



2. Petitioner Glause is the Insurance Commissioner. Under Wyo. Stat. Ann. § 26-28-105(a), the Commissioner is the proper party to be appointed receiver for the purpose of insurer rehabilitation.

### **JURISDICTION AND VENUE**

3. Under Wyo. Stat. Ann. § 26-28-102(a), this Court has original jurisdiction over this petition.

4. Under Wyo. Stat. Ann. § 26-28-102(b), venue is proper in this Court because Winhealth's principal place of business is located in Laramie county.

5. Under Wyo. Stat. Ann. § 26-34-122(a), the rehabilitation and conservation of Wyoming health maintenance organizations follows the normal insurer rehabilitation process set forth in Wyo. Stat. Ann. §§ 26-28-101 through -131.

6. Under Wyo. Stat. Ann. §§ 26-28-102(d) and -103, this petition is the proper method to commence delinquency proceedings.

### **STATEMENT OF FACTS**

7. Wyo. Stat. Ann. § 26-34-114 requires Winhealth to maintain a minimum financial status called a "surplus." On June 30, 2015, Winhealth was required to have a minimum surplus of at least \$6,500,000.

8. On or about December 31, 2013, Winhealth's surplus was approximately \$8,664,144.

9. On or about June 30, 2015, Winhealth's surplus had fallen to approximately \$3,306,676.

10. Winhealth's own surplus calculation includes an asset payable by the federal government under the Affordable Care Act with an alleged value of \$4,600,000.

11. The Centers for Medicare & Medicaid announced on October 1, 2015, that because of a lack of funds it would pay only 12.6% of Winhealth's Affordable Care Act asset.

12. The announcement results in an approximate \$3,961,604 reduction of Winhealth's Affordable Care Act asset, and the reduction leaves Winhealth with negative \$742,216 in surplus. In other words, the reduction leaves Winhealth with no surplus.

13. Winhealth's financial status has deteriorated to the point that any further transaction of insurance business on its part would be hazardous or injurious to its policyholders as meant by Wyo. Stat. Ann. § 26-28-105(a)(1).

14. Winhealth's current financial status is that of an impaired insurer as defined by Wyo. Stat. Ann. § 26-28-101(a)(vi).

15. Winhealth's Board of Directors passed a resolution consenting to an order of receivership and the appointment of the Commissioner as receiver effective October 20, 2015.

**FIRST GROUND FOR RECEIVERSHIP: CONSENT BY WINHEALTH'S BOARD OF DIRECTORS**

16. This section incorporates all allegations and assertions contained in paragraphs 1 through 15 as if fully set forth herein.

17. Under Wyo. Stat. Ann. § 26-28-105(a)(ix), the Commissioner may apply to the court for an order appointing him as receiver of an insurer for the purpose of rehabilitation if its board of directors consents to receivership.

18. On October 15, 2015, Winhealth's Board of Directors passed a resolution consenting to receivership effective October 20, 2015. The resolution states Winhealth will not oppose and "specifically consents to and authorizes an Order of Receivership, waives [Winhealth's] opportunity to appear and show cause, and consents to the appointment of the Insurance Commissioner as Receiver."

**SECOND GROUND FOR RECEIVERSHIP: WINHEALTH'S FINANCIAL STATUS IS IMPAIRED**

19. This section incorporates all allegations and assertions contained in paragraphs 1 through 18 as if fully set forth herein.

20. Under Wyo. Stat. Ann. § 26-28-105(a)(i), the Commissioner may apply for an order appointing him receiver of an impaired insurer for the purpose of rehabilitation.

21. Winhealth's financial status has deteriorated to the point that it is an impaired insurer as defined by Wyo. Stat. Ann. § 26-28-101(a)(vi).

## REQUESTED RELIEF

The Commissioner respectfully requests that the Court issue an order immediately appointing the Commissioner as receiver of Winhealth and grant the following relief:

22. Under Wyo. Stat. Ann. § 26-28-105(a)(i) and (ix), immediately appoint the Commissioner as receiver of Winhealth for the purposes of conservation and rehabilitation because Winhealth's Board of Directors has consented to receivership and waived its right to a show cause hearing, and because Winhealth's financial status is impaired.

23. Under Wyo. Stat. Ann. § 26-28-112(f), authorize the Commissioner as receiver to employ special deputy commissioners, counsel, clerks, and staff as he deems necessary without prior notice to or prior approval by the Court. Further, that the Commissioner may, subject to the Court's approval, fix the compensation of the same and pay their compensation out of Winhealth's funds or assets.

24. Under Wyo. Stat. Ann. § 26-28-112(b), vest the Commissioner as receiver with the title to all of Winhealth's assets and property, contracts, rights of action, and books and records, regardless of their location, and to recover and take possession of the same except as limited by the rights of ancillary receivers in reciprocal states under Wyo. Stat. Ann. § 26-28-112(b).

25. Authorize the Commissioner as receiver to take any and all actions that he deems appropriate in connection with the conservation and rehabilitation of Winhealth, and as provided in Wyo. Stat. Ann. §§ 26-28-101 through -131 and any other applicable law.

26. Under Wyo. Stat. Ann. § 26-28-104, enjoin Winhealth and all its agents or employees transacting business on its behalf from transacting further business on its behalf unless directed to do so by the receiver.

27. Under Wyo. Stat. Ann. § 26-28-104, enjoin Winhealth and all its agents or employees transacting business on its behalf from wasting or disposing of Winhealth assets or property.

28. Under Wyo. Stat. Ann. § 26-28-118, enjoin all individuals and entities from commencing or prosecuting any action against Winhealth. Likewise, the Commissioner

requests that this Court enjoin Winhealth and its agents from commencing or prosecuting any claim on Winhealth's behalf unless directed by the receiver.

29. Under Wyo. Stat. Ann. § 26-28-118, enjoin all individuals and entities from obtaining or enforcing any preference, judgment, attachment, security interest, or any other lien against Winhealth's property.

30. Under Wyo. Stat. Ann. § 26-28-104, enjoin all individuals except the receiver, or an individual directed by the receiver, from withdrawing any funds from Winhealth's accounts and from removing any Winhealth property.


31. Authorize the Commissioner as receiver to impose partial or full moratoria on any payments as he deems necessary for the protection of the enrollees and creditors. Further, that the terms of any moratoria shall apply in the same manner to all similarly situated persons and that under no circumstances shall the receiver or his representatives be liable to any person for a good faith decision to impose or refrain from imposing such moratoria.

32. Authorize the Commissioner as receiver to arrange for the replacement or continuation of health coverage provided by Winhealth as he deems adequate to protect Winhealth's policyholders and enrollees.

33. Authorize the Commissioner as receiver to issue any directives as he deems appropriate to memorialize and provide notice of the exercise of his authority under the Court's orders and applicable law.

34. Grant any other injunction, order, or relief as this Court deems warranted.

DATED this 21 day of October, 2015.


  
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COMMISSIONER

**CERTIFICATE OF SERVICE**

I hereby certify that on this 21 day of October, 2015, the foregoing was served by hand delivery to:

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