

1 State of Arkansas
2 93rd General Assembly
3 Regular Session, 2021
4

A Bill

SENATE BILL 168

5 By: Senator K. Hammer
6 By: Representative Gonzales
7

For An Act To Be Entitled

9 AN ACT TO MODIFY THE EXEMPTIONS OF CERTAIN ENTITIES
10 FROM INSURANCE REGULATION; AND FOR OTHER PURPOSES.
11

Subtitle

12
13 TO MODIFY THE EXEMPTIONS OF CERTAIN
14 ENTITIES FROM INSURANCE REGULATION.
15
16
17

18 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
19

20 SECTION 1. Arkansas Code § 23-60-104 is amended to read as follows:

21 23-60-104. Exceptions – Burial associations – ~~Health-care~~ Healthcare
22 sharing ministries – Direct ~~primary-care~~ healthcare agreements – Definitions.

23 (a) The Arkansas Insurance Code and rules promulgated by the Insurance
24 Commissioner under the Arkansas Insurance Code do not apply to a:

25 (1) Burial association governed by §§ 23-78-101 – 23-78-119 and
26 23-78-121 – 23-78-125;

27 (2) Direct ~~primary-care~~ healthcare agreement; or

28 (3) ~~Health-care~~ Healthcare sharing ministry.

29 (b) As used in this section:

30 (1)(A) “Direct ~~primary-care~~ healthcare agreement” means a
31 written agreement that:

32 (i) Is between a licensed healthcare provider and a
33 patient or the patient’s legal representative;

34 (ii)(a) Allows either party to terminate the
35 agreement in writing, without penalty or payment of a termination fee, at any
36 time or after notice as specified in the agreement.



1 (b) The notice of termination described in
 2 subdivision (b)(1)(A)(ii)(a) of this section shall not exceed sixty (60)
 3 days;

4 (iii) Describes the healthcare services to be
 5 provided in exchange for payment of a periodic fee;

6 (iv) Specifies the periodic fee required and any
 7 additional fees that may be charged;

8 (v) May allow the periodic fee and any additional
 9 fees to be paid by a third party;

10 (vi) Prohibits the healthcare provider from charging
 11 or receiving additional compensation for healthcare services included in the
 12 periodic fee; and

13 (vii) Conspicuously and prominently states that the
 14 agreement is not health insurance and does not meet any individual health
 15 insurance mandate that may be required by federal law.

16 (B) A direct ~~primary care~~ healthcare agreement shall
 17 provide a written disclaimer on or accompanying an application distributed by
 18 or on behalf of an entity offering a direct ~~primary care~~ healthcare agreement
 19 that reads, in substance:

20 "Notice: A direct ~~primary care~~ healthcare agreement is not an insurance
 21 policy, and the select medical services as specified under a direct ~~primary~~
 22 ~~care~~ healthcare agreement may not constitute the minimum essential health
 23 benefits under federal healthcare laws established by Pub. L. No. 111-148, as
 24 amended by Pub. L. No. 111-152, and any amendments to, or regulations or
 25 guidance issued under, those statutes existing on January 1, 2017. ~~Medical~~
 26 ~~services provided under a direct primary care agreement may not be covered by~~
 27 ~~or coordinated with your health insurance and you~~ You may be responsible for
 28 any payment for medical services not covered by health insurance under your
 29 insurer's statement of benefits policy."

30 (C) "Direct ~~primary care~~ healthcare agreement" does not
 31 mean a health benefit plan or a health maintenance organization as defined in
 32 § 23-76-102; and

33 (2) "~~Health care~~ Healthcare sharing ministry" means a faith-
 34 based, nonprofit organization that:

35 (A) Is tax-exempt under the Internal Revenue Code of 1986;

36 (B) Limits participation to those who are of a similar

1 faith;

2 (C) Facilitates an arrangement to match participants who
3 have financial or medical needs to participants with the present ability to
4 assist those with financial or medical needs according to criteria
5 established by the ~~health care~~ healthcare sharing ministry;

6 (D) Provides for the financial or medical needs of a
7 participant through contributions from one (1) participant to another;

8 (E) Establishes contribution amounts for participants with
9 no guarantee of return, assumption of risk, or promise to pay qualified
10 medical needs of the participant or of the medical provider performing the
11 service or services for the participant;

12 (F) Provides a written monthly statement to its
13 participants that lists:

14 (i) The total dollar amount of qualified needs
15 submitted to the ~~health care~~ healthcare sharing ministry; and

16 (ii) The amount of contribution established for its
17 participants;

18 (G) Provides a written disclaimer on or accompanying an
19 application and guideline material distributed by or on behalf of the ~~health~~
20 ~~care~~ healthcare sharing ministry that reads, in substance:

21 "Notice: The organization facilitating the sharing of medical expenses is not
22 an insurance company and neither its guidelines nor plan of operation is an
23 insurance policy. If anyone chooses to assist you with your medical bills, it
24 will be totally voluntary because participants are not compelled by law to
25 contribute toward your medical bills. Participation in the organization or a
26 subscription to any of its documents should never be considered to be
27 insurance. Regardless of whether you receive a payment for medical expenses
28 or if this organization continues to operate, you are always personally
29 responsible for the payment of your own medical bills."; and

30 (H) Transfers or distributes contribution amounts from one
31 (1) participant to match the qualified medical needs of another participant
32 to whom neither the organization nor the sending participant has an
33 obligation or commitment to pay for any qualified medical needs with its own
34 funds.

35

36 SECTION 2. Arkansas Code § 23-76-103(c), concerning applicability of

1 laws concerning hospital and medical service corporations, is amended to read
2 as follows:

3 (c) This chapter does not apply to a:

4 (1) ~~Health care~~ Healthcare sharing ministry as defined in § 23-
5 60-104(b); or

6 (2) Direct ~~primary care~~ healthcare agreement as defined in § 23-
7 60-104(b).

8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36