

By: Nelson

S.B. No. 23

A BILL TO BE ENTITLED

AN ACT

relating to promoting the purchase and availability of health coverage.

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

ARTICLE 1. TEXLINK TO HEALTH COVERAGE PROGRAM

SECTION 1.01. Chapter 524, Insurance Code, is amended to read as follows:

CHAPTER 524. TEXLINK TO HEALTH COVERAGE [~~AWARENESS AND EDUCATION~~]

PROGRAM

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 524.001. DEFINITIONS. In this chapter:

(1) "Division" means the TexLink to health coverage division of the department.

(2) "Program" means the TexLink to Health Coverage Program established in accordance with this chapter.

Sec. 524.002. TEXLINK TO HEALTH COVERAGE DIVISION. The TexLink to health coverage division is a division in the department. Under the direction of the commissioner, the division implements this chapter and performs other duties assigned to the division under this code.

Sec. 524.003. TEXLINK TO HEALTH COVERAGE PROGRAM ESTABLISHED. (a) The department shall develop and implement a TexLink to health coverage [~~public awareness and education~~] program that complies with this chapter. The program must:

1 (1) educate the public about the importance and value
2 of health coverage;

3 (2) promote personal responsibility for health care
4 through the purchase of health coverage;

5 (3) assist small employers, individuals, and others
6 seeking to purchase health coverage with technical information
7 necessary to understand available health coverage products;

8 (4) promote and facilitate the development and
9 availability of new health coverage options;

10 (5) increase public awareness of health coverage
11 options available in this state; and

12 (6) ~~[(2) educate the public on the value of health~~
13 ~~coverage; and~~

14 ~~[(3)]~~ provide information on health coverage options,
15 including health savings accounts and compatible high deductible
16 health benefit plans.

17 (b) The program must include a public awareness and
18 education component.

19 SUBCHAPTER B. PUBLIC AWARENESS AND EDUCATION

20 Sec. 524.051. INFORMATION ABOUT SPECIFIC HEALTH BENEFIT
21 PLAN ISSUERS. In materials produced for the program, the division
22 ~~[(b) The department]~~ may include information about specific health
23 benefit plan [coverage] issuers but may not favor or endorse one
24 particular issuer over another.

25 Sec. 524.052. [524.002.] PUBLIC SERVICE ANNOUNCEMENTS. The
26 division [department] shall develop and make public service
27 announcements to educate consumers and employers about the

1 availability of health coverage in this state.

2 Sec. 524.053. [~~524.003.~~] INTERNET WEBSITE; PRINTED
3 MATERIALS; NEWSLETTER [~~PUBLIC EDUCATION~~]. (a) The division
4 [~~department~~] shall develop an Internet website and printed
5 materials designed to educate small employers, individuals, and
6 others seeking to purchase health coverage [~~the public~~] about [~~the~~
7 ~~availability of~~] health coverage in accordance with Section
8 524.003(a) [~~in this state, including information about health~~
9 ~~savings accounts and compatible high deductible health benefit~~
10 ~~plans~~].

11 (b) The division shall make the printed materials produced
12 under the program available to small employers, individuals, and
13 others seeking to purchase health coverage. The division may:

14 (1) distribute the printed materials through
15 facilities such as libraries, health care facilities, and schools
16 as well as other venues the division selects; and

17 (2) use other distribution methods the division
18 selects.

19 (c) The division may produce a newsletter to provide updated
20 information about health coverage to subscribers who elect to
21 receive the newsletter. The division may:

22 (1) produce a newsletter under this subsection for
23 small employers, for individuals, or for other purchasers of health
24 coverage;

25 (2) distribute the newsletter on a monthly, quarterly,
26 or other basis; and

27 (3) distribute the newsletter as a printed document or

1 electronically.

2 Sec. 524.054. TOLL-FREE TELEPHONE HOTLINE. The division
3 may operate a toll-free telephone hotline or 2-1-1 information line
4 to respond to inquiries or provide information concerning health
5 coverage and to provide technical information concerning health
6 coverage products.

7 Sec. 524.055. EDUCATION FOR HIGH SCHOOL STUDENTS. (a) The
8 division may develop educational materials and a curriculum to be
9 used in high school economics classes that educate students about:

- 10 (1) the importance and value of health coverage;
11 (2) comparing health benefit plans; and
12 (3) understanding basic provisions contained in
13 health benefit plans.

14 (b) The division may consult with the Texas Education Agency
15 in developing educational materials and a curriculum under this
16 section.

17 Sec. 524.056. HEALTH COVERAGE FAIRS. (a) The division may
18 conduct health coverage fairs to provide small employers,
19 individuals, and others seeking to purchase health coverage the
20 opportunity to obtain information about health coverage from
21 division employees and from health benefit plan issuers and agents
22 that elect to participate.

23 (b) The division shall seek to obtain funding for health
24 coverage fairs conducted under this section through gifts and
25 grants obtained in accordance with Subchapter D.

26 Sec. 524.057. COMMUNITY EVENTS. The division may
27 participate in events held in this state to promote awareness of the

1 importance and value of health coverage and to educate small
2 employers, individuals, and others seeking to purchase health
3 coverage about health coverage in accordance with Section
4 524.003(a).

5 Sec. 524.058. HEALTH COVERAGE PROVIDED THROUGH COLLEGES AND
6 UNIVERSITIES. The division may cooperate with a public or private
7 college or university to promote enrollment in health coverage
8 programs sponsored by or through the college or university.

9 Sec. 524.059. SUPPORT FOR COMMUNITY-BASED PROJECTS. The
10 division may provide support and assistance to individuals and
11 organizations seeking to develop community-based health coverage
12 plans for uninsured individuals.

13 Sec. 524.060. OTHER EDUCATION. The division may [~~department~~
14 ~~shall~~] provide other appropriate education to the public regarding
15 health coverage and the importance and value of health coverage in
16 accordance with Section 524.003(a).

17 Sec. 524.061. [~~524.004.~~] TASK FORCE. (a) The commissioner
18 may [~~shall~~] appoint a task force to make recommendations regarding
19 the division's duties under this subchapter [~~health coverage public~~
20 ~~awareness and education program~~]. If appointed, the [~~The~~] task
21 force must be [~~is~~] composed of:

22 (1) one representative from each of the following
23 groups or entities:

- 24 (A) health [~~benefit~~] coverage consumers;
25 (B) small employers;
26 (C) employers generally;
27 (D) insurance agents;

- 1 (E) the office of public insurance counsel;
- 2 (F) the Texas Health Insurance Risk Pool;
- 3 (G) physicians;
- 4 (H) advanced practice nurses;
- 5 (I) hospital trade associations; and
- 6 (J) medical units of institutions of higher
- 7 education;

8 (2) a representative of the Health and Human Services
 9 Commission responsible for programs under Medicaid and the
 10 children's health insurance program; and

11 (3) one or more representatives of health benefit plan
 12 issuers.

13 (b) In addition to the individuals listed in Subsection (a),
 14 the commissioner may select to serve on any task force one or more
 15 individuals with experience in public relations, marketing, or
 16 another related field of professional services.

17 (c) The division may [~~department shall~~] consult the task
 18 force regarding the content for the public service announcements,
 19 Internet website, printed materials, and other educational
 20 materials required or authorized by this subchapter [~~chapter~~]. The
 21 commissioner has authority to make final decisions as to what the
 22 program's materials will contain.

23 SUBCHAPTER C. ASSISTANCE FOR CERTAIN BUSINESSES

24 Sec. 524.101. FEDERAL TAX "TOOL KIT" FOR CERTAIN
 25 BUSINESSES. The division may:

- 26 (1) produce materials that:
- 27 (A) provide step-by-step instructions for a

1 small employer or single-employee business that is obtaining health
2 coverage for the benefit of the employer or business and the
3 employees of the business; and

4 (B) are designed to allow the employer or
5 business to obtain the coverage in a manner that qualifies for
6 favorable treatment under federal tax laws; and

7 (2) make division staff available to assist small
8 employers and single-employee businesses that are obtaining health
9 coverage as described by Subdivision (1).

10 Sec. 524.102. ASSISTANCE FOR SMALL EMPLOYERS AND
11 SINGLE-EMPLOYEE BUSINESSES. The division may train staff
12 concerning available health coverage options for small employers
13 and single-employee businesses to:

14 (1) respond to telephone inquiries from small
15 employers and single-employee businesses; and

16 (2) speak at events to provide information about
17 health coverage options for small employers and single-employee
18 businesses and about the importance and value of health coverage.

19 Sec. 524.103. COOPERATIVES FOR SMALL EMPLOYERS, LARGE
20 EMPLOYERS, AND SINGLE-EMPLOYEE BUSINESSES. The division may
21 develop a program to assist small employers, large employers, and
22 single-employee businesses to form or participate in private
23 purchasing cooperatives and health group cooperatives in
24 accordance with Subchapter B, Chapter 1501.

25 Sec. 524.104. ACCOUNTANT. The division may employ an
26 accountant with experience in federal tax law and the purchase of
27 group health coverage as necessary to implement this subchapter.

SUBCHAPTER D. FUNDING

1
2 Sec. 524.151 [~~524.005~~]. FUNDING. The department may
3 accept gifts and grants from any party, including a health benefit
4 plan issuer or a foundation associated with a health benefit plan
5 issuer, to assist with funding the program. The department shall
6 adopt rules governing acceptance of donations that are consistent
7 with Chapter 575, Government Code. Before adopting rules under
8 this section [~~subsection~~], the department shall:

9 (1) submit the proposed rules to the Texas Ethics
10 Commission for review; and

11 (2) consider the commission's recommendations
12 regarding the regulations.

13 ARTICLE 2. CHILDREN'S HEALTH BENEFIT PLAN FOR SMALL EMPLOYERS

14 SECTION 2.01. Section 1501.002, Insurance Code, is amended
15 by adding Subdivision (1-a) and amending Subdivision (15) to read
16 as follows:

17 (1-a) "Children's health benefit plan" means a health
18 benefit plan offered in accordance with Section 1501.2525.

19 (15) "Small employer health benefit plan" means a
20 health benefit plan developed by the commissioner under Subchapter
21 F or any other health benefit plan offered to a small employer in
22 accordance with Section 1501.252(c) or 1501.255. The term includes
23 a children's health benefit plan.

24 SECTION 2.02. Section 1501.003, Insurance Code, is amended
25 to read as follows:

26 Sec. 1501.003. APPLICABILITY: SMALL EMPLOYER HEALTH
27 BENEFIT PLANS. (a) An individual or group health benefit plan is a

1 small employer health benefit plan subject to Subchapters C-H if it
2 provides health care benefits covering two or more eligible
3 employees of a small employer and:

4 (1) the employer pays a portion of the premium or
5 benefits;

6 (2) the employer or a covered individual treats the
7 health benefit plan as part of a plan or program for purposes of
8 Section 106 or 162, Internal Revenue Code of 1986 (26 U.S.C. Section
9 106 or 162); or

10 (3) the health benefit plan is an employee welfare
11 benefit plan under 29 C.F.R. Section 2510.3-1(j).

12 (b) A children's health benefit plan is a small employer
13 benefit plan subject to Subchapters C, D, and H. A children's
14 health benefit plan is not subject to Subchapters E and G.

15 SECTION 2.03. Section 1501.006(a), Insurance Code, is
16 amended to read as follows:

17 (a) In accordance with rules adopted by the commissioner,
18 each health benefit plan issuer shall certify that the issuer is
19 offering, delivering, issuing for delivery, or renewing, or that
20 the issuer intends to offer, deliver, issue for delivery, or renew:

21 (1) a health benefit plan, other than a children's
22 health benefit plan, to or through a small employer in this state
23 that is subject to this chapter; or

24 (2) a health benefit plan to or through a large
25 employer in this state that is subject to this chapter.

26 SECTION 2.04. Section 1501.101(b), Insurance Code, is
27 amended to read as follows:

1 (b) A small employer health benefit plan issuer that refuses
2 to issue a small employer health benefit plan, other than a
3 children's health benefit plan, in a geographic service area may
4 not offer a health benefit plan to a small employer in the
5 applicable service area before the fifth anniversary of the date of
6 the refusal.

7 SECTION 2.05. Section 1501.108, Insurance Code, is amended
8 by adding Subsection (d) to read as follows:

9 (d) Subsection (a) does not apply to a children's health
10 benefit plan.

11 SECTION 2.06. Section 1501.151(a), Insurance Code, is
12 amended to read as follows:

13 (a) A small employer health benefit plan issuer shall issue
14 the small employer health benefit plan, other than a children's
15 health benefit plan, chosen by the small employer to each small
16 employer that elects to be covered under the plan and agrees to
17 satisfy the other requirements of the plan.

18 SECTION 2.07. Sections 1501.154(a) and (b), Insurance Code,
19 are amended to read as follows:

20 (a) Except as provided by Section 1501.155, coverage is
21 available under a small employer health benefit plan if at least 75
22 percent of a small employer's eligible employees elect to
23 participate in the plan. This subsection does not apply if an
24 employer offers only a children's health benefit plan.

25 (b) If a small employer offers multiple health benefit
26 plans, the collective participation in those plans, including any
27 children's health benefit plan, must be at least:

1 (1) 75 percent of the employer's eligible employees;
2 or

3 (2) if applicable, the lower participation level
4 offered by the small employer health benefit plan issuer under
5 Section 1501.155.

6 SECTION 2.08. Subchapter F, Chapter 1501, Insurance Code,
7 is amended by adding Section 1501.2525 to read as follows:

8 Sec. 1501.2525. CHILDREN'S HEALTH BENEFIT PLAN. (a) A
9 small employer health benefit plan issuer may offer to a small
10 employer a children's health benefit plan in accordance with this
11 section.

12 (b) A children's health benefit plan provides coverage to
13 children younger than 25 years of age:

14 (1) who would otherwise be eligible for coverage under
15 a small employer health benefit plan offered to an eligible
16 employee; and

17 (2) whose family income is at or below 400 percent of
18 the federal poverty level as determined by rules adopted by the
19 commissioner.

20 (c) A children's health benefit plan may not provide
21 coverage to an eligible employee or the spouse of an eligible
22 employee.

23 (d) The commissioner by rule shall adopt minimum benefits
24 required to be provided under a children's health benefit plan.

25 SECTION 2.09. The commissioner of insurance shall adopt any
26 rules necessary to implement the change in law made by this article
27 not later than December 1, 2007. A small employer health benefit

1 plan issuer may not offer a children's health benefit plan under
2 Section 1501.2525, Insurance Code, as added by this article, before
3 January 1, 2008.

4 ARTICLE 3. HEALTH GROUP COOPERATIVES FOR CERTAIN
5 SINGLE-EMPLOYEE BUSINESSES

6 SECTION 3.01. Section 1501.051, Insurance Code, is amended
7 by adding Subdivision (3-b) to read as follows:

8 (3-b) "Eligible single-employee business" means a
9 business entity that:

- 10 (A) is owned and operated by a sole proprietor;
11 (B) employs an average of fewer than two
12 employees on business days during the preceding calendar year; and
13 (C) is eligible to participate in a cooperative
14 under this subchapter in accordance with Section 1501.066.

15 SECTION 3.02. Section 1501.0581, Insurance Code, is amended
16 by amending Subsections (a), (b), and (p) and adding Subsection
17 (o-1) to read as follows:

18 (a) The membership of a health group cooperative may consist
19 only of small employers, ~~or~~ may consist only of large employers,
20 or may consist only of eligible single-employee businesses, but may
21 not consist of a combination of those types of entities ~~[both small~~
22 ~~and large employers]~~. To participate as a member of a health group
23 cooperative, an employer must be a small or large employer as
24 described by this chapter or an eligible single-employee business
25 as described by Section 1501.066.

26 (b) Subject to the requirements imposed on small employer
27 health benefit plan issuers under Section 1501.101, a health group

1 cooperative:

2 (1) shall allow a small employer to join a health group
3 cooperative consisting only of small employers and enroll in health
4 benefit plan coverage, subject to Subsection (o); ~~and~~

5 (2) may allow an eligible single-employee business to
6 join a health group cooperative consisting only of eligible
7 single-employee businesses and enroll in health benefit plan
8 coverage; and

9 (3) may allow a large employer to join a health group
10 cooperative consisting only of large employers and enroll in health
11 benefit plan coverage.

12 (o-1) A health group cooperative consisting only of
13 eligible single-employee businesses may elect to restrict
14 membership in the cooperative so that the total number of eligible
15 employees employed on business days during the preceding calendar
16 year by all eligible single-employee businesses participating in
17 the cooperative does not exceed 50.

18 (p) A health group cooperative must make the election
19 described by Subsection (o) or (o-1) at the time the cooperative is
20 initially formed. Evidence of the election must be filed in writing
21 with the commissioner in the form and at the time prescribed by the
22 commissioner by rule.

23 SECTION 3.03. Sections 1501.063(b-1) and (b-2), Insurance
24 Code, are amended to read as follows:

25 (b-1) Subject to Section 1501.066, a [A] health group
26 cooperative that is composed only of small employers or only of
27 eligible single-employee businesses and that has made the election

1 described by Section 1501.0581(o)(1) or (o-1), as applicable, in
2 accordance with Subsection (p) of that section shall be treated in
3 the same manner as a small employer for the purposes of this
4 chapter, including for the purposes of any provision relating to
5 premium rates and issuance and renewal of coverage.

6 (b-2) A health group cooperative that is composed only of
7 small employers or only of eligible single-employee businesses and
8 that has not made the election described by Section 1501.0581(o)(1)
9 or (o-1), as applicable, in accordance with Subsection (p) of that
10 section, or a health group cooperative that is composed only of
11 large employers, shall be treated in the same manner as a large
12 employer for the purposes of this chapter, including for the
13 purposes of any provision relating to premium rates and issuance
14 and renewal of coverage.

15 SECTION 3.04. Subchapter B, Chapter 1501, Insurance Code,
16 is amended by adding Section 1501.066 to read as follows:

17 Sec. 1501.066. ELIGIBLE SINGLE-EMPLOYEE BUSINESS. (a) The
18 commissioner by rule shall adopt rules governing the eligibility of
19 a single-employee business to participate in a health group
20 cooperative under this subchapter. The rules must include
21 provisions to ensure that each eligible single-employee business
22 has a business purpose and was not formed solely to obtain health
23 benefit plan coverage under this subchapter.

24 (b) The commissioner may specify additional requirements
25 for a health group cooperative composed solely of eligible
26 single-employee businesses to qualify for coverage as a small
27 employer under this chapter or, if the commissioner finds that

1 treatment of such a cooperative as a small employer is not
2 actuarially justified, may require that a health group cooperative
3 composed solely of eligible single-employee businesses be treated
4 as a large employer under this chapter.

5 SECTION 3.05. The commissioner of insurance shall adopt any
6 rules necessary to implement the change in law made by this article
7 not later than December 1, 2007. A person may not form a health
8 group cooperative composed solely of eligible single-employee
9 businesses under Subchapter B, Chapter 1501, Insurance Code, as
10 amended by this article, before January 1, 2008.

11 ARTICLE 4. SPECIALTY CERTIFICATION FOR CERTAIN LIFE, ACCIDENT, AND
12 HEALTH AGENTS

13 SECTION 4.01. Chapter 4054, Insurance Code, is amended by
14 adding Subchapter G to read as follows:

15 SUBCHAPTER G. SPECIALTY CERTIFICATION FOR AGENTS SERVING CERTAIN
16 EMPLOYER GROUPS

17 Sec. 4054.301. CERTIFICATION PROGRAM. The department shall
18 establish a voluntary specialty certification program for agents
19 who market small employer health benefit plans in accordance with
20 Chapter 1501.

21 Sec. 4054.302. QUALIFICATIONS; FEE. (a) To be eligible to
22 receive a specialty certification under this subchapter, a person
23 must:

24 (1) hold a general life, accident, and health license
25 under this chapter;

26 (2) satisfy the requirements of this subchapter;

27 (3) apply to the department in the manner prescribed

1 by the commissioner; and

2 (4) pay the required application and renewal fees.

3 (b) The department shall set the application and renewal
4 fees for the specialty certification in the amount necessary to
5 fund the certification program established by this subchapter, not
6 to exceed \$100. The fees shall be deposited to the credit of the
7 Texas Department of Insurance operating account.

8 Sec. 4054.303. EXPIRATION AND RENEWAL. A specialty
9 certification under this subchapter expires on the third
10 anniversary of the date of issuance and may be renewed in accordance
11 with this subchapter and department rule.

12 Sec. 4054.304. TRAINING AND CONTINUING EDUCATION
13 REQUIREMENTS. (a) To be certified under this subchapter, an agent
14 must complete training in the law, including department rules,
15 applicable to small employer health benefit plans offered under
16 Chapter 1501.

17 (b) To renew a specialty certification under this
18 subchapter, the agent must demonstrate completion of continuing
19 education requirements during the three-year certification period.

20 (c) The department shall recognize, prepare, or administer
21 training and continuing education programs for agents who hold a
22 specialty certification under this subchapter. The department
23 shall ensure that the training and continuing education programs
24 are updated on an ongoing basis to reflect changes in law, including
25 changes in department rules.

26 Sec. 4054.305. OFFER OF SERVICES TO ALL GROUP SIZES. To
27 hold a specialty certification under this subchapter, an agent must

1 agree to market small employer health benefit plans to small
2 employers that satisfy the requirements of Chapter 1501 without
3 regard to the number of employees to be covered under the plan.

4 Sec. 4054.306. ADVERTISING. An agent who holds a specialty
5 certification may advertise that the agent is specially trained to
6 serve small employers in the manner specified by department rule.

7 Sec. 4054.307. LIST MAINTAINED BY DEPARTMENT; WEBSITE. The
8 department shall maintain a list of all agents who hold a specialty
9 certification under this chapter, together with the business
10 address and phone number of each agent and a general description of
11 the agent's service area. The department shall publish the list on
12 the department website.

13 SECTION 4.02. To facilitate initial implementation of
14 Subchapter G, Chapter 4054, Insurance Code, as added by this
15 article, the Texas Department of Insurance may present during the
16 12-month period following the effective date of this Act, in
17 locations throughout the state selected by the department, training
18 programs that satisfy the requirements of Section 4054.304(a),
19 Insurance Code, as added by this article.

20 SECTION 4.03. Not later than January 1, 2008, the Texas
21 Department of Insurance may begin issuing specialty certifications
22 under Subchapter G, Chapter 4054, Insurance Code, as added by this
23 article.

24 ARTICLE 5. EFFECTIVE DATE

25 SECTION 5.01. This Act takes effect September 1, 2007.