

**STATE OF ALABAMA  
DEPARTMENT OF INSURANCE  
MONTGOMERY, ALABAMA**

**REPORT OF EXAMINATION**

**OF**

**VIVA HEALTH, INC.  
BIRMINGHAM, ALABAMA**

**AS OF**

**DECEMBER 31, 2022**

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**EXAMINER'S AFFIDAVIT**

**STATE OF ALABAMA  
COUNTY OF JEFFERSON**

Agnes D. Riggins being duly sworn, states as follows:

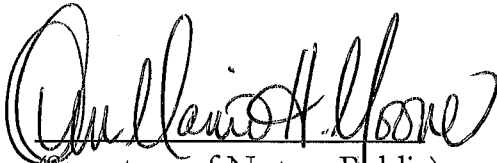
1. I have authority to represent Alabama in the examination of VIVA Health, Inc.
2. Alabama is accredited under the National Association of Insurance Commissioners Financial Regulation Standards and Accreditation.
3. I have reviewed the examination workpapers and examination report, and the examination of VIVA Health, Inc. was performed in a manner consistent with the standards and procedures required by the State of Alabama.

The affiant says nothing further.

  
Agnes D. Riggins  
Examiner-in-Charge

Subscribed and sworn before me by Agnes D. Riggins on this 15<sup>th</sup> day of March 2024.

(SEAL)

  
(Signature of Notary Public)



My commission expires \_\_\_\_\_



KAY IVEY  
GOVERNOR

MARK FOWLER  
COMMISSIONER

STATE OF ALABAMA  
DEPARTMENT OF INSURANCE  
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DEPUTY COMMISSIONERS  
JIMMY W. GUNN  
LARRY CHAPMAN  
CHIEF EXAMINER  
SHEILA TRAVIS

STATE FIRE MARSHAL  
SCOTT F. PILGREEN  
GENERAL COUNSEL  
REYN NORMAN

March 15, 2024

Mark Fowler, Commissioner  
State of Alabama  
Department of Insurance  
201 Monroe Street, Suite 502  
Montgomery, Alabama 36104

Dear Commissioner Fowler:

Pursuant to your authorization and in compliance with the statutory requirements of the State of Alabama and resolutions adopted by the National Association of Insurance Commissioners (NAIC), an examination has been made of the affairs and financial condition of

**VIVA Health, Inc.**  
**Birmingham, Alabama**

as of December 31, 2022 at its home office located at 417 20<sup>th</sup> Street North, Suite 1100, Birmingham, Alabama 35203. The report of examination is submitted herewith.

Where the description "Company" appears herein, without qualification, it will be understood to indicate VIVA Health, Inc

## SCOPE OF EXAMINATION

We have performed an examination of VIVA Health, Inc., a single state insurance company. The last examination covered the period of January 1, 2017 through December 31, 2019. The current examination covers the period of January 1, 2020 through December 31, 2022.

The examination was conducted in accordance with applicable statutory requirements of the *Code of Alabama*, 1975, as amended, the Alabama Insurance Department regulations, bulletins and directives, and in accordance with the procedures and guidelines promulgated by the NAIC, as deemed appropriate, and in accordance with generally accepted examination standards and practices.

The examination was conducted in accordance with the NAIC *Financial Condition Examiners Handbook*. The Handbook requires that we plan and perform the examination to evaluate the financial condition, assess corporate governance, identify current and prospective risks of the Company and evaluate system controls and procedures used to mitigate those risks. An examination also includes identifying and evaluating significant risks that could cause an insurer's surplus to be materially misstated both currently and prospectively.

All accounts and activities of the Company were considered in accordance with the risk-focused examination process. This may include assessing significant estimates made by management and evaluating management's compliance with Statutory Accounting Principles. The examination does not attest to the fair presentation of the financial statements included herein. If, during the course of the examination an adjustment is identified, the impact of such adjustment will be documented separately following the Company's financial statements.

This examination report includes significant findings of fact, as mentioned in the *Code of Alabama*, 1975, as amended, and general information about the insurer and its financial condition. There may be other items identified during the examination that, due to their nature, are not included within the examination report but separately communicated to other regulators and/or the Company.

The Company's annual statements for each year under examination were compared with or reconciled to the corresponding general ledger account balances.

An examination of the Company's information technology systems (IT) was conducted concurrently with the financial examination. The IT examination included a review of management and organizational controls, logical and physical security controls, changes in applications controls, system and program development controls, contingency planning controls, service provider controls, operations controls, processing controls, e-commerce controls and network and internet controls.

A market conduct examination was performed concurrently with the financial examination. The examination included reviews of the Company's territory, plan of operation, claims handling, advertising and marketing, policy forms and underwriting, complaint handling, producers' licensing requirements and privacy standards.

PricewaterhouseCoopers, LLP, was the Company's certified public accountant (CPA) for all years under examination. The examiners reviewed the CPAs' workpapers, copies of which were incorporated into the examination as deemed appropriate.

A signed letter of representation was obtained at the conclusion of the examination. In this letter, management attested to having valid title to all assets and to the nonexistence of unrecorded liabilities as of December 31, 2022.

## **ORGANIZATION AND HISTORY**

The Company was organized as a for-profit stock corporation on February 27, 1995, and commenced business on February 8, 1996. The Company was certified as a Health Maintenance Organization (HMO), as defined in ALA. CODE § 27-21A-1 (7) (1986). The Company was originally incorporated as "HMO Inc." However, its Articles of Incorporation were amended on August 3, 1995 to change the name to current "VIVA Health, Inc."

The Company was formed as a wholly owned subsidiary of Triton Enterprises, LLC (Triton). Triton was formed simultaneously with the Company by The University of

Alabama at Birmingham (UAB) (75% owner) and JBL and Company (JBL) (25% owner). During 1996 JBL relinquished its ownership in Triton. Subsequently, the name of Triton was changed to Triton Health Systems, LLC and it has since been owned 99% by UAB and 1% by the UAB Educational Foundation.

The Company was incorporated with \$100 in authorized capital, which consisted of 10,000 shares of common capital stock with par value of \$0.01 per share. On August 3, 1995 the Company increased its capitalization to \$100,000 which consisted of 10,000 shares of common capital stock with a par value of \$10 per share.

The Company received approval from the Alabama Department of Insurance on December 20, 2011, to convert to an Alabama non-profit corporation, effective January 1, 2012.

The Company is an Alabama nonprofit corporation that operates as a health maintenance organization (HMO), whose purpose is to provide a prescribed range of healthcare services through agreements with primary care physicians, specialty physicians, hospitals and ancillary service providers to a defined enrolled population for a fixed prepaid monthly premium. The Company markets its healthcare products primarily to employer groups located in Birmingham, Montgomery, Auburn, Huntsville, Tuscaloosa and Mobile, Alabama and Medicare eligible individuals residing in 37 counties across the state of Alabama.

At December 31, 2022, the Company's unassigned funds (surplus) was \$138,489,131.

## **MANAGEMENT AND CONTROL**

As of December 31, 2022, Triton Health Systems, LLC (Triton) was the sole owner of the Company. Triton is owned 99% by the University of Alabama at Birmingham and 1% by the University of Alabama Educational Foundation, both are not-for-profit entities.



## **Board of Directors**

The following were elected to the Board of Directors of the Company by the sole member and serving at December 31, 2022:

### Director and Residence

Arthur Bradford Rollow  
Birmingham, Alabama

Stephanie Dawn Bulgarella  
Birmingham, Alabama

Dr. Ray Lannom Watts  
Birmingham, Alabama

Nelson Straub Bean  
Birmingham, Alabama

James Louie Cartee, Jr.  
Birmingham, Alabama

Vanessa Leonard  
Birmingham, Alabama

David Shannon Spillers  
Huntsville, Alabama

Ronald Wayne Gray  
Huntsville, Alabama

### Principal Occupation

President/CEO, VIVA Health, Inc.

CEO/President, UAB Health Systems

President, University of Alabama at  
Birmingham

President/CEO, First Commercial Bank

Retired Senior Account Manager, Corporate  
and Government Customers, Pfizer, Inc.

Attorney, Vanessa Leonard Attorney at Law

CEO, Health Care Authority of the City of  
Huntsville, Huntsville Hospital

CEO, Thompson Gray Inc.

## **Officers**

Officers of the Company appointed by the Board of Directors and serving at December 31, 2022 were as follows:

<u>Officer</u>	<u>Title</u>
Arthur Bradford Rollow	President/Chief Executive Officer
Nelson Straub Bean	Secretary
Stephanie Dawn Bulgarella	Chairman of the Board
Letitia Eubanks Watkins	Chief Financial Officer
Frank Cardwell Feagin, Jr.	Chief Operating Officer
Elizabeth Clayton Yates	Chief Administrative Officer
Tara McCormick Bryant, MD	Chief Medical Director
Terry Dane Knight	Chief Development Officer
William Doug Cannon	Vice President, Information Systems
Cindy Ryland-Holmes	Vice President, Human Resources
James Wesley Yeatman	Corporate Controller

## **Audit Committee**

The following were members of the Audit Committee as of December 31, 2022:

Nelson Straub Bean, Chairman  
James Louie Cartee, Jr.  
John Hobson Presley, Jr.  
Vanessa Leonard

## **Conflict of Interest**

The review of the Conflict of Interest Statements for the period of January 1, 2020 through December 31, 2022 determined the Company did not provide four (4) Conflict of Interest Statements.

- 2020: One Conflict of Interest Statement was not provided
- 2021: Two Conflict of Interest Statements were not provided
- 2022: One Conflict of Interest Statement was not provided

The review determined that the Company was not in compliance with ALA. CODE § 27-27-29 (a) (2012), which states:

Every domestic insurer shall have, and maintain, its principal place of business and home office in this state and shall keep in this state complete records of its assets, transactions, and affairs in accordance with such methods and systems as are customary or suitable as to the kind, or kinds, of insurance transacted.

## **CORPORATE RECORDS**

The Articles of Incorporation and By-Laws, as amended, were inspected during the course of the examination and were found to provide for the Company's operation in accordance with the usual corporate practices and applicable statutes and regulations.

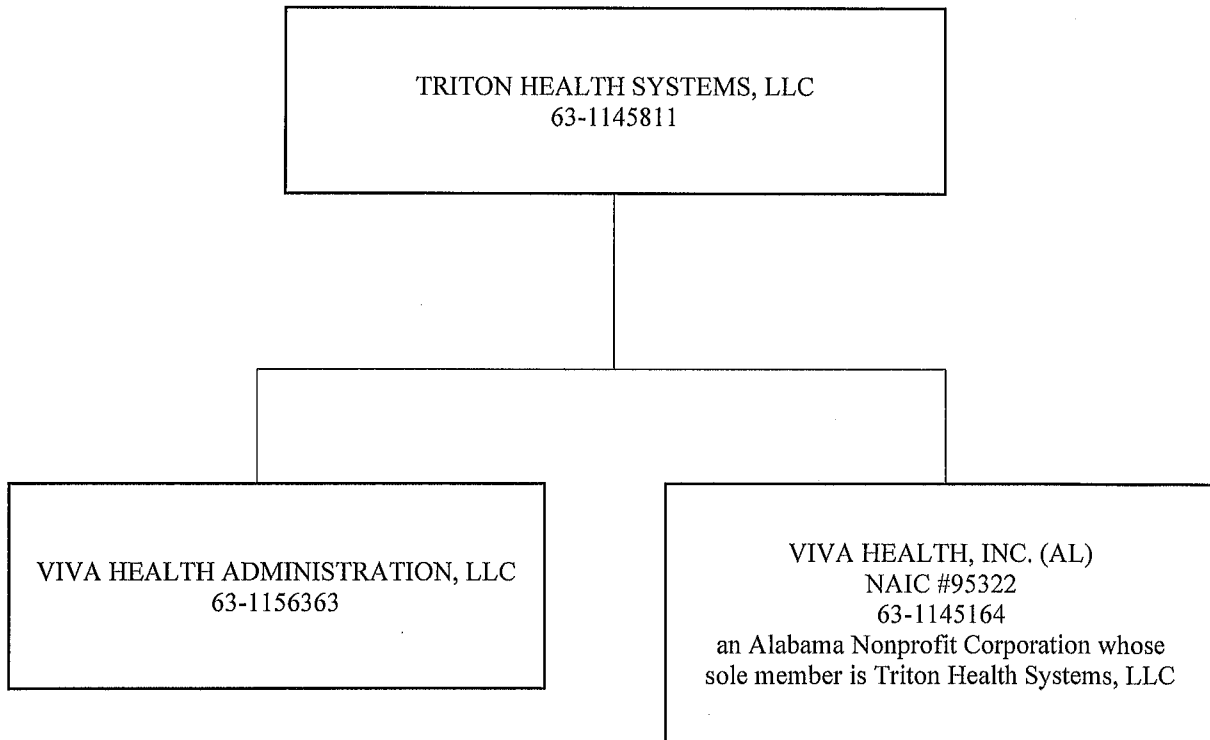
Minutes of meetings of the Stockholders, Board of Directors and committees of the Company were reviewed for the period under examination. The minutes appeared to be complete with regard to recorded actions taken on matters before the respective bodies for deliberation and action.

## **HOLDING COMPANY AND AFFILIATE MATTERS**

### **Holding Company Registration**

The Company is subject to the *Alabama Holding Company Regulatory Act* as defined in ALA. CODE § 27-29-1 (2022), as amended. The review of the Company's filings during the examination period of January 1, 2020 through December 31, 2022, indicated that the required disclosures were included in the Company's filings.

**Organizational Chart**



**Management and Service Agreements**

The Company had no employees during the examination period. It operated under a Management Services Agreement with its parent, Triton Health Systems, LLC (Triton), which was approved by the Alabama Department of Insurance.

The Management Services Agreement was entered into on December 1, 2006, by VIVA Health, Inc. (VIVA) and Triton Health Systems, LLC (Triton). In the Agreement, management services for VIVA including, but not limited to, general management, personnel management, human resources, facility management, purchasing, accounting, finance and legal services, as set forth in Attachment A of the Agreement will be performed by Triton. Notwithstanding the management services furnished by Triton, VIVA shall retain responsibility for ensuring that its activities comply with all applicable statutes and regulations.

In return for the management services furnished by Triton to VIVA, VIVA shall pay Triton a monthly management fee. The management fee is intended to cover all direct expenses and indirect expenses paid by Triton on behalf of VIVA. Amounts owed under this agreement will be settled within 30 days of month-end.

The Agreement may be terminated by either party upon thirty days' advance written notice of termination of the Agreement. This Agreement is the sole agreement between Triton and VIVA for the purpose of management of VIVA and payment to Triton for management services. Any amendments or revisions to the Agreement shall be effective only with the prior written consent of VIVA, Triton and the Commissioner.

**First Amendment to the Management Services Agreement effective date  
January 01, 2010**

The management fee per member per month for commercial and Medicare products increased.

**Second Amendment to the Management Services Agreement effective date  
April 1, 2012**

The management fee per member per month for commercial decreased and the management fee per member per month for Medicare products increased.

**Third Amendment to the Management Services Agreement effective date  
September 1, 2016**

The management fee per member per month for commercial and Medicare products increased.

**Fourth Amendment to the Management Services Agreement effective date  
August 1, 2017**

The management fee per member per month for commercial and Medicare products increased.

**Fifth Amendment to the Management Services Agreement effective date  
August 10, 2020**

The management fee per member per month for commercial and Medicare products increased. Charitable contributions paid by VIVA are excluded for federal tax purposes.

**Sixth Amendment to the Management Services Agreement effective date  
January 1, 2021**

The management fee per member per month for commercial and Medicare products increased.

**Seventh Amendment to the Management Services Agreement effective date  
January 1, 2022**

The management fee per member per month for commercial and Medicare products increased.

**COMPLIANCE WITH 18 U.S.C. § 1033**

18 U.S.C. § 1033 of the U.S. Code and ALA. ADMIN. CODE 482-1-146-.11 (2009) requires the Company to determine if prospective and current employees are in conflict with 18 U.S.C. § 1033 (e), which prohibits persons with certain felony offenses from participating in conducting the business of insurance without the written consent of the Commissioner of Insurance.

The Company's operations are conducted by personnel employed by Triton under the terms of a Management Services Agreement. (See page 8 Management and Service Agreements.) Triton requires applicants for employment and all individuals with whom the Company intends to contract for activities in the business of insurance to consent to a background check as part of the employment application process. Employees who accept continued employment acknowledge and consent to periodic background checks as determined by the Company.

It was determined that the Company complied with 18 U.S.C. § 1033 of the U.S. Code and ALA. ADMIN. CODE 482-1-146-.11 (2009).

**SCHEDULE OF SPECIAL DEPOSITS**

In order to comply with the statutory requirements for doing business in the State of Alabama, the Company had the following on deposit with the Alabama Department of Insurance as of December 31, 2022:

<b>Description</b>	<b>Book/Adjusted Carrying Value</b>	<b>Fair Value</b>
*Certificate of Deposit	\$ 100,000	\$ 100,000
<b>Total</b>	<b>\$ 100,000</b>	<b>\$ 100,000</b>

\*For the benefit of all Policyholders

## FINANCIAL CONDITION / GROWTH OF THE COMPANY

The following table sets forth the significant items indicating the growth and financial condition of the Company for the period under review:

	<b>Admitted Assets</b>	<b>Liabilities</b>	<b>Capital and Surplus</b>	<b>Net Premium Income</b>
2022	\$ 228,591,079	\$ 90,101,948	\$ 138,489,131	\$ 911,158,565
2021	\$ 225,380,510	\$ 83,443,111	\$ 141,937,399	\$ 835,520,978
2020	\$ 218,695,140	\$ 85,863,503	\$ 132,831,637	\$ 813,542,939

## MARKET CONDUCT ACTIVITIES

### Plan of Operation

The Company is a health maintenance organization whose purpose is to provide a prescribed range of healthcare services through agreements with primary care physicians, specialty physicians, hospitals and ancillary service providers to their enrolled population. The Company's principal lines of business are Comprehensive (Hospital and Medical) and Title XVIII Medicare insurance. The Company utilized independent producers to write business in the Alabama counties where it was licensed.

## **Territory**

As of December 31, 2022, the Company was licensed to transact business in the State of Alabama. The Certificate of Authority was reviewed for the period under examination. The Company was licensed to write business in the following counties:

Autauga*	Baldwin*	Barbour	Bibb	Blount*	Bullock*
Butler	Calhoun*	Chambers	Cherokee*	Chilton*	Choctaw
Clarke	Clay	Cleburne	Coffee	Colbert*	Conecuh
Coosa	Covington	Crenshaw*	Cullman*	Dale*	Dallas
DeKalb*	Elmore*	Escambia	Etowah*	Fayette	Franklin*
Geneva*	Greene	Hale	Henry*	Houston*	Jackson
Jefferson*	Lamar	Lauderdale*	Lawrence	Lee*	Limestone
Lowndes*	Macon*	Madison	Marengo	Marion	Marshall
Mobile*	Monroe	Montgomery*	Morgan	Perry	Pickens
Pike*	Randolph	Russell	Shelby*	St. Clair*	Sumter
Talladega*	Tallapoosa*	Tuscaloosa	Walker*	Washington	Wilcox
Winston					

\*Medicare Licensed Counties

## **Advertising and Marketing**

The Company's advertising materials were reviewed for the examination period. The Company's advertising file contained specimen copies of all the Company's advertisements that were printed, published or prepared. Producers were not permitted to create their own advertising materials. The Company's web site [www.vivahealth.com](http://www.vivahealth.com) included the following: Home, Plans, About Us, Medicare Service Area, Group Insurance, Service Area, Provider Search, Member Portal, Notice of Privacy Practices, First Tier Downstream and Related Entities, Medicare, Group Coverage, Why VIVA, Provider and Careers. The advertising materials did not misrepresent policy benefits, forms, or conditions, make unfair or incomplete comparisons with other policies, or make false, deceptive, or misleading statements or representations.



## **Claims Handling**

### *Paid Claims*

A sample of 109 Alabama paid claims were selected for the examination period of January 1, 2020 through December 31, 2022. The sample was reviewed for compliance with the Company's policy provisions, timeliness of payments and adequacy of documentation. No issues were found.

The review determined the claims were paid in accordance with ALA. ADMIN. CODE 482-1-079-.18 (1987), which states:

All licensed HMO's shall consider claims made under their health care contracts and, if found to be valid and proper, shall pay such claims within forty-five (45) days after the receipt of proof of the fact and amount of loss sustained under such contracts.

### *Denied and Closed Claims*

A sample of 109 Alabama denied and closed without payment claims were selected for the examination period, January 1, 2020 through December 31, 2022. The sample was reviewed for compliance with the Company's policy provisions and adequacy of documentation. The review determined the Company was in compliance. No issues were found.

## **Dividends to Policyholders**

There were no dividends paid to policyholders during the examination period.

## **Complaint Handling**

During the examination period, it was determined the Company recorded all complaints, both consumer direct and those forwarded by the Alabama Department of Insurance. The Company appropriately maintained the following information in its complaint register: line of business, function and reason for the complaint. The Company's responses fully addressed the issues raised and the complaints were appropriately resolved within the required time frame. Based on the review of the Company's complaint procedures, it was determined that the Company had a

sufficient method for the distribution of and obtaining and recording responses to complaints. The review of the complaints determined that the responses were submitted in a timely manner and addressed the issues raised.

### **Producers' Licensing Requirements**

#### *Producer Appointments*

A sample of new business transactions during the examination period was reviewed. The sample consisted of 116 new business transactions from a population over 50,000 transactions during the examination period. The examiner utilized the NAIC's State Based System (SBS) to verify if the producers were appropriately licensed and appointed by the Company prior to writing the business. Based on the review of the Company's records, it was determined that the producers were appropriately licensed and appointed.

#### *Producer Terminations*

The entire population of four Alabama terminated producers was reviewed. Based on the examination review, the Company appropriately terminated the producers through the SBS system.

### **Policy Forms and Underwriting**

A sample selection consisted of 116 transactions from a population greater than 50,000 written premium transactions for the examination period was reviewed with regards to compliance with underwriting guidelines and unfair discriminatory practices. The premiums were calculated in accordance with the Company's guidelines and rates filed with Alabama Department of Insurance (ALDOI). The Company's rating factors are based upon the Group as a whole and each member of the Group is rated according to their age, sex and family status. The information reviewed indicated the Company did not use unfair or discriminatory practices.

The review of cancellation/nonrenewed files determined the Company maintained proper documentation of Company initiated and insured initiated cancellations. The cancellation/nonrenewed policies were handled in accordance with the Company's policies and procedures and without an excessive amount of paperwork.

## **Privacy**

The Company's Privacy Notice disclosed the types of information collected, how the information is used, the way the information is collected and how the information is protected. The Company's Privacy Notice also stated the customers' rights, and the Company does not disclose any information to any nonaffiliated third parties unless permitted to do so by law. In addition, the Company's HIPAA guidelines described how the medical information about the customer may be used and disclosed how the Company gained access to the information. The Company makes efforts to disclose only the minimum necessary information and trains its employees on the importance of protecting the customer's Protected Health Information (PHI). There were mechanisms in place to ensure the integrity of data during transmission and a strict policy for its employees and vendors for violations of its HIPAA policy and procedures. The Company's policies, practices and procedures regarding the protection and disclosure of non-public personal information of consumers and former customers were in compliance with ALA. ADMIN. CODE 482-1-122 (2001).

## **REINSURANCE**

### **Reinsurance Assumed**

The Company did not assume any reinsurance during the examination period.

### **Reinsurance Ceded**

As of the examination date, the Company maintained two reinsurance agreements that protect the Company from catastrophic single-risk losses and losses from human organ and bone marrow transplant services.

### **PartnerRe American Insurance Company Reinsurance Agreement**

The Company has a one-year renewable term HMO Specific Excess Loss Reinsurance Agreement with PartnerRe American Insurance Company (PartnerRe). Under this Agreement the Company maintains reinsurance coverage for reimbursement of hospital and ancillary service claims on commercial HMO business.

Policy effective date: January 1, 2022 through January 1, 2023  
Lines of business covered: Commercial HMO  
Reinsurance Maximum: \$2,000,000 per member per agreement period  
Coinsurance: 90%

### **Gerber Life Insurance Company Reinsurance Agreement**

The Company also has a Human Organ and Bone Marrow Transplant Reinsurance Agreement with Gerber Life Insurance Company (Gerber Life). This Agreement covers reimbursement of organ and bone marrow transplant claims for commercial and Medicare business. Under this Agreement, Gerber Life assumes 100% of the in-network charges and 60% of the out-of-network charges subject to the Agreement's maximum deductible.

Policy effective date: October 1, 2022 through September 30, 2023  
Lines of business covered: Commercial and Medicare  
Reinsurance Maximum: \$1,975,000 per member per agreement period  
Deductible per transplant: \$25,000

### **ACCOUNTS AND RECORDS**

The Company's principal accounting records were maintained primarily on electronic data processing (EDP) equipment. Management and record keeping functions were performed by the personnel of Triton Health Systems, LLC under the terms of a Management Services Agreement.

### **Jurat Page – Officers, Directors, Trustees**

The review of the Company's 2022 Annual Statement Jurat Page reflected the name of an officer/director with an initial. The Jurat Page did not show the full name (initials not acceptable) of a director in accordance with NAIC *Annual Statement Instructions*.

The NAIC *Annual Statement Instructions, Officers, Directors, Trustees*, states:

Officers, Directors, Trustees

Show full name (initials not acceptable) and title (indicate by number sign (#) those officers and directors who did not occupy the indicated position in the prior annual statement).

## FINANCIAL STATEMENT INDEX

The following financial statements are based on the statutory financial statements filed by the Company with the Alabama Department of Insurance and present the financial condition of the Company for the period ending December 31, 2022. The accompanying comments on the financial statement reflect any examination adjustments to the amount reported in the annual statement and should be an integral part of the financial statements.

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**VIVA HEALTH, INC.**  
**STATEMENT OF ASSETS**  
**For the Year Ended December 31, 2022**

	Assets	Assets Not Admitted	Net Admitted Assets	Prior Year Net Admitted Assets
<b>ASSETS</b>				
Bonds	\$116,661,509	\$ 0	\$116,661,509	\$116,518,550
Cash, cash equivalents and short-term investment	<u>42,539,750</u>		<u>42,539,750</u>	<u>18,883,473</u>
Subtotals, cash and invested assets	159,201,260		159,201,260	135,402,023
Investment income due and accrued	683,305		683,305	531,640
Uncollected premiums and agents' balances in the course of collection	7,349,035	46,682	7,302,353	6,401,602
Accrued retrospective premiums and contracts subject to redetermination	4,505,778		4,505,778	15,625,668
Amounts recoverable from reinsurers	1,000,000		1,000,000	
Amounts receivable relating to uninsured plans	18,843,534		18,843,534	35,000,373
Current federal and foreign income tax recoverable and interest thereon	5,524,243		5,524,243	2,919,889
Net deferred tax asset	1,821,020	1,821,020		2,271,404
Guaranty funds receivable or on deposit	20,000		20,000	35,000
Receivables from parent, subsidiaries and affiliates	2,475,595		2,475,595	3,558,751
Health care and other amounts receivables	<u>36,822,857</u>	<u>7,787,846</u>	<u>29,035,011</u>	<u>23,634,160</u>
Total Assets	\$238,246,627	\$ 9,655,548	\$228,591,079	\$225,380,510

THE NOTES IMMEDIATELY FOLLOWING THE FINANCIAL STATEMENTS IN THIS REPORT ARE AN INTEGRAL PART THEREOF.

**VIVA HEALTH, INC.**  
**STATEMENT OF LIABILITIES, CAPITAL AND SURPLUS**  
**For the Year Ended December 31, 2022**

	<u>Covered</u>	<u>Uncovered</u>	<u>Total</u>	<u>Prior Year</u> <u>Total</u>
<b>Liabilities:</b>				
Claims unpaid	\$56,693,429	\$1,753,405	\$58,446,834	\$51,295,832
Accrued medical incentive pool and bonus amounts	4,257,850		4,257,850	4,479,360
Unpaid claims adjustment expenses	2,200,923		2,200,923	2,065,079
Aggregate health policy reserves	1,018,000		1,018,000	418,000
Premiums received in advance	1,271,128		1,271,128	500,834
General expenses due or accrued	339,630		339,630	1,705,172
Amounts due to parent, subsidiaries and affiliates	67,583		67,583	478,834
Aggregate write-in for other liabilities	<u>22,500,000</u>		<u>22,500,000</u>	<u>22,500,000</u>
Total Liabilities	<u>\$88,348,543</u>	<u>\$1,753,405</u>	<u>\$90,101,948</u>	<u>\$83,443,111</u>
 <b>Capital and Surplus:</b>				
Unassigned funds (surplus)			138,489,131	141,937,399
Total capital and surplus			<u>\$138,489,131</u>	<u>\$141,937,399</u>
Total liabilities, capital and surplus			\$228,591,079	\$225,380,510

THE NOTES IMMEDIATELY FOLLOWING THE FINANCIAL STATEMENTS IN THIS REPORT ARE AN INTEGRAL PART THEREOF.

**VIVA HEALTH, INC.**  
**STATEMENT OF REVENUE AND EXPENSES**  
**For the Years Ended December 31, 2022, 2021 and 2020**

	2022	2021	2020
Member Months	923,494	880,889	878,791
Net premium income	\$911,158,565	\$835,520,978	\$813,542,939
Aggregate write-ins for other health care related revenues	<u>26,714</u>	<u>16,411</u>	<u>14,739</u>
Total revenues	\$911,185,279	\$835,537,389	\$813,557,678
<b><u>Medical and Hospital:</u></b>			
Hospital/medical benefits	\$638,138,436	\$570,809,916	\$548,731,534
Other professional services	32,233,200	34,627,969	28,055,883
Emergency room and out-of-area	18,135,024	16,785,488	16,012,937
Prescription drugs	65,887,587	59,867,301	64,681,323
Aggregate write-ins for other hospital and medical	44,021,031	43,427,291	42,001,993
Incentive pool, withhold adjustments, and bonus amounts	<u>2,944,416</u>	<u>3,803,489</u>	<u>9,197,390</u>
Subtotal	\$801,359,694	\$729,321,454	\$708,681,060
<b><u>Less:</u></b>			
Net reinsurance recoveries	1,220,301	281,958	931,655
Total hospital and medical	\$800,139,393	\$729,039,496	\$707,749,405
Claims adjustment expenses, including \$11,174,574 cost containment expenses	29,608,729	27,204,415	25,216,356
General administration expenses	88,826,191	81,613,246	75,649,069
Total underwriting deductions	<u>\$918,574,313</u>	<u>\$837,857,157</u>	<u>\$808,614,830</u>
Net underwriting gain or (loss)	(7,389,034)	(2,319,768)	\$4,942,848
Net investment income earned	2,120,083	1,819,245	2,305,030
Net realized capital gains (losses) less capital gains tax of \$(32,258)	<u>(121,355)</u>	<u>352,682</u>	<u>381,655</u>
Net investment gains or (losses)	\$1,998,728	\$2,171,927	\$2,686,685
Net gain or (loss) from agents' or premium balance charged off	(23,848)	(17,037)	(5,871)
Net income or (loss)	(\$5,414,154)	(\$164,878)	\$7,623,662
Federal and foreign income taxes incurred	<u>(\$1,072,095)</u>	<u>(\$105,827)</u>	<u>\$1,525,279</u>
Net income (loss)	(\$4,342,059)	(\$59,051)	\$6,098,383

THE NOTES IMMEDIATELY FOLLOWING THE FINANCIAL STATEMENTS IN THIS REPORT ARE AN INTEGRAL PART THEREOF.



**VIVA HEALTH, INC.**  
**CAPITAL AND SURPLUS ACCOUNT**  
**For the Years Ended December 31, 2022, 2021 and 2020**

	2022	2021	2020
Capital and surplus prior reporting year	\$141,937,399	\$132,831,637	\$129,502,240
<b>GAINS &amp; LOSSES TO CAPITAL &amp; SURPLUS:</b>			
Net income or (loss)	(\$4,342,059)	(\$59,051)	\$6,098,383
Change in net deferred income tax	(625,296)	(2,449,998)	715,998
Change in non-admitted assets	<u>1,519,087</u>	<u>11,614,811</u>	<u>(3,484,984)</u>
<b>Net change in capital and surplus</b>	<b><u>(\$3,448,268)</u></b>	<b><u>\$ 9,105,762</u></b>	<b><u>\$3,329,397</u></b>
Capital and surplus end of reporting year	\$138,489,131	\$141,937,399	\$132,831,637

THE NOTES IMMEDIATELY FOLLOWING THE FINANCIAL STATEMENTS IN THIS REPORT ARE AN INTEGRAL PART THEREOF.

## **NOTES TO FINANCIAL STATEMENTS**

### **Note 1 - Analysis of Changes to Surplus**

There were no adjustments made to surplus.

## **CONTINGENT LIABILITIES AND PENDING LITIGATION**

The review of contingent liabilities and pending litigation included a review of the statutory financial statement disclosures, minutes of the corporate governing bodies, examination of the accounts and unrecorded items; and obtaining a letter of representation from management. These reviews did not disclose any items that would have a material effect on the Company's financial condition.

## **SUBSEQUENT EVENTS**

A review of events subsequent to the December 31, 2022, examination date was completed. The review of subsequent events included an inspection of the general journal entries, minutes of meetings, interim financial statements and an inquiry of accounting matters.

The review of the August 22, 2023, board meeting minutes noted a discussion regarding Medicare 340B drug reimbursement to hospitals and the court ruling that stated CMS did not have the authority to lower the reimbursement. A review of the Company's Medicare Advantage Plan 340B drug reimbursement to contracted hospitals was performed by Company management. The review noted the Company paid the Medicare rate in effect at the time the services were rendered. It also noted that due to a combination of mitigating factors, the Company does not believe it has significant additional liability related to retroactive 340B hospital payments. Management noted that if based on further review and/or developments it is determined that an accrual is needed, the liability will be recorded in the Company's Annual Statement, Liabilities, Capital and Surplus page on Line 1, Claims Unpaid.

## COMPLIANCE WITH PREVIOUS RECOMMENDATIONS

There were no previous examination recommendations.

## COMMENTS AND RECOMMENDATIONS

### **Conflict of Interest - Page 6**

**It is recommended that** the Company maintain its Conflict of Interest Statements and comply with ALA. CODE § 27-27-29 (a) (2012), which states:

Every domestic insurer shall have, and maintain, its principal place of business and home office in this state and shall keep in this state complete records of its assets, transactions, and affairs in accordance with such methods and systems as are customary or suitable as to the kind, or kinds, of insurance transacted.

### **Jurat Page - Officers, Directors, Trustees - Page 16**

**It is recommended that** the Company report the full name of Officers and Directors and comply with NAIC *Annual Statement Instructions, Officers, Directors, Trustees* which states:

Officers, Directors, Trustees

Show full name (initials not acceptable) and title (indicate by number sign (#) those officers and directors who did not occupy the indicated position in the prior annual statement).

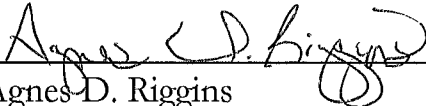
## CONCLUSION

Acknowledgment is hereby made of the courtesy and cooperation extended by the management and employees of VIVA Health, Inc. during this examination.

The customary insurance examination procedures, as recommended by the National Association of Insurance Commissioners, have been followed to the extent appropriate in connection with the verification and valuation of assets and determination of liabilities set forth in this report.

In addition to the undersigned, Mora Perkins-Taylor, MCM; David Martin, Insurance Examination Specialist; Michael Cole, Insurance Examination Specialist; Scott Garduno, FSA, MAAA, Taylor-Walker Consulting, LLC and Stefan Obereichholz-Bangert, AES, CISA, CISM Noble Consulting Services, Inc. all representing the Alabama Department of Insurance, participated in certain phases of this examination.

Respectfully submitted,

  
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Agnes D. Riggins  
Examiner-in-Charge  
State of Alabama Department of Insurance