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National Council of Insurance Legislators (NCOIL)

Health Care Sharing Ministry Registration Model Act

**Sponsored by Rep. Martin Carbaugh (IN)*

**Discussion Draft as November 11th, 2019. To be discussed during the Health Insurance & Long Term Care Issues Committee on December 11th, 2019*

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Section 1. Title

This Act shall be known as the "[State] Health Care Sharing Ministry Registration Act."

Section 2. Purpose

The purpose of this Act is to provide a registration and reporting mechanism for state insurance regulators to be informed of health care sharing ministries open to enrollment in each jurisdiction.

Section 3. Definitions

“Health care sharing ministry” is defined by 26. U.S.C. § 500A(d)(2)(B).

Section 4. Notice Requirements

A health care sharing ministry must provide a written disclaimer on or accompanying all applications, marketing materials and guidelines materials distributed by or on behalf of the health care sharing ministry that states, in substance:

NOTICE

The organization facilitating the sharing of medical expenses is not an insurance company, and neither its guidelines nor plan of operation constitute an insurance policy. Without health care insurance, there is no guarantee that you, a fellow participant or any other person who was a party to the health care ministry agreement will be protected in the event of illness or emergency. Regardless of whether you receive any payment for medical expenses or whether this organization terminates, withdraws from the faith-based agreement or continues to operate, you are always personally responsible for the payment of your own medical bills. If your participation in such an organization ends, state law may subject you to a waiting period before providing coverage.

Drafting Note: This notice should be harmonized to reflect any existing notice requirement that may exist for health care sharing ministries in the given state.

Section 5. Registration and Reporting Requirements

(A) A Certificate of Registration as a Health Care Sharing Ministry shall be obtained by submitting to the Department of Insurance:

(1) An application for registration on a form promulgated by the Insurance Commissioner which must include:

(a) The responsible director or manager of the health care sharing ministry plans;

(b) Contact address for the health care sharing ministry; and

(c) Contact phone number for the responsible director or manager.

(2) A copy of the certification letter issued to the Health Care Sharing Ministry by the Centers for Medicare & Medicaid Services;

(3) A copy of the current annual audit required pursuant to 26 U.S.C. § 500A(d)(2)(B);

(4) A list of any third-party vendors acting on behalf of the organization for purposes of enrolling members, or for the purpose of negotiating with medical providers, or the financial sharing of member's medical needs;

(5) A copy of any application forms and ministry guidelines used by the Health Care Sharing Ministry;

(6) A report of the Health Care Sharing Ministry's (state name) members as of the date of application and the report must include:

(a) Total number of enrolled members;

(b) Distribution of members by age; and

(c) Distribution of members by sex.

(7) The [\$100] fee for issuance of the certificate of registration;

(8) An application for a Certificate of Registration may only be rejected if the application does not provide the information required by this subsection.

(B) The Certificate of Registration obtained pursuant to Section 5(A) may be renewed annually on or before January 1 by submitting to the Department of Insurance:

(1) An application for renewal on a form promulgated by the Commissioner;

(2) Any current application forms or ministry guidelines that are not presently on file with the Department;

(3) An updated list of any third-party vendors acting on behalf of the organization for purposes of enrolling members, or for the purpose of negotiating with medical providers, or the financial sharing of member's medical needs;

(4) A report of the Health Care Sharing Ministry's (state name) members as of the date of the application for renewal and the report must include:

(a) Total number of enrolled members;

(b) Distribution of members by age; and

(c) Distribution of members by sex.

(5) A copy of the current annual audit required pursuant to 26 U.S.C. § 500A(d)(2)(B);

(6) The [\$100] fee for renewal of the certificate

(7) An application for renewal of a Certificate of Registration may only be rejected if the application does not provide the information required by this subsection.

(C) A Health Care Sharing Ministry shall not operate under any name other than the name for which the Certificate of Registration has been issued. The Certificate of Registration expires at midnight on the last day of December. The Commissioner shall send a notice of the impending expiration of a current Certificate of Registration no later than 30 days prior to expiration of the current Certificate of Registration.

(D) The Commissioner may renew a registration which has inadvertently been permitted to expire if a request is made within 3 months after expiration. Any failure to timely renew shall be subject to the following penalties:

(1) 1-30 days late – [\$250]

(2) 31-60 days late – [\$500]

(3) 61-90 days late – [\$1,000]

(4) After 90 days – the Health Care Sharing Ministry is barred from reapplying for two years and will not be permitted to operate in the state until they are permitted to reregister.

Section 6. Posting Requirements

The commissioner shall post all non-proprietary/confidential information submitted pursuant to Section 5 on the insurance department's website. The information shall be prominently displayed on the insurance department's website in addition to an explanation of the differences between health care sharing ministries and insurance.

Section 7. Anti-Fraud Protections

Each health care sharing ministry registered in [state] shall be subject to the anti-fraud provisions of the insurance code of [state].

Section 8. Enforcement

Any purported Health Care Sharing Ministry that is operating in [state] without a current Certificate of Registration shall be subject to the full authority of the Department of Insurance pursuant to [cite the state's Insurance Code provisions for Unauthorized Insurance) and the State Attorney General's authority over non-profit corporations.

Section 9. Rules

The Insurance Commissioner may promulgate rules regarding health care sharing ministries to the extent that they are consistent with this Act.

Section 10. Effective Date

This Act shall take effect [_____].