



**The State of New Hampshire**  
**Insurance Department**  
21 South Fruit Street, Suite 14  
Concord, NH 03301

**David J. Bettencourt**  
Commissioner

**Keith E. Nyhan**  
Deputy Commissioner

**Competitive Market Determination**  
**Regarding Medical Professional Liability Insurance**  
**For Physicians, Surgeons, and Hospitals**

**Docket: INS No. 23-030-AP**

**FINAL ORDER**

Pursuant to the provisions of Ins 207.04, the Proposed Order issued on November 1, 2023 by Hearing Officer Steven M. Notinger is hereby ACCEPTED as a FINAL ORDER with MODIFICATIONS as set forth below.

1. In the Background section, page 2, paragraph 2, the sentence beginning “On or about September 2, 2021” is not adopted and is replaced with:

On or about September 2, 2021, the Department published notice of a hearing for October 22, 2021.

2. In the Background section, page 2, the last sentence beginning with “A determination was made” is not adopted and is replaced with:

By Order dated November 8, 2021, a determination was made to extend the previous Order through November 8, 2023.

3. In the Background section, page 3, the first sentence beginning with “A further public hearing” is not adopted and is replaced with:

A further public hearing was held on October 24, 2024.

Further, the citation “See ins. 203.01(b)” immediately following the afore-mentioned sentence is not adopted and is removed.

4. In the Background section, page 3, the sentence beginning “On or about September 8, 2023” is not adopted and is replaced with:

The Department published notice of the hearing on the Department's website and sent notice to the top ten NH-licensed writers of medical professional liability insurance.

Additionally, the citation to "See Exhibits 1 and 2" immediately after the aforementioned sentence is not adopted and is removed.

5. In the Background section, page 3, the sentence beginning "In addition, the Department published" is not adopted and is replaced with:

The Department also caused notice of the hearing to be published in the Concord Monitor and the Manchester Union Leader six (6) times in October 2024.

Further, the citation "See Exhibit 4" immediately after the afore-mentioned sentence is not adopted and is removed.

6. In the background section, page 3, the sentence beginning "This information" is not adopted and is removed. Additionally, the citations immediately following the sentence and the two footnotes are similarly not adopted and are removed.

7. In the findings section, page 4, the reference to "RSA 412:14(11)" is not adopted and is replaced with:

RSA 412:14(II)

8. In the findings section, page 5, the sentence beginning "In addition, several insurers" is not adopted and is replaced with:

In addition, several insurers continue to rely on each other's rate filings to justify their filed loss costs and use Non-New Hampshire data to supplement New Hampshire experience.

9. In the findings section, page 5, the sentence beginning "In sum, Mr. Citarella's testimony" is not adopted and is replaced with:

In sum, Mr. Citarella's testimony and exhibits at the hearing support the conclusion that (1) there has not been significant change in the New Hampshire market over the past two years with respect to the factors outlined in RSA 412:14(II) and (2) there is not a reasonable degree of competition in the medical professional liability insurance marketplace.

Further, the citation immediately following the afore-mentioned sentence is not adopted and is removed.

10. In the Conclusion section, page 6, the sentence beginning "A 'Competitive Market' means" is not adopted and is replaced with:

A "Competitive Market" means a market that has not been found to be noncompetitive pursuant to RSA 412:13.

11. In the Conclusion section, page 6, the following clerical errors "RSA 412: 15, 412: 16, and 412: 19" are not adopted and are replaced with:

RSA 412:15, 412:16 and 412:19

**SO ORDERED.**

Dated: 11/29/23

  
\_\_\_\_\_  
David J. Bettercourt, Commissioner