

## **BILL ANALYSIS**

Senate Research Center

C.S.S.B. 842  
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State Affairs  
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Committee Report (Substituted)

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Health care sharing organizations exist that allow participants of similar faith and sincere religious beliefs to voluntarily assist fellow participants with the payment of medical expenses. In many instances, participants of a health care sharing organization provide assistance to individuals who are without health insurance coverage and, in doing so, provide important services that the state would otherwise have to provide.

There has been some debate regarding whether these health care sharing organizations are subject to insurance laws and discount health care program laws. Some believe that these laws would interfere with the religious practices of participants in health care sharing organizations, and that due to their beneficial work and religious nature, health care sharing organizations should be statutorily recognized as religious organizations helping to fulfill the religious beliefs of organization participants and should not be treated in the same manner as secular health care coverages, including insurance. In addition, the Texas Religious Freedom Restoration Act, Chapter 110 (Religious Freedom), Texas Civil Practice and Remedies Code, protects participants' free exercise of religion and states that a government agency may not substantially burden a person's free exercise of religion. Similar legislation already exists in Florida, Iowa, Kansas, Kentucky, Maryland, Missouri, Oklahoma, Pennsylvania, Utah, Virginia, and Wisconsin. The American Legislative Exchange Council also has adopted a model act called the "Health Care Sharing Ministries Freedom to Share Act."

C.S.S.B. 842 provides for the operation of health care sharing organizations in Texas to provide noninsurance health coverages.

### **RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to the attorney general in SECTION 2 (Section 1680.006, Insurance Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Provides that participants of a health care sharing organization voluntarily assist fellow participants with the payment of medical expenses. Provides that in many instances, participants of a health care sharing organization provide assistance to individuals who are without health insurance coverage and, in doing so, provide important services that the state would otherwise have to provide. Provides that due to their beneficial work and religious nature, health care sharing organizations should be statutorily recognized as religious organizations helping to fulfill the religious beliefs of organization participants and should not be treated in the same manner as secular health care coverages, including insurance.

SECTION 2. Amends Title 8, Insurance Code, by adding Subtitle K, as follows:

#### **SUBTITLE K. NONINSURANCE HEALTH COVERAGES**

#### **CHAPTER 1680. HEALTH CARE SHARING ORGANIZATIONS**

Sec. 1680.001. **SHORT TITLE.** Authorizes this chapter to be cited as the Health Care Sharing Organizations Freedom to Share Act.

Sec. 1680.002. TREATMENT AS HEALTH CARE SHARING ORGANIZATION. Provides that an organization that administers a health care sharing arrangement among individuals of the same religion based on the individuals' sincerely held religious belief qualifies for treatment as a health care sharing organization under this chapter if certain conditions are met.

Sec. 1680.003 NOTICE. Requires that the notice described by Section 1680.002(2)(E) (requiring that a notice that complies with Section 1680.003 be attached to each application for participation in a health care sharing arrangement), be printed in no smaller than 12-point font and read substantially as follows, "This health care sharing organization is not offering an insurance product and the health care sharing arrangement is not being offered by or through an insurance company. Participation in the health care sharing organization may limit your future options to purchase insurance if your health condition changes. Participation in the health care sharing organization does not provide creditable coverage, and therefore, future insurance coverage you obtain may limit or exclude benefits for your preexisting conditions. This health care sharing organization is also not offering a discount health care program. Whether anyone chooses to assist you with your medical bills is voluntary, as no other participant may be compelled to share payment of your medical bills. This health care share arrangement is not insurance or a substitute for insurance. Whether you receive any payments for medical expenses and whether this health care sharing organization or arrangement continues to operate, you remain, to the extent allowable under law, personally and fully responsible for the payment of your own medical bills. Complaints concerning this health care sharing organization may be reported to the Texas Office of the Attorney General (OAG)."

Sec. 1600.004. AUTHORITY; LIMITATIONS. (a) Authorizes a health care sharing organization to:

- (1) establish additional qualifications for participation in the health care sharing arrangement;
- (2) limit the financial or medical-related needs that may be eligible for payment amount the participants;
- (3) cancel a participant's participation in the health care sharing arrangement if the participant fails to make a specific payment to another participant before the 60th day after the date is due; and
- (4) issue participant membership cards.

(b) Requires that the cards, if a health care sharing organization issues participant membership cards, include the statement "Not Insurance."

(c) Prohibits a health care sharing organization from requiring that participants speak English.

Sec. 1680.005. CONSTRUCTION WITH OTHER LAW. (a) Provides that Chapter 76 (Discount Health Care Programs), Health and Safety Code, does not apply to a health care sharing organization.

(b) Provides that notwithstanding any other provision of this code, a health care sharing organization is exempt from the operation of the insurance laws of this state and is not subject to the oversight of the commissioner of insurance.

Sec. 1680.006. ENFORCEMENT AND ADMINISTRATION BY ATTORNEY GENERAL. (a) Provides that, notwithstanding any other law, the OAG has jurisdiction over health care sharing organizations to ensure compliance with this chapter and for the prevention and prosecution of deceptive trade practices and fraud, and consumer protection.

(b) Requires a health care sharing organization to provide to OAG on the request of OAG, any audit conducted of the organization and any original or amended annual filing made by the organization with the United States Internal Revenue Service.

(c) Authorizes the attorney general to adopt rules to implement this chapter.

Sec. 1680.007. CONSUMER PROTECTION. Provides that a participant in a health care sharing organization is a consumer for purposes of Chapter 17 (Deceptive Trade Practices), Business & Commerce Code, and is entitled to the protections provided by that chapter.

Sec. 1680.008. NO ASSUMPTION OF RISK. (a) Provides that participants in a health care sharing arrangement and the health care sharing organization do not assume any risk or make any promise to pay the financial or medical-related needs of other participants, and are not risk-bearing entities.

(b) Provides that none of the activities in this chapter give rise to an assumption of risk or promise to pay by either the participants or the health care sharing organization.

Sec. 1680.009. COLLATERAL SHARING ACTIVITIES. Authorizes a health care sharing organization to arrange for participants to share bills when a participant experiences disability and provide health counseling, education, and resources to participants in the health care sharing arrangement.

Sec. 1680.010. CONTRACTUAL ARRANGEMENTS WITH OTHER ENTITIES. (a) Authorizes a health care sharing organization to contract with an administrator as defined by Chapter 4151 (Third-Party Administrators), Insurance Code, or a preferred provider organization or similar entity to facilitate the operation of the organization.

(b) Provides that a health care sharing organization that enters into a contractual arrangement under Subsection (a) remains exempt from the operation of the insurance laws of this state as described in Section 1680.005.

Sec. 1680.011. ANNUAL REPORT. Requires the organization, not later than January 1 of each year, to file an annual report regarding its operations in this state during that fiscal year with the governor, attorney general, lieutenant governor, and speaker of the house of representatives.

SECTION 3. Amends Section 101.055(a), Insurance Code, as follows:

(a) Provides that Section 101.051(b)(7) (regarding contracting to provide indemnification or expense reimbursement for a medical expense by direct payment, reimbursement, or otherwise to a person domiciled in this state or for a risk located in this state, whether as an insurer, agent, administrator, trust, or funding mechanism or by another method) does not apply to a health care sharing organization operated under Chapter 1680. Makes nonsubstantive changes.

SECTION 4. Amends Section 76.002, Health and Safety Code, as follows:

Sec. 76.002. New heading: CONSTRUCTION WITH OTHER LAW. (a) Creates this subsection from existing text.

(b) Provides that this chapter does not apply to a health care sharing organization operated under Chapter 1680, Insurance Code.

SECTION 5. Effective date: upon passage or September 1, 2009.