

STATE OF VERMONT

SUPERIOR COURT
WASHINGTON UNIT

COMMISSIONER OF THE
DEPARTMENT OF FINANCIAL
REGULATION

PLAINTIFF,

v.

EMERGENCY PHYSICIANS INSURANCE
EXCHANGE RISK RETENTION GROUP
RESPONDENT.

CIVIL DIVISION

DOCKET NO. - - Wncv

[PROPOSED]

**ORDER FOR REHABILITATION OF EMERGENCY PHYSICIANS
INSURANCE EXCHANGE RISK RETENTION GROUP**

This matter came before the Court on February __, 2021, on the basis of the Petition for Order of Rehabilitation for Emergency Physicians Insurance Exchange Risk Retention Group (“Petition”) filed by the Commissioner for the Department of Financial Regulation (“Commissioner”). Based on the Petition, the accompanying Affidavit of J. David Leslie, and the Stipulation of Emergency Physicians Insurance Exchange Risk Retention Group to Entry of Order for Rehabilitation, the Court finds as follows:

1. Emergency Physicians Insurance Exchange Risk Retention Group (“EPIX” or the “Company”) is a domestic insurer subject to regulation under Title 8, Chapters 141, 142, and 145 of the Vermont Statutes Annotated.

2. The Company’s financial condition is such that the further transaction of business would be hazardous financially to its policyholders, creditors or the public; EPIX’s board of directors consents to rehabilitation under Title 8, Chapter 145 of the Vermont Statutes

Annotated; and the insurer is insolvent. Accordingly, grounds exist under 8 V.S.A. § 7051 for an order authorizing the Commissioner to rehabilitate EPIX.

THEREFORE, IT IS HEREBY ORDERED:

- (a) The Commissioner (and his successors in office) is appointed as Rehabilitator of EPIX pursuant to 8 V.S.A. § 7052;
- (b) The Rehabilitator shall take immediate control and possession of the assets of EPIX;
- (c) The Rehabilitator shall administer the assets of EPIX under the general supervision of the Court;
- (d) The Rehabilitator shall implement the Plan of Rehabilitation detailed in ¶ 8 of the Petition including: paying all reasonable administrative expenses in full in the ordinary course of business; adjusting and determining policyholder-level claims and other policy-related obligations as set forth, reimbursing policyholders for 40% of the costs of defense and indemnity for such claims, and deferring the remainder;
- (e) The Rehabilitator shall exercise all powers and duties under Chapter 145 of Title 8, Vermont Statutes Annotated, as he deems appropriate, including but not limited to:
 - (i) The authority to appoint one or more Special Deputy Rehabilitators, who shall have all the powers and authority of the Rehabilitator granted under Chapter 145 of Title 8, Vermont Statutes Annotated;
 - (ii) The authority to employ such counsel, clerks, assistants and other personnel as deemed necessary;
 - (iii) The authority pursuant to 8 V.S.A. § 7053(b) to take such action as the Rehabilitator deems necessary or appropriate to reform and revitalize EPIX, including, for

example: power to limit or to suspend the issuance of new or renewal policies or to issue or renew policies on terms he deems appropriate; power to pay or to defer payment of claims or other obligations as he deems appropriate; and, the power to enter into, extend, modify or cancel contracts or agreements;

- (iv) All the powers of the directors, officers and managers, whose authority shall be suspended, except as they are re-delegated by the Rehabilitator;
- (v) Full power to direct and manage, to hire and discharge employees, and to deal with the property and business of the insurer;
- (vi) The authority to prepare a plan to reorganize, consolidate, convert, reinsure, merge or otherwise transform EPIX should the Rehabilitator determine it appropriate;
- (vii) The authority to petition the Court for an order to terminate the Order of Rehabilitation under 8 V.S.A. § 7055;
- (viii) The power to avoid fraudulent transfers as set forth in 8 V.S.A. §§ 7065 and 7066;
- (ix) The power to initiate such legal or equitable action in the State of Vermont, in other states and in the federal courts as he deems appropriate to carry out his duties as Rehabilitator;
- (x) The authority to pay the expenses of this proceeding, including but not limited to the compensation of special deputies, counsel, clerks, assistants and other personnel and the expenses of taking possession of the insurer, as determined by the Rehabilitator out of the assets of EPIX.

(f) All persons are hereby enjoined from instituting any suit, action or other proceeding against EPIX, its directors, officers, employees or agents, or against the Rehabilitator, except before this Court or from executing or issuing or causing the execution or

issuance of any writ, process, summons, attachment, subpoena, replevin, execution or other proceeding for the purpose of impounding or taking possession of or interfering with any property owned by or in the possession of EPIX, or owned by them and in the possession of any of its directors, officers, employees or agents, or owned by them and in the possession of the Rehabilitator;

(g) All persons are hereby enjoined from terminating reinsurance agreements on the basis of the entry of this Order;

(h) The Rehabilitator shall account to the Court pursuant to 8 V.S.A. § 7052(b) at least semiannually for so long as the rehabilitation order remains in effect;

(i) The Court retains jurisdiction for purposes of granting such other relief as may be necessary and equitable; and,

(j) The Rehabilitator is authorized to make further application to the Court for such further relief as is deemed necessary.

Dated at Montpelier, Vermont, this ___ day of February, 2021.

Presiding Judge