

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re:

CANO HEALTH, INC., *et al.*,

Debtors¹.

Chapter 11

Case No. 24-10164 (KBO)

Re: Docket Nos. 498, 499, 671, 672

Hearing Date: May 9, 2024 at 9:30 am ET
Objection Deadline: April 29, 2024 at 5 pm

**HUMANA’S OBJECTION TO THE [PROPOSED] DISCLOSURE STATEMENT
FOR AMENDED JOINT CHAPTER 11 PLAN OF REORGANIZATION OF
CANO HEALTH, INC. AND ITS AFFILIATED DEBTORS**

Creditors Humana Medical Plan, Inc., Humana Government Business, Inc., True Shore BPO, LLC, and related entities (the “Humana Entities”) hereby object (the “Objection”) to the *[Proposed] Disclosure Statement for Amended Joint Chapter 11 Plan of Reorganization of Cano Health, Inc. and its Affiliated Debtors*² filed on April 22, 2024 [D.I. 672] (the “Disclosure Statement”).

JURISDICTION AND VENUE

1. The Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334. This Objection is a core proceeding pursuant to 28 U.S.C. § 157(b). Venue is proper in this Court pursuant to 28 U.S.C. §§ 1408 and 1409.

2. Pursuant to Local Bankruptcy Rule 9013-1(h), the Humana Entities consent to the entry of a final judgment or order with respect to this Objection if it is determined that the Court

¹ The last four digits of Cano Health, Inc.’s tax identification number are 4224. A complete list of the debtors in the chapter 11 cases may be obtained on the website of the Affiliated Debtors’ claims and noticing agent at <https://www.kccclcc.net/CanoHealth>. The Affiliated Debtors’ primary mailing address is 9725 NW 117th Avenue, Miami, Florida 33178.

² Capitalized terms not otherwise defined herein shall have the meanings ascribed to them in the Proposed Disclosure Statement or the Proposed Plan, as applicable.



would lack Article III jurisdiction to enter such final order or judgment absent the consent of the parties.

INTRODUCTION AND BACKGROUND

3. On April 22, 2024, Cano Health, Inc. and its Affiliated Debtors (collectively, the “Affiliated Debtors”) filed their Amended Joint Chapter 11 Plan of Organization of Cano Health, Inc. and Its Affiliated Debtors [D.I. 671] (the “Plan”) and the Disclosure Statement.

4. The Humana Entities have significant business relationships with the Affiliated Debtors and are integral business partners for the Affiliated Debtors in their reorganization efforts.

5. On April 22, 2024, the Humana Entities filed a series of proofs of claim in the Affiliated Debtors’ cases.

6. TrueShore BPO, LLC filed a proof of claim against Cano Health, LLC in the amount of \$373,517.45 (Claim No. 2410167240422000000000007.) This claim is unsecured.

7. Humana Insurance Company, Humana Health Plans, Inc. and affiliates filed a proof of claim against Cano Health New Mexico LLC in an unknown/unliquidated amount. (Claim No. 2410197240422000000000001.) The claim is secured, in part, by the National Financial Assurances Agreement and setoff right.

8. Humana Insurance Company, Humana Health Plans, Inc. and affiliates filed a proof of claim against Cano Health, LLC in an unknown/unliquidated amount. (Claim No. 2410167240422000000000008.) The claim is secured, in part, by the National Financial Assurances Agreement and setoff right.

9. Humana Health Plans of Puerto Rico, Inc. and Humana Insurance of Puerto Rico and affiliates filed a proof of claim against Physicians Partners Group Puerto Rico, LLC in the

amount of \$1,700,772.50. (Claim No. 2410179240422000000000001.) The claim is secured, in part, by the National Financial Assurances Agreement and setoff right.

10. Humana Insurance Company, Humana Health Plans, Inc. and affiliates filed a proof of claim against Cano Health Illinois Network, LLC in an unknown/unliquidated amount. (Claim No. 2410195240422000000000001.) The claim is secured, in part, by the National Financial Assurances Agreement and setoff right.

11. Humana Insurance Company, Humana Health Plans, Inc. and affiliates filed a proof of claim against Cano Health, LLC in an unknown/unliquidated amount. (Claim No. 2410167240422000000000009.) The claim is secured, in part, by the National Financial Assurances Agreement and setoff right.

12. Centerwell Accountable Care LLC previously Enhanz DCE, LLC filed a proof of claim against Cano Health, LLC in the amount of \$351,168.10. (Claim No. 2410167240422000000000025.) The claim is secured, in part, by the National Financial Assurances Agreement and setoff right.

13. Centerwell Accountable Care LLC previously Enhanz DCE, LLC filed a proof of claim against Cano Health, Inc. in the amount of \$351,168.10. (Claim No. 2410167240422000000000011.) The claim is secured, in part, by the National Financial Assurances Agreement and setoff right.

14. Humana Real Estate Company and Primary Care Holdings II, LLC and related entities filed a proof of claim against Cano Health, Inc. in the amount of \$151,071.88. (Claim No. 2410167240422000000000013.) The claim is secured by the Asset Purchase Agreement dated August 25, 2023 and setoff right.

15. Real Estate Company and Primary Care Holdings II, LLC and related entities filed a proof of claim against Cano Health, Inc. in the amount of \$151,071.88. (Claim No. 241016724042200000000013.) The claim is secured by the Asset Purchase Agreement dated August 25, 2028 and setoff right.

16. Humana Inc. and affiliates filed a proof of claim against Cano Health, LLC in the amount of \$1,100,000.00. (Claim No. 241016724042200000000030.) The claim is secured by the Asset Purchase Agreement dated August 25, 2028 and setoff right. The claim is secured, in part, by the National Financial Assurances Agreement and setoff right.

17. CarePlus Health Plans of Florida filed a proof of claim against Cano Health, LLC in the amount of \$4,468,386.00. (Claim No. 241016724042200000000031.)

18. Primary Care Holdings II, LLC filed a proof of claim against Cano Health, Inc. in an unknown/unliquidated amount. (Claim No. 2410164240422000000000002.) The claim is secured, in part, by the National Financial Assurances Agreement and setoff right.

19. Primary Care Holdings II, LLC filed a proof of claim against Cano Health, Inc. in an unknown/unliquidated amount. (Claim No. 24101642404220000000000012.) The claim is secured, in part, by the National Financial Assurances Agreement and setoff right.

20. Humana filed a proof of claim against Cano Health, LLC in an unknown/unliquidated amount. (Claim No. 2410167240422000000000002.) The claim is secured, in part, by the National Financial Assurances Agreement and setoff right.

21. Humana Government Business, Inc. d/b/a Humana Military filed a proof of claim against Cano Health, LLC in an unknown/unliquidated amount. (Claim No. 2410167240422000000000002.) The claim is secured, in part, by the National Financial Assurances Agreement and setoff right.

22. Humana Insurance Company, Humana Health Insurance Company of Florida, Inc. Humana Medical Plan and their affiliates filed a proof of claim against DMG MSO, LLC in an unknown/unliquidated amount. (Claim No. 24410164240422000000000001.) The claim is secured, in part, by the National Financial Assurances Agreement and setoff right.

23. CarePlus Health Plans of Florida filed a proof of claim against DMG MSO, LLC in an unknown/unliquidated amount. (Claim No. 2410180240422000000000002.) The claim is secured, in part, by the National Financial Assurances Agreement and setoff right.

24. Humana Insurance Company, Humana Health Insurance Company of Florida, Inc. Humana Medical Plan and their affiliates filed a proof of claim against Cano Health, LLC in an unknown/unliquidated amount. (Claim No. 224101672404220000000000006.) The claim is secured, in part, by the National Financial Assurances Agreement and setoff right.

25. Humana Insurance Company, Humana Health Insurance Company of Florida, Inc. Humana Medical Plan and their affiliates filed a proof of claim against Cano HP MSO, LLC in an unknown/unliquidated amount. (Claim No. 2410186240422000000000001.) The claim is secured, in part, by the National Financial Assurances Agreement and setoff right.

26. CarePlus Health Plans of Florida filed a proof of claim against Cano HP MSO, LLC in an unknown/unliquidated amount. (Claim No. 2410186240422000000000002.) The claim is secured, in part, by the National Financial Assurances Agreement and setoff right.

27. CarePlus Health Plans, Inc. and affiliates filed a proof of claim against Cano Health, LLC in an unknown/unliquidated amount. (Claim No. 2410167240422000000000004.) The claim is secured, in part, by the National Financial Assurances Agreement and setoff right.

28. CarePlus Health Plans, Inc. and affiliates filed a proof of claim against Physicians Partners Group Merger, LLC in an unknown/unliquidated amount. (Claim No. 24101722404220000000000001.) The claim is secured, in part, by setoff right.

29. Humana Insurance Company, Humana Health Insurance Company of Florida, Inc. Humana Medical Plan and their affiliates filed a proof of claim against Physicians Partners Group Merger, LLC in an unknown/unliquidated amount. (Claim No. 24101722404220000000000002.) The claim is secured, in part, by the National Financial Assurances Agreement and setoff right.

30. Humana filed a proof of claim against Belen Pharmacy Group, LLC in the amount of \$645.80. (Claim No. 24102022404220000000000001.) The claim is secured, in part, by the National Financial Assurances Agreement and setoff right.

31. Humana filed a proof of claim against IFB Pharmacy, LLC in the amount of \$1.45. (Claim No. 24102024042200000000000001.) The claim is secured, in part, by the National Financial Assurances Agreement and setoff right.

32. Humana filed a proof of claim against Cano Health, LLC in the amount of \$2,600,149. (Claim No. 24101672404220000000000033.) The claim is secured, in part, by the National Financial Assurances Agreement and setoff right.

33. Humana and affiliates filed a proof of claim against Cano HP MSO, LLC in the amount of \$2,600,149. (Claim No. 24101862404220000000000004.) The claim is secured, in part, by the National Financial Assurances Agreement and setoff right.

34. It is the Humana Entities' position that the Plan and Disclosure Statement should not be approved for the reasons set forth below.

OBJECTION

35. The Disclosure Statement and Plan cannot be approved because the Plan and Disclosure Statement do not satisfy the requirements set forth in Sections 506, 1111, 1122, 1125, 1126, and 1129 of the Bankruptcy Code.

36. Section 1125 of the Bankruptcy Code requires that a disclosure statement approved by the court must contain “adequate information” prior to a debtor’s solicitation of acceptances or rejections of a chapter 11 plan. See 11 U.S.C. § 1125(b). Specifically, section 1125(a)(1) of the Bankruptcy Code states, in relevant part: “Adequate information” means information of a kind, and in sufficient detail, as far as is reasonably practicable in light of the nature and history of the debtor . . . that would enable such a hypothetical investor of the relevant class to make an informed judgment about the plan 11 U.S.C. § 1125(a)(1).

37. As stated in *Century Glove, Inc. v. First Am. Bank of N.Y.*, 860 F.2d 94, 100 (3d Cir. 1988) “[Section] 1125 seeks to guarantee a minimum amount of information to the creditor asked for its vote.” A Disclosure Statement must provide enough detail to allow an impaired creditor the opportunity to make an informed judgment as to voting for or against a proposed plan. See *In re Autobacs Strauss, Inc.*, 473 B.R. 525, 584 (Bankr. D. Del. 2012); *Krystal Cadillac-Oldsmobile GMC Truck, Inc. v. Gen. Motors Corp.*, 337 F.3d 314, 322 (3d Cir. 2003); *In re Ryan Operations G.P. v. SantiamMidwest Lumber Co.*, 81 F.3d 355, 362 (3d Cir. 1996). The proponent of a disclosure statement bears the ultimate burden of persuasion. *In re Am. Capital Equip., LLC*, 688 F.3d 145, 155 (3d Cir. 2012).

38. The Humana Entities have multiple claims against the Affiliated Debtors in which portions of their claims are secured in part, per the National Financial Assurances Agreement and their setoff rights, and unsecured in part. The information provided in the Disclosure

Statement is inadequate to explain the method in which the Affiliated Debtors intend to treat the secured and unsecured portions of the claims of the Humana Entities for voting or distribution as is required by Section 1125 of the Bankruptcy Code.

39. The Disclosure Statement and Plan also summarily state that the Humana ROFR, as that term is defined in the documents, will be rejected seemingly as a condition to reorganization despite the strong possibility that contract(s) in which the Humana ROFR appears as a term may be assumed. Neither the Disclosure Statement nor the Plan provide any support for the Affiliated Debtors' ability to sever specific terms of a contract that is otherwise assumed under Section 365 of the Bankruptcy Code. The Humana Entities posit that the absence of such support is due to the Affiliated Debtors' inability to make such a rejection absent the consent of the Humana Entities, which the Humana Entities will not provide.

40. Ordinarily, confirmation issues are reserved for the confirmation hearing, and not addressed at the disclosure statement stage. However, numerous courts, including the Third Circuit, have held that a bankruptcy court may address the issue of plan confirmation where it is obvious at the disclosure statement stage that a later confirmation hearing would be futile because the plan described by the disclosure statement is patently unconfirmable. *See In re American Capital Equipment, LLC v. Bartel (In re American Capital Equipment, LLC)*, 688 F.3d 145, 154 (3rd Cir. 2012); *see also, In re Larsen*, 2011 WL 1671538, at *2 n. 7 (Bankr. D. Idaho) ("if it appears there is a defect that makes a plan inherently or patently unconfirmable, the Court may consider and resolve that issue at the disclosure stage before requiring the parties to proceed with solicitation of acceptances and rejections and a contested confirmation hearing"); *In re Main St. AC, Inc.*, 234 B.R. 771, 775 (Bankr. N.D. Cal.1999) ("It is now well accepted that a court may disapprove of a disclosure statement ... if the plan could not possibly be confirmed"); *In re El*

Comandante Mgmt. Co., 359 B.R. 410, 415 (Bankr. D.P.R. 2006); *In re Mahoney Hawkes, LLP*, 289 B.R. 285, 294 (Bankr. D. Mass. 2002); *In re Phoenix Petroleum Co.*, 278 B.R. 385, 394 (Bankr. E.D. Pa.2001); *In re Silberkraus*, 253 B.R. 890, 899 (Bankr. C.D. Cal.2000); *In re Brass Corp.*, 194 B.R. 420, 422 (Bankr. E.D. Tex.1996); *In re Felicity Assocs., Inc.*, 197 B.R. 12, 14 (Bankr. D.R.I. 1996); *In re Cardinal Congregate I*, 121 B.R. 760, 764 (Bankr. S.D. Ohio 1990); *In re Dakota Rail, Inc.*, 104 B.R. 138, 143 (Bankr. D. Minn. 1989); *In re Unichem Corp.*, 72 B.R. 95, 100 (Bankr. N.D. Ill.1987); *In re Monroe Well Serv., Inc.*, 80 B.R. 324, 333 (Bankr. E.D. Pa. 1987).

41. Because the Plan cannot be approved in its current form, the Court need not consider the merits of the Disclosure Statement. Assuming *arguendo*, however, that the Court finds that the Plan is not fatally flawed, the Disclosure Statement cannot be approved because it does not contain adequate information as to 1) the treatment of hybrid claims such as those of the Humana Entities as well as 2) the lack of any information regarding the ability of the Affiliated Debtors to implement the proposed plan without the Humana Entities' consent to a rejection of the Humana ROFR. *See* 11 U.S.C. § 1125(b).

42. In the absence of the information necessary for the Humana Entities to make an informed decision about the treatment of their many various claims, approval of the Disclosure Statement in its current form is not appropriate.

CONCLUSION

43. The Humana Entities reserve the right to amend this Objection or file additional objections in the event that the Affiliated Debtors further amend or alter the Plan and/or Disclosure Statement.

WHEREFORE, the Humana Entities respectfully request that the Court (1) find that the Plan is unconfirmable as a matter of law, (2) deny approval of the Disclosure Statement, and (3) grant them such other and further relief as the Court deems reasonable under the circumstances.

Dated: April 29, 2024

COOCH AND TAYLOR, P.A.

/s/ R. Grant Dick IV

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CERTIFICATE OF SERVICE

I, R. Grant Dick IV, hereby certify that on April 29, 2024, I caused a copy of the foregoing to be served on the parties and in the manner listed below and electronically through the CM/ECF system.

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Dated: April 29, 2024

/s/ R. Grant Dick IV
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