87R4862 SCL-F

By:  Campbell S.B. No. 1442

A BILL TO BE ENTITLED

AN ACT

relating to regulation of health care sharing ministries; providing civil penalties.

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

SECTION 1.  Chapter 1681, Insurance Code, is amended by designating Sections 1681.001 through 1681.003 as Subchapter A and adding a subchapter heading to read as follows:

SUBCHAPTER A. HEALTH CARE SHARING MINISTRY REQUIREMENTS

SECTION 2.  Sections 1681.001 and 1681.002, Insurance Code, are amended to read as follows:

Sec. 1681.001.  TREATMENT AS HEALTH CARE SHARING MINISTRY. A faith-based, nonprofit organization that is tax-exempt under the Internal Revenue Code of 1986 qualifies for treatment as a health care sharing ministry under this chapter if it:

(1)  limits its participants to individuals of a similar faith;

(2)  acts as a facilitator among participants who have medical expenses [~~bills~~] and matches those participants with other participants [~~with the present ability~~] to assist those with medical expenses [~~bills~~] in accordance with criteria established by the health care sharing ministry;

(3)  provides for the satisfaction of the medical expenses [~~bills~~] of a participant through contributions from one participant to another, including through collected contributions or from participant contributions collected by the health care sharing ministry;

(4)  provides amounts that participants may contribute with no assumption of risk or promise to pay among the participants and no assumption of risk or promise to pay by the health care sharing ministry to the participants;

(5)  provides a [~~written~~] monthly statement to all participants that lists the total dollar amount of qualified eligible sharing requests [~~needs~~] submitted to the health care sharing ministry, as well as the amount actually shared with [~~published or assigned to~~] participants for their contribution;

(6)  discloses administrative fees and costs to participants;

(7)  provides that any card issued to a participant for the purpose of presentation to a health care provider clearly indicates that the participant is part of a health care sharing ministry that is not engaging in the business of insurance;

(8)  provides a written disclaimer on or accompanying all applications and guideline materials distributed by or on behalf of the ministry that complies with Section 1681.002; [~~and~~]

(9)  does not operate a discount health care program as defined by Section 7001.001;

(10)  is exempt from federal taxation under 26 U.S.C. Section 501(a) by being described by Section 501(c)(3) of that code;

(11)  ensures that a participant retains membership regardless of whether the participant develops a medical condition;

(12)  has been or a predecessor of the health care sharing ministry has been in existence at all times since December 31, 1999, and medical expenses of its participants have been shared continuously and without interruption since at least December 31, 1999;

(13)  performs an annual audit that is:

(A)  conducted by an independent certified public accounting firm in accordance with generally accepted accounting principles; and

(B)  made available to the public on request; and

(14)  has received a written confirmation from the Centers for Medicare and Medicaid Services that verifies that the health care sharing ministry satisfies federal qualifications for a health care sharing ministry.

Sec. 1681.002.  NOTICE. To qualify as a health care sharing ministry under this chapter, the notice described by Section 1681.001(8) must read substantially as follows:

"Notice: This health care sharing ministry facilitates the sharing of medical expenses and is not an insurance company, and neither its guidelines nor its plan of operation is an insurance policy. Whether anyone chooses to assist you with your medical expenses [~~bills~~] will be totally voluntary because no other participant will be compelled by law to contribute toward your medical expenses [~~bills~~]. As such, participation in the ministry or a subscription to any of its documents should never be considered to be insurance. Regardless of whether you receive any payment for medical expenses, whether any payment is made to a health care provider on your behalf from collected contributions, or whether this ministry continues to operate, you are always personally responsible for the payment of your own medical expenses [~~bills~~]. Complaints concerning this health care sharing ministry may be reported to the office of the Texas attorney general."

SECTION 3.  Subchapter A, Chapter 1681, Insurance Code, as added by this Act, is amended by adding Section 1681.004 to read as follows:

Sec. 1681.004.  CONTRACTING AUTHORITY. A health care sharing ministry may:

(1)  contract and negotiate with health care providers and provider networks for the purpose of lowering medical expenses for sharing among members; and

(2)  contract with a discount health care program registered in this state to provide participants with access to discounts on health care services provided by health care providers if the health care sharing ministry does not act as a program operator as defined by Section 7001.001.

SECTION 4.  Chapter 1681, Insurance Code, is amended by adding Subchapter B to read as follows:

SUBCHAPTER B. ENFORCEMENT

Sec. 1681.051.  ATTORNEY GENERAL JURISDICTION. The attorney general has:

(1)  the exclusive authority to determine whether an organization qualifies for treatment as a health care sharing ministry under this chapter; and

(2)  exclusive jurisdiction and enforcement authority over all complaints and compliance issues concerning health care sharing ministries.

Sec. 1681.052.  DECEPTIVE TRADE PRACTICE. A person or organization that operates a health care sharing ministry that is not qualified as a health care sharing ministry under this chapter is considered to engage in a false, misleading, or deceptive act or practice in violation of Section 17.46, Business & Commerce Code.

Sec. 1681.053.  CIVIL PENALTY. In addition to requesting a temporary or permanent injunction against a person or organization that violates Section 17.46, Business & Commerce Code, as described by Section 1681.052, the attorney general may request a civil penalty of not more than $20,000 for each violation.

Sec. 1681.054.  REMEDIES NOT EXCLUSIVE. The remedies provided by this subchapter are:

(1)  not exclusive; and

(2)  in addition to any other remedy or procedure provided by another law or at common law.

SECTION 5.  This Act takes effect September 1, 2021.