

By: Smithee

H.B. No. 1086

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the creation of employer health benefit plan groups.

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

4 SECTION 1. Article 26.11, Insurance Code, is amended to
5 read as follows:

6 Art. 26.11. DEFINITIONS. In this subchapter:

7 (1) "Board of trustees" means the board of trustees of
8 the Texas cooperative.

9 (2) "Board of directors" means the board of directors
10 elected by a private purchasing cooperative or a health group
11 cooperative.

12 (3) "Cooperative" means a private purchasing
13 cooperative or a health group cooperative established under this
14 subchapter.

15 (4) "Expanded service area" means any area larger than
16 one county in which a health group cooperative offers coverage.

17 (5) "Texas cooperative" means the Texas Health
18 Benefits Purchasing Cooperative, a nonprofit corporation,
19 established under Article 26.13 of this code.

20 SECTION 2. Article 26.14, Insurance Code, is amended by
21 amending the section heading and Subsections (a) and (d) and by
22 adding Subsection (e) to read as follows:

23 Art. 26.14. PRIVATE PURCHASING COOPERATIVES AND HEALTH
24 GROUP COOPERATIVES [~~COOPERATIVE~~].

1 (a) Two or more small or large employers may form a
2 cooperative for the purchase of small or large employer health
3 benefit plans. Any person may form a health group cooperative for
4 the purchase of small employer health benefit plans. A cooperative
5 must be organized as a nonprofit corporation and has the rights and
6 duties provided by the Texas Non-Profit Corporation Act (Article
7 1396-1.01 et seq., Vernon's Texas Civil Statutes).

8 (d) A purchasing cooperative, health group cooperative, or
9 a member of the board of directors, the executive director, or an
10 employee or agent of a purchasing cooperative or health group
11 cooperative is not liable for:

12 (1) an act performed in good faith in the execution of
13 duties in connection with the purchasing cooperative or health
14 group cooperative; or

15 (2) an independent action of a small or large employer
16 insurance carrier or a person who provides health care services
17 under a health benefit plan.

18 (e) A health group cooperative or a member of the board of
19 directors, the executive director, or an employee or agent of a
20 health group cooperative is not liable for failure to arrange for
21 coverage of any particular illness, disease, or health condition.

22 SECTION 3. Subchapter B, Chapter 26, Insurance Code, is
23 amended by adding Article 26.14A to read as follows:

24 Art. 26.14A. SPECIAL PROVISIONS RELATING TO HEALTH GROUP
25 COOPERATIVES. (a) The membership of a health group cooperative
26 shall consist solely of employers, which shall be small employers,
27 large employers, or both small and large employers at the option of

1 the health group cooperative.

2 (b) A health group cooperative shall allow any employer to
3 join the health group cooperative and enroll in health benefit plan
4 coverage, subject to the requirements of Article 26.22 of this code
5 and any restriction the health group cooperative has placed on
6 employer group size under Subsection (a) of this article.

7 (c) A health group cooperative shall allow employers to join
8 the health group cooperative and enroll in its health benefit plan
9 coverage during its initial enrollment and annual open enrollment
10 periods. A health group cooperative may allow employers to join the
11 cooperative and to enroll in health benefit plan coverage at
12 additional times.

13 (d) In addition to contracting with agents to market
14 membership in and coverage issued through the cooperative as
15 authorized by Article 26.15(a)(3) of this code, a health group
16 cooperative may directly market membership and coverage.

17 (e) A health group cooperative shall specify circumstances,
18 which shall include experiencing a substantial financial hardship,
19 that would allow an employer the option of terminating its
20 participation in the health group cooperative.

21 (f) An employer's participation in a health group
22 cooperative is voluntary, but an employer electing to participate
23 in a health group cooperative must commit to purchasing coverage
24 through the health group cooperative for two years, except as
25 provided by Subsection (e) of this article.

26 (g) A health carrier issuing coverage to a health group
27 cooperative:

1 (1) is exempt from the application of any laws of this
2 state requiring the health carrier to cover or offer to cover
3 specific mandated health benefits, which exemption the
4 commissioner shall adopt by rule;

5 (2) shall use a standard presentation form, prescribed
6 by the commissioner by rule, to market health benefit plan coverage
7 through the health group cooperative;

8 (3) may contract to provide health benefit plan
9 coverage with only one health group cooperative in any county,
10 except that a health carrier may contract with a second health group
11 cooperative if it is providing health benefit plan coverage in an
12 expanded service area in accordance with Subsection (h) of this
13 article;

14 (4) shall allow enrollment in health benefit plan
15 coverage in compliance with Subsection (c) of this article and with
16 the health carrier's agreement with the health group cooperative;
17 and

18 (5) on application, is entitled to receive a premium
19 tax credit for two years for each uninsured employee and dependent
20 who receives coverage through the health group cooperative.

21 (h) A health carrier may, with notice to the commissioner,
22 provide health benefit plan coverage to an expanded service area
23 that includes the entire state. A health carrier may apply for
24 approval of an expanded service area that comprises less than the
25 entire state by filing with the commissioner an application, in a
26 form and manner prescribed by the commissioner, at least 60 days
27 before the health carrier's issuance of coverage to the health

1 group cooperative in the expanded service area. At the expiration
2 of 60 days after the date of receipt by the department of a filed
3 form, contract, or policy, the application shall be deemed approved
4 by the department unless, before that date, the application was
5 either affirmatively approved or disapproved by written order of
6 the commissioner. The commissioner, after notice and hearing, may
7 rescind an approval granted to a health carrier under this
8 subsection if the commissioner finds that the health carrier has
9 failed to market fairly to all small employers in the state or the
10 expanded service area.

11 SECTION 4. Article 26.15, Insurance Code, is amended by
12 amending the section heading and Subsection (d) and by adding
13 Subsection (e) to read as follows:

14 Art. 26.15. POWERS AND DUTIES OF TEXAS HEALTH BENEFITS
15 PURCHASING COOPERATIVE, ~~[AND]~~ PRIVATE PURCHASING COOPERATIVES, AND
16 HEALTH GROUP COOPERATIVES.

17 (d) A cooperative shall comply with federal laws applicable
18 to cooperatives and health benefit plans issued through
19 cooperatives, to the extent required by state law or rules adopted
20 by the commissioner of insurance. A cooperative shall comply with
21 state laws applicable to cooperatives and health benefit plans
22 issued through cooperatives. A cooperative may not limit,
23 restrict, or condition an employer's or employee's membership in
24 the cooperative or choice among benefit plans based on the risk
25 characteristics of a group or of any member of a group.

26 (e) To be eligible to exercise the authority granted under
27 Subsection (a)(1) of this article, a health group cooperative must

1 have at least 10 participating employers.

2 SECTION 5. Subsections (a), (b), and (d), Article 26.16,
3 Insurance Code, are amended to read as follows:

4 (a) A cooperative is not an insurer and the employees of the
5 cooperative are not required to be licensed under Section 15 or 15A,
6 Texas Health Maintenance Organization Act (Article 20A.15 or
7 20A.15A, Vernon's Texas Insurance Code), or Subchapter A, Chapter
8 21, of this code. This exemption from licensure includes a health
9 group cooperative that acts to provide information about and to
10 solicit membership in the cooperative.

11 (b) A private purchasing cooperative is considered an
12 employer solely for the purposes of benefit elections under the
13 code. A health group cooperative is considered a single small
14 employer under this code, including for the purposes of developing
15 and adjusting premium rates and with regard to all provisions
16 relating to premium rates, except that a health carrier is not
17 obligated to guarantee issuance of coverage to a health group
18 cooperative. A health group cooperative shall have sole authority
19 to make benefit elections and perform other administrative
20 functions under the code for the cooperative's participating
21 employers. The department shall develop an expedited approval
22 process for health benefit plan coverage arranged by a health group
23 cooperative.

24 (d) A licensed agent used and compensated by the cooperative
25 need not be appointed by each small or large employer carrier
26 participating in the cooperative in order to market the products
27 and services sponsored by the cooperative. However, a licensed

1 agent may not market any other non-sponsored product or service of a
2 participating small or large employer carrier without first being
3 appointed by the small or large employer carrier.

4 SECTION 6. This Act takes effect September 1, 2003, and
5 applies to a health benefit plan that is delivered, issued for
6 delivery, amended, or renewed on or after January 1, 2004. A plan
7 that is delivered, issued for delivery, amended, or renewed before
8 January 1, 2004, is governed by the law as it existed immediately
9 before the effective date of this Act, and that law is continued in
10 effect for that purpose.