

BEFORE THE STATE OF WASHINGTON
OFFICE OF INSURANCE COMMISSIONER

FILED

In the Matter of:

The Form A and Form E Applications for the
Proposed Acquisition of Control of:

**NORTHWEST DENTISTS INSURANCE
COMPANY,**

By

**THE DENTISTS INSURANCE
COMPANY,**

Applicant.

Docket No. 16-0176

2016 AUG 23 A 8:22

SECOND ORDER: CASE
SCHEDULING, CONSOLIDATED
HEARINGS FOR FORM A AND
FORM E APPLICATIONS, AND
OTHER MISCELLANEOUS
MATTERS

HEARINGS UNIT
OFFICE OF
INSURANCE COMMISSIONER

TO: Alison Sandman, Chief Legal Officer
Jane Tishkoff, Senior Corporate Counsel
The Dentists Insurance Company
1201 K Street, 14th Floor
Sacramento, CA 95814

Sarah W. Schroeder, President
Laurie Briggs, Senior Regulatory Consultant
Rector & Associates, Inc.
172 E. State Street, Suite 305
Columbus, OH 43215

Tom Bikales, Vice President & General Counsel
Northwest Dentists Insurance Company
c/o Moda Health
601 SW 2nd Avenue, 24th Floor
Portland, OR 97204

COPY TO: Mike Kreidler, Insurance Commissioner
James T. Odiorne, J.D., CPA, Chief Deputy Insurance Commissioner
Doug Hartz, Deputy Commissioner, Company Supervision Division
Ronald Pastuch, Holding Company Manager, Company Supervision Division
AnnaLisa Gellermann, Deputy Commissioner, Legal Affairs Division
Marcia Stickler, Insurance Enforcement Specialist, Legal Affairs Division
Office of the Insurance Commissioner
PO Box 40255
Olympia, WA 98504-0255

On August 22, 2016, a telephonic status conference was held in this matter. Appearing on behalf of The Dentists Insurance Company ("Applicant") were Alison Sandman, Chief Legal Officer, and Jane Tishkoff, Senior Corporate Counsel. Also appearing on behalf of the Applicant were Sarah W. Schroeder, President, and Laurie Briggs, Senior Regulatory Consultant, of Rector & Associates, Inc. ("Rector"). Tom Bikales, Vice President and General Counsel of Moda Health appeared on behalf of Northwest Dentists Insurance Company ("NORDIC"). Marcia Stickler, Insurance Enforcement Specialist from the Office of Insurance Commissioner's ("OIC's") Legal Affairs Division, appeared on behalf of the OIC.

1. Adjudicative Hearing on Form E. On July 12, 2016, the OIC received an application, or Statement Regarding the Acquisition of Control of or Merger with a Domestic Insurer ("Form A"), from Applicant. The requisite Pre-Acquisition Notification Form Regarding the Potential Competitive Impact of a Proposed Merger or Acquisition by a Non-Domiciliary Insurer doing Business in this State or by a Domestic Insurer ("Form E"), regarding Applicant's proposed acquisition of NORDIC was not filed with the Form A pursuant to RCW 48.31B.020. Per OIC's written request, Rector filed the Form E with the OIC on August 17, 2016.

The OIC's review of the Form E is governed by RCW 48.31B.020. RCW 48.31B.020(5)(a) states the Commissioner may not enter an order requiring an involved insurer to cease doing business in the state of Washington, or denying an application of an acquired or acquiring insurer to do business in this state, unless a hearing is held, and states:

(i) If an acquisition violates the standards of this section, the commissioner may enter an order:

(A) Requiring an involved insurer to cease and desist from doing business in this state with respect to the line or lines of insurance involved in the violation; or

(B) Denying the application of an acquired or acquiring insurer for a license to do business in this state.

(ii) Such an order may not be entered unless:

(A) There is a hearing;

(B) Notice of the hearing is issued prior to the end of the waiting period and not less than fifteen days prior to the hearing; and

(C) The hearing is concluded and the order is issued no later than sixty days after the filing of the preacquisition notification with the commissioner.

(iii) Every order must be accompanied by a written decision of the commissioner setting forth findings of fact and conclusions of law.

(iv) An order pursuant to this subsection (5)(a) does not apply if the acquisition is not consummated.

(Emphasis added).

RCW 48.31B.020(3)(b) explains that the waiting period begins on the date the Commissioner receives the Form E, and ends on the earlier of the thirtieth day after that date, or the Commissioner's termination of the waiting period.

Therefore, for the *sole* purpose of meeting the statutory deadlines governing a hearing concerning the Form E in the instant matter, the undersigned hereby tentatively schedules the hearing for September 16, 2016 beginning at 9 a.m., Pacific Time, at the OIC, 5000 Capital Blvd., Tumwater, Washington, **but in issuing this order immediately adjourns such proceeding (i.e., cancels it)** pursuant to RCW 48.04.010(1)(a) (the Commissioner's general authority to conduct hearings), RCW 48.04.060, and RCW 2.28.120, or other similar authority, in order to fulfill the scope of the requirements of the hearing intended by RCW 48.31B.020(5)(a).

2. Standard by which Applicant's Form E is Analyzed. As to the Form E, at least one authorized representative of Applicant (officers, directors, or in-house counsel are acceptable) and the OIC shall testify as to the criteria set forth in RCW 48.31B.020(4)(a), which provides that the OIC shall approve an acquisition if there is not substantial evidence that the effect of the acquisition

may substantially lessen competition in a line of insurance in this state or tend to create a monopoly therein, and the insurer does not fail to file adequate information under RCW 48.31B.020(3). In determining whether the proposed acquisition violates this competitive standard, the OIC shall consider the criteria in RCW 48.31B.020(4)(b). RCW 48.31B.020(4) requires that the OIC not deny such an acquisition if (i) the acquisition will yield substantial economies of scale or economies in resource that cannot be feasibly achieved in any other way, and the public benefits that would arise from the economies exceed the public benefits that would arise from not lessening competition; or (ii) the acquisition will substantially increase the availability of insurance, and the public benefits of the increase exceed the public benefits that would arise from not lessening competition.

Note that paragraph 6 of the Case Management Order in this matter, and its discussion of the standards governing confidentiality, sealing, and redaction of records, applies with equal force to the Form E filing in this matter. In particular, RCW 48.31B.020(3) states that “the commissioner must give confidential treatment to information submitted under this subsection (3) in the same manner as provided in RCW 48.31B.038.”

3. Consolidated Hearing on Forms A and E. During the status conference held in this matter on August 22, 2016, the undersigned consolidated for hearing the consideration of the Forms A and E, to be governed by the case schedule outlined in Section 4 below. The caption in this document has been changed to reflect that.

4. Case Schedule. The undersigned adopts the following case schedule (i.e., due dates) for this matter based upon a so-called Trigger Date (“T”), which in this matter is the OIC

Company Supervision Division's ("Company Supervision's") final recommendation on whether to approve or disapprove Applicant's Forms A and E:

Final Recommendation from Company Supervision on Forms A and E	T
Disclosure of Fact and Expert Witnesses	T + 4 (weeks)
Parties' Witness and Proposed Exhibit Lists	T + 6
Parties' Hearing Briefs	T + 7
Hearing on Forms A and E Begins (1 Day)	T + 9
Deadline for Post-Hearing Submissions Including Proposed Orders	2 weeks
Presiding Officer's Decision	ASAP

Dated: August 23, 2016



WILLIAM PARDEE
Presiding Officer

CERTIFICATE OF SERVICE

The undersigned certifies under the penalty of perjury under the laws of the state of Washington that I am now and at all times herein mentioned, a citizen of the United States, a resident of the state of Washington, over the age of eighteen years, not a party to or interested in the above-entitled action, and competent to be a witness herein.

On the date given below I caused to be filed and served the foregoing Second Order: Case Scheduling, Consolidated Hearings for Form A and E Filings, and Other Miscellaneous Matters on the following people at their addresses listed below:

Alison Sandman, Chief Legal Officer
Jane Tishkoff, Senior Corporate Counsel
The Dentists Insurance Company
1201 K Street, 14th Floor
Sacramento, CA 95814

Sarah W. Schroeder, President
Laurie Briggs, Senior Regulatory Consultant
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PO Box 40255
Olympia, WA 98504-0255

Dated this 23rd day of August, 2016, in Tumwater, Washington.


Dorothy Seabourne-Taylor
Paralegal, Hearings Unit