

IDAHO HEALTH INSURANCE EXCHANGE DBA YOUR HEALTH IDAHO SPECIAL BOARD MEETING MINUTES

November 4, 2013

9:00 AM – 9:30 AM

Call to Order

Offices of Hawley Troxell

877 Main Street, Boise Idaho 83702

Chair Stephen Weeg called the meeting to order @ 9:01AM

Roll Call

Jeff Agenbroad, Finance Chair provided the roll call in the absence of the Board Secretary.

Members:

Scott Kreiling, Zelda Geyer-Sylvia, Jeff Agenbroad, Kevin Settles, Fernando Veloz, John Livingston, Dick Armstrong

Via phone: Stephen Weeg, Hyatt Erstad, Tom Shores, Dave Self, Mark Estess, John Rusche, Karen Vauk, Kelley Packer, Margaret Henbest

Absent: Jim Rice, Bill Deal

Additional Attendees: Mike Stoddard and Tom Mortell, Hawley Troxell

Chair Weeg asked Vice-Chair Kreiling to chair the meeting as Mr. Kreiling was present in the meeting room.

Agenda: Congressional Committee Request

Chair Stephen Weeg said that as most of the board is aware, YHI received a request from the U.S. House of Representatives Committee on Oversight and Government Reform last week. This special meeting was called due to the timing concerns and the dollars involved. The Chairman asked YHI Executive Director Amy Dowd and attorney Mike Stoddard of Hawley-Troxell to share the background and discuss the research on the request that had been conducted thus far.

Tom Mortell of Hawley-Troxell stated that the request is not a subpoena but a request for information within a very short timeframe. Tom made clear that this committee has subpoenaed documents from other entities and that a subpoena leads to a much more rigorous process with the oversight of court. Therefore, YHI should respond with documents that we think are required. Tom expressed his view that the first step would be to reach out to the

committee regarding their requests and see if they would give us some additional time, and secondly if they would pare back their requests. If you read carefully, you will see that Items #1-8 deal with the in-person assistor program, and Item #9 deals with outreach and education.

Rep. Kelly Packer asked Tom Mortell if this is just a routine process or is there something that triggered this? Tom said he would defer to Amy Dowd on that, as she understands more broadly with the context to other states and CMS.

Amy explained that it is her understanding that the request is not Idaho specific, has gone to multiple states, and is a state-exchange specific request. In fact, we believe it has gone to all states however we do not have a way to confirm that. But we do know that there are a number of other states including Washington, Oregon, California, Nevada, Kentucky, Hawaii, Minnesota, have confirmed they also received the request. During a call on Friday it appeared that each state was waiting to see how the other states would respond. California said they planned to respond thinly and address the spirit of the request; other states were going to treat it more like a public records request and provide more detail. However there was consensus that they are going to need more time, no matter what level of response they planned.

Margaret Henbest noted that the request is quite broad and asked if anyone on the board or staff could offer comments on the specific goals of the request so that YHI we can target its response.

Tom Mortell said he didn't really have a response for that. Mike Stoddard said that if you look at the requests, Items 1-8 are focused on our in-person assistor program, and Item #9 is arguably more work than the first 8 combined. The in-person assistor appears to be their primary focus.

Scott Kreiling noted that the IPA program appears to be of most interest to the Committee.

Dr. John Livingston added that it appears to him the Committee is mostly addressing HHS, and not YHI's activities. Dave Self agreed.

Tom Mortell expressed his view that the Committee wants to determine if the states have done the minimal level required to assure security through the IPA process or whether we have exercised discretion to add things like background checks and other more rigorous protections in our in-person assistor program.

Scott Kreiling noted that multiple states have received this request, and that Idaho is not being isolated. Scott posed a question about whether YHI could ask the committee for an extension on this and also decide the cost in time and dollars that the board is comfortable with.

Dave Self inquired whether YHI has had a chance to contact our congressional group to have them assist.

Margaret Henbest recommended that YHI contact Idaho's representatives in Congress to see if they have any insight that goes beyond the letter.

Kevin Settles shared his view that the board needs to decide what it is trying to achieve here and to decide where its priorities are. He stated that it makes sense to reach out, maybe through Rep. Simpson's office and see if we can get an extension in the response due date.

Mark Estess commented that he had met with Rep. Simpson last week and briefed him on some of the activities going on with the exchange. Mark believes Rep. Simpson would be the appropriate person (and/or his staff) to reach out to some of the Oversight and Government Reform committee staff and see if they can get insight into what the expectations, and what the scope would be.

Zelda Geyer-Sylvia said she believes we should also speak directly to this committee and talk to them about the scope. She expressed her view that, on Item #8 in the letter, the YHI board has done some very positive things and we have a very good story to tell and it shows we have been very careful and done a good job with our in-person assistors. Zelda also commented that as far as transparency we don't have anything to hide, but that spending \$100K on a response to the Committee seems out of line. She asked that the board decide what would be a reasonable budget to set, and if we have to go beyond that we would come back.

Scott Kreiling agreed with Zelda and observed that insurance carriers get this kind of request all the time. He believes YHI should not let this be a distraction, and highlighted the need to stay focused on what YHI is here to do.

Chair Weeg supported Zelda's comment and offered that she made an excellent point. He said he has reviewed the letter and thinks YHI has done a good addressing the issues raised in the letter. He states that YHI should start by reaching out to the committee, and then simultaneously notify our congressional delegation that we are talking to the committee. He believes it will take a significant amount of staff, legal time and resources to respond to the letter and expressed concern that even though YHI's Federal government contacts have said grant money can be used to pay for the response, he is not sure this is an appropriate use of public funds.

Kevin Settles offered that since this is a congressional request, he would not feel bad about spending the money that way; it is basically transferring funds from one area to another. Amy asked who the appropriate individuals would be to reach out to the committee, and whether a formal letter would be required.

Tom Mortell expressed his view that it would be best to call the committee, referencing the whole letter.

Stephen Weeg agreed with Tom Mortell, and noted that at the bottom of the letter are a couple of contacts, so that should be the first phone call.

Scott Kreiling then shifted the discussion to the subject of the dollar figure YHI should allocate to respond.

Rep. John Rusche expressed a concern that this request is taking over the normal activities of our staff, and stated that the job of preparing a response should be assigned to YHI's contracted Attorney. His view was that if the initial estimate to prepare the response came in at \$50-\$100K, the YHI BOD should put a 'not to exceed \$50K' limit on it, so that staff can stay working on the things they need to be doing.

Scott Kreiling asked how others feel about this, and Hyatt Erstad said he concurs. He suggested the BOD make the first checkpoint \$50K to allow the response to get under way, right away.

Tom Mortell raised a couple of points. First was that the scope of the content they have asked for is contained in Items #1-9 in the letter, and the scope of where we go to get the information from is shown in the exhibit to the letter. Tom observed that we were going to broadly interpret the request we would have to come to each YHI BOD member email box and collect all communications that are pertinent. YHI would also have to go to Gallatin, PCG, and the Outreach and Education folks and get documents from them. Tom believed that by speaking with the committee prior to preparing the response we may be able to agree on a level of response that is less sweeping but that meets the needs of the Committee. In particular, he felt the YHI board could be responsive by only needing to access the Your Health Idaho e-mail systems.

Zelda stated that she shared the Committee request with her general counsel, and that he does not agree with Tom's statement; specifically, her counsel reads the committee letter as covering only agents or employees of the exchange, which board members are not.

Tom Mortell said that he'd be happy to go back and review that, but that his view arises from the fact that, under Idaho Law, YHI BOD members have public records in their email boxes.

Scott Kreiling agreed that the necessary first step is to collect responsive information possessed by exchange staff.

Amy Dowd viewed this as a good discussion, but wanted to consider how to minimize the impact to the YHI staff of this request.

Tom Mortell said they have started the process of preparing a response by gathering all of Alberto's emails, and that they would probably need to do this for other YHI staff. They would also need to gather any non-email information off of YHI staff computer systems, such as any advertising materials. Tom's plan would be to deliver all the information to Hawley Troxell and then do the sorting, therefore it should not impact YHI staff time.

Zelda Geyer-Sylvia asked if there is a particular way responsive materials need to be collected.

Tom responded that the way the committee has asked for the materials to be produced is exactly the same way as litigation documents are completed. We would provide the data in a format that is specific to their request (a CD file).

Zelda said that her concern is that we prepare the response properly and do not have to go back and do it again.

Chair Stephen Weeg stated that when communicating with Committee staff, we should be ready to describe how the IPA program has been implemented in Idaho, so we inform them right up front and make clear that it is not just a call asking for a delay. Also, when we do send our response we are going to need a forwarding letter that describes in depth the way we have implemented our in-person assistor program.

Amy Dowd expressed her confidence that the necessary information is available, so that should be a fairly easy task.

Zelda stated that it would be good to have a public message ready to describe our efforts on the IPA program. Amy informed the board that they have actually started working on it.

John Livingston said he liked Stephen's idea about the cover letter. One of the first lines in the paragraph should say something like "we share your concerns about these issues..."

Scott Kreiling agreed, and suggested that a motion be offered to specify the dollar amount being spent on resources.

Chair Stephen Weeg summarized the discussion by saying that step one would be to make sure we have our talking points lined up; step two would be phone call with the staff of the committee (probably done by Amy and possibly Tom Mortell together) based on where the committee hears what we have done, what we are pulling together, the impact on us and taking care of our citizens, while stating the scope of the request and the timing and getting information back out to the board. We also asked that staff consider who should contact our congressional staff to give them a heads-up on what we are doing. Chairman Weeg then offered a motion to assign the task of preparing a response to the Hawley-Troxell legal team, with a cap of no more than \$50K for the project without requiring further board action and approval.

Dave Self: Second, motion carried

Other Business:


The next Board meeting is scheduled for 11/12/13 9am-Noon, and the following one will be 11/19/13, possibly 9am-2pm.

Hyatt Erstad noted that he will be in Washington DC then, and asked Amy Dowd to have draft points for a cover letter prepared for review on his trip. Amy stated her intent to have those ready within 48 Hours.

Adjourn

There being no additional business, Chair Stephen Weeg adjourned the meeting at 9:35am.

Signed and respectfully submitted:



Stephen Weeg, Chair