

FILED

DEC 29 2021

INSURANCE REGULATION
Docketed by: 



OFFICE OF INSURANCE REGULATION

DAVID ALTMAIER
COMMISSIONER

IN THE MATTER OF:

CASE NO.: 288920-21-CO

Application for the Indirect Acquisition of
AMERICAN HEALTH PLAN OF FLORIDA, INC. by
AMERICAN HEALTH HOLDINGS, LLC

CONSENT ORDER

THIS CAUSE came on for consideration upon the filing by AMERICAN HEALTH HOLDINGS, LLC (“APPLICANT”), with the FLORIDA OFFICE OF INSURANCE REGULATION (“OFFICE”) of an application for the indirect acquisition of AMERICAN HEALTH PLAN OF FLORIDA, INC. (“AHPFL”), pursuant to Sections 628.461 and 641.255, Florida Statutes (“Application”). Following a complete review of the entire record, and upon consideration thereof, and being otherwise fully advised in the premises, the OFFICE hereby finds as follows:

1. The OFFICE has jurisdiction over the subject matter and the parties herein.
2. APPLICANT has applied for and, subject to the present and continuing satisfaction of the requirements, terms, and conditions established herein, has satisfactorily met all of the conditions precedent to the granting of approval by the OFFICE for the proposed indirect acquisition of AHPFL, pursuant to the requirements of the Florida Insurance Code.
3. AHPFL is a licensed Health Maintenance Organization (“HMO”) domiciled in the state of Florida and is subject to the jurisdiction and regulation of the OFFICE, pursuant to Part I of Chapter 641, Florida Statutes.

4. AHPFL is 100% owned by AMERICAN HEALTH HOLDINGS OF FLORIDA, LLC ("AHHFL"), which is owned 79.05% by FAHC, Inc. ("FAHC"), 15% by Elpis, LLC, and 5.95% by Healthcare Investors, LLC ("HI"). FAHC is owned 100% by American Health Plan Employee Stock Option Trust. Elpis is owned 95.1% by Marilyn G. Wood and 4.9% by Robert H. Wood. HI is owned 100% by Tom Coble.

5. APPLICANT is a Tennessee domiciled limited liability company and is owned 93% by American Health Companies, Inc. ("AHC"), and 7% by HI. AHC is owned 100% by FLP, Limited Partnership ("FLP"). FLP is 100% owned by MFO AHP SUB LLC ("MFO SUB"). MFO SUB is owned 100% by MFO AHP LLC ("MFO AHP"). MFO AHP is owned 99.9% by AHP Orchards LLC ("AHP Orchards") and 0.1% by MARK MITCHELL. AHP Orchards is owned 49.95% by Orchard Holdings LLC ("Orchard"), 24.975% by Orchard Holdings II, LLC ("Orchard II"), 24.975% by Orchard Holdings III, LLC ("Orchard III"), and 0.1% by MARK MITCHELL. AHC's further upstream ownership is as disclosed in the Application and all relevant entities have disclaimed control to, or are otherwise controlled by, MARK MITCHELL, an individual and the ultimate controlling party.

6. Pursuant to the terms of the Joinder and Amendment to Securities Purchase Agreement, APPLICANT will acquire from FAHC and HI their entire interest in AHHFL, resulting in APPLICANT's indirect ownership of more than 10% of the issued and outstanding voting securities of AHPFL ("Transaction").

7. If the OFFICE determines that any individual for whom APPLICANT is required to submit background information as part of this Application, and who has not otherwise disclaimed control, is unacceptable under the Florida Insurance Code, APPLICANT, AHPFL, AHHFL, or MARK MITCHELL shall remove or cause the removal of said person within 30

days of notice from the OFFICE and replace them with a person or persons acceptable to the OFFICE or shall undertake such other corrective action as directed by the OFFICE. Failure to act would constitute an immediate serious danger to the public and the OFFICE may take administrative action as it deems appropriate upon the Certificate of Authority of AHPFL without further proceedings, pursuant to Sections 120.569(2)(n) and 120.60(6), Florida Statutes.

8. Notwithstanding other applicable surplus requirements, APPLICANT agrees that AHPFL will remain in compliance with the Risk Based Capital requirements described in Section 624.4085, Florida Statutes.

9. APPLICANT and AHPFL will cooperate with financial and market conduct examinations conducted by the OFFICE, and make their accounts, records, documents, files, information, assets, and matters in their possession or control freely available to the OFFICE, its examiners, or its investigators, in accordance with Sections 624.318 and 641.27, Florida Statutes.

10. AHPFL shall be required at all times to maintain capital and surplus as required by Sections 641.19(19) and 641.225, Florida Statutes. APPLICANT and AHPFL agree that failure to maintain compliance at all times with the capital and surplus requirement would constitute an immediate serious danger to the public and that the OFFICE may immediately suspend, revoke, or take other administrative action as it deems appropriate upon the Certificate of Authority of AHPFL without further proceedings, pursuant to Sections 120.569(2)(n) and 120.60(6), Florida Statutes.

11. APPLICANT will make all necessary funds available to AHPFL to maintain compliance with surplus requirements.

12. APPLICANT, AHPFL, AHHFL, and MARK MITCHELL represent there are no

present plans or proposals to make substantive changes to the Plan of Operations of AHPFL. Prior written approval must be secured from the OFFICE prior to any material deviation from said Plan of Operations.

13. APPLICANT, AHPFL, AHHFL, and MARK MITCHELL represent that there are no present plans or proposals to make any substantive changes to AHPFL, including liquidating it, selling any of its assets (except for transactions such as investment portfolio transactions in the ordinary course of business), merging or consolidating it with any person or persons, or making any other major change in its business operations, management, or corporate structure.

14. APPLICANT, AHPFL, AHHFL, and MARK MITCHELL represent that there are no agreements, written or oral, related to the Application and Transaction that have not been provided to the OFFICE.

15. APPLICANT acknowledges that any amounts due to AHPFL from a Management Service Organization as part of a risk sharing arrangement are considered as non-admitted assets when determining compliance with solvency requirements under the Florida Insurance Code.

16. APPLICANT and AHPFL shall not enter into any reinsurance or brokerage agreement, whether affiliated or not, that requires the approval from the reinsurer or broker regarding any potential sale of AHPFL.

17. APPLICANT and AHPFL shall notify the OFFICE within 10 business days of any breach, non-performance, or default of any servicing agreement with affiliates or third-party vendors providing services directly or indirectly to AHPFL that could result in or cause a material adverse change in the financial condition, business, performance, operations, or

property of AHPFL.

18. Any material changes to the information submitted in the Application filing shall be reported to the OFFICE for its review prior to the closing date. APPLICANT, AHPFL, AHHFL, FAHC, and MARK MITCHELL acknowledge that if the OFFICE determines that any of these reported changes would have a material negative impact to the financial condition or operation of AHPFL, the OFFICE may rescind its approval as granted in the Consent Order by written notice to APPLICANT or AHPFL.

19. Within 10 business days after the Transaction is completed, APPLICANT shall submit, or cause to be submitted, to the OFFICE final executed closing documents and final copies of all related agreements. Further, APPLICANT or AHPFL shall notify the OFFICE within 3 business days of a final determination that the Transaction will not occur.

20. All parties to this Consent Order acknowledge that completion of the Transaction is subject to obtaining any other required regulatory or governmental approvals and that this Consent Order shall be deemed null and void if the Transaction is not completed within 60 days of the execution of this Consent Order. Accordingly, if APPLICANT fails to receive any other required approvals or the Transaction is not completed timely, the provisions of this Consent Order shall terminate automatically and have no effect.

21. Any prior orders, consent orders, or corrective action plans that AHPFL has entered into with the OFFICE prior to the execution of this Consent Order shall apply and remain in full force and effect for AHPFL, except where provisions of such orders, consent orders, or corrective action plans have expired; have been superseded by subsequent orders, consent orders, or corrective action plans; or are inconsistent with this Consent Order.

22. APPLICANT, AHPFL, AHHFL, FAHC, and MARK MITCHELL affirm that all

information, explanations, representations, statements, and documents provided to the OFFICE in connection with this Application, including all attachments and supplements thereto, are true and correct and fully describe all transactions, agreements, ownership structures, understandings, and control with regard to the acquisition and future operations of AHPFL. APPLICANT, AHPFL, AHHFL, FAHC, and MARK MITCHELL further agree and affirm that said information, explanations, representations, statements, and documents, including all attachments and supplements thereto, are material to the issuance of this Consent Order and have been relied upon by the OFFICE in its determination to enter into this Consent Order.

23. Any deadlines, reporting requirements, other provisions, or requirements set forth in this Consent Order may be altered or terminated by written approval of the OFFICE. Such approval must be requested in writing prior to any proposed deviation from the terms of this Consent Order.

24. APPLICANT, AHPFL, AHHFL, FAHC, and MARK MITCHELL affirm that all requirements set forth herein are material to the issuance of this Consent Order.

25. APPLICANT, AHPFL, AHHFL, FAHC, and MARK MITCHELL expressly waive a hearing in this matter, the making of findings of fact and conclusions of law by the OFFICE, and all further and other proceedings herein to which they may be entitled by law or rules of the OFFICE. APPLICANT, AHPFL, AHHFL, FAHC, and MARK MITCHELL hereby knowingly and voluntarily waive all rights to challenge or to contest this Consent Order in any forum available to them, now or in the future, including the right to any administrative proceeding, state or federal court action, or any appeal.

26. Each party to this action shall bear its own costs and fees.

27. APPLICANT, AHPFL, AHHFL, FAHC, and MARK MITCHELL agree that,

upon execution of this Consent Order, failure to adhere to one or more of the terms and conditions contained herein may result, without further proceedings, in the OFFICE suspending, revoking, or taking other administrative action as it deems appropriate upon AHPFL's Certificate of Authority in this state in accordance with Sections 120.569(2)(n) and 120.60(6), Florida Statutes.

28. The parties agree that this Consent Order shall be deemed to be executed when the OFFICE has signed and docketed a copy of this Consent Order bearing the notarized signature of MARK MITCHELL and the signatures of the authorized representatives of APPLICANT, AHPFL, AHHFL, and FAHC.

WHEREFORE, the agreement between AMERICAN HEALTH PLAN OF FLORIDA, INC; AMERICAN HEALTH HOLDINGS OF FLORIDA, LLC; AMERICAN HEALTH HOLDINGS, LLC; FAHC, INC; MARK MITCHELL; and the FLORIDA OFFICE OF INSURANCE REGULATION, the terms and conditions of which are set forth above, is APPROVED, and the application for the indirect acquisition of AMERICAN HEALTH PLAN OF FLORIDA, INC., pursuant to Sections 628.461 and 641.255, Florida Statutes, is APPROVED.

FURTHER, all terms and conditions contained herein are hereby ORDERED.

DONE and ORDERED this 29 day of December, 2021



David Altmaier

David Altmaier, Commissioner
Office of Insurance Regulation

By execution hereof, AMERICAN HEALTH PLAN OF FLORIDA, INC., consents to entry of this Consent Order, agrees without reservation to all of the above terms and conditions and shall be bound by all provisions herein. The undersigned represents that they have the authority to bind AMERICAN HEALTH PLAN OF FLORIDA, INC., to the terms and conditions of this Consent Order.

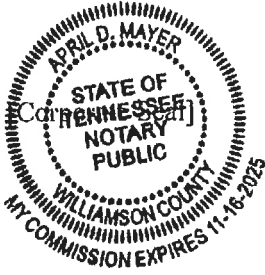
AMERICAN HEALTH PLAN OF FLORIDA, INC.

By: Michael Bailey

Print Name: Michael Bailey

Title: President

Date: 12-28-21



STATE OF Tennessee

COUNTY OF Williamson county

The foregoing instrument was acknowledged before me by means of physical presence or online notarization, this 28th day of December 2021 by Michael Bailey (name of person) as officer (type of authority; e.g., officer, trustee, attorney in fact) for American Health Partners (company name).

April D. Mayer
(Signature of the Notary)

April D. Mayer
(Print, Type or Stamp Commissioned Name of Notary)

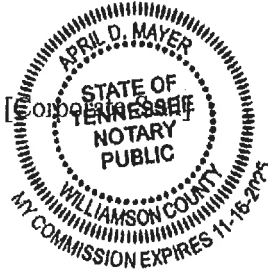
Personally Known OR Produced Identification _____

Type of Identification Produced _____

My Commission Expires 11-16-2025

By execution hereof, AMERICAN HEALTH HOLDINGS OF FLORIDA, LLC, consents to entry of this Consent Order, agrees without reservation to all of the above terms and conditions and shall be bound by all provisions herein. The undersigned represents that they have the authority to bind AMERICAN HEALTH HOLDINGS OF FLORIDA, LLC, to the terms and conditions of this Consent Order.

AMERICAN HEALTH HOLDINGS OF FLORIDA, LLC



By: Michael Bailey

Print Name: Michael Bailey

Title: President

Date: 12-28-21

STATE OF Tennessee

COUNTY OF Williamson County

The foregoing instrument was acknowledged before me by means of physical presence or

online notarization, this 28th day of December 2021, by Michael Bailey
(name of person)

as officer for American Health Partners.
(type of authority; e.g., officer, trustee, attorney in fact) (company name)

April D. Mayer
(Signature of the Notary)

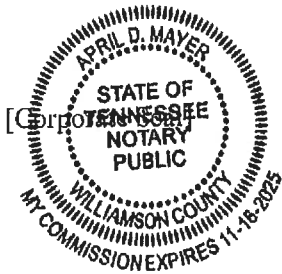
April D. Mayer
(Print, Type or Stamp Commissioned Name of Notary)

Personally Known OR Produced Identification _____

Type of Identification Produced _____

My Commission Expires 11.16.2025

By execution hereof, AMERICAN HEALTH HOLDINGS, LLC, consents to entry of this Consent Order, agrees without reservation to all of the above terms and conditions and shall be bound by all provisions herein. The undersigned represents that they have the authority to bind AMERICAN HEALTH HOLDINGS, LLC, to the terms and conditions of this Consent Order.



AMERICAN HEALTH HOLDINGS, LLC

By: Michael Bailey

Print Name: Michael Bailey

Title: President

Date: 12-28-21

STATE OF Tennessee

COUNTY OF Williamson County

The foregoing instrument was acknowledged before me by means of physical presence or

online notarization, this 28th day of December 2021, by Michael Bailey
(name of person)

as officer for American Health Partners.
(type of authority; e.g., officer, trustee, attorney in fact) (company name)

April D. Mayer
(Signature of the Notary)

APRIL D. MAYER
(Print, Type or Stamp Commissioned Name of Notary)

Personally Known OR Produced Identification _____

Type of Identification Produced _____

My Commission Expires 11.16.2025

By execution hereof, FAHC, INC, consents to entry of this Consent Order, agrees without reservation to all of the above terms and conditions and shall be bound by all provisions herein. The undersigned represents that they have the authority to bind FAHC, INC, to the terms and conditions of this Consent Order.

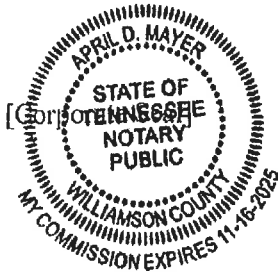
FAHC, INC

By: Michael Bailey

Print Name: Michael Bailey

Title: President

Date: 12-28-21



STATE OF Tennessee

COUNTY OF Williamson County

The foregoing instrument was acknowledged before me by means of physical presence or

online notarization, this 28th day of December 2021, by Michael Bailey
(name of person)

as officer for American Health Partners.
(type of authority; e.g., officer, trustee, attorney in fact) (company name)

April D. Mayer
(Signature of the Notary)

April D. Mayer
(Print, Type or Stamp Commissioned Name of Notary)

Personally Known OR Produced Identification _____

Type of Identification Produced _____

My Commission Expires 11.16.2025

By execution hereof, MARK MITCHELL consents to entry of this Consent Order, agrees without reservation to all of the above terms and conditions and shall be bound by all provisions herein.

[Handwritten Signature]
MARK MITCHELL

Date: 12.27.21

STATE OF Michigan
COUNTY OF Oakland

The foregoing instrument was acknowledged before me by means of physical presence or
 online notarization, this 27 day of December 2021, by Mark Mitchell
(name of person)

as _____ for _____
(type of authority; e.g., officer, trustee, attorney in fact) (company name)

KELLY BRADLEY
Notary Public, State of Michigan
County of Oakland
My Commission Expires 01-02-2024
Noting in the County of Oakland

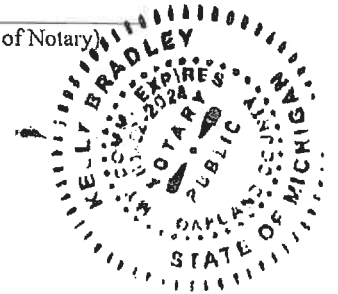
[Handwritten Signature]
(Signature of the Notary)

(Print, Type or Stamp Commissioned Name of Notary)

Personally Known X OR Produced Identification _____

Type of Identification Produced _____

My Commission Expires 01-02-2024



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