

California Achieving  
a Better Life  
Experience (CaABLE)  
for People with  
Disabilities



# Board Governance and ABLE Priorities

March 7, 2017

# Today's Agenda

	<u>Slide</u>
I. Overview	3
II. Governance and Fiduciary Duties	6
III. Fundamental Aspects of Options	11
IV. Market Update	18
V. Next Steps	22

# Section I.

## Overview

# Our Discussion Today

- **Board members as fiduciaries:**
  - **What does it mean?**
  - **Why does it matter?**
  - **How do we show good governance?**
- **As fiduciaries, the Board must evaluate the “best” ABLE option for California**
- **To determine that option, the Board must define its priorities:**
  - **Governance**
  - **Investment oversight**
  - **Service to California resident individuals with disabilities**
  - **Available in-State resources**
  - **Timing**



# Priorities to Consider

- **Governance = Control:**
  - Board is responsible for establishing and maintaining all Plan features
  - Plan represents California municipal securities
- **Investment Oversight = Design:**
  - Investments meet the needs of a broad array of investors
- **Services = Your Constituents:**
  - Plan includes design elements that matter to California beneficiaries
  - Fees are cost effective
- **In-State Resources = Your Costs:**
  - State appropriations or other revenue sources to cover implementation and ongoing costs
- **Timing:**
  - Launch meets the Board's 2017 timeframe

## Section II.

# Governance and Fiduciary Duties

# Governance of ABLE Plans

- **Section 529A directs States or agencies or instrumentalities to “establish and maintain” ABLE plans**
- **Boards act as fiduciaries:**
  - **Exercise discretion or control over audits, investments and policies related to account matters**
- **Fundamentally, fiduciary duty is based upon:**
  - **Common law**
  - **State statutes**
  - **Internal Revenue Service overlay**
- **By analogy, ERISA and Investment Company Act of 1940 may also provide guidance**

# Common Law Fiduciary Duties

- **Duty of Care**
  - **Act in good faith, in the best interest of the entity**
  - **Standard: ordinarily prudent person acting under similar circumstances**
- **Duty of Loyalty**
  - **Put entity's interests ahead of personal interests**
  - **Act solely for the benefit of participants and beneficiaries**
- **Duty of Obedience**
  - **Follow governing documents and the entity's mission**
  - **Comply with the law**
  - **Seek professional assistance where necessary**



# Internal Revenue Service Expectations

- **Exercise due diligence**
- **Have accountability for actions**
- **Meet standards for transparency and disclosure**
- **Establish financial controls (including accuracy in reporting financial transactions such as 1099-QA or 5498-QA information)**
- **Act independently**

# Demonstrating Good Governance

- Adoption of **Investment Policy Statements**
  - Establish roles, responsibilities and process
  - Define selection criteria and monitoring procedures
  - Determine ramifications for underperformance
- Establishment of **Performance Benchmarks**
  - Administration and operations
  - Marketing costs and results
  - Investment policies and performance targets
- Selection of **Program and Investment Managers**
  - Open and fair solicitations
  - Selections should reflect weighted criteria that bidders understand
  - If sole source procurement, basis for closed process should be clear
- Conduct **On-going Reviews**
  - Monthly investment results from Investment Manager
  - Quarterly reports from Program Manager
  - Independent quarterly reviews by an investment and industry consultants

## Section III.

# Fundamental Aspects of Options

# Overview of ABLE Options

Option	Implementation Structure	Potential Partners
A	An ABLE plan “established and maintained” by California	<p>BNY Mellon</p> <p>Intuition ABLE Systems</p> <p>Any Respondent to RFP</p>
B	<p>An ABLE plan “established and maintained” by California</p> <p>but done in conjunction with a multi-State consortium</p>	<p>Illinois as Lead State / Ascensus</p> <p>Potentially Oregon / BNY Mellon</p>
C	Entering into a partnership with another State’s ABLE Plan	<p>Nebraska</p> <p>Ohio</p> <p>Oregon</p> <p>Virginia</p>

# Fundamental Aspects: Governance and Control

- Board's role in creating a Plan drives other important matters:

	Option A	Option B	Option C
Plan established and maintained by:	CaIABLE Board	CaIABLE Board	Another State
Program managed by:	Turnkey program manager	Ascensus – Illinois BNY – Oregon	Another State
Board's duty to beneficiaries:	Full Fiduciary	Full Fiduciary	Arguably a Full Fiduciary
Municipal securities issued by:	California	California	Another State
California-Specific Benefits:	Available to California residents	Available to California residents	Availability is unclear

# Fundamental Aspects: Investment Oversight and Design

- Different Options provide varying degrees of flexibility on investments

	Option A	Option B	Option C
Plan established and maintained by:	CaIABLE Board	CaIABLE Board	Another State
Investment options designed by:	CaIABLE Board	Ascensus – Illinois Open – Oregon	Another State
Ability to change investment options:	As determined by Board investment policies	As permitted by the Consortium	At other State's discretion
Investment reporting:	As determined by Board	As determined by the Consortium	At other State's direction

# Fundamental Aspects: **Services to California Beneficiaries**

- Board has greatest ability to address Survey results under Option A:

	Option A	Option B	Option C
<b>Enrollment and account access determined by:</b>	Platform customized by Program Manager for CalABLE Board	Already in place with Ascensus	Platform already established by another State
<b>California Survey results:</b>	CalABLE Board can take all into account	Existing features may meet the needs of California beneficiaries	Existing features may meet the needs of California beneficiaries
<b>Marketing and outreach:</b>	As directed by CalABLE Board along with State advocates	Ascensus has marketing templates and materials  There should be a role for California advocates	Some States offer marketing materials  Others offer professional resources  There would be a role for California advocates

## Fundamental Aspects: **Costs**

- Implementation and operational cost should be highest for Option A and lowest for Option C:

	Option A	Option B	Option C
California Staff Professionals	Same needs as 529	Same needs as 529	Should be fewer than Options A or B
Program Manager Costs	In turnkey structure, Program Manager should bear start-up costs  Ongoing costs covered by beneficiary asset-based and annual account fees	Ongoing costs covered by beneficiary asset-based fees and possibly some portion of annual account fees	Some States seek start-up and ongoing payments
California Costs	CaIABLE Board would bear some disclosure, marketing and administration costs	Should be between Options A and C	CaIABLE Board would have minor disclosure, marketing and administration costs
Source for California Costs	Asset-based or annual account fees paid by beneficiaries or continuing appropriations	Add-on to annual account fees paid by beneficiaries	Unclear



# Fundamental Aspects: **Timing**

- October launch should be possible with all Options

	Option A	Option B	Option C
Launch by Q2 2017	Yes	Yes	Yes
Estimated Launch	Depends on RFP responses	Should be eight to ten weeks	Six to eight weeks
Factors Impacting launch	RFP responses Contract execution Design and customization Disclosure / marketing	Agreement with Consortium Implementing agreement with Ascensus Disclosure / marketing	Partner State agreement Disclosure / marketing
Additional Considerations	California Secure Choice	--	--

# Section IV.

## Market Update

# Available ABLÉ Plans

Status		States	
Independent States Launched		Florida Michigan Nebraska Ohio	Oregon Tennessee Virginia
Consortium States Launched		Alaska Illinois Iowa Kansas	Minnesota Nevada North Carolina Rhode Island
Partner States Launched		Alabama (Nebraska) Kentucky (Ohio) Vermont (Ohio)	
Expected Launch 2017 Q1	Consortium	Arizona Montana	New Jersey Pennsylvania
	Partner States	South Carolina (Ohio) Georgia (Ohio)	

# Overview of Participant Fees

State Provider	Participants	Program Management	Underlying Investments	Total Fees	Account Maintenance Fees	
					Residents	Non-residents
<b>Consortium States Ascensus</b>	All	0.32%	0.02-0.06%	0.34-0.38%	\$10 - \$15 p/quarter (\$40-\$60) <sup>1</sup>	same
<b>Florida Intuition</b>	Residents only	Not specified	Not specified	0.29% 0.035% Money Mkt	\$2.50 p/month (\$30) Waived Year 1	--
<b>Michigan TSA Consulting</b>	All	0.50%	0.17-0.28%	0.67-0.78% 0.50% FDIC	\$11.25 p/quarter (\$45)	same
<b>Nebraska FNBO</b>	All	0.50%	0.05-0.06%	0.55-0.56% 0.50% FDIC	\$11.25 p/quarter (\$45)	same
<b>Ohio Intuition</b>	Residents only	0.19%	0.12-0.15%	0.31-0.34% 0.19% FDIC	\$2.50 p/month (\$30)	--
	Partners	0.19%	0.12-0.15%	0.31-0.34% 0.19% FDIC	--	\$3.50 p/month (\$42)
	All Others	0.45%	0.12-0.15%	0.57-0.60% 0.45% FDIC	--	\$3.50 p/month (\$42)
<b>Oregon BNY Mellon</b>	OR ABLE: Residents only	0.30%	0.0647-0.081%	0.3647-0.381% 0.30% Cash	\$11.25 p/quarter (\$45) \$22.50 for Year 1	--
	ABLE for All: Non-residents	0.30%	0.0647-0.081%	0.3647-0.381% 0.30% Cash	--	\$55 p/year
<b>Tennessee Envision</b>	All	0-0.31%	0.04-0.62%	0.35% 0% FDIC	None specified	None specified
<b>Virginia PNC</b>	All	0.25%	0.12-0.15%	0.37-0.40% 0.39% Money Mkt 0% FDIC	\$3.25 p/month (\$39)	Same

<sup>1</sup>Consortium Plans at \$55 and \$60 account maintenance fee will be reduced by \$3.75 p/quarter for accounts that elect the e-delivery option

## Example: Annual Account Fee Calculation

State Plan Implementation Structure Investment Option	Oregon A or C Moderate	Rhode Island B Growth	North Carolina B Growth	Michigan C Balanced
<b>Total Annual Fee Calculation:</b>				
Assumed Assets	\$3,000	\$3,000	\$3,000	\$3,000
Stated Asset-based Fee (bp)	0.3738%	0.38%	0.38%	0.72%
Stated Asset-based Fee (\$)	\$11.21	\$11.40	\$11.40	\$21.60
Annual Maintenance Fee	45.00	40.00	60.00	45.00
<b>Total Annual Fees</b>	<b>\$56.21</b>	<b>\$51.40</b>	<b>\$71.40</b>	<b>\$66.60</b>
<b>Overall Asset-based Fee Calculation:</b>				
Assumed Assets	\$3,000	\$3,000	\$3,000	\$3,000
Total Annual Fee	\$56.21	\$51.40	\$71.40	\$66.60
<b>Overall Asset-based Fee</b>	<b>1.87%</b>	<b>1.71%</b>	<b>2.38%</b>	<b>2.22%</b>

# Section V.

## Next Steps

# Near Term Actions and Considerations

- Select an independent investment consultant
- Consider importance of each factor:
  - Does the CalABLE Board want to establish and maintain its own Plan?
    - *This preserves flexibility in Plan design*
    - *Consider investment options and other design elements*
  - If so, how important is timing of launch?
    - *Board may be able to move more quickly with the Illinois-based Consortium than Option A*
  - Are you meeting the needs and desires of the California disability communities?
    - *Options B and C offer relatively low cost solutions*
    - *Can you offer an Option A solution at an attractive price*
- Solicit additional information from viable State and other partners