

**BEFORE THE DEPARTMENT OF COMMERCE AND INSURANCE
STATE OF MISSOURI**

IN RE: Proposed Acquisition of)	
Preferred Physician Medical Risk Retention)	
Group A Mutual Insurance Company,)	
)	Case Nos. 2007170523F
By)	2007210526H
)	
ProAssurance Corporation)	
and PRA Professional Liability Group, Inc.)	

APPROVAL WITH CONDITIONS

Based on the competent and substantial evidence in the administrative record before me, I, Chlora Lindley-Myers, Director of the Missouri Department of Commerce and Insurance (“Director” of the “Department”), determine that there is no need for additional proceedings or a formal hearing on this matter and hereby issue the following findings of fact, conclusions of law, and order approving the proposed acquisition in this case with conditions:

FINDINGS OF FACT

1. On July 14, 2020, ProAssurance Corporation (“Buyer Parent”) and PRA Professional Liability Group, Inc. (“Buyer”) submitted a Form A on behalf of Buyer Parent seeking the Director’s approval/non-disapproval of the proposed acquisition of Preferred Physicians Medical Risk Retention Group, a Mutual Insurance Company (“Domestic Insurer”), indirectly, by Buyer Parent and Buyer (“Applicants”).

2. Applicants seek to acquire Domestic Insurer, indirectly, as part of the acquisition of NORCAL Mutual Insurance Company (“NORCAL”), which controls Domestic Insurer through a management agreement between Domestic Insurer and PPM Insurance Services, Inc., a wholly-owned subsidiary of NORCAL.

3. On July 21, 2020, the Department’s Division of Insurance Company Regulation (“Division”) sent Applicants correspondence identifying certain additional items that were needed to address the completeness of the Form A Application.

4. On July 27, 2020, the Applicants responded to the Division’s July 21, 2020, letter and provided most of the documentation and additional information requested.

5. On August 7, 2020, the Division filed a Request for Hearing based on the potential that the acquisition might lessen competition in the insurance market in Missouri and that the financial condition of the Applicants, post-acquisition, might be such as would jeopardize the financial stability of the Domestic Insurer or prejudice the interests of its policyholders.

6. On October 5, 2020, the Division sent Applicants a letter following a substantive review of the Form A Application filed by Applicants. The October 5, 2020, letter requested additional information from Applicants to address specific questions or concerns raised by Division staff’s review of the Form A.

7. On October 26, 2020, the Applicants responded to the October 5, 2020, letter and provided additional information to address the questions and concerns expressed by the Division. The October 26, 2020, letter included much of the information and

documentation requested, but explained that certain documents remained in draft and that Applicants would provide those documents once they were final.

8. On December 4, 2020, the Division sent the Applicants a letter summarizing the status of Applicants' responses to the Division's October 5, 2020, letter. The Applicants have provided the requested information and documents in various letters and emails, including a March 31, 2021, email, an April 8, 2021, email, an April 27, 2021, email and an April 28, 2021 email.

9. At the same time the Applicants filed the Form A Application with the Division, Applicants also filed similar Form A Statements with other states, including the states of California, Texas, Florida and Alabama, seeking to acquire other subsidiaries of NORCAL.

10. The Division's review of the Form A Application and supplemental information received from Applicants shows that the Applicants will indirectly acquire Domestic Insurer as a result of certain transactions set out in an Agreement and Plan of Acquisition ("Acquisition Agreement") dated February 20, 2020, entered into by NORCAL and Buyer Parent.

11. Closing of the proposed transaction that forms the basis for the Form A filing is dependent on the review and approval by the California Department of Insurance (CDI) of a petition filed by NORCAL and Applicants to convert NORCAL from a mutual insurance company to a stock insurance company ("Conversion Plan").

12. On April 1, 2021, CDI held its public hearing on the Conversion Plan to, among other things, receive public comment on the proposed conversion. On April 26,

2021, NORCAL held a meeting of its Board to, among other things, complete its conversion to a stock insurance company.

13. On April 28, 2021, the CDI conditionally approved a Form A Statement submitted to the CDI, but the CDI has not yet issued a certificate of authority to the NORCAL stock company, NORCAL Insurance Company, created by the Conversion Plan.

14. The Director has exercised her discretion and deemed the Form A Application filed as that term is used in §§ 382.060 and 382.095, RSMo.¹

15. The Applicants intend to fund the acquisition using a combination of cash on hand, drawing down upon its pre-existing credit facility for a majority of the funds used and a combination of ordinary and extraordinary dividends from the Buyer Parent's subsidiaries (and such other financing obtained by Buyer Parent as necessary.)

16. The purchase price will be approximately \$450 million payable at closing and a contingent consideration of up to \$150 million, which will be paid if certain conditions and criteria as defined in the Acquisition Agreement are achieved.

17. Division staff have determined that the amount of additional debt Parent Buyer will undertake to complete the transaction will not be financially hazardous to the Applicants or their policy holders.

18. The Applicants have no present plans for the Domestic Insurer to declare an extraordinary dividend, to liquidate the Domestic Insurer, to sell any of the assets of the

¹ All statutory citations are to the Revised Statutes of Missouri 2016, RSMo 2016, unless otherwise stated.

Domestic Insurer (other than in the ordinary course of business), or to merge the Domestic Insurer with any other person or persons.

19. Applicants have no current plans to make any material changes in the business operations or corporate structure of the Domestic Insurer (other than as may arise in the ordinary course of business.) The Applicants do not currently anticipate any major changes to the business operations of the Domestic Insurer in the near term.

20. At the same time Applicants filed the Form A Statement, they also filed a Form E, addressing the impact of the proposed transaction on the market share of medical malpractice insurance in Missouri.

21. Following its review of the Form E, on August 13, 2020, the Division requested an economist opinion from Applicants addressing the potential impact of the proposed transaction on competition in the Missouri medical malpractice market.

22. Applicants provided the requested opinion. However, the Applicants' economist used data from both admitted and non-admitted lines of business.

23. On January 7, 2021, the Division completed its own analysis of the competitive impact of the proposed transaction, using only the admitted line of business data, and determined that the proposed transaction is a prima facie violation of the competitive standards set out in § 382.095.4(2).

24. However, § 382.095.4(4) also provides that even though the proposed acquisition is prima facie violative of the competitive standards set out in the statute, other relevant factors, including, but not limited to, market shares, the number of competitors, concentration, the trend of concentration in the market and the ease of entry into and exit

from the market, may establish the absence of the requisite anticompetitive effect. Based on Division staff's experience with the medical malpractice market in Missouri in addition to discussions with Department staff who routinely work in the medical malpractice insurance area, the market in Missouri is diverse and competitive, due in part to the unique options offered in Missouri statutes. Additionally, the medical malpractice insurance market has remained basically constant over the last several years and includes a number of available options. The market is and has been easy to both enter and exit.

25. Consequently, the Division determined, using the factors enumerated in § 382.095.4(4), that the proposed acquisition is not anticompetitive.

26. The proposed acquisition of Domestic Insurers by the Applicants will not substantially lessen competition or tend to create a monopoly in the business of insurance in Missouri.

27. Based on its review of the information and documents provided by Applicants, the Division has voluntarily withdrawn its Request for a Hearing.

CONCLUSIONS OF LAW

28. Section 382.040.1 provides:

No person other than the issuer shall commence a tender offer for or a request or invitation for tenders of, or enter into any agreement to exchange securities for, seek to acquire, or acquire, in the open market or otherwise, any voting security of a domestic insurer if, after the consummation thereof, he or she would, directly or indirectly, or by conversion or by exercise of any right to acquire, be in control of the insurer, and no person shall enter into an agreement to merge with or otherwise to acquire control of a domestic insurer unless, at the time the offer, request, or invitation is commenced or the agreement is entered into, or prior to the acquisition of the securities if no offer or agreement is involved, he or she has filed with the director and has

sent to the insurer a statement containing the information required by section 382.050 and the offer, request, invitation, agreement or acquisition has been approved by the director in the manner prescribed by sections 382.010 to 382.300.

29. Section 382.060 provides, in relevant part, that “[t]he director shall approve any merger or other acquisition of control referred to in § 382.040 unless after a public hearing the director” finds certain adverse conditions or consequences related to a merger or acquisition.

30. After a review of the Form A, all the Exhibits and the additional information submitted by Applicants as outlined above, pursuant to § 382.060, the Director fails to find that:

- a. after the proposed acquisition, the Domestic Insurers would not be able to satisfy the requirements for issuance of a license to write the line or lines of insurance for which they are presently licensed;
- b. the effect of the acquisition would be substantially to lessen competition in insurance in this state or tend to create a monopoly therein;
- c. the financial condition of the Applicants is such as might jeopardize the financial stability of any of the Domestic Insurers or prejudice the interests of their policyholders;
- d. any plans or proposals by the Applicants to liquidate the Domestic Insurers, sell any of their assets, consolidate or merge them with any other person, or make any other material change in the business or corporate structure or management of the Domestic Insurers are unfair and unreasonable to their policyholders and contrary to the public interest;
- e. the competence, experience, or integrity of the persons who would control or manage the Domestic Insurers post-acquisition are such that it would be contrary to the interest of policyholders and the general public to permit the acquisition; or
- f. the acquisition is likely to be hazardous or prejudicial to the insurance-buying public.

ORDER

31. Based on the foregoing Findings of Fact and Conclusions of Law, it is hereby Ordered that the proposed acquisition of the Domestic Insurer, indirectly, through the acquisition of NORCAL Insurance Company, formerly, NORCAL Mutual Insurance Company, by ProAssurance Corporation and PRA Professional Liability Group, Inc. as set out in the Form A Application is approved with the following conditions:

- a. the acquisition contemplated in the Acquisition Agreement by and among the Applicants and Domestic Insurer shall be subject to, and conditioned on, the closing of the merger;
- b. the acquisition contemplated in the Acquisition Agreement by and among the Applicants and Domestic Insurer shall be subject to, and conditioned on, the issuance of a certificate of authority to NORCAL Insurance Company by the California Department of Insurance; and

c. the acquisition contemplated in the Acquisition Agreement by and among Applicants and Domestic Insurer shall be subject to, and conditioned on, the submission by NORCAL Insurance Company of an application for a certificate of authority by a foreign company pursuant to §§ 375.801, 375.811 and 375.821 and 20 CSR 200-17.200 within sixty (60) days of the closing date for the merger.

SO ORDERED.

WITNESS MY HAND THIS 30th DAY OF April, 2021.



Chlora Lindley Myers
CHLORA LINDLEY-MYERS, DIRECTOR