

By: Oliverson, Sanford, Jetton

H.B. No. 573

Substitute the following for H.B. No. 573:

By: Oliverson

C.S.H.B. No. 573

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the operation of health care sharing ministries;
3 authorizing a fee; providing a civil penalty.

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

5 SECTION 1. Chapter ~~1681~~, Insurance Code, is transferred to
6 Subtitle C, Title 5, Business & Commerce Code, redesignated as
7 Chapter 113, Business & Commerce Code, and amended to read as
8 follows:

9 CHAPTER 113 [~~1681~~]. HEALTH CARE SHARING MINISTRIES

10 SUBCHAPTER A. GENERAL PROVISIONS

11 Sec. 113.001. DEFINITIONS. In this chapter:

12 (1) "Administrative fee" means an amount collected
13 from members and used for a purpose other than reimbursing members
14 for their medical expenses, including amounts used to pay for
15 health care sharing ministry administrative expenses and the
16 compensation of third-party vendors for services.

17 (2) "Commissioner" means the commissioner of
18 insurance.

19 (3) "Department" means the Texas Department of
20 Insurance.

21 (4) "Health care sharing ministry" means a [Sec.
22 ~~1681.001. TREATMENT AS HEALTH CARE SHARING MINISTRY. A]~~
23 faith-based, nonprofit organization described by 26 U.S.C. Section
24 501(c)(3) and exempt from taxation under 26 U.S.C. Section 501(a)

1 that ~~[is tax-exempt under the Internal Revenue Code of 1986~~
2 ~~qualifies for treatment as a health care sharing ministry under~~
3 ~~this chapter if it]~~:

4 (A) ~~[(1)]~~ limits its participants to individuals
5 of a similar faith;

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

11 (C) ~~[(3)]~~ provides for the medical bills of a
12 participant through contributions from one participant to another;

13 (D) ~~[(4)]~~ provides amounts that participants may
14 contribute with no assumption of risk or promise to pay among the
15 participants and no assumption of risk or promise to pay by the
16 health care sharing ministry to the participants; and

17 (E) ~~[(5)] provides a written monthly statement to~~
18 ~~all participants that lists the total dollar amount of qualified~~
19 ~~needs submitted to the health care sharing ministry, as well as the~~
20 ~~amount actually published or assigned to participants for their~~
21 ~~contribution;~~

22 ~~[(6)] discloses administrative fees and costs to~~
23 ~~participants;~~

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

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

4 ~~[(9)] does not operate a discount health care program~~
5 ~~as defined by Section 7001.001, Insurance Code.~~

6 (5) "Member" means an individual enrolled in a health
7 care sharing ministry to share medical expenses with other enrolled
8 individuals.

9 (6) "Sharing request" means a request for
10 reimbursement of medical expenses submitted by a member to the
11 health care sharing ministry.

12 ~~[Sec. 1681.002. NOTICE. To qualify as a health care sharing~~
13 ~~ministry under this chapter, the notice described by Section~~
14 ~~1681.001(8) must read substantially as follows:~~

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

1 Sec. 113.002 [~~1681.003~~]. EXEMPTION. Notwithstanding any
2 [~~other~~] provision of the Insurance Code [~~this code~~], a health care
3 sharing ministry that acts in accordance with this chapter is not
4 considered to be engaging in the business of insurance.

5 Sec. 113.003. EXEMPTION FROM HEALTH COVERAGE REQUIREMENT BY
6 INSTITUTION OF HIGHER EDUCATION. A student at an institution of
7 higher education who is a member of a health care sharing ministry
8 may use the membership to comply with a requirement by the
9 institution that the student maintain health benefit coverage.

10 SUBCHAPTER B. FILING REQUIREMENTS

11 Sec. 113.051. INITIAL FILING REQUIREMENT. (a) A person
12 must file information described by Subsection (b) with the
13 department in the form and manner prescribed by the commissioner to
14 operate as a health care sharing ministry in this state.

15 (b) A person intending to operate a health care sharing
16 ministry must include in the filing described by Subsection (a) all
17 information required by the commissioner, including:

18 (1) the responsible director or manager of the
19 ministry;

20 (2) the ministry's physical, mailing, and electronic
21 mail addresses;

22 (3) the contact phone number for the responsible
23 director or manager of the ministry;

24 (4) information demonstrating that the ministry meets
25 the definition of a health care sharing ministry under Section
26 113.001;

27 (5) a copy of the most recent annual audit created by

1 an independent certified public accounting firm in accordance with
2 generally accepted accounting principles and which is made
3 available to the public on request;

4 (6) a list of any third-party vendors acting on behalf
5 of the ministry in this state for the purposes of:

6 (A) enrolling members;

7 (B) negotiating with health care providers after
8 services are rendered; or

9 (C) the financial sharing of member medical
10 needs;

11 (7) a copy of any application forms and organization
12 guidelines used by the ministry;

13 (8) a report of the ministry's members in this state as
14 of the date of the filing that includes the:

15 (A) total number of enrolled members;

16 (B) distribution of members by age; and

17 (C) distribution of members by sex; and

18 (9) a certification that the ministry does not
19 compensate anyone to solicit or enroll members in this state based
20 on the number of members solicited or enrolled or the amount of
21 contributions received from enrolled members, including by
22 commission, at a rate of more than five percent of the membership
23 fee received in the first year of membership.

24 (c) Subsection (b)(9) does not apply to:

25 (1) a salaried individual employed by the health care
26 sharing ministry who does not receive any form of commission,
27 compensation, or other valuable consideration based on enrolling

1 new members; or

2 (2) a new member referral program providing credit for
3 membership for existing members of a health care sharing ministry
4 who have referred new members only if the program is limited to
5 credit for no more than 12 months of membership for the existing
6 members annually.

7 Sec. 113.052. ANNUAL FILING REQUIREMENT. (a) A health care
8 sharing ministry shall submit an annual filing of information
9 described by Subsection (b) to the department in the form and manner
10 prescribed by the commissioner.

11 (b) The annual filing must include all information required
12 by the commissioner, including:

13 (1) an update of any changes made to documents
14 previously filed with the department;

15 (2) a copy of the most recent annual audit required
16 under 26 U.S.C. Section 5000A(d)(2)(B);

17 (3) an organization financial report detailing the
18 following for the prior registration period:

19 (A) the total amount of money collected from
20 members in this state, including contributions, administrative
21 fees, or other funds;

22 (B) the total number of sharing requests made by
23 members in this state;

24 (C) the total amount of money paid for health
25 care services for members in this state;

26 (D) the total number of sharing requests that
27 were denied;

1 (E) the total amount of administrative fees
2 collected from members in this state, including amounts paid to
3 each third-party vendor for services provided to members in this
4 state; and

5 (F) the total equivalent monetary amount of
6 membership contributions waived for participants rewarded by
7 referring others to a new member enrollment program;

8 (4) a report of the health care sharing ministry's
9 members in this state as of the date of the filing that includes
10 the:

11 (A) total number of enrolled members;

12 (B) distribution of members by age; and

13 (C) distribution of members by sex;

14 (5) a report detailing the following:

15 (A) the number of sharing requests made by
16 members in this state that were approved for sharing;

17 (B) the number of sharing requests made by
18 members in this state that were denied for sharing; and

19 (C) the number of complaints made by members in
20 this state; and

21 (6) a certification that the health care sharing
22 ministry does not compensate anyone to solicit or enroll members in
23 this state based on the number of members solicited or enrolled or
24 the amount of contributions received from enrolled members,
25 including by commission, at a rate of more than five percent of the
26 membership fee received in the first year of membership.

27 (c) Subsection (b)(6) does not apply to:

1 (1) a salaried individual employed by the health care
2 sharing ministry who does not receive any form of commission,
3 compensation, or other valuable consideration based on enrolling
4 new members; or

5 (2) a new member referral program providing credit for
6 membership for existing members of a health care sharing ministry
7 who have referred new members only if the program is limited to
8 credit for no more than 12 months of membership for the existing
9 members annually.

10 Sec. 113.053. LATE FILING. (a) A health care sharing
11 ministry that fails to timely submit a filing required by this
12 subchapter must pay the following fee to the department:

13 (1) \$250 for a filing submitted 1 to 30 days late;

14 (2) \$500 for a filing submitted 31 to 60 days late; or

15 (3) \$1,000 for a filing submitted 61 to 90 days late.

16 (b) If a health care sharing ministry fails to submit a
17 filing required by this subchapter within 90 days after the
18 filing's deadline, the ministry may not operate as a health care
19 sharing ministry for two years.

20 Sec. 113.054. FEES. Except as provided by Section 113.053,
21 the commissioner by rule shall set a fee for a filing required under
22 this subchapter in an amount not to exceed \$100. A fee collected
23 under this section shall be deposited to the credit of the Texas
24 Department of Insurance operating account.

25 SUBCHAPTER C. REGULATION OF HEALTH CARE SHARING MINISTRIES

26 Sec. 113.101. NAME. A health care sharing ministry may not
27 operate under any name other than the name under which the ministry

1 has submitted a filing under Subchapter B.

2 Sec. 113.102. MARKETING AND COMMUNICATION. (a) In all
3 communications with the public, a health care sharing ministry may
4 not:

5 (1) make a direct or indirect representation that:

6 (A) the ministry provides insurance; or

7 (B) a health care service is free or included
8 with membership; or

9 (2) include "premium," "copay," "deductible,"
10 "coverage," "network," "benefit plan," or a similar term in
11 marketing except to explain the differences between a health care
12 sharing ministry and insurance.

13 (b) A violation of this section is a false, misleading, or
14 deceptive act or practice in violation of Section 17.46.

15 Sec. 113.103. PROHIBITED COMPENSATION. (a) A health care
16 sharing ministry may not compensate anyone to solicit or enroll
17 members in this state based on the number of members solicited or
18 enrolled or the amount of contributions received from enrolled
19 members, including by commission, at a rate of more than five
20 percent of the membership fee received in the first year of
21 membership.

22 (b) This section does not apply to:

23 (1) a salaried individual employed by the health care
24 sharing ministry who does not receive any form of commission,
25 compensation, or other valuable consideration based on enrolling
26 new members; or

27 (2) a new member referral program providing credit for

1 membership for existing members of a health care sharing ministry
2 who have referred new members only if the program is limited to
3 credit for no more than 12 months of membership for the existing
4 members annually.

5 Sec. 113.104. ENROLLMENT DISCLOSURES. A health care
6 sharing ministry shall disclose the following information in
7 writing for each calendar year from the previous five calendar
8 years in a prominent and conspicuous manner before and at the time
9 an individual is enrolled as a member:

- 10 (1) total member contributions;
11 (2) total amounts paid for sharing requests;
12 (3) total administrative fees paid by members; and
13 (4) the percentage of money paid by members that was
14 paid toward the following:
15 (A) sharing requests; and
16 (B) administrative fees.

17 Sec. 113.105. QUARTERLY STATEMENTS. A health care sharing
18 ministry must provide a prominent and conspicuous written quarterly
19 and annual statement to all members that includes the following:

- 20 (1) the number of members participating that quarter
21 and for that calendar year;
22 (2) the amount of money contributed by members that
23 quarter and for that calendar year;
24 (3) the number of and monetary amount of all sharing
25 requests submitted that quarter and for that calendar year;
26 (4) the number of and monetary amount of sharing
27 requests paid that quarter and for that calendar year;

1 (5) the amount of member contributions remaining for
2 future sharing requests for that quarter and for that calendar
3 year;

4 (6) the amount of administrative fees for services to
5 members for that quarter and for that calendar year, including:

6 (A) the purpose of the administrative fee;

7 (B) the amount paid for each type of
8 administrative fee; and

9 (C) any third-party vendor to which the fee is
10 paid;

11 (7) the percentage of money paid by members that was
12 paid toward the following for that quarter and for that calendar
13 year:

14 (A) sharing requests;

15 (B) administrative fees; and

16 (C) any amount remaining that is designated for
17 the payment of future sharing requests; and

18 (8) the total amount of membership contributions
19 waived for that quarter and for that calendar year for participants
20 in a new member enrollment program.

21 Sec. 113.106. NOTICE; DISCLOSURE. (a) A health care
22 sharing ministry shall provide written notice on or accompanying
23 all applications, guideline materials, and written advertisements,
24 including print and digital advertisements, distributed by or on
25 behalf of the ministry.

26 (b) The notice described by Subsection (a) must be in at
27 least 10-point font, in a prominent and conspicuous place, and read

1 as follows:

2 "Notice: Payment of your medical expenses is not guaranteed.
3 This health care sharing ministry facilitates the sharing of
4 medical expenses and is not an insurance company, and neither its
5 guidelines nor its plan of operation is an insurance policy.
6 Whether anyone chooses to assist you with your medical bills will be
7 totally voluntary because no other participant will be compelled by
8 law to contribute toward your medical bills. As such,
9 participation in the ministry or a subscription to any of its
10 documents should never be considered to be insurance. Regardless
11 of whether you receive any payment for medical expenses or whether
12 this ministry continues to operate, you are always personally
13 responsible for the payment of your own medical bills. Complaints
14 concerning this health care sharing ministry may be reported to the
15 office of the Texas attorney general."

16 (c) A health care sharing ministry shall provide the
17 following notice in any audio or visual advertisement clearly,
18 conspicuously, and in a manner that a listener would hear and
19 understand:

20 "Payment of your medical expenses is not guaranteed. This
21 health care sharing ministry facilitates the sharing of medical
22 expenses, is not an insurance company, and is not offering an
23 insurance policy. Regardless of whether you receive any payment for
24 medical expenses or whether this ministry continues to operate, you
25 are always personally responsible for the payment of your own
26 medical bills."

27 (d) A health care sharing ministry shall provide a written

1 disclosure to a member at enrollment that states:

2 (1) the member may not be exempt from Section
3 5000A(d)(2)(B) of the Internal Revenue Code; and

4 (2) the member may be subject to a tax if Congress
5 reinstates the tax.

6 Sec. 113.107. ANNUAL AUDIT. A health care sharing ministry
7 shall conduct an annual audit that is:

8 (1) performed by an independent certified public
9 accounting firm in accordance with generally accepted accounting
10 principles; and

11 (2) made available to the public on request.

12 Sec. 113.108. EXCESS BENEFIT TRANSACTIONS PROHIBITED. A
13 health care sharing ministry may not conduct an excess benefit
14 transaction as defined by 26 U.S.C. Section 4958.

15 SUBCHAPTER D. ENFORCEMENT

16 Sec. 113.151. CEASE AND DESIST ORDER. (a) The attorney
17 general ex parte may issue an emergency cease and desist order if
18 the attorney general believes that:

19 (1) a person is operating a health care sharing
20 ministry in violation of this chapter; and

21 (2) the alleged conduct:

22 (A) is fraudulent;

23 (B) is hazardous or creates an immediate danger
24 to public safety; or

25 (C) is causing or can be reasonably expected to
26 cause public injury that:

27 (i) is likely to occur at any moment;

1 (ii) is incapable of being repaired or
2 rectified; and

3 (iii) has or is likely to have influence or
4 effect.

5 (b) The cease and desist order must:

6 (1) be served on the person by registered or certified
7 mail, return receipt requested, at the person's last known address;

8 (2) contain a statement of the charges; and

9 (3) require the person to immediately cease and desist
10 from the acts, methods, or practices stated in the order.

11 (c) A person affected by the cease and desist order is
12 entitled to request a hearing to contest the order. The hearing is
13 a contested case under Chapter 2001, Government Code.

14 (d) An order is final on the 31st day after the date it is
15 received unless the affected person requests a hearing under
16 Subsection (c). Pending a hearing under this section, the order
17 continues in effect unless the order is stayed by the attorney
18 general.

19 (e) The attorney general shall provide to the affected
20 person with the order written notice of the opportunity to request a
21 contested case hearing under Chapter 2001, Government Code.

22 (f) If the affected person requests a hearing under
23 Subsection (c), the attorney general shall set a contested case
24 hearing under Chapter 2001, Government Code, and notify the person
25 of the hearing.

26 (g) The administrative law judge shall make findings of fact
27 and conclusions of law and promptly issue to the attorney general a

1 proposal for a decision regarding the order.

2 Sec. 113.152. CIVIL PENALTY. (a) A person who violates
3 this chapter, including a cease and desist order issued under
4 Section 113.151, is liable to this state for a civil penalty in an
5 amount not to exceed \$25,000 for each violation.

6 (b) In determining the amount of the civil penalty, the
7 court shall consider:

8 (1) the seriousness of the violation, including:

9 (A) the nature, circumstances, extent, and
10 gravity of the violation; and

11 (B) the hazard or potential hazard created to the
12 health, safety, or economic welfare of the public;

13 (2) the economic harm to the public interest or public
14 confidence caused by the violation;

15 (3) the history of previous violations;

16 (4) the amount necessary to deter future violations;

17 (5) efforts to correct the violation;

18 (6) whether the violation was intentional; and

19 (7) any other matter that justice may require.

20 Sec. 113.153. ENFORCEMENT ACTION. If the attorney general
21 believes that a health care sharing ministry or another person is
22 violating or has violated this chapter, the attorney general may
23 bring an action in a Travis County district court to enjoin the
24 violation, recover a civil penalty under Section 113.152, order
25 restitution, and obtain other relief the court considers
26 appropriate.

27 Sec. 113.154. REMEDIES CUMULATIVE. A remedy or action

1 authorized by this subchapter is in addition to any other civil,
2 administrative, or criminal action provided by law.

3 SECTION 2. Section 562.0041, Insurance Code, is amended to
4 read as follows:

5 Sec. 562.0041. EXEMPTION. This chapter does not apply to a
6 health care sharing ministry operated under Chapter 113, Business &
7 Commerce Code [~~1681~~].

8 SECTION 3. Section 651.002(c), Insurance Code, is amended
9 to read as follows:

10 (c) This chapter does not apply to a health care sharing
11 ministry operated under Chapter 113, Business & Commerce Code
12 [~~1681~~].

13 SECTION 4. Section 4151.0022, Insurance Code, is amended to
14 read as follows:

15 Sec. 4151.0022. NONAPPLICABILITY. This chapter does not
16 apply to a health care sharing ministry operated under Chapter 113,
17 Business & Commerce Code [~~1681~~].

18 SECTION 5. Section 7001.002, Insurance Code, is amended to
19 read as follows:

20 Sec. 7001.002. EXEMPTION. This chapter does not apply to a
21 program operator who is an insurer and who holds a certificate of
22 authority under Title 6, or a health care sharing ministry operated
23 under Chapter 113, Business & Commerce Code [~~1681~~].

24 SECTION 6. Section 7002.004, Insurance Code, is amended to
25 read as follows:

26 Sec. 7002.004. EXEMPTION. This chapter does not apply to a
27 health care sharing ministry operated under Chapter 113, Business &

1 Commerce Code [~~1681~~].

2 SECTION 7. (a) Notwithstanding Section 113.051, Business &
3 Commerce Code, as added by this Act, a health care sharing ministry
4 operating in this state immediately before the effective date of
5 this Act is not required to submit a filing under Subchapter B,
6 Chapter 113, Business & Commerce Code, as added by this Act, before
7 March 1, 2022. The ministry may continue operating without a filing
8 until April 1, 2022.

9 (b) A health care sharing ministry described by Subsection
10 (a) of this section that fails to submit a filing under Subchapter
11 B, Chapter 113, Business & Commerce Code, as added by this Act,
12 before March 1, 2022, may not operate as a health care sharing
13 ministry until the ministry submits a filing on or after March 1,
14 2024.

15 SECTION 8. This Act takes effect September 1, 2021.