By: Israel H.B. No. 2761

Substitute the following for H.B. No. 2761:

By: Oliverson C.S.H.B. No. 2761

A BILL TO BE ENTITLED

AN ACT

relating to disclosure requirements for accident and health coverage and health expense arrangements marketed to individuals.

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

SECTION 1. Subtitle A, Title 8, Insurance Code, is amended by adding Chapter 1223 to read as follows:

CHAPTER 1223. MANDATORY DISCLOSURES FOR ALTERNATIVE HEALTH COVERAGE AND HEALTH EXPENSE ARRANGEMENTS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 1223.001. DEFINITION. In this chapter, "issuer" means a person who markets, sells, issues, or operates an individual health benefit plan or health expense arrangement governed by this chapter.

Sec. 1223.002. APPLICABILITY. (a) Except as provided by Subsection (b) or Section 1223.003 but notwithstanding any other law, this chapter applies to a health benefit plan or health expense arrangement marketed to an individual to provide health benefit coverage or pay for health care expenses, including:

(1) a health care sharing ministry operated under Chapter 1681;

(2) a discount health care program governed by Chapter 7001;

(3) a direct primary care arrangement governed by Subchapter F, Chapter 162, Occupations Code, but only if sold or

1 marketed by a person other than a physician contracting directly
2 with a patient; or
3 (4) any other plan or arrangement the commissioner
4 determines is or could be marketed to an individual as an
5 alternative to major medical coverage.
6 (b) Except as provided by Section 1223.003 and
7 notwithstanding any other law, this chapter applies to an
8 individual accident and health insurance policy governed by Chapter
9 1201 or a group accident and health insurance policy governed by
10 Chapter 1251 and marketed to an individual if the policy is a fixed
11 indemnity, specified disease, or medical indemnity policy and:
12 (1) the policy is marketed by the insurer or a third
13 party as an alternative to major medical coverage; or
14 (2) the policy:
15 (A) has a range of benefits that is similar to the
16 range of benefits in major medical coverage; and
17 (B) may be sold as stand-alone coverage because
18 the issuer does not require a purchaser to be covered by major
19 medical coverage.
20 Sec. 1223.003. EXCEPTION. This chapter does not apply to a
21 health benefit plan or health expense arrangement if:
22 (1) the issuer is required to submit a summary of
23 benefits and coverage for the plan or arrangement to the United
24 States secretary of health and human services under 42 U.S.C.
25 Section 300gg-15; or
26 (2) the issuer is required to provide a disclosure
27 form for the plan or arrangement under Section 1509.002.

1 Sec. 1223.004. RULES. The commissioner may adopt rules
2 necessary to implement this chapter. Section 2001.0045, Government
3 Code, does not apply to rules adopted under this section.
4 SUBCHAPTER B. DISCLOSURE REQUIRED
5 Sec. 1223.051. DISCLOSURE FORM TEMPLATE. (a) The
6 commissioner by rule shall prescribe a disclosure form template for
7 each type of health benefit plan or health expense arrangement to
8 which this chapter applies.
9 (b) The commissioner shall ensure that the disclosure form
10 template is presented in plain language and in a standardized
11 format designed to facilitate consumer understanding.
12 (c) The commissioner may prescribe as many disclosure form
13 templates as necessary to account for each type of health benefit
14 plan or health expense arrangement.
15 (d) The disclosure form template may include the following
16 information, if applicable, that is tailored to the type of health
17 benefit plan or health expense arrangement described by the
18 template:
19 (1) a statement:
20 (A) of whether the plan or arrangement is
21 insurance; and
22 (B) of what, if any, guarantees are made of
23 payment for or related to health care services;
24 (2) the duration of the coverage or the arrangement;
25 (3) if the plan or arrangement is subject to renewal, a
26 statement:
27 (A) of whether:

1 (i) the plan or arrangement may be renewed
2 at the option of the enrollee or participant with no new
3 underwriting;
4 (ii) the plan or arrangement is only able to
5 be renewed at the option of the issuer after underwriting; or
6 (iii) the plan or arrangement may not be
7 renewed; and
8 (B) of whether, on renewal, the issuer is able
9 to:
10 (i) increase the premium or assess a direct
11 fee, contribution, or similar cost; or
12 (ii) make changes to the plan or
13 arrangement terms, including benefits and limits, based on an
14 individual's health status;
15 (4) a statement that the expiration of the plan or
16 arrangement is not a qualifying life event that would make a person
17 eligible for a special enrollment period, if applicable;
18 (5) a statement that the plan or arrangement may
19 expire outside of the open enrollment period under the Patient
20 Protection and Affordable Care Act (Pub. L. No. 111-148);
21 (6) to the extent the information is available, the
22 dates of the next three open enrollment periods under the Patient
23 Protection and Affordable Care Act (Pub. L. No. 111-148);
24 (7) whether the plan or arrangement contains any
25 limitations or exclusions to preexisting conditions;
26 (8) the maximum dollar amount payable or shareable
27 under the plan or arrangement;

1 (9) the primary cost-sharing features under the plan
2 or arrangement, including a deductible or amount that is not
3 shareable, and the health care services to which the cost-sharing
4 features apply;
5 (10) whether the following health care services are
6 covered or shareable and any limits relevant to that coverage or
7 shareability:
8 (A) prescription drugs;
9 (B) mental health services;
10 (C) substance abuse treatment;
11 (D) maternity care;
12 (E) hospitalization;
13 (F) surgery;
14 (G) emergency health care; and
15 (H) preventive health care;
16 (11) for a plan or arrangement other than a
17 traditional, major medical health benefit plan, information on
18 unique aspects of the plan or arrangement and how it differs from
19 traditional, major medical coverage that the commissioner
20 determines is important to facilitate consumer understanding; and
21 (12) any other information the commissioner
22 determines is important for a purchaser or participant of a plan or
23 arrangement.
24 (e) The commissioner may omit information described by
25 Subsection (d) in a disclosure form template if the information is
26 inapplicable to the type of plan or arrangement for which the
27 template is prescribed.

1 (f) The department shall incorporate the content for an
2 outline of coverage required by Section 1201.108 into the
3 disclosure form template for a policy to which that section
4 applies.
5 Sec. 1223.052. DISCLOSURE FORM REVIEW. (a) Before an
6 issuer may sell, market, or provide an insurance product that is
7 subject to a determination by the commissioner under Section
8 1223.002(a)(4) or that is described by Section 1223.002(b), the
9 issuer shall submit to the department for approval in the manner
10 prescribed by commissioner rule a disclosure form on the product.
11 (b) Except as provided by Subsection (a), an issuer
12 providing a health benefit plan or health expense arrangement
13 described by Section 1223.002(a) to a consumer shall submit to the
14 department for informational purposes in the manner prescribed by
15 commissioner rule a disclosure form for each plan or arrangement
16 offered by the issuer.
17 (c) Except as provided by Subsection (d), the disclosure
18 form must use the disclosure form template prescribed by the
19 commissioner under Section 1223.051 for the health benefit plan or
20 health expense arrangement described by the form.
21 (d) An issuer may modify the disclosure form template for a
22 health benefit plan or health expense arrangement that is not able
23 to be accurately represented by the template. If the issuer
24 modifies the template, the issuer shall clearly identify any
25 changes made and explain the reason for those changes when the
26 issuer submits the form under Subsection (a) or (b).
27 (e) The department shall approve a disclosure form

1 submitted under Subsection (a) if the form uses the appropriate
2 disclosure form template and accurately describes the health
3 benefit plan or health expense arrangement in a manner that is
4 easily understandable to a consumer.
5 Sec. 1223.053. DISCLOSURE TO CONSUMER. (a) An issuer shall
6 provide to a consumer the disclosure form submitted under Section
7 1223.052 along with an application, if applicable:
8 (1) before the earliest of the time that the consumer
9 completes an application, makes an initial premium payment, or
10 makes any other payment in connection with coverage under or
11 participation in the health benefit plan or health expense
12 arrangement; and
13 (2) at the time the policy, certificate, or
14 arrangement is issued or entered into.
15 (b) An issuer shall ensure that a consumer signs the
16 disclosure form before the issuer accepts an application or
17 payment for or issues or enters into the health benefit plan or
18 health expense arrangement. An electronic signature must comply
19 with Chapter 35 and rules adopted under this chapter.
20 Sec. 1223.054. RETENTION. An issuer shall retain a signed
21 disclosure form until the fifth anniversary of the date the issuer
22 receives the form, and the issuer shall make the form available to
23 the department on request.
24 Sec. 1223.055. HEALTH CARE SHARING MINISTRIES. The
25 commissioner shall consult with the attorney general in prescribing
26 the disclosure form template applicable to a health care sharing
27 ministry, and the template must incorporate the notice described by

1 Section 1681.002.

2 Sec. 1223.056. DIRECT PRIMARY CARE ARRANGEMENTS. The
3 commissioner shall consult with the Texas Medical Board in
4 prescribing the disclosure form template applicable to a direct
5 primary care arrangement, and the template must incorporate the
6 disclosure required by Section 162.256, Occupations Code.

7 Sec. 1223.057. ENFORCEMENT. The department may take an
8 enforcement action under Subtitle B, Title 2, against an issuer
9 that violates this chapter.

10 SECTION 2. Not later than September 1, 2022, the
11 commissioner of insurance shall adopt rules necessary to implement
12 Chapter 1223, Insurance Code, as added by this Act.

13 SECTION 3. Chapter 1223, Insurance Code, as added by this
14 Act, applies only to a health benefit plan or health expense
15 arrangement delivered, issued for delivery, entered into, or
16 renewed on or after September 1, 2022.

17 SECTION 4. This Act takes effect September 1, 2021.