

**MAINE GUARANTEED ACCESS REINSURANCE ASSOCIATION**  
**Minutes of the Board of Directors**  
**April 8, 2014**

A regular meeting of the Board of Directors of the Maine Guaranteed Access Reinsurance Association (“MGARA” or the “Association”) was held at 3:00 p.m. on April 8, 2014 at the Pierce Atwood offices in Portland. Attendance is reflected in the record of attendance set forth below:

Jennifer Juke	Edward J. Kane
Katherine Pelletreau	Christopher T. Roach
William M. Whitmore	Jolan F. Ippolito
Joel Allumbaugh	Dana Kempton
	Dr. David Howes

Also in attendance were Chris Howard and Laren Walker.

**1. Approval of Minutes**

The Board reviewed the minutes of the March 17, 2014 meeting. On motion duly made and seconded it was

RESOLVED: To approve the Minutes of the Board’s March 17, 2014 meeting, as presented.

**2. Monthly Operations Report**

Laren Walker presented the Monthly Operations Report for the month of February 2014. The focus of discussion was on the level of claims, as there is virtually no other activity flowing through the financial statements at this point. The Association booked only \$2.8 million in claims through the end of February. Mr. Walker reported an estimate of approximately \$500,000 in claims through the end of March. Assuming this trend continues, the remaining IBNR of \$6.2 million appears to be sufficient. The carrier members of the Board confirmed that they are not aware of any large 2013 claims being reserved for, although this information is purely anecdotal.

Mr. Walker reviewed with the Board the addition of a “change in IBNR” line to the financial statements in order to more accurately portray the impact of claims payments on IBNR and fund balance.

Mr. Walker indicated that he has given Keybank direction to continue liquidating short-term investments, as needed, to fund cash requirements.

**3. Update re 501(c)(26) Ruling Request**

Mr. Howard reported to the Board regarding communications with the Internal Revenue Service on the Association’s ruling request. He explained the IRS has raised an issue with respect to whether or not the health insurance reinsured under the MGARA program satisfies the definition of “health insurance” under the Internal Revenue Code. The questions highlight a “gap” in the ACA in that it did not update the IRC definition of health insurance to reflect ACA mandates, including extending insurance to domestic partners and insuring children through age 26. Mr. Howard indicated that he felt MGARA’s position on these particular issues was quite strong; however, he cautioned the Board that the IRS has not yet asked the most critical question, which is whether “reinsurance”

actually, constitutes insurance under the IRC. This is a much more challenging question and has been the principal uncertainty underlying the Association's 501(c)(26) status, from inception.

#### **4. Newborn Late Ceding Decision**

Ameriben sought the Board's informal views on the ceding request made by Harvard Pilgrim with respect to the severely premature infant. The Board reviewed the information presented, without reaching any conclusions. The Board recommended that Ameriben obtain additional information regarding all communications between the hospital and Harvard Pilgrim regarding this infant, such that a determination could be made whether there were any communications other than billing that should have made Harvard Pilgrim aware of the infant's condition, prior to the expiration of the ceding deadline.

#### **5. Suspension Plan**

The Board reviewed the Suspension Plan presented in the Board package. Following that review and discussion, there were three recommendations:

- The Plan should be filed as close to the June 30 deadline as possible, so as to reflect the most up to date information available.
- The Plan should reflect a reserve for any adverse decision on the 501(c)(26) ruling request.
- Reference to conversion of investments to short term should be revised to reflect the actual portfolio.

The Board discussed the possibility of filling vacant positions on the Board through appointments by the Superintendent. Mr. Howard was directed to contact the Superintendent to discuss possible appointments, although it is clearly recognized that filling Board seats for a suspended company is not highly likely.

#### **6. Meeting Schedule**

The Board discussed dates for 2014 Board meetings, and decided upon the following:

May 19, 2014  
June 23, 2014  
September 15, 2014  
December 15, 2014

There being no further business to come before the board, the meeting was adjourned.



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Its Duly Authorized Officer