

By: Muñoz, Jr.

H.B. No. 4105

A BILL TO BE ENTITLED

AN ACT

relating to certain information reported to the Texas Department of Insurance by insurers, other entities, and individuals in connection with employee benefit plans; creating an offense.

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

SECTION 1. Chapter 38, Insurance Code, is amended by adding Subchapter J to read as follows:

SUBCHAPTER J. CERTAIN DISCLOSURES REQUIRED

Sec. 38.451. DEFINITION. For purposes of this subchapter, "regulated entity" means an entity authorized under this code or another insurance law of this state to provide employee benefit plans, including health benefits described by Section 38.452. The term includes:

- (1) an insurance company;
- (2) a health benefit plan issuer;
- (3) a group hospital service corporation operating under Chapter 842;
- (4) a health maintenance organization operating under Chapter 843;
- (5) an approved nonprofit health corporation that holds a certificate of authority under Chapter 844;
- (6) a multiple employer welfare arrangement that holds a certificate of authority under Chapter 846;
- (7) a fraternal benefit society operating under

Chapter 885;

(8) a stipulated premium company operating under Chapter 884;

(9) a Lloyd's plan operating under Chapter 941;

(10) a reciprocal exchange operating under Chapter 942; and

(11) an entity not authorized under this code or another insurance law of this state that contracts directly for health care services on a risk-sharing basis, including a capitation basis.

Sec. 38.452. APPLICABILITY. (a) This subchapter applies to any life, health, or accident coverage provided as a benefit to an employee of an employer, including:

(1) a health insurance policy or health benefit plan;

(2) a small employer health benefit plan written under Chapter 1501;

(3) a standard health benefit plan issued under Chapter 1507;

(4) a coverage plan under Chapter 1551;

(5) a plan under Chapter 1575;

(6) a coverage plan under Chapter 1579;

(7) a plan under Chapter 1601;

(8) group health coverage made available by a school district in accordance with Section 22.004, Education Code;

(9) a self-funded health benefit plan sponsored by a professional employer organization under Chapter 91, Labor Code;

(10) health and accident coverage provided by a risk

1 pool created under Chapter 172, Local Government Code;

2 (11) a health benefit plan that provides coverage:

3 (A) for a specified disease or for another
4 limited benefit;

5 (B) for accidental death or dismemberment;

6 (C) for wages or payments in lieu of wages for a
7 period during which an employee is absent from work because of
8 sickness or injury;

9 (D) as a supplement to a liability insurance
10 policy;

11 (E) for credit insurance;

12 (F) for dental or vision care;

13 (G) for hospital expenses; or

14 (H) for indemnity for hospital confinement; and

15 (12) a long-term care insurance policy.

16 (b) This subchapter applies without regard to whether the
17 employee's employer pays any part of the cost of the employee
18 benefit.

19 Sec. 38.453. DISCLOSURE BY REGULATED ENTITY. On a form
20 prescribed by the commissioner under Section 38.455, a regulated
21 entity shall disclose to the department any fee, payment, or other
22 compensation paid to an individual or entity in connection with an
23 employee benefit plan offered or sold to provide benefits to
24 employees of an employer by the regulated entity.

25 Sec. 38.454. DISCLOSURE BY INDIVIDUAL. (a) On a form
26 prescribed by the commissioner under Section 38.455, an individual
27 or entity who receives a fee, payment, or other compensation from a

1 regulated entity or from an employer in connection with the offer or
2 sale of an employee benefit plan shall disclose to the department:

3 (1) any fee, payment, or compensation paid by the
4 employer; and

5 (2) any fee sharing or distribution of any part of the
6 compensation to any other individual or entity.

7 (b) An individual or entity who knowingly fails to comply
8 with Subsection (a) commits an offense. An offense under this
9 section is a Class C misdemeanor.

10 Sec. 38.455. DUTIES OF THE COMMISSIONER. (a) The
11 commissioner by rule shall prescribe the forms on which a regulated
12 entity or individual makes the disclosure required under Sections
13 38.453 and 38.454. In prescribing the form, the commissioner shall
14 consider the Internal Revenue Service Form 5500, Schedule A.

15 (b) The commissioner may by rule exempt from the disclosure
16 requirements under this subchapter a disclosure in connection with
17 certain employers or employee benefit plans based on the size of the
18 employer or benefit plan.

19 SECTION 2. Subchapter J, Chapter 38, Insurance Code, as
20 added by this Act, applies only to compensation in connection with
21 an employee benefit plan paid on or after the effective date of this
22 Act.

23 SECTION 3. This Act takes effect September 1, 2017.