

By: Averitt

S.B. No. 842

Substitute the following for S.B. No. 842:

By: Smithee

C.S.S.B. No. 842

A BILL TO BE ENTITLED

AN ACT

relating to the operation of health care sharing organizations.

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

SECTION 1. Participants of a health care sharing organization 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. Due to their beneficial work and religious nature, health care sharing organizations should be statutorily recognized as religious organizations helping to fulfill the religious beliefs of organization participants and should not be treated in the same manner as secular health care coverages, including insurance.

SECTION 2. Title 8, Insurance Code, is amended by adding Subtitle K to read as follows:

SUBTITLE K. NONINSURANCE HEALTH COVERAGES

CHAPTER 1680. HEALTH CARE SHARING ORGANIZATIONS

Sec. 1680.001. SHORT TITLE. This chapter may be cited as the Health Care Sharing Organizations Freedom to Share Act.

Sec. 1680.002. TREATMENT AS HEALTH CARE SHARING ORGANIZATION. An organization that administers a health care sharing arrangement among individuals of the same religion based on the individuals' sincerely held religious belief qualifies for

1 treatment as a health care sharing organization under this chapter
2 if:

3 (1) the organization is a bona fide religious
4 organization, the primary purpose and function of which is
5 religious, that is entitled to tax exempt status under Section
6 501(c)(3) Internal Revenue Code of 1986; and

7 (2) in operating the health care sharing arrangement,
8 the organization:

9 (A) does not bear risk but facilitates payments
10 to participants who have financial or medical-related needs from
11 participants with the present ability to assist those with
12 financial or medical-related needs, all in accordance with the
13 organization's criteria;

14 (B) notifies a participant of sharing amounts;

15 (C) provides a written monthly statement to all
16 participants listing the total dollar amount of qualified needs
17 submitted to the organization as well as the total dollar amount
18 actually assigned to participants for sharing;

19 (D) maintains a complaint log to track complaints
20 by participants and retains information regarding each complaint
21 until the third anniversary of the date the complaint is made;

22 (E) provides, on each application for
23 participation in a health care sharing arrangement distributed
24 directly or on behalf of the organization, a notice that complies
25 with Section 1680.003; and

26 (F) requires each adult member to sign on behalf
27 of the participant or, in the case of a minor or dependent child, on

1 behalf of the minor or dependent child an acknowledgment that the
2 member has read and understands the notice described by Section
3 1680.003 and retains the signed acknowledgment until the second
4 anniversary of the last date of the member's participation in the
5 health care sharing arrangement.

6 Sec. 1680.003. NOTICE. The notice described by Section
7 1680.002(2)(E) must be printed in no smaller than 12-point font and
8 must read substantially as follows:

9 "This health care sharing organization is not offering an
10 insurance product, and the health care sharing arrangement is not
11 being offered by or through an insurance company. Participation in
12 the health care sharing organization may limit your future options
13 to purchase insurance if your health condition changes.
14 Participation in the health care sharing organization does not
15 provide creditable coverage, and, therefore, future insurance
16 coverage you obtain may limit or exclude benefits for your
17 preexisting conditions.

18 "This health care sharing organization is also not offering a
19 discount health care program.

20 "Whether anyone chooses to assist you with your medical bills
21 is voluntary, as no other participant may be compelled to share
22 payment of your medical bills.

23 "This health care sharing arrangement is not insurance or a
24 substitute for insurance. Whether you receive any payments for
25 medical expenses and whether this health care sharing organization
26 or arrangement continues to operate, you remain, to the extent
27 allowable under law, personally and fully responsible for the

1 payment of your own medical bills. Complaints concerning this
2 health care sharing organization may be reported to the Texas
3 Office of the Attorney General."

4 Sec. 1680.004. AUTHORITY; LIMITATIONS. (a) A health care
5 sharing organization may:

6 (1) establish additional qualifications for
7 participation in the health care sharing arrangement;

8 (2) limit the financial or medical-related needs that
9 may be eligible for payment among the participants;

10 (3) cancel a participant's participation in the health
11 care sharing arrangement if the participant fails to make a
12 specific payment to another participant before the 60th day after
13 the date the payment is due; and

14 (4) issue participant membership cards.

15 (b) If a health care sharing organization issues
16 participant membership cards, the cards must include the statement
17 "Not Insurance."

18 (c) A health care sharing organization may not require that
19 participants speak English.

20 Sec. 1680.005. CONSTRUCTION WITH OTHER LAW. (a) Chapter
21 76, Health and Safety Code, does not apply to a health care sharing
22 organization.

23 (b) Notwithstanding any other provision of this code, a
24 health care sharing organization is exempt from the operation of
25 the insurance laws of this state and is not subject to the
26 commissioner's oversight.

27 Sec. 1680.006. ENFORCEMENT AND ADMINISTRATION BY ATTORNEY

1 GENERAL. (a) Notwithstanding any other law, the office of the
2 attorney general has jurisdiction over health care sharing
3 organizations to ensure compliance with this chapter and for:

4 (1) the prevention and prosecution of deceptive trade
5 practices and fraud; and

6 (2) consumer protection.

7 (b) A health care sharing organization shall provide to the
8 attorney general, on the request of the attorney general, any audit
9 conducted of the organization and any original or amended annual
10 filing made by the organization with the United States Internal
11 Revenue Service.

12 (c) The attorney general may adopt rules to implement this
13 chapter.

14 Sec. 1680.007. CONSUMER PROTECTION. A participant in a
15 health care sharing organization is a consumer for purposes of
16 Section 17.46(a), Business & Commerce Code, and is entitled to the
17 protections of the office of the attorney general as provided by
18 that section.

19 Sec. 1680.008. NO ASSUMPTION OF RISK. (a) Participants in
20 a health care sharing arrangement and the health care sharing
21 organization:

22 (1) do not assume any risk or make any promise to pay
23 the financial or medical-related needs of other participants; and

24 (2) are not risk-bearing entities.

25 (b) None of the activities in this chapter give rise to an
26 assumption of risk or promise to pay by either the participants or
27 the health care sharing organization.

1 Sec. 1680.009. COLLATERAL SHARING ACTIVITIES. A health
2 care sharing organization may:

3 (1) arrange for participants to share bills when a
4 participant experiences disability; and

5 (2) provide health counseling, education, and
6 resources to participants in the health care sharing arrangement.

7 Sec. 1680.010. CONTRACTUAL ARRANGEMENTS WITH OTHER
8 ENTITIES. (a) A health care sharing organization may contract
9 with an administrator as defined by Chapter 4151, Insurance Code,
10 or a preferred provider organization or similar entity to
11 facilitate the operation of the organization.

12 (b) A health care sharing organization that enters into a
13 contractual arrangement under Subsection (a) remains exempt from
14 the operation of the insurance laws of this state as described by
15 Section 1680.005.

16 Sec. 1680.011. ANNUAL REPORT. Not later than January 1 of
17 each year, the organization shall file an annual report regarding
18 its operations in this state during that fiscal year with the
19 governor, attorney general, lieutenant governor, and speaker of the
20 house of representatives.

21 SECTION 3. Subsection (a), Section 101.055, Insurance Code,
22 is amended to read as follows:

23 (a) Section 101.051(b)(7) does not apply to:

24 (1) a program otherwise authorized by law that is
25 established:

26 (A) by a political subdivision of this state;

27 (B) by a state agency; or

- 1 (C) under Chapter 791, Government Code; ~~[or]~~
2 (2) a multiple employer welfare arrangement that is
3 fully insured as defined by 29 U.S.C. Section 1144(b)(6); or
4 (3) a health care sharing organization operated under
5 Chapter 1680.

6 SECTION 4. Section 76.002, Health and Safety Code, is
7 amended to read as follows:

8 Sec. 76.002. CONSTRUCTION WITH ~~[APPLICABILITY OF]~~ OTHER
9 LAW. (a) In addition to the requirements of this chapter, a
10 program operator or marketer is subject to the applicable consumer
11 protection laws under Chapter 17, Business & Commerce Code.

12 (b) This chapter does not apply to a health care sharing
13 organization operated under Chapter 1680, Insurance Code.

14 SECTION 5. This Act takes effect immediately if it receives
15 a vote of two-thirds of all the members elected to each house, as
16 provided by Section 39, Article III, Texas Constitution. If this
17 Act does not receive the vote necessary for immediate effect, this
18 Act takes effect September 1, 2009.