<u>Why the HealthTrust-PLT Settlement Agreement is a Responsible Action</u>

Last October, the independent boards of directors of both HealthTrust and Property-Liability Trust (PLT) entered into a contingency agreement in the event the New Hampshire Supreme Court upheld a 2012 order from the Bureau of Securities Regulation (BSR), one of the regulators of public-sector risk pools in the state, directing PLT to pay HealthTrust $17.1 million. This document explains why the boards felt the agreement, known as the Settlement Agreement, was necessary and to explain how both HealthTrust Members and PLT Members benefit from it.

PLT was ordered to pay HealthTrust $17.1 million

- On January 10, 2014, the New Hampshire Supreme Court upheld the 2012 BSR order, which essentially required PLT to pay HealthTrust $17.1 million, immediately.
- Under the Order, funds received by HealthTrust from PLT could then flow through to HealthTrust Members as return of surplus, in accordance with other provisions in the BSR order.

PLT did not have $17.1 million to pay HealthTrust.

- Although PLT had sufficient assets on January 10, 2014, to meet all present and future coverage obligations, there was not $17.1 million left over after accounting for those obligations.
    - o As of August 31, 2013, the close of the most recent fiscal year, PLT's net assets (after accounting for all liabilities and obligations) was approximately $12.2 million, almost $5 million less than the required $17.1 million.
- The 2012 BSR order suggested that PLT borrow the money to pay HealthTrust. Not surprisingly, no one was willing to loan the money, given that PLT had no way to guarantee repayment.

Without a pre-existing payment agreement, PLT would be insolvent.

- When it appeared, last summer, that discussions with the BSR to resolve the $17.1 million dilemma were going to break down, the HealthTrust board hired independent legal counsel, with expertise in insurance and financial matters to advise the board on how to maximize the total amount received from PLT.
- The PLT board also hired its own experienced independent legal counsel to advise it how best to deal with the situation.
- Both legal counsels focused on the impact of a potential Supreme Court decision affirming the $17.1 million payment <u>since that Supreme Court decision would, absent a pre-existing payment agreement, make PLT insolvent.</u>
- <u>Both legal counsels believe the Settlement Agreement is fully consistent with state law.</u>

Without a pre-existing payment agreement, a PLT insolvency would have detrimental effects on PLT Members and HealthTrust Members.

- After consulting with their own, independent legal counsel, both the HealthTrust board and the PLT board believed that if PLT became insolvent, a bankruptcy or insolvency proceeding, with all the resulting unpredictability, cost and delay, was likely.
- A PLT insolvency, and the bankruptcy, or other insolvency processes that would follow, would likely result in the following adverse conditions for PLT and its Members:
  - Payment of PLT claims would be interrupted and delayed for an indeterminable time.
  - Claims, when finally paid, would not be paid in full, as there is no legal basis for giving payment of public risk pool claims first priority over other debts.
- A PLT insolvency, and the Bankruptcy, or other insolvency processes that would follow, would likely result in the following adverse conditions for HealthTrust and its Members:
  - A significant delay of any payments by PLT toward the $17.1 million obligation, which translates to a delay in returning funds to HealthTrust Members.
  - The amount returned to HealthTrust, and ultimately to HealthTrust Members, would be reduced by the significant costs of bankruptcy and other litigation.
  - Since more than half of HealthTrust Members also have coverage through PLT, the inability of PLT to make full and timely claims payments would erode HealthTrust's reputation and goodwill with its Members, especially where the debt to HealthTrust will be seen as causing the interruption, delay and reduction in covering PLT claims.
  - The lack of full and timely payments of PLT claims would undermine confidence in the entire risk pool market, and hurt HealthTrust and its Members.
  - **A responsible solution was needed to protect both HealthTrust and PLT Members.**
- The matters described above were the hard <u>facts</u> both boards had to face.
  - PLT was ordered to pay $17.1 million immediately
  - PLT did not have $17.1 million above what was needed to pay present and future claims
  - Without a pre-existing payment agreement, PLT would be insolvent as soon as the Court affirmed the $17.1 million owed by PLT
  - A PLT insolvency would have resulted in the immediate delay and interruption in the payment of workers compensation and property-liability claims
  - Bankruptcy, or other insolvency processes, would have detrimental effects on both HealthTrust Members and PLT Members
  - No one would benefit from the chaos and instability that would result from a PLT insolvency
- The PLT board, in meeting its fiduciary duty to PLT Members, needed a solution that ensured all outstanding PLT coverage obligations would be fully and timely met.

- The HealthTrust board, in meeting its fiduciary duty to HealthTrust Members, needed a solution that maximized the amount it received and returned to Members.
- The HealthTrust board determined that not only would a PLT insolvency reduce the PLT assets available to pay to HealthTrust, it would be dangerous for HealthTrust's business reputation. Combined, these costs were deemed to be greater than the cost, if any, of giving PLT claims a priority position.

What the Settlement Agreement does…

- The Settlement Agreement is a contingent agreement. It only became operational if the Supreme Court ruled against PLT. Both the PLT board and the HealthTrust board hoped for a more favorable court ruling, but it is a responsible business practice to prepare for unfavorable events.
- HealthTrust took everything PLT had – in full satisfaction of the $17.1 million debt that PLT could not pay in full. HealthTrust acquired all assets, liabilities and coverage obligations from PLT.
- HealthTrust administers the handling of all existing PLT coverage obligations and claims payments using the acquired PLT assets (HealthTrust assets will not be impacted, as PLT had sufficient assets to meet all present and future coverage obligations). By controlling the administration, HealthTrust can ensure it is operated in a cost-effective manner, thus, maximizing the assets available to pay to HealthTrust.
- Existing PLT coverage obligations are accounted for completely separate from HealthTrust coverage, for a high level of transparency. This will allow Members, the BSR and the public to follow the progress.
- As surplus PLT assets are freed up, they are used as payments toward the $17.1 million debt, with the funds to be distributed to HealthTrust members, in accordance with provisions of the BSR order. HealthTrust's administration of the PLT runoff, ensures that the available funds are returned to HealthTrust Members more quickly than through any formal Bankruptcy or insolvency proceeding.
- If the independent actuaries' predictions are correct, over time, HealthTrust will receive over $12 million from the PLT runoff and if the experience is more favorable, HealthTrust could receive the full $17.1 million.

The Settlement Agreement puts <u>everyone</u> in a better financial position than would otherwise have been the case.

- PLT and its Members benefit in the following ways:
    - Bankruptcy or other insolvency processes are avoided.
    - No interruption or delay of claims payments
    - All claims paid in full

- HealthTrust and its Members benefit in the following ways:
  - A stable risk pool market, overall
  - Expedited payments from PLT to HealthTrust and then to HealthTrust Members, since HealthTrust controls the process, and not a Bankruptcy Court.
  - Increased payments from PLT to HealthTrust and then to HealthTrust Members, as costly bankruptcy and legal fees are avoided.
  - A stable HealthTrust pool, as a result of continued goodwill toward HealthTrust from its Members.
  - Efficiency of in-house administration of PLT coverage obligations means more money recovered by HealthTrust and passed along to Members.

In summary…

- The Settlement Agreement is a responsible business decision.
- The Settlement Agreement meets the fiduciary duties of both the HealthTrust and PLT boards.
- The Settlement Agreement provides for the payment of PLT claims in full, with no delays.
- The Settlement Agreement maximizes the amount returned to HealthTrust members and allows for a more rapid distribution of those payments.
- The Settlement Agreement avoids the chaos that would be caused by PLT insolvency and bankruptcy proceedings.
- The Settlement Agreement is fully consistent with state law.