

**STATE OF NEW HAMPSHIRE  
INSURANCE DEPARTMENT**

**In re: Trinity Healthshare Inc.**

**Docket No.: INS No. 20-015-EP**

**ORDER TO SHOW CAUSE  
AND  
NOTICE OF HEARING**

The New Hampshire Insurance Department ("NHID") orders Trinity Healthshare, Inc. (the Respondent) to show cause why the New Hampshire Insurance Commissioner should not Order the Respondent to cease and desist its operations in New Hampshire and/or levy administrative fines against it. In support of the Order to Show Cause and pursuant to RSA 541-A:31, RSA 400-A:3, RSA 400-A:17 *et seq.*, RSA 417:6, *et seq.*, and Ins Part 200, the NHID states as follows:

**STATEMENT OF FACTS**

1. Trinity HealthShare, Inc. ("Trinity") is a foreign, not for profit corporation organized under the laws of Delaware with a business address of 5901-B Peachtree Dunwoody Road, Suite 160C Atlanta, GA 30328.
2. Trinity represents itself as a health care sharing ministry<sup>1</sup> ("HCSM") as defined by 26 USC § 5000A and exempt from insurance regulation in New Hampshire under RSA 126-V.
3. Trinity is not licensed as an insurance company and holds no licenses, certificates, or other approvals to engage in the business of insurance in New Hampshire.
4. Trinity was created in Delaware on June 27, 2018. At the time of its formation, Trinity had no members enrolled in it supposed HCSM.
5. On August 13, 2018, Trinity entered into a Management and Administrative Agreement with Alieria Healthcare Inc. ("Alieria.") This agreement outline's Trinity's partnership with Alieria to include Trinity's HCSM program as a component of Alieria's new and existing healthcare products. Trinity also granted Alieria the exclusive right to develop, market, and sell its HCSM plans to individuals who agree to Trinity's statement of faith and lifestyle requirements.

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<sup>1</sup> The terms "healthcare sharing ministry" and "healthcare sharing organization" are used interchangeably within this Order.

6. Alera maintains sole responsibility to develop and market Trinity plans and develop Trinity's HCSM membership. Alera also maintains and administers Trinity financial reporting, billing and collection of membership contributions.
7. Trinity, through Alera, advertises its products as alternatives to traditional health insurance to New Hampshire consumers and utilizes licensed resident insurance producers to sell Trinity's products within the state.
8. Trinity has entered into health insurance contracts with New Hampshire consumers, where they agree, upon payment of a monthly monetary fee, to provide coverage for medical costs incurred by its members. While Trinity maintains that the products it offers are not insurance and does not guarantee payment of medical bills, Trinity nevertheless requires its member to provide medical information on application materials, charges fixed monthly payments based on the amount of coverage chosen, utilizes Preferred Provider networks, charges copays for medical services, and requires referrals for specialist visits. Trinity also has medical providers bill the company directly and provides reimbursement directly to providers.
9. Trinity does not limit its membership to individuals holding any particular religious or ethical beliefs, and only requires its enrollees to agree to a series of general belief statements.
10. The NHID first opened an investigation into Trinity after receiving several consumer complaints regarding the alleged misrepresentation of healthcare insurance products. These complainants alleged that they were sold health care coverage through Trinity's corporate partner, Alera.
11. These consumers agreed to pay a monthly amount to Trinity, which they were led to believe, would cover specified healthcare expenses as included with the Membership Guidelines and marketing materials. Ultimately, Trinity failed to pay the medical claims submitted by these consumers prompting them to contact the NHID to facilitate a resolution.
12. Approximately 1269 New Hampshire consumers have been sold Trinity products.
13. Through the course of the NHID's investigation, it was determined that Trinity does not meet the legal definition of a HCSM and is therefore acting as an unauthorized insurance company in the state of New Hampshire.
14. On October 30, 2019, the New Hampshire Insurance Commissioner (the "Commissioner") ordered Trinity, along with its corporate partner, Alera to cease and desist from the unauthorized business of insurance in the state of New Hampshire under Order to Cease and Desist INS No. 19-027-EP.

### APPLICABLE NEW HAMPSHIRE LAWS

15. RSA 405:1 states, “(no) insurance company not organized under the laws of this state shall do insurance business within the state unless it has obtained a license from the insurance commissioner authorizing it to do so.”
16. NH RSA 406-B:3 further states that, “(no) unlicensed person or insurer shall directly or indirectly do any of the acts of an insurance business set forth in RSA 406-B:2 except as provided by and in accordance with the specific authorization of statute.”
17. The following acts, when done on behalf of an unlicensed insurer, are deemed to constitute the transaction or doing of insurance business in this state:
  - a. The making of or proposing to make an insurance contract;
  - b. The taking or receiving of any application for insurance;
  - c. The receiving or collection of any premium, commission, membership fees, assessments, dues or other consideration for any insurance;
  - d. The issuance or delivery of contracts or certificates of insurance to residents of this state;
  - e. Directly or indirectly acting as an agent for or otherwise representing or aiding another person or insurer in the solicitation, negotiation, procurement, or effectuation of insurance or renewals thereof, or in the dissemination of information as to coverage or rates, or forwarding of applications, or delivery of policies or contracts, or inspection of risks, a fixing of rates or investigation or adjustment of claims or losses or in the transaction of matters subsequent to effectuation of the contract and arising out of it, or in any other manner representing or assisting a person or insurer in the transaction of insurance with respect to subjects of insurance resident, located or to be performed in this state;
  - f. Doing any kind of insurance business specifically recognized as constituting the doing of an insurance business within the meaning of the insurance statutes;
  - g. Doing or proposing to do any business equivalent in substance to any of the foregoing in a manner designed to evade the provisions of the statutes; and
  - h. Any other transactions of business in this state by an insurer. *See* RSA 406-B:2
18. New Hampshire law exempts health care sharing organizations from insurance regulation if they meet the requirements of RSA 126-V:1.
19. To qualify for the exemption from insurance regulation under RSA 126-V:1, II, a health care sharing organization must meet all of the following criteria:
  - a. Be a nonprofit organization that is tax-exempt pursuant to section 501(c)(3) of the Internal Revenue Code;
  - b. Have been in existence continuously and have facilitated the sharing of medical expenses of participants without interruption since December 31, 1999, including predecessor organizations;

- c. Be faith-based and limit its participants to individuals who share a common set of ethical or religious beliefs; and
  - d. Share medical expenses among its participants in accordance with those beliefs.
20. RSA 417:3, states that “(n)o person shall engage in this state in any trade practice which is defined in this chapter or determined pursuant to this chapter as an unfair method of competition or an unfair or deceptive act or practice in the business of insurance.” Person means “any individual, corporation, association, partnership, reciprocal exchange, inter-insurer, Lloyd's insurers, fraternal benefit society and any other legal entity, engaged in the business of insurance.” *See* RSA 417:2, I.
21. RSA 417:4, I(h) defines an unfair and deceptive act or practice as, “misrepresenting, directly or indirectly, in the offer or sale of any insurance” by engaging in a “transaction, practice, or course of business which operates as a fraud or deceit upon the purchaser, insured, or person with policy ownership rights.”

### **LEGAL ALLEGATIONS and/or VIOLATIONS**

22. To qualify as a HCSM under both IRS and New Hampshire law, an organization must be a registered 501(c)(3) organization whose members share a common set of religious or ethical beliefs and share medical expenses in accordance to those beliefs. A HCSM must also have been in operation and continuously sharing member health care costs since December 31, 1999.
23. Trinity cannot meet the exemption requirements of RSA 126-V:1, II, specifically, it has not been in existence continuously and have facilitated the sharing of medical expenses of participants without interruption since December 31, 1999.
24. Trinity has only been in existence for less to than two years, and had no members as of August 13, 2018, two months after it incorporated as a non-profit organization within the state of Georgia.
25. Further, no predecessor organization exists which Trinity's members were sharing medical costs.
26. Trinity also fails to establish that it is faith based and limits its membership to individuals who share a common set of ethical or religious beliefs. In a September 6, 2018 letter to the United States Department of Health and Human Services, Trinity states that its organization adopts strict Baptists teaching and beliefs. Trinity's bylaws also indicate that the organization adheres to a Christian expression of faith; however, its applications and policy documents only ask participants to believe in nonsectarian religious views. This statement of faith is inconsistent with the religious views purportedly held by Trinity.

27. As Trinity does not meet the required legal elements to designate it as a HCSM under RSA 126-V, and is therefore not exempt from regulation, the acts as described in the above statement of facts demonstrate that the organization is operating as an unlicensed insurance company in violation of RSA 406-B:3 and 405:1.
28. Further, by falsely misleading consumers to believe that they are joining a valid healthcare sharing ministry which is exempt from regulation under RSA 126-V:1, Trinity has violated New Hampshire RSAs 417:3 and 417:4 I (h).

#### **NEW HAMPSHIRE INSURANCE LAWS VIOLATED BY RESPONDENT**

29. The NHID maintains that the Respondent violated RSA 403-B:3 and 405:1 for operating as an unlicensed insurance company in New Hampshire.
30. The NHID maintains that the Commissioner has the authority to levy a monetary penalty in accordance RSA 406-B:12.
31. The NHID maintains that the Respondent violated RSAs 417:3 and 417:4, I(h) for deceiving 1269 consumers into believing that they are joining a valid healthcare sharing ministry.
32. The NHID also maintains that the Commissioner has the authority to levy a monetary penalty in accordance with RSA 417:10 for each New Hampshire consumer who enrolled in a Trinity membership.
33. The NHID reserves the right to amend this list of insurance laws violated by the Respondent upon reasonable notice to the Commissioner (or his designated Representative) and the Respondent.

#### **PENALTY REQUESTED**

34. In the event the Hearing Officer determines after evidentiary hearing that the NHID sustained its burden of proof with respect to the allegations of fact and violations of law outlined above, the NHID request that the Hearing Officer,

(i) Order Trinity to Cease and Desist doing all current or future business within New Hampshire;

(ii) Levy an administrative fine in the amount of \$10,000 as authorized by RSA 406-B:12;

(iii) Levy a fine in the maximum amount allowed by law for each violation of RSAs 417:3 and 417:4, I(h).

#### **NOTICE OF HEARING**

35. An adjudicatory proceeding shall be commenced for the purpose of resolving the issues articulated above pursuant to RSA 541-A:31, RSA 400-A:17:6, *et seq.*, RSA 417:6, *et seq.*, and Ins 200. To the extent that the Department's rules do not address an issue of policy or procedures, the Department shall apply the N.H. Department of Justice Rules, Part 800.
36. The Respondent shall appear at Department **on a date to be determined in accordance with RSA 400-A:18, I.**, at the Department's office located at 21 South Fruit Street, Suite 14, in Concord New Hampshire to participate in this adjudicatory proceeding and, if deemed appropriate, be subject to sanctions pursuant to RSA 402-J:12, I and RSA 400-A:15, III. Respondent's failure to appear at the time and place specified above may result in the hearing being held *in absentia* and sanctions may be imposed without further notice or an opportunity to be heard.
37. Michelle Heaton Esq. is appointed to act as Hearing Officer in this matter with all the authority within the scope of RSA 400-A:19 and Ins 203.01.
38. Linda Zalinskie shall serve as clerk to the Hearing Officer. The parties should direct all communications to Ms. Zalinskie, whose contact information is:
- Linda Zalinskie, Clerk  
New Hampshire Insurance Department  
21 South Fruit Street, Suite 14  
Concord, NH 03301  
Tel: (603) 271-2261  
Fax: (603)271-1406  
Email: linda.zalinskie@ins.nh.gov
39. The Respondent has the right to be represented by a lawyer in this proceeding. However, the Respondent shall bear the cost of retaining said lawyer. Should the Respondent elect to retain a lawyer, his lawyer shall file a Notice of Appearance with Ms. Zalinskie, and said lawyer should do so at the earliest possible date. A copy of the NHID's Notice of Appearance form is enclosed with this Order.
40. Any party may request a transcript of the proceeding. The party requesting a transcript of the proceedings shall file a written request for a certified court reporter with the Hearing Officer at least 10 days prior to the scheduled hearing date. The costs incurred for the services of a certified court reporter shall be borne by the requesting party.
41. Mary C. Bleier, Esq. and/or Joshua Hilliard, Esq. shall serve as staff advocates representing the interests of the NHID.



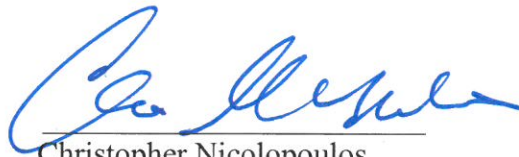
42. All routine procedural inquiries may be made by contacting Linda Zalinskie, Hearing Clerk, New Hampshire Insurance Department, 21 South Fruit Street, Suite 14, Concord NH 03301, (603) 271-2261, but that all other communications with the Hearing Officer and the Commissioner shall be in writing and filed as provided above. *Ex parte* communications are forbidden by statute and the Department's regulations.
43. A copy of this hearing notice shall be served upon Respondent by certified mail addressed to the mailing address on file with New Hampshire Insurance Department. *See*, RSA 400-A:14.

It is **SO ORDERED**.

NEW HAMPSHIRE INSURANCE DEPARTMENT

Date:

3/10/2020



Christopher Nicolopoulos,  
Insurance Commissioner

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and accurate copy of the foregoing Order to Show Cause and Notice of Hearing was sent this date by first-class mail, postage prepaid, and by certified mail, return receipt requested, to Trinity Healthshare Inc. 5901-B Peachtree Dunwoody Rd. Suite 160C, Atlanta, GA 30328, this being his last mailing address on file with the Department.

Date:

3/10/2020



Mary C. Bleier, Esq.