



BOARD OF DIRECTORS MEETING

The Board meeting of the Colorado FAIR Plan was held at 8:30am on May 3, 2024 via Zoom with notice having been posted to the Plans website.

Those in attendance:

Board of Directors:

Bryan Bernier – Board Chair	CO Ins. Trade Ind. Agent	PIIAC
Trina Markey – Vice Chair	Admitted Mutual	State Farm Insurance Company
Carole Walker	CO Ins. Trade	RMIIA
Jae Walker	Admitted Mutual	Liberty Mutual Insurance Company
Mark Woods	Admitted Stock	Travelers Insurance Company
Brad Levine	Consumer Advocacy	Levin, Sitcoff, Waneka
Martin Burlingame	Insurance Agent Rep	One80Intermediaries
Ellen Testolin	Consumer Advocacy	

Colorado Division of Insurance:

Michael Conway, Commissioner	DORA Division of Insurance
Debra Judy, Deputy Commissioner	DORA Division of Insurance
Keilani Fleming	DORA Division of Insurance

Other:

Mark Hillis	FAIR Plan Cost Sharing Alliance
Melissa Chlon	FAIR Plan Cost Sharing Alliance
Russ Hamblen	FAIR Plan Cost Sharing Alliance

Guests:

Kelly Campbell
Patrick – public attendee (unknown last name)

1. Call to Order

Mr. Bernier called the meeting to order. Mr. Bernier welcomed Commissioner Conway and the Division of Insurance.

2. Anti-Trust Preamble

Mr. Bernier noted that all Board members had previously signed the anti-trust statement, and that it had also been provided as a meeting handout reminding Board members that they were bound by same.

3. Roll Call and Introduction of the Board

Mr. Bernier took roll call for the Board Members and guests and noted that a quorum was present.



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4. Approval of Minutes

Mr. Bernier noted that the General Session Minutes of the prior meeting on April 5th 2024 had been posted to the Plans website, and were also provided to all Board members prior to the meeting.

Ms. Walker moved to accept the Minutes of the April 5th, 2024, General Session meeting, Mr. Levine seconded, and the motion carried.

5. Updates and Decisions

a. Plan of Operations

Mr. Bernier noted that they had received a redlined version of the Plan of Operations back from DORA. Ms. Chlon thanked Ms. Fleming and DORA for their work on the document and noted that there were 3 items which appeared to be critical and needed to be addressed.

i. Co-Insurance

Ms. Chlon noted that a decision was needed related to co-insurance. Mr. Burlingame noted that there would be no coinsurance on the personal lines product. However, on Commercial, he noted that he would like to keep this in the document. Commissioner Conway noted that DORA would agree that coinsurance can be kept in the document itself. Mr. Woods agreed with same. Ms. Markey motioned to remove the coinsurance requirement on the personal lines DP product. Mr. Bernier seconded and the motion carried.

Mr. Bernier motioned to keep the coinsurance for commercial. Ms. Testolin seconded, and the carried.

ii. Admitted Market

Ms. Chlon noted that there should be a clear path to the FAIR Plan, and clarity needed to be provided related to which markets come before the FAIR Plan. Mr. Bernier noted that admitted comes first, then the FAIR Plan, and then surplus lines last. Commissioner Conway indicated that his strong assumption is that agents will offer admitted, and surplus lines, but that a requirement to go to surplus lines first would not be the right path for the consumer. He noted that he has faith in the producers in Colorado to look for the best coverage possible for the consumer.



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iii. Producers

Mr. Bernier inquired about a possible requirement for producers to take courses or at least review some basic information about how to utilize the Colorado FAIR Plan Association. Ms. Testolin indicated that something like this for consumers should be considered. Mr. Burlingame reminded the Board that there is no direct channel for the consumer to come to the Plan. Ms. Chlon noted that the agent is being paid commission to represent the customer and that should be their source of information.

Ms. Chlon noted that a decision was needed related to who the producer is representing.

Mr. Bernier asked for DORA comments pertaining to DORA's suggested revision regarding who the producer represents. Commissioner Conway noted that Colorado law, related to insurance agents, was specific in that the agent represented the insurance company.

Mr. Levine noted that he had reviewed the law and noted that the statute appeared to be narrower. He noted that there should be clarity. Commissioner Conway noted that DORA's long standing interpretation was that the producer represented the insurer. Mr. Levine noted that he believed that the FAIR Plan must follow Colorado Law, but that it was concerning. Commissioner Conway proposed that the Alliance secure a survey of all FAIR Plans, he reminded the Board that they must follow the law but noted that the laws stated that the agent would be deemed as the representative of the company should a conflict arise between the insured and the Plan.

Mr. Bernier noted that he had two items related to producers that must be addressed. (1) They must be actively licensed; (2) they must have E&O coverage.

iv. Plan of Operations – Final Revisions, Deadlines and Responsibilities

Commissioner Conway noted that there was another item that he wanted addressed. He noted that he wanted the Alliance clearly noted in the Plan of Operations so that if there were to be any changes, that it must be run through DORA. He then noted that he expected very clear communication between DORA, the Board, and the Board's vendors. He noted that he wanted and expected this partnership to be very strong and expected clear communication. He noted that the January 1st date was fixed. The Governor expects this to be done, and he noted that the markets were continuing to be challenged. He offered full assistance by his administration but noted that he would not accept missed goals if decisions



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were not made timely. Commissioner Conway noted that the main point was standing up this FAIR Plan quickly was as critical as going through an insolvency of an insurer. Building the FAIR Plan on the fly was critical. Mr. Bernier noted that he was beyond confident that they would be able to have the operations running by the required time frames. Mr. Bernier and Commissioner Conway agreed that decision making was critical, even if some of those decisions needed to be revisited down the road.

Ms. Chlon asked about the next steps of the Plan of Operations. Mr. Bernier noted that the task force would have the Plan of Operations reviewed and back to the Alliance by Wednesday, May 8, 2024 and the Alliance would review and finalize the document. Mr. Bernier noted that the Alliance would then send the document directly to DORA and copy Mr. Bernier.

Mr. Levine inquired as to the process of getting feedback from other Board members to the task force. He noted that he had a few questions and wondered when to raise those questions. He also inquired as to final edits related to who the producer represented and in what context.

Mr. Levine inquired as to page 13 within the Plan of Operation. He inquired as to what the intent was related to the word "liability" tied to the Plan securing an inspection. Mr. Burlingame opined as to the reason that the language had been used. Noting that DORA had added the word "liability".

Mr. Levine inquired as to why the appeal process on pages 20 and 22 had been removed by DORA? Deputy Commissioner Judy noted that DORA had concerns over what might be appealed and didn't want this to be overly broad. Mr. Levine expressed concern that the language might open the door for any small issues to be appealed to DORA or involved the Commissioner of Insurance.

Mr. Levine expressed concerns with the exposures to the Board. Mr. Bernier asked Mr. Levine to share some language and questions in writing to the task force and they will work to address his concerns. Mr. Bernier asked the task force to keep Ms. Chlon in the loop by sharing emails and information. Mr. Woods asked the Alliance to send the task force any policy language which related to litigation.

Mr. Bernier asked for feedback surrounding the definition of the Plan as an insurance company. Mr. Levine opined that the definition of the Plan is huge related to regulations in the state and potential liabilities and



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immunities. Ms. Walker reminded the Board that the Alliance had provided prior documentation related to the definition of a FAIR Plan being a residual market mechanism and not an insurance company.

v. Dwelling and Commercial Manuals

Mr. Bernier asked the Board if they wanted to be involved in the development of the Dwelling and Commercial Manuals. Ms. Markey and Mr. Woods noted that they would like to be involved in the review of the Manuals in partnership with Ms. Chlon.

Ms. Chlon reminded the Board of Plan Counsel's notice that any meeting of two or more Board members that discussed Plan business constituted a meeting. Mr. Bernier noted that he would reach back out to Plan counsel to clarify further.

6. Other Business

a. Accounting / Assessment Update

Ms. Chlon noted that to date, just under \$1m had been collected and that 2nd notices will be mailed out next week. The Board agreed that while CRS clearly defines the process and the potential penalties but that after the 2nd notice is processed the Board would be provided a list of outstanding carriers to review before final notices and/or notice to the Commissioner is given.

b. System Update

Mr. Bernier reminded the Board that the Alliance would be working with Finys in Troy, MI next week and that Ms. Chlon, Mr. Hamblen and Mr. Hillis would be working there in person with programmers.

c. PIPSO Update

Mr. Bernier asked for updates from Mr. Woods and Ms. Walker on the PIPSO meeting. Both opined that it was great for relationship building and that there was good information shared. Mr. Woods noted that at some point, the Board would need to review reinsurance. Mr. Burlingame noted that Guy Carpenter worked with the Kentucky and Oregon Plans as well as other FAIR Plans across the country and might be engaged down the road through further conversations.

A general discussion took place related to a Fannie Mae / Freddie Mac notice requiring for replacement cost coverage for consumers to utilize Fannie Mae and Freddie Mac products. Mr. Hillis noted that there were conversations during the PIPSO meetings and that there was a carve out exempting FAIR Plans and some



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insurance pools and he agreed to pass along the document to Mr. Bernier to share with the Board.

d. General Updates

Mr. Bernier noted that Kelly Campbell, the newly hired Executive Director, will be starting on June 3rd. She will be sitting with him for HR documents and computer handling. Further, he thanked the Board and the Alliance for the work done so far, specifically thanking Ms. Lori Bergman for IT work, as well as Ms. Chlon and Mr. Hamblen for always being available and for all their hard work.

7. Adjournment

It was noted that the Board's next meeting would be on June 7, 2024. Mr. Burlingame motioned to adjourn the general session. Ms. Walker seconded. The Board Meeting adjourned by unanimous consent.

Respectfully Submitted,

Bryan Bernier
Board Chair

Trina Markey
Vice Chair