

**HEALTH CARE SHARING MINISTRY AMENDMENTS**

2016 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Michael S. Kennedy**

Senate Sponsor: Todd Weiler

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**LONG TITLE**

**General Description:**

This bill amends exemptions from the Insurance Code.

**Highlighted Provisions:**

This bill:

▶ exempts certain health care sharing ministries from regulation by the Utah Insurance Department; and

▶ requires an exempt health care sharing ministry to disclose to an individual applying for participation in the health care sharing ministry:

• that the health care sharing ministry is not health insurance and does not guarantee or promise that medical bills will be paid; and

• the conditions under which the health care sharing ministry may refuse to pay medical bills or cancel an individual's participation in the health care sharing ministry.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**31A-1-103**, as last amended by Laws of Utah 2010, Chapter 274



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*Be it enacted by the Legislature of the state of Utah:*

Section 1. Section **31A-1-103** is amended to read:

**31A-1-103. Scope and applicability of title.**

(1) This title does not apply to:

(a) a retainer contract made by an attorney-at-law:

(i) with an individual client; and

(ii) under which fees are based on estimates of the nature and amount of services to be provided to the specific client;

(b) a contract similar to a contract described in Subsection (1)(a) made with a group of clients involved in the same or closely related legal matters;

(c) an arrangement for providing benefits that do not exceed a limited amount of consultations, advice on simple legal matters, either alone or in combination with referral services, or the promise of fee discounts for handling other legal matters;

(d) limited legal assistance on an informal basis involving neither an express contractual obligation nor reasonable expectations, in the context of an employment, membership, educational, or similar relationship;

(e) legal assistance by employee organizations to their members in matters relating to employment; or

(f) death, accident, health, or disability benefits provided to a person by an organization or its affiliate if:

(i) the organization is tax exempt under Section 501(c)(3) of the Internal Revenue Code and has had its principal place of business in Utah for at least five years;

(ii) the person is not an employee of the organization; and

(iii) (A) substantially all the person's time in the organization is spent providing voluntary services:

(I) in furtherance of the organization's purposes;

(II) for a designated period of time; and

(III) for which no compensation, other than expenses, is paid; or

(B) the time since the service under Subsection (1)(f)(iii)(A) was completed is no more than 18 months.

- 59 (2) (a) This title restricts otherwise legitimate business activity.
- 60 (b) What this title does not prohibit is permitted unless contrary to other provisions of  
61 Utah law.
- 62 (3) Except as otherwise expressly provided, this title does not apply to:
- 63 (a) those activities of an insurer where state jurisdiction is preempted by Section 514 of  
64 the federal Employee Retirement Income Security Act of 1974, as amended;
- 65 (b) ocean marine insurance;
- 66 (c) death, accident, health, or disability benefits provided by an organization if the  
67 organization:
- 68 (i) has as its principal purpose to achieve charitable, educational, social, or religious  
69 objectives rather than to provide death, accident, health, or disability benefits;
- 70 (ii) does not incur a legal obligation to pay a specified amount; and
- 71 (iii) does not create reasonable expectations of receiving a specified amount on the part  
72 of an insured person;
- 73 (d) other business specified in rules adopted by the commissioner on a finding that:
- 74 (i) the transaction of the business in this state does not require regulation for the  
75 protection of the interests of the residents of this state; or
- 76 (ii) it would be impracticable to require compliance with this title;
- 77 (e) except as provided in Subsection (4), a transaction independently procured through  
78 negotiations under Section [31A-15-104](#);
- 79 (f) self-insurance;
- 80 (g) reinsurance;
- 81 (h) subject to Subsection (5), employee and labor union group or blanket insurance  
82 covering risks in this state if:
- 83 (i) the policyholder exists primarily for purposes other than to procure insurance;
- 84 (ii) the policyholder:
- 85 (A) is not a resident of this state;
- 86 (B) is not a domestic corporation; or
- 87 (C) does not have its principal office in this state;
- 88 (iii) no more than 25% of the certificate holders or insureds are residents of this state;
- 89 (iv) on request of the commissioner, the insurer files with the department a copy of the

90 policy and a copy of each form or certificate; and

91 (v) (A) the insurer agrees to pay premium taxes on the Utah portion of its business, as  
92 if it were authorized to do business in this state; and

93 (B) the insurer provides the commissioner with the security the commissioner  
94 considers necessary for the payment of premium taxes under Title 59, Chapter 9, Taxation of  
95 Admitted Insurers;

96 (i) to the extent provided in Subsection (6):

97 (i) a manufacturer's or seller's warranty; and

98 (ii) a manufacturer's or seller's service contract;

99 (j) except to the extent provided in Subsection (7), a public agency insurance mutual;

100 [or]

101 (k) except as provided in Chapter 6b, Guaranteed Asset Protection Waiver Act, a  
102 guaranteed asset protection waiver[:]; or

103 (l) a health care sharing ministry that:

104 (i) (A) meets the requirements for a health care sharing ministry under 26 U.S.C. Sec.  
105 5000A(d)(2)(B)(ii);

106 (B) provides reimbursement for expenses incurred by an individual for health care as  
107 that term is defined in Section 31A-1-301; and

108 (C) provides the disclosures required in Subsection (8); and

109 (ii) does not limit reimbursement solely for the benefits described in Subsection  
110 31A-1-301(76)(b).

111 (4) A transaction described in Subsection (3)(e) is subject to taxation under Section  
112 31A-3-301.

113 (5) (a) After a hearing, the commissioner may order an insurer of certain group or  
114 blanket contracts to transfer the Utah portion of the business otherwise exempted under  
115 Subsection (3)(h) to an authorized insurer if the contracts have been written by an unauthorized  
116 insurer.

117 (b) If the commissioner finds that the conditions required for the exemption of a group  
118 or blanket insurer are not satisfied or that adequate protection to residents of this state is not  
119 provided, the commissioner may require:

120 (i) the insurer to be authorized to do business in this state; or

- 121 (ii) that any of the insurer's transactions be subject to this title.
- 122 (6) (a) As used in Subsection (3)(i) and this Subsection (6):
- 123 (i) "manufacturer's or seller's service contract" means a service contract:
- 124 (A) made available by:
- 125 (I) a manufacturer of a product;
- 126 (II) a seller of a product; or
- 127 (III) an affiliate of a manufacturer or seller of a product;
- 128 (B) made available:
- 129 (I) on one or more specific products; or
- 130 (II) on products that are components of a system; and
- 131 (C) under which the person described in Subsection (6)(a)(i)(A) is liable for services to
- 132 be provided under the service contract including, if the manufacturer's or seller's service
- 133 contract designates, providing parts and labor;
- 134 (ii) "manufacturer's or seller's warranty" means the guaranty of:
- 135 (A) (I) the manufacturer of a product;
- 136 (II) a seller of a product; or
- 137 (III) an affiliate of a manufacturer or seller of a product;
- 138 (B) (I) on one or more specific products; or
- 139 (II) on products that are components of a system; and
- 140 (C) under which the person described in Subsection (6)(a)(ii)(A) is liable for services
- 141 to be provided under the warranty, including, if the manufacturer's or seller's warranty
- 142 designates, providing parts and labor; and
- 143 (iii) "service contract" is as defined in Section [31A-6a-101](#).
- 144 (b) A manufacturer's or seller's warranty may be designated as:
- 145 (i) a warranty;
- 146 (ii) a guaranty; or
- 147 (iii) a term similar to a term described in Subsection (6)(b)(i) or (ii).
- 148 (c) This title does not apply to:
- 149 (i) a manufacturer's or seller's warranty;
- 150 (ii) a manufacturer's or seller's service contract paid for with consideration that is in
- 151 addition to the consideration paid for the product itself; and

152 (iii) a service contract that is not a manufacturer's or seller's warranty or manufacturer's  
153 or seller's service contract if:

154 (A) the service contract is paid for with consideration that is in addition to the  
155 consideration paid for the product itself;

156 (B) the service contract is for the repair or maintenance of goods;

157 (C) the cost of the product is equal to an amount determined in accordance with  
158 Subsection (6)(e); and

159 (D) the product is not a motor vehicle.

160 (d) This title does not apply to a manufacturer's or seller's warranty or service contract  
161 paid for with consideration that is in addition to the consideration paid for the product itself  
162 regardless of whether the manufacturer's or seller's warranty or service contract is sold:

163 (i) at the time of the purchase of the product; or

164 (ii) at a time other than the time of the purchase of the product.

165 (e) (i) For fiscal year 2001-02, the amount described in Subsection (6)(c)(iii)(C) shall  
166 be equal to \$3,700 or less.

167 (ii) For each fiscal year after fiscal year 2001-02, the commissioner shall annually  
168 determine whether the amount described in Subsection (6)(c)(iii)(C) should be adjusted in  
169 accordance with changes in the Consumer Price Index published by the United States Bureau  
170 of Labor Statistics selected by the commissioner by rule, between:

171 (A) the Consumer Price Index for the February immediately preceding the adjustment;  
172 and

173 (B) the Consumer Price Index for February 2001.

174 (iii) If under Subsection (6)(e)(ii) the commissioner determines that an adjustment  
175 should be made, the commissioner shall make the adjustment by rule.

176 (7) (a) For purposes of this Subsection (7), "public agency insurance mutual" means an  
177 entity formed by two or more political subdivisions or public agencies of the state:

178 (i) under Title 11, Chapter 13, Interlocal Cooperation Act; and

179 (ii) for the purpose of providing for the political subdivisions or public agencies:

180 (A) subject to Subsection (7)(b), insurance coverage; or

181 (B) risk management.

182 (b) Notwithstanding Subsection (7)(a)(ii)(A), a public agency insurance mutual may

183 not provide health insurance unless the public agency insurance mutual provides the health  
184 insurance using:

- 185 (i) a third party administrator licensed under Chapter 25, Third Party Administrators;
- 186 (ii) an admitted insurer; or
- 187 (iii) a program authorized by Title 49, Chapter 20, Public Employees' Benefit and  
188 Insurance Program Act.

189 (c) Except for this Subsection (7), a public agency insurance mutual is exempt from  
190 this title.

191 (d) A public agency insurance mutual is considered to be a governmental entity and  
192 political subdivision of the state with all of the rights, privileges, and immunities of a  
193 governmental entity or political subdivision of the state including all the rights and benefits of  
194 Title 63G, Chapter 7, Governmental Immunity Act of Utah.

195 (8) (a) A health care sharing ministry exempt from regulation under Subsection (3)(1)  
196 shall provide the disclosure in Subsection (8)(b) to an individual, in writing, in at least 14-point  
197 bold font prominently displayed on the health care sharing ministry application form, directly  
198 above the signature line.

199 (b) The written disclosure required under Subsection (8)(a) shall:

200 (i) be signed by the individual prior to enrollment in the health care sharing ministry;

201 (ii) include the following statement:

202 " \_\_\_\_\_ is not an insurance company and \_\_\_\_\_ does not guarantee  
203 payment of health care expenses. Our role is to enable self-pay patients to help fellow members  
204 through voluntary financial gifts. This program is not health insurance nor is it offered through  
205 an insurance company. This program does not guarantee or promise that your health care bills  
206 will be paid or assigned to others for payment. Whether anyone chooses to pay your health care  
207 bills will be totally voluntary. As such, this program should never be considered as a substitute  
208 for a health insurance policy. Whether you receive any payments for health care expenses and  
209 whether or not this program continues to operate, you are always liable for any unpaid bills.";  
210 and

211 (iii) include:

212 (A) disclosure of any application fees, membership dues or fees, or other  
213 administrative expenses for which the member may be required to pay, or for which the

214 member's benefits may be reduced;

215 (B) notification to the individual that if the individual leaves the health care sharing  
216 ministry, the individual may not enroll in other health insurance coverage in the individual  
217 market until the next federal open enrollment period;

218 (C) a description of circumstances that may result in cancellation of the individual's  
219 membership in the health care sharing ministry, or reasons for which the health care sharing  
220 ministry may refuse to provide reimbursement to the individual for health care expenses  
221 incurred by the individual; and

222 (D) a declaration that the health care sharing ministry meets the requirements of 26  
223 U.S.C. Sec. 5000A(d)(2)(B)(ii).

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**Legislative Review Note**  
**Office of Legislative Research and General Counsel**