

THE STATE OF NEW HAMPSHIRE

MERRIMACK, SS.

SUPERIOR COURT

_____)
)
 IN THE MATTER OF THE WINDING DOWN OF:)
)
 THE NEW HAMPSHIRE MEDICAL MALPRACTICE)
 JOINT UNDERWRITING ASSOCIATION)
)
 _____)

No. _____

VERIFIED PETITION FOR RECEIVERSHIP

1. This action is instituted as required by House Bill No. 508, as enacted and signed by the Governor, to appoint Roger A. Sevigny, Insurance Commissioner of the State of New Hampshire (the “Commissioner”), as Receiver (the “Receiver”) of the New Hampshire Medical Malpractice Joint Underwriting Association (the “NHMMJUA”) to wind down the NHMMJUA through rehabilitation and to obtain appropriate relief to protect the NHMMJUA’s policyholders, creditors and the public.

2. Sections 1 through 5 of House Bill No. 508, as enacted and signed by the Governor (the “Act”), provide a mechanism for the prompt and orderly resolution of the obligations of the NHMMJUA through a receivership in this Court under the newly enacted RSA 404-C:15 - :17. A copy of the Act is attached as Exhibit A. Pursuant to Section 16, V, of the Act, the new RSA 404-C:15- :17 take effect on passage of the Act. The Act was passed by the House of Representatives and the Senate, and it was signed by the Governor on July 20, 2015.

3. The Court has jurisdiction over this action pursuant to RSA 404-C:15, I. This Court is also the appropriate venue for this action under the statute.

4. The Commissioner is the duly appointed and qualified Insurance Commissioner of the State of New Hampshire.

5. The NHMMJUA is a state-created unincorporated association established in 1975 by N.H. Admin. Rules, Ins 1700 et seq. Pursuant to RSA 404-C:15, II, the NHMMJUA is deemed an insurer organized in this State for purposes of RSA 402-C.

6. The General Court has determined that it is no longer in the public interest to provide a state plan to provide medical malpractice coverage. See Section 1 of the Act. The General Court has enacted RSA 404-C:15 - :17 to provide for the prompt and efficient winding down of the NHMMJUA.

7. RSA 404-C:15, I, directs that, upon the effective date of the section, the Commissioner shall bring a petition to the Superior Court for Merrimack County for the receivership of the NHMMJUA pursuant to RSA 402-C. The receivership shall include the stabilization reserve fund trust established in 1986 to pay deficits of the NHMMJUA incurred as a result of policies issued prior to January 1, 1986.

8. RSA 404-C:16, directs that the Commissioner, as Receiver, shall wind down the business of the NHMMJUA, seeking to facilitate the payment of all policyholder coverage obligations in full and in the normal course of business. Among other things, the Receiver shall promptly seek competitive bids to have all of the coverage-related obligations under policies issued by the NHMMJUA assumed by an insurer or insurers.

9. RSA 404-C:17 directs that the NHMMJUA's obligations shall be wound up through rehabilitation under RSA 402-C.

10. The Act thus directs the appointment of the Commissioner as Receiver to wind down the business of the NHMMJUA through rehabilitation consistent with RSA 404-C:15 - :17 and RSA 402-C.

11. The Commissioner accordingly requests that the Court appoint the Commissioner as Receiver of the NHMMJUA pursuant to the Act and RSA 402-C, without delay, to wind down the business of the NHMMJUA and protect the interests of the NHMMJUA's policyholders, creditors and the public. The Commissioner's present intention is that, as Receiver, he will continue the current operational arrangements with vendors and counsel engaged by the NHMMJUA pending evaluation of the operational needs of the winding down of the NHMMJUA.

12. The Commissioner states that to preserve the aforementioned interests and in order to provide for an orderly receivership, a stay of all actions and proceedings against the NHMMJUA other than actions seeking coverage under insurance policies issued by the NHMMJUA is required. The Commissioner does not seek to stay pleadings to convert Merrimack county superior court docket no. 217-2010-CV-00414 into an in rem interpleader proceeding against the funds to be interpleaded or any other interpleader action commenced to protect any class of policyholders as expressly referenced in RSA 404-C:17, III, and which does not require the NHMMJUA or the receiver as a party.

13. The Commissioner states that to conduct an orderly, efficient and effective receivership to wind down the NHMMJUA, it is necessary to engage a special deputy commissioner to rehabilitate pursuant to RSA 402-C:17, I. Subject to approval of the Court, the Commissioner intends to engage Peter A. Bengelsdorf as special deputy commissioner. Mr. Bengelsdorf is well qualified to serve in this capacity because of his many years of experience in

the insurance business and because he has served as special deputy in other New Hampshire insurer receiverships with this Court's approval. Mr. Bengelsdorf is presently the Special Deputy Liquidator of The Home Insurance Company (Docket No. 03-E-0106; see Orders dated March 7, 2003 and June 30, 2003). He also served as Special Deputy Liquidator of US International Reinsurance Company (Docket No. 03-E-0112; Orders dated March 7, 2003 and June 30, 2003) and as Special Deputy for Patriot Health Insurance Company, Inc. (Docket No. 07-E-0517; Order dated December 12, 2007) and for ACA Assurance (Docket No. 06-E-380; Order dated September 8, 2008). The terms and conditions of Mr. Bengelsdorf's proposed engagement as Special Deputy Commissioner are set forth in the attached Consulting Agreement (Exhibit B). Mr. Bengelsdorf's resume is attached as Exhibit C.

14. A proposed order of receivership, including the appointment of Mr. Bengelsdorf as Special Deputy Commissioner, accompanies this petition and is consistent with the authority set forth in RSA 404-C:15 - :17 and RSA 402-C.

15. The Commissioner has provided drafts of the petition and proposed order for comment to the NHMMJUA Board of Directors and to counsel for the plaintiff class in Merrimack county superior court docket no. 217-2010-CV-00414. The Commissioner has revised the petition to address the only substantive comment received.

WHEREFORE, the Commissioner respectfully requests that the Court:

- A. Issue an order of rehabilitation containing the following relief:
 - 1. An order appointing the Commissioner and his successors in office as Receiver of the NHMMJUA, including the stabilization reserve fund trust established in 1986 to pay deficits of the NHMMJUA incurred as a result of policies issued prior to January 1, 1986,

to wind down the business of the NHMMJUA in accordance with RSA 404-C:15 - :17 and RSA 402-C;

2. An order appointing Peter A. Bengelsdorf as Special Deputy Commissioner and approving the terms and conditions of his engagement pursuant to RSA 402-C:17, I;
3. An order directing the Receiver forthwith to take possession of and secure all of the assets of the NHMMJUA, including all of its property, books, records, accounts and documents (including, without limitation, all data processing information and records and all types of electronically stored information relating to the NHMMJUA) to administer them under the orders of the Court;
4. An order prohibiting the officers, directors, agents, employees and representatives of the NHMMJUA, and any persons acting in concert with the NHMMJUA, from (a) disposing of, using, transferring, removing or concealing any asset or property of the NHMMJUA, without the express written authority of the Receiver, or (b) in any way interfering with the conduct of the Receivership or interfering with the Receiver's possession and rights to the assets and property of the NHMMJUA;
5. An order prohibiting any bank, savings and loan organization, or other financial institution or entity from disposing of, allowing to be withdrawn or concealing in any manner assets or property of the NHMMJUA, except under express written authorization of the Receiver;
6. An order staying any of the following actions: (a) the commencement or continuation of a judicial, administrative, or other action or proceeding against the NHMMJUA other than actions seeking coverage under insurance policies issued by the NHMMJUA, except as permitted by further order of the Court; (b) the enforcement against the NHMMJUA or

- its assets or property of a judgment; (c) any act to obtain possession of assets or property of the NHMMJUA or to exercise control over assets or property of the NHMMJUA;
- (d) any act to create, perfect or enforce an lien against property of the NHMMJUA;
7. An order directing that the Receiver may consult with, retain and obtain the assistance and advice of insurance and reinsurance experts, including without limitation, actuaries, accountants, attorneys, brokers, claim administrators, investment advisors, and consultants;
 8. An order authorizing the Receiver, in his discretion, to pay any or all claims for losses, in whole or in part, under policies and contracts of insurance issued by the NHMMJUA and associated loss adjustment expenses, including but not limited to, claims for losses which, as of the date of the order, have been previously settled and approved for payment in the normal course of business;
 9. An order authorizing the Receiver, in his discretion, to pay expenses incurred in the ordinary course of the NHMMJUA's business and in receivership, including the actual, reasonable, and necessary costs of preserving or recovering assets of the NHMMJUA and the costs of goods and services provided to the NHMMJUA's estate. Such costs shall include, but not be limited to: (a) reasonable professional fees for accountants, actuaries, attorneys, claim administrators, brokers, investment advisors and consultants retained by the Receiver to perform services relating to the receivership of the NHMMJUA, including the administering of claims, the underwriting of policies, and the marketing of coverage-obligations of the NHMMJUA, (b) compensation and other costs related to representatives and employees of the NHMMJUA who perform services for the NHMMJUA; and (c) a reasonable allocation of costs and expenses associated with time

spent by Insurance Department or Attorney General personnel in connection with the Receivership of the NHMMJUA;

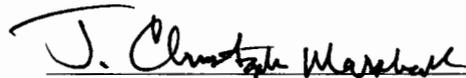
10. An order consistent with RSA 402-C:16, II, stating that persons with contracts with the NHMMJUA other than insurance policies issued by the NHMMJUA are enjoined and restrained from terminating, cancelling, failing to extend or renew, or changing the provisions of any contract with the NHMMJUA solely on account of the Act, the provisions of RSA 404-C:15 - :17, the order, or the Receivership;
 11. An order directing the Receiver to file a monthly report with the Court detailing progress made in the wind-down of the NHMMJUA, including expenses incurred, pursuant to RSA 404-C:16, I, and RSA 402-C:16, III;
 12. An order that the Receiver shall have the full powers and authority given the Receiver by RSA 404-C:15 - :17 and a rehabilitator under RSA 402-C, and all other applicable laws, as is reasonable and proper to fulfill the duties and responsibilities of the Receiver under RSA 404-C:15 -:17, under RSA 402-C, and under the order.
- B. Grant such other and further relief as the Court deems just and proper under the circumstances.

Respectfully submitted,

ROGER A. SEVIGNY, INSURANCE
COMMISSIONER OF THE STATE OF
NEW HAMPSHIRE,

By his attorneys,

JOSEPH A. FOSTER
ATTORNEY GENERAL



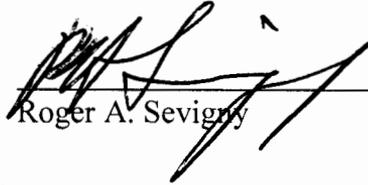
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July 21, 2015

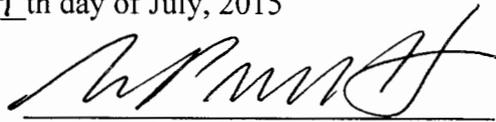
STATE OF NEW HAMPSHIRE
COUNTY OF MERRIMACK

Roger A. Sevigny, being duly sworn, states that he is the duly appointed and qualified Insurance Commissioner of the State of New Hampshire and that the facts and allegations made in this Petition are true and accurate to the best of his knowledge and belief.



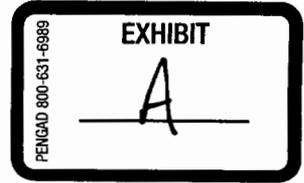
Roger A. Sevigny

Subscribed and sworn to, before me, this 21 th day of July, 2015



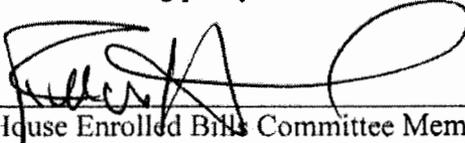
Notary Public/~~Justice of the Peace~~

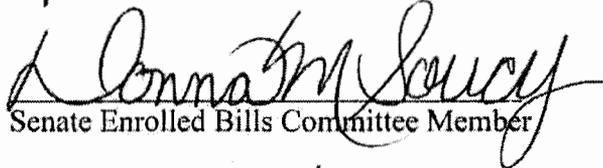
Sarah Prescott
My Commission Expires June 10, 2020

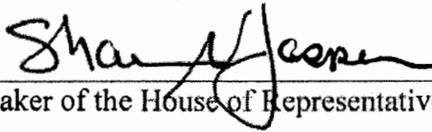


House Bill No. 508

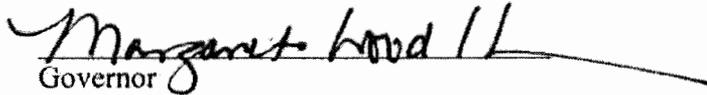
An Act relative to the dissolution of the New Hampshire medical malpractice joint underwriting association and relative to cost-sharing parity for oral anti-cancer therapies.


House Enrolled Bills Committee Member


Senate Enrolled Bills Committee Member


Speaker of the House of Representatives


President of the Senate


Governor

Approved:

Effective Date:

Due Back from the Governor: 7/20/15

BY 
SECRETARY OF STATE

2015 JUL 15 A 9 11

PRESENTED TO
THE
GOVERNOR

HB 508 - FINAL VERSION

11Mar2015... 0674h
06/04/2015 1991s
06/04/2015 2033s
06/04/2015 2046s
24June2015... 2291CofC
24June2015... 2362EBA

2015 SESSION

15-0265
01/10

HOUSE BILL **508**

AN ACT relative to the dissolution of the New Hampshire medical malpractice joint underwriting association and relative to cost-sharing parity for oral anti-cancer therapies.

SPONSORS: Rep. Hunt, Ches 11

COMMITTEE: Judiciary

AMENDED ANALYSIS

This bill establishes a procedure for the dissolution of the New Hampshire medical malpractice joint underwriting association.

This bill also prohibits insurers providing benefits that cover expenses for intravenously administered, injected, and oral anti-cancer therapies from requiring an insured to pay a higher copayment, deductible, or coinsurance than for anti-cancer medications injected or intravenously administered by a health care provider. This provision is repealed on January 1, 2022.

Explanation: Matter added to current law appears in ***bold italics***.
Matter removed from current law appears [~~in brackets and struckthrough.~~]
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

HB 508 – FINAL VERSION

11Mar2015... 0674h
06/04/2015 1991s
06/04/2015 2033s
06/04/2015 2046s
24June2015... 2291CofC
24June2015... 2362EBA

15-0265
01/10

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Fifteen

AN ACT relative to the dissolution of the New Hampshire medical malpractice joint underwriting association and relative to cost-sharing parity for oral anti-cancer therapies.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 1 Statement of Purpose. The purpose of sections 1-5 of this act is to provide a mechanism for the
2 prompt and orderly resolution of the obligations of the New Hampshire medical malpractice joint
3 underwriting association (NHMMJUA). The general court finds and determines that medical
4 malpractice coverage is readily available in the voluntary market and that it is no longer in the
5 public interest to provide a state plan to provide medical malpractice coverage.

6 2 New Sections; Dissolution of the New Hampshire Medical Malpractice Joint Underwriting
7 Association. Amend RSA 404-C by inserting after section 14 the following new sections:

8 404-C:15 Conclusion of the New Hampshire Medical Malpractice Joint Underwriting
9 Association's Business; Issuance of Policies.

10 I. Upon the effective date of this section, the insurance commissioner shall bring a petition
11 to the superior court for Merrimack county for the receivership of the New Hampshire medical
12 malpractice joint underwriting association (NHMMJUA) pursuant to RSA 402-C. The receivership
13 of the NHMMJUA shall include the stabilization reserve fund trust established in 1986 to pay
14 deficits of the association incurred as a result of policies issued prior to January 1, 1986. Subject to
15 such receivership, the NHMMJUA shall be a continuation of the same unincorporated association in
16 existence immediately before the effective date of this section. The NHMMJUA shall be an insurer
17 organized in this state for purposes of RSA 402-C.

18 II. To facilitate the orderly resolution of the obligations of the NHMMJUA and transition of
19 policyholders to coverage in the private market, the commissioner, as receiver shall:

20 (a) Not cancel a NHMMJUA policy in effect upon his or her appointment as receiver
21 unless the policyholder fails to comply with the terms of the policy, including the payment of
22 premium.

23 (b) Not accept new applications for insurance for new policyholders after the effective
24 date of this section.

25 (c) Renew any association policy in effect as of the effective date of this section, but shall

1 not issue any NHMMJUA policy with an effective date after December 31, 2015, except that until
2 December 31, 2015, the receiver may issue extended reporting coverage on policies issued before
3 December 31, 2016.

4 (d) Issue notice of nonrenewal in compliance with RSA 417-C to policyholders with
5 renewal dates on or after January 1, 2016.

6 (e) Upon the nonrenewal of any claims-made policy issued by the NHMMJUA that is in
7 force as of the effective date of this section, calculate the amount of tail coverage premium collected,
8 using reasonable actuarial methodologies and standards of practice, and return the tail coverage
9 premium to the policyholder. For the purpose of this subparagraph, "tail coverage premium" shall
10 mean that portion of the premium collected by the NHMMJUA and separately identified in
11 NHMMJUA's financial statements, and which would have been used to provide tail coverage if tail
12 coverage had been provided under the terms of the policy. Return of the tail coverage premium shall
13 only be provided to those claims-made policyholders who will not otherwise receive tail coverage
14 under their claims-made policies.

15 III. The NHMMJUA shall have no in-force insurance business after December 31, 2016,
16 other than extended reporting coverage elected under policies issued on or before December 31, 2015.

17 IV. This section shall constitute a plan of complete liquidation for the NHMMJUA pursuant
18 to section 331 of the Internal Revenue Code of 1986, as amended, for federal income tax purposes
19 effective on the effective date of this section.

20 404-C:16 Receivership of the Association.

21 I. The insurance commissioner, as receiver of the NHMMJUA, shall, consistent with this
22 section, RSA 404-C:14, RSA 404-C:15, RSA 404-C:17, and the provisions of RSA 402-C wind-down its
23 business, seeking to facilitate the payment of all policyholder coverage obligations in full and in the
24 normal course of business. The receiver shall make monthly reports to the court detailing progress
25 made in the wind-down of the NHMMJUA, including expenses incurred. Interested persons,
26 including policyholders, shall have standing in the receivership and the right to be heard in
27 reference to the monthly reports.

28 II. After the effective date of this section, the commissioner, as receiver, shall promptly seek
29 competitive bids to have all of the coverage-related obligations under policies issued by the
30 NHMMJUA assumed by an insurer or insurers. At the earliest practicable date, the receiver shall
31 then enter an agreement or agreements with an insurer or insurers to provide for the assumption
32 and novation of all of the coverage-related obligations under policies issued by the NHMMJUA. Any
33 such assumption and novation agreement shall be subject to the approval of the supervising court
34 after a hearing at which all interested persons, including policyholders, have standing and may be
35 heard. The assumption and novation agreement shall be on commercially reasonable terms and
36 shall provide for continued protection for the NHMMJUA's policyholders against liability and
37 expense in accordance with the coverage terms of their policies, as well as providing for established

1 obligations to claimants under such policies.

2 III. Within 60 days of the initiation of the receivership, the receiver shall allocate a portion
3 of the NHMMJUA surplus to establish a hardship fund in the amount of \$2,000,000. This fund shall
4 be used for hardship claims by current NHMMJUA policyholders. The hardship fund shall be
5 available to provide grants payable directly to midwives certified under RSA 326-D and other health
6 care providers who are licensed or approved by the state, who have in-force policies with the
7 NHMMJUA as of the effective date of this section, and who can demonstrate by application to the
8 receiver that they will suffer significant adverse economic hardship as a result of an increase of at
9 least 25 percent in the cost of medical malpractice insurance coverage in the private market as
10 compared to their coverage from the NHMMJUA as of the effective date of this section. Any grant
11 provided shall not exceed the difference between the cost of insurance through the NHMMJUA plus
12 25 percent and the premium charged in the private market for the most comparable coverage
13 available. The receiver's determination of grant eligibility shall be subject to court approval. The
14 hardship fund shall be administered until exhausted or until the termination of the receivership,
15 whichever occurs first. If funds remain in the hardship fund at the termination of the receivership,
16 the receiver shall, with court approval, and before discharge of the receiver, transfer any remaining
17 funds to a charitable organization that promotes aid to health care providers servicing medically
18 underserved populations.

19 IV. Upon appointment of the commissioner as receiver of the association, no assessments of
20 any kind shall thereafter be made by the receiver or ordered by the court.

21 V. The board members and officers of the NHMMJUA shall continue to be officers, trustees,
22 officials, or employees of the state subject to RSA 99-D through the date of the rehabilitation order.

23 VI. Until liquidated, the NHMMJUA shall continue as a legally cognizable unincorporated
24 association solely for the purpose of winding down the NHMMJUA, consistent with this chapter.
25 The provisions of this section and RSA 402-C shall control the management of claims and obligations
26 of the association and shall supersede the provisions of administrative rules governing the operation
27 of the NHMMJUA.

28 404-C:17 Closure of the NHMMJUA.

29 I. Subject to the provisions of RSA 404-C:15 and RSA 404-C:16, the NHMMJUA's obligations
30 shall be wound up through rehabilitation under RSA 402-C.

31 II. The NHMMJUA shall be liquidated and the receiver discharged upon:

32 (a) The resolution or transfer of all of the NHMMJUA's administrative, operational, and
33 coverage-related obligations, including the NHMMJUA's tax obligations and all receivership
34 expenses; and

35 (b) The approval of the supervising court.

36 III. Prior to the receiver's discharge in accordance with paragraph II, all assets remaining
37 after court approval of the receiver's transfer of all of the NHMMJUA coverage-related obligations,

1 payment of the NHMMJUA's administrative and operational expenses, transfer or resolution of tax
 2 obligations, and payment of receivership expenses, shall be interpleaded by the receiver into the
 3 Merrimack county superior court, docket no. 217-2010-CV-00414, for the purposes of adjudicating all
 4 policyholder claims in those funds. The interpleader into docket no. 217-2010-CV-00414 shall not
 5 prejudice the rights of any class of NHMMJUA policyholders with respect to those funds. If any
 6 class of NHMMJUA policyholders cannot be represented or is barred from the old action, a new
 7 interpleader action shall be commenced to allow such policyholders to assert their claims with
 8 respect to the funds. Neither the state of New Hampshire nor any agency thereof shall have any
 9 claim to these funds.

10 IV.(a) The provisions of RSA 404-C:15 – RSA 404-C:17 shall not alter, and shall not be
 11 construed to alter, any vested contractual rights that any class of NHMMJUA policyholders may
 12 have with respect to NHMMJUA assets. The existence and extent of any such rights shall be
 13 determined by the interpleader court after termination of the receivership proceeding. Funds that
 14 cannot be distributed to a policyholder in the interpleader proceeding referenced in this section due
 15 to the inability to locate the policyholder after reasonable efforts shall not be subject to RSA 471-C
 16 and shall be transferred to a fund within the treasury to be administered by the department of
 17 health and human services which shall utilize such undistributed funds to provide grants in aid to
 18 health care providers servicing medically underserved populations through the department's state
 19 loan repayment program.

20 (b) There is established in the office of the state treasurer a nonlapsing fund to be known
 21 as the grants in aid to health care providers servicing medically underserved populations fund to be
 22 administered by the commissioner of the department of health and human services, which shall be
 23 kept distinct and separate from all other funds. All moneys in the fund shall be continually
 24 appropriated to the commissioner of the department of health and human services, for the purposes
 25 of providing grants in aid to health care providers servicing medically underserved populations.

26 3 Applicability of Act. Sections 1 and 2 of this act shall be liberally construed to effect their
 27 stated purpose which shall constitute an aid and guide to interpretation. Sections 1 and 2 of this act
 28 are intended to provide authority for the performance of all duties authorized under such sections,
 29 and all powers granted under sections 1 and 2 shall be broadly interpreted to effectuate such intent
 30 and purposes and not as a limitation of powers.

31 4 Repeal. The following are repealed:

32 I. RSA 404-C:14, relative to the New Hampshire medical malpractice joint underwriting
 33 association.

34 II. RSA 404-C:15, RSA 404-C:16, and RSA 404-C:17, I and II, relative to the dissolution of
 35 the New Hampshire medical malpractice joint underwriting association.

36 III. RSA 404-C:17, III and IV(a), relative to the interpleader action in Merrimack county
 37 superior court, docket no. 217-2010-CV-00414.

1 5 Applicability; Effective Date of Repeal. Section 4, paragraph II of this act shall take effect
2 upon the date of dissolution and the end of the receivership of the New Hampshire medical
3 malpractice joint underwriting association as certified by the insurance commissioner to the director
4 of the office of legislative services and the secretary of state. Section 4, paragraph III of this act shall
5 take effect upon the date the interpleader action is concluded.

6 6 New Section; Oral Anti-Cancer Therapies; Individual. Amend RSA 415 by inserting after
7 section 6-s the following new section:

8 415:6-t Oral Anti-Cancer Therapies.

9 I. No insurer that issues or renews any individual policy, plan, or contract of accident or
10 health insurance providing benefits for anti-cancer medications that are injected or intravenously
11 administered by a health care provider and patient administered anti-cancer medications, including
12 but not limited to those orally administered or self-injected, shall require a higher copayment,
13 deductible, or coinsurance amount for patient administered anti-cancer medication than it requires
14 for injected or intravenously administered anti-cancer medications, regardless of the formulation or
15 benefit category determination by the policy or plan.

16 II. An insurer shall not comply with paragraph I by:

17 (a) Increasing the copayment, deductible, or coinsurance amount required for injected or
18 intravenously administered anti-cancer medication that are covered under the policy or plan.

19 (b) Reclassifying benefits with respect to anti-cancer medications.

20 III. In this section, "anti-cancer medication" means drugs and biologics that are used to kill,
21 slow, or prevent the growth of cancerous cells.

22 IV. If the cost-sharing requirements for orally administered anti-cancer medications do not
23 exceed \$200 per prescription fill, the health plan shall be deemed in compliance with this section.

24 V. For a health care contract that meets the definition of a "high deductible plan" set forth in
25 26 U.S.C. section 223(c) (2), a carrier shall be exempt from the provisions of paragraphs I-IV until an
26 enrollee's deductible has been satisfied for the year.

27 VI. This section shall apply only to oral anti-cancer medications where an intravenously
28 administered or injected anti-cancer medication is not medically appropriate.

29 VII. This section shall not apply to policies which are solely to replace income or pay a
30 predetermined fixed amount based on the occurrence of a specified medical or health event.

31 7 New Section; Oral Anti-Cancer Therapies; Group. Amend RSA 415 by inserting after section
32 18-x the following new section:

33 415:18-y Oral Anti-Cancer Therapies.

34 I. No insurer that issues or renews any policy of group or blanket accident or health
35 insurance providing benefits for anti-cancer medications that are injected or intravenously
36 administered by a health care provider and patient administered anti-cancer medications, including
37 but not limited to those orally administered or self-injected, shall require a higher copayment,

1 deductible, or coinsurance amount for patient administered anti-cancer medication than it requires
2 for injected or intravenously administered anti-cancer medications, regardless of the formulation or
3 benefit category determination by the policy or plan.

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16 administered or injected anti-cancer medication is not medically appropriate.

17 VII. This section shall not apply to policies which are solely to replace income or pay a
18 predetermined fixed amount based on the occurrence of a specified medical or health event.

19 8 Health Service Corporations; Oral Anti-Cancer Therapies; Effective Until October 1, 2017.
20 Amend RSA 420-A:2 to read as follows:

21 420-A:2 Applicable Statutes. Every health service corporation shall be governed by this chapter
22 and the relevant provisions of RSA 161-H, and shall be exempt from this title except for the
23 provisions of RSA 400-A:39, RSA 401-B, RSA 402-C, RSA 404-F, RSA 415-A, RSA 415-F, RSA 415:6,
24 II(4), RSA 415:6-g, RSA 415:6-k, RSA 415:6-m, RSA 415:6-o, RSA 415:6-r, RSA 415:6-s, **RSA 415:6-t**,
25 ~~RSA 415:18, V, [RSA 415:18, VII(g),~~ RSA 415:18, XVI and XVII, RSA 415:18, VII-a, RSA 415:18-a,
26 RSA 415:18-j, RSA 415:18-o, RSA 415:18-r, RSA 415:18-t, RSA 415:18-u, RSA 415:18-v, RSA 415:18-
27 w, RSA 415:18-x, **RSA 415:18-y**, RSA 415:22, RSA 417, RSA 417-E, RSA 420-J, and all applicable
28 provisions of title XXXVII wherein such corporations are specifically included. Every health service
29 corporation and its agents shall be subject to the fees prescribed for health service corporations
30 under RSA 400-A:29, VII.

31 9 Health Service Corporations; Oral Anti-Cancer Therapies; Effective October 1, 2017.
32 RSA 420-A:2 is repealed and reenacted to read as follows:

33 420-A:2 Applicable Statutes. Every health service corporation shall be governed by this
34 chapter and the relevant provisions of RSA 161-H, and shall be exempt from this title except for
35 the provisions of RSA 400-A:39, RSA 401-B, RSA 402-C, RSA 404-F, RSA 415-A, RSA 415-F,
36 RSA 415:6, II(4), RSA 415:6-g, RSA 415:6-k, RSA 415:6-m, RSA 415:6-o, RSA 415:6-r, RSA 415:6-
37 t, RSA 415:18, V, RSA 415:18, XVI and XVII, RSA 415:18, VII-a, RSA 415:18-a, RSA 415:18-j,

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1 RSA 415:18-o, RSA 415:18-r, RSA 415:18-t, RSA 415:18-u, RSA 415:18-v, RSA 415:18-w,
2 RSA 415:18-y, RSA 415:22, RSA 417, RSA 417-E, RSA 420-J, and all applicable provisions of
3 title XXXVII wherein such corporations are specifically included. Every health service
4 corporation and its agents shall be subject to the fees prescribed for health service corporations
5 under RSA 400-A:29, VII.

6 10 Health Maintenance Organizations; Oral Anti-Cancer Therapies; Effective Until October 1,
7 2017. Amend RSA 420-B:20, III to read as follows:

8 III. The requirements of RSA 400-A:39, RSA 401-B, RSA 402-C, RSA 404-F, RSA 415:6-g,
9 RSA 415:6-m, RSA 415:6-o, RSA 415:6-r, RSA 415:6-s, **RSA 415:6-t**, [~~RSA 415:18, VII(g)~~],
10 RSA 415:18, VII-a, RSA 415:18, XVI and XVII, RSA 415:18-j, RSA 415:18-r, RSA 415:18-t,
11 RSA 415:18-u, RSA 415:18-v, RSA 415:18-w, RSA 415:18-x, **RSA 415:18-y**, RSA 415-A, RSA 415-F,
12 RSA 420-G, and RSA 420-J shall apply to health maintenance organizations.

13 11 Health Maintenance Organizations; Oral Anti-Cancer Therapies; Effective October 1, 2017.
14 RSA 420-B:20, III is repealed and reenacted to read as follows:

15 III. The requirements of RSA 400-A:39, RSA 401-B, RSA 402-C, RSA 404-F, RSA 415:6-g,
16 RSA 415:6-m, RSA 415:6-o, RSA 415:6-r, RSA 415:6-t, RSA 415:18, VII-a, RSA 415:18, XVI and
17 XVII, RSA 415:18-j, RSA 415:18-r, RSA 415:18-t, RSA 415:18-u, RSA 415:18-v, RSA 415:18-w,
18 RSA 415:18-y, RSA 415-A, RSA 415-F, RSA 420-G, and RSA 420-J shall apply to health
19 maintenance organizations.

20 12 Health Service Corporations; Oral Anti-Cancer Therapies; Effective January 1, 2021.
21 RSA 420-A:2 is repealed and reenacted to read as follows:

22 420-A:2 Applicable Statutes. Every health service corporation shall be governed by this
23 chapter and the relevant provisions of RSA 161-H, and shall be exempt from this title except for
24 the provisions of RSA 400-A:39, RSA 401-B, RSA 402-C, RSA 404-F, RSA 415-A, RSA 415-F,
25 RSA 415:6, II(4), RSA 415:6-g, RSA 415:6-k, RSA 415:6-m, RSA 415:6-o, RSA 415:6-r,
26 RSA 415:18, V, RSA 415:18, XVI and XVII, RSA 415:18, VII-a, RSA 415:18-a, RSA 415:18-j,
27 RSA 415:18-o, RSA 415:18-r, RSA 415:18-t, RSA 415:18-u, RSA 415:18-v, RSA 415:18-w,
28 RSA 415:22, RSA 417, RSA 417-E, RSA 420-J, and all applicable provisions of title XXXVII
29 wherein such corporations are specifically included. Every health service corporation and its
30 agents shall be subject to the fees prescribed for health service corporations under RSA 400-
31 A:29, VII.

32 13 Health Maintenance Organizations; Oral Anti-Cancer Therapies; Effective January 1, 2021.
33 RSA 420-B:20, III is repealed and reenacted to read as follows:

34 III. The requirements of RSA 400-A:39, RSA 401-B, RSA 402-C, RSA 404-F, RSA 415:6-g,
35 RSA 415:6-m, RSA 415:6-o, RSA 415:6-r, RSA 415:18, VII-a, RSA 415:18, XVI and XVII,
36 RSA 415:18-j, RSA 415:18-r, RSA 415:18-t, RSA 415:18-u, RSA 415:18-v, RSA 415:18-w,
37 RSA 415-A, RSA 415-F, RSA 420-G, and RSA 420-J shall apply to health maintenance

1 organizations.

2 14 Repeal. The following are repealed:

3 I. RSA 415:6-t, relative to oral anti-cancer therapies; individual.

4 II. RSA 415:18-y, relative to oral anti-cancer therapies; group.

5 15 New Subparagraph; Application of Receipts; Grants in Aid to Health Care Providers
6 Servicing Medically Underserved Populations. Amend RSA 6:12, I(b) by inserting after
7 subparagraph (326) the following new subparagraph:

8 (327) Moneys deposited into the grants in aid to health care providers servicing
9 medically underserved populations fund established in RSA 404-C:17, IV(b).

10 16 Effective Date.

11 I. Paragraphs II and III of section 4 of this act shall take effect as provided in section 5 of
12 this act.

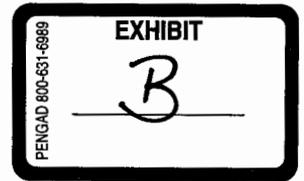
13 II. Sections 9 and 11 of this act shall take effect October 1, 2017 at 12:01 a.m.

14 III. Sections 6-8 and 10 of this act shall take effect January 1, 2017.

15 IV. Sections 12-14 of this act shall take effect January 1, 2021.

16 V. The remainder of this act shall take effect upon its passage.

CONSULTING AGREEMENT



THIS CONSULTING AGREEMENT (the "Agreement"), is made effective as of this ____ day of _____ 2015, by and between Roger A Sevigny, Commissioner, State of New Hampshire Insurance Department, ("Commissioner"), as Receiver of the New Hampshire Medical Malpractice Joint Underwriting Association (the "Receiver"), and Peter Bengelsdorf (the "Consultant").

WHEREAS, the Commissioner has been appointed Receiver of the New Hampshire Medical Malpractice Joint Underwriting Association ("NHMMJUA") by the Order of Rehabilitation entered by the Merrimack County Superior Court on _____, 2015 (Docket No. _____); and

WHEREAS, pursuant to applicable provisions of the New Hampshire Insurance Code, including HB 508 as enacted, and the Order of Rehabilitation, the Receiver is vested with the authority and responsibility to wind down the NHMMJUA and may appoint a Special Deputy Commissioner, in accordance with RSA 402-C:17; and

WHEREAS, the Receiver desires to secure the Services of a Special Deputy Commissioner and the Consultant desires to perform such services for the Receiver on the terms and conditions set forth in this Agreement; and

WHEREAS, it is understood and agreed that the Consultant will be appointed as the Special Deputy Commissioner for the NHMMJUA and that all actions, reports, opinions, advice (written and oral) rendered pursuant hereto will be used only by the Receiver for guidance in fulfilling his responsibilities under New Hampshire Law; and

WHEREAS, it is understood and agreed that the Consultant, subject to the approval of the Receiver, shall have the powers of the Receiver under RSA 402-C:17 and the Order of Rehabilitation to conduct the wind down of the NHMMJUA.

NOW, THEREFORE, in consideration of the foregoing and of the respective covenants and agreements of the parties herein contained, the parties hereto agree as follows:

1. **SERVICES**: The Consultant shall provide the Receiver such services as are reasonably necessary for the Receiver to effect the winding down of the NHMMJUA pursuant to the New Hampshire Insurance Code, including the provisions of HB 508 as enacted, and the Order of Rehabilitation.

2. **TERM AND TERMINATION**: This Agreement shall be subject to Court approval. The Special Deputy Commissioner shall serve at the pleasure of the Commissioner. Subject to the foregoing, this Agreement shall be effective as of the date first written above and shall be terminated as of the earlier of:

- (a) The mutual written agreement of the parties hereto to terminate the Agreement;
- (b) Upon written notice of termination of the Agreement by either party at any time with thirty (30) days' advance notice.

Upon notice by the Commissioner or the termination of the Agreement for any reason, the Consultant shall cease providing Services to the Receiver and shall immediately surrender and deliver to the Receiver any and all reports, working papers and documents of every kind prepared by or for the Consultant acting as Special Deputy Commissioner relating to the NHMMJUA and/or the services provided hereunder including, but not limited to, any works in progress following the termination of this Agreement.

3. COMPENSATION & EXPENSES: Provided that the Consultant shall satisfactorily perform his obligations hereunder on behalf of the Receiver, the NHMMJUA shall pay the Consultant an hourly fee of \$325, plus reasonable and necessary travel expenses incurred by the Consultant including, without limitation, round trip coach airfare for the Consultant to and from his residence and hotel or apartment accommodations in connection with such travel. The Consultant shall be compensated at such hourly fee for the time that the Consultant spends traveling between his residence and New Hampshire or any other location deemed necessary. The Consultant shall be compensated at such hourly fee for the time the Consultant spends traveling with respect to any testimony required to be given relative to services provided hereunder. The Consultant travels to the East Coast regularly in connection with other business for the Commissioner, and the Consultant shall seek to coordinate travel for services under this Agreement with travel for such other business and shall charge only the additional travel time and expenses under this Agreement. The compensation of the Consultant and any other assistants, clerks or other agents of the Consultant shall be paid solely out of the funds or assets of NHMMJUA. The Consultant shall submit accurate and complete invoices to the Receiver on a monthly basis, or more frequently at the request of the Receiver, specifying the day or days on which the Consultant provided services, the number of hours, or fraction thereof, spent providing the services, a reasonable description of the work performed, and a detailed description of the expenses incurred thereon.

4. RELATIONSHIPS OF PARTIES: The Consultant's status under this Agreement and his performance of his duties and obligations hereunder shall be that of an independent contractor, and nothing contained in this Agreement shall create or imply an employer/employee relationship between the Receiver, the State of New Hampshire, and the Consultant. Nor shall this Agreement be deemed to constitute a joint venture or partnership between the parties. However, for purposes of New Hampshire RSA Chapter 402-C, the Special Deputy Commissioner shall enjoy and be vested with the same privileges, protections and

immunities as the Receiver, pursuant to the provisions of RSA 402-C and other applicable provisions of the New Hampshire statutes, including common law. The Special Deputy Commissioner is a state official entitled to the protections of RSA 99-D subject to the provisions of that statute, including RSA 99-D:2.

5. COVENANT: The Consultant shall not, during the term of this Agreement, serve any interest or do any act or thing that may conflict with the interests of the Receiver. If consistent with the foregoing covenant and if it will not diminish the Consultant's availability and capacity to fully and timely fulfill the obligations under this Agreement, the Consultant may continue to serve current or new clients while performing consulting services for the Receiver, and such retention and commitments shall not, in themselves, be deemed a breach of this covenant.

6. CONFIDENTIALITY: The Consultant shall receive and have access to information that is privileged and confidential. Both during and after the term of this Agreement, the Consultant agrees to strictly preserve and protect the privileged and confidential nature of this information except as the Receiver shall authorize in writing.

The Consultant hereby acknowledges that each term and condition contained in this paragraph 6 is necessary to preserve the confidentiality of the information furnished to the Consultant and that the Consultant's failure to comply with any such term or condition would result in irreparable damage to the Receiver in an amount that is impossible to quantify.

The Consultant shall require any of his agents who receive confidential information to abide by the terms of this paragraph to the same extent that the Consultant is required to do so, and if any agent has employees, that the agent shall ensure any employee also abide by the terms of this paragraph to the same extent that the Consultant is required to do so.

At such time as the Receiver requests, the Consultant and his agents shall return to the Receiver or his designated representatives or shall destroy all copies of confidential information in any form whatsoever (including any notes, reports, transmittal letters or other writings prepared by the Consultant and his agents). Upon the request of the Receiver any such destruction shall be certified in writing by the Consultant.

7. NON-ASSIGNMENT: This Agreement is personal to the Consultant and he may not assign or delegate any of his rights or obligations hereunder, except for ministerial or clerical tasks, to any agent without first obtaining the written consent of the Receiver.

8. NOTICES: All notices, requests, approvals and consents and other communications required or permitted under this Agreement shall be in writing

and shall be sent using the email address or facsimile number specified below. A copy of any such notice shall also be personally delivered or sent by (a) first class U.S. Mail, registered or certified, return receipt requested, postage pre-paid; or (b) U.S. Express Mail, Federal Express, or other similar overnight bonded mail delivery services, to the address set out below. Such addresses and facsimile numbers may be updated in writing from time-to-time by either party with notice to the other party.

If to the Receiver:

Roger Sevigny
New Hampshire Insurance Department
21 South Fruit Street, Suite 14
Concord, New Hampshire 03301
FAX: (603) 271-1406
EMAIL: roger.sevigny@ins.nh.gov

If to the Consultant:

Peter Bengelsdorf
As Previously Advised

9. COUNTERPARTS: This Agreement may be executed in any number of counterparts, all of which taken together shall constitute one single agreement between the parties.

10. HEADINGS: The headings are for reference and convenience only and shall not be considered in the interpretation of this Agreement.

11. SEVERABILITY: If any provision of this Agreement is held by a court of competent jurisdiction to be contrary to law, then the remaining provisions of this Agreement will remain in full force and effect.

12. WAIVER: No delay or omission by either party to exercise any right or power it has under this Agreement shall impair or be construed as a waiver of such right or power. A waiver by any party of any breach or covenant shall not be construed to be a waiver of any succeeding breach or any other covenant. All waivers must be in writing and signed by the party waiving its rights.

13. AMENDMENTS: No amendments to, or change, waiver or discharge of, any provision of this Agreement shall be valid unless in writing and signed by an authorized representative of the party against which such amendment, change, waiver or discharge is sought to be enforced.

14. GOVERNING LAW: This Agreement shall be interpreted in accordance with and governed by the laws of the State of New Hampshire, without giving effect to the principles of conflicts of laws.

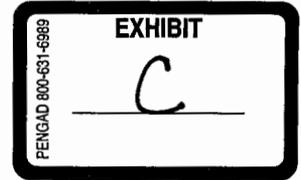
15. VENUE: Any action or proceeding arising out of this Agreement shall be brought against either party in the Merrimack County Superior Court of the State of New Hampshire, and each party consents to the jurisdiction of such court in any such action or proceeding and waives any objection to venue laid therein.

16. ENTIRE AGREEMENT: This Agreement is the entire agreement between the parties with respect to its subject matter, and except as recited above there are no other representations, understandings or agreements between the parties relative to such subject matter.

IN WITNESS WHEREOF, each of the Receiver and the Consultant have caused this Agreement to be signed and delivered by its duly authorized representative.

Roger A. Sevigny, Insurance Commissioner,
as Receiver of the NHMMJUA

Peter Bengelsdorf, Consultant



Professional History Peter Bengelsdorf

Employment:

- 07/94-Present **Consultant to various companies including Ernst & Young, Various Insurance Commissioners, Transit Casualty Company In Receivership, Underwriters Reinsurance Company, Swiss Reinsurance Company, New York Stock Exchange Companies and others. Special Deputy Liquidator for both Home Insurance Company and USI Reinsurance Company. Special Deputy Liquidator ACA Assurance, Special Deputy Liquidator Patriot Health Insurance Company**
- 06/82-06/94 **Executive Vice President and Chief Financial Officer
URC Holdings Corporation,
Underwriters Reinsurance Company
Woodland Hills, California**
- 06/76-06/82 **Vice President, Chief Financial Officer, and Underwriter
California Re Management Corporation
Pasadena, California**
- 08/75-06/76 **Accounting Manager
Western Employers Insurance
Fullerton, California**
- 06/72-08/75 **Accounting Supervisor
Transamerica Insurance Company
Los Angeles, California**

Special Activities:

- * College Teaching Credential in Banking and Finance
- * Guest Lecturer for California Insurance Department, Insurance Education Association
- * Past Director of California State University, Northridge Trust Fund and Chair of Investment Committee

Education:

- 1969-1970 California State University, Northridge, CA
- * **M.S.** degree in Business Administration with emphasis in Corporate Finance and Statistical Analysis
 - * Math minor
- 1964-1968 California State University, Northridge, CA
- * **B.S.** degree in Business Administration Quantitative Methods and Finance

THE STATE OF NEW HAMPSHIRE

MERRIMACK, SS.

SUPERIOR COURT

_____)
)
 IN THE MATTER OF THE WINDING DOWN OF:)
)
 THE NEW HAMPSHIRE MEDICAL MALPRACTICE)
 JOINT UNDERWRITING ASSOCIATION)
)
 _____)

No. _____

[PROPOSED]

ORDER OF REHABILITATION

On consideration of the Verified Petition for Receivership filed by Roger A. Sevigny, Insurance Commissioner of the State of New Hampshire (the “Commissioner”), and House Bill No. 508, as enacted and signed by the Governor (the “Act”), the Court finds that a receivership of the New Hampshire Medical Malpractice Joint Underwriting Association (the “NHMMJUA”) is required by law to wind down the NHMMJUA through rehabilitation.

WHEREFORE, it is hereby ordered adjudged and decreed that:

1. Roger A. Sevigny, Insurance Commissioner of the State of New Hampshire, and his successors in office, is hereby appointed Receiver of the NHMMJUA, including the stabilization reserve fund trust established in 1986 to pay deficits of the NHMMJUA incurred as a result of policies issued prior to January 1, 1986, to wind down the business of the NHMMJUA in accordance with RSA 404-C:15 - :17 and RSA 402-C.
2. Peter A. Bengelsdorf is hereby appointed Special Deputy Commissioner, a state official with all of the powers of the Receiver; the terms and conditions of his engagement as set forth in the proposed consulting agreement attached to the petition are approved; and the

Commissioner is authorized to execute the consulting agreement, pursuant to RSA 402-C:17, I.

3. The Receiver is directed forthwith to take possession of and secure all of the assets of the NHMMJUA, including all of its property, books, records, accounts and documents (including, without limitation, all data processing information and records and all types of electronically stored information relating to the NHMMJUA) to administer them under the orders of the Court.
4. The officers, directors, agents, employees and representatives of the NHMMJUA, and any persons acting in concert with the NHMMJUA, are prohibited and enjoined from (a) disposing of, using, transferring, removing or concealing any asset or property of the NHMMJUA, without the express written authority of the Receiver, or (b) in any way interfering with the conduct of the Receivership or interfering with the Receiver's possession and rights to the assets and property of the NHMMJUA.
5. Any bank, savings and loan organization, or other financial institution or entity is hereby prohibited and enjoined from disposing of, allowing to be withdrawn or concealing in any manner assets or property of the NHMMJUA, except under express written authorization of the Receiver.
6. The following actions are hereby restrained and enjoined: (a) the commencement or continuation of a judicial, administrative, or other action or proceeding against the NHMMJUA other than actions seeking coverage under insurance policies issued by the NHMMJUA, except as permitted by further order of the Court; (b) the enforcement against the NHMMJUA or its assets or property of a judgment; (c) any act to obtain possession of assets or property of the NHMMJUA or to exercise control over assets or

property of the NHMMJUA; and (d) any act to create, perfect or enforce an lien against property of the NHMMJUA.

7. The Receiver is authorized to consult with, retain and obtain the assistance and advice of insurance and reinsurance experts, including without limitation, actuaries, accountants, attorneys, brokers, claim administrators, investment advisors, and consultants.
8. The Receiver is authorized, in his discretion, to pay any or all claims for losses, in whole or in part, under policies and contracts of insurance issued by the NHMMJUA and associated loss adjustment expenses, including but not limited to, claims for losses which, as of the date of the order, have been previously settled and approved for payment in the normal course of business.
9. The Receiver is authorized, in his discretion, to pay expenses incurred in the ordinary course of the NHMMJUA's business and in receivership, including the actual, reasonable, and necessary costs of preserving or recovering assets of the NHMMJUA and the costs of goods and services provided to the NHMMJUA's estate. Such costs shall include, but not be limited to: (a) reasonable professional fees for accountants, actuaries, attorneys, claim administrators, brokers, investment advisors and consultants retained by the Receiver to perform services relating to the receivership of the NHMMJUA, including the administering of claims, the underwriting of policies, and the marketing of coverage-obligations of the NHMMJUA, (b) compensation and other costs related to representatives and employees of the NHMMJUA who perform services for the NHMMJUA; and (c) a reasonable allocation of costs and expenses associated with time spent by Insurance Department or Attorney General personnel in connection with the Receivership of the NHMMJUA.

10. Persons with contracts with the NHMMJUA, other than insurance policies issued by the NHMMJUA, are enjoined and restrained from terminating, cancelling, failing to extend or renew, or changing the provisions of any contract with the NHMMJUA solely on account of the Act, the provisions of RSA 404-C:15 - :17, this Order, or the Receivership.
11. The Receiver is directed to file a monthly report with the Court detailing progress made in the wind-down of the NHMMJUA, including expenses incurred, pursuant to RSA 404-C:16, I, and RSA 402-C:16, III.
12. The Receiver shall have the full powers and authority given the Receiver by RSA 404-C:15 - :17 and a rehabilitator under RSA 402-C, and all other applicable laws, as is reasonable and proper to fulfill the duties and responsibilities of the Receiver under RSA 404-C:15 -:17, under RSA 402-C, and under this Order.

SO ORDERED.

Date: _____
Time: _____

By: _____
Presiding Justice