



NATALIE A. HUBLEY
PRESIDENT

COMMONWEALTH AUTOMOBILE REINSURERS

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ADDITIONAL INFORMATION

TO MEMBERS OF THE GOVERNING COMMITTEE

FOR THE MEETING OF:

Wednesday, February 15, 2023, at 10:30 a.m.

GC

23.07 Compliance and Operations Committee

The Records of the Compliance and Operations Committee meeting of February 1, 2023 are attached. (Docket #GC23.07, Exhibit #1)

The Records of the Compliance and Operations Committee meeting of February 1, 2023 have been distributed and are on file.

GC

23.08 Financial Audit Committee

The Records of the Financial Audit Committee meeting of February 7, 2023 are attached. (Docket #GC23.08, Exhibit #1)

The Records of the Financial Audit Committee meeting of February 7, 2023 have been distributed and are on file.

GC

23.09 Personnel Committee

The Records of the Personnel Committee meeting of February 8, 2023 are attached. (Docket #GC23.09, Exhibit #1)

The Records of the Personnel Committee meeting of February 8, 2023 have been distributed and are on file.

NATALIE A. HUBLEY
President

Attachments

Boston, Massachusetts
February 9, 2023

CAR | **Commercial Claims Performance Standards**
Appendix H | **Chapter 175, Section 24D-24E**
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<u>PART I ADMINISTRATION OF THE GOVERNMENT</u>
<u>TITLE XXII CORPORATIONS</u>
<u>CHAPTER 175 INSURANCE</u>
<u>Section 24E Duty to assist recovery of public benefits; denial of claims; penalties; electronic access; wrongful use; emergencies</u>

Section 24E. (a) Notwithstanding the provisions of any general or special law or rule or regulation to the contrary, prior to making any nonrecurring payment equal to or in excess of \$500 to a claimant under a contract of insurance, every company authorized to issue policies of insurance pursuant to this chapter shall exchange information with the division of medical assistance and the department of transitional assistance for use by said agencies for the purpose of the recovery of public assistance benefits. The company shall either provide the division of medical assistance and the department of transitional assistance with information about the claimant or examine information made available by said agencies and updated not more than once a month. If the company elects to provide the division of medical assistance and the department of transitional assistance with information about a claimant, the company shall provide to said agencies, not less than ten business days prior to making payment to such claimant, the claimant's name, address, date of birth and social security number as appearing in the company's files and such other information appearing in the company's files as said agencies may require. The company shall use a method and format prescribed by the division of medical assistance and the department of transitional assistance but if the company is unable to use a method and format prescribed by said agencies, such company shall cooperate with said agencies to identify another method or format, including submission of written materials. If the company elects to examine information made available by the division of medical assistance and/or the department of transitional assistance concerning individuals who have received public assistance benefits and may be subject to a lien to secure repayment, the company shall notify the division of medical assistance and the department of transitional assistance, not less than ten business days prior to making payment to a claimant who has received public assistance benefits and may be subject to a lien to secure repayment, of the claimant's name, address, date of birth and social security number as appearing in the company's files and such other information appearing in the company's files as said agencies may require. A company shall not share information with the agencies if doing so would require the companies to violate the claimant's right to privacy under state or federal law.

For the purpose of this section, the word "claimant" shall mean an individual who brings a claim against an insured party under a liability insurance policy issued in the Commonwealth or under the liability coverage portion of a multiperil policy issued in the Commonwealth. For the purposes of this section, the term "non-recurring payment" does not include fines paid by companies to claimants pursuant to subsection (f).

(b) An individual making, a claim governed by this section shall provide his current address, date of birth and social security number to the insurance company, upon the request of the company. Such company may inform the claimant that such request is being made in accordance with this section for the purpose of assisting the division of medical assistance and the department of transitional assistance in the recovery of public assistance benefits. Any such individual who refuses to provide the information required by this section shall not receive payment on the claim, and the company that declines payment on this basis shall be exempt from suit and immune from liability under this chapter or any other chapter or in any common law action in law or equity.

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(b.5) A company shall not be required under subsection (a) to exchange information with the division of medical assistance and the department of transitional assistance regarding payments to a third party where there is documentation showing that the third party has provided or agreed to provide the claimant with a benefit or service related to the claim including, but not limited to, the services of an attorney or a physician or payments for damage to or loss of real or personal property. Nothing herein shall subordinate the rights of the division of medical assistance under section 22 of chapter 118E and the department of transitional assistance under section 5G of chapter 18 to other third parties.

(c) Pursuant to regulations issued by the secretary of the executive office of health and human services in consultation with the commissioner of insurance, a company that knowingly fails to accurately exchange information regarding a claim to which this section applies shall be subject to a penalty assessed by the division of medical assistance and the department of transitional assistance. A company that fails or refuses to surrender property subject to a lien to the agency shall be liable in the same manner as provided in paragraph (7) of subsection (b) of section 6 of said chapter 119A. A company that makes a payment to the division of medical assistance or the department of transitional assistance pursuant to this section and an insured individual on whose behalf the company makes a payment shall be immune from any obligation or liability to the claimant or other interested party arising from the payment, notwithstanding the provisions of this chapter or any other law.

(d) The division of medical assistance, the department of transitional assistance and the Title IV-D agency shall use their best efforts to make mutually satisfactory arrangements so companies have a single point of entry for accessing and transmitting information electronically pursuant to this section and section 24D. The division of medical assistance and the department of transitional assistance shall provide the Title IV-D agency with access to information regarding individuals receiving assistance under their programs for that purpose and so that a company can be informed if the claimant or the claimant's heirs or legal representative may owe monies to the division or the department.

(e) Information provided by the division of medical assistance and the department of transitional assistance to a company under this section may only be used for the purpose of assisting the division or the department in collecting public assistance benefits. Any individual or company who uses such information for any other purpose shall be liable in a civil action to both the division or department and the claimant in the amount of \$1,000 each, for each violation.

(f) In the event of a state of emergency declared by the governor or the president of the United States, the commissioner of insurance may temporarily suspend the application of this section to claims made due to the conditions resulting in such state of emergency.

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Appendix J | **CAR SIU File Review Process**
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- A. The CAR SIU is charged with monitoring the efforts of the SCs to control fraud. A biennial evaluation of each SC's SIU is conducted to examine the overall SIU operation and quality of investigations.

File Selection and Review

- B. A random sample of ~~approximately~~ 25 voluntary and ceded referrals from the SIU Quarterly Activity Log pertaining to claims or underwriting is selected. Files are reviewed to determine the ability of the staff to recognize potentially fraudulent claims and the quality of the SIU investigations. In addition, CAR reviews the accuracy of the savings reported to CAR. An examination of the effectiveness of the carriers' fraud screening and the SIU referral process has been incorporated into the biennial Claims Reviews. Cases will be evaluated on the quality of investigation, timeliness of investigation, resolution, statutory requirements, and accuracy of savings.

The evaluation of savings is based on the Saved Amount reported in the claims activity log. The Saved Amount reported for physical damage losses should be based upon the appraisal. Property Damage savings should also be based on the appraisal. If there is no appraisal available, the current reserve should be reported as the Saved Amount. PIP savings should be based on the total amount of medical bills less any cost containment results and should be reported as the Saved Amount. If there were no medical bills submitted, the current reserve should be reported as the Saved Amount. Bodily Injury savings and the reported Saved Amount should be based on the settlement evaluation referenced in Section A.6.a.-f. of Standard II: Bodily Injury & Uninsured/Underinsured Motorist.

- C. Rule 10.C.1. requires that the SC's SIU investigate suspicious circumstances surrounding underwriting, rating and premium issues. Also that a claim shall not be investigated by the SIU solely on the basis that the claim arises from a ceded policy. Additionally, Rule 10.C.2. requires the SC to conduct an audit of a representative sample of policies to verify garaging and policy facts using the template available on CAR's website. The completed audit reports verifying garaging and policy facts conducted by the SC's SIU shall be emailed to siulog@commauto.com at the end of each quarter and no later than the 15th of the following month. The SIU relevant components are included in the Commercial Claims Performance Standards Report and SIU Evaluation. This report is considered by the Compliance and Operations Committee upon completion.

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Appendix M | **NAIC Standards**
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The NAIC Standards for Claims as defined in the NAIC Market Conduct Examiners Handbook Chapter VIII are based on two model acts, the Unfair Claims Settlement Practices Act and the Unfair Property and Casualty Claims Settlement Practices Model Regulation.

- In Massachusetts unfair claim settlement practices are defined in G.L. c.176D, §3 Unfair Methods of Competition and Unfair and Deceptive Acts and Practices in the Business of Insurance.
- CAR Rule 32 is modeled on this statute and contains the elements of unfair claim settlement practices defined in §3. 9.

The following identifies where the NAIC Standards are contained in Rule 32 and the Performance Standards:

A. NAIC Standard 1

1. Description

The initial contact by the company with the claimant is within the required timeframe.

2. Performance Standards References

a. Standard I.B.2.b.: Physical Damage Contact

Contact with involved parties to secure sufficient documentation of facts involving accident circumstances, to verify occurrence, and to establish degree of fault should be timely and, in cases where no injuries reported, appropriate to the loss.

b. Standard II.A.3.a. - c.: Bodily Injury Contact

Injured persons or their legal representative making a claim should be contacted within 2 business days of receipt of notice of injury for purposes of investigation and verification.

The named insured, if not an injured party, should be contacted within 3 business days of receipt of notice of injury for purposes of investigation and verification.

The insured operator, if not one of the above, should be contacted within 3 business days of receipt of notice of injury for purposes of investigation and verification.

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c. Standard III.B.1. - 4.: PIP Contact

Injured persons or their legal representative making a claim should be contacted within 2 business days of receipt of notice of injury for purposes of investigation and verification.

The named insured, if not an injured party, should be contacted within 3 business days of receipt of notice of injury for purposes of investigation and verification.

The insured operator, if not one of the above, should be contacted within 3 business days of receipt of notice of injury for purposes of investigation and verification.

Necessary forms should be mailed within 5 business days after notice of injury.

B. NAIC Standard 2

1. Description

Timely investigations are conducted.

2. CAR Rules of Operation

Rule 32

Claim practices of each ARC shall correspond with those followed for voluntary business, and ARCs shall, in accordance with the Performance Standards and Best Practices:

Comply with the standards for prompt investigation of claims.

3. Performance Standards References

a. Standard I.B.2.b.: Physical Damage Initial Screening and Investigation

Contact with involved parties to secure sufficient documentation of facts involving accident circumstances, verify occurrence, and establish degree of fault should be timely and, in cases where no injuries reported, appropriate to the loss.

b. Standard II.A.2.a. - d.: BI Initial Investigation

Review policy information to verify coverage and resolve any coverage issues.

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Contact involved parties and secure sufficient documentation of facts involving accident circumstances to verify occurrence and to establish degree of fault.

Secure documentation to verify that all alleged injured parties were actually involved in the accident.

Review and evaluate discrepancies and fraud indicators to determine scope of further investigation.

c. Standard III.A.1. – 2.: PIP Initial Screening and Investigation

Initial investigation should confirm that coverage is appropriate:

- Date of loss within policy period and all policy coverage is in order.
- Injured persons are eligible for no-fault benefits.
- Private health insurance availability should be verified and documented.
- Injuries arise from use of motor vehicle.
- Massachusetts statute applies.
- No exclusions apply, such as drunk driving, stolen car, and workers compensation.

C. NAIC Standard 3

1. Description

Claims are resolved in a timely manner.

2. CAR Rules of Operation

a. Rule 32

Claim practices of each ARC shall correspond with those followed for voluntary business, and ARCs shall, in accordance with the Performance Standards and Best Practices:

Effectuate prompt, fair and equitable settlements of claims in which liability is reasonably clear.

In the handling of residual market claims, ARCs shall not:

Fail to promptly settle claims, where liability is reasonably clear, under one portion of the policy coverage in order to influence settlements under other portions of the policy coverage.

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3. Performance Standards References

a. Standard I.B.4.a.: Physical Damage Prompt Evaluation and Settlement

After initial investigation is complete, a decision must be made to promptly process for settlement or refer case for special investigation.

b. Standard II.A.6.b.: Bodily Injury Settlement Negotiations or Denial

Evaluate and pursue warranted settlements when the injury and expense end result can be established

c. Standard III.F.1.f.: PIP Claims Payment

There should be no payment until the claimed loss has been verified and:

- Investigations promptly conducted, and upon agreement to pay, checks should be issued within 10 business days.

D. NAIC Standard 4

1. Description

The Company responds to claim correspondence in a timely manner.

2. CAR Rules of Operation

Rule 32

Claim practices of each ARC shall correspond with those followed for voluntary business, and ARCs shall, in accordance with the Performance Standards and Best Practices:

Acknowledge and act promptly upon communications regarding claims.

E. NAIC Standard 5

1. Description

Claim files are adequately documented.

2. Performance Standards References

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a. Standard I.C.4.: Physical Damage Evaluation and Settlement

The file must clearly document the basis for the decision and result.

b. Standard II.A.6.a.: Bodily Injury Settlement Negotiations or Denial

ARCs should have a settlement evaluation plan to obtain reasonable negotiated settlements of warranted claims. Settlements should be within approved range or the reason clearly documented if exceeded.

c. Standard II.B.3.: Bodily Injury Fraud Handling Evaluation and Settlement

The file must clearly document the basis for the decision and result.

d. Standard III.F.3.: PIP Claim Payment

The file shall clearly document the basis for the decision and result.

F. NAIC Standard 6

1. Description

Claims are properly handled in accordance with policy provisions and applicable statutes including HIPAA rules and regulations.

2. Performance Standards References

Introduction

The Performance Standards are developed to establish a benchmark for the handling of private passenger motor vehicle insurance claims. Also, these standards are designed to require compliance with Massachusetts laws and regulations regarding motor vehicle insurance and the CAR Rules of Operation. Any revisions to existing laws or regulations are incorporated into the Appendices as these are promulgated.

Several regulations and statutes are referenced in the Performance Standards and incorporated in the Appendices.

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G. NAIC Standard 7

1. Description

~~Company uses the reservation of rights and excess of loss letters, when appropriate~~
Company claim forms are appropriate for the type of product.

2. Performance Standards References

The use of required State forms is included in the Standards. ARC claim forms are reviewed as found in the claim reviews and commented upon in the Hybrid Audit Review if not appropriate.

~~a. Standard II.A.2.a.: Bodily Injury Initial Investigation~~

~~Reservation of Right letters and Excess of Loss letters should be used when and where appropriate.~~

~~b. Standard II.A.7.b.: Bodily Injury Cases in Suit~~

~~Reservation of Right letters and Excess of Loss letters should be used when and where appropriate.~~

H. NAIC Standard 8

1. Description

~~Deductible reimbursement to insured upon subrogation recovery is made in a timely and accurate manner~~
Claim files are reserved in accordance with the company's established procedures.

2. CAR Rules of Operation

Rule 32

Claim practices for each ARC shall correspond with those followed for voluntary business, and ARCs shall, in accordance with Performance Standards and Best Practices:

Maintain claim reserving procedures for claims arising out of residual market business commensurate with their procedures for claims arising out of voluntary business.

3. Performance Standard References

a. Standard I.B.2.f.: Physical Damage Initial Investigation

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The setting of initial reserves should be timely, reasonable, and follow documented ARC policy.

b. Standard II.A.2.e.: Bodily Injury Initial and Follow-up Investigation

The setting of initial reserves should be timely, reasonable, and follow documented ARC policy.

c. Standard II.A.5.e.: Bodily Injury Initial and Follow-Up Investigation

Changes to reserves should be timely, reasonable, and follow documented ARC policy.

d. Standard III.A.3.: PIP Initial Investigation

The setting of initial and subsequent reserves should be timely, reasonable, and follow documented company policy.

a. Standard I.B.6.b.: Physical Damage Claims Subrogation/Recovery

Upon subrogation Recovery the deductible shall be reimbursed in a timely and accurate manner when and where appropriate.

I. NAIC Standard 9

1. Description

a. Company claim forms are appropriate for the type of product. Denied and closed without payment claims are handled in accordance with policy provisions and state law.

b. The use of required State forms is included in the Standards. ARC claim forms are reviewed as found in the claim reviews and commented upon in the Hybrid Audit Review if not appropriate.

2. CAR Rules of Operation

Rule 32

Claim practices of each ARC shall correspond with those followed for voluntary business, and ARCs shall, in accordance with the Performance Standards and Best Practices:

Promptly provide a reasonable explanation for denial of a claim or for the offer of a compromise settlement.



NATALIE A. HUBLEY
PRESIDENT

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101 Arch Street, Suite 400 Boston, Massachusetts 02110

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RECORDS OF MEETING

FINANCIAL AUDIT COMMITTEE – FEBRUARY 7, 2023

Members Present

Mr. Thomas LaFrancois – Chair	Arbella Insurance Group
Mr. Matthew Anglim	Plymouth Rock Assurance Corporation
Ms. Pamela Bodenstab-Krynicky	P L Krynicky Insurance Agency
Mr. Christopher Burke	Safety Insurance Company
Mr. Sean Moone	Norfolk & Dedham Group
Mr. Henry Risman	Risman Insurance Agency, Inc.

Substituted for:
N/A

Not in Attendance:
Mr. Brian Breedan, MAPFRE U.S.A. Corporation

22.01 Records of Previous Meeting

On a roll call vote, the Committee voted unanimously to approve the Records of the Financial Audit Committee meeting of September 13, 2022. The Records have been distributed and are on file.

22.04 Annual Audit of CAR for Fiscal Year Ending September 30, 2022

Mr. John Buckley, representing Alexander, Aronson, Finning & Co. (AAF CPA), discussed the review of CAR's financial statements indicating that no differences were noted, and no adjustments were needed. Mr. Buckley advised that, based on the agreed upon procedures performed in accordance with standards established by the American Institute of Certified Public Accountants, and its review of CAR's financial statements, AAF CPA will issue a clean, unqualified review report as of, and for the year ending September 30, 2022. Mr. Thomas Perruna, representing AAF CPA, discussed the procedures performed and the auditor findings.

In response to a question regarding one tested Servicing Carrier without certain reports, Mr. Steven Gautieri explained that CAR's Settlement of Balances procedures allow that company groups may opt to share in CAR's underwriting results and administrative expenses either individually or as a group; the latter being the case of the tested Servicing Carrier, therefore the assumed balances are reflected on the group's Settlement of Balance Reports. One committee member also observed the large variance in the cash balance on the balance sheet as of 9/30/2022 versus 9/30/2021. Mr. Gautieri explained that the accounts receivable

balances for the September quarter cash flow were due prior to the close of the 2022 fiscal year, and accounts payable balances were due to participating Member Companies after the close of the fiscal year. The Committee also inquired about the status of CAR's implementation of new reporting standards for lease accounting. Mr. Gautieri advised that staff will adopt the standard, as required, with the fiscal year 2023 financial statements.

After a brief discussion, on a roll call vote, the Committee members voted unanimously to recommend to the Governing Committee approval of CAR's financial statements for the fiscal year ending September 30, 2022.

WENDY BROWNE
Vice President of Business Operations

Boston, Massachusetts
February 9, 2023



NATALIE A. HUBLEY
PRESIDENT

COMMONWEALTH AUTOMOBILE REINSURERS

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RECORDS OF MEETING

PERSONNEL COMMITTEE – FEBRUARY 8, 2023

Members Present

Mr. John Olivieri, Jr. – Chair
Ms. Sarah Clemens
Mr. Thomas DePaulo
Mr. William Hughes
Ms. Nicole Martorana
Mr. Christopher Taylor
Ms. Meredith Woodcock

J.K Olivieri Insurance Agency, Inc.
MAPFRE U.S.A. Corporation
Cabot Risk Strategies, LLC
Arbella Insurance Group
FBInsure, LLC
The Hanover Insurance Company
Liberty Mutual Insurance Companies

Substituted for:
N/A

Not in Attendance:
N/A

22.01 Records of Previous Meeting

The Committee unanimously voted to approve the Records of the Personnel Committee meeting of October 25, 2022. The Records have been distributed and are on file.

23.04 2023 Annual Merit Increase

Mr. Timothy Costain provided the current market context within which CAR's merit increase proposal was developed. He noted ongoing inflation and increases to the Consumer Price Index, the responsive Social Security cost of living adjustment and employer comments reflecting higher merit increase averages across the country. Mr. Costain reviewed merit increase information of industry-funded peer organizations to which CAR ties its merit increase recommendation, noting that CAR's proposed increase is in line with the average of those companies. He did not specifically provide member company experience, noting diminished survey participation resulting in a lack of representative data.

Ms. Natalie Hubley provided the rationale for the proposed merit increase for staff and the President's discretionary percentage for outstanding performers. She noted her intent to motivate and retain talented staff coupled with succession planning objectives to involve middle and lower-level staff more directly in problem solving and implementation of impactful solutions. Ms. Hubley stressed the recommendation is conservative and fiscally responsible within the current economic environment, adding that the discretionary compensation is substantially awarded as one-time payments and does not represent an increase to base salary. She noted that her overall merit recommendation is well within the range of the peer organizations but resulting in CAR's base salary level increase less than the average of the peer

organizations. She indicated that the approach balances the interest of the member companies to mitigate rising costs with her interests as an advocate for the staff to soften the impact of today's economic environment. Ms. Hubley proposed a 2023 merit increase percentage, plus an amount to target individuals whose performance is deserving of meaningful additional compensation.

The Committee unanimously voted to recommend to the Governing Committee adoption of a merit increase for calendar year 2023 as proposed by Ms. Hubley, with an additional percentage to be distributed on a discretionary basis by the President to deserving employees.

23.05 2023 Annual Range Movement

Staff provided a review of salary range survey information compiled by CAR including industry-funded peer organizations planned increases. As is the case with the merit increase process, member companies are surveyed, but they are not a group upon which CAR focuses based on the varying approaches and lack of consistency on which to draw applicable conclusions. Based on the survey information and in keeping with past practice, CAR continues to focus on alignment with peer organizations. A 2023 salary range increase percentage was proposed for the Committee's consideration.

There were questions about the different percentage increases proposed for merit and salary range and whether there were individuals whose salary had reached the maximum of their range. Staff provided an explanation of CAR's merit increase formula which mitigates the likelihood that employees will hit their salary range ceiling over time. As longer-term employees reach retirement that possibility is lessened.

Following discussion, the Committee unanimously voted to recommend to the Governing Committee a salary range increase percentage as recommended for calendar year 2023.

23.06 Officer Salary Recommendations

Ms. Hubley provided 2022 job performance assessments of Ms. Wendy Browne, Vice President of Business Operations and Mr. Peter McCabe, Vice President of Technical Operations. She indicated that both individuals were highly successful and productive in 2022 and identified numerous challenges and accomplishments of each officer.

Ms. Hubley proposed a salary increase for Ms. Browne and for Mr. McCabe consistent with the merit increase percentage approved for CAR staff for 2023.

The Committee unanimously voted to recommend to the Governing Committee a 2023 salary increase for Wendy Browne, Vice President of Business Operations, as proposed by Ms. Hubley.

The Committee also unanimously voted to recommend to the Governing Committee a 2023 salary increase for Peter McCabe, Vice President of Technical Operations, as proposed by Ms. Hubley.

23.07 President's Salary Recommendation

Committee Chair John Olivieri provided a review and assessment of CAR President, Natalie Hubley's 2022 job performance. He cited discussion of the President's 2022 performance objectives at the Committee's October 2022 meeting and subsequent discussion confirmed consensus among committee members regarding Ms. Hubley's job performance. There was a desire expressed by members to continue

efforts to ensure a competitive salary level for CAR's President. Accordingly, the Committee focused on identifying an increase percentage to responsibly reposition Ms. Hubley's 2023 salary within her salary range.

Following discussion, the Committee unanimously voted to recommend to the Governing Committee a merit increase for Ms. Hubley in 2023 pursuant to that objective.

TIMOTHY COSTAIN
Chief of Staff

Boston, Massachusetts
February 9, 2023