

1 **PROFESSIONAL EMPLOYER ORGANIZATION LICENSING**

2 **ACT AMENDMENTS**

3 2012 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: James A. Dunnigan**

6 Senate Sponsor: Curtis S. Bramble

7

8 **LONG TITLE**

9 **General Description:**

10 This bill modifies the Insurance Code to address the applicability of provisions of the
11 Insurance Code to professional employer organizations.

12 **Highlighted Provisions:**

13 This bill:

- 14 ▶ provides for continuation of coverage for certain health plans;
- 15 ▶ provides that provisions addressing unfair marketing practices, unfair
16 discrimination, coercion or intimidation, restriction on choice, and inducement
17 apply to professional employer organizations; and
- 18 ▶ makes technical changes.

19 **Money Appropriated in this Bill:**

20 None

21 **Other Special Clauses:**

22 None

23 **Utah Code Sections Affected:**

24 AMENDS:

25 **31A-40-208**, as enacted by Laws of Utah 2008, Chapter 318

26 ENACTS:

27 **31A-40-309**, Utah Code Annotated 1953



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

Section 1. Section **31A-40-208** is amended to read:

31A-40-208. Benefit plan.

(1) A client and a professional employer organization licensed under this chapter shall each be considered an employer for purposes of sponsoring a retirement or welfare benefit plan for a covered employee.

(2) A fully insured welfare benefit plan offered to a covered employee of a single professional employer organization licensed under this chapter:

(a) is to be treated as a single employer welfare benefit plan for purposes of this title and rules made under this title;

(b) may not be considered an employer welfare fund or plan, as described in Section 31A-13-101; and

(c) the single professional employer organization that sponsors the fully insured welfare plan is exempt from the registration requirements under this title for:

(i) an insurance provider; or

(ii) an employer welfare fund or plan.

(3) For purposes of Chapter 30, Individual, Small Employer, and Group Health Insurance Act:

(a) a professional employer organization licensed under this chapter is considered the employer of a covered employee; and

(b) all covered employees of one or more clients participating in a health benefit plan sponsored by a single professional employer organization licensed under this chapter are considered employees of that professional employer organization.

(4) A professional employer organization licensed under this chapter may offer to a covered employee a health benefit plan that is not fully insured by an authorized insurer, only if:

(a) the professional employer organization has operated as a professional employer organization for at least one year before the day on which the professional employer organization offers the health benefit plan; and

(b) the health benefit plan:

59 (i) is administered by a third-party administrator licensed to do business in this state;

60 (ii) holds all assets of the health benefit plan, including participant contributions, in a
61 trust account;

62 (iii) has and maintains reserves that are sound for the health benefit plan as determined
63 by an actuary who:

64 (A) uses generally accepted actuarial standards of practice; and

65 (B) is an independent qualified actuary, including not being an employee or covered
66 employee of the professional employer organization;

67 (iv) provides written notice to a covered employee participating in the health benefit
68 plan that the health benefit plan is self-insured or is not fully insured; [~~and~~]

69 (v) consents to an audit:

70 (A) on a random basis; or

71 (B) upon a finding of a reasonable need by the commissioner[-]; and

72 (vi) provides for continuation of coverage in compliance with Section 31A-22-722.

73 (5) The cost of an audit described in Subsection (4)(b)(v) shall be paid by the
74 sponsoring professional employer organization.

75 (6) A plan of a professional employer organization described in Subsection (4) that is
76 not fully insured:

77 (a) is subject to the requirements of this section; and

78 (b) is not subject to another licensure or approval requirement of this title.

79 Section 2. Section **31A-40-309** is enacted to read:

80 **31A-40-309. Applicability of other provisions of law.**

81 A professional employer organization is subject to Sections 31A-23a-402 and
82 31A-23a-402.5.

Legislative Review Note
as of **12-13-11 9:39 AM**

Office of Legislative Research and General Counsel