

1-1 By: Averitt S.B. No. 842  
1-2 (In the Senate - Filed February 13, 2009; March 4, 2009,  
1-3 read first time and referred to Committee on State Affairs;  
1-4 April 6, 2009, reported adversely, with favorable Committee  
1-5 Substitute by the following vote: Yeas 8, Nays 0; April 6, 2009,  
1-6 sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 842 By: Lucio

1-8 A BILL TO BE ENTITLED  
1-9 AN ACT

1-10 relating to the operation of health care sharing organizations.

1-11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-12 SECTION 1. Participants of a health care sharing  
1-13 organization voluntarily assist fellow participants with the  
1-14 payment of medical expenses. In many instances, participants of a  
1-15 health care sharing organization provide assistance to individuals  
1-16 who are without health insurance coverage and, in doing so, provide  
1-17 important services that the state would otherwise have to provide.  
1-18 Due to their beneficial work and religious nature, health care  
1-19 sharing organizations should be statutorily recognized as  
1-20 religious organizations helping to fulfill the religious beliefs of  
1-21 organization participants and should not be treated in the same  
1-22 manner as secular health care coverages, including insurance.

1-23 SECTION 2. Title 8, Insurance Code, is amended by adding  
1-24 Subtitle K to read as follows:

1-25 SUBTITLE K. NONINSURANCE HEALTH COVERAGES

1-26 CHAPTER 1680. HEALTH CARE SHARING ORGANIZATIONS

1-27 Sec. 1680.001. SHORT TITLE. This chapter may be cited as  
1-28 the Health Care Sharing Organizations Freedom to Share Act.

1-29 Sec. 1680.002. TREATMENT AS HEALTH CARE SHARING  
1-30 ORGANIZATION. An organization that administers a health care  
1-31 sharing arrangement among individuals of the same religion based on  
1-32 the individuals' sincerely held religious belief qualifies for  
1-33 treatment as a health care sharing organization under this chapter  
1-34 if:

1-35 (1) the organization is a bona fide religious  
1-36 organization, the primary purpose and function of which is  
1-37 religious, that is entitled to tax exempt status under Section  
1-38 501(c)(3) Internal Revenue Code of 1986; and

1-39 (2) in operating the health care sharing arrangement,  
1-40 the organization:

1-41 (A) does not bear risk but facilitates payments  
1-42 to participants who have financial or medical-related needs from  
1-43 participants with the present ability to assist those with  
1-44 financial or medical-related needs, all in accordance with the  
1-45 organization's criteria;

1-46 (B) notifies a participant of sharing amounts;

1-47 (C) provides a written monthly statement to all  
1-48 participants listing the total dollar amount of qualified needs  
1-49 submitted to the organization as well as the total dollar amount  
1-50 actually assigned to participants for sharing;

1-51 (D) maintains a complaint log to track complaints  
1-52 by participants and retains information regarding each complaint  
1-53 until the third anniversary of the date the complaint is made;

1-54 (E) provides, on each application for  
1-55 participation in a health care sharing arrangement distributed  
1-56 directly or on behalf of the organization, a notice that complies  
1-57 with Section 1680.003; and

1-58 (F) requires each adult member to sign on behalf  
1-59 of the participant or, in the case of a minor or dependent child, on  
1-60 behalf of the minor or dependent child an acknowledgment that the  
1-61 member has read and understands the notice described by Section  
1-62 1680.003 and retains the signed acknowledgment until the second  
1-63 anniversary of the last date of the member's participation in the

2-1 health care sharing arrangement.

2-2 Sec. 1680.003. NOTICE. The notice described by Section  
 2-3 1680.002(2)(E) must be printed in no smaller than 12-point font and  
 2-4 must read substantially as follows:

2-5 "This health care sharing organization is not offering an  
 2-6 insurance product, and the health care sharing arrangement is not  
 2-7 being offered by or through an insurance company. Participation in  
 2-8 the health care sharing organization may limit your future options  
 2-9 to purchase insurance if your health condition changes.  
 2-10 Participation in the health care sharing organization does not  
 2-11 provide creditable coverage, and, therefore, future insurance  
 2-12 coverage you obtain may limit or exclude benefits for your  
 2-13 preexisting conditions.

2-14 "This health care sharing organization is also not offering a  
 2-15 discount health care program.

2-16 "Whether anyone chooses to assist you with your medical bills  
 2-17 is voluntary, as no other participant may be compelled to share  
 2-18 payment of your medical bills.

2-19 "This health care sharing arrangement is not insurance or a  
 2-20 substitute for insurance. Whether you receive any payments for  
 2-21 medical expenses and whether this health care sharing organization  
 2-22 or arrangement continues to operate, you remain, to the extent  
 2-23 allowable under law, personally and fully responsible for the  
 2-24 payment of your own medical bills. Complaints concerning this  
 2-25 health care sharing organization may be reported to the Texas  
 2-26 Office of the Attorney General."

2-27 Sec. 1680.004. AUTHORITY; LIMITATIONS. (a) A health care  
 2-28 sharing organization may:

2-29 (1) establish additional qualifications for  
 2-30 participation in the health care sharing arrangement;

2-31 (2) limit the financial or medical-related needs that  
 2-32 may be eligible for payment among the participants;

2-33 (3) cancel a participant's participation in the health  
 2-34 care sharing arrangement if the participant fails to make a  
 2-35 specific payment to another participant before the 60th day after  
 2-36 the date the payment is due; and

2-37 (4) issue participant membership cards.

2-38 (b) If a health care sharing organization issues  
 2-39 participant membership cards, the cards must include the statement  
 2-40 "Not Insurance."

2-41 (c) A health care sharing organization may not require that  
 2-42 participants speak English.

2-43 Sec. 1680.005. CONSTRUCTION WITH OTHER LAW. (a) Chapter  
 2-44 76, Health and Safety Code, does not apply to a health care sharing  
 2-45 organization.

2-46 (b) Notwithstanding any other provision of this code, a  
 2-47 health care sharing organization is exempt from the operation of  
 2-48 the insurance laws of this state and is not subject to the  
 2-49 commissioner's oversight.

2-50 Sec. 1680.006. ENFORCEMENT AND ADMINISTRATION BY ATTORNEY  
 2-51 GENERAL. (a) Notwithstanding any other law, the office of the  
 2-52 attorney general has jurisdiction over health care sharing  
 2-53 organizations to ensure compliance with this chapter and for:

2-54 (1) the prevention and prosecution of deceptive trade  
 2-55 practices and fraud; and

2-56 (2) consumer protection.

2-57 (b) A health care sharing organization shall provide to the  
 2-58 attorney general, on the request of the attorney general, any audit  
 2-59 conducted of the organization and any original or amended annual  
 2-60 filing made by the organization with the United States Internal  
 2-61 Revenue Service.

2-62 (c) The attorney general may adopt rules to implement this  
 2-63 chapter.

2-64 Sec. 1680.007. CONSUMER PROTECTION. A participant in a  
 2-65 health care sharing organization is a consumer for purposes of  
 2-66 Chapter 17, Business & Commerce Code, and is entitled to the  
 2-67 protections provided by that chapter.

2-68 Sec. 1680.008. NO ASSUMPTION OF RISK. (a) Participants in  
 2-69 a health care sharing arrangement and the health care sharing

3-1 organization:  
3-2 (1) do not assume any risk or make any promise to pay  
3-3 the financial or medical-related needs of other participants; and  
3-4 (2) are not risk-bearing entities.

3-5 (b) None of the activities in this chapter give rise to an  
3-6 assumption of risk or promise to pay by either the participants or  
3-7 the health care sharing organization.

3-8 Sec. 1680.009. COLLATERAL SHARING ACTIVITIES. A health  
3-9 care sharing organization may:

3-10 (1) arrange for participants to share bills when a  
3-11 participant experiences disability; and

3-12 (2) provide health counseling, education, and  
3-13 resources to participants in the health care sharing arrangement.

3-14 Sec. 1680.010. CONTRACTUAL ARRANGEMENTS WITH OTHER  
3-15 ENTITIES. (a) A health care sharing organization may contract  
3-16 with an administrator as defined by Chapter 4151, Insurance Code,  
3-17 or a preferred provider organization or similar entity to  
3-18 facilitate the operation of the organization.

3-19 (b) A health care sharing organization that enters into a  
3-20 contractual arrangement under Subsection (a) remains exempt from  
3-21 the operation of the insurance laws of this state as described by  
3-22 Section 1680.005.

3-23 Sec. 1680.011. ANNUAL REPORT. Not later than January 1 of  
3-24 each year, the organization shall file an annual report regarding  
3-25 its operations in this state during that fiscal year with the  
3-26 governor, attorney general, lieutenant governor, and speaker of the  
3-27 house of representatives.

3-28 SECTION 3. Subsection (a), Section 101.055, Insurance Code,  
3-29 is amended to read as follows:

3-30 (a) Section 101.051(b)(7) does not apply to:

3-31 (1) a program otherwise authorized by law that is  
3-32 established:

3-33 (A) by a political subdivision of this state;

3-34 (B) by a state agency; or

3-35 (C) under Chapter 791, Government Code; [~~or~~]

3-36 (2) a multiple employer welfare arrangement that is  
3-37 fully insured as defined by 29 U.S.C. Section 1144(b)(6); or

3-38 (3) a health care sharing organization operated under  
3-39 Chapter 1680.

3-40 SECTION 4. Section 76.002, Health and Safety Code, is  
3-41 amended to read as follows:

3-42 Sec. 76.002. CONSTRUCTION WITH [~~APPLICABILITY OF~~] OTHER  
3-43 LAW. (a) In addition to the requirements of this chapter, a  
3-44 program operator or marketer is subject to the applicable consumer  
3-45 protection laws under Chapter 17, Business & Commerce Code.

3-46 (b) This chapter does not apply to a health care sharing  
3-47 organization operated under Chapter 1680, Insurance Code.

3-48 SECTION 5. This Act takes effect immediately if it receives  
3-49 a vote of two-thirds of all the members elected to each house, as  
3-50 provided by Section 39, Article III, Texas Constitution. If this  
3-51 Act does not receive the vote necessary for immediate effect, this  
3-52 Act takes effect September 1, 2009.

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