

# Attachment B



OFFICE OF  
INSURANCE COMMISSIONER

April 23, 2020

Kyle Gilster  
Attorney at Law  
750 17<sup>th</sup> St NW, Ste 900  
Washington, DC 20006  
[Kyle.gilster@huschblackwell.com](mailto:Kyle.gilster@huschblackwell.com)

Re: Alliance for Shared Health Inc.  
Proposed Consent Order Levying a Fine - OIC Order No. 20-0336

Dear Mr. Gilster:

The Office of the Insurance Commissioner has found that Alliance for Shared Health Inc. ("ASH") violated a provision 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 include levying a fine and ordering an entity to cease and desist from insurance activity in Washington State.

We are offering ASH an opportunity to settle this matter by signing the attached Consent Order and paying a fine. As part of this settlement, ASH will admit its violation, 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 **May 26, 2020**. Please refer to the instructions on the next page. Payment will not be accepted without the signed order. When we receive the 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 If the settlement offer is not accepted by that date, it will be withdrawn.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) 725-7181 or by email at [Sofia.Pasarow@oic.wa.gov](mailto:Sofia.Pasarow@oic.wa.gov).

Sincerely,

  
Sofia Pasarow  
Insurance Enforcement Specialist  
Legal Affairs Division

Enclosure: Consent Order

**How do I accept this time-limited settlement offer?**

By May 26, 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 or money order. Make the check or money order payable to WA Office of Insurance Commissioner.
3. Mail the signed order with your payment 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 July 22, 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 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 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*

**ALLIANCE FOR SHARED HEALTH  
INC.,**

Unauthorized Insurer.

Order No. 20-0336

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, RCW 48.15.023 and RCW 48.44.016, and Alliance for Shared Health. 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. Alliance for Shared Health Inc. (“ASH”) is a non-profit 501(c)(3) corporation headquartered in Missouri. In September 2019, ASH filed an Application for a Certificate of Authority of a Foreign Non-Profit Corporation with the Missouri Secretary of State.

2. ASH does not hold a certificate of authority to transact insurance in Washington. ASH is also not registered with the Washington Secretary of State or the Washington State Department of Revenue.

3. ASH was originally incorporated in the U.S. Virgin Islands in June 2017. ASH provided the Insurance Commissioner’s Regulatory Investigations Unit (“Investigations”) with ASH’s Internal Revenue Service (“IRS”) non-profit organization filings. ASH submitted an application for non-profit status to the IRS in November 2018. The filings list the following ASH executive officers: Corey Durbin (“Durbin”), *President*; John Lewis (“Lewis”), *Treasurer*; and Leslie Hunsel (“Hunsel”), *Secretary*.

4. Christian Discount Alliance, LLC, dba Shared Health Alliance (“SHA”), is a business entity insurance producer licensed in Missouri since 2016. The Designated Licensed Responsible Producers for SHA’s Missouri insurance producer license are also Durbin, *President, Owner*; Lewis, *Chief Operating Officer, Owner*; and Hunsel, *Secretary*. None of these individuals

hold an insurance producer license in Washington. Durbin was previously licensed as a producer in Washington (WAOIC No. 255411). In October 2015, SHA registered with the Missouri Secretary of State as a limited liability company.

5. SHA is not licensed as an insurance producer in Washington or any other state. SHA is not registered with the Washington Secretary of State. SHA registered with the Washington Department of Revenue in February 2018 with the business designation of “insurance agencies and brokerages.”

6. ASH refers to SHA as its “vendor consultant.” ASH and SHA entered a vendor consulting agreement, effective January 1, 2019. ASH explained to Investigations that SHA “offers non-insurance solutions to help strengthen the ASH sharing programs” including “Rx Advocacy for high cost maintenance medications... 24/7/365 Telemedicine... Virtual Primary Care... National Lab Program... Discount Rx Card... Provider Discounts... Member Support Services...”

7. The Office of the Insurance Commissioner opened an investigation to determine if 1) ASH meets the statutory definition of a Health Care Sharing Ministry (“HCSM”) under Washington law and Federal law and 2) if ASH is not a bona fide HCSM, whether ASH is acting as an unauthorized insurer in Washington.

8. ASH represents itself as a HCSM. HCSMs are exempt from the Affordable Care Act (“ACA”) individual mandate.

*ASH does not meet the legal definition of a HCSM.*

9. To qualify as a health care sharing ministry under the 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. A HCSM must also have been in operation and continuously sharing member health care costs since at least December 31, 1999.

10. ASH has not been in operation and continuously sharing health care costs since 1999.

11. ASH acknowledges that it does not meet the statutory requirements for an HCSM because it was not incorporated until June 2017.

12. ASH stated to Investigations: “[ASH] was not originally formed, nor does it warrant that it meets the original ACA grandfathering clause to qualify its members for the exemption to the individual mandate under federal law.” ASH provided the following explanation:

While ASH was originally formed in 2017, Hurricane Irma delayed the initial roll-out. As mentioned above, ASH as a health share solution was designed to help meet needs that the other health share programs were not/are not meeting - and do so without pre-existing condition limitations. However, participation in ASH was not available until 2019. There was no intention to introduce ASH until such time as the Federal Mandate was not being enforced - which began in January 2019. ASH did not want any participant to think that ASH alone met the ACA individual mandate. When the mandate was removed (or at least it was announced that the mandate would not be enforced at the Federal level beginning in 2019), ASH felt comfortable offering participation per the approval of the IRS as a bona fide 501(c)(3).

13. During the course of the investigation of ASH, Investigations conducted a review of ASH's website.

14. As of May 29, 2019, ASH's "About Us" webpage stated the following:

Alliance for Shared Health was formed to provide "health sharing" access to Americans of any faith persuasion. When Americans come together to meet challenges, there is little we can't accomplish together... Alliance for Shared Health is a non-profit health sharing community that seeks to provide a way for its members to access specific medical needs outside of expensive, traditional health insurance. All members must agree with and attest to the statement of standards developed by the Board of ASH...

15. Additionally, ASH listed the following statement of standards:

I believe that traditional health care does not work for me anymore, and want to be a part of a moral, ethical and health-conscious community of people that shares in medical needs under the ASH Guidelines

I affirm that I understand ASH is not an insurance company but rather a non-profit benevolence organization. ASH members have committed to paying a monthly contribution in order to help share in medical expenses under the guidelines.

I do understand that ASH is not a guarantee of payment, but that ASH intends to share in the medical needs per the ASH guidelines and the sharing level selected by me.

I desire to live a healthy lifestyle and make good health decisions to be positive member of the ASH community.

I agree to refrain from the usage of any form of illegal substances and that if I do engage in use of these, any medical needs caused by or related to such shall not be eligible for sharing.

I agree to submit to mediation followed by arbitration, if needed, should a dispute arise with ASH or its affiliates. As such, I understand that ASH is not an insurance company and will not file any complaints with my state insurance department if I have a dispute on a medical need.

I agree that whether or not I sign and submit this form, submitting my application for membership in ASH is equivalent to attesting to this statement of beliefs. (emphasis added.)

Since the Insurance Commissioner's investigation, ASH has made changes to its website and statement of standards.

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

16. Because ASH is not qualified as a HCSM, it is acting as an unauthorized insurer. ASH has denied acting as an unauthorized insurer. ASH asserts it has never intended to operate as an insurer and stated it includes "all appropriate disclaimers and notifications on its materials including its website, enrollment portal, sharing guidelines, and member identification cards." ASH further asserts it is operating similarly to other health sharing entities, which are not considered insurers under state or federal law.

17. In ASH's response to Investigation, it states:

[ASH] helps its members access preventive care (the same preventive care codes that the Affordable Care Act ("ACA") mandate included), as well as virtual primary care - including the diagnosis and treatment of over 1,500 conditions - all at one member responsibility amount per episode of care - again with no pre-existing condition limitations and shareable at 100%.

18. ASH's member guidelines discuss benefit levels as "plans" and require a set monthly contribution to maintain membership. One of ASH's member guidelines discusses four "Sharing Level" plans: Allied Basic, Allied Visit, Allied Core, and Allied Max. ASH's guidelines state: "Make your choice wisely, because different programs offer different levels of health cost sharing support."

19. In describing the four plans, discussed above, ASH explains:

ASH shares 100 percent of bills for any medical incident exceeding the MRA (Member Responsibility Amount) as long as all other Guidelines are met and funds are available for sharing up to the agreed upon Referenced Based-Pricing Allowances for that service as agreed upon by the ASH Community. Any medical expense less than the MRA per incident is the member's responsibility.

20. One of ASH's guidelines includes a table which shows what medical care and services are covered by each of the four plans, such as "Preventive Care", "Doctor Access", "Virtual Primary Care", "PCP Visits", "Outpatient Lab", "Daily Hospital Allowance", and "Prescription Drugs...Tier 1... Tier 2...Tier 3... Specialty Drugs".

21. Another one of ASH's guidelines discusses three other plans: "SHA Premier", "SHA Preventative", and "SHA Scripts". The guidelines include a table which shows what medical care and services are covered by each of the three plans, such as "Preventive Care", "Doctor Access", "Telemedicine", "Virtual Primary Care", "PCP Visits", "Specialist", "Urgent Care", "Diagnostic X-Ray and Lab", "Cat-Scan/MRI", "Outpatient Testing", and "Prescription Drugs...Tier 1...Tier 2...Tier 3...Specialty Drugs". The guidelines of these plans also include tables regarding coverage for "Preventive Care Services" and "Preventive Immunizations".

22. Other plans provided by ASH include similar member guidelines and tables as to the ones discussed.

23. ASH also sells plans to Washington members that provide members with access to a network of providers, called "First Health." ASH provides members with "access to providers in the First Health network – A national PPO network, with more than 5,000 hospitals, over 90,000 ancillary facilities and over 1 million health care professional service locations." According to ASH, "access is wide-ranging – more than 96 percent of people in the United States are within 20 miles of a network provider." ASH's member guidelines discuss First Health, as well as include information about First Health's provider locator assistance toll-free number and First Health's provider locator website.

24. ASH provided a spreadsheet to Investigations showing ASH sold a variety of plans to Washington consumers. ASH sold twelve (12) different plans to a total of 1,411 Washington consumers and collected \$237,188.27.

25. In 2020, the Insurance Commissioner has received multiple consumer complaints regarding ASH.

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

27. 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.

28. RCW 48.01.060 defines insurance transaction as including any solicitation, negotiations preliminary to execution, execution of an insurance contract, transaction of matters subsequent to execution of the contract and arising out of it, and insuring.



29. 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.

30. 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.

31. 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.

32. RCW 48.44.015(1) provides that a person may not in this state, by mail or otherwise, act as or hold himself or herself out to be a health care service contractor, as defined in RCW 48.44.010 without first being registered with the Insurance Commissioner.

33. RCW 48.44.180 states for the purposes of this chapter, the Insurance Commissioner shall have the same powers and duties of enforcement as are provided in RCW 48.02.080.

34. 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.

35. 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.

36. RCW 48.44.016(5)(a)(ii) states if the Insurance Commissioner has cause to believe that any person has violated the provisions of RCW 48.44.015(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.

37. By transacting insurance in Washington State without a Certificate of Authority, and by acting as a health care service contractor without being registered, ASH has violated RCW 48.05.030(1), RCW 48.15.020(1), and RCW 48.44.015(1), justifying the imposition of a fine under RCW 48.15.023(5)(a)(ii) and RCW 48.44.016(5)(a)(ii).

### **CONSENT TO ORDER:**

The Insurance Commissioner of the state of Washington and Alliance for Shared Health agree that the best interest of the public will be served by entering into this Order. NOW, THEREFORE, Alliance for Shared Health 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 Alliance for Shared Health's payment of a fine, and upon such terms and conditions as are set forth below:

1. Alliance for Shared Health acknowledges its duty to comply fully with the applicable laws of the state of Washington.

2. Alliance for Shared Health 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 **May 26, 2020**.

4. Alliance for Shared Health 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 Alliance for Shared Health. 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.

ALLIANCE FOR SHARED HEALTH

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. Alliance for Shared Health 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 Alliance for Shared Health. 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.



MIKE KREIDLER  
Insurance Commissioner

By and through his designee

\_\_\_\_\_  
SOFIA PASAROW  
Insurance Enforcement Specialist  
Legal Affairs Division