

BEFORE THE INSURANCE COMMISSIONER
OF THE
COMMONWEALTH OF PENNSYLVANIA

In Re:	:	Pursuant to the Medical Professional
Application of Professional Casualty	:	Liability Reciprocal Exchange-to-Stock
Association (“PCA”), Physicians’	:	Conversion Act, Act of May 13, 2015, P.L.
Insurance Program Exchange (“PIPE”)	:	3, No. 2, 40 Pa.C.S. §§3501 <u>et seq.</u> ;
and Positive Physicians Insurance	:	Sections 1401, 1402, and 1403 of the
Exchange (“PPIX”) Requesting Approval	:	Insurance Holding Companies Act, Article
of a Series of Transactions Allowing for	:	XIV of the Insurance Company Law of
the Conversion of PCA, PIPE and PPIX	:	1921, Act of May 17, 1921, P.L. 682, <u>as</u>
Each to a Stock Insurance Company	:	<u>amended</u> , 40 P.S. §§991.1401-1403.
Through the Merger of Each with Newly-	:	
Created Stock Companies, the Immediate	:	
Merger of Converted PCA and Converted	:	
PIPE into Converted PPIX, Followed by	:	
the Acquisition of Control of the	:	
Converted PPIX by Positive Physicians	:	
Holdings, Inc. and the Acquisition of	:	
Control of Positive Physicians Holdings,	:	
Inc. by Insurance Capital Group, LLC and	:	
Enstar Holdings (US) LLC	:	Order No. ID-RC-19-01

DECISION AND ORDER

AND NOW, on this 5th day of February, 2019, Jessica K. Altman, Insurance Commissioner of the Commonwealth of Pennsylvania (“Commissioner”), hereby makes the following Decision and Order:

Pursuant to the Medical Professional Liability Reciprocal Exchange-to-Stock Conversion Act and the Insurance Holding Companies Act and in consideration of the documents, presentations and reports received, as well as other inquiries and studies as permitted by law, the Commissioner hereby makes the following findings of fact:

FINDINGS OF FACT

Identity of the Parties

Domestic Reciprocal and Inter-Insurance Exchanges

1. Professional Casualty Association (“PCA”) is an unincorporated association organized under the laws of the Commonwealth of Pennsylvania with its principal place of business in Berwyn, Pennsylvania. PCA is authorized as a reciprocal and inter-insurance exchange.
2. Professional Third Party, L.P. (“PTP”) is a limited partnership organized under the laws of the Commonwealth of Pennsylvania with its principal place of business in Berwyn, Pennsylvania. PTP is the attorney-in-fact for PCA.
3. Physicians’ Insurance Program Exchange (“PIPE”) is an unincorporated association organized under the laws of the Commonwealth of Pennsylvania with its principal place of business in Berwyn, Pennsylvania. PIPE is authorized as a reciprocal and inter-insurance exchange.
4. Physicians’ Insurance Program Management Company (“PIPMC”) is a business corporation organized under the laws of the Commonwealth of Pennsylvania with its principal place of business in Berwyn, Pennsylvania. PIPMC is the attorney-in-fact for PIPE.
5. Positive Physicians Insurance Exchange (“PPIX”) is an unincorporated association organized under the laws of the Commonwealth of Pennsylvania with its principal place of business in Berwyn, Pennsylvania. PPIX is authorized as a reciprocal and inter-insurance exchange. PPIX together with PCA and PIPE are referred to collectively as the “Exchanges.”
6. Specialty Insurance Services, LLC (“SIS”) is a limited liability company organized under the laws of the Commonwealth of Pennsylvania with its principal place of business in Berwyn, Pennsylvania. SIS is the attorney-in-fact for PPIX.
7. Diversus, Inc. (“Diversus”) is an insurance holding company organized under the laws of the State of Delaware with its principal place of business in Berwyn, Pennsylvania. PTP, PIPMC and SIS are direct wholly-owned subsidiaries of Diversus.

New Entities Formed to Support the Conversions

8. PCA Conversion Corp. (“PCACC”) is a newly-formed stock business corporation organized under the laws of the Commonwealth of Pennsylvania with its principal place

of business in Berwyn, Pennsylvania.

9. PIPE Conversion Corp. (“PIPECC”) is a newly-formed stock business corporation organized under the laws of the Commonwealth of Pennsylvania with its principal place of business in Berwyn, Pennsylvania.
10. PPIX Conversion Corp. (“PPIXCC”) is a newly-formed stock business corporation organized under the laws of the Commonwealth of Pennsylvania with its principal place of business in Berwyn, Pennsylvania. PPIXCC together with PCACC and PIPECC are referred to collectively as the “Conversion Corps.”
11. Positive Physicians Holdings, Inc. (“HoldCo”) is a newly-formed business corporation organized under the laws of the Commonwealth of Pennsylvania with its principal place of business in Berwyn, Pennsylvania.
12. As of the date of this Decision and Order, none of PCACC, PIPECC, PPIXCC or Holdco has issued any shares or has any shareholders.

Acquisition Applicant - Insurance Capital Group, LLC

13. Insurance Capital Group, LLC (“ICG”) is a privately-held limited liability corporation organized under the laws of the State of Delaware with its principal place of business in New York, New York.
14. Matthew T. Popoli (“Popoli”) is an individual with his principal place of business in New York, New York. Popoli directly holds greater than 10% of the issued and outstanding voting interests of ICG.
15. Craig A. Huff (“Huff”) is an individual with his principal place of business in New York, New York. Huff directly holds greater than 10% of the issued and outstanding voting interests of ICG.

Acquisition Applicant – Enstar Holdings (US) LLC

16. Enstar Holdings (US) LLC (“Enstar”) is a limited liability company organized under the laws of the State of Delaware with its principal place of business in St. Petersburg, Florida.
17. Enstar Group Limited (“EGL”) is a publicly-traded Bermuda exempted company with its principal place of business in Hamilton, Bermuda. Enstar is an indirect wholly-owned subsidiary of EGL.
18. The Department has received and accepted a rebuttal of control filing from an entity holding greater than 10% of the voting securities of EGL.

19. ICG and Enstar are referred to collectively as the “Standby Purchasers” or “Applicants.”

Plan of Conversion – Adoption, Filing and Applicable Law

Adoption

20. On June 1, 2018, PTP adopted a Plan of Conversion (the “PCA Plan”). The Board of Managers of PTPGP, LLC, which is the general partner of PTP took the action to adopt the PCA Plan. PCA does not have a subscribers’ advisory committee or equivalent governing body. The Board of Managers adopted a subsequent amendment effective September 17, 2018.
21. On June 1, 2018, PIPMC adopted a Plan of Conversion (the “PIPE Plan”). The Board of Directors of PIPMC took the action to adopt the PIPE Plan. PIPE does not have a subscribers’ advisory committee or equivalent governing body. The Board of Directors adopted a subsequent amendment effective September 17, 2018.
22. On June 1, 2018, SIS adopted a Plan of Conversion (the “PPIX Plan”). The Board of Managers of SIS took the action to adopt the PPIX Plan. PPIX does not have a subscribers’ advisory committee or equivalent governing body. The Board of Managers adopted a subsequent amendment effective September 17, 2018. The PPIX Plan together with the PCA Plan and PIPE Plan are referred to collectively as the “Plans.”

Filing

23. On September 25, 2018, the Insurance Department of the Commonwealth of Pennsylvania (“Department”) received an application (which together with all material received subsequently is referred to collectively as “Conversion Application”) from PCA, PIPE and PPIX requesting approval to convert each from a reciprocal to stock form (the “Conversions”). The Conversions are noted to be “interdependent,” meaning that no plan can be completed without the completion of the other plans, and are to occur simultaneously.

Applicable Laws

24. The Medical Professional Liability Reciprocal Exchange-to-Stock Conversion Act, Act of May 13, 2015, P.L. 3. No. 2, 40 Pa.C.S. §§3501 et seq. (“Conversion Act”), provides that all plans of conversion of domestic reciprocal insurers must be filed with the Commissioner for approval or disapproval.
25. “Reciprocal insurer” is defined in the Conversion Act as a Pennsylvania-domiciled reciprocal and inter-insurance exchange, as established in Article X of the act of May 17, 1921 (P.L. 682, No. 284), known as The Insurance Company Law of 1921, that is authorized to write medical professional liability insurance and at least 50% of its direct

written premium in the calendar year preceding adoption of the plan of conversion consisted of medical professional liability insurance.

26. The 2017 statutory financial statements on file with the Department for each of PCA, PIPE and PPIX reflects that 100% of direct written premium consisted of medical professional liability insurance.
27. The Conversion Application was filed with the Department pursuant to Section 3502 of the Conversion Act.

Description of Reciprocal-to-Stock Conversion

28. As specified in the Conversion Application, the Exchanges will convert to stock insurance companies pursuant to Section 3503 of the Conversion Act.
29. The Conversion Application sets forth the following advantages of the Plans:
 - a) the Plans will increase access to capital and strengthen ability to honor contractual obligations to policyholders as well as increase written premiums; and
 - b) the Plans will put operations under management by the team of experienced and successful senior managers.
30. As specified in the Conversion Application, the conversion of PCA will be accomplished through the merger of PCA with and into PCACC (the "PCA Merger").
31. As specified in the Conversion Application, the conversion of PIPE will be accomplished through the merger of PIPE with and into PIPECC (the "PIPE Merger").
32. As specified in the Conversion Application, the conversion of PPIX will be accomplished through the merger of PPIX with and into PPIXCC (the "PPIX Merger"). The PPIX Merger together with the PCA Merger and PIPE Merger are referred to collectively as the "Reciprocal Mergers."
33. As specified in the Conversion Application, immediately after the Reciprocal Mergers, PCACC and PIPECC will each merge with and into PPIXCC to form a single insurance company that is the successor to the operations of PCA, PIPE and PPIX. The mergers of PCACC and PIPECC with and into PPIXCC are referred to collectively as the "Conversion Corp. Mergers."
34. As specified in the Conversion Application, the board of directors of the Conversion Corps. approved a Plan of Merger of PCACC and PIPECC with and into PPIXCC ("Plan of Merger"). The Plan of Merger will be executed in connection with the closing of the Plans.

35. The Exchanges have requested that the Department license the Conversion Corps. as stock insurance companies.
36. The Exchanges have requested that the Department waive any requirement that PCACC and PIPECC be required to be capitalized in order to receive a license, and have requested that the Department waive any requirement that PPIXCC be required to be capitalized until the Conversion Corp. Mergers have been completed.
37. As specified in the Conversion Application, the Conversion Corps. will not conduct business unless and until the Reciprocal Mergers and Conversion Corp. Mergers are completed.
38. As specified in the Conversion Application, as part of the Conversion Corp. Mergers, PPIXCC will amend its Articles of Incorporation to, among other things, change its name to "Positive Physicians Insurance Company."
39. The Exchanges have requested that the Department approve the change of name from "PPIX Conversion Corp." to "Positive Physicians Insurance Company."
40. As specified in the Conversion Application, 100% (120,000 shares at \$10 par value) of Positive Physicians Insurance Company's common stock will be issued to Holdco. In consideration for these shares, Holdco will pay to Positive Physicians Insurance Company \$1,200,000.
41. As specified in the Conversion Application, Positive Physicians Insurance Company will be wholly-owned by Holdco.
42. As specified in the Conversion Application, subscription rights ("Subscription Rights") will be offered to all subscribers of the Exchanges as of June 1, 2018 ("Eligible Subscribers"). A person insured under a group policy that is otherwise an Eligible Subscriber shall be an Eligible Subscriber.
43. The Exchanges advised the Department that they had, on October 12th and 15th, sent to Eligible Subscribers notice advising of:
 - a) the adoption and filing of the plan;
 - b) the ability of subscribers to provide the Commissioner and the reciprocal insurer with comments on the plan within 30 days of the date of the notice; and
 - c) the procedure for making comments.
44. Section 3507 of the Conversion Act requires that written notices regarding the Plans be sent to subscribers whose policies were issued after the Plans were adopted on June 1, 2018.

45. As provided in the Conversion Act, subscribers whose policies were issued after the Plans were adopted receiving notice must be advised that each such subscriber is entitled to cancel his or her policy and receive a pro rata refund of unearned premiums.
46. The Department reviewed the Exchanges' proposed notices.
47. As specified in the Conversion Application, the Exchanges shall hold meetings of their Eligible Subscribers to vote upon the Plans ("Special Meeting") following receipt of an approving determination by the Commissioner in the instant proceeding.
48. As specified in the Conversion Application, the affirmative vote of at least two-thirds of the votes cast by the Eligible Subscribers is a required condition to closing under Plans.

Pro Forma Market Value

49. Section 3503(d) of the Conversion Act requires that an independent evaluation of the estimated pro forma market value of the stock company as a successor to the reciprocal insurer ("Appraisal") be filed with the Commissioner.
50. As described in the Conversion Application, the Exchanges retained Feldman Financial Advisors, Inc. ("Feldman") to prepare an Appraisal of the pro forma market value of each exchange on an "as-converted" basis.
51. As described in the Conversion Application, Feldman is experienced in the field of corporate appraisals.
52. The Conversion Application includes the independent evaluation of the pro forma market value of PCA prepared by Feldman entitled "Conversion Valuation Appraisal Report," dated May 1, 2018.
53. As described in the Conversion Application, Feldman estimated the pro forma mid-point market value of PCA after conversion to be \$13 million and estimated a range of between \$11.05 million to \$14.95 million.
54. The Conversion Application includes the independent evaluation of the pro forma market value of PIPE prepared by Feldman entitled "Conversion Valuation Appraisal Report," dated May 1, 2018.
55. As described in the Conversion Application, Feldman estimated the pro forma mid-point market value of PIPE after conversion to be \$11 million and estimated a range of between \$9.35 million to \$12.65 million.
56. The Conversion Application includes the independent evaluation of the pro forma market value of PPIX prepared by Feldman entitled "Conversion Valuation Appraisal Report," dated May 1, 2018.

57. As described in the Conversion Application, Feldman estimated the pro forma mid-point market value of PPIX after conversion to be \$18 million and estimated a range of between \$15.30 million to \$20.70 million.
58. As described in the Conversion Application, Feldman estimated the combined pro forma mid-point market value of the Exchanges after conversion to be \$42 million and estimated a combined range of between \$35.70 million to \$48.30 million.
59. Section 3502(e) of the Conversion Act provides that the Commissioner may retain, at the reciprocal insurer's expense, any expert not otherwise a part of the Commissioner's staff to assist in reviewing the plan and the independent evaluation of the pro forma market value.
60. On November 20, 2018, the Department engaged Boenning & Scattergood to assist in the review of the Plans and review of the independent evaluation of the pro forma market value as estimated by Feldman ("Engagement Letter").
61. In the Engagement Letter, the Department requested Boenning & Scattergood's opinion as to whether the allocation of subscription rights was fair and equitable under Section 3503(a)(3)(iii) and (b) of the Conversion Act.
62. The Department also requested Boenning & Scattergood's opinion regarding the reasonableness of the methodologies and assumptions utilized by the Exchanges (or their advisor) in deriving the estimate of the pro forma market value of the Exchanges in light of Section 3503(d) of the Conversion Act.
63. Additionally, the Department requested that Boenning & Scattergood examine the impact of the Conversion Corp. Mergers on Eligible Members who become stockholders.
64. Boenning & Scattergood is an investment banking firm that is regularly involved in the valuation of assets, securities and companies in connection with various types of asset and securities transactions, including mergers, acquisitions, private placements, public offerings and valuations for various other purposes, and in the determination of adequate consideration in such transactions. Boenning & Scattergood's professionals have significant experience in mutual-to-stock conversions.
65. On January 25, 2019, Boenning & Scattergood issued its reports to the Department with regard to the Engagement Letter.
66. In its reports, Boenning & Scattergood issued its opinion that the allocation of subscription rights was fair and equitable under Section 3503(a)(3)(iii) and (b) of the Conversion Act.
67. Boenning & Scattergood also opined that the methodologies and assumptions utilized by Feldman in its Conversion Valuation Appraisal Reports in deriving the estimate of

the pro forma market value of the Exchanges were reasonable in light of Section 3503(d) of the Conversion Act.

The Offering

68. As specified in the Plans, Holdco will offer its common stock at the price of \$10 per share (the "Offering").
69. The Offering will consist of a subscription offering and a community offering.
70. As specified in the Conversion Application, Eligible Subscribers shall receive, without payment, non-transferable subscription rights to purchase the common stock of Holdco up to the maximum of the Offering range.
71. As specified in the Conversion Application, if all of the shares offered for sale in the subscription offering are not subscribed for, any remaining shares will be offered to other investors in the community offering.
72. As specified in the Conversion Application, except for (i) the Standby Purchasers; and, (ii) certain stockholders of Diversus, no purchaser may purchase in the Offering more than 5,000 shares.
73. As specified in the Conversion Application, to the extent that shares are available, no person may purchase fewer than the lesser of (i) 50 shares of common stock; or, (ii) shares of common stock having an aggregate purchase price of \$500.00 in the Offering.
74. As specified in the Conversion Application, the maximum amount of common stock which any person together with any associate or group of persons acting in concert (other than the Standby Purchasers) may, directly or indirectly subscribe for or purchase in the Offering, shall not exceed five percent (5%) of the total shares of common stock sold in the Offering.

Acquisition – Adoption, Filing and Applicable Law

75. On June 8, 2018, Holdco, the Exchanges, and ICG entered into a Standby Stock Purchase Agreement ("Standby Agreement"). The parties to the Standby Agreement subsequently amended the Standby Agreement on September 21, 2018 to reflect the addition of Enstar as a party to the proposed transaction.
76. On September 26, 2018, the Department received an application (which together with all material received subsequently is referred to collectively as "Acquisition Application") from ICG and Enstar requesting approval to acquire control of Positive Physicians Insurance Company ("Acquisition").
77. The Insurance Holding Companies Act, Article XIV of the Insurance Companies Law of 1921, Act of May 17, 1921, P.L. 682, as amended, 40 P.S. §§991.1401 et seq.

("Insurance Holding Companies Act"), provides that all mergers or other acquisitions of control of domestic insurers must be filed with the Commissioner for approval or disapproval.

78. The Acquisition Application was filed with the Department pursuant to the Insurance Holding Companies Act.
79. The Conversion Application and Acquisition Application are referred to collectively as "Application."
80. The Conversion and Acquisition are referred to collectively as "Proposed Transaction."

Description of Acquisition

81. As specified in the Application, ICG and Enstar will make an equity investment of an amount ("Standby Purchase Amount"), when added to the purchases of Eligible Subscribers and of certain stockholders of Diversus, of at least the minimum of the appraisal range, and no greater than an amount, that when added to the purchases by Eligible Subscribers, and of certain stockholders of Diversus, will equal the maximum of the appraisal range.
82. As specified in the Application, ICG has committed to purchase 70% of the Standby Purchase Amount and Enstar has committed to purchase 30% of the Standby Purchase Amount. Because of the uncertainty in the number of shares that may be sold in the subscription offering, the percentage of shares owned by ICG and by Enstar after the offering may range from 0% to 66.5% and from 0% to 28.5%, respectively.
83. As specified in the Application, upon completion of the Proposed Transaction, ICG and Enstar are individually expected to indirectly control Positive Physicians Insurance Company.
84. As described in the Application, EGL, Popoli and Huff would become the ultimate controlling persons of Positive Physicians Insurance Company as a result of the Acquisition.

Department Procedures

Public File

85. The public file is comprised of all documents filed with the Department by the Exchanges, ICG and Enstar except those for which the Department determined that confidential treatment was appropriate. The public file contains all final reports of the Exchanges' outside consultant, all final reports of the Department's outside consultant, correspondence between the Department and the Exchanges, ICG and Enstar.

86. The public file was maintained by the Department at its Harrisburg office and has been available to any interested person for inspection and copying in accordance with rules of the Department.
87. The Conversion Application has also been made available on the Department's website at:
<https://www.insurance.pa.gov/Companies/IndustryActivity/CorporateTransactionsofPublicInterest/Pages/PCA-PIPE-PPIX-Conversions.aspx> .

Notice and Comments

88. On November 10, 2018, the Department published notice of receipt of the Application in the *Pennsylvania Bulletin* inviting written comments on the Application from all interested persons for 30 days following the date of the publication (the "Comment Period").
89. The Department received no comments during the Comment Period.

Department's Approval of the Conversion – Conversion Act

90. Section 3502(d) of the Conversion Act establishes the standards for approval of an application for conversion.
91. An application for conversion must be approved by the Commissioner if the Commissioner finds the following:
- a) the plan complies with the Conversion Act;
 - b) the plan will not prejudice the interests of the subscribers; and
 - c) the plan's method of allocating subscription rights is fair and equitable.

Plan Provisions

92. Pursuant to Section 3503 of the Conversion Act, the plan is required to contain the following:
- a) the reasons for the proposed conversion;
 - b) the effect of conversion on existing policies, satisfying the specific requirements of Section 3503(a)(2) of the Conversion Act;
 - c) a description of the subscription rights to be offered to eligible subscribers, satisfying the specific requirements of Section 3503(a)(3) of the Conversion Act;

- d) a fair and equitable means for allocating shares of capital stock to eligible subscribers in the event of an oversubscription;
- e) a provision that any shares of capital stock not subscribed to by eligible subscribers shall be sold in a public offering through an underwriter or in another transaction approved by the Commissioner, subject to certain permissible exceptions set forth in Section 3503(c) of the Conversion Act;
- f) the total price of the capital stock equal to the estimated pro forma market value of the converted stock company based upon an independent evaluation by a qualified expert;
- g) the purchase price for shares of capital stock equal to a reasonable amount, not to exceed a \$500 minimum subscription amount;
- h) a provision limiting the number of shares of capital stock in the converted company or any company participating in the conversion that may be acquired by any person or group of persons acting in concert in the subscription rights offering or the public offering to five percent (5%) of the total number of shares, except with the approval of the commissioner;
- i) a provision prohibiting the acquisition of shares of capital stock in the converted company or any company participating in the conversion by the reciprocal company's directors and officers or its attorney-in-fact for a three year period after the effective date of the conversion plan, except through a broker-dealer or by permission of the Commissioner, subject to certain permissible exceptions specified in Section 3503(g) of the Conversion Act;
- j) a provision specifying that no officer or director may sell stock purchased pursuant to Sections 3503(h) or 3504(a) of the Conversion Act within one year after the effective date of the conversion;
- k) a provision specifying that the rights of surplus note holders to participate in the conversion shall be governed by the terms of the surplus note; and
- l) a provision specifying that the converted company or any corporation participating in the conversion shall not repurchase any of its capital stock for a three year period, subject to certain permissible exceptions specified in Section 3503(j) of the Conversion Act.

93. The Plans contains the provisions required by Section 3503 of the Conversion Act.

Subscriber Interests

94. When analyzing a plan of conversion, the Department reviews the plan to make certain that it will not prejudice the interests of the members.
95. As a condition to the effectiveness of the Conversion, the Plans must be approved by an affirmative vote of at least two-thirds of the votes cast by the Eligible Subscribers at the Special Meeting.
96. Eligible Subscribers will be entitled to cast their votes, either in person or by proxy, at the Special Meeting of Eligible Subscribers.
97. For purposes of voting on the Plan of Conversion, PCA will mail:
 - a) a notice of the Special Meeting,
 - b) a proxy statement,
 - c) a form of proxy by which the Eligible Subscribers may vote in favor of or against the Conversion and the PCA Conversion Merger, and
 - d) a copy of the Plan of Conversion and proxy form to each Eligible Subscriber. A stock order form will be included with the mailing.
98. For purposes of voting on the Plan of Conversion, PIPE will mail:
 - a) a notice of the Special Meeting,
 - b) a proxy statement,
 - c) a form of proxy by which the Eligible Subscribers may vote in favor of or against the Conversion and the PIPE Conversion Merger, and
 - d) a copy of the Plan of Conversion and proxy form to each Eligible Subscriber. A stock order form will be included with the mailing.
99. For purposes of voting on the Plan of Conversion, PPIX will mail:
 - a) a notice of the Special Meeting,
 - b) a proxy statement,
 - c) a form of proxy by which the Eligible Subscribers may vote in favor of or against the Conversion and the PPIX Conversion Merger, and

- d) a copy of the Plan of Conversion and proxy form to each Eligible Subscriber. A stock order form will be included with the mailing.
100. As specified in the Conversion Application, each policy of insurance issued by the Exchanges and in force on the effective date of Conversion shall remain in force as a policy issued by Positive Physicians Insurance Company, in accordance with the terms of such policy, except that, as of the effective date:
- a) All voting rights (if any) of the holder of such policy shall be extinguished,
 - b) All rights (if any) of the holder of such policy to share in the surplus of the exchange or Positive Physicians Insurance Company shall be extinguished,
 - c) Any assessment provisions contained in such policy shall be extinguished, and
 - d) In the case of a participating policy Positive Physicians Insurance Company shall have the right on the renewal date of such policy to issue a nonparticipating policy as a substitute for the participating policy.

Subscription Rights

101. When analyzing a plan of conversion providing for a subscription rights offering, the Department reviews the subscription rights offering to make certain that the plan's method of allocating subscription rights is fair and equitable.
102. As noted in Finding of Fact 60, above, the Department engaged Boenning & Scattergood to provide an opinion as to whether the allocation of Subscription Rights was fair and equitable under Section 3503(a)(3)(iii) and (b) of the Conversion Act.
103. As noted in Findings of Fact 66, above, Boenning & Scattergood issued to the Department an opinion that the allocation of Subscription Rights was fair and equitable under Section 3503(a)(3)(iii) and (b) of the Conversion Act.
104. Based on the information received and analyses conducted, the Commissioner finds that the Plans contain the provisions required by the Conversion Act, do not prejudice the interests of the subscribers, and are fair and equitable.

Department's Approval of the Acquisition – Insurance Holding Companies Act

105. Section 1402(f)(1) of the Insurance Holding Companies Act establishes the standards for approval of an application for a change in control of a domestic insurer.
106. An application for a change in control must be approved unless the Department finds any one of certain enumerated conditions to be present.

Licensing Requirements

107. When analyzing an application for change in control under Section 1402 of the Insurance Holding Companies Act, the Commissioner reviews the requirements for continued licensure of the domestic insurer being acquired.
108. The lines of insurance for which an insurance company may be incorporated and become licensed are set out in Section 202 of the Insurance Company Law (40 P.S. §382).
109. The minimum paid up capital stock and paid in surplus of a stock insurer for each line of insurance is set out in Section 206 of the Insurance Company Law (40 P.S. §386).
110. Upon Conversion, Positive Physicians Insurance Company will be required to maintain a minimum paid up capital stock of \$750,000 and a minimum paid in surplus of \$375,000 to write the line of insurance for which PPIX is presently licensed.
111. As specified in the Application, Positive Physicians Insurance Company will be initially capitalized with \$1,200,000 of paid up capital stock and approximately \$15,883,000 of paid in surplus.
112. Upon closing of the Proposed Transaction, Positive Physicians Insurance Company would have the statutory minimum capitalization to satisfy the requirements to write the line of insurance for which it is presently licensed.
113. PPIX has represented to the Department that upon closing of the Proposed Transaction, Positive Physicians Insurance Company will have the capitalization to satisfy the minimum capitalization requirements of all states in which PPIX is currently licensed.

Competitive Impact

114. The acquisition of control of a Pennsylvania domiciled insurer is subject to review and analysis under Section 1403 of the Insurance Holding Companies Act to determine whether the effect of the acquisition of control would be to substantially lessen competition in this Commonwealth or tend to create a monopoly therein.
115. The acquisition of control of the Positive Physicians Insurance Company will not lessen competition or tend to create a monopoly in the Commonwealth because the market shares of those insurance company subsidiaries of the Standby Purchasers licensed to transact the business of insurance in Pennsylvania and the market share of the Exchanges, as stated in its Application, do not exceed the market share levels established in Section 1403 of the Insurance Holding Companies Act.

Financial Condition of Applicants

116. When analyzing an application for an acquisition of control under Section 1402 of the Insurance Holding Companies Act, the Department reviews the financial condition of the acquiring person(s).
117. The Department reviewed pro forma financial statements submitted for HoldCo.
118. The Department reviewed the financial statements submitted for ICG, Enstar, Popoli and Huff.
119. The financial condition of HoldCo, ICG, Enstar, Popoli and Huff would not pose any impediment to the change in control of Positive Physicians Insurance Company or jeopardize the financial condition of Positive Physicians Insurance Company.

Plans for the Acquired Insurer

120. When analyzing an application for an acquisition of control under Section 1402 of the Insurance Holding Companies Act, the Department reviews the plans or proposals which the acquiring party has for the insurer.
121. In particular, the Department reviewed the plans or proposals which the acquiring party has to liquidate the insurer, sell its assets or consolidate or merge it with any person, or to make any other material change in its business or corporate structure or management, to determine whether it is:
 - a) Unfair or unreasonable;
 - b) Fails to confer a benefit upon policyholders; or
 - c) Not in the public interest.
122. As stated in the Application, Applicants have no present plans to cause Positive Physicians Insurance Company to declare an extraordinary dividend or distribution, to liquidate Positive Physicians Insurance Company, to sell Positive Physicians Insurance Company's assets or to merge Positive Physicians Insurance company with any person.
123. As stated in the Application, the role of the existing attorneys-in-fact will be eliminated by merging them into Diversus Management Inc., a wholly-owned subsidiary of Diversus, Inc.
124. As stated in the Application, a management agreement will be put in place between Positive Physicians Insurance Company and Diversus Management, Inc.

125. As stated in the Application, PPIX has filed to obtain a certificate of authority to transact the business of insurance from the following insurance regulatory authorities:
- a) Michigan Department of Insurance and Financial Services.
 - b) South Carolina Department of Insurance
126. There is no basis in the record from which it may be concluded that the proposed transaction is unfair or unreasonable or fails to confer a benefit upon policyholders or is not in the public interest.

Management

127. When analyzing an application for an acquisition of control under Section 1402 of the Insurance Holding Companies Act, the Department reviews the competence, experience and integrity of the persons who will control the operations of the acquired insurer.
128. As specified in the Application, the board of directors of Holdco and Positive Physicians Insurance Company will consist of nine (9) members – six (6) designated by ICG, two (2) designated by Enstar, plus the Chief Executive officer.
129. Biographical affidavits for all proposed directors and executive officers of Holdco and Positive Physicians Insurance Company were reviewed by the Department.
130. Biographical affidavits for all directors and executive officers of ICG, Enstar and EGL were reviewed by the Department.
131. The Department is satisfied that the persons who would control the operations of Positive Physicians Insurance Company have such competence, experience and integrity that the interests of policyholders and the public would not be jeopardized.

Hazardous or Prejudicial to Insurance Buying Public

132. When analyzing an application for an acquisition of control involving a domestic insurer under Section 1402 of the Insurance Holding Companies Act, the Department evaluates whether the merger, consolidation or other acquisition of control is likely to be hazardous or prejudicial to the insurance buying public.
133. There is no indication that the projected future business of the Applicants would impose a financial burden upon policyholders.
134. Likewise, there is no indication that the transaction would result in Positive Physicians Insurance Company being in impaired financial condition.

135. Nor is there a threat regarding the ability of policyholders to enforce their insurance contracts.
136. There is insufficient evidence in the record from which it may be concluded that the acquisition will likely be hazardous or prejudicial to the insurance buying public.

Compliance with the Pennsylvania Laws

137. When analyzing an application for an acquisition of control involving a domestic insurer under Section 1402 of the Insurance Holding Companies Act, the Department reviews the transaction to determine whether the merger, consolidation or other acquisition of control is not in compliance with the laws of this Commonwealth, including the Conversion Act.
138. The Department has evaluated the transaction as set forth by the Application as to whether it is in compliance with the laws of Pennsylvania.
139. If any of the above Findings of Fact are determined to be Conclusions of Law, they shall be incorporated in the Conclusions of Law as if fully set forth therein.

CONCLUSIONS OF LAW

1. The Conversion Act provides the Commissioner jurisdiction to review and approve or disapprove the Exchanges' Plans as described in the Conversion Application.
2. Section 3502(f) of the Conversion Act states that the Commissioner may order a hearing on whether the terms of the Plans comply with the Conversion Act after giving written notice to the exchanges and other interested persons, all of whom have the right to appear at the hearing.
3. The parties to the filing did not request a hearing, and, after review of the circumstances and documents relating to the Application, the Commissioner did not elect to conduct a hearing as a proper exercise of her statutory discretion.
4. Section 3502(a) of the Conversion Act requires that the Plans, and any amendments thereto, must be approved by not less than a two-thirds of the subscribers' advisory committees or an equivalent governing body of the reciprocals; or in the absence of a governing body, by the board of directors or governing body of the attorneys for the reciprocal insurers before it is filed with the Commissioner.
5. The Exchanges' Plans were adopted by the requisite number of board members.
6. Section 3502(c) of the Conversion Act requires that a reciprocal insurer proposing to convert to a stock form must file a proposed plan of conversion, and any amendments thereto, with the Commissioner for approval or disapproval.

7. The Exchanges' filing of their Plans was in accordance with the requirements of the Conversion Act.
8. In accordance with Section 3502(d) of the Conversion Act, the Commissioner shall approve a plan of conversion if the Commissioner finds each of the following:
 - a) the plan complies with the Conversion Act;
 - b) the plan does not prejudice the interests of the subscribers; and
 - c) the plan's method of allocating subscription rights is fair and equitable.
9. In accordance with Section 3502(d) of the Conversion Act, the Commissioner concludes that the Plans comply with the Conversion Act.
10. In accordance with Section 3502(d) of the Conversion Act, the Commissioner concludes that the conversions will not prejudice the interests of the subscribers.
11. In accordance with Section 3502(d) of the Conversion Act, the Commissioner concludes that the Plans' methods of allocating subscription rights are fair and equitable.
12. The Insurance Holding Companies Act grants the Commissioner jurisdiction to review and approve the Acquisition.
13. Under Section 1402 of the Insurance Holding Companies Act, the Department must approve an application for a change in control unless the Department has found that:
 - a) The insurer will not be able to satisfy the requirements for the issuance of a license to operate the line or lines of business for which they are presently licensed;
 - b) The change in control will substantially lessen competition in insurance in this Commonwealth or tend to create a monopoly therein;
 - c) The financial condition of the acquiring company is such as might jeopardize the financial stability of the insurer or prejudice the interests of its policyholders;
 - d) Any plans to liquidate the insurer, sell its assets or consolidate or merge it with any person, or to make material changes in its business or corporate structure or management are unfair and unreasonable and fail to confer benefit on policyholders of the insurer and not in the public interest;

- e) The competence, experience and integrity of those persons who would control the operation of the insurer are such that it would not be in the interest of policyholders and the general public to permit the acquisition of control;
 - f) The acquisition is likely to be hazardous or prejudicial to the insurance buying public; or,
 - g) The acquisition of control is not in compliance with the laws of this Commonwealth, including the Conversion Act.
14. Under Section 1402 of the Insurance Holding Companies Act, the Commissioner has not found that any of the above conditions are present with respect to the change in control of Positive Physicians Insurance Company, the single insurance company that is the successor to the operations of PCA, PIPE and PPIX.
15. The Commissioner concludes that the Application satisfies the requirements of the Conversion Act and the Insurance Holding Companies Act.
16. If any of the above Conclusions of Law are determined to be Findings of Fact, they shall be incorporated in the Findings of Fact as if fully set forth therein.

BEFORE THE INSURANCE COMMISSIONER
OF THE
COMMONWEALTH OF PENNSYLVANIA

<p>In Re:</p> <p>Application of Professional Casualty Association (“PCA”), Physicians’ Insurance Program Exchange (“PIPE”) and Positive Physicians Insurance Exchange (“PPIX”) Requesting Approval of a Series of Transactions Allowing for the Conversion of PCA, PIPE and PPIX Each to a Stock Insurance Company Through the Merger of Each with Newly-Created Stock Companies, the Immediate Merger of Converted PCA and Converted PIPE into Converted PPIX, Followed by the Acquisition of Control of the Converted PPIX by Positive Physicians Holdings, Inc. and the Acquisition of Control of Positive Physicians Holdings, Inc. by Insurance Capital Group, LLC and Enstar Holdings (US) LLC</p>	<p>: Pursuant to the Medical Professional Liability Reciprocal Exchange-to-Stock Conversion Act, Act of May 13, 2015, P.L. 3, No. 2, 40 Pa.C.S. §§3501 <u>et seq.</u>;</p> <p>: Sections 1401, 1402, and 1403 of the Insurance Holding Companies Act, Article XIV of the Insurance Company Law of 1921, Act of May 17, 1921, P.L. 682, <u>as amended</u>, 40 P.S. §§991.1401-1403.</p> <p>: Order No. ID-RC-19-01</p>
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ORDER

Upon consideration of the foregoing, Jessica K. Altman, Insurance Commissioner of the Commonwealth of Pennsylvania (“Commissioner”), hereby makes the following Order:

1. The application of Professional Casualty Association (“PCA”), Physicians’ Insurance Program Exchange (“PIPE”) and Positive Physicians Insurance Exchange (“PPIX”) requesting approval of a series of transactions allowing for the conversion of PCA, PIPE and PPIX each to a stock insurance company through the merger of each with newly-created stock insurance companies, the immediate merger of converted PCA and converted PIPE into converted PPIX, followed by the acquisition of control of the converted PPIX by Positive Physicians Holdings, Inc. and the acquisition of control of Positive Physicians Holdings, Inc. by Insurance Capital Group, LLC and Enstar Holdings (US) LLC is hereby approved, subject to this Order and the following conditions:

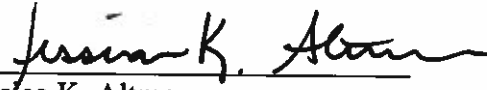
- a) PCA, PIPE and PPIX shall each, within one hundred twenty (120) days of the date of this Order, send to each subscriber whose policy was in force as of June 1, 2018 (“Eligible Subscribers”) the notice of the subscribers’ meeting (“Special Meeting”) to vote on the Plan of Conversion (“Plan”); the notice shall be in the form contained in the conversion application and shall include the proxy statement, any amendments or supplements thereto, and any other notice materials (“Notice Materials”).
- b) PCA, PIPE and PPIX shall each provide to the Insurance Department (“Department”) for review and comment prior to mailing the Notice Materials PCA, PIPE and PPIX propose to send to each Eligible Subscriber advising of the Special Meeting.
- c) PCA, PIPE and PPIX shall each include a full copy of the Plan, as approved by the Commissioner, the full Decision and Order, and the notice of the Special Meeting sent to each Eligible Subscriber, with the Notice Materials.
- d) PCA, PIPE and PPIX shall not distribute the Notice Materials to any Eligible Subscribers until the Department has notified PCA, PIPE and PPIX in writing that it has no further comments on said materials, including any changes or additions to the Notice Materials that are made after the date hereof.
- e) PCA, PIPE and PPIX shall each submit for the Department’s prior written approval any changes or additions to the Plan or the exhibits thereto that are made subsequent to the date of this Order.
- f) PCA, PIPE and PPIX shall each mail the notice of Special Meeting by United States Post Office Priority Mail or first class mail, or the equivalent thereof, postage prepaid, to the last known address of each Eligible Subscriber, at least thirty (30) days before the date of the Special Meeting.
- g) Within two (2) business days after the first mailing of the notice of Special Meeting, PCA, PIPE and PPIX shall each file a full copy of the Notice Materials, exactly as mailed to the Eligible Subscribers, with the Department.
- h) In order to effectuate the conversion, the Plans of PCA, PIPE and PPIX must be approved by the affirmative vote of two-thirds (2/3) of the Eligible Subscribers who cast votes in person or by proxy at the Special Meeting, as required by Section 3502 of the Medical Professional Liability Reciprocal Exchange-to-Stock Conversion Act (“Conversion Act”).

- i) Within two (2) business days after the conclusion of the Special Meeting, PCA, PIPE and PPIX shall each provide written notice to the Department of the results of the votes cast at the Special Meeting.
- j) Within thirty (30) days of the Special Meeting, PCA, PIPE and PPIX shall each file with the Department the minutes of the Special Meeting.
- k) In order to effectuate the conversion, the Eligible Subscribers of each of PCA, PIPE and PPIX must have approved the respective Plan (to include the merger of the reciprocal insurer with and into the stock insurance company) and the respective Statement of Merger has been filed with the Secretary of the Commonwealth, as required by Section 3506 of the Conversion Act.
- l) PPIX shall obtain a certificate of authority from the Michigan Department of Insurance and Financial Services prior to effectuating the conversion. PPIX shall provide the Commissioner with a copy of the Michigan issued certificate of authority.
- m) PPIX shall obtain a certificate of authority from the South Carolina Department of Insurance prior to effectuating the conversion. PPIX shall provide the Commissioner with a copy of the South Carolina issued certificate of authority.
- n) PCA, PIPE and PPIX shall file a copy of the Statements of Merger, as filed with and stamped as received by the Secretary of the Commonwealth, with the Insurance Department within ten (10) days of receipt from the Secretary of the Commonwealth.
- o) PPIX shall file a copy of the Statements of Merger reflecting the merger of PCA Conversion Corp. and PIPE Conversion Corp. with and into PPIX Conversion Corp., as filed with and stamped as received by the Secretary of the Commonwealth, with the Insurance Department within ten (10) days of receipt from the Secretary of the Commonwealth.
- p) Following approval by the Eligible Subscribers in accordance with the Conversion Act, PCA, PIPE and PPIX shall each effectuate the conversion as contemplated in the Plan no later than one hundred eighty (180) days following the date of this Order.
- q) No policy of PCA, PIPE and PPIX in force at the time of conversion shall be terminated by reason of the conversion. Additionally, the conversion shall not change, reduce or impair in any way the insurance obligations of PCA, PIPE or PPIX under any insurance policy issued or contract entered into by PCA, PIPE or PPIX.

- r) Within five (5) days of the effective date of the conversion, PPIX shall provide to the Department a copy of all final executed documents relative to the conversion.
 - s) PPIX shall, within sixty (60) days of the effective date of conversion, send a notice to its producers, in a form acceptable to the Department, giving notice of the conversion.
 - t) ICG and Enstar shall provide a list of closing documents within five (5) days after consummation of the subject transactions and shall maintain the listed documents and make them available to the Department for a period of not less than five (5) years from the date of consummation.
 - u) For three (3) years following the effective date of the conversion, Positive Physicians Insurance Company shall be prohibited from declaring or paying any dividends, returns of capital or any other types of distributions to HoldCo, without the prior approval of the Commissioner, unless said distribution has been approved by the Department as a transaction between affiliates filed under the Insurance Holding Companies Act, Article XIV of the Insurance Company Law of 1921, Act of May 17, 1921, P.L. 682, as amended, 40 P.S. §§991.1401 et seq.
 - v) For three (3) years following the effective date of the conversion, HoldCo shall be prohibited from declaring or paying any dividends, returns of capital or any other types of distributions to ICG or Enstar, without the prior approval of the Commissioner.
 - w) For three (3) years following the effective date of the conversion, Positive Physicians Insurance Company shall not voluntarily withdraw its certificate of authority to engage in the business of insurance in the Commonwealth of Pennsylvania.
 - x) For three (3) years following the effective date of the conversion, Positive Physicians Insurance Company shall not attempt to or actually redomesticate to another jurisdiction.
 - y) PCA, PIPE, PPIX, HoldCo, ICG and Enstar shall notify the Department within two (2) business days after the receipt of any written notice of any legal or administrative proceeding challenging or in any way relating to the conversion.
2. The request from PPIX Conversion Corp. to change its name to “Positive Physicians Insurance Company” is hereby approved, subject to any requirements of other regulatory authorities, appropriate notice being given promptly to all relevant

policyholders, certificateholders, producers and other interested persons, and the filing of the amended and restated articles of incorporation with the Secretary of the Commonwealth.

This Order is effective immediately.



Jessica K. Altman
Jessica K. Altman
Insurance Commissioner
Commonwealth of Pennsylvania

