NEW HAMPSHIRE SECRETARY OF STATE
David M. Scanlan

March 25, 2025

RE: Response to HealthTrust Statement on SB 297

Dear Municipality, School District, and Government Entity,

On March 20th, Senate Bill 297, which would stabilize the deteriorating financial position of two RSA 5-B Risk Pools, was passed by the New Hampshire Senate. Soon after, HealthTrust released a sweeping statement, threatening to shut down and cease coverage for over 50,000 covered individuals. The statement also spreads inaccuracies that mischaracterize the nature of the bill.

HealthTrust has asserted that the provisions of SB 297 are unreasonable, without providing even one detail explaining why. It has also claimed that political subdivisions will be forced to absorb the costs of unexpected assessments, without acknowledging the extreme unlikelihood of these occurring. HealthTrust's threat to end its coverages and services for political subdivisions if SB 297 becomes law in its current form is a fear-based tactic grounded in a complete misrepresentation of how the bill will affect risk pools and the political subdivisions they historically have professed to serve.

The success of pooled risk management programs has always been contingent on the strength of local control and the governing body's involvement. This is truly the New Hampshire way. As a member of one of these pools, it is important for you to increase your involvement in the management and oversight of these pools you own. It is the governing bodies of the political subdivisions that decide to become a member of a pool, and it is those same governing bodies that need to decide when a pool is no longer working for them.

Attached to this email is a letter from Hua Li of Complete Actuarial Solutions Company (CASCO) that provides detailed responses to the claims made by HealthTrust in its most recent statement. We highly encourage you to read this letter and share it with the decision makers of your political subdivision. It is important to remember that risk pools have a fiduciary responsibility to provide services that are in your best interest.

If you have any questions or concerns about SB 297, please do not hesitate to reach out to my office at (603) 271-3242.

Sincerely,

David M. Scanlan
Secretary of State

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March 22, 2025

On March 21, 2025, the HealthTrust Board of Directors issued a statement addressing SB297. The statement says that "***We as a Board have a fiduciary duty and cannot knowingly engage in a system that will bring harm to those we serve***". However, the statement does not explain what harm SB297 will bring to members. Instead, the statement emphasizes the fact that "*HealthTrust is well above the assessment thresholds contained in SB297*" and that the bill will have "*no impact on HealthTrust's rates*". The bill is in fact projected to have an overall downward impact on members' contribution rates[1]. The Board's statement concludes that "*if SB297 passes in its current form we will be forced to end our coverages and services effective December 31, 2025 for January Groups and June 30, 2026 for July Groups*". Given the significant adverse impact that such a dissolution would have on the 300+ members of the pool, threatening such action in response to a bill that the Board says will have no impact on members appears to be intended to pressure members and lawmakers into opposing SB297, rather than fulfilling their fiduciary duty to serve the interests of members.

The Board's statement does not provide any explanation of what aspects of SB297 would **force** them to dissolve the pool beyond referencing the "*extraordinarily flawed SB297 that has been rushed through the legislative process without reasonable and objective scrutiny*". However, **the statement does not explain what the flaws of the provisions of SB297 are or why such alleged flaws will force them to dissolve the pool**. HealthTrust's previous objections to the provisions of the bill have been addressed through the Secretary of State's informational packet released on March 19, 2025. Furthermore, the chairman of the board, Mr. Rossner, testified at the Senate Committee hearing on SB297 that his opposition to the bill was based on the inability of School Districts to absorb unexpected assessments, regardless of how unlikely those assessments are [2]. This concern was addressed by the amendment to SB297 that requires the creation of healthcare stabilization funds to pay for potential assessments and that are held and controlled by members. A recording of the Committee hearing including Mr. Rossner's testimony can be viewed at https://www.youtube.com/watch?v=86YPnsVOBxs. The "*reasonable and objective scrutiny*" that the bill requires has been provided by two independent actuarial consulting firms with five accredited actuaries engaged by the regulator, analysis performed by the risk pool's own actuaries [1], and feedback from the risk pools themselves which resulted in the amendment to:

- allow the maximum contingency reserve to be increased to 18% if sufficient justification can be provided,
- allow risk pools to ask for revaluation of the contingency reserve range every four years, and
- create healthcare stabilization funds to help pay for potential assessments.

Other than the threat to dissolve the pool, the board's statement focuses on the fact that HealthTrust expects to make more net profit (or less net loss) during the last four months of FY2025 than was assumed by the regulator [3]. This focus entirely misses the reason why regulation of risk pools and insurance companies is needed. If claims experience is always close to actuarially projected level, risk pools and insurance companies would never lose money, would never face any risk of insolvency, and would not require any regulation. However, actual experience frequently differs significantly from actuarial projections, regardless of who makes those projections. While it is possible that net income in the last four months of FY2025 will be at the level HealthTrust has projected, it is also possible that the net income will be significantly worse than projected by HealthTrust. The reason why SB297 is being introduced is that if claims experience is significantly worse than actuarially projected, then **there are currently no regulatory safeguards in place to protect against insolvency and the resulting consequences to members** [1].

In terms of the specific timing of SB297 and the board's assertion that the bill has been "*rushed through*", the bill was introduced when:

1. A risk pool had just fallen into a negative net position, with liabilities exceeding assets.
2. HealthTrust's net income for the most recent three months was -$2.2M, -$2.5M, and $-3M, and their seasonality patterns predicted even worse net income in the last four months of the year.[3]
3. A previously healthy risk pool had experienced a halving of their contingency reserves in two years.
4. The financially strongest risk pool had just experienced a significant drop in contingency reserves.
5. Three out of the four risk pools were not charging the actuarially recommended contributions and replenishments.

Given these developments and given that there are currently no regulatory safeguards in place relating to minimum contingency reserves or other measures to prevent insolvency, regulatory changes must be implemented now. Whether or not HealthTrust bucks their trend of recent years and ultimately makes a net profit during the last four months of this year does not change the fact that regulatory changes are needed now.

The board's statement also repeatedly promotes their "*actuarial rebuild plan*" which they call "*actuarially modelled*" and "*board approved*" but which they do not call actuarially recommended. This is likely because at their September 19, 2024 board meeting, the Board pushed the rebuild plan to **four years** (which now may be stretched to **five years** as the net income has been much lower than projected by HealthTrust since that meeting) whereas their actuary **"*strongly recommended*" a two-year** rebuild plan during their August 10, 2023 Board meeting. Copies of the minutes from those meetings can be provided upon request.

The Board's statement repeatedly implies that the regulator has spread false and harmful information.

- The first example provided is that "*it was incorrectly stated that HealthTrust "is losing $2.5M per month." This is false*". The statement that HealthTrust has recently been losing an average of $2.5M per month was made by the regulator based on their net income for the most recent three months of -$2.2M, -$2.5M, and $-3M.
- The second example given is that "*It was then incorrectly stated that HealthTrust was projected to lose $12.5M this fiscal year. This is also false.*" The independent actuarial consultant engaged by the regulator clearly stated verbally, in the exhibits provided to the Senate Committee, and in the informational packet from the Secretary of State, that this would be the amount of loss **if** HealthTrust's net losses continued at the rate of the three previous months or **if** the seasonality patterns of the last two years were repeated. At no point did the regulator say this was HealthTrust's internal projection.

- The final example listed is that "*Lately, more misinformation has been spread that HealthTrust is insolvent*". The regulator has never said that HealthTrust is currently insolvent.

The board's statement claims that "*HealthTrust supports reasonable standards and regulation*". However, no information is provided about what provisions of SB297 are unreasonable. Additionally, the board's statement claims that SB297 does not follow actuarial standards without explaining what actuarial standards have been violated. As explained in the information packet from the Secretary of State, the provisions of SB297:

- follow the standards for the governance and regulation of risk pools published by the Association of Governmental Risk Pools' (AGRiP) including with regards to assessments,
- are similar to practices the risk pools already follow such as HealthTrust's capital risk charge, and
- enforce the contingency reserve replenishments that the risk pools' actuaries have recommended but that the risk pools have refused to implement themselves.

The fact the Board states that it "*will continue to work to amend SB297*" while also saying that "*if SB297 passes in its current form we will be forced to end our coverages*" makes it clear that they are using the threat of ending coverage for over 55,000 public sector employees to oppose a bill that they themselves say will not affect members if claims experience is as projected by HealthTrust. This is a clear violation of the Board's fiduciary duty to look after members' interests. Other examples of the Board not looking after members' interests include voting on at least eight occasions to not charge actuarially recommended contributions and replenishments [1] and HealthTrust's policy of not giving members their own claims data to allow them to get better quotes from other sources.

Sincerely,

Hua Li, ASA, FCAS, MAAA
Complete Actuarial Solutions Company (CASCO)

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1. The Secretary of State's informational packet released on March 19, 2025 provides clarification and examples.
2. HealthTrust's own actuarial analysis shows that once they are back above the minimum contingency reserve, the annual likelihood of falling below the 4% of annual payments threshold that would authorize the Secretary of State to require assessment is less than 5%.
3. The regulator's projection of HealthTrust's net income was based upon 1) net income for the most recent three months being -$2.2M for January, -$2.5M for December, and $-3M for November, 2) HealthTrust's own seasonality analysis presented on August 7, 2024 predicting worsening of net income towards the end of the fiscal year, and 3) actual significant net losses seen in the last four months of the prior two years after those years had started with positive net income.