



**The State of New Hampshire
Insurance Department**

21 South Fruit Street, Suite 14
Concord, NH 03301
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TDD Access: Relay NH 1-800-735-2964

Christopher R. Nicolopoulos
Commissioner

David J. Bettencourt
Deputy Commissioner

January 11, 2022

VIA FIRST-CLASS & CERTIFIED MAIL: 7011 2000 0001 8842 7094
Alliance for Shared Health
3155 Sutton Blvd STE 201
St. Louis, MO 63143

VIA FIRST-CLASS & CERTIFIED MAIL: 7011 2000 0001 8842 7100
Alliance for Shared Health
4230 Philips Farm Rd, Suite 201-2
Columbia, MO 65201

VIA EMAIL: douglas.gansler@cwt.com

Re: Order to Show Cause & Notice of Hearing, Docket No.: INS No. 22-001-EP

Dear Alliance for Shared Health:

Enclosed please find an Order to Show Cause and Notice of Hearing issued by Commissioner Christopher Nicolopoulos.

A hearing in this matter has been scheduled on **February 15, 2022 at 1:00 PM** at the New Hampshire Insurance Department located at 21 South Fruit Street, Suite 14, Concord, NH. You may find directions and additional information on our website at <http://www.nh.gov/insurance>.

Sincerely,

A handwritten signature in black ink, appearing to read "J. Hilliard", is written over a horizontal line.

Joshua S. Hilliard, Esq.
Compliance and Enforcement Counsel

**STATE OF NEW HAMPSHIRE
INSURANCE DEPARTMENT**

In re: Alliance for Shared Health

Docket No.: INS No. 22-001-EP

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

The New Hampshire Insurance Department (“NHID”) orders the Alliance for Shared Health (“ASH”) to show cause why the New Hampshire Insurance Commissioner should not order the cease and desist of their operations in New Hampshire and/or levy an administrative fine in the maximum amount allowed by law. 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. ASH is a foreign, non-profit corporation headquartered in Missouri, with an address of 4230 Philips Farm Rd, Suite 201-2, Columbia, MO 65201.
2. ASH was incorporated in the U.S. Virgin Islands in June of 2017.
3. ASH 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. ASH markets, solicits and administers health plans in New Hampshire.
5. ASH claims to be a Health Care Sharing Ministry¹ (“HCSM”) that is exempt from insurance regulation in New Hampshire under RSA 126-V.
6. ASH advertises its products as alternatives to traditional health insurance to New Hampshire consumers.
7. ASH has entered into health insurance contracts with New Hampshire consumers, where ASH agrees, upon payment of a monthly monetary fee, to provide coverage for medical costs incurred by its members. While ASH maintains that the products it offers are not insurance and does not guarantee payment of medical bills, ASH nevertheless acts as a health insurer by:

¹ The terms “healthcare sharing ministry” and “healthcare sharing organization” are used interchangeably within this Order.

- a. utilizing licensed insurance producers to sell its products within the state;
 - b. charging fixed monthly payments based on the amount of coverage chosen by the consumer and regardless of the amount of requests for payment that are made by members;
 - c. requiring members to pay a deductible before covering many medical services;
 - d. utilizing Preferred Provider networks;
 - e. assessing copays for medical services; and
 - f. requiring referrals for specialist visits.
8. In August of 2021, the NHID requested documentation from ASH demonstrating its compliance with New Hampshire's laws on HCSM, including that requiring it to provide monthly statements listing the amount of qualified needs and the amount actually assigned to participants. To date, ASH has not been able to provide any responsive documents to that request.
9. Through the course the of the NHID's investigation, it was determined that ASH does not meet the legal definition of a HCSM and is therefore acting as an unauthorized insurance company in the state of New Hampshire.

APPLICABLE NEW HAMPSHIRE LAWS

10. 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."
11. NH RSA 406-B:3 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."
12. 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
13. New Hampshire law exempts health care sharing organizations from insurance regulation if they meet the requirements of RSA 126-V:1.
14. To qualify for the exemption from insurance regulation under RSA 126-V:1, a health care sharing organization must meet all of requirements of that statute, which include in part:
- a. Acting as a facilitator among participants who have financial and medical needs and matching those participants with those with the present ability to assist with those financial and medical needs;
 - b. Having been in existence continuously and having facilitated the sharing of medical expenses of participants without interruption since December 31, 1999, including predecessor organizations; and
 - c. Providing a written monthly statement to all participants that lists the total dollar amount of qualified needs submitted to the health care sharing organization, as well as the amount actually published or assigned to participants for their contribution.
15. 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.
16. 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

17. To qualify as a HCSM under both IRS and New Hampshire law, an organization must have been in operation and continuously sharing member health care costs since December 31, 1999.

18. ASH cannot meet the exemption requirements of RSA 126-V:1; it has only been in existence for less than five years, and has not been facilitating the sharing of medical expenses of participants without interruption since December 31, 1999.
19. NH law requires that a HCSM act as a facilitator among participants who have financial and medical needs by matching those participants with other participants with the present ability to assist those with financial and medical needs.
20. Contrary to NH law, ASH does not match members' needs with those with a present ability to pay, but instead charges all members a "monthly gift amount" (a monthly premium), and then pays or does not pay for members' needs in its sole discretion.
21. NH law also requires that a HCSM provide written monthly statements to all participants that lists the total dollar amount of qualified needs submitted to the health care sharing organization, as well as the amount actually published or assigned to participants for their contribution.
22. ASH does not provide such statements to its members, as required by NH law.
23. Because ASH 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.
24. 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, ASH has violated New Hampshire RSAs 417:3 and 417:4 I (h).

NEW HAMPSHIRE INSURANCE LAWS VIOLATED BY RESPONDENT

25. The NHID maintains that the Respondent violated RSA 403-B:3 and 405:1 by operating as an unlicensed insurance company in New Hampshire by selling insurance to at least 312 NH consumers.
26. The NHID maintains that the Commissioner has the authority to levy a monetary penalty in accordance RSA 406-B:12.
27. The NHID maintains that the Respondent violated RSA 417:3 and 417:4, I(h) for deceiving at least 312 NH consumers into believing that they joined a valid healthcare sharing ministry.
28. 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 an ASH membership.

29. 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

30. 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 requests that the Hearing Officer,

(i) Order ASH to Cease and Desist doing all current or future business within New Hampshire per 400-A:3;

(ii) Levy an administrative fine in the amount of no less than \$780,000 as authorized by RSA 406-B:12;

(iii) Levy a fine in the maximum amount allowed by law for each violation of RSA 417:3 and 417:4, I(h), for a fine of no less than \$780,000.

NOTICE OF HEARING

31. 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.
32. The Respondent shall appear at Department on **February 15, 2022 at 1:00 PM** 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 406-B:12 and RSA 417:4. 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.
33. Steven Notinger Esq. is appointed to act as Hearing Officer in this matter with all the authority within the scope of RSA 400-A:19, *et seq.* and Ins 203.01.
34. 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.m.zalinskie@ins.nh.gov

35. 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.
36. 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.
37. Joshua Hilliard, Esq. shall serve as staff advocate representing the interests of the NHID.
38. 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.
39. 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:

1/10/2022




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, Alliance for Shared Health, 3155 Sutton Blvd STE 201, St. Louis, MO 63143 and 4230 Philips Farm Rd, Suite 201-2, Columbia, MO 65201, and via e-mail to Douglas Gansler, Esq., at douglas.gansler@cwt.com.

Date: 1/4/22



Joshua Hilliard, Esq.

NEW HAMPSHIRE INSURANCE DEPARTMENT

ATTORNEY APPEARANCE or WITHDRAWAL

Docket No. (if known): _____

Respondent Name or Case Name: _____

APPEARANCE

WITHDRAWAL

Please **ENTER** my appearance as
Counsel for _____

Please **WITHDRAW** my appearance as
Counsel for _____

I confirm that neither I nor any member of my
law firm have been retained by the Department
of Insurance or the Commissioner of Insurance.

Notice of Withdrawal sent to my client on:
_____ at the following address:

I hereby certify that I provided a copy of this original request to the Department and a copy to all other known parties to this matter in accordance with Ins 204.09.

Signed: _____

Name: _____ **NH Bar #:** _____

Firm Name: _____ **Email:** *(see also below)* _____

Physical Address: _____

Mailing Address (if different): _____

Phone: _____

Email Consent: By checking this box, I consent to delivery by email in accordance with Ins 204.09(c). Please send communications and documents to the above email address.

Date: _____ **Signature:** _____

If you do not consent to delivery by email, all communications will be sent to you by personal delivery at your physical address or by United States Postal Service first class mail to your mailing address.