

By: Schwertner

S.B. No. 1271

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the operation of health care sharing ministries;
3 authorizing a fee; providing an administrative penalty.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Chapter 1681, Insurance Code, is amended by
6 designating Section 1681.003 as Subchapter A and adding a
7 subchapter heading to read as follows:

8 SUBCHAPTER A. GENERAL PROVISIONS

9 SECTION 2. Subchapter A, Chapter 1681, Insurance Code, as
10 added by this Act, is amended by adding Section 1681.0011 to read as
11 follows:

12 Sec. 1681.0011. DEFINITIONS. In this chapter:

13 (1) "Administrative fee" means an amount collected
14 from members and used for a purpose other than reimbursing members
15 for their medical expenses, including amounts used to pay for
16 health care sharing ministry administrative expenses and the
17 compensation of third-party vendors for services.

18 (2) "Health care sharing ministry" means an
19 organization:

20 (A) described by 26 U.S.C. Section 501(c)(3) and
21 exempt from taxation under 26 U.S.C. Section 501(a);

22 (B) in which members:

23 (i) share a common set of ethical or
24 religious beliefs and share medical expenses among members in

1 accordance with those beliefs and without regard to the state in
2 which a member resides or is employed; and

3 (ii) retain membership even after the
4 member develops a medical condition;

5 (C) that has been in existence or that has a
6 predecessor that has been in existence at all times since December
7 31, 1999, and in which medical expenses of its members have been
8 shared continuously and without interruption since December 31,
9 1999; and

10 (D) that does not assume risk or promise to pay
11 any medical expenses for or on behalf of a member or the health care
12 sharing ministry.

13 (3) "Member" means an individual enrolled in a health
14 care sharing ministry to share medical expenses with other enrolled
15 individuals.

16 (4) "Sharing request" means a request for
17 reimbursement of medical expenses submitted by a member to the
18 health care sharing ministry.

19 SECTION 3. Chapter 1681, Insurance Code, is amended by
20 adding Subchapters B, C, and D to read as follows:

21 SUBCHAPTER B. CERTIFICATE OF REGISTRATION

22 Sec. 1681.051. CERTIFICATE OF REGISTRATION REQUIRED. (a)
23 Except as provided by Subsection (b), a person must obtain and
24 maintain a certificate of registration from the commissioner to
25 operate as a health care sharing ministry in this state.

26 (b) A health care sharing ministry with an expired
27 certificate of registration may continue to operate without a

1 certificate until the later of the 90th day after the date of the
2 certificate's expiration or the date on which a late application
3 for renewal made under Section 1681.057 is approved or denied.

4 Sec. 1681.052. APPLICATION FOR CERTIFICATE OF
5 REGISTRATION. (a) An applicant must apply for a health care
6 sharing ministry certificate of registration on an application form
7 prescribed by the commissioner and in the manner prescribed by the
8 commissioner.

9 (b) A health care sharing ministry application must include
10 the application form along with all information required by the
11 commissioner, including:

12 (1) the responsible director or manager of the
13 applicant;

14 (2) the applicant's physical, mailing, and electronic
15 mail addresses;

16 (3) the contact phone number for the responsible
17 director or manager of the applicant;

18 (4) information demonstrating that the applicant:
19 (A) meets the definition of a health care sharing
20 ministry under Section 1681.0011; and

21 (B) complies with Section 1681.108;

22 (5) a copy of the most recent annual audit required
23 under 26 U.S.C. Section 5000A(d)(2)(B);

24 (6) a list of any third-party vendors acting on behalf
25 of the applicant in this state for the purposes of:

26 (A) enrolling members;

27 (B) negotiating with health care providers after

1 services are rendered; or

2 (C) the financial sharing of member medical
3 needs;

4 (7) a copy of any application forms and ministry
5 guidelines used by the applicant;

6 (8) a report of the applicant's members in this state
7 as of the date of application that includes the:

8 (A) total number of enrolled members;

9 (B) distribution of members by age; and

10 (C) distribution of members by sex;

11 (9) a certification that the applicant does not
12 compensate anyone to solicit or enroll members in this state based
13 on the number of members solicited or enrolled or the amount of
14 contributions received from enrolled members, including by
15 commission; and

16 (10) other information as prescribed by the
17 commissioner.

18 Sec. 1681.053. ISSUANCE OF CERTIFICATE OF REGISTRATION.

19 (a) The commissioner shall issue a certificate of registration to
20 each applicant that meets the requirements of this chapter and
21 rules adopted under this chapter.

22 (b) The commissioner may deny an application that does not
23 meet the requirements of this chapter and rules adopted under this
24 chapter.

25 (c) On the applicant's request, the commissioner shall hold
26 a hearing on a denial of an application for a certificate of
27 registration. The hearing is a contested case under Chapter 2001,

1 Government Code.

2 Sec. 1681.054. TERM OF CERTIFICATE OF REGISTRATION. A
3 certificate of registration issued under this chapter expires one
4 year after the date of issuance unless it is renewed as provided by
5 Section 1681.055.

6 Sec. 1681.055. APPLICATION FOR RENEWAL OF CERTIFICATE OF
7 REGISTRATION. (a) Before a certificate of registration expires, a
8 health care sharing ministry may renew it for an additional
9 one-year term if the ministry applies for the renewal in the form
10 and manner prescribed by the commissioner.

11 (b) A renewal form must include all information required by
12 the commissioner, including:

13 (1) an update of any changes made to documents
14 previously filed with the department;

15 (2) a copy of the most recent annual audit required
16 under 26 U.S.C. Section 5000A(d)(2)(B);

17 (3) a ministry financial report detailing the
18 following for the prior registration period:

19 (A) the total amount collected from members in
20 this state, including contributions, administrative fees, or other
21 funds;

22 (B) the total amount of sharing requests made by
23 members in this state;

24 (C) the total amount paid for health care
25 services for members in this state;

26 (D) the total amount of sharing requests that
27 were denied; and

1 (E) the total amount of administrative fees
2 collected from members in this state, including amounts paid to
3 each third-party vendor for services provided to members in this
4 state;

5 (4) a report of the health care sharing ministry's
6 members in this state as of the date of application for renewal that
7 includes the:

8 (A) total number of enrolled members;

9 (B) distribution of members by age; and

10 (C) distribution of members by sex;

11 (5) a report detailing the following:

12 (A) the total number of sharing requests made by
13 members in this state;

14 (B) the number of sharing requests made by
15 members in this state that were approved for sharing;

16 (C) the number of sharing requests made by
17 members in this state that were denied for sharing; and

18 (D) the number of complaints made by members in
19 this state;

20 (6) a certification that the health care sharing
21 ministry does not compensate anyone to solicit or enroll members in
22 this state based on the number of members solicited or enrolled or
23 the amount of contributions received from enrolled members,
24 including by commission; and

25 (7) other information as prescribed by the
26 commissioner.

27 (c) The commissioner shall send written notice of an

1 impending expiration of a certificate of registration to a health
2 care sharing ministry not later than 30 days before the expiration
3 of the certificate of registration.

4 Sec. 1681.056. ISSUANCE OF RENEWAL OF CERTIFICATE OF
5 REGISTRATION. (a) The commissioner shall renew a certificate of
6 registration for each health care sharing ministry that meets the
7 requirements of this chapter and rules adopted under this chapter.

8 (b) The commissioner may deny a renewal application that
9 does not meet the requirements of this chapter and rules adopted
10 under this chapter.

11 (c) On the applicant's request, the commissioner shall hold
12 a hearing on a denial of a renewal application. Not later than the
13 30th day after the date of the applicant's request for a hearing,
14 the commissioner shall request a hearing date. The hearing is a
15 contested case under Chapter 2001, Government Code.

16 Sec. 1681.057. LATE RENEWAL OF CERTIFICATE OF REGISTRATION.
17 (a) The commissioner shall renew a certificate of registration in
18 accordance with Section 1681.056 if a request is made by the health
19 care sharing ministry within 90 days after the expiration of the
20 certificate.

21 (b) A health care sharing ministry that fails to timely
22 renew a certificate of registration must pay the following fee:

23 (1) \$250 for an application for renewal filed 1 to 30
24 days late;

25 (2) \$500 for an application for renewal filed 31 to 60
26 days late; or

27 (3) \$1,000 for an application for renewal filed 61 to

1 90 days late.

2 (c) If a health care sharing ministry fails to apply to
3 renew a certificate of registration within 90 days after the
4 expiration of the certificate, the ministry may not reapply for a
5 certificate of registration for two years.

6 Sec. 1681.058. FEES. Except as provided by Section
7 1681.057, the commissioner by rule shall set a fee for an
8 application for the issuance or renewal of a certificate of
9 registration under this chapter in an amount not to exceed \$100.

10 SUBCHAPTER C. REGULATION OF HEALTH CARE SHARING MINISTRIES

11 Sec. 1681.101. NAME. A health care sharing ministry may not
12 operate under any name other than the name for which the ministry's
13 certificate of registration has been issued.

14 Sec. 1681.102. MARKETING AND COMMUNICATION. (a) Except
15 for a health care sharing ministry making its annual audit
16 available to the public, the ministry may not make a direct or
17 indirect representation that it:

18 (1) is operating in a financially sound manner; or
19 (2) has a successful history of meeting members'
20 medical costs.

21 (b) In all communications with members or the public, a
22 health care sharing ministry may not:

23 (1) use insurance terms that may mislead or confuse a
24 member or prospective member, including terms such as premium,
25 copay, deductible, coverage, network, and benefit plan; or

26 (2) make a direct or indirect representation that a
27 health care service is free or included with membership.

1 Sec. 1681.103. COMPENSATION FOR SERVICES. A health care
2 sharing ministry may not compensate anyone for services provided to
3 members in this state based on the number of members solicited or
4 enrolled or the amount of contributions received from enrolled
5 members, including by commission.

6 Sec. 1681.104. ENROLLMENT DISCLOSURES. A health care
7 sharing ministry shall disclose the following information in
8 writing for each calendar year from the previous five calendar
9 years in a prominent and conspicuous manner before and at the time
10 an individual is enrolled as a member:

- 11 (1) total member contributions;
- 12 (2) total amounts paid for sharing requests;
- 13 (3) total administrative fees paid by members; and
- 14 (4) the percentage of money paid by members that was

15 paid toward the following:

- 16 (A) sharing requests; and
- 17 (B) administrative fees.

18 Sec. 1681.105. MONTHLY STATEMENTS. A health care sharing
19 ministry must provide a prominent and conspicuous written monthly
20 and annual statement to all members that includes the following:

- 21 (1) the number of members participating that month and
22 for that calendar year;
- 23 (2) the amount of money contributed by members that
24 month and for that calendar year;
- 25 (3) the number of and monetary amount of all sharing
26 requests submitted that month and for that calendar year;
- 27 (4) the number of and monetary amount of sharing

1 requests paid that month and for that calendar year;

2 (5) the amount of member contributions remaining for
3 future sharing requests for that month and for that calendar year;

4 (6) the amount of administrative fees for that month
5 and for that calendar year, including:

6 (A) the purpose of the administrative fee;

7 (B) the amount paid for each type of
8 administrative fee; and

9 (C) any third-party vendor to which the fee is
10 paid; and

11 (7) the percentage of money paid by members that was
12 paid toward the following for that month and for that calendar year:

13 (A) sharing requests;

14 (B) administrative fees; and

15 (C) any amount remaining that is designated for
16 the payment of future sharing requests.

17 Sec. 1681.107. ANNUAL AUDIT. A health care sharing
18 ministry shall conduct an annual audit that is:

19 (1) performed by an independent certified public
20 accounting firm in accordance with generally accepted accounting
21 principles; and

22 (2) made available to the public on request.

23 Sec. 1681.108. COMPLIANCE WITH CERTAIN FEDERAL LAW
24 REQUIRED. A health care sharing ministry shall operate in
25 accordance with 26 U.S.C. Section 5000A(d)(2)(B).

26 SUBCHAPTER D. ENFORCEMENT

27 Sec. 1681.151. ENFORCEMENT ACTIONS. If a health care

1 sharing ministry is violating or has violated this chapter or other
2 law, the commissioner may:

3 (1) suspend or revoke a certificate of registration
4 issued to the ministry under this chapter;

5 (2) impose a sanction under Chapter 82;

6 (3) issue a cease and desist order under Chapter 83;

7 (4) impose an administrative penalty under Chapter 84;

8 or

9 (5) any combination of Subdivisions (1) through (4).

10 Sec. 1681.152. INJUNCTION. If the commissioner believes
11 that a health care sharing ministry or another person is violating
12 or has violated this chapter, the attorney general at the request of
13 the commissioner may bring an action in a Travis County district
14 court to enjoin the violation, order restitution, and obtain other
15 relief the court considers appropriate.

16 Sec. 1681.153. REMEDIES CUMULATIVE. A remedy or action
17 authorized by this subchapter is in addition to any other civil,
18 administrative, or criminal action provided by law.

19 SECTION 4. Section 1681.002, Insurance Code, is transferred
20 to Subchapter C, Chapter 1681, Insurance Code, as added by this Act,
21 redesignated as Section 1681.106, Insurance Code, and amended to
22 read as follows:

23 Sec. 1681.106 [~~1681.002~~]. NOTICE. (a) A health care
24 sharing ministry shall provide written notice on or accompanying
25 all applications, guideline materials, and written advertisements,
26 including print and digital advertisements, distributed by or on
27 behalf of the ministry.

1 (b) The notice described by Subsection (a) must be in at
2 least 10-point font, in a prominent and conspicuous place, and [~~to~~
3 qualify as a health care sharing ministry under this chapter, the
4 notice described by Section 1681.001(8) must] read [substantially]
5 as follows:

6 "Notice: Payment of your medical expenses is not guaranteed.
7 This health care sharing ministry facilitates the sharing of
8 medical expenses and is not an insurance company, and neither its
9 guidelines nor its plan of operation is an insurance policy.
10 Whether anyone chooses to assist you with your medical bills will be
11 totally voluntary because no other participant will be compelled by
12 law to contribute toward your medical bills. As such, participation
13 in the ministry or a subscription to any of its documents should
14 never be considered to be insurance. Regardless of whether you
15 receive any payment for medical expenses or whether this ministry
16 continues to operate, you are always personally responsible for the
17 payment of your own medical bills. Complaints concerning this
18 health care sharing ministry may be reported to the Texas
19 Department of Insurance [~~office of the Texas attorney general~~]."

20 (c) A health care sharing ministry shall provide the
21 following notice in any audio or visual advertisement clearly,
22 conspicuously, and in a manner that a listener would hear and
23 understand:

24 "Payment of your medical expenses is not guaranteed. This
25 health care sharing ministry facilitates the sharing of medical
26 expenses, is not an insurance company, and is not offering an
27 insurance policy. Regardless of whether you receive any payment for

1 medical expenses or whether this ministry continues to operate, you
2 are always personally responsible for the payment of your own
3 medical bills."

4 SECTION 5. Section 1681.001, Insurance Code, is repealed.

5 SECTION 6. (a) Notwithstanding Section 1681.051, Insurance
6 Code, as added by this Act, a health care sharing ministry operating
7 in this state immediately before the effective date of this Act is
8 not required to apply for a certificate of registration under
9 Chapter 1681, Insurance Code, as amended by this Act, before March
10 1, 2022. The ministry may continue operating without a certificate
11 of registration until the application is approved or denied.

12 (b) A health care sharing ministry described by Subsection
13 (a) of this section that fails to apply for a certificate of
14 registration under Chapter 1681, Insurance Code, as amended by this
15 Act, before March 1, 2022, or whose application for registration
16 made before that date is denied, may not apply for a certificate of
17 registration under Section 1681.052, Insurance Code, as added by
18 this Act, before March 1, 2024.

19 SECTION 7. This Act takes effect September 1, 2021.