

STATE OF NEW HAMPSHIRE
INSURANCE DEPARTMENT

In re: Alieria Healthcare, Inc. (dba The Alieria Companies, Inc.)
& Trinity Healthshare, Inc.

Docket No. INS No. 19-027-EP

TRINITY HEALTHSHARE, INC.'S APPLICATION FOR HEARING

Pursuant to NH RSA 400-A:17(III), Trinity Healthshare, Inc. ("**Trinity**") hereby submits its Application for Hearing in response to the Cease and Desist Order dated October 30, 2019 (the "**Order**").

In the Order, the Commissioner of the New Hampshire Insurance Department ("NHID") ordered Trinity to immediately cease and desist from writing any new coverage or renewing any coverage for New Hampshire insurance consumers. The Order alleges, in part, that Trinity does not meet the required elements to designate it as a health care sharing ministry ("HCSM") under RSA 126-V and is operating as an unlicensed insurance company in violation of RSA 406- B:3 and RSA 405:1.

Trinity generally challenges the Order on the legal basis that Trinity does not engage in the conduct that the Order purports to proscribe.

Trinity does not engage in the insurance business or transact insurance in New Hampshire. Trinity is not operating as an unlicensed insurance company in New Hampshire in in violation of RSA 406-B:3 and RSA 405:1. Trinity's operations do not constitute insurance because Trinity does not promise to pay members anything or undertake any obligation to pay members. There is no reciprocal or interinsurance exchange between Trinity and its members. Rather, Trinity acts as a neutral clearinghouse between members and helps facilitate sharing of contributions from one member to another.

Trinity qualifies as a HCSM under New Hampshire Law. Pursuant to RSA 126-V: I, II, a health care sharing organization means “a faith-based nonprofit organization which, or a predecessor of which, has been in existence continuously and has facilitated the sharing of medical expenses of participants without interruption since December 31, 1999, that is tax-exempt pursuant to section 501(c)(3) of the Internal Revenue Code, which limits its participants to individuals who share a common set of ethical or religious beliefs, and whose participants share medical expenses in accordance with those beliefs.”

In the Order, NHID alleges that Trinity does not qualify as a HCSM, and is therefore operating as an unlicensed insurance company, because it or a predecessor has not been in operation and continuously sharing member health care costs since at least December 31, 1999 and because its members do not share a common set of ethical or religious beliefs. Trinity, however, meets both these requirements and the other requirements of RSA 126-V: I, II.¹ These two requirements mirror the language in the federal definition of an HCSM. *See* 26 U.S.C. § 5000A(d)(2)(B)(ii). The Internal Revenue Service (“IRS”)—the federal agency that has been charged with regulating HCSMs since October 2016—approved Trinity’s status as a health care sharing ministry in 2018. Because the IRS has determined that Trinity is a HCSM, it qualifies for the New Hampshire exception as well. Moreover, even if Trinity did not qualify as an HCSM under RS 126-V:1, which Trinity contends it does, that does not mean that Trinity is *per se* involved in the business of insurance.

Finally, the Order, if upheld, would violate Trinity’s and its members’ constitutional rights and directly impede constitutionally-protected religious freedom rights, due process rights, and the supremacy clause.

¹ NHID does not allege that Trinity fails to meet the other criteria of RSA 126-V: I.

Trinity respectfully requests that the Commissioner grant this Application for a Hearing in accordance with NH RSA 400-A:17(III). Trinity expressly reserves all rights including but not limited to the right to assert any and all additional defenses and/or claims under New Hampshire and federal law, the right to challenge factual findings and legal conclusions, and the right to submit additional information and legal briefing through the hearing process.

Respectfully submitted this 29th day of November, 2019.

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