

SENATE BILL 697

C3

0lr2946
CF 0lr2593

By: **Senator Klausmeier**

Introduced and read first time: February 3, 2020

Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Insurance – Health Care Sharing Ministries**

3 FOR the purpose of repealing a certain exemption from certain insurance laws for certain
4 voluntary noncontractual religious publication arrangements; exempting from
5 certain insurance laws certain health care sharing ministries; requiring a person to
6 obtain a certificate of registration from the Maryland Insurance Commissioner to act
7 as a health care sharing ministry in the State; establishing certain application
8 requirements for certain certificates of registration; establishing and requiring
9 payment of certain fees by certain applicants for certain certificates of registration;
10 requiring the Commissioner to issue certain certificates of registration to certain
11 applicants; establishing the term of certain certificates of registration; authorizing
12 the renewal of a certain certificate of registration under certain circumstances;
13 requiring the Commissioner to send a certain notice not later than a certain number
14 of days before the expiration of a certain certificate of registration; authorizing the
15 Commissioner to reinstate a certain certificate of registration under certain
16 circumstances; establishing that a health care sharing ministry that fails to renew a
17 certain certificate of registration within certain time periods shall be subject to
18 certain penalties; prohibiting a health care sharing ministry from reapplying for a
19 certain certificate of registration and operating in the State for a certain period of
20 time under certain circumstances; prohibiting the State from being held liable for
21 certain debts, claims, obligations, and liabilities; prohibiting health care sharing
22 ministries from making certain representations and operating under certain names;
23 requiring the Commissioner to post certain information on its website in a certain
24 manner; establishing that a health care sharing ministry that holds a certain
25 certificate of registration is subject to certain provisions of law; establishing that
26 certain persons are subject to certain authority of the Commissioner and the Office
27 of the Attorney General under certain circumstances; requiring each health care
28 sharing ministry to provide a certain disclaimer on certain applications, guidelines,
29 materials, and publications; defining certain terms; and generally relating to health
30 care sharing ministries and the applicability of insurance laws in the State.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



BY repealing

Article – Insurance

Section 1–202(a)(4)

Annotated Code of Maryland

(2017 Replacement Volume and 2019 Supplement)

BY adding to

Article – Insurance

Section 1–202(a)(4); 8–701 through 8–707 to be under the new subtitle “Subtitle 7.

Health Care Sharing Ministries”; and 27–402(15)

Annotated Code of Maryland

(2017 Replacement Volume and 2019 Supplement)

BY repealing and reenacting, with amendments,

Article – Insurance

Section 27–402(14) and (15)

Annotated Code of Maryland

(2017 Replacement Volume and 2019 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,

That the Laws of Maryland read as follows:

Article – Insurance

1–202.

(a) This article does not apply to:

[(4) a voluntary noncontractual religious publication arrangement that:

(i) is a nonprofit religious organization for which the State may not be held in any way liable or responsible for any of its debts, claims, obligations, or liabilities;

(ii) publishes a newsletter whose subscribers are limited to members of the same denomination or religion;

(iii) acts as an organizational clearinghouse for information between subscribers who have medical costs and subscribers who choose to assist with those costs;

(iv) matches subscribers with a willingness to pay and subscribers with present medical costs;

(v) coordinates payments directly from one subscriber to another;

(vi) suggests amounts to give that are voluntary among the subscribers, with no assumption of risk or promise to pay either among the subscribers or between the subscribers and the organization;

(vii) does not use a compensated insurance producer, representative, or other person to solicit or enroll subscribers;

(viii) does not make a direct or indirect representation that it is operating in a financially sound manner or that it has had a successful history of meeting subscribers' medical costs;

(ix) provides to each subscriber a written monthly statement listing both the total dollar amount of qualified medical costs submitted for publication and the amount actually published and assigned for payment;

(x) does not use funds paid by subscribers for medical costs to cover administrative costs;

(xi) submits a registration statement, including a copy of any application forms and guidelines, promotional, or informational material distributed by or on behalf of the arrangement, to the Secretary of State in accordance with the provisions of Title 6, Subtitle 4 of the Business Regulation Article; and

(xii) provides the following verbatim written disclaimer as a separate cover sheet for any and all documents distributed by or on behalf of the exempt arrangement, including applications, guidelines, promotional, or informational material and all periodic publications:

“Notice

This publication is not issued by an insurance company nor is it offered through an insurance company. It does not guarantee or promise that your medical bills will be published or assigned to others for payment. No other subscriber will be compelled to contribute toward the cost of your medical bills. Therefore, this publication should never be considered a substitute for an insurance policy. This activity is not regulated by the State Insurance Administration, and your liabilities are not covered by the Life and Health Guaranty Fund. Whether or not you receive any payments for medical expenses and whether or not this entity continues to operate, you are always liable for any unpaid bills.”; or]

(4) EXCEPT AS PROVIDED IN TITLE 8, SUBTITLE 7 OF THIS ARTICLE, A HEALTH CARE SHARING MINISTRY, AS DEFINED IN § 8-701 OF THIS ARTICLE; OR

SUBTITLE 7. HEALTH CARE SHARING MINISTRIES.

8-701.

(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(B) "HEALTH CARE SHARING MINISTRY" MEANS AN ORGANIZATION:

(1) THAT OPERATES IN ACCORDANCE WITH 26 U.S.C. § 5000A(D)(2)(B);

(2) IS DESCRIBED IN § 501(C)(3) OF THE INTERNAL REVENUE CODE AND EXEMPT FROM TAXATION UNDER § 501(A) OF THE INTERNAL REVENUE CODE;

(3) IN WHICH MEMBERS:

(I) SHARE A COMMON SET OF ETHICAL OR RELIGIOUS BELIEFS AND SHARE MEDICAL EXPENSES AMONG MEMBERS IN ACCORDANCE WITH THOSE BELIEFS AND WITHOUT REGARD TO THE STATE IN WHICH A MEMBER RESIDES OR IS EMPLOYED; AND

(II) RETAIN MEMBERSHIP EVEN AFTER THE MEMBER DEVELOPS A MEDICAL CONDITION;

(4) (I) THAT HAS BEEN IN EXISTENCE, OR THAT HAS A PREDECESSOR OF THE ORGANIZATION THAT HAS BEEN IN EXISTENCE, AT ALL TIMES SINCE DECEMBER 31, 1999; AND

(II) IN WHICH MEDICAL EXPENSES OF ITS MEMBERS HAVE BEEN SHARED CONTINUOUSLY AND WITHOUT INTERRUPTION SINCE AT LEAST DECEMBER 31, 1999; AND

(5) THAT CONDUCTS AN ANNUAL AUDIT THAT IS:

(I) PERFORMED BY AN INDEPENDENT CERTIFIED PUBLIC ACCOUNTING FIRM IN ACCORDANCE WITH GENERALLY ACCEPTED ACCOUNTING PRINCIPLES; AND

(II) MADE AVAILABLE TO THE PUBLIC ON REQUEST.

(C) "REGISTRANT" MEANS A PERSON THAT HOLDS A CURRENT CERTIFICATE OF REGISTRATION TO ACT AS A HEALTH CARE SHARING MINISTRY IN THE STATE.

8-702.

(A) A PERSON SHALL OBTAIN A CERTIFICATE OF REGISTRATION FROM THE COMMISSIONER TO ACT AS A HEALTH CARE SHARING MINISTRY IN THE STATE.

(B) AN APPLICANT FOR A CERTIFICATE OF REGISTRATION SHALL:

(1) SUBMIT TO THE COMMISSIONER:

(I) AN APPLICATION ON THE FORM THAT THE COMMISSIONER PROVIDES THAT SHALL INCLUDE:

1. THE RESPONSIBLE DIRECTOR OR MANAGER OF THE HEALTH CARE SHARING MINISTRY;

2. THE CONTACT ADDRESS FOR THE HEALTH CARE SHARING MINISTRY; AND

3. THE CONTACT PHONE NUMBER FOR THE RESPONSIBLE DIRECTOR OR MANAGER OF THE HEALTH CARE SHARING MINISTRY;

(II) A COPY OF THE CERTIFICATION LETTER ISSUED TO THE HEALTH CARE SHARING MINISTRY BY THE CENTERS FOR MEDICARE AND MEDICAID SERVICES;

(III) A COPY OF THE MOST RECENT ANNUAL AUDIT REQUIRED UNDER 26 U.S.C. § 5000A(D)(2)(B);

(IV) A LIST OF ANY THIRD-PARTY VENDORS ACTING ON BEHALF OF THE ORGANIZATION FOR THE PURPOSES OF:

1. ENROLLING MEMBERS;

2. NEGOTIATING WITH HEALTH CARE PROVIDERS; OR

3. THE FINANCIAL SHARING OF MEMBER MEDICAL NEEDS;

(V) A COPY OF ANY APPLICATION FORMS AND MINISTRY GUIDELINES USED BY THE HEALTH CARE SHARING MINISTRY;

(VI) A REPORT OF THE HEALTH CARE SHARING MINISTRY'S MEMBERS IN THE STATE AS OF THE DATE OF APPLICATION THAT INCLUDES THE:

1. TOTAL NUMBER OF ENROLLED MEMBERS;

2. DISTRIBUTION OF MEMBERS BY AGE; AND

3. DISTRIBUTION OF MEMBERS BY SEX; AND

(VII) A CERTIFICATION THAT THE HEALTH CARE SHARING MINISTRY DOES NOT USE A COMPENSATED INSURANCE PRODUCER, REPRESENTATIVE, OR OTHER PERSON TO SOLICIT OR ENROLL MEMBERS IN THE STATE; AND

(2) PAY TO THE COMMISSIONER THE FEE REQUIRED UNDER SUBSECTION (F) OF THIS SECTION.

(C) THE COMMISSIONER SHALL ISSUE A CERTIFICATE OF REGISTRATION TO EACH APPLICANT THAT MEETS THE REQUIREMENTS OF SUBSECTION (B) OF THIS SECTION.

(D) (1) A CERTIFICATE OF REGISTRATION EXPIRES 1 YEAR AFTER THE DATE OF ISSUANCE UNLESS IT IS RENEWED AS PROVIDED IN THIS SUBSECTION.

(2) BEFORE A CERTIFICATE OF REGISTRATION EXPIRES, THE REGISTRANT MAY RENEW IT FOR AN ADDITIONAL 1-YEAR TERM IF THE REGISTRANT:

(I) SUBMITS TO THE COMMISSIONER:

1. A RENEWAL APPLICATION ON THE FORM THE COMMISSIONER REQUIRES;

2. A COPY OF THE MOST RECENT ANNUAL AUDIT REQUIRED UNDER 26 U.S.C. § 5000A(D)(2)(B);

3. AN UPDATED LIST OF ANY THIRD-PARTY VENDORS ACTING ON BEHALF OF THE ORGANIZATION FOR THE PURPOSES OF:

A. ENROLLING MEMBERS;

B. NEGOTIATING WITH HEALTH CARE PROVIDERS; OR

C. THE FINANCIAL SHARING OF MEMBER MEDICAL NEEDS;

4. A REPORT OF THE REGISTRANT'S MEMBERS IN THE STATE AS OF THE DATE OF THE RENEWAL APPLICATION THAT INCLUDES THE:

A. TOTAL NUMBER OF ENROLLED MEMBERS;

1 **B. DISTRIBUTION OF MEMBERS BY AGE; AND**

2 **C. DISTRIBUTION OF MEMBERS BY SEX; AND**

3 **5. A CERTIFICATION THAT THE HEALTH CARE SHARING**
4 **MINISTRY DOES NOT USE A COMPENSATED INSURANCE PRODUCER,**
5 **REPRESENTATIVE, OR OTHER PERSON TO SOLICIT OR ENROLL MEMBERS IN THE**
6 **STATE; AND**

7 **(II) PAYS TO THE COMMISSIONER THE FEE REQUIRED UNDER**
8 **SUBSECTION (F) OF THIS SECTION.**

9 **(3) THE COMMISSIONER SHALL SEND A NOTICE OF AN IMPENDING**
10 **EXPIRATION OF A CERTIFICATE OF REGISTRATION TO A HEALTH CARE SHARING**
11 **MINISTRY NOT LATER THAN 30 DAYS BEFORE THE EXPIRATION OF THE CERTIFICATE**
12 **OF REGISTRATION.**

13 **(E) (1) THE COMMISSIONER SHALL ISSUE A RENEWAL CERTIFICATE OF**
14 **REGISTRATION TO EACH APPLICANT THAT MEETS THE REQUIREMENTS OF**
15 **SUBSECTION (D) OF THIS SECTION.**

16 **(2) THE COMMISSIONER MAY REINSTATE A CERTIFICATE OF**
17 **REGISTRATION THAT HAS INADVERTENTLY BEEN ALLOWED TO EXPIRE IF A**
18 **REQUEST IS MADE BY THE HEALTH CARE SHARING MINISTRY WITHIN 3 MONTHS**
19 **AFTER EXPIRATION OF THE CERTIFICATE.**

20 **(3) (I) A HEALTH CARE SHARING MINISTRY THAT FAILS TO TIMELY**
21 **RENEW A CERTIFICATE OF REGISTRATION SHALL BE SUBJECT TO THE FOLLOWING**
22 **PENALTIES:**

23 **1. \$250 FOR A CERTIFICATE OF REGISTRATION 1 TO 30**
24 **DAYS LATE;**

25 **2. \$500 FOR A CERTIFICATE OF REGISTRATION 31 TO 60**
26 **DAYS LATE; AND**

27 **3. \$1,000 FOR A CERTIFICATE OF REGISTRATION 61 TO**
28 **90 DAYS LATE.**

29 **(II) IF A HEALTH CARE SHARING MINISTRY FAILS TO RENEW A**
30 **CERTIFICATE OF REGISTRATION WITHIN 3 MONTHS AFTER EXPIRATION OF THE**
31 **CERTIFICATE, THE HEALTH CARE SHARING MINISTRY MAY NOT:**

1 1. REAPPLY FOR A CERTIFICATE OF REGISTRATION FOR
2 2 YEARS; OR

3 2. OPERATE IN THE STATE DURING THE 2-YEAR PERIOD.

4 (F) THE FEE FOR EACH CERTIFICATE OF REGISTRATION APPLICATION
5 SUBMITTED TO THE COMMISSIONER UNDER THIS SECTION SHALL BE \$100.

6 8-703.

7 THE STATE MAY NOT BE HELD LIABLE OR RESPONSIBLE FOR ANY HEALTH
8 CARE SHARING MINISTRY DEBTS, CLAIMS, OBLIGATIONS, OR LIABILITIES.

9 8-704.

10 (A) EXCEPT FOR A HEALTH CARE SHARING MINISTRY MAKING ITS ANNUAL
11 AUDIT AVAILABLE TO THE PUBLIC, A HEALTH CARE SHARING MINISTRY MAY NOT
12 MAKE A DIRECT OR INDIRECT REPRESENTATION THAT IT:

13 (1) IS OPERATING IN A FINANCIALLY SOUND MANNER; OR

14 (2) HAS HAD A SUCCESSFUL HISTORY OF MEETING SUBSCRIBERS'
15 MEDICAL COSTS.

16 (B) A HEALTH CARE SHARING MINISTRY MAY NOT OPERATE UNDER ANY
17 NAME OTHER THAN THE NAME FOR WHICH THE CERTIFICATE OF REGISTRATION HAS
18 BEEN ISSUED.

19 8-705.

20 THE COMMISSIONER SHALL POST PROMINENTLY ON THE WEBSITE OF THE
21 ADMINISTRATION:

22 (1) ALL NONPROPRIETARY AND NONCONFIDENTIAL INFORMATION
23 SUBMITTED BY A HEALTH CARE SHARING MINISTRY TO THE COMMISSIONER UNDER
24 § 8-702 OF THIS SUBTITLE; AND

25 (2) AN EXPLANATION OF THE DIFFERENCES BETWEEN HEALTH CARE
26 SHARING MINISTRIES AND INSURANCE.

27 8-706.

(A) A HEALTH CARE SHARING MINISTRY THAT HOLDS A CERTIFICATE OF REGISTRATION IN THE STATE IS SUBJECT TO THE PROVISIONS OF TITLE 27, SUBTITLE 4 OF THIS ARTICLE.

(B) A HEALTH CARE SHARING MINISTRY, OR AN ENTITY THAT PURPORTS TO BE A HEALTH CARE SHARING MINISTRY, IS SUBJECT TO THE FULL AUTHORITY OF THE ADMINISTRATION UNDER § 27-103 OF THIS ARTICLE AND THE OFFICE OF THE ATTORNEY GENERAL'S AUTHORITY OVER NONPROFIT CORPORATIONS IF A HEALTH CARE SHARING MINISTRY:

(1) OPERATES IN THE STATE WITHOUT A CURRENT CERTIFICATE OF REGISTRATION; OR

(2) IS FOUND TO BE USING COMPENSATED INSURANCE PRODUCERS, REPRESENTATIVES, OR OTHER PERSONS TO SOLICIT OR ENROLL MEMBERS IN THE STATE.

8-707.

EACH HEALTH CARE SHARING MINISTRY SHALL PROVIDE THE FOLLOWING VERBATIM WRITTEN DISCLAIMER ON ANY APPLICATIONS, GUIDELINES, OR PROMOTIONAL OR INFORMATIONAL MATERIAL AND ALL PERIODIC PUBLICATIONS:

"NOTICE

THIS HEALTH CARE SHARING MINISTRY IS NOT ISSUED BY AN INSURANCE COMPANY NOR IS IT OFFERED THROUGH AN INSURANCE COMPANY. IT DOES NOT GUARANTEE OR PROMISE THAT YOUR MEDICAL BILLS WILL BE PAID. PARTICIPATION AS A MEMBER OF THIS HEALTH CARE SHARING MINISTRY IS VOLUNTARY. THEREFORE, THIS HEALTH CARE SHARING MINISTRY SHOULD NEVER BE CONSIDERED A SUBSTITUTE FOR AN INSURANCE POLICY. THIS ACTIVITY IS NOT REGULATED BY THE MARYLAND INSURANCE ADMINISTRATION, AND YOUR LIABILITIES ARE NOT COVERED BY THE LIFE AND HEALTH INSURANCE GUARANTY CORPORATION. WHETHER OR NOT YOU RECEIVE ANY PAYMENTS FOR MEDICAL EXPENSES AND WHETHER OR NOT THE HEALTH CARE SHARING MINISTRY CONTINUES TO OPERATE, YOU ARE ALWAYS LIABLE FOR ANY UNPAID BILLS."

27-402.

The provisions of this subtitle that apply to insurers also apply to:

(14) an employer who self-insures or participates in a self-insurance group in accordance with § 9-405 of the Labor and Employment Article; [and]

1 **(15)** A HEALTH CARE SHARING MINISTRY AS DEFINED IN § 8-701 OF
2 THIS ARTICLE; AND

3 **[(15)] (16)** an agent, employee, or representative of an entity described in
4 items (1) through (14) of this section.

5 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
6 October 1, 2020.