

By: Gattis

H.B. No. 2470

A BILL TO BE ENTITLED

AN ACT

relating to the establishment of the Texas Mutual Health Benefit Plan Company.

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

SECTION 1. Title 8, Insurance Code, is amended by adding Subtitle K to read as follows:

SUBTITLE K. TEXAS MUTUAL HEALTH BENEFIT PLAN COMPANY

CHAPTER 1680. TEXAS MUTUAL HEALTH BENEFIT PLAN COMPANY

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 1680.001. DEFINITIONS. In this chapter:

(1) "Board" means the board of directors of the company.

(2) "Company" means the Texas Mutual Health Benefit Plan Company.

(3) "Health benefit plan" means a plan that provides benefits for medical, surgical, or other treatment expenses incurred as a result of a physical health condition, a mental health condition, an accident, a sickness, or substance abuse, including a group, blanket, or franchise insurance policy, insurance agreement, evidence of coverage, or a similar coverage document.

(4) "Health benefit plan issuer" means an entity authorized by this code to issue health benefit plans in this state.

Sec. 1680.002. OPERATION AS DOMESTIC MUTUAL INSURANCE COMPANY. (a) The company operates as a domestic mutual insurance

1 company under Chapter 883. The company is subject to that chapter,
2 but is not subject to Chapter 826.

3 (b) The company:

4 (1) has the legal rights of a mutual insurance company
5 operating under Chapter 883 and of an individual in this state; and

6 (2) may bring a suit in the company's own name without
7 any procedural prerequisites to the exercise of that power.

8 (c) The company is not a state agency or executive agency or
9 a governmental entity for any purpose.

10 Sec. 1680.003. APPLICABILITY OF CODE. The company is
11 subject to this code.

12 Sec. 1680.004. AUTHORITY OF COMMISSIONER AND DEPARTMENT.

13 (a) The commissioner may regulate the company:

14 (1) to the same extent that the commissioner may
15 regulate a mutual insurance company; and

16 (2) as provided by Section 1680.153.

17 (b) The company is subject to the jurisdiction of the
18 commissioner and department in the same manner as a private
19 insurance company.

20 Sec. 1680.005. OPEN MEETINGS LAW AND OPEN RECORDS LAW NOT
21 APPLICABLE. Notwithstanding any other state law, Chapters 551 and
22 552, Government Code, do not apply to the company.

23 Sec. 1680.006. CONFLICTS WITH CERTAIN INSURANCE LAWS. To
24 the extent of a conflict between this chapter and Chapter 883 or
25 another law of this state applicable to a nonlife mutual insurance
26 company, this chapter prevails.

27 [Sections 1680.007-1680.050 reserved for expansion]

1 SUBCHAPTER B. BOARD OF DIRECTORS

2 Sec. 1680.051. BOARD OF DIRECTORS; COMPOSITION. The
3 company is governed by a board composed of the following nine
4 members:

5 (1) one member who is appointed by the governor from a
6 list of three or more names provided to the governor by the
7 lieutenant governor, none of which may be senators or
8 representatives;

9 (2) one member who is appointed by the governor from a
10 list of three or more names provided to the governor by the speaker
11 of the house of representatives, none of which may be senators or
12 representatives;

13 (3) one member appointed by the governor who is a small
14 employer, as defined by Section 1501.002;

15 (4) one member appointed by the governor who is a large
16 employer, as defined by Section 1501.002;

17 (5) one member appointed by the governor who is a
18 practicing physician licensed in this state;

19 (6) one member appointed by the governor who
20 represents the interests of hospital or other institutional health
21 care providers;

22 (7) one member appointed by the governor who
23 represents the interests of political subdivisions in this state;

24 (8) the executive director of the Employees Retirement
25 System of Texas or the executive director's designee, who serves ex
26 officio; and

27 (9) the executive director of the Teacher Retirement

1 System of Texas or the executive director's designee, who serves ex
2 officio.

3 Sec. 1680.052. QUALIFICATIONS. (a) Each board member must
4 be a resident of this state.

5 (b) An individual may not serve as an appointed board member
6 if the individual, another individual related to the individual
7 within the second degree by consanguinity or affinity, or another
8 individual residing in the same household with the individual:

9 (1) is registered or licensed under this code or is
10 required to be registered or licensed under this code;

11 (2) is employed by or acts as a consultant to a person
12 registered or licensed under this code or required to be registered
13 or licensed under this code;

14 (3) owns, controls, has a financial interest in, or
15 participates in the management of an organization registered or
16 licensed under this code or required to be registered or licensed
17 under this code;

18 (4) receives a substantial tangible benefit from the
19 company or the department; or

20 (5) is an officer, employee, or consultant of an
21 association in the field of insurance.

22 (c) Subsection (b) does not prohibit an individual from
23 serving as an appointed board member if the individual is only a
24 policyholder or a consumer of insurance or insurance products.

25 (d) An individual who is ineligible to serve on the board
26 under Subsection (b) may not serve as a board member until the first
27 anniversary of the date the condition that makes the individual

1 ineligible ends.

2 Sec. 1680.053. PRESIDING OFFICER; OTHER OFFICERS. (a) The
3 executive director of the Employees Retirement System of Texas and
4 the executive director of the Teacher Retirement System of Texas
5 serve as co-presiding officers of the board.

6 (b) The board shall elect annually any other officers the
7 board considers necessary to perform the board's duties.

8 Sec. 1680.054. TERMS. (a) Board members appointed under
9 Sections 1680.051(1)-(7) serve staggered six-year terms, with the
10 terms of three or four members expiring July 1 of each odd-numbered
11 year.

12 (b) A board member whose term has expired shall continue to
13 serve until the member's successor is appointed by the governor.

14 Sec. 1680.055. VACANCIES. (a) The governor shall fill a
15 vacancy on the board as soon as possible after the vacancy occurs.

16 (b) If a vacancy occurs before the date the vacating
17 member's term expires, the successor member shall be appointed or
18 elected for a term that expires on the same date as the vacating
19 member's term.

20 Sec. 1680.056. GROUNDS FOR REMOVAL. (a) It is a ground for
21 removal from the board if a member:

22 (1) does not have at the time of appointment or
23 election the qualifications required by Section 1680.052;

24 (2) does not maintain during service on the board the
25 qualifications required by Section 1680.052;

26 (3) cannot because of illness or disability discharge
27 the member's duties for a substantial part of the term for which the

1 member is appointed or elected; or

2 (4) is absent from more than half of the regularly
3 scheduled board meetings that the member is eligible to attend
4 during a calendar year.

5 (b) The validity of a board action is not affected by the
6 fact that it is taken when a ground for removal of a board member
7 exists.

8 Sec. 1680.057. PROCEDURES FOR REMOVAL. (a) If a member of
9 the board or an officer or employee of a management company with
10 whom the board contracts under Section 1680.152 has knowledge that
11 a potential ground for removal of a board member exists, the board
12 member or officer or employee of the management company shall
13 notify the co-presiding officers of the board of the potential
14 ground.

15 (b) One of the presiding officers shall notify the governor
16 and the attorney general that a potential ground for removal
17 exists.

18 (c) If the potential ground for removal involves either of
19 the co-presiding officers, the board member or officer or employee
20 of a management company with whom the board contracts under Section
21 1680.152 shall notify the next highest board officer, who shall
22 notify the governor and the attorney general that a potential
23 ground for removal exists.

24 Sec. 1680.058. COMMITTEES AND SUBCOMMITTEES. The board may
25 create committees and subcommittees.

26 Sec. 1680.059. MEETINGS. (a) The board shall hold a
27 meeting at least once each calendar quarter, at other times at the

1 call of either of the co-presiding officers, and at times
2 established by the company's bylaws.

3 (b) A special meeting may be called by any two board members
4 on two days' notice.

5 Sec. 1680.060. COMPENSATION. An appointed board member is
6 not entitled to compensation but is entitled to reimbursement for
7 actual and necessary expenses incurred in attending meetings of the
8 board or performing other official duties authorized by either or
9 both of the co-presiding officers.

10 Sec. 1680.061. PERSONAL LIABILITY OF BOARD MEMBERS,
11 OFFICERS, AND EMPLOYEES. In connection with the administration,
12 management, or conduct of the company, or the company's business or
13 a related matter, a board member or an officer or employee of the
14 company or a management company with whom the board contracts under
15 Section 1680.152 is not personally liable in the individual's
16 private capacity for an act performed or a contract or other
17 obligation entered into or undertaken in the individual's official
18 capacity in good faith and without intent to defraud.

19 [Sections 1680.062-1680.100 reserved for expansion]

20 SUBCHAPTER C. MANAGEMENT OF COMPANY

21 Sec. 1680.101. GENERAL POWERS OF BOARD. The board has full
22 authority over the company and may:

23 (1) perform any act necessary or convenient to
24 administer the company or in connection with the company's
25 insurance business; and

26 (2) function in all aspects as the governing body of a
27 domestic mutual insurance company.

1 Sec. 1680.102. GENERAL DUTIES OF BOARD RELATING TO HEALTH
2 BENEFIT PLAN. The board shall:

3 (1) provide for engaging in the business of issuing
4 health benefit plans and for the delivery in this state of health
5 benefit plans to the same extent as any other health benefit plan
6 issuer in this state;

7 (2) propose rates for health benefit plans issued by
8 the company; and

9 (3) exercise any other authority necessary to engage
10 in the business of health benefit plans.

11 Sec. 1680.103. PRINCIPAL OFFICE. The board shall maintain
12 the company's principal office in Travis County.

13 Sec. 1680.104. CERTAIN RELATIONSHIPS WITH OTHER INSURERS
14 PROHIBITED. The company may not have:

15 (1) an affiliate, spin-off, or subsidiary that writes
16 a line or type of insurance other than health benefit plans; or

17 (2) interlocking boards of directors with an insurer
18 that writes a line or type of insurance other than health benefit
19 plans.

20 Sec. 1680.105. PROGRAM AND FACILITY ACCESSIBILITY. (a)
21 The company shall comply with federal and state laws that relate to
22 program and facility accessibility.

23 (b) The board shall prepare and maintain a written plan that
24 describes the manner in which an individual who does not speak
25 English can be provided reasonable access to the company's programs
26 and services.

27 (c) The board shall develop and implement policies that

1 provide the public with a reasonable opportunity to appear before
2 the board and to speak on any issue under the company's
3 jurisdiction.

4 [Sections 1680.106-1680.150 reserved for expansion]

5 SUBCHAPTER D. OPERATION OF COMPANY; FINANCIAL ADMINISTRATION

6 Sec. 1680.151. PURPOSES OF COMPANY. The company shall:

7 (1) serve as a competitive force in the marketplace;

8 and

9 (2) guarantee the availability of health benefit plans
10 in this state.

11 Sec. 1680.152. SELECTION OF MANAGEMENT COMPANY AND
12 INDEPENDENT AUDITOR. The board:

13 (1) may contract with an entity that is qualified to
14 administer, manage, and operate the company; and

15 (2) shall contract with an entity that is qualified to
16 audit the manner in which the company or the entity described by
17 Subdivision (1) administers, manages, and operates the company.

18 Sec. 1680.153. PLAN OF OPERATION. (a) The management
19 company shall submit to the commissioner a plan of operation and any
20 amendments to that plan necessary or suitable to ensure the fair,
21 reasonable, and equitable administration of the company.

22 (b) The commissioner, after notice and hearing, shall
23 approve the plan of operation if the commissioner determines the
24 plan:

25 (1) is suitable to ensure the fair, reasonable, and
26 equitable administration of the company; and

27 (2) provides adequately for the sharing of losses on

1 an equitable and proportionate basis.

2 (c) The plan of operation is effective on the written
3 approval of the commissioner.

4 Sec. 1680.154. DISSOLUTION PROHIBITED. The company may not
5 be dissolved except by statute.

6 [Sections 1680.155-1680.200 reserved for expansion]

7 SUBCHAPTER E. EXAMINATIONS, REPORTS, AND FILINGS

8 Sec. 1680.201. EXAMINATION BY DEPARTMENT. (a) The
9 department shall examine the company in the manner and under the
10 conditions specified by Chapter 401 for the examination of
11 insurers.

12 (b) The company shall pay the costs of the examination.

13 Sec. 1680.202. PROVIDING INFORMATION TO LEGISLATURE. The
14 company shall provide requested information to each appropriate
15 legislative committee in the manner requested by the committee.

16 Sec. 1680.203. ANNUAL ACCOUNTING OF MONEY RECEIVED AND
17 DISBURSED. Each year, the company shall prepare a complete and
18 detailed written report accounting for all money the company
19 received and disbursed during the preceding fiscal year.

20 Sec. 1680.204. ANNUAL STATEMENTS. (a) The company shall
21 file annual statements with the department in the same manner as is
22 required of other health benefit plan issuers.

23 (b) The department shall include in the department's annual
24 report under Section 32.021 a report on the company's condition.

25 Sec. 1680.205. PUBLICATION AND FILING OF AUDITED REPORT.

26 The board shall:

27 (1) publish an independently audited report analyzing

1 the company's activities and fiscal condition during the preceding
2 fiscal year; and

3 (2) file the audited report with the department for
4 submission simultaneously with its annual financial report.

5 Sec. 1680.206. ADDITIONAL REPORTS. The company shall file
6 with the department all reports required of other health benefit
7 plan issuers.

8 Sec. 1680.207. PERIODIC REPORTS TO BOARD. The management
9 company with whom the board contracts under Section 1680.152 shall
10 make periodic reports to the board regarding:

11 (1) the company's status; and

12 (2) the company's investments.

13 [Sections 1680.208-1680.250 reserved for expansion]

14 SUBCHAPTER F. GENERAL POWERS AND DUTIES RELATING TO INSURANCE

15 Sec. 1680.251. RATEMAKING AUTHORITY. (a) Except as
16 provided by this section, the board may propose rates to be charged
17 by the company for health benefit plans issued by the company.

18 (b) The board shall engage the services of an independent
19 actuary who is a member in good standing with a nationally
20 recognized accrediting entity to develop and recommend actuarially
21 sound rates.

22 [Sections 1680.252-1680.300 reserved for expansion]

23 SUBCHAPTER G. PURCHASE AND ISSUANCE OF COVERAGE

24 Sec. 1680.301. (a) The Employees Retirement System of
25 Texas shall apply to the company for the provision of health benefit
26 plan coverage for some or all of the individuals covered by the
27 group benefits program under Chapter 1551.

1 (b) The commissioner by rule may allow entities other than
2 the Employees Retirement System of Texas to apply to the company for
3 the provision of health benefit plan coverage, including:

4 (1) entities that provide health benefit plan coverage
5 under Subtitle H;

6 (2) political subdivisions of this state; and

7 (3) independent school districts.

8 (c) The company shall amend the company's plan of operation
9 under Section 1680.153 as necessary to comply with any rules
10 adopted by the commissioner under Subsection (b).

11 Sec. 1680.302. APPLICATION FOR COVERAGE. An application to
12 the company for health benefit plan coverage must be:

13 (1) made in the form prescribed by the company; and

14 (2) submitted directly by the applicant.

15 Sec. 1680.303. POLICY FORMS. The company shall use policy
16 forms that comply with the requirements of Chapter 1701.

17 Sec. 1680.304. CANCELLATION AND NONRENEWAL. The company
18 may cancel or refuse to renew a health benefit plan to the same
19 extent and in the same manner as another health benefit plan issuer
20 may cancel or refuse to renew that same type of health benefit plan.

21 [Sections 1680.305-1680.350 reserved for expansion]

22 SUBCHAPTER H. APPEALS

23 Sec. 1680.351. APPEAL OF CERTAIN ACTIONS AND DECISIONS.

24 (a) An act or decision by the company to deny, cancel, or refuse to
25 renew a health benefit plan may be appealed to the board not later
26 than the 30th day after the date the affected party receives actual
27 notice that the act occurred or the decision was made.

1 (b) The company shall:

2 (1) not later than the 30th day after the date the
3 request for hearing is made, hear the appeal; and

4 (2) not later than the 10th day before the date of the
5 hearing, notify the appellant in writing of the time and place of
6 the hearing.

7 (c) Not later than the 30th day after the last day of the
8 hearing, the board shall affirm, reverse, or modify the act or
9 decision appealed to the board.

10 (d) Unless the board specifically orders otherwise, a
11 hearing under this section does not suspend the operation of an act
12 or decision of the company.

13 Sec. 1680.352. REVIEW OF BOARD DECISION BY COMMISSIONER.

14 (a) A board decision under Section 1680.351 is subject to review by
15 the commissioner in the manner provided by Chapter 2001, Government
16 Code.

17 (b) The commissioner's review of a board decision does not
18 suspend the operation of an act or decision of the company unless
19 the commissioner specifically orders the suspension on a showing by
20 an aggrieved party of:

21 (1) immediate, irreparable injury, loss, or damage;
22 and

23 (2) probable success on the merits.

24 Sec. 1680.353. APPEAL OF COMMISSIONER'S DECISION. (a) A
25 person aggrieved by a decision of the commissioner under Section
26 1680.352 may appeal the decision to a district court.

27 (b) Judicial review under this section is governed by the

1 substantial evidence rule.

2 [Sections 1680.354-1680.400 reserved for expansion]

3 SUBCHAPTER I. PUBLIC INTEREST INFORMATION AND COMPLAINT PROCEDURES

4 Sec. 1680.401. PUBLIC INTEREST INFORMATION. (a) The
5 company shall prepare information of public interest describing the
6 functions of the company and the procedures by which complaints are
7 submitted to and resolved by the company.

8 (b) The company shall make the information available to the
9 public and appropriate state agencies.

10 Sec. 1680.402. COMPLAINTS. (a) The company shall
11 establish methods by which consumers and service recipients are
12 notified of the name, mailing address, and telephone number of the
13 company for the purpose of directing a complaint to the company.

14 (b) The company may provide for the notice:

15 (1) by a supplement or endorsement to a written
16 policy; and

17 (2) in each bill for services provided by the company.

18 Sec. 1680.403. COMPLAINT RECORD. (a) The company shall
19 keep information about each written complaint filed with the
20 company. The information must include:

21 (1) the date the complaint is received;

22 (2) the name of the complainant;

23 (3) the subject matter of the complaint;

24 (4) a record of each person contacted in relation to
25 the complaint;

26 (5) a summary of the results of the review or
27 investigation of the complaint; and

1 (6) for a complaint for which the company takes no
2 action, an explanation of the reason the complaint was closed
3 without action.

4 (b) For each written complaint the company receives and has
5 authority to resolve, the company shall:

6 (1) provide the company's policies and procedures
7 relating to complaint investigation and resolution to the person
8 filing the complaint and each person or entity that is a subject of
9 the complaint; and

10 (2) at least quarterly and until final disposition of
11 the complaint, notify the person filing the complaint and each
12 person or entity that is a subject of the complaint of the status of
13 the complaint unless the notification would jeopardize an
14 undercover investigation.

15 SECTION 2. (a) In this section:

16 (1) "Committee" means the Texas Mutual Health Benefit
17 Plan Company Implementation Committee established under Subsection
18 (b).

19 (2) "Company" means the Texas Mutual Health Benefit
20 Plan Company.

21 (b) The Texas Mutual Health Benefit Plan Company
22 Implementation Committee is established to evaluate and make
23 recommendations concerning the establishment and operation of the
24 Texas Mutual Health Benefit Plan Company under Chapter 1680,
25 Insurance Code, as added by this Act.

26 (c) The committee is composed of:

27 (1) the commissioner of insurance;

1 (2) the executive director of the Employees Retirement
2 System of Texas or the executive director's designee;

3 (3) the executive director of the Teacher Retirement
4 System of Texas or the executive director's designee;

5 (4) the executive commissioner of the Health and
6 Human Services Commission;

7 (5) a representative of The University of Texas
8 System, chosen by the governing board of that system; and

9 (6) a representative of The Texas A&M University
10 System, chosen by the governing board of that system.

11 (d) The commissioner of insurance serves as the presiding
12 officer of the committee and may, with the advice and consent of the
13 other members of the committee, request other individuals to assist
14 or become members of the committee.

15 (e) The committee shall examine the efficacy of the Texas
16 Mutual Health Benefit Plan Company, including examining:

17 (1) health benefit plan design and delivery;

18 (2) operational aspects of the operation of the
19 company, including any impacts on separately evaluated
20 classifications of costs borne by the company;

21 (3) the applicable interplay between federal and state
22 law, and various provisions of state law, in relation to entities
23 required or potentially allowed to apply for coverage from the
24 company;

25 (4) the economic impact the operation of the company
26 will have on the economy of this state; and

27 (5) the impact the provision of health benefit plan

1 coverage by the company would have on the quality and capacity for
2 the delivery of health care services in this state.

3 (f) The committee shall prepare a report containing:

4 (1) any findings made after examination under
5 Subsection (e); and

6 (2) any recommendations for statutory amendments
7 necessary for the effective and efficient operation of the company.

8 (g) Not later than November 1, 2010, the committee shall
9 deliver the report prepared under Subsection (f) to the following
10 individuals or entities:

11 (1) the governor;

12 (2) the lieutenant governor;

13 (3) the speaker of the house of representatives; and

14 (4) each standing committee of the senate and the
15 house of representatives with primary jurisdiction over insurance
16 or the delivery of health care in this state.

17 (h) The committee is abolished September 1, 2011.

18 SECTION 3. (a) The governor shall make the appointments
19 described by Section 1680.051, Insurance Code, as added by this
20 Act, as soon as possible after September 1, 2009, and in no event
21 later than September 1, 2010.

22 (b) The governing boards of The University of Texas System
23 and The Texas A&M University System shall make the selections
24 described by Sections 2(c)(5) and (6) of this Act not later than
25 November 1, 2009.

26 SECTION 4. The Texas Mutual Health Benefit Plan Company
27 shall be fully operational and capable of accepting applications

H.B. No. 2470

1 for coverage not later than January 1, 2012.

2 SECTION 5. This Act takes effect September 1, 2009.