

By: Averitt

S.B. No. 10

A BILL TO BE ENTITLED

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 employers, including small employers, large
4 employers, or both small and large employers at the option of the
5 health group cooperative.

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

11 (c) A health group cooperative shall allow employers to join
12 the health group cooperative and enroll in its health benefit plan
13 coverage during its initial enrollment and annual open enrollment
14 periods.

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

20 (e) A health group cooperative shall specify circumstances,
21 which must include experiencing a substantial financial hardship,
22 that would allow an employer to terminate its participation in the
23 health group cooperative.

24 (f) An employer's participation in a health group
25 cooperative is voluntary, but an employer electing to participate
26 in a health group cooperative must commit to purchasing coverage
27 through the health group cooperative for two years, except as

1 provided by Subsection (e) of this article.

2 (g) A health carrier issuing coverage to a health group
3 cooperative:

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

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

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

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

20 (h) Notwithstanding any other law, a health benefit plan
21 issued by a health carrier to provide coverage with a health group
22 cooperative is not subject to a law that requires coverage or the
23 offer of coverage of a health care service or benefit. The
24 commissioner by rule shall implement the exemption authorized by
25 this subsection.

26 (i) A health carrier may, with notice to the commissioner,
27 provide health benefit plan coverage to an expanded service area

1 that includes the entire state. A health carrier may apply for
2 approval of an expanded service area that comprises less than the
3 entire state by filing with the commissioner an application, in a
4 form and manner prescribed by the commissioner, at least 60 days
5 before the date the health carrier issues coverage to the health
6 group cooperative in the expanded service area. At the expiration
7 of 60 days after the date of receipt by the department of a filed
8 form, contract, or policy, the application shall be deemed approved
9 by the department unless, before that date, the application was
10 either affirmatively approved or disapproved by written order of
11 the commissioner. The commissioner, after notice and opportunity
12 for hearing, may rescind an approval granted to a health carrier
13 under this subsection if the commissioner finds that the health
14 carrier has failed to market fairly to all small and large employers
15 in the state or the expanded service area.

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

18 Art. 26.15. POWERS AND DUTIES OF TEXAS HEALTH BENEFITS
19 PURCHASING COOPERATIVE, [AND] PRIVATE PURCHASING COOPERATIVES, AND
20 HEALTH GROUP COOPERATIVES.

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

24 (d) A cooperative shall comply with federal laws applicable
25 to cooperatives and health benefit plans issued through
26 cooperatives, to the extent required by state law or rules adopted
27 by the commissioner of insurance. A cooperative shall comply with

1 state laws applicable to cooperatives and health benefit plans
2 issued through cooperatives. A cooperative may not limit,
3 restrict, or condition an employer's or employee's membership in
4 the cooperative or choice among benefit plans based on the risk
5 characteristics of a group or of any member of a group.

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

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

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

19 (b) A private purchasing cooperative is considered an
20 employer solely for the purposes of benefit elections under the
21 code. A health group cooperative is considered a single employer
22 under this code and shall be treated in the same manner as a single
23 small employer for the purposes of this chapter, including for the
24 purposes of developing and adjusting premium rates and with regard
25 to all provisions relating to premium rates, except that a health
26 carrier is not obligated to guarantee issuance of coverage to a
27 health group cooperative. A health group cooperative shall have

1 sole authority to make benefit elections and perform other
2 administrative functions under the code for the cooperative's
3 participating employers. The department shall develop an expedited
4 approval process for health benefit plan coverage arranged by a
5 health group cooperative.

6 (d) A licensed agent used and compensated by the cooperative
7 need not be appointed by each small or large employer carrier
8 participating in the cooperative in order to market the products
9 and services sponsored by the cooperative. However, a licensed
10 agent may not market any other non-sponsored product or service of a
11 participating small or large employer carrier without first being
12 appointed by the small or large employer carrier.

13 SECTION 8. 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.