is proposing to place the initial stock of for-profit Premera in a shareholding foundation that would eventually sell the stock and make grants to charitable foundations in Washington and Alaska.[♦] This means that, at least for some period, the shareholding foundation would be the sole or majority owner of for-profit Premera.

But it appears that the shareholding foundation would be controlled by the company it owns, rather than the other way around.

- **Premera’s proposal turns the definition of “Independent Director” on its head.** A majority of members of the Premera Board of Directors would have to be “independent directors.” Yet Premera proposes to define “independent director” in its charter documents not as someone who is “independent” from the for-profit company but instead as someone not connected in any way to the shareholding foundation or to any shareholder with stock above its set ownership limits. This is contrary to best practices throughout corporate America.
- **Premera’s Initial Board will likely be self-perpetuating.** The proposed agreements will require the shareholding foundation to place all of its Premera stock in a trust in which the trustee must vote the stock according to the wishes of the so-called “independent” Premera Board members. This will perpetuate the initial Premera board and its chosen successors. Even after the shareholding foundation has sold all of its stock, Premera proposes another agreement that could prevent individual or institutional owners of Premera stock—even those with a significant or even controlling interest—from exerting any significant voting power over the Premera Board.
- **Premera’s Board could merge or sell the company, even if the shareholding foundation opposes the deal.** Under the proposed agreements, if Premera decides to sell itself to another for-profit, the shareholding foundation would not be able to vote against the sale, even if the shareholding foundation believes that the sale is not in the best interest of the company or the community. The shareholding foundation cannot even discuss the sale of its stock with a potential or alternative buyer.
- **The shareholding foundation is prohibited from bringing a lawsuit against Premera to protect its rights.** Under the proposed agreements, the shareholding foundation cannot challenge any of the agreements, nor dispute any effort by Premera to enforce the agreements, the terms of the shareholding foundation’s charter documents, or a decision by the Premera Board that a takeover should occur.

Under Premera’s plan, the shareholding foundation would be powerless to stop the Premera Board from voting handsome bonuses, stock options and other forms of compensation to its executives and the Board itself.

[♦] The documents filed by Premera raise serious concerns about whether this scheme would adequately protect the non-profit assets Premera currently holds.