

BILL ANALYSIS

C.S.S.B. 842
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Insurance
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Health care sharing organizations allow participants of similar faith and sincere religious beliefs to voluntarily assist fellow participants with the payment of medical expenses. In many instances, participants of a health care sharing organization provide assistance to individuals who are without health insurance coverage and, in doing so, provide important services that the state would otherwise have to provide.

There has been some debate regarding whether these health care sharing organizations are subject to insurance laws and discount health care program laws. Some believe that these laws would interfere with the religious practices of participants in health care sharing organizations and that due to their beneficial work and religious nature, health care sharing organizations should be statutorily recognized as religious organizations assisting in the fulfillment of organization participants' religious beliefs and should not be treated in the same manner as secular health care coverage, including insurance. In addition, the Texas Religious Freedom Restoration Act protects participants' free exercise of religion and prohibits a government agency from substantially burdening a person's free exercise of religion. Similar legislation already exists in Florida, Iowa, Kansas, Kentucky, Maryland, Missouri, Oklahoma, Pennsylvania, Utah, Virginia, and Wisconsin. The American Legislative Exchange Council has also adopted a model act called the "Health Care Sharing Ministries Freedom to Share Act."

C.S.S.B. 842 provides for the operation of health care sharing organizations in Texas to provide noninsurance health coverages.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the attorney general in SECTION 2 of this bill.

ANALYSIS

C.S.S.B. 842 amends the Insurance Code to enact the Health Care Sharing Organizations Freedom to Share Act and sets forth the qualifications for an organization that administers a health care sharing arrangement among individuals of the same religion based on the individuals' sincerely held religious belief to be treated as a health care sharing organization. The bill provides the printing requirements for and the language that must be included on each notice on an application for participation in a health care sharing arrangement distributed directly or on behalf of the health care sharing organization. The bill authorizes a health care sharing organization to establish additional qualifications for participation in the health care sharing arrangement, to limit the financial or medical-related needs that may be eligible for payment among the participants, to cancel a participant's participation in the health care sharing arrangement if the participant fails to make a specific payment to another participant before the 60th day after the date the payment is due, and to issue participant membership cards, which must include the statement "Not Insurance." The bill prohibits a health care sharing organization from requiring that participants speak English.

C.S.S.B. 842 exempts a health care sharing organization from the requirements of discount health care programs, from the operation of Texas insurance laws, and from the commissioner of insurance's oversight. The bill grants jurisdiction to the office of the attorney general over health care sharing organizations to ensure compliance with these provisions and for the prevention and prosecution of deceptive trade practices and fraud and for consumer protection. The bill requires a health care sharing organization to provide to the attorney general, on request, any audit conducted of the organization and any original or amended annual filing made by the organization with the United States Internal Revenue Service and authorizes the attorney general to adopt rules to implement this requirement.

C.S.S.B. 842 specifies that a participant in a health care sharing organization is a consumer for purposes of provisions in the Business & Commerce Code that make deceptive trade practices subject to action by the attorney general's consumer protection division, and is entitled to the protections of the office of the attorney general as provided by those provisions. The bill provides that participants in a health care sharing arrangement and the health care sharing organization do not assume any risk or make any promise to pay the financial or medical-related needs of other participants and are not risk-bearing entities, and that none of the activities associated with a health care sharing arrangement give rise to an assumption of risk or promise to pay by either the participants or the health care sharing organization.

C.S.S.B. 842 authorizes a health care sharing organization to arrange for participants to share bills when a participant experiences disability and to provide health counseling, education, and resources to participants in the health care sharing arrangement. The bill authorizes a health care sharing organization to contract with a third-party administrator or a preferred provider organization or similar entity to facilitate the operation of the organization and exempts a health care sharing organization that enters into such an arrangement from being subject to the requirements of discount health care programs, from the operation of Texas insurance laws, and from the commissioner of insurance's oversight.

C.S.S.B. 842 requires the organization to file an annual report regarding its operations in Texas during that fiscal year with the governor, attorney general, lieutenant governor, and speaker of the house of representatives not later than January 1 of each year.

C.S.S.B. 842 adds a health care sharing organization to the list of those organizations that contract to provide indemnification or expense reimbursement for a medical expense but are not considered to practice the business of insurance in Texas.

C.S.S.B. 842 amends the Health and Safety Code to exempt a health care sharing organization from being subject as a program operator or marketer of discount health care programs to applicable consumer protection laws regarding deceptive trade practices.

C.S.S.B. 842 establishes legislative intent regarding the statutory recognition of health care sharing organizations as religious organizations.

EFFECTIVE DATE

On passage, or, if the act does not receive the necessary vote, the act takes effect September 1, 2009.

COMPARISON OF ORIGINAL AND SUBSTITUTE

C.S.S.B. 842 differs from the original by specifying that a participant in a health care sharing organization is entitled to the protections of the office of the attorney general as provided by provisions in the Business & Commerce Code that make deceptive trade practices subject to action by the attorney general's consumer protection division, whereas the original entitles the

participant to the protections provided by provisions relating to deceptive trade practice in general.