

By: Averitt

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. DEFINITION. In this chapter, "health care sharing organization" means an organization qualified as a religious organization under Section 11.20, Tax Code, that administers a health care sharing arrangement among individuals of

1 the same religion based on the individuals' sincerely held
2 religious beliefs.

3 Sec. 1680.003. POWERS. A health care sharing organization
4 may:

5 (1) act as a facilitator among participants who have
6 financial or medical-related needs and participants with the
7 present ability to assist those with financial or medical-related
8 needs, all in accordance with the health care sharing
9 organization's criteria, through payments from one participant to
10 another;

11 (2) notify a participant of sharing amounts;

12 (3) establish additional qualifications of
13 participation in the health care sharing arrangement;

14 (4) limit the financial or medical-related needs that
15 may be eligible for payment among the participants;

16 (5) cancel a participant's participation in the health
17 care sharing arrangement if the participant fails to make a
18 specific payment to another participant before the 60th day after
19 the date the payment is due; and

20 (6) provide a written monthly statement to all
21 participants listing the total dollar amount of qualified needs
22 submitted to the organization as well as the total dollar amount
23 actually assigned to participants for sharing.

24 Sec. 1680.004. NOTICE. Each application for participation
25 in a health care sharing arrangement distributed directly or on
26 behalf of the health care sharing organization must include a
27 notice that is printed in no smaller than 12-point font and that

1 reads substantially as follows:

2 "This health care sharing organization is not offering
3 an insurance product and the health care sharing
4 arrangement is not being offered by or through an
5 insurance company. This health care sharing
6 organization is also not offering a discount health
7 care program. Whether anyone chooses to assist you
8 with your medical bills is voluntary, as no other
9 participant may be compelled to share payment of your
10 medical bills. This health care sharing arrangement
11 is not insurance or a substitute for insurance.
12 Whether you receive any payments for medical expenses
13 and whether this health care sharing organization or
14 arrangement continues to operate, you remain, to the
15 extent allowable under law, personally and fully
16 responsible for the payment of your own medical
17 bills."

18 Sec. 1680.005. DUTIES. (a) A health care sharing
19 organization shall require any adult member to sign on behalf of the
20 participant or, in the case of a minor or dependent child, on behalf
21 of the minor or dependent child, an acknowledgment that the member
22 has read and understands the notice described by Section 1680.004.

23 (b) A health care sharing organization shall retain the
24 signed acknowledgment described by Subsection (a) until the second
25 anniversary of the last date of the participant's participation in
26 the health care sharing arrangement.

27 Sec. 1680.006. CONSTRUCTION WITH OTHER LAW. (a) Chapter

1 76, Health and Safety Code, does not apply to a health care sharing
2 organization.

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

7 Sec. 1680.007. ENFORCEMENT BY ATTORNEY GENERAL.

8 Notwithstanding any other law, the office of the attorney general
9 has jurisdiction over health care sharing organizations to ensure
10 compliance with this chapter and for:

11 (1) the prevention and prosecution of deceptive trade
12 practices and fraud; and

13 (2) consumer protection.

14 Sec. 1680.008. NO ASSUMPTION OF RISK. Participants in a
15 health care sharing arrangement and the health care sharing
16 organization do not assume any risk or make any promise to pay the
17 financial or medical-related needs of other participants, and none
18 of the activities in this chapter give rise to an assumption of risk
19 or promise to pay by either the participants or the health care
20 sharing organization.

21 Sec. 1680.009. PAYMENT AMONG PARTICIPANTS. The means of
22 payment among participants may include an electronic transfer or a
23 distribution from a trust established solely for the participants'
24 benefit and that is audited annually by an independent auditing
25 firm.

26 Sec. 1680.010. COLLATERAL SHARING ACTIVITIES. A health
27 care sharing organization may:

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

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

5 Sec. 1680.011. CONTRACTUAL ARRANGEMENTS WITH OTHER
6 ENTITIES. A health care sharing organization may contract with an
7 administrator as defined by Chapter 4151, Insurance Code, or a
8 preferred provider organization or similar entity to facilitate the
9 operation of the organization.

10 SECTION 3. Section 101.055(a), Insurance Code, is amended
11 to read as follows:

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

13 (1) a program otherwise authorized by law that is
14 established:

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

16 (B) by a state agency; or

17 (C) under Chapter 791, Government Code; ~~[or]~~

18 (2) a multiple employer welfare arrangement that is
19 fully insured as defined by 29 U.S.C. Section 1144(b)(6); or

20 (3) a health care sharing organization operated under
21 Chapter 1680.

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

24 Sec. 76.002. CONSTRUCTION WITH ~~[APPLICABILITY OF]~~ OTHER
25 LAW. (a) In addition to the requirements of this chapter, a

26 program operator or marketer is subject to the applicable consumer
27 protection laws under Chapter 17, Business & Commerce Code.

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

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