



State of Washington
Office of the Insurance Commissioner
Hearings Unit
PO Box 40255
Olympia WA 98504-0255
5000 Capitol Boulevard
Tumwater, WA 98501
(360) 725-7002 FAX (360) 664-2782
HearingsU@oic.wa.gov

Received electronically 04-13-20 RC

Demand for Hearing

Please type or print in ink. Attach a copy of the Order or correspondence in dispute and all documents supporting your demand. This Demand for Hearing can be mailed, faxed, hand-delivered or emailed to the Hearings Unit at the address above. For OIC Demands, please provide contact information for all other interested parties and their representatives.

1 Requesting Party (required information)

Name/Business Name OneShare Health, LLC		OIC Case/Order No. 20-0250 and 20-0252
Street Address Corporate Headquarters, 3701 Regent Blvd. Ste. 100		City, State, Zip Irving TX 75063
Telephone Number (682) 651-7400	Fax Number	
Contact Person Buddy Combs	Telephone Number (682) 282-0112	Email Address bcombs@onesharehealth.com

2 Authorized Representative/Attorney for Requesting Party

Last Name Coopersmith McKenna	First Jeffrey Robert	M.I. B.
Business Name Orrick, Herrington & Sutcliffe LLP		
Street Address 701 Fifth Avenue, Suite 5600		City, State, Zip Seattle WA 98104
Telephone Number (206) 839-4300	Fax Number (206) 839-4301	Email Address jcoopersmith@orrick.com; rmckenna@orrick.com

3 Subject Matter of Demand for Hearing

- Revocation or Denial of License
 Revocation or Denial Certificate of Authority or Registration
 Cease and Desist Order
 Imposition of Fine/Consent Order
 Other _____

4 Additional Parties/Representatives (for more parties and/or representatives, please attach additional pages)

Last Name Monnin Wallace	First Paul Kyle	M.I.
Business Name Alston & Bird LLP		
Street Address One Atlantic Center, 1201 W. Peachtree St.		City, State, Zip Atlanta GA 30309-3424
Telephone Number (404) 881-7000	Fax Number (404) 881-7777	Email Address Paul.Monnin@alston.com; Kyle.Wallace@alston.com

5 Issues and Arguments

- a. **Issues** – Briefly describe each issue or area of dispute that you wish us to consider. Attach additional pages if necessary.

See Attachment C.

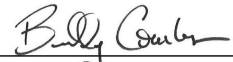
b. Arguments – Explain why each issue or area of dispute listed above should be decided in your favor. Attach additional pages if necessary. To the extent known, cite applicable rules, statutes, or cases in support of your arguments. Enclose copies of documents concerning your arguments including documents the Department previously requested from you that you have not yet provided.

See Attachment C.

6 Signature

Either the Requesting Party or the Attorney/Representative can sign this Demand for Hearing. However, if the Representative is submitting the Demand, contact information for the Requesting Party must be provided under Section 1 above and the Attorney/Representative's contact information must be provided in Section 2.

Requesting Party:



Signature

Buddy Combs

Name (please print or type)

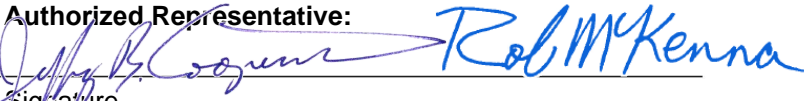
04-10-2020

Date

Chief Compliance Office & General Counsel

Title

Authorized Representative:



Signature

Jeffrey B. Coopersmith

Robert McKenna

Name (please print or type)

04-13-2020

Date

Attorneys for OneShare Health, LLC

Title

ATTACHMENT A

**STATE OF WASHINGTON
OFFICE OF THE INSURANCE COMMISSIONER**

In the Matter of

ONESHARE HEALTH, LLC,

Unauthorized Entity/
Respondent.

Order No. 20-0250

ORDER TO CEASE AND DESIST

Pursuant to RCW 48.02.080 and RCW 48.15.023, the Insurance Commissioner of the state of Washington (“Insurance Commissioner”) orders the above-named Respondent, and its officers, directors, trustees, employees, agents, and affiliates to immediately cease and desist from:

- A. Acting as an insurer in the state of Washington;
- B. Engaging in or transacting the unauthorized business of insurance in the state of Washington;
- C. Seeking, pursuing, and obtaining any insurance business in the state of Washington;
- D. Soliciting Washington residents to purchase any insurance to be issued by an unauthorized insurer; and
- E. Soliciting Washington residents to induce them to purchase any insurance contract.

BASIS:

1. The parent of OneShare Health, LLC, Anabaptist Healthshare, Inc., incorporated on May 26, 2015 in Virginia; on August 31, 2018, it amended its name to Kingdom Healthshare International; and on March 12, 2019, it amended its name to OneShare International (hereinafter referred to as “the Organization”). On April 9, 2019, the Organization registered Anabaptist

Healthshare as a d.b.a. The Organization represents itself as a health care sharing ministry (“HCSM”), exempt from insurance regulation. It does not have members in Washington State.

2. On November 10, 2016, the Organization formed a wholly owned subsidiary, Unity Healthshare, LLC; on August 27, 2018, it amended its name to Kingdom Healthshare Ministries, LLC; and on March 11, 2019, it amended its name to OneShare Health, LLC (“OneShare”). OneShare is incorporated in Virginia and headquartered in Texas. OneShare represents itself as a HCSM, exempt from insurance regulation. It has members in Washington State and it does not hold a Certificate of Authority in this state.

3. There is pending litigation in Fulton County Superior Court (Georgia) between OneShare and Alieria Healthcare, Inc. (“Alieria”), regarding Alieria’s marketing of OneShare’s insurance products. Alieria is also the subject of an enforcement action by the Insurance Commissioner.

4. Following a referral from its producer licensing division, the Insurance Commissioner opened an inquiry to determine 1) if OneShare is a legitimate HCSM in compliance with state and federal law, and 2) if it is not a bona fide HCSM, whether it is acting as an unauthorized insurer in Washington State.

OneShare does not meet the legal definition of a health care sharing ministry.

5. To qualify as a health care sharing ministry under Internal Revenue Service (IRS) and Washington law, a HCSM must be a 501(c)(3) organization whose members share a common set of ethical or religious beliefs and share medical expenses among members in accordance with those beliefs. In addition, the organization (or its predecessor) must also have been in operation and continuously sharing member health care costs since at least December 31, 1999.

6. OneShare has not been in operation and continuously sharing amongst members since 1999. To meet this requirement, OneShare relies entirely on a letter, dated July 14, 2015, from the Department of Health & Human Services (“DHHS”), approving the Organization as a HCSM. However, there are several problems with OneShare’s reliance on this letter: (1) the Organization serves a different religious community than OneShare serves, (2) the letter from DHHS contains a disclaimer that it is not binding on state authorities, (3) the Organization has not been in operation since 1999, and (4) the Organization is not OneShare’s “predecessor.”

7. OneShare explained that the Organization and OneShare serve different communities. The Organization's membership focuses on members of the traditional Anabaptist church or those who work for Anabaptist ministries or employers. The Organization does not have and has never had any Washington members. On the other hand, OneShare members are not required to be practicing Anabaptists or among those who work for Anabaptist ministries. Instead, each member must attest to OneShare's Statement of Beliefs which is founded on Biblical principles. OneShare explained that creating OneShare allowed a larger community to take advantage of healthcare sharing services in accordance with their faith. This distinction in beliefs between the two sets of members runs contrary to the continuous sharing requirement for HCSMs.

8. OneShare denies that it is a separate legal entity from the Organization and points out that, for tax purposes, it is not treated as a separate legal entity. In support, it provided an IRS Announcement which states that an LLC, if wholly-owned by an organization exempt under section 501(c)(3) of the Internal Revenue Code, may be disregarded as a separate entity for federal tax purposes. However, members were signed up with OneShare as their insurer, not the Organization. Further, and most importantly, the Insurance Commissioner is not bound by the IRS's tax treatment of OneShare.

9. Additionally, in order to qualify as an HCSM, an entity must conduct an annual audit performed by an independent certified public accounting firm. OneShare failed to meet this requirement. OneShare provided the Insurance Commissioner with an audit of the Organization for year ending December 31, 2016. The audit report is dated September 20, 2019. On this basis alone, OneShare fails to qualify as an HCSM.

OneShare is acting as an unauthorized insurer in the state of Washington.

10. Because OneShare is not qualified as a HCSM, it is acting as an unauthorized insurer. OneShare asserts throughout its website and written materials that it is not insurance, does not guarantee payment of medical expenses, and does not enter into contracts with members. However, based on those same materials, the members pay a monthly fee and, in return, OneShare pays providers for covered services upon the members getting sick or injured. This qualifies as insurance.

11. At the time OneShare terminated its contract with Alieria on August 10, 2018, OneShare had approximately 2,900 Washington members. Since then, 1,470 Washington residents

have been OneShare members, with a current total of 1,091 Washington members. Members from Washington have paid OneShare a total of \$1,239,328.15 to date.

12. Based on their website, OneShare continues to offer Washington consumers insurance.

13. RCW 48.01.040 states that “insurance” is a contract whereby one undertakes to indemnify another or pay a specified amount upon determinable contingencies.

14. RCW 48.01.050 states in relevant part that “insurer” as used in this code includes every person engaged in the business of making contracts of insurance.

15. RCW 48.43.009 provides that health care sharing ministries are not health carriers as defined in RCW 48.43.005 or insurers as defined in RCW 48.01.050. For purposes of this section, “health care sharing ministry” has the same meaning as in 26 U.S.C. Sec. 5000A.

16. 26 U.S.C. Sec. 5000A states the term “health care sharing ministry” means an organization—

(I) which is described in section 501(c)(3) and is exempt from taxation under section 501(a),

(II) members of which share a common set of ethical or religious beliefs and share medical expenses among members in accordance with those beliefs and without regard to the State in which a member resides or is employed,

(III) members of which retain membership even after they develop a medical condition,

(IV) which (or a predecessor of which) has been in existence at all times since December 31, 1999, and medical expenses of its members have been shared continuously and without interruption since at least December 31, 1999, and

(V) which conducts an annual audit which is performed by an independent certified public accounting firm in accordance with generally accepted accounting principles and which is made available to the public upon request.

17. RCW 48.05.030(1) states no person shall act as an insurer and no insurer shall transact insurance in this state other than as authorized by a certificate of authority issued to it by the Insurance Commissioner and then in force; except, as to such transactions as are expressly otherwise provided for in this code.

18. RCW 48.15.020(1) states that an insurer that is not authorized by the Insurance Commissioner may not solicit or transact insurance business in this state.

19. RCW 48.15.023(5)(a)(i) states that if the Insurance Commissioner has cause to believe that any person has violated the provisions of RCW 48.15.020(1), the Insurance

Commissioner may issue and enforce a cease and desist order in accordance with the provisions of RCW 48.02.080.

20. RCW 48.02.080(3)(a) states if the Insurance Commissioner has cause to believe that any person is violating or is about to violate any provision of this code or any regulation or order of the Insurance Commissioner, he or she may issue a cease and desist order.

21. The Respondent's actions described herein violate Insurance Code provisions that include RCW 48.05.030(1) [Certificate of Authority required] and RCW 48.15.020(1) [solicitation by insurer not authorized prohibited].

IT IS FURTHER ORDERED that nothing herein shall prevent the Respondent from fulfilling the terms of contracts formed prior to the effective date of this Order pursuant to RCW 48.15.020(2)(b).

Any violation of the terms of this Order by the Respondent and its officers, directors, trustees, employees, agents, and affiliates or the Respondent's failure to fulfill or perform its contracts subject to this Order will render the violator(s) subject to the full penalties authorized by RCW 48.02.080, RCW 48.15.023, and other applicable sections of the Insurance Code of the state of Washington.

The Respondent has the right to demand a hearing in accordance with RCW 48.04.010, WAC 284-02-070, and WAC 10-08-110.

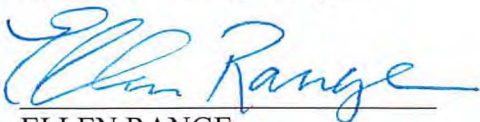
This Order shall remain in effect subject to the further order of the Insurance Commissioner.

THIS ORDER IS EFFECTIVE IMMEDIATELY AND IS ENTERED at Tumwater, Washington, this 31 day of March, 2020.



MIKE KREIDLER
Insurance Commissioner

By and through his designee



ELLEN RANGE
Insurance Enforcement Specialist
Legal Affairs Division

CERTIFICATE OF MAILING

The undersigned certifies under the penalty of perjury under the laws of the state of Washington that I am now and at all times herein mentioned, a citizen of the United States, a resident of the state of Washington, over the age of eighteen years, not a party to or interested in the above-entitled action, and competent to be a witness herein.

On the date given below I caused to be served the foregoing Order to Cease and Desist on the following individual(s) in the manner listed below:

By email and by depositing in the U.S. mail via state Consolidated Mail Service with proper postage affixed to:

Tyler Hochstetler
2452 S. Seminole Trail
Madison, VA 22727
Registered Agent for OneShare Health, LLC

Courtesy copy to:
Kyle G.A. Wallace
Attorney at Law
Alston & Bird
One Atlantic Center
1201 West Peachtree Street
Atlanta, GA 30309-3424
Kyle.wallace@alston.com
Attorney for OneShare Health, LLC

Dated this 31st day of March, 2020, in Tumwater, Washington.


DAWN KRECH
Paralegal
Legal Affairs Division

ATTACHMENT B

MIKE KREIDLER
STATE INSURANCE COMMISSIONER

STATE OF WASHINGTON



OFFICE OF
INSURANCE COMMISSIONER

OLYMPIA OFFICE:
INSURANCE BUILDING
P.O. BOX 40255
OLYMPIA, WA 98504-0255
Phone: (360) 725-7000

March 31, 2020

Kyle G.A. Wallace, Attorney at Law
Alston & Bird
One Atlantic Center
1201 West Peachtree Street
Atlanta, GA 30309-3424
Kyle.wallace@alston.com

Re: OneShare Health LLC
Proposed Consent Order Levying A Fine – OIC Order No. 20-0252

Dear Mr. Wallace:

The Office of the Insurance Commissioner has found that OneShare Health LLC (“OneShare”), has violated provisions of Washington State law. The violation(s) are detailed in the attachment to this letter. When a violation occurs, the Insurance Commissioner is granted the authority to take action. The action may range from levying a fine.

We are offering OneShare an opportunity to settle this matter by signing the attached *Consent Order* and paying a fine. As part of this settlement, OneShare will admit its violation(s), pay the imposed fine, and agree to fully comply with all applicable laws of Washington State going forward.

The deadline to accept the settlement offer and pay the fine is **April 30, 2020**. Payments will not be accepted without the signed order. When we receive your signed order and payment of the fine, the Insurance Commissioner will execute the agreement and provide you with a validated copy of the settlement agreement for your records. Please refer to the instructions on the next page. If the settlement offer is not accepted by April 30, 2020, it will be withdrawn.

Upon withdrawal of the settlement offer, the Insurance Commissioner may request a hearing to impose the fine. Alternatively, you may request a hearing yourself. If this matter results in a hearing, the Insurance Commissioner is not bound by this settlement offer and may seek a fine in the full amount warranted for your particular situation.

If you have any questions regarding this matter, I can be reached at (360) 725-7261 or by email at EllenR@oic.wa.gov.

Sincerely,

Ellen Range
Insurance Enforcement Specialist
Legal Affairs Division

Enclosure: *Consent Order 20-0252*

How do I accept this time-limited settlement offer?

By April 30, 2020, you must:

1. Sign the attached settlement order. The settlement order is called a Consent Order because you are agreeing or consenting to the terms of the agreement.
2. Pay the fine amount indicated in the order by check. Make the check payable to WA Office of Insurance Commissioner.
3. Mail the signed order with your payment check to:

Office of the Insurance Commissioner
Attn: Fiscal
PO Box 40255
Olympia, WA 98504-0255

or

Office of the Insurance Commissioner
Attn: Fiscal
5000 Capitol Blvd SE
Tumwater, WA 98501

Payment will not be accepted without the signed order. When we receive your signed order and fine payment, the Insurance Commissioner will execute the agreement and provide you with a validated copy of the settlement agreement for your records. If the settlement offer is not accepted by the date given, it will be withdrawn.

How do I request an administrative hearing?

By June 29, 2020, you must fill out and sign the Demand for Hearing form online at the following location:

<https://www.insurance.wa.gov/how-file-demand-hearing>

Your Demand for Hearing can be in a separate document, but the completed Demand for Hearing form must also be filed along with your written demand.

1. If you would like to also provide a written request for an administrative hearing, your written request should include:
 - A brief statement of how you are harmed by the Insurance Commissioner's proposed action.
 - A statement of the outcome you seek.
 - Your contact information: name, mailing address, email address, and phone number.
 - A copy of the Insurance Commissioner's proposed order you are challenging.

Although not required, it would be helpful if you also included the following information in your written request for a hearing:

- A statement identifying the facts in the Consent Order you disagree with or believe are inaccurate, and why you think so.
- A statement identifying any additional facts or information you want the Insurance Commissioner to consider.

2. Mail your written request to:

Office of the Insurance Commissioner
ATTN: Hearings Unit
PO Box 40255
Olympia, WA 98504-0255

For more information about the hearings process, please visit: <http://www.insurance.wa.gov/about-administrative-hearings>

**STATE OF WASHINGTON
OFFICE OF THE INSURANCE COMMISSIONER**

In the Matter of

ONESHARE HEALTH, LLC,

Unauthorized Insurer.

Order No. 20-0252

CONSENT ORDER LEVYING
A FINE

This Consent Order Levying a Fine (“Order”) is entered into by the Insurance Commissioner of the state of Washington (“Insurance Commissioner”), acting pursuant to the authority set forth in RCW 48.02.060 and RCW 48.15.023, and OneShare Health, LLC (“OneShare”). The Order is a public record and will be disseminated pursuant to Title 48 RCW and the Insurance Commissioner’s policies and procedures.

BASIS:

1. The parent of OneShare Health, LLC, Anabaptist Healthshare, Inc., incorporated on May 26, 2015 in Virginia; on August 31, 2018, it amended its name to Kingdom Healthshare International; and on March 12, 2019, it amended its name to OneShare International (hereinafter referred to as “the Organization”). On April 9, 2019, the Organization registered Anabaptist Healthshare as a d.b.a. The Organization represents itself as a health care sharing ministry (“HCSM”), exempt from insurance regulation. It does not have members in Washington State.

2. On November 10, 2016, the Organization formed a wholly owned subsidiary, Unity Healthshare, LLC; on August 27, 2018, it amended its name to Kingdom Healthshare Ministries, LLC; and on March 11, 2019, it amended its name to OneShare Health, LLC (“OneShare”). OneShare is incorporated in Virginia and headquartered in Texas. OneShare represents itself as a HCSM, exempt from insurance regulation. It has members in Washington State and it does not hold a Certificate of Authority in this state.

3. There is pending litigation in Fulton County Superior Court (Georgia) between OneShare and Alieria Healthcare, Inc. (“Alieria”), regarding Alieria’s marketing of OneShare’s

insurance products. Alieria is also the subject of an enforcement action by the Insurance Commissioner.

4. Following a referral from its producer licensing division, the Insurance Commissioner opened an inquiry to determine 1) if OneShare is a legitimate HCSM in compliance with state and federal law, and 2) if it is not a bona fide HCSM, whether it is acting as an unauthorized insurer in Washington State.

OneShare does not meet the legal definition of a health care sharing ministry.

5. To qualify as a health care sharing ministry under Internal Revenue Service (IRS) and Washington law, a HCSM must be a 501(c)(3) organization whose members share a common set of ethical or religious beliefs and share medical expenses among members in accordance with those beliefs. In addition, the organization (or its predecessor) must also have been in operation and continuously sharing member health care costs since at least December 31, 1999.

6. OneShare has not been in operation and continuously sharing amongst members since 1999. To meet this requirement, OneShare relies entirely on a letter, dated July 14, 2015, from the Department of Health & Human Services ("DHHS"), approving the Organization as a HCSM. However, there are several problems with OneShare's reliance on this letter: (1) the Organization serves a different religious community than OneShare serves, (2) the letter from DHHS contains a disclaimer that it is not binding on state authorities, (3) the Organization has not been in operation since 1999, and (4) the Organization is not OneShare's "predecessor."

7. OneShare explained that the Organization and OneShare serve different communities. The Organization's membership focuses on members of the traditional Anabaptist church or those who work for Anabaptist ministries or employers. The Organization does not have and has never had any Washington members. On the other hand, OneShare members are not required to be practicing Anabaptists or among those who work for Anabaptist ministries. Instead, each member must attest to OneShare's Statement of Beliefs which is founded on Biblical principles. OneShare explained that creating OneShare allowed a larger community to take advantage of healthcare sharing services in accordance with their faith. This distinction in beliefs between the two sets of members runs contrary to the continuous sharing requirement for HCSMs.

8. OneShare denies that it is a separate legal entity from the Organization and points out that, for tax purposes, it is not treated as a separate legal entity. In support, it provided an IRS Announcement which states that an LLC, if wholly-owned by an organization exempt under section 501(c)(3) of the Internal Revenue Code, may be disregarded as a separate entity for federal tax purposes. However, members were signed up with OneShare as their insurer, not with the Organization. Further, and most importantly, the Insurance Commissioner is not bound by the IRS's tax treatment of OneShare.

9. Additionally, in order to qualify as an HCSM, an entity must conduct an annual audit performed by an independent certified public accounting firm. OneShare failed to meet this requirement. OneShare provided the Insurance Commissioner with an audit of the Organization for year ending December 31, 2016. The audit report is dated September 20, 2019. On this basis alone, OneShare fails to qualify as an HCSM.

OneShare is acting as an unauthorized insurer in the state of Washington.

10. Because OneShare is not qualified as a HCSM, it is acting as an unauthorized insurer. OneShare asserts throughout its website and written materials that it is not insurance, does not guarantee payment of medical expenses, and does not enter into contracts with members. However, based on those same materials, the members pay a monthly fee and, in return, OneShare pays providers for covered services upon the members getting sick or injured. This qualifies as insurance.

11. At the time OneShare terminated its contract with Alieria on August 10, 2018, OneShare had approximately 2,900 Washington members. Since then, 1,470 Washington residents have been OneShare members, with a current total of 1,091 Washington members. Members from Washington have paid OneShare a total of \$1,239,328.15 to date.

12. Based on their website, OneShare continues to offer Washington consumers insurance.

13. RCW 48.01.040 states that "insurance" is a contract whereby one undertakes to indemnify another or pay a specified amount upon determinable contingencies.

14. RCW 48.01.050 states in relevant part that "insurer" as used in this code includes every person engaged in the business of making contracts of insurance.

15. RCW 48.43.009 provides that health care sharing ministries are not health carriers as defined in RCW 48.43.005 or insurers as defined in RCW 48.01.050. For purposes of this section, "health care sharing ministry" has the same meaning as in 26 U.S.C. Sec. 5000A.

16. 26 U.S.C. Sec. 5000A states the term "health care sharing ministry" means an organization —

(I) which is described in section 501(c)(3) and is exempt from taxation under section 501(a),

(II) members of which share a common set of ethical or religious beliefs and share medical expenses among members in accordance with those beliefs and without regard to the State in which a member resides or is employed,

(III) members of which retain membership even after they develop a medical condition,

(IV) which (or a predecessor of which) has been in existence at all times since December 31, 1999, and medical expenses of its members have been shared continuously and without interruption since at least December 31, 1999, and

(V) which conducts an annual audit which is performed by an independent certified public accounting firm in accordance with generally accepted accounting principles and which is made available to the public upon request.

17. RCW 48.05.030(1) states no person shall act as an insurer and no insurer shall transact insurance in this state other than as authorized by a certificate of authority issued to it by the Insurance Commissioner and then in force; except, as to such transactions as are expressly otherwise provided for in this code.

18. RCW 48.15.020(1) states that an insurer that is not authorized by the Insurance Commissioner may not solicit or transact insurance business in this state.

19. RCW 48.15.023(5)(a)(ii) states that if the Insurance Commissioner has cause to believe that any person has violated the provisions of RCW 48.15.020(1), the Insurance Commissioner may assess a civil penalty of not more than twenty-five thousand dollars for each violation, after providing notice and an opportunity for a hearing in accordance with chapters 34.05 and 48.04 RCW.

20. By not meeting the requirements for exemption from insurance regulation under RCW 48.43.009, OneShare Health, LLC has transacted insurance in this state without a Certificate of Authority, in violation of RCW 48.05.030(1) and RCW 48.15.020(1). These violations justify the imposition of a fine under RCW 48.15.023(5)(a)(ii).

CONSENT TO ORDER:

The Insurance Commissioner of the state of Washington and OneShare Health, LLC agree that the best interest of the public will be served by entering into this Order. NOW, THEREFORE, OneShare consents to the following in consideration of its desire to resolve this matter without further administrative or judicial proceedings. The Insurance Commissioner consents to settle this matter in consideration of OneShare's payment of a fine, and upon such terms and conditions as are set forth below:

1. OneShare acknowledges its duty to comply fully with the applicable laws of the state of Washington.

2. OneShare consents to the entry of this Order, waives any and all hearing or other procedural rights, and further administrative or judicial challenges to this Order.

3. By agreement of the parties, the Insurance Commissioner will impose a fine of \$100,000.00 (One Hundred Thousand Dollars) to be paid by **April 30, 2020**.

4. OneShare understands and agrees that any further failure to comply with the statutes and/or regulations that are the subject of this Order constitutes grounds for further penalties, which may be imposed in direct response to further violations.

5. This Order and the violations set forth herein constitute admissible evidence that may be considered in any future action by the Insurance Commissioner involving OneShare. However, the facts of this Order, and any provision, finding or conclusion contained herein does not, and is not intended to, determine any factual or legal issue or have any preclusive or collateral estoppel effects in any lawsuit by any party other than the Insurance Commissioner.

EXECUTED this _____ day of _____, 2020.

ONESHARE HEALTH, LLC

By: _____

Printed Name: _____

Printed Corporate Title: _____

AGREED ORDER:

Pursuant to the foregoing factual Basis and Consent to Order, the Insurance Commissioner of the state of Washington hereby Orders as follows:

1. OneShare shall pay a fine in the amount of \$100,000.00 (One Hundred Thousand Dollars), receipt of which is hereby acknowledged by the Insurance Commissioner.

2. This Order and the violations set forth herein constitute admissible evidence that may be considered in any future action by the Insurance Commissioner involving OneShare. However, the facts of this Order, and any provision, finding or conclusion contained herein does not, and is not intended to, determine any factual or legal issue or have any preclusive or collateral estoppel effects in any lawsuit by any party other than the Insurance Commissioner.

ENTERED at Tumwater, Washington, this _____ day of _____, 2020.



Insurance Commissioner

By and through his designee

ELLEN RANGE
Insurance Enforcement Specialist
Legal Affairs Division

ATTACHMENT C

**In the Matter of OneShare Health, LLC
Cease and Desist Order No. 20-0250
Consent Order Levying a Fine No. 20-0252
Attachment C to Demand for Hearing**

OneShare Health, LLC (“OneShare”) challenges the Commissioner’s Order to Cease and Desist (“C&D Order”) and his proposed Consent Order Levying a Fine (“Consent Order”) in all respects, believes they were improvidently issued, and requests that they be rescinded or withdrawn. The Commissioner has taken a legal position on OneShare’s structure directly at odds with the interpretation of the same statutory provisions applied by the Centers for Medicare and Medicaid Services (“CMS”).

After receiving a letter of inquiry from the Commissioner dated July 17, 2019, OneShare cooperated with the inquiry and provided substantial evidence about its health care sharing ministry (“HCSM”). This evidence demonstrated that OneShare is a valid, recognized HCSM that meets all the requirements of 26 U.S.C. § 5000A(d)(2)(B)(ii), which Washington has adopted as its own test. See RCW 48.43.009 (“Health care sharing ministries are not health carriers as defined in RCW 48.43.005 or insurers as defined in RCW 48.01.050. For purposes of this section, ‘health care sharing ministry’ has the same meaning as in 26 U.S.C. Sec. 5000A.”).

Despite OneShare’s expressed willingness to provide additional information to assist the inquiry and its request to meet with the Commissioner and discuss any remaining questions, the Commissioner’s office declined to meet and instead said nothing for over six months until, on March 31, 2020, it issued to OneShare the C&D Order and proposed Consent Order. The C&D Order causes irreparable harm to OneShare and its members by, among other things, preventing OneShare from enrolling new members who want to join OneShare immediately. To compound the irreparable harm, the Commissioner issued an inaccurate press release claiming that OneShare was “preying on people” and gave the false impression to the public that the C&D Order was in response to and driven by member complaints. In view of these issues, OneShare believes that this case presents discrete legal issues that can and should expeditiously proceed to adjudication before the hearing officer.

The specific issues and areas of dispute on which OneShare demands a hearing are set forth here:

5 a. Issues – Briefly describe each issue or area of dispute that you wish us to consider. Attach additional pages if necessary.

- Whether the Commissioner was correct in concluding that OneShare has failed to meet the requirements of RCW 48.43.009, which adopts the federal definition of a health care sharing ministry (“HCSM”) under 26 U.S.C. § 5000A(d)(2)(B)(ii). Specifically:

- o Whether the Commissioner erred in concluding that OneShare’s parent “serves a different religious community than OneShare serves,” and in concluding that OneShare must show that its members are part of the same religious community in order to satisfy 26 U.S.C. § 5000A(d)(2)(B)(ii). C&D Order, Paragraphs 6 & 7.
- o Whether the Commissioner’s conclusion that, compared to its parent organization, OneShare does not qualify as an HCSM based on the religious community it serves infringes OneShare’s religious liberty rights under the First Amendment of the United States Constitution, other federal law, the Washington state constitution, and other Washington law. C&D Order, Paragraphs 6 & 7.
- o Whether the Commissioner erred in rejecting the determination by the federal agency charged with applying 26 U.S.C. § 5000A(d)(2)(B)(ii) where Washington law, RCW 48.43.009, states that HCSM “has the same meaning” as in that federal statute; and in doing so, whether the Commissioner misinterpreted language in the CMS letter which states that the CMS letter does not supersede other relevant state law. C&D Order, Paragraph 6 (2).
- o Whether the Commissioner erred in determining that OneShare did not meet the requirement in 26 U.S.C. § 5000A(d)(2)(B)(ii)(IV) that it or a predecessor has been in existence since December 31, 1999. C&D Order, Paragraph 6 (3) & (4).
- o Whether the Commissioner erred in determining that it could ignore federal law and the IRS’s determination regarding OneShare’s structure and legal existence as a disregarded entity and also erred in characterizing the Commissioner as not being bound by the “IRS’s tax treatment of OneShare.” C&D Order, Paragraph 8.
- o Whether the Commissioner erred in concluding that OneShare has failed to comply with the audit requirements set forth in 26 U.S.C. § 5000A(d)(2)(B)(ii)(V). C&D Order, Paragraph 9.
- o Whether the Commissioner erred in concluding that OneShare’s facilitating the payment of medical expenses “qualifies as insurance” and means that “OneShare is acting as an unauthorized insurer.” C&D Order, Paragraph 10.

5 b. Arguments – Explain why each issue or area of dispute listed above should be decided in your favor. Attach additional pages if necessary. To the extent known, cite applicable rules, statues, or cases in support of your arguments. Enclose copies of documents concerning your arguments including documents the Department previously requested from you that you have not yet provided.

- The Commissioner erred in concluding that OneShare failed to meet the requirements of RCW 48.43.009, which adopts the definition of health care sharing ministry (“HCSM”) in 26 U.S.C. § 5000A(d)(2)(B)(ii). Specifically:

o The Commissioner erred in concluding that OneShare's parent "serves a different religious community than OneShare serves." First and foremost, this is not a requirement in 26 U.S.C. § 5000A(d)(2)(B)(ii). In wrongfully concluding that all members of an HCSM must be members of the same religious community, and that an HCSM cannot broaden the communal reach of its ministry, the Commissioner is taking a position that is wrong under the text of the statute and ignores the fact that many, if not most, open-membership HCSMs operating across the country originated from narrower religious communities. The Commissioner apparently is conflating its notion of a "religious community" with the requirement that an HCSM be made up of members that "share a common set of ethical or religious beliefs." 26 U.S.C. § 5000A(d)(2)(B)(ii)(II). As an HCSM founded on core Biblical principles which are shared by its parent organization, there is no serious argument that OneShare fails to meet this requirement as an HCSM.

o Furthermore, any attempt by the Commissioner to disqualify OneShare as an HCSM based on purported distinctions in the communities, beliefs, or religious denominations of the Biblical believers that make up its membership and its parent organization's membership infringes OneShare's religious liberty rights under the First Amendment of the United States Constitution, other federal law, the Washington state constitution, and other Washington law.

o The Commissioner erred in rejecting, without any meaningful analysis or explanation, the CMS determination that qualifies OneShare, through its parent organization, as an HCSM under 26 U.S.C. § 5000A(d)(2)(B)(ii). CMS is the federal agency charged with applying that provision and the IRS is the federal agency charged with interpreting law that recognizes OneShare as a disregarded entity of its parent 501(c)(3). Washington law, RCW 48.43.009, states that HCSM "has the same meaning" as under federal law. The Commissioner is not giving HCSMs the "same meaning" as required by Washington law. The Commissioner's reliance on a purported "disclaimer" in the CMS determination letter is a misinterpretation of a sentence in that letter which merely recognizes that some states, unlike Washington, have HCSM safe-harbor statutes that contain additional requirements and, where that is the case, such requirements are not superseded but also must be met. Washington's statute imposes no additional requirements beyond those in the federal statute, 26 U.S.C. § 5000A(d)(2)(B)(ii).

o The Commissioner erred in determining that OneShare did not meet the requirement in 26 U.S.C. § 5000A(d)(2)(B)(ii)(IV) that it or a predecessor has been in existence since December 31, 1999. CMS determined that OneShare met this requirement and, in concluding otherwise, the Commissioner fails to give the same meaning to the requirement. In any event, OneShare's origins precede 1999 and the Commissioner offers no evidence at all to support its contrary conclusion. Like many other valid and well-known HCSMs, OneShare was birthed from its parent whose

predecessors' members were sharing medical expenses for many years prior to 1999. CMS correctly recognized this history in determining that OneShare met federal statutory requirements, and the Commissioner had no basis to reject that determination.

o The IRS, not the Commissioner, determines OneShare's treatment as a disregarded entity of its parent 501(c)(3) organization. OneShare should be permitted to rely on its status as a disregarded entity under the law and rely on state regulatory agencies to respect federal law. The Commissioner erred in summarily determining that it could simply ignore OneShare's structure and legal existence in concluding that OneShare is not a valid HCSM.

o OneShare has satisfied its audit obligations under 26 U.S.C. § 5000A(d)(2)(B)(ii)(V). It has completed audits for 2015, 2016, 2017, and 2018, and is currently working with its CPA toward early completion and issuance of its 2019 audit. (Note that OneShare did not have Washington members during some of these years.) The completed audits are publicly available. Furthermore, financial information concerning Unity Healthshare, LLC is being handled by the Receiver in the Georgia litigation. The Commissioner has been provided access to that information and may contact the Receiver about it.

o The Commissioner's conclusions in Paragraph 10 of the C&D Order are incorrect statements of Washington law and highlight the overarching incorrectness of the Order. If facilitating the payment of medical expenses "qualifies as insurance" and means that "OneShare is acting as an unauthorized insurer," every HCSM operating in Washington would be an unauthorized insurer. OneShare is not an insurer, it is an HCSM facilitating the payment of medical expenses that are shared by its members. Paragraph 10 of the C&D Order offers no further analysis supporting its broad conclusion, a conclusion that violates RCW 48.43.009, which states that HCSMs "are not health carriers . . . or insurers" if they meet the requirements of 26 U.S.C. § 5000A(d)(2)(B)(ii). OneShare does.

For these and other reasons, the Commissioner's Cease and Desist Order should be rescinded and his proposed Consent Order Levying a Fine should be withdrawn.