

By: Zaffirini

S.B. No. 55

A BILL TO BE ENTITLED

AN ACT

relating to registration and regulation of certain discount health plans; providing penalties.

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

SECTION 1. Subtitle H, Title 6, Insurance Code, is amended by adding Chapter 963 to read as follows:

CHAPTER 963. DISCOUNT HEALTH PLANS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 963.001. DEFINITIONS. In this chapter:

(1) "Discount health plan" means a noninsurance plan that:

(A) provides discounts on:

(i) medical, prescription, or dental services; or

(ii) other health-related products and services; and

(B) does not:

(i) share risk;  
(ii) include cost sharing arrangements;  
(iii) exclude pre-existing conditions;  
(iv) determine benefits; or  
(v) include participating provider option plans.

(2) "Person" means an individual, corporation, trust,

1 partnership, association, or any other legal entity.

2 Sec. 963.002. LIMITED EXEMPTION FROM INSURANCE LAWS;  
3 APPLICABILITY OF CHAPTER. (a) A discount health plan is not an  
4 insurer or a health maintenance organization and is not engaged in  
5 the business of insurance or the business of a health maintenance  
6 organization.

7 (b) A provision of this code, other than this chapter, does  
8 not apply to a discount health plan holding a certificate of  
9 registration under this chapter unless:

10 (1) discount health plans as defined in this chapter  
11 are expressly mentioned in the other law; or

12 (2) the provision expressly states that it applies to  
13 a discount health plan under this chapter.

14 (c) The commissioner and the department shall administer  
15 this chapter in accordance with Title 2, and a person holding a  
16 certificate of registration under this chapter is subject to the  
17 provisions of Subtitle B, Title 2.

18 [Sections 963.003-963.050 reserved for expansion]

19 SUBCHAPTER B. POWERS AND DUTIES OF  
20 COMMISSIONER AND DEPARTMENT

21 Sec. 963.051. ADMINISTRATION OF CHAPTER. The commissioner  
22 and department shall administer this chapter.

23 Sec. 963.052. DEPARTMENT STAFF. The department may employ  
24 administrative and clerical staff as necessary to carry out this  
25 chapter.

26 Sec. 963.053. RULEMAKING. (a) The commissioner shall adopt  
27 procedural rules to implement the registration procedures adopted

1 under this chapter and to establish minimum standards for discount  
2 health plans.

3 (b) The commissioner may adopt substantive and procedural  
4 rules relating to:

5 (1) establishing minimum requirements for the  
6 registration of a discount health plan;

7 (2) suspending, denying, or revoking a certificate of  
8 registration or placing a certificate holder on probation;

9 (3) prescribing fees under this chapter; and

10 (4) adopting forms required by this chapter.

11 Sec. 963.054. FEES. The commissioner by rule shall  
12 prescribe fees in reasonable amounts sufficient to cover the costs  
13 of administering this chapter, including fees for:

14 (1) an initial application for a certificate of  
15 registration;

16 (2) issuance of a certificate of registration;

17 (3) issuance of a renewal certificate of registration;

18 and

19 (4) issuance of a duplicate certificate of  
20 registration or duplicate renewal certificate of registration.

21 Sec. 963.055. RULES REGARDING ADVERTISING OR COMPETITIVE  
22 BIDDING. (a) The commissioner may not adopt rules restricting  
23 advertising or competitive bidding by a registrant except to  
24 prohibit false, misleading, or deceptive practices.

25 (b) In the commissioner's rules to prohibit false,  
26 misleading, or deceptive practices, the commissioner may not  
27 include a rule that:

- 1           (1) restricts the use of any medium for advertising;  
2           (2) restricts the use of a registrant's personal  
3 appearance or voice in an advertisement;  
4           (3) relates to the size or duration of an  
5 advertisement by the registrant; or  
6           (4) restricts the registrant's advertisement under a  
7 trade name.

8           [Sections 963.056-963.100 reserved for expansion]

9           SUBCHAPTER C. CERTIFICATE OF REGISTRATION

10          Sec. 963.101. REPRESENTATION TO PUBLIC. (a) A person may  
11 not represent to the public that the person is a "Discount Health  
12 Plan" unless the person is registered with the department as a  
13 discount health plan and complies with this chapter.

14          (b) A person may not use abbreviations or other letters to  
15 represent that the person is registered unless the person holds a  
16 certificate of registration under this chapter.

17          (c) A person that holds a certificate of registration under  
18 this chapter may represent to the public that the person is a  
19 "Discount Health Plan."

20          Sec. 963.102. ISSUANCE OF CERTIFICATE. The department  
21 shall issue a certificate of registration to an applicant who:

- 22               (1) applies and pays a registration fee; and  
23               (2) meets the qualifications for registration under  
24 this chapter and rules adopted under this chapter.

25          Sec. 963.103. CERTIFICATE DISPLAY; SURRENDER. (a) A  
26 person issued a certificate of registration shall publicly display  
27 the certificate in the manner specified by commissioner rule.

1       (b) The certificate is the property of the department and  
2 shall be surrendered on demand.

3       [Sections 963.104-963.150 reserved for expansion]

4       SUBCHAPTER D. RENEWAL OF CERTIFICATE OF REGISTRATION

5       Sec. 963.151. TERM OF CERTIFICATE. (a) A certificate of  
6 registration is valid for one year after the date of issuance.

7       (b) The department may adopt a system under which  
8 certificates of registration expire and are renewed on various  
9 dates.

10       (c) Not later than the 30th day before the date a person's  
11 certificate of registration is scheduled to expire, the department  
12 shall send written notice of the impending expiration to the person  
13 at the person's last known address according to the records of the  
14 department.

15       (d) A person whose certificate of registration has expired  
16 may not make a representation for which a certificate of  
17 registration is required under Section 963.101 until the  
18 certificate has been renewed.

19       Sec. 963.152. RENEWAL OF CERTIFICATE. (a) To renew a  
20 certificate of registration, a person must submit an application  
21 for renewal in the manner prescribed by the commissioner.

22       (b) A person who is otherwise eligible to renew a  
23 certificate of registration may renew an unexpired certificate by  
24 paying to the department the required renewal fee before the  
25 expiration date of the certificate.

26       (c) A person whose certificate of registration has been  
27 expired for 90 days or less may renew the certificate by paying to

1 the department a renewal fee that is equal to 1-1/2 times the  
2 normally required renewal fee.

3 (d) A person whose certificate of registration has been  
4 expired for more than 90 days but less than one year may renew the  
5 certificate by paying to the department a renewal fee that is equal  
6 to two times the normally required renewal fee.

7 (e) A person whose certificate of registration has been  
8 expired for one year or more may not renew the certificate. The  
9 person may obtain a new certificate of registration by complying  
10 with the requirements and procedures for an original certificate.

11 Sec. 963.153. CONTINUING EDUCATION. The commissioner may  
12 recognize, prepare, or administer continuing education programs  
13 for holders of certificates of registration under this chapter. A  
14 person registered under this chapter must participate in the  
15 programs to the extent required by the commissioner to keep the  
16 person's certificate of registration.

17 [Sections 963.154-963.200 reserved for expansion]

18 SUBCHAPTER E. PRACTICE BY CERTIFICATE HOLDER

19 Sec. 963.201. REQUIRED DISCLOSURE. A provider of a discount  
20 health plan shall disclose to a consumer in the manner prescribed by  
21 the commissioner that the plan is not health insurance or a health  
22 maintenance organization.

23 Sec. 963.202. PROHIBITED CLAIMS. Unless the claim has a  
24 verifiable and factual basis, a discount health plan may not claim  
25 its plan offers discounts related to health care access or to  
26 specific provider networks, including preferred provider networks,  
27 or to pharmacies.

[Sections 963.203-963.250 reserved for expansion]

SUBCHAPTER F. DISCIPLINARY PROCEDURES

Sec. 963.251. DENIAL OF CERTIFICATE; DISCIPLINARY ACTION.

The department shall deny an application for a certificate of registration, suspend or revoke a certificate of registration, or reprimand a person who is registered under this chapter if the person:

(1) obtains a certificate of registration by means of fraud, misrepresentation, or concealment of a material fact;

(2) sells, barter, or offers to sell or barter a certificate of registration; or

(3) violates this chapter or a rule adopted by the commissioner.

Sec. 963.252. INVESTIGATION. The department shall investigate:

(1) a person who engages in a practice that violates this chapter; and

(2) each complaint filed with the department against a person registered under this chapter.

Sec. 963.253. PROBATION. The department may place on probation a person whose certificate of registration is suspended. If the suspension is probated, the board may require the person to:

(1) report regularly to the department on matters that are the basis of the probation;

(2) limit practice to the areas prescribed by the department; or

(3) continue or review professional education until

1 the person attains a degree of skill satisfactory to the board in  
2 those areas that are the basis of the probation.

3 Sec. 963.254. HEARING. (a) A person whose application for a  
4 certificate of registration is denied, whose certificate of  
5 registration is suspended or revoked, or who is reprimanded is  
6 entitled to a hearing before the department if the person submits to  
7 the department a written request for the hearing.

8 (b) A hearing is governed by department rules for a  
9 contested hearing and by Chapter 2001, Government Code.

10 [Sections 963.255-963.300 reserved for expansion]

11 SUBCHAPTER G. OTHER PENALTIES AND ENFORCEMENT PROVISIONS

12 Sec. 963.301. ENFORCEMENT PROCEEDINGS; INJUNCTION. (a)  
13 The department, the attorney general, or the district or county  
14 attorney for the county in which an alleged violation of this  
15 chapter occurs shall, on receipt of a verified complaint, bring an  
16 appropriate administrative or judicial proceeding to enforce this  
17 chapter or a rule adopted under this chapter.

18 (b) The attorney general or an attorney representing the  
19 state may initiate an action for an injunction to prohibit a person  
20 from violating this chapter or a rule adopted under this chapter.

21 Sec. 963.302. CIVIL PENALTY. In addition to any other  
22 remedy provided by law, including injunctive relief, a court may  
23 impose a civil penalty for a violation of this chapter or a rule  
24 adopted under this chapter.

25 SECTION 2. (a) Not later than June 1, 2008, the Texas  
26 Department of Insurance shall prescribe the forms and procedures  
27 and the commissioner of insurance shall adopt the rules necessary



1 to implement Chapter 963, Insurance Code, as added by this Act.

2 (b) Notwithstanding Chapter 963, Insurance Code, as added  
3 by this Act, a person is not required to hold a certificate of  
4 registration under that chapter before September 1, 2008.

5 SECTION 3. (a) Except as provided by Subsection (b) of this  
6 section, this Act takes effect September 1, 2007.

7 (b) Section 963.101, Insurance Code, and Subchapters F and  
8 G, Chapter 963, Insurance Code, as added by this Act, take effect  
9 September 1, 2008.