

**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**

**CEASE AND DESIST ORDER**

The Commissioner of the New Hampshire Insurance Department (“NHID”), pursuant to his authority under RSA 400-A:3, orders the Respondents Alieria Healthcare, Inc. and Trinity Healthshare Inc. to immediately Cease and Desist from engaging in the unlicensed business of insurance; administering health insurance plans without being certified as a third party administrator; falsely holding out products as exempt from insurance regulation in New Hampshire; and misleading New Hampshire consumers by offering, marketing and administering health coverage that does not meet state and federal requirements.

In support this Order to Cease & Desist, the NHID states as follows:

**Factual Allegations**

1. Respondent Alieria Healthcare, Inc. (“Alieria”) is a foreign, for-profit corporation organized under the laws of Delaware with a business address of 5901-B Atlanta, Peachtree Dunwoody Rd. #200, Atlanta, GA 30328.
2. Alieria is a non-resident business entity insurance producer (NPN # 18501490) that is licensed to sell Life, Accident and Health insurance products. Alieria holds no appointments in New Hampshire.
3. Alieria is not licensed as an insurance company and, other than its insurance producer license, holds no licenses, certificates, or other approvals to engage in the business of insurance in New Hampshire.
4. Alieria does not hold a certificate of authority to act as a Third Party Administrator (“TPA”) in New Hampshire.
5. Alieria markets and administers health plans in New Hampshire on behalf of Respondent Trinity Healthshare (“Trinity”). Prior to August 10, 2018 Alieria marketed and administered health plans on behalf of Unity Health Share (“Unity.”) This relationship ended when Unity terminated its agreement with Alieria on August 10, 2018.

6. Trinity was created in Delaware on June 27, 2018 by Alera and its principals.
7. Trinity holds no licenses, certificates, or other approvals to engage in the business of insurance in New Hampshire.
8. Trinity claims to be Health Care Sharing Ministry (“HCSM”) that is exempt from insurance regulation in New Hampshire under RSA 126-V. Like a health insurance company, Trinity collects fixed monthly payments from its members, payments that vary according to the level of coverage and conducts medical underwriting to screen for pre-existing conditions. There is also a schedule of covered and excluded services, a schedule of copayments and deductibles, a claim adjudication process, use of provider networks and annual or lifetime limits.
9. August 13, 2018 Alera and Trinity entered into a Marketing and Administration Agreement. Under this agreement Alera is the program manager for Trinity’s health care sharing ministry plans, responsible for the development of plan designs, pricing, marketing, vendor management, recruitment and maintenance of the a national sales force and accounting and management of sales commissions on behalf of the ministry.
10. Alera has the exclusive right to design market and sell HCSM plans to its existing members and prospective members.
11. Per the agreement, Alera also maintains ownership of the “Membership Roster” of all Trinity enrollees.
12. Alera markets Trinity HCSM 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.
13. Alera has made false and misleading claims to New Hampshire consumers concerning the Alera and Trinity products it markets and administers.
14. Alera and Trinity are currently the subject of administrative actions in Texas, Washington and Colorado.

#### **Applicable New Hampshire Laws**

15. Per NH RSA 405:1, no foreign insurance company shall engage in the insurance business in New Hampshire unless it has first obtained a license to do so.
16. 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; or
- f. Doing any kind of insurance business specifically recognized as constituting the doing of an insurance business within the meaning of the insurance statutes. RSA 406-B:2.

17. New Hampshire law exempts health care sharing organizations from insurance regulation if they meet the requirements of RSA 126-V:1.

18. 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.

19. Qualifying organizations are subject to other requirements, including providing a notice to consumers warning that the organizations do not offer insurance and are not regulated by the NHID. RSA 126-V:1, III(g). Providing the notice to consumers is not sufficient to qualify an organization for the exemption if the requirements of RSA 126-V:1, II are not also met.

20. Under Title XXXVII, as well as applicable federal requirements, health insurance coverage in New Hampshire is subject to numerous requirements including prior form and rate approval, coverage requirements for specified services, and limitations on medical underwriting and preexisting condition exclusions.

21. Under New Hampshire's Managed Care Law, RSA Chapter 420-J, network-based health insurance is subject to numerous requirements designed to protect members, including grievances and appeals procedures, network adequacy requirements, and the obligation to protect members from balance billing by providers.
22. Under New Hampshire law, "administrator" or "third party administrator" or "TPA" is defined as "a person who directly or indirectly underwrites, collects charges or premiums from, or adjusts or settles claims on residents of this state, in connection with life, annuity, or health coverage or workers' compensation insurance . . ." RSA 402-H:1, I. "Underwrites or Underwriting" is further defined, though not limited to, accepting employer or individual applications in accordance with the written rules of the insurer or self-funded plan for the overall planning and coordinating of a benefits program. RSA 402-H:1, XIII.
23. New Hampshire law provides that "[n]o person shall act as, or offer to act as, or hold himself or herself out to be an administrator in this state without a valid certificate of authority as an administrator issued by the commissioner." RSA 402-H:11.

#### **Legal Allegations/Violations**

24. Trinity cannot meet the exemption requirements of RSA 126-V:1, II, specifically in that it has not been in existence continuously and have facilitated the sharing of medical expenses of participants without interruption since December 31, 1999. Trinity had no members as of August 13, 2018 when it signed the Management and Administrative Agreement with Aliera.
25. 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. Trinity's bylaws 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.
26. Further, Aliera also offers Trinity HCSM plans, not only to individuals, but also to employer groups. This is inconsistent with RSA 126-V:1 II, which limits participation in HCSM to individuals.
27. As Trinity does not meet the required elements to designate it as a HCSM under RSA 126-V, it is operating as an unlicensed insurance company in violation of RSA 406-B:3 and RSA 405:1.
28. Based on the conduct described herein, Aliera, through its arrangement with Trinity, is engaging in the "insurance business," as defined by RSA 406-B:2, by acting as an

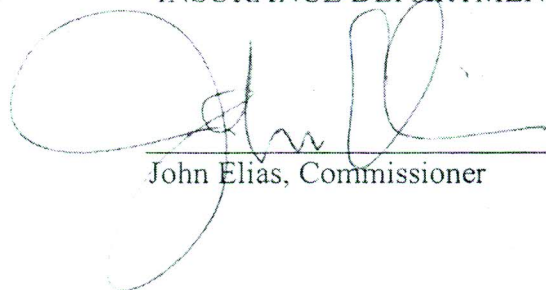
unlicensed insurance company in New Hampshire without the proper license or authorization in violation of RSA 406-B:3 and RSA 405:1.

29. Alternatively, Alera, by directly or indirectly underwriting, collecting charges or premiums from, and adjusting and settling claims on behalf New Hampshire residents in connection with Trinity, is operating as a unlicensed Third Party Administrator for a health insurance company within the meaning of RSA 402-H.
30. Alera does not qualify for any exemption from the requirement to be certified as a TPA in New Hampshire under RSA 402-H. Alera marketing and administration activities with respect to Trinity health plans go beyond the sale of these plans as a producer, and Alera is not authorized to transact insurance in New Hampshire, nor is Alera a subsidiary or affiliated corporation of a licensed insurer.
31. Alera is operating as an unlicensed TPA in violation of RSA 402-H.
32. Based upon the information and allegations recited above, the New Hampshire Commissioner of Insurance hereby ORDERS that Trinity and Alera immediately CEASE AND DESIST from writing any new coverage or renewing any coverage for New Hampshire insurance consumers.
33. Pursuant to RSA 400-A:17, the Respondents may request a hearing regarding this Order by filing a written application for hearing with the Commissioner within 30 (thirty) days of the date the Respondents either knew or should have known of the issuance of this Order.

SO ORDERED

NEW HAMPSHIRE  
INSURANCE DEPARTMENT

Date: 10/30/19



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John Elias, Commissioner

CERTIFICATION OF SERVICE

I certify that the a copy of the foregoing Cease and Desist Order has been served upon the above-captioned Respondents by United States first class mail, postage prepaid. Said Order was mailed to the Alera Healthcare Inc. 5901 Peachtree Dunwoody Rd. Ste B-200, Atlanta GA, 30328 and Trinity Healthshare Inc. 5901 Peachtree Dunwoody Rd. Ste C-160, Atlanta, GA 30328

Date: 10/30/2019

M. Bleier  
Mary C. Bleier, Esq.