

MASSACHUSETTS MEDICAL MALPRACTICE
REINSURANCE PLAN

GOVERNING COMMITTEE

Minutes of a Meeting

Tuesday, December 9, 2008

A Meeting of the Governing Committee of the Massachusetts Medical Malpractice Reinsurance Plan (“MMMRP”; the Plan) was held at the Executive Offices, 95A Turnpike Road, Westborough, MA on Tuesday, December 9, 2008 at 9:30AM.

The following members were present:

William T. McGrail, Chairman
John S. Coldiron, MD, Vice-Chairman
Gerald J. Cassidy
Jill A. Gold (*via teleconference*)
Peter T. Robertson, Esq.

The following MMMRP Staff/Consultants/Sub-Committee members were present:

Dolores Ivester
Susan S. Smith, Director of Administration
Moe Edwards, CPA, CFO
James Bacon, Investment Committee

Richard Hayes, ProMutual

Gerald Condon, Division of Insurance
Matt Mancia, Esq., Division of Insurance

1. Call to Order

Mr. McGrail called the meeting to order at 9:36 AM. Ms. Susan Smith kept a record of the proceedings.

2. Quorum and Notice

Mr. McGrail stated all committee members were in attendance, noting one member on teleconference, and that a quorum was present at the meeting. Mr. McGrail reported that the

required notices for the meeting had been sent to the Secretary of State, Executive Office of the Administration and Finance, and the Division of Insurance and placed on the Plan's website.

3. Minutes of Prior Meeting

Mr. McGrail noted the minutes to the previous meeting had been distributed to all in attendance. A **motion** was made by Dr. Coldiron and duly seconded by Mr. Cassidy to approve the October 21, 2008 minutes as presented. The motion passed unanimously.

4. Report of the Compliance Committee – Peter T. Robertson, Esq.

Mr. Robertson provided an update on the activity of the Compliance Committee. He noted that the Committee met on November 17, 2008 at the offices of Towers Perrin in Boston. He gave an update on the Reserves, and noted a substantial take down. He added that the bottom line is to move to the "best estimate" scenario, which will decrease the Reserves by \$27.5 million. He added that the Plan is in a difficult situation between tax implications and take downs. Towers Perrin had presented various scenarios for the financial operation of the fund, but they deferred decision based on further discussion. Mr. Robertson suggested the "bottom line" was to recommend the return of \$12-16 million of premium in 2009. Mr. Edwards added that he anticipates \$15-16 million in income, before assessments, by year-end. Since the Compliance Committee meeting, Mr. Edwards examined further and has two scenarios to consider:

A. \$8 million give back with a \$100,000 tax

B. \$6 million give back with a \$200,000 tax

Considering the volatility in take-downs combined with increased claims payout, Mr. McGrail recommended an \$8 million return of premium to keep sufficient cash for our needs.

A **motion** was made by Mr. Cassidy and duly seconded by Mr. Coldiron to approve the return of Assessment of \$8 million paid out towards the end of the first quarter of 2009. Mr.

Robertson was opposed as he felt otherwise and would prefer doing something to move towards a 55% confidence level. The motion passed by majority vote.

5. Report of the Operations/Audit Committee – John S. Coldiron, MD

Mr. Coldiron stated that the Operations/Audit Committee met yesterday and reviewed the 2009 budget. The Operations/Audit Committee recommends that the Governing Committee approve the budget as prepared. It was then noted that several Governing Committee members had not received the budget prior to the meeting. Therefore, the final vote was tabled until the next Governing Committee meeting due to email issues. Ms. Smith will email the budget to the Governing Committee.

Mr. Coldiron then noted that the Operations/Audit Committee had reviewed the Auditor engagement letter from the firm Saslow, Lufkin & Buggy. He commented that the Committee had been satisfied with their performance. Mr. McGrail further noted that SL&B has been responsive, consistent and have reasonable fees. He noted that the increase in fees was due to new reporting requirements. Some members of the Governing Committee questioned the increase in price from \$40k to \$46k. Mr. Edwards said he would provide a breakdown of their fees from the past three years. It was also suggested by Mr. Roberston and others present that MMMRP gets to know the next partner to get everyone comfortable and prepared for the following year when the partners rotate.

A **motion** was made by Ms. Gold and duly seconded by Mr. Coldiron to approve the appointment of Saslow, Lufkin & Buggy as the 2008 Audit firm. The motion passed unanimously.

6. Report of the Investment Committee – James R. Bacon

Mr. McGrail began by noting that Mr. Kiely had requested a change in his Committee role due to his schedule. To that end, Mr. Bacon has accepted the position of Chair of the Investment Committee, as well as a seat on the Operations/Audit Committee.

Mr. Bacon then began his report with a brief synopsis of financial market conditions, noting that US Equities are the top performing market in the world. He also noted that the Investment Committee met yesterday. He then mentioned the recent shift from actively managed equities to an ETF structure, which reduces cost factors and management issues. He added that equities were off for the plan, and that the 80% in fixed income was down less than one percentage point through October, including the two defaults with Lehman bonds. Equities, which are only 20% of the portfolio, were off 40%, and the entire plan was off a total of 8.5. Therefore, the Committee proposes a rebalance to get to a reasonable balance because fixed income is overweighted and equities are underweighted, and they need to get back to the 80/20 benchmark. Mr. Bacon stated that the Investment Committee came to a compromise at yesterday's meeting, and suggests a reallocation of \$1 million. A discussion then ensued about market conditions and projections of recovery.

A **motion** was made by Mr. Coldiron and duly seconded by Mr. Cassidy to approve the repositioning of the portfolio by moving \$1 million from bonds to equities. The motion passed unanimously.

Mr. Bacon then discussed the Lehman bond situation, noting that Barclays is buying most of the brokerage unit, and that Lehman could be an impaired asset, an issue which should be avoided with the Audit. It was added that there is an option to buy back in 31 days, and there is also a tax deduction.

A **motion** was made by Mr. Robertson and duly seconded by Mr. Coldiron to approve the sale of Lehman bonds. The motion passed unanimously. It was further noted that due to the large size and amount of the sale a vote was requested.

7. Scheduling of 2009 Meetings

The Governing Committee agreed to the following four meetings dates for 2009. If anyone has any conflicts, please contact Susan Smith.

- 1) Tuesday, February 24, 2009
- 2) Thursday May 7, 2009 (in combination with the Annual Meeting)
- 3) Tuesday, August 4, 2009
- 4) Tuesday, December 8, 2009

8. Other Business

Mr. McGrail said he would like to return to a discussion of the financial structure of the plan. A discussion ensued regarding the possibility of structuring the plan similar to the Auto Plan, which is a Partnership, where an assessment is paid out each year, they don't hold premiums and there is a reallocation to members based on deficit. The Committee acknowledged that a pure Auto type of plan could be logistically difficult. Mr. McGrail agreed that the next steps would involve discussing this further with the DOI and the Accounting firm. He further suggested speaking to Carl Valvo, MMMRP's legal counsel, about this topic. Mr. Robertson suggested that there could be a range of solutions. Lastly, Mr. Hayes from ProMutual discussed the investment make-up of his firm.

Adjournment

A **motion** was made and duly seconded to adjourn the December 9, 2008 Governing Committee meeting at 10:38AM. The motion passed unanimously.

A true record transcribed on December 12, 2008.

MMMRP Chairman/Officer

ACTION ITEMS:

Current:

- Ms. Smith will email the budget to the Committee
- Mr. Edwards will distribute a listing of the fees paid to SL&B for the past three years.
- Mr. McGrail will contact the DOI, SL&B and Carl Valvo to inquire about options for the financial restructuring of the plan.