

**THE STATE OF NEW HAMPSHIRE  
JUDICIAL BRANCH  
SUPERIOR COURT**

Merrimack Superior Court  
163 North Main St./PO Box 2880  
Concord NH 03302-2880

Telephone: 1-855-212-1234  
TTY/TDD Relay: (800) 735-2964  
<http://www.courts.state.nh.us>

**NOTICE OF DECISION**

**J. CHRISTOPHER MARSHALL, ESQ  
NH ATTORNEY GENERALS OFFICE  
33 CAPITOL STREET  
CONCORD NH 03301-6397**

**In the Matter of the Winding Down of: The New Hampshire Medical**

Case Name: **Malpractice Joint Underwriting Association**

Case Number: **217-2015-CV-00347**

Please be advised that on July 22, 2015 Judge Smukler made the following order relative to:

Order of Rehabilitation

"Approved SO ORDERED."

July 24, 2015

Tracy A. Uhrin  
Clerk of Court

(485)

C:

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

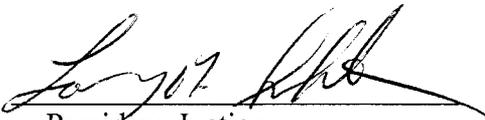
property of the NHMMJUA; and (d) any act to create, perfect or enforce an lien against property of the NHMMJUA.

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.

*Approved*  
SO ORDERED.

Date: July 22, 2015  
Time: 2:41 AM

By:   
Presiding Justice