

STATE OF NEW JERSEY  
DEPARTMENT OF BANKING AND INSURANCE

IN THE MATTER OF THE REQUEST BY )  
ALPHABET HOLDINGS LLC, GV 2014, L.P., )  
CAPITALG LP, CAPITALG 2015 LP AND )  
VERILY LIFE SCIENCES LLC FOR AN ) AMENDED ORDER  
EXEMPTION FROM THE FILING AND )  
PUBLIC HEARING REQUIREMENTS OF )  
THE INSURANCE HOLDING COMPANY )  
SYSTEMS ACT, N.J.S.A. 17:27A-1 to -14 )

This matter having been opened by the Commissioner of the Department of Banking and Insurance (“the Commissioner”) pursuant to N.J.S.A. 17:1-14 to -15, and 17:27A-1 to -14, and all powers expressed or implied therein; and

IT APPEARING that N.J.S.A. 17:27A-2(d) provides for the Commissioner’s approval of any merger or other acquisition of control of a domestic insurer after holding a public hearing; and

IT FURTHER APPEARING that N.J.S.A. 17:27A-2(f)(2)(a) provides an exemption to N.J.S.A. 17:27A-2 when an offer, request, invitation, agreement or acquisition is made, which the Commissioner by Order shall find as not having been made or entered into for the purpose, and not having the effect, of changing or influencing the control of a domestic insurer; and

IT FURTHER APPEARING that Oscar Garden State Insurance Corporation and Oscar Insurance Corporation of New Jersey are both New Jersey domestic stock health insurers (collectively, “the insurers”), which are ultimately wholly-owned by Mulberry Health Inc. (“Mulberry”), the insurers’ sole shareholder and immediate corporate parent; and

IT FURTHER APPEARING that Mulberry currently is controlled by Thrive Capital Partners III, L.P., with Thrive Partners III GP, LLC as the managing member, (collectively as

“Thrive”), a general partner investment fund that currently holds 45.75 percent of Mulberry’s voting securities; and

IT FURTHER APPEARING that Mulberry’s Board of Directors, although having the authority to have as many as nine directors, is currently comprised of only six directors leaving three seats vacant. Thrive owns the right to the majority of the board seats through its control of five of the current nine board seats; and

IT FURTHER APPEARING that Alphabet Holdings LLC (“Alphabet Holdings”), GV 2014, L.P. (“GV”) CapitalG LP and CapitalG 2015 LP (collectively, “CapitalG”) and Verily Life Sciences LLC (“Verily”, and collectively with Alphabet Holdings, GV, and CapitalG, “the Applicants”), intend to make an investment transaction whereby the Applicants will acquire an equity interest in Mulberry totaling less than ten (10) percent of the voting securities of Mulberry and a seat on Mulberry’s Board; and

IT FURTHER APPEARING that N.J.S.A. 17:27A-1(c) provides:

[t]he term “control” ... means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract other than a commercial contract for goods or nonmanagement services, or otherwise, unless the power is the result of an official position with or corporate office held by the person. Control shall be presumed to exist if any person, directly or indirectly, owns, controls, holds with the power to vote, or holds proxies representing, 10% or more of the voting securities of any other person, provided that no such presumption of control shall of itself relieve any person so presumed to have control from any requirement of P.L.1970, c.22 (C.17:27A-1 et seq.). This presumption may be rebutted by a showing made in the manner provided by subsection j. of section 3 of P.L.1970, c.22 (C.17:27A-3) that control does not exist in fact;

and

IT FURTHER APPEARING that the acquisition of ownership interest without regard to the percentage of voting securities owned when accompanied by the acquiring party’s ability to

appoint a director to the Board of Directors of a domestic insurer or any person controlling, directly or indirectly, such insurer, may constitute “control” for purposes of N.J.S.A. 17:27A-1 to -14; and

IT FURTHER APPEARING that, pursuant to N.J.S.A. 17:27A-1(c), a rebuttable presumption of “control” of an insurer exists if: (a) a person owns, directly or indirectly, ten (10%) percent or more of the voting securities of a domestic insurer, or (b) a person possesses, directly or indirectly, “the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract other than a commercial contract for goods or nonmanagement services, or otherwise;” and

IT FURTHER APPEARING that on September 25, 2018, Mulberry in anticipation of the Alphabet investment provided the Department of Banking and Insurance (“the Department”) with duly executed and/or filed documents expanding the Board of Directors from nine to eleven directors and authorizing the issuance of a new series of preferred stock that holds the right to appoint a director to the Mulberry Board as follows: a) Eleventh Amended and Restated Certificate of Incorporation of Mulberry that was filed with the State of Delaware on September 6, 2018; b) Action By Unanimous Written Consent of the Board of Directors of Mulberry Health, Inc., executed in parts on September 8, 9, and 10, 2018; and, c) Action By Written Consent of the Stockholders of Mulberry Health, Inc., executed in parts on various dates between August 7 – 10, 2018; and

IT FURTHER APPEARING that Mulberry committed to filling all eleven seats on the Board of Directors subsequent to closure of this investment transaction by Alphabet; and

IT FURTHER APPEARING that Alphabet has certified that it is not entering into the investment transaction with the intention or purpose of exercising control over Mulberry or its

domestic insurers either by itself or with its affiliates and disclaims any such affiliation or control;  
and

IT FURTHER APPEARING that Alphabet has certified that, other than the Applicants disclosed above that collectively comprise the Alphabet parties, Alphabet Holdings does not control, and is not directly or indirectly controlled by or under common control with, any other Mulberry investors; and

IT FURTHER APPEARING that review of this transaction demonstrated that: (a) Thrive will continue to have controlling interest of Mulberry's voting securities and controlling representation on the Board; (b) Alphabet's ownership interest in voting securities does not trigger a presumption of control pursuant to N.J.S.A. 17:27A-1; (c) based on information provided and disclosed by Alphabet, it does not control, and is not directly or indirectly controlled by or under common control with, any other Mulberry investors; and, d) Alphabet's acquisition of a single board seat on the eleven-member Board, when considering the quorum and voting rules in the Board's Bylaws and the lack of affiliation, does not have the effect of, changing or influencing the control of Mulberry or the insurers; and

IT FURTHER APPEARING that this transaction in its entirety will not have the effect, of changing or influencing the control of the insurers; and

IT FURTHER APPEARING that the Department has reviewed the documents submitted in support of this request and, based upon that review, has determined that the parties may be exempted from the filing and public hearing requirements of N.J.S.A. 17:27A-2, upon finding that the provisions of N.J.S.A. 17:27A-2(f)(2) are applicable to this transaction; and

WHEREAS, Order No. A18-109 was previously issued in this matter on October 11, 2018, and subsequent to execution by Mulberry and the New Jersey insurers and issuance of the Order,

Mulberry and the insurers requested limited redactions of information asserted to be proprietary;  
and

WHEREAS, the Department agreed to issuance of this Amended Order that provides alternative language for the requested redactions rather than redaction; and

WHEREAS, this Amended Order supplants and supercedes Order No. A18-109 in its entirety, and in no way alters the requirements of the supplanted order and the time frames for compliance below have been updated to run from the date of issuance of the Order No. A18-109;

THEREFORE, IT IS on this 7<sup>th</sup> day of November, 2018,

ORDERED that:

Based upon the finding that the proposed transaction has no effect on the ultimate control or ownership of the insurers, this transaction is hereby exempted from the statutory filing and public hearing requirements of N.J.S.A. 17:27A-1 to -14 in accordance with N.J.S.A. 17:27A-2(f)(2), subject to the following conditions:

1. Mulberry shall cause Directors to be appointed to all eleven seats on Mulberry's Board of Directors within thirty (30) days from October 11, 2018;
2. Mulberry shall provide written notification to the Department of this action, including the names of the eleven Directors of the Board and the ownership interests they represent within forty (40) days from October 11, 2018; and
3. Mulberry and the insurers shall file an updated Form B Registration Statement with Biographical Affidavits as required by N.J.S.A. 17:27A-3(d) within the time frames established therein.

IT IS FURTHER ORDERED that if Mulberry or the insurers fail to comply with any of the above conditions, Mulberry, its directors, and/or the insurers' and their directors, shall be subject to penalties as provided for in N.J.S.A. 17:27A-9.1.



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Marlene Caride  
Commissioner

Consented as to Form, Content and Entry:



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Mario Schlosser  
Chairman, President and CEO  
Mulberry Health, Inc.  
Oscar Garden State Insurance Corporation  
Oscar Insurance Corporation of New Jersey

11/06/18

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Dated