

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. 217-2015-CV-00347

**RECEIVER'S MOTION FOR ORDER OF NOTICE REGARDING
MOTION FOR APPROVAL OF ASSUMPTION AGREEMENT WITH MEDPRO**

Roger A. Sevigny, Insurance Commissioner for the State of New Hampshire, as Receiver ("Receiver") of the New Hampshire Medical Malpractice Joint Underwriting Association ("NHMMJUA"), moves for issuance of an order of notice regarding Receiver's Motion for Approval of Assumption Agreement with MedPro. As reasons therefor, the Receiver states:

1. The Receiver has this day filed the Receiver's Motion for Approval of Assumption Agreement with MedPro (the "Approval Motion"). The Approval Motion seeks approval of an Assumption Agreement (the "Assumption Agreement" or "Agreement") between the Receiver and The Medical Protective Company ("MedPro") under which MedPro will assume the coverage-related obligations of the NHMMJUA pursuant to RSA 404-C:16, II.

2. The Act regarding the dissolution of the NHMMJUA, 2015 Laws 263 ("Act"), directs the Receiver to obtain competitive bids to have an insurer or insurers assume and novate the coverage-related obligations of the NHMMJUA as direct obligations of the insurer. RSA 404-C:16, II. As set forth in the Approval Motion, the

Receiver has entered the Assumption Agreement with MedPro in accordance with RSA 404-C:16, II.

3. The Act provides that an assumption agreement between the Receiver and an insurer regarding the NHMMJUA coverage-related obligations “shall be subject to the approval of the supervising court after a hearing at which all interested persons, including policyholders, have standing and may be heard.” RSA 404-C:16, II.

4. In light of RSA 404-C:16, II, the Agreement provides that it will only become effective upon the approval of the Court. Agreement §§ 1.1(f) and 7.1(c). If that approval is not obtained within 90 days of the date the Receiver’s motion for approval is filed with the Court, then the Agreement will terminate automatically. Agreement §§ 6.2, 7.2.

5. The Receiver moves for approval of the Assumption Agreement, and the Receiver accordingly requests that the Court set a date for the hearing on the Approval Motion pursuant to RSA 404-C:16, II. In view of the time necessary for notice as outlined below, the Receiver suggests that the hearing be scheduled at the Court’s convenience on a date in July.

6. Before bringing the Motion for Approval of Assumption Agreement, the Receiver’s counsel has worked cooperatively with Nixon Peabody LLP, counsel for the class in the prior action regarding distribution of the NHMMJUA surplus (Docket #217-2010-cv-00414), current counsel to numerous NHMMJUA policyholders and proposed class counsel with respect to the anticipated distribution of the assets to be interpled. Nixon Peabody has advised that it anticipates its clients will assent to the Motion for Approval.

7. The Receiver also requests that the Court issue an order of notice in the form submitted herewith concerning the hearing (the “Order of Notice”), and approve the form of notice of hearing attached as Exhibit A to the proposed order of notice (the “Notice of Hearing”).

8. To make the Approval Motion widely available, the Receiver will post the Approval Motion papers, including the Assumption Agreement and its schedules, on the New Hampshire Insurance Department website shortly after the Approval Motion is filed with the Court.

9. The Notice of Hearing will inform potentially interested persons where the Approval Motion papers are posted and available for viewing.

10. The Receiver will post the Order of Notice and the completed Notice of Hearing on the New Hampshire Insurance Department’s website and on the NHMMJUA’s website promptly upon receipt of the Order of Notice.

11. In order to provide more specific notice to potentially interested persons, the Receiver also proposes to mail the Notice of Hearing to: (a) historic NHMMJUA policyholders at the most recent addresses available from the NHMMJUA records as supplemented or corrected by information being provided by agreement by Nixon Peabody LLP, counsel for the plaintiff class in the prior action regarding distribution of NHMMJUA surplus (Docket No. 217-2010-CV-00414); (b) in-force NHMMJUA policyholders as of January 31, 2016 at the most recent addresses available from the NHMMJUA records, (c) claimants with pending claims against NHMMJUA insureds at the most recent addresses available from the NHMMJUA’s records or, where the

claimant is represented by counsel, at counsel's address, and (d) structured settlement annuity recipients through the insurers paying those benefits.

12. In addition, Nixon Peabody LLP advises Receiver's counsel it expects to send its own communication advising policyholders of the proposed Assumption Agreement, the Motion for Approval and related matters.

13. The Receiver has consulted with Hays Group, Inc., the Receiver's administrator, concerning the mail notice and believes that the mailing of the Notice of Hearing mail notice as outlined above can be completed within 14 days following receipt of the Order of Notice. The mailing will involve a mailing to approximately 7,500 addresses.

14. The Receiver also proposes to publish the Notice of Hearing in two newspapers of general circulation (the Concord Monitor and Union Leader) in New Hampshire for two successive weeks.

15. The proposed Order of Notice and the Notice of Hearing require interested persons to file any opposition or other response to the Approval Motion, with a copy to the Receiver's counsel, on or before a date certain at least 10 days before the hearing. This will allow time for preparation and presentation of the matter in an orderly fashion at the hearing.

16. The Receiver submits that the proposed Order of Notice and Notice of Hearing provide appropriate notice of the Approval Motion and hearing in accordance with RSA 404-C:16, II.

WHEREFORE, the Receiver requests that the Court:

- a. Grant this motion;

- b. Issue an Order of Notice in the form submitted herewith (1) setting a date for the hearing on the Approval Motion in July, (2) directing the Receiver to provide mail and publication notice of the hearing, (3) directing all interested persons seeking to participate in the hearing to file an opposition or other response, with a copy to the Receiver, by a date certain at least 10 days prior to the hearing; and
- c. Grant such other relief as equity and justice may require.

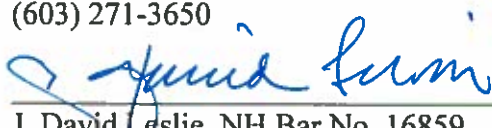
Respectfully submitted,

ROGER A. SEVIGNY, INSURANCE
COMMISSIONER OF THE STATE OF NEW
HAMPSHIRE, SOLELY AS RECEIVER OF THE
NEW HAMPSHIRE MEDICAL MALPRACTICE
JOINT UNDERWRITING ASSOCIATION

By his attorneys,

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May 25, 2016

Certificate of Service

I hereby certify that a copy of the foregoing Receiver's Motion for Order of Notice and the Proposed Order of Notice, were sent this 25th day of May, 2016, by first class mail, postage prepaid to all persons on the attached service list.



J. David Leslie

NH Bar ID No. 16859

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SERVICE LIST

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