



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

HB4162

Introduced 10/19/2021, by Rep. Jonathan Carroll

SYNOPSIS AS INTRODUCED:

See Index

Amends the Illinois Insurance Code to create the Health Care Sharing Ministries Article. Provides that a person must file specified information with the Department of Insurance to operate as a health care sharing ministry in the State. Provides that a health care sharing ministry shall submit an annual filing of information to the Department. Provides that filing fees shall be deposited into the Insurance Financial Regulation Fund. Provides that a health care sharing ministry shall provide specified written notice on or accompanying all applications, guideline materials, and written advertisements, including print and digital advertisements, distributed by or on behalf of the ministry. Sets forth provisions concerning an annual audit. Provides that the Attorney General may issue an emergency cease and desist order in specified circumstances. Provides that a health care sharing ministry that violates the provisions is liable for a civil penalty in an amount not to exceed \$25,000 for each violation. Provides that a health care sharing ministry operating in the State is not required to submit a filing before March 1, 2022, and that the ministry may continue operating without a filing until April 1, 2022, but may not operate as a health care sharing ministry after April 1, 2022 until the ministry submits a filing. Provides that a student at an institution of higher education who is a member of a health care sharing ministry may use the membership to comply with a requirement by the institution that the student maintain health benefit coverage. Provides that violations of specified provisions are unfair methods of competition and unfair and deceptive acts or practices in the business of insurance. Defines terms.

LRB102 19601 BMS 28369 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning regulation.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Illinois Insurance Code is amended by
5 changing Section 424 and by adding Article XLVII as follows:

6 (215 ILCS 5/424) (from Ch. 73, par. 1031)

7 Sec. 424. Unfair methods of competition and unfair or
8 deceptive acts or practices defined. The following are hereby
9 defined as unfair methods of competition and unfair and
10 deceptive acts or practices in the business of insurance:

11 (1) The commission by any person of any one or more of
12 the acts defined or prohibited by Sections 134, 143.24c,
13 147, 148, 149, 151, 155.22, 155.22a, 155.42, 236, 237,
14 364, ~~and 469,~~ and 1720 of this Code.

15 (2) Entering into any agreement to commit, or by any
16 concerted action committing, any act of boycott, coercion
17 or intimidation resulting in or tending to result in
18 unreasonable restraint of, or monopoly in, the business of
19 insurance.

20 (3) Making or permitting, in the case of insurance of
21 the types enumerated in Classes 1, 2, and 3 of Section 4,
22 any unfair discrimination between individuals or risks of
23 the same class or of essentially the same hazard and

1 expense element because of the race, color, religion, or
2 national origin of such insurance risks or applicants. The
3 application of this Article to the types of insurance
4 enumerated in Class 1 of Section 4 shall in no way limit,
5 reduce, or impair the protections and remedies already
6 provided for by Sections 236 and 364 of this Code or any
7 other provision of this Code.

8 (4) Engaging in any of the acts or practices defined
9 in or prohibited by Sections 154.5 through 154.8 of this
10 Code.

11 (5) Making or charging any rate for insurance against
12 losses arising from the use or ownership of a motor
13 vehicle which requires a higher premium of any person by
14 reason of his physical disability, race, color, religion,
15 or national origin.

16 (6) Failing to meet any requirement of the Unclaimed
17 Life Insurance Benefits Act with such frequency as to
18 constitute a general business practice.

19 (Source: P.A. 99-143, eff. 7-27-15; 99-893, eff. 1-1-17.)

20 (215 ILCS 5/Art. XLVII heading new)

21 ARTICLE XLVII. HEALTH CARE SHARING MINISTRIES

22 (215 ILCS 5/1700 new)

23 Sec. 1700. Definitions. As used in this Article:

24 "Department" means the Department of Insurance.

1 "Director" means the Director of Insurance.

2 "Health care sharing ministry" means a nonprofit
3 organization described by 26 U.S.C. 501(c)(3) and exempt from
4 taxation under 26 U.S.C. 501(a) that:

5 (1) limits its participants to individuals of a
6 similar faith;

7 (2) acts as a facilitator among participants who have
8 medical bills and matches those participants with other
9 participants with the present ability to assist those with
10 medical bills in accordance with criteria established by
11 the health care sharing ministry;

12 (3) provides for the medical bills of a participant
13 through contributions from one participant to another; and

14 (4) provides amounts that participants may contribute
15 with no assumption of risk or promise to pay among the
16 participants and no assumption of risk or promise to pay
17 by the health care sharing ministry to the participants.

18 "Member" means an individual enrolled in a health care
19 sharing ministry to share medical expenses with other enrolled
20 individuals.

21 "Sharing request" means a request for reimbursement of
22 medical expenses submitted by a member to the health care
23 sharing ministry.

24 (215 ILCS 5/1705 new)

25 Sec. 1705. Application requirements.

1 (a) A person must file information with the Department in
2 the form and manner prescribed by the Director to operate as a
3 health care sharing ministry in this State.

4 (b) A person intending to operate a health care sharing
5 ministry must include in the filing all information required
6 by the Director, including:

7 (1) the responsible director or manager of the
8 ministry;

9 (2) the ministry's physical, mailing, and electronic
10 mail addresses;

11 (3) the contact phone number for the responsible
12 director or manager of the ministry;

13 (4) information demonstrating that the ministry meets
14 the definition of a health care sharing ministry under
15 Section 1700;

16 (5) a copy of the most recent annual audit created by
17 an independent certified public accounting firm in
18 accordance with generally accepted accounting principles
19 and which is made available to the public on request;

20 (6) a list of any third-party vendors acting on behalf
21 of the ministry in this State for the purposes of:

22 (A) enrolling members;

23 (B) negotiating with health care providers after
24 services are rendered; or

25 (C) the financial sharing of member medical needs.

26 (7) a copy of any application forms and organization

1 guidelines used by the ministry;
2 (8) a report of the ministry's members in this State
3 as of the date of the filing that includes the:
4 (A) total number of enrolled members;
5 (B) distribution of members by age; and
6 (C) distribution of members by sex.
7 (9) a certification that the health care sharing
8 ministry is in compliance with Section 1725.

9 (215 ILCS 5/1710 new)

10 Sec. 1710. Annual filing requirements.

11 (a) A health care sharing ministry shall submit an annual
12 filing of information to the Department in the form and manner
13 prescribed by the Director.

14 (b) The Department shall set a fee for a filing required
15 under this Section in an amount not to exceed \$100.

16 (c) The annual filing must include all information
17 required by the Director, including:

18 (1) an update of any changes made to documents
19 previously filed with the Department;

20 (2) a copy of the most recent annual audit required
21 under 26 U.S.C. 5000A(d) (2) (B);

22 (3) an organization financial report detailing the
23 following for the prior registration period:

24 (A) the total amount of money collected from
25 members in this State, including contributions,

1 administrative fees, or other funds;

2 (B) the total number of sharing requests made by
3 members in this State;

4 (C) the total amount of money paid for health care
5 services for members in this State;

6 (D) the total number of sharing requests that were
7 denied;

8 (E) the total amount of administrative fees
9 collected from members in this State, including
10 amounts paid to each third-party vendor for services
11 provided to members in this State; and

12 (F) the total equivalent monetary amount of
13 membership contributions waived for participants
14 rewarded by referring others to a new member
15 enrollment program.

16 (4) a report of the health care sharing ministry's
17 members in this State as of the date of the filing that
18 includes the:

19 (A) total number of enrolled members;

20 (B) distribution of members by age; and

21 (C) distribution of members by sex.

22 (5) a report detailing the following:

23 (A) the number of sharing requests made by members
24 in this State that were approved for sharing;

25 (B) the number of sharing requests made by members
26 in this State that were denied for sharing; and

1 (C) the number of complaints made by members in
2 this State.

3 (6) a certification that the health care sharing
4 ministry is in compliance with Section 1725.

5 (d) The fees shall be deposited into the Insurance
6 Financial Regulation Fund.

7 (215 ILCS 5/1715 new)

8 Sec. 1715. Late filing.

9 (a) A health care sharing ministry that fails to timely
10 submit a filing must pay the following fee to the Department:

11 (1) \$250 for a filing submitted one to 30 days late;

12 (2) \$500 for a filing submitted 31 to 60 days late; or

13 (3) \$1,000 for a filing submitted 61 to 90 days late.

14 (b) If a health care sharing ministry fails to submit a
15 filing within 90 days after the filing's deadline, the
16 ministry may not operate as a health care sharing ministry for
17 2 years.

18 (c) The fees shall be deposited into the Insurance
19 Financial Regulation Fund.

20 (215 ILCS 5/1720 new)

21 Sec. 1720. Regulation of health care sharing ministries.

22 (a) A health care sharing ministry may not operate under
23 any name other than the name under which the ministry has
24 submitted a filing under Sections 1710 and 1715.

1 (b) In all communications with the public, a health care
2 sharing ministry may not:

3 (1) make a direct or indirect representation that:

4 (A) the ministry provides insurance; or

5 (B) a health care service is free or included with
6 membership; or

7 (2) include "premium", "copay", "deductible",
8 "coverage", "network", "benefit plan", or a similar term
9 in marketing except to explain the differences between a
10 health care sharing ministry and insurance.

11 (c) A violation of this Section is a false, misleading, or
12 deceptive act or practice in violation of Article XXVI.

13 (215 ILCS 5/1725 new)

14 Sec. 1725. Prohibited compensation.

15 (a) A health care sharing ministry may not compensate
16 anyone to solicit or enroll members in this State based on the
17 number of members solicited or enrolled or the amount of
18 contributions received from enrolled members, including by
19 commission, at a rate of more than 5% of the membership fee
20 received in the first year of membership.

21 (b) This Section does not apply to:

22 (1) a salaried individual employed by the health care
23 sharing ministry who does not receive any form of
24 commission, compensation, or other valuable consideration
25 based on enrolling new members; or

1 (2) a new member referral program providing credit for
2 membership for existing members of a health care sharing
3 ministry who have referred new members only if the program
4 is limited to credit for no more than 12 months of
5 membership for the existing members annually.

6 (215 ILCS 5/1730 new)

7 Sec. 1730. Enrollment disclosures. A health care sharing
8 ministry shall disclose the following information in writing
9 for each calendar year from the previous 5 calendar years in a
10 prominent and conspicuous manner before and at the time an
11 individual is enrolled as a member:

12 (1) total member contributions;

13 (2) total amounts paid for sharing requests;

14 (3) total administrative fees paid by members; and

15 (4) the percentage of money paid by members that was
16 paid toward the following:

17 (A) sharing requests; and

18 (B) administrative fees.

19 (215 ILCS 5/1735 new)

20 Sec. 1735. Quarterly statements. A health care sharing
21 ministry must provide a prominent and conspicuous written
22 quarterly and annual statement to all members that includes,
23 for that quarter and for that calendar year, the following:

24 (1) the number of members participating;

- 1 (2) the amount of money contributed by members;
- 2 (3) the number of and monetary amount of all sharing
3 requests submitted;
- 4 (4) the number of and monetary amount of sharing
5 requests paid;
- 6 (5) the amount of member contributions remaining for
7 future sharing requests;
- 8 (6) the amount of administrative fees for services to
9 members, including:
- 10 (A) the purpose of the administrative fee;
- 11 (B) the amount paid for each type of
12 administrative fee; and
- 13 (C) any third-party vendor to which the fee is
14 paid.
- 15 (7) the percentage of money paid by members that was
16 paid toward the following:
- 17 (A) sharing requests;
- 18 (B) administrative fees; and
- 19 (C) any amount remaining that is designated for
20 the payment of future sharing requests.
- 21 (8) the total amount of membership contributions
22 waived for participants in a new member enrollment
23 program.

24 (215 ILCS 5/1740 new)

25 Sec. 1740. Notice.

1 (a) A health care sharing ministry shall provide written
2 notice on or accompanying all applications, guideline
3 materials, and written advertisements, including print and
4 digital advertisements, distributed by or on behalf of the
5 ministry.

6 (b) The notice described in subsection (a) must be in at
7 least 10-point font, in a prominent and conspicuous place, and
8 read as follows:

9 "Notice: Payment of your medical expenses is not
10 guaranteed. This health care sharing ministry facilitates
11 the sharing of medical expenses and is not an insurance
12 company, and neither its guidelines nor its plan of
13 operation is an insurance policy. Whether anyone chooses
14 to assist you with your medical bills will be totally
15 voluntary because no other participant will be compelled
16 by law to contribute towards your medical bills. As such,
17 participation in the ministry or a subscription to any of
18 its documents should never be considered to be insurance.
19 Regardless of whether you receive any payment for medical
20 expenses or whether this ministry continues to operate,
21 you are always personally responsible for the payment of
22 your own medical bills. Complaints concerning this health
23 care sharing ministry may be reported to the Office of the
24 Attorney General of Illinois."

25 (c) A health care sharing ministry shall provide the
26 following notice in any audio or visual advertisement clearly,

1 conspicuously, and in a manner that a listener would hear and
2 understand:

3 "Payment of your medical expenses is not guaranteed.
4 This health care sharing ministry facilitates the sharing
5 of medical expenses, is not an insurance company, and is
6 not offering an insurance policy. Regardless of whether
7 you receive any payment for medical expenses or whether
8 this ministry continues to operate, you are always
9 personally responsible for the payment of your own medical
10 bills."

11 (d) A health care sharing ministry shall provide a written
12 disclosure to a member at enrollment that states:

13 (1) the member may not be exempt from Section
14 5000A(d) (2) (B) of the Internal Revenue Code; and

15 (2) the member may be subject to a tax if Congress
16 reinstates the tax.

17 (215 ILCS 5/1745 new)

18 Sec. 1745. Annual audit. A health care sharing ministry
19 shall conduct an annual audit that is:

20 (1) performed by an independent certified public
21 accounting firm in accordance with generally accepted
22 accounting principles; and

23 (2) made available to the public on request.

24 (215 ILCS 5/1750 new)

1 Sec. 1750. Excess benefit transactions prohibited. A
2 health care sharing ministry may not conduct an excess benefit
3 transaction as defined by 26 U.S.C. 4958.

4 (215 ILCS 5/1755 new)

5 Sec. 1755. Cease and desist order.

6 (a) The Attorney General ex parte may issue an emergency
7 cease and desist order if the Attorney General believes that:

8 (1) a person is operating a health care sharing
9 ministry in violation of this Article; and

10 (2) the alleged conduct is:

11 (A) fraudulent;

12 (B) hazardous or creates an immediate danger to
13 public safety; or

14 (C) causing or can be reasonably expected to cause
15 public injury that:

16 (i) is likely to occur at any moment;

17 (ii) is incapable of being repaired or
18 rectified; and

19 (iii) has or is likely to have influence or
20 effect.

21 (b) The cease and desist order must:

22 (1) be served on the person by registered or certified
23 mail, return receipt requested, at the person's last known
24 address;

25 (2) contain a statement of the charges; and

1 (3) require the person to immediately cease and desist
2 from the acts, methods, or practices stated in the order.

3 (215 ILCS 5/1760 new)

4 Sec. 1760. Civil penalty.

5 (a) A person who violates this Article, including a cease
6 and desist order issued under Section 1755, is liable to this
7 State for a civil penalty in an amount not to exceed \$25,000
8 for each violation.

9 (b) In determining the amount of the civil penalty, the
10 court shall consider:

11 (1) the seriousness of the violation, including:

12 (A) the nature, circumstances, extent, and gravity
13 of the violation; and

14 (B) the hazard or potential hazard created to the
15 health, safety, or economic welfare of the public;

16 (2) the economic harm to the public interest or public
17 confidence caused by the violation;

18 (3) the history of previous violations;

19 (4) the amount necessary to deter future violations;

20 (5) efforts to correct the violation;

21 (6) whether the violation was intentional; and

22 (7) any other matter that justice may require.

23 (215 ILCS 5/1765 new)

24 Sec. 1765. Enforcement. If the Attorney General believes

1 that a health care sharing ministry or another person is
2 violating or has violated this Article, the Attorney General
3 may bring an action to enjoin the violation, recover a civil
4 penalty, order restitution, and obtain other relief the court
5 considers appropriate.

6 (215 ILCS 5/1770 new)

7 Sec. 1770. Operation of existing health care sharing
8 ministries.

9 (a) A health care sharing ministry operating in this State
10 immediately before the effective date of this Act is not
11 required to submit a filing under Section 1705 before March 1,
12 2022. The ministry may continue operating without a filing
13 until April 1, 2022.

14 (b) A health care sharing ministry described by subsection
15 (a) that fails to submit a filing under Section 1705 before
16 March 1, 2022 may not operate as a health care sharing ministry
17 until the ministry submits a filing on or after April 1, 2022.

18 (215 ILCS 5/1775 new)

19 Sec. 1775. Exemption from health care coverage requirement
20 by institution of higher education. A student at an
21 institution of higher education who is a member of a health
22 care sharing ministry may use the membership to comply with a
23 requirement by the institution that the student maintain
24 health benefit coverage.

1 INDEX

2 Statutes amended in order of appearance

3 215 ILCS 5/424 from Ch. 73, par. 1031

4 215 ILCS 5/Art. XLVII

5 heading new

6 215 ILCS 5/1700 new

7 215 ILCS 5/1705 new

8 215 ILCS 5/1710 new

9 215 ILCS 5/1715 new

10 215 ILCS 5/1720 new

11 215 ILCS 5/1725 new

12 215 ILCS 5/1730 new

13 215 ILCS 5/1735 new

14 215 ILCS 5/1740 new

15 215 ILCS 5/1745 new

16 215 ILCS 5/1750 new

17 215 ILCS 5/1755 new

18 215 ILCS 5/1760 new

19 215 ILCS 5/1765 new

20 215 ILCS 5/1770 new

21 215 ILCS 5/1775 new