

SUBJECT: Regulating operation of health care sharing ministries in the state

COMMITTEE: Insurance — committee substitute recommended

VOTE: 9 ayes — Oliverson, Vo, J. González, Hull, Israel, Middleton, Paul, Romero, Sanford

0 nays

WITNESSES: For — Blake Hutson, AARP Texas; Keith Hopkinson, Christian Healthcare Ministries; Stacey Pogue, Every Texan; Kevin McBride, Impact Health Sharing Inc.; Jamie Lagarde, Sedera, Inc.; Shannon Meroney, Texas Association of Health Underwriters; Michael Murphy; (*Registered, but did not testify:* Greg Hansch, National Alliance on Mental Illness Texas; Marshall Kenderdine, Texas Academy of Family Physicians; Cameron Duncan, Texas Hospital Association; Clayton Stewart, Texas Medical Association; Jill Sutton, Texas Osteopathic Medical Association; Eric Woomer, Texas Pediatric Society; David Balat, Texas Public Policy Foundation; Michael Grimes, Texas Radiological Society)

Against — Jason Rapert, American Association of Healthcare Sharing Ministries; Thomas Connors, Liberty Health Share

On — Brad Nail, Alliance of Health Care Sharing Ministries; Evelio Silvera, Christian Care Ministry-Medi-Share; Ryan James, OneShare Health; Katheryn Johnson, OneShare Health LLC; Joel Noble, Samaritan Ministries; Jamie Dudensing, Texas Association of Health Plans; Jill Baine; Juliet Dill; JoAnn Volk; (*Registered, but did not testify:* Joshua Godbey, Office of the Attorney General; Jaime Walker, Texas Department of Insurance)

BACKGROUND: Insurance Code ch. 1681 governs health care sharing ministries, which are faith-based, nonprofit organizations that are tax-exempt under the Internal Revenue Code of 1986 if certain criteria are met. A health care sharing ministry is not considered to be engaging in the business of insurance.

Suggestions have been made to strengthen oversight and accountability of health care sharing ministries operating in the state to prevent some ministries from misrepresenting themselves as traditional health insurance plans to consumers.

DIGEST:

CSHB 573 would establish filing requirements for health care sharing ministries to operate in the state, create filing fees, prohibit a ministry from taking certain actions, and use certain enforcement mechanisms for violators.

The bill also would define several terms and would transfer Insurance Code ch. 1681 to Business and Commerce Code, Title 5, subtitle C and redesignate it as Business and Commerce Code ch. 113.

The bill would revise the definition of "health care sharing ministry" to mean a faith-based, nonprofit described by 26 U.S.C. Section 501(c)(3) and exempt from taxation under 26 U.S.C. Section 501(a).

Filing requirements. The bill would require a person who intended to operate a health care sharing ministry in the state to file certain initial and annual information to the commissioner of the Texas Department of Insurance (TDI).

Initial filing. The bill would require specified information to be included in the person's initial filing, such as:

- the director or manager of the ministry and their contact number;
- the ministry's physical and electronic mail addresses;
- the copy of the most recent annual audit as required by the bill;
- a list of certain third-party vendors acting on behalf of the ministry in the state; and
- a copy of any application forms and organization guidelines used by the ministry.

A health care sharing ministry operating in the state immediately before

the bill's effective date would not have to submit an initial filing before March 1, 2022. The ministry could continue operating without a filing until April 1, 2022.

A ministry that failed to submit a filing before March 1, 2022, could not operate as a health care sharing ministry until the ministry submitted a filing on or after March 1, 2024.

Annual filing. The bill would require specified information to be included in the person's annual filing, such as:

- an update of any changes made to documents previously filed with TDI;
- a copy of the most recent annual audit required under federal law;
- an organization financial report detailing certain information for the prior registration period; and
- certain other reports or certification.

Fees. The bill would require the commissioner by rule to set a maximum \$100 fee for a required filing. Collected fees would be deposited to the credit of TDI's operating account.

Late filing. A health care sharing ministry that failed to timely submit a required filing would have to pay the following fee to TDI:

- \$250 for a filing submitted one to 30 days late;
- \$500 for a filing submitted 31 to 60 days late; or
- \$1,000 for a filing submitted 61 to 90 days late.

If a ministry failed to submit a filing within 90 days after the deadline, the ministry could not operate as a health care sharing ministry for two years.

Prohibited actions. Under the bill, a health care sharing ministry could not take specified actions, including:

- operating under any name other than the name in which the

- ministry had submitted a filing;
- making a direct or indirect representation that the ministry provided insurance or that a health care service was free;
- compensate anyone to solicit or enroll members in the state based on the number of members solicited or enrolled or the amount of contributions received from enrolled members, including by commission.

The bill would define "member" as an individual enrolled in a health care sharing ministry to share medical expenses with other enrolled individuals.

Disclosures. The bill would require a health care sharing ministry to disclose in writing for each calendar year from the previous five calendar years the following information before and at the time an individual was enrolled as a member:

- total member contributions;
- total amounts paid for sharing requests;
- total administrative fees paid by members; and
- the percentage of money paid by members that was paid toward sharing requests and administrative fees.

The bill would define "administrative fee" as an amount collected from members and used for a purpose other than reimbursing members for their medical expenses, including amounts used to pay for the ministry's administrative expenses and the compensation of third-party vendors for services.

"Sharing request" would mean a member's request submitted to the ministry to be reimbursed for medical expenses.

The bill also would require a health care sharing ministry to provide certain written notices on or accompanying all applications, guideline materials, and written advertisements distributed by or on behalf of the ministry.

Cease and desist order. The bill would authorize the attorney general ex parte to issue an emergency cease and desist order if the attorney general believed that a person was operating a health care sharing ministry in violation of the bill and if the alleged conduct met certain criteria. The bill would specify requirements and procedures after a cease and desist order was issued.

Civil penalty. A person who violated the bill, including a cease and desist order would be liable to the state for a civil penalty of not more than \$25,000 for each violation. A court would have to consider certain factors when determining the amount of the civil penalty.

Other provisions. The bill would make certain conforming changes under current law.

The bill would take effect September 1, 2021.