STATE OF NEW JERSEY
DEPARTMENT OF BANKING AND INSURANCE

IN THE MATTER OF THE ACQUISITION OF CONTROL OF CARECENTRIX OF NEW JERSEY, INC. BY WALGREENS BOOTS ALLIANCE, INC. AND WBA ACQUISITION 3, LLC	)	HEARING OFFICER'S REPORT

Procedural History

In accordance with N.J.S.A. 17:27A-2, by a filing dated October 19, 2021, and supplemented by additional filings through July 19, 2022, Walgreens Boots Alliance, Inc. ("WBA") and its subsidiary, WBA Acquisition 3, LLC ("Buyer" and together with WBA the "Applicants"), filed with the Department of Banking and Insurance ("the Department") an application to acquire control ("the Form A filing") of CareCentrix of New Jersey, Inc. ("CCNJ" or the "Domestic Insurer"), a New Jersey licensed Organized Delivery System ("ODS").[1]

CCNJ is a direct wholly–owned subsidiary of CareCentrix, Inc., which, in turn, is a direct wholly–owned subsidiary of CareCentrix Holdings, Inc. CareCentrix Holdings, Inc. is wholly–owned by CCX Acquisition, Inc. ("CCX Acquisition"), which, in turn, is a direct wholly–owned subsidiary of NDES Holdings (the "Seller"), the ultimate controlling person. Prior to the acquisition, the Seller intends to complete an internal restructuring that will result in CCX Acquisition becoming a direct wholly–owned subsidiary of CCX Next, LLC ("CCX Next") and,

[1] Pursuant to N.J.S.A. 17:48H-16(a) and N.J.A.C. 11:22-4.10, a licensed ODS organized under the laws of the State of New Jersey is treated as a domestic insurer for purposes of the Insurance Holding Company Systems Act, N.J.S.A. 17:27A-1 to -14.

which in turn, is already a direct wholly–owned subsidiary of the Seller. Consequently, the Domestic Insurer will be an indirect wholly-owned subsidiary of CCX Next.

The proposed acquisition of the Domestic Insurer is pursuant to a Membership Interest Purchase Agreement (the "MIPA"), dated September 4, 2021, whereby the Buyer will purchase fifty five percent (55%) of the fully diluted equity interests of CCX Next ("First Stage Closing"). Consequently, the Applicants will acquire control of the Domestic Insurer. The MIPA also provides the Buyer with call rights and the Seller with put rights for the remaining forty five percent (45%) of the fully diluted equity interests of CCX Next ("Second Stage Closing").

Pursuant to N.J.S.A. 17:27A-2(d), a public hearing was held on the Form A filing on August 5, 2022. Pursuant to N.J.A.C. 11:1-35.6(g), the public hearing was conducted based on the documents filed. The hearing panel and Department staff determined that the documents filed in connection with the proposed acquisition satisfied the requirements of N.J.S.A. 17:27A-2(b). Public comments were allowed to be submitted through the close of business on August 5, 2022. No comments were received. No other documents were required, and the record was closed on August 5, 2022.

<u>Findings of Fact</u>

The Domestic Insurer was incorporated under the laws of the State of New Jersey on December 16, 2011 and commenced business on January 1, 2012. The Domestic Insurer is a New Jersey licensed organized delivery system.

Walgreens Boots Alliance, Inc.[2] is a publicly traded company whose common stock trades on the Nasdaq Stock Market under the symbol "WBA." WBA was incorporated in Delaware in

[2] On October 19, 2021, and amended on July 11, 2022, a Disclaimer of Control in relation to WBA's acquisition of CCNJ was filed by Alliance Santé Participations S.A., ("ASP"), NewCIP II S.à r.l., ("NewCIP II"), and Stefano Pessina, an individual (collectively, the "Disclaimer of Control

2014 and is the successor of Walgreen Co., an Illinois corporation, which was formed in 1909 as a successor to a business founded in 1901.

WBA Acquisition 3, LLC, is a newly formed, intermediate holding company, controlled by WBA. Buyer was formed solely for the purpose of consummating the proposed Form A Statement transaction. Buyer will not have business operations of its own other than holding the issued and outstanding membership interests of CCX Next.

WBA is a global leader in retail pharmacy. Its operations are conducted through two reportable segments: United States and International. WBA's United States segment includes the Walgreens business which includes the operations of retail drugstores, health and wellness services, and mail and central specialty pharmacy services, and WBA's equity method investment in AmerisourceBergen. Sales for the segment are principally derived from the sale of prescription drugs and a wide assortment of retail products, including health and wellness, beauty, personal care and consumables and general merchandise.

The Applicants stated that the proposed Form A Statement transaction will secure access for WBA to an increasingly relevant and growing healthcare segment, increase synergies through integration with CareCentrix care models and give WBA access to a talented pharmacy and health care management team.

The Applicants propose to acquire the Domestic Insurer pursuant to the MIPA, dated as of September 4, 2021, by and among NDES Holdings, Buyer and WBA (solely for purposes of Sections 4.1, 4.2 and Article 9 of the MIPA). After the First Stage Closing, the Buyer will own fifty five percent (55%) of CCX Next and its subsidiaries, including the Domestic Insurer.

Applicants") pursuant to N.J.S.A. 17:27A-3(j) and N.J.A.C. 11:1-35.9. The Disclaimer was conditionally granted to the Disclaimer of Control Applicants in relation to CCNJ and will be effective upon an Order approving the proposed acquisition.

Consequently, the Applicants will acquire control of the Domestic Insurer. The Second Stage Closing is subject to the Buyer's exercise of call rights or the Seller's exercise of put rights (each at its sole option) between (A) the earlier of the fifteen (15) month anniversary of the First Stage Closing and July 1, 2023, and (B) the third (3rd) anniversary of the First Stage Closing. If the Applicants consummate the Second Stage Closing, pursuant to the MIPA, the Applicants would acquire the remaining the remaining forty five percent (45%) of CCX Next.

Prior to the First Stage Closing, NDES Holdings will contribute all of the outstanding capital stock of its direct wholly–owned subsidiary, CCX Acquisition, Inc. to CCX Next (the "Contribution"). By way of this Contribution, CCX Next will become the direct parent of CCX Acquisition, with CCX Acquisition and its subsidiaries restructured below CCX Next, including the Domestic Insurer. The Contribution, and as a result, the internal restructuring may occur pursuant to the Department's Order A22-04 approving the Form A Exemption Request.[3]

Concerning the First Stage Closing, the purchase price payable by Buyer for the Stage 1 Interests will be an amount equal to $440 million in cash, which will be payable at the First Stage Closing per Section 2.1(c) of the MIPA ("Stage 1 Closing Payment"). Stage 1 Closing Payment will be subject to an adjustment as set forth in Section 2.1(b) and 2.3 of the MIPA to account for the cash, debt and transaction expenses of CCX Next and its subsidiaries ("Final Stage 1 Purchase Price"). The Second Stage Closing, if elected by the Buyer or Seller, would occur between July 1, 2023 and August 31, 2025,

[3] Concurrent with the Form A Filing, a Request for Exemption pursuant to N.J.S.A 17:27A-2(f)(2) was filed by CCX Next, LLC, a Delaware limited liability company ("CCX Next"), which intends to acquire indirect ownership of all of the issued and outstanding voting securities of the Domestic Insurer through a series of intermediate holding companies prior to the Form A approval.

Applicants represent WBA has existing cash on hand to fund the entirety of the Final Stage 1 Purchase Price, Final Stage 2 Purchase Price, and any Earnout Consideration. Applicants represent the proposed transaction is not subject to any financing contingency.

Applicants further represent, the nature and amount of consideration were determined through due diligence, arm's length negotiations between unrelated parties and consideration of a variety of factors, including third–party appraisal values, internal appraisal values and the advice of the parties' respective financial legal, actuarial and other advisors.

Applicants further represent that, except as may arise in the ordinary course of business or as otherwise described in Item 5 the Form A Statement, they have no present plans or proposals to cause the Domestic Insurer to declare an extraordinary dividend, to liquidate the Domestic Insurer, to sell the Domestic Insurer's assets to or merge it with any person or persons or to make any other material change in the Domestic Insurer's business operation or corporate structure or management.

Analysis

N.J.S.A. 17:27A-2(d)(1) provides that the Commissioner shall approve an acquisition of control of a domestic insurer unless he or she finds that one or more of the seven disqualifying factors set forth therein exist. The statute provides in pertinent part:

> (1) The Commissioner shall approve any merger or other acquisition of control … unless, after a public departmental hearing thereon, he [or she] finds that:
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> (i) After the change of control the domestic insurer … would not be able to satisfy the requirements for the issuance of a license to write the line or lines of insurance for which it is presently licensed;
>
> (ii) The effect of the merger or other acquisition of control would be substantially to lessen competition in insurance in

> this State or tend to create a monopoly therein … [applying the competitive standard as set forth in the statute];
>
> (iii) The financial condition of any acquiring party is such as might jeopardize the financial stability of the insurer, or prejudice the interest of its policyholders;
>
> (iv) The financial condition of any acquiring party is such that (a) the acquiring party has not been financially solvent on a generally accepted accounting principles basis, or if an insurer, on a statutory accounting basis, for the most recent three fiscal years immediately prior to the date of the proposed acquisition (or for the whole of such lesser period as such acquiring party and any predecessors thereof shall have been in existence); (b) the acquiring party has not generated net before-tax profits from its normal business operations for the latest two fiscal years immediately prior to the date of acquisition (or for the whole of such lesser period as such acquiring party and any predecessors thereof shall have been in existence); or (c) the acquisition debt of the acquiring party exceeds 50% of the purchase price of the insurer;
>
> (v) 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, are unfair and unreasonable to policyholders of the insurer and not in the public interest;
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> (vi) 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 of the insurer and of the public to permit the merger or other acquisition of control; or
>
> (vii) The acquisition is likely to be hazardous or prejudicial to the insurance buying public.

Upon a thorough review of the documents submitted into evidence, the hearing panel and Department staff have determined that none of the seven disqualifying factors set forth above should result if the proposed acquisition is effectuated. Each of these conditions is discussed below.

First, after the acquisition, the Domestic Insurer will continue to meet the requirements to transact the business for which it is presently licensed pursuant to Title 17 of the New Jersey

Statutes. There is nothing in the record to indicate that, after the proposed transaction, the Company would not be able to continue to satisfy the requirements to transact the business for which they are presently licensed.

Second, the proposed transaction of the Domestic Insurer will not lessen competition in the New Jersey insurance market or tend to create a monopoly therein. N.J.S.A. 17:27A-2(d)(1)(ii) provides that in applying this competitive standard, the standard set forth in N.J.S.A. 17:27A-4.1(d) shall apply. That statute utilizes a complex formula based on the market shares of the insurers involved in the transaction. The statute by its terms does not apply if, as an immediate result of the acquisition, there would be no increase in the overall market share of the involved insurers after the acquisition. See N.J.S.A. 17:27A-4.1(b)(2)(d). The Applicant does not transact any direct insurance business in New Jersey. Accordingly, the transaction meets the exemption standards because the Applicant and the Domestic Insurer do not compete in any lines of business. Accordingly, the proposed transaction will not violate the competitive standard set forth in N.J.S.A. 17:27A-4.1 because it does not substantially lessen competition in New Jersey or tend to create a monopoly therein.

Third, it does not appear that the financial condition of the Applicants will jeopardize the financial condition of the Domestic Insurer. For the years ended August 31, 2021, 2020 and 2019, Walgreens Boots Alliance and its subsidiaries reported net earnings from continuing operations of $2.0 billion, $180 million, and $3.8 billion, respectively. For the years ended August 31, 2021, 2020, and 2019, the Company reported net cash provided by operating activities of $5.6 billion, $5.5 billion, and $5.6 billion, respectively. At August 31, 2021, 2020 and 2019, the Company reported $23.8 billion, $21.1 billion, and $24.2 billion in total equity, respectively. See WBA's Annual Report on Form 10–K.

Fourth, it appears that the financial condition of the Applicants is such that they have been solvent on a basis of generally accepted accounting principles for the three–year period immediately prior to the date of the proposed acquisition. Walgreens Boots Alliance and its subsidiaries reported earnings before income tax provision of $2.0 billion, $446 million, and $4.4 billion, in 2021, 2020, and 2019 respectively. According to the financial information filed by the individual applicants, it does not appear that the financial condition of the Company will be jeopardized. No debt or loans will be utilized to fund the acquisition. Accordingly, the requirement that the acquisition debt may not exceed 50% of the purchase price is satisfied.

Fifth, the Applicant does not propose to liquidate CCNJ or sell its assets. As set forth above, the Applicant does not intend to change the business operations, corporate structure, management, or general plan of operations other than may arise in the ordinary course of business.

Sixth, there is nothing in the record from which it may be concluded that the competence, experience, and integrity of the persons who will control the operations of CCNJ are such that it would not be in the best interest of consumers and of the public to permit the acquisition of control. Following the transaction, the Applicant intends to maintain CCNJ's business operations, corporate structure, and management.

Seventh, there is nothing in the record from which it may be concluded that the proposed transaction is likely to be hazardous or prejudicial to the insurance buying public for the reasons set forth above.

Recommendation

Based on the foregoing analysis, the hearing panel and Department staff recommend that the proposed acquisition of CareCentrix of New Jersey, Inc. by the Applicants be approved.

Upon a thorough review of the foregoing, I concur with the findings, analysis and recommendations of the hearing panel and Department staff. I therefore recommend that the proposed acquisition be approved.

August 23, 2022	/s/ Ava Rimal
Date	Ava Rimal
	Hearing Officer

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Exhibits List

In the Matter of the Acquisition of Control of CareCentrix of New Jersey, Inc. (the "Domestic Insurer") by Walgreens Boots Alliance, Inc. and WBA Acquisition 3, LLC. (the "Applicants")

Exhibit 1:	Form A Statement and related filings dated as of October 19, 2021.
Exhibit 2:	Supplement to Form A filing dated as of November 30, 2021. Applicant provided biographical affidavits of the officers and directors of Walgreens Boots Alliance, Inc.
Exhibit 3:	Supplement to Form A filing dated as of February 7, 2022. Applicants provided revised Exhibit D–List of the Directors and Executive Officers of WBA.
Exhibit 4:	Supplement to Form A filing dated as of February 27, 2022. Applicant provided Biographical Affidavit for S. Shulman.
Exhibit 5	Supplement to Form A filing, dated as of July 19, 2022.
Exhibit 6:	Waiver of 20–day notice of hearing submitted by Stephanie H. Dobecki, Esq., Sidley Austin LLP, on behalf of Applicants, Walgreens Boots Alliance, Inc. and WBA Acquisition 3, LLC.
Exhibit 7:	Waiver of 20–day notice of hearing submitted by Cynthia J. Borrelli, Esq., Principal, Bressler Amery and Ross, on behalf of Domestic Insurer.
Exhibit 8:	Affidavit of Publication of Notice of Hearing in The Record, reflecting publication on July 29, 2022.
Exhibit 9:	Affidavit of Publication of Notice of Hearing in Courier Post, reflecting publication on July 29, 2022.
Exhibit 10:	Affidavit of Publication of Notice of Hearing in Star Ledger, reflecting publication on July 29, 2022.