

AN ACT

relating to the creation of employer health benefit plan groups.

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

SECTION 1. Article 26.11, Insurance Code, is amended by amending Subdivisions (2) and (3) and adding Subdivision (5) to read as follows:

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

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

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

SECTION 2. The heading to Article 26.14, Insurance Code, is amended to read as follows:

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

SECTION 3. Article 26.14, Insurance Code, is amended by amending Subsections (a) and (d) and adding Subsections (e) and (f) to read as follows:

(a) Two or more small or large employers may form a purchasing cooperative for the purchase of small or large employer health benefit plans. Subject to Subsection (f) of this article, a

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

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

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

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

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

20 (f) A health carrier may not form, or be a member of, a  
21 health group cooperative. A health carrier may associate with a  
22 sponsoring entity, such as a business association, chamber of  
23 commerce, or other organization representing employers or serving  
24 an analogous function, to assist the sponsoring entity in forming a  
25 health group cooperative.

26 SECTION 4. Subchapter B, Chapter 26, Insurance Code, is  
27 amended by adding Article 26.14A to read as follows:

1       Art. 26.14A. SPECIAL PROVISIONS RELATING TO HEALTH GROUP  
2 COOPERATIVES. (a) The membership of a health group cooperative  
3 may consist only of small employers or may, at the option of the  
4 health group cooperative, consist of both small and large  
5 employers. To participate as a member of a health group  
6 cooperative, an employer must be a small or large employer as  
7 described by this chapter.

8       (b) Subject to the requirements of Article 26.22 of this  
9 code, a health group cooperative:

10       (1) shall allow a small employer to join the health  
11 group cooperative and enroll in health benefit plan coverage; and

12       (2) may allow a large employer to join the health group  
13 cooperative and enroll in health benefit plan coverage.

14       (c) A health group cooperative shall allow any small  
15 employer to join the health group cooperative and enroll in the  
16 cooperative's health benefit plan coverage during the initial  
17 enrollment and annual open enrollment periods.

18       (d) A sponsoring entity of a health group cooperative may  
19 inform the members of the entity about the cooperative and the  
20 health benefit plans offered by the cooperative. Coverage issued  
21 through the cooperative must be issued through a licensed agent  
22 marketing the coverage in accordance with Article 26.15(a)(3) of  
23 this code.

24       (e) The commissioner shall adopt rules that govern the  
25 manner in which an employer may terminate, because of a financial  
26 hardship affecting the employer, participation in a health group  
27 cooperative.

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

6       (g) A health carrier issuing coverage to a health group  
7 cooperative:

8           (1) shall use a standard presentation form, prescribed  
9 by the commissioner by rule, to market health benefit plan coverage  
10 through the health group cooperative;

11           (2) may contract to provide health benefit plan  
12 coverage with only one health group cooperative in any county,  
13 except that a health carrier may contract with additional health  
14 group cooperatives if it is providing health benefit plan coverage  
15 in an expanded service area in accordance with Subsection (1) of  
16 this article;

17           (3) shall allow enrollment in health benefit plan  
18 coverage in compliance with Subsection (c) of this article and with  
19 the health carrier's agreement with the health group cooperative;

20           (4) is exempt from the premium tax imposed by Article  
21 4.11 of this code or the tax on revenues imposed under Section 33,  
22 Texas Health Maintenance Organization Act (Article 20A.33,  
23 Vernon's Texas Insurance Code), and the retaliatory tax under  
24 Article 21.46 of this code for two years, with respect to the  
25 premiums or revenues received for coverage provided to each  
26 uninsured employee or dependent as defined by the commissioner in  
27 accordance with Subsection (h) of this article; and

1           (5) shall maintain documentation to be provided by  
2 health group cooperatives to ensure compliance with the rules  
3 adopted by the commissioner under Subsection (h) of this article  
4 with respect to uninsured employees or dependents.

5           (h) The commissioner by rule shall determine who  
6 constitutes an uninsured employee or dependent for purposes of  
7 Subsection (g)(4) of this article.

8           (i) Notwithstanding any other law, and except as provided by  
9 Subsection (n) of this article, a health benefit plan issued by a  
10 health carrier to provide coverage with a health group cooperative  
11 is not subject to a state law, including a rule, that:

12           (1) relates to a particular illness, disease, or  
13 treatment; or

14           (2) regulates the differences in rates applicable to  
15 services provided within a health benefit plan network or outside  
16 the network.

17           (j) The commissioner by rule shall implement the exemption  
18 authorized by Subsection (i) of this article.

19           (k) A health group cooperative may offer more than one  
20 health benefit plan, but each plan offered must be made available to  
21 all employees covered by the cooperative.

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

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

12 (m) The provisions of this article shall not serve to limit  
13 or restrict a small or large employer's access to health benefit  
14 plans under this chapter.

15 (n) A health benefit plan provided through a health group  
16 cooperative must provide coverage for diabetes equipment,  
17 supplies, and services as required by Article 21.53G of this code.

18 SECTION 5. The heading to Article 26.15, Insurance Code, is  
19 amended to read as follows:

20 Art. 26.15. POWERS AND DUTIES OF TEXAS HEALTH BENEFITS  
21 PURCHASING COOPERATIVE, ~~[AND]~~ PRIVATE PURCHASING COOPERATIVES, AND  
22 HEALTH GROUP COOPERATIVES.

23 SECTION 6. Article 26.15, Insurance Code, is amended by  
24 amending Subsection (d) and adding Subsection (e) to read as  
25 follows:

26 (d) A cooperative shall comply with federal laws applicable  
27 to cooperatives and health benefit plans issued through

1 cooperatives, to the extent required by state law or rules adopted  
2 by the commissioner of insurance. A cooperative shall comply with  
3 state laws applicable to cooperatives and health benefit plans  
4 issued through cooperatives. A cooperative may not limit,  
5 restrict, or condition an employer's or employee's membership in  
6 the cooperative or choice among benefit plans based on the risk  
7 characteristics of a group or of any member of a group.

8 (e) To be eligible to exercise the authority granted under  
9 Subsection (a)(1) of this article, a health group cooperative must  
10 have at least 10 participating employers.

11 SECTION 7. Subsections (a), (b), and (d), Article 26.16,  
12 Insurance Code, are amended to read as follows:

13 (a) A cooperative is not an insurer and the employees of the  
14 cooperative are not required to be licensed under [~~Section 15 or~~  
15 ~~15A, Texas Health Maintenance Organization Act (Article 20A.15 or~~  
16 ~~20A.15A, Vernon's Texas Insurance Code), or] Subchapter A, Chapter  
17 21, of this code. This exemption from licensure includes a health  
18 group cooperative that acts to provide information about and to  
19 solicit membership in the cooperative, subject to Article 26.14A(d)  
20 of this code.~~

21 (b) A private purchasing cooperative is considered an  
22 employer solely for the purposes of benefit elections under the  
23 code. A health group cooperative that is composed only of small  
24 employers is considered a single employer under this code and shall  
25 be treated in the same manner as a small employer for the purposes  
26 of this chapter, including for the purposes of any provision  
27 relating to premium rates and issuance and renewal of coverage. A

1 health group cooperative that is composed of small and large  
2 employers is considered a single employer under this code and, in  
3 relation to the small employers that are members of the  
4 cooperative, shall be treated in the same manner as a small  
5 employer. A health group cooperative that is composed of small and  
6 large employers may elect to extend the protections of this chapter  
7 that are applicable to small employer groups to the large employer  
8 groups that participate in the cooperative. A health group  
9 cooperative shall have sole authority to make benefit elections and  
10 perform other administrative functions under the code for the  
11 cooperative's participating employers. The department shall  
12 develop an expedited approval process for health benefit plan  
13 coverage arranged by a health group cooperative.

14 (d) A licensed agent used and compensated by the cooperative  
15 need not be appointed by each small or large employer carrier  
16 participating in the cooperative in order to market the products  
17 and services sponsored by the cooperative. However, a licensed  
18 agent may not market any other non-sponsored product or service of a  
19 participating small or large employer carrier without first being  
20 appointed by the small or large employer carrier.

21 SECTION 8. Subdivision (1), Section 1, Article 21.53G,  
22 Insurance Code, is amended to read as follows:

23 (1) "Diabetes equipment" means:

24 (A) blood glucose monitors, including  
25 noninvasive glucose monitors and monitors designed to be used by  
26 blind individuals;

27 (B) insulin pumps and associated appurtenances;



1 (C) insulin infusion devices; and

2 (D) podiatric appliances for the prevention of  
3 complications associated with diabetes.

4 SECTION 9. (a) Except for the tax exemption in Subdivision  
5 (4), Subsection (g), Article 26.14A, Insurance Code, as added by  
6 this Act, not later than January 1, 2004, the commissioner of  
7 insurance shall adopt rules as necessary to implement the changes  
8 in law made by this Act.

9 (b) With respect to the tax exemption in Subdivision (4),  
10 Subsection (g), Article 26.14A, Insurance Code, as added by this  
11 Act, the comptroller of public accounts shall adopt rules or  
12 procedures as necessary to implement the exemption.

13 SECTION 10. This Act takes effect September 1, 2003, and  
14 applies to a health benefit plan that is delivered, issued for  
15 delivery, amended, or renewed on or after January 1, 2004. A plan  
16 that is delivered, issued for delivery, amended, or renewed before  
17 January 1, 2004, is governed by the law as it existed immediately  
18 before the effective date of this Act, and that law is continued in  
19 effect for that purpose.

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President of the Senate

\_\_\_\_\_  
Speaker of the House

I hereby certify that S.B. No. 10 passed the Senate on April 9, 2003, by a viva-voce vote; and that the Senate concurred in House amendments on May 29, 2003, by a viva-voce vote.

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Secretary of the Senate

I hereby certify that S.B. No. 10 passed the House, with amendments, on May 26, 2003, by a non-record vote.

\_\_\_\_\_  
Chief Clerk of the House

Approved:

\_\_\_\_\_  
Date

\_\_\_\_\_  
Governor