

STATE of NEW HAMPSHIRE
INSURANCE DEPARTMENT

ORDER
Competitive Market Determination
Regarding Medical Malpractice Insurance
for Physicians, Surgeons and Hospitals
Docket No.: Ins 07-069-AP

Introduction

1. Title XXXVII, Chapter RSA 412 contains the provisions regulating forms and rates for property and casualty insurance.
2. RSA 412:13 states that a competitive market is presumed to exist unless the commissioner, after conducting a hearing, determines that a reasonable degree of competition does not exist in the market and issues a ruling to that effect that is valid for one year from date of issue.
3. The provisions of RSA 412:14 delineate the relevant information, analytical systems and other sources the commissioner may consider when making this determination.
4. RSA 400-A:17 provides the commissioner with the authority to hold hearings for any purpose within the scope of this title (XXXVII) as he may deem advisable or if required by any provision of this title (XXXVII).
5. An August 22, 2007 Order of Public Hearing scheduling a hearing on the matter for September 25, 2007 was mailed to the top six (6) licensed writers of medical malpractice insurance in New Hampshire and known interested parties; and a legal notice was published in fourteen (14) newspapers of general circulation on September 11th and September 18th.

Findings

1. Testimony, presented at the hearing by the Department's Property and Casualty Actuary, focused on updated data and information related to charts and exhibits submitted during the 2006 public hearing that addressed the following considerations enumerated in RSA 412:14 II:
 - a. The extent to which the largest insurer groups control the insurance marketplace.
 - b. Whether the total number of companies writing the form of insurance in this state is sufficient to provide multiple options to the public
 - c. The extent to which insurer entries and exits, considered over several years, suggest the presence or lack of entry or exit barriers or both.
 - d. The degree to which the insurance products offered to consumers are homogeneous in nature and thus comparable.
 - e. The availability of coverage in all geographic areas.
 - f. The trend in price levels for each type of insurance.
 - g. The profitability of each form of insurance over a period of several years.
 - h. The level of knowledge of market participants and the extent to which comparative pricing information has been made readily available to consumers.
 - i. The extent to which the market for each type of insurance is growing.
2. Testimony and documentary submissions of the Department's Property and Casualty Actuary continue to support the findings enumerated in the 2006 Order, dated October 11, 2006.
3. No prepared testimony was offered at the hearing, and only one company filed testimony during the open comment period to support the position that a competitive market does exist.

Conclusions

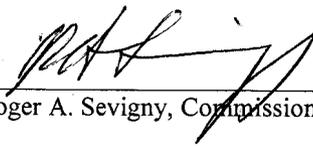
After reviewing the material and testimony presented at the hearing and thereafter, I find that there continues to be substantial evidence in support of the conclusion that the medical malpractice insurance market for physicians, surgeons and hospitals is not a competitive market.

Therefore, it is ORDERED, that:

1. Per RSA 412:3 and RSA 412:13, a competitive market for medical malpractice insurance covering physicians, surgeons and hospitals does not exist in New Hampshire;
2. Rate filing procedures and standards outlined in RSA 412:15, 412:16 and 412:19, specific to a noncompetitive market, continue to apply; and
3. This order will expire once year from the date this order is signed.

Date: 10-3-07

NEW HAMPSHIRE INSURANCE DEPARTMENT



Roger A. Sevigny, Commissioner

(medmalcompetitivemktorder100107)

STATE of NEW HAMPSHIRE
INSURANCE DEPARTMENT

**PUBLIC HEARING
ORDER**

**In Re: Competitive/Noncompetitive Market Determination
Regarding Medical Malpractice Insurance
for Physicians, Surgeons and Hospitals**

Docket No.: Ins 07-069-AP

WHEREAS, pursuant to RSA 412:13 a competitive market is presumed to exist unless the Commissioner, after hearing, determines that a reasonable degree of competition does not exist in the market and the Commissioner issues a ruling to that effect; and

WHEREAS, after notice and hearing the Commissioner by Order dated October 11, 2006, Docket No. Ins 06-036-AP, determined that a competitive market for medical malpractice insurance covering physicians, surgeons and hospitals did not exist in New Hampshire; and

WHEREAS, pursuant to RSA 412:13, that Order shall expire on October 11, 2007; now, therefore be it:

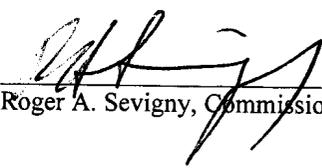
ORDERED, that:

1. Pursuant to the provisions of RSA 400-A:17, a public hearing in the matter will be held at the offices of the New Hampshire Insurance Department, 21 South Fruit Street, Suite 14, Concord, New Hampshire on September 25, 2007 at 10:00 a.m.
2. The purpose of the public hearing is to determine whether or not the October 11, 2006 Order issued by the Commissioner, (Docket No. Ins 06-036-AP), should be extended for another year.
3. The public hearing shall be conducted pursuant to the applicable provisions of RSA 400-A, specifically RSA 400-A:19, and Ins 200.

The public hearing will be recorded; however, if participants desire a transcript of the public hearing, they must provide for the services of a shorthand reporter.

NEW HAMPSHIRE INSURANCE DEPARTMENT

Dated: 8-22-07



Roger A. Seigny, Commissioner