

CHM TESTIMONY ON SB 1041

Introduction:

Good Morning Sen. Lesser, Rep. Woods, Sen. Hwang, Rep. Pavalock-D'Amato and the distinguished members of the Insurance and Real Estate Committee.

My name is Martin Hoyt and I represent Christian Healthcare Ministries (CHM). CHM is the largest and longest serving of the health care sharing ministries. CHM has over 800 members in Connecticut.

Position on the Bill:

CHM strongly supports with a clarifying amendment Senate Bill 1041, An Act Concerning Health Care Sharing Plans and Health Care Sharing Ministries.

Description of Amendment:

Our amendment to the bill would add a new Section 2(c) to clarify that the prohibition on receiving compensation in Section 2(b) for *“selling, soliciting, negotiating or administering a health care sharing plan”* does not apply to a *“salaried person employed by the sharing ministry who does not receive any form of commission, compensation, or other valuable consideration based on enrolling of new members”* or a *“new member referral program providing credit for existing members of the sharing ministry so long as the program is limited to credit for no more than 12 member referrals annually”* (see attached amendment).

This amendment clarifies that the intention of the bill to ban practices that serve to incentivize individuals acting in the name of the ministry to sell negotiate or operate the sharing plan. In our view the most important component of the bill is to prohibit using insurance agents to sell memberships in health care sharing plans without banning employees of the sharing plan from serving the members. CHM believe there is very important public policy behind keeping insurance agents out of sharing plans which by definition are not insurance. There is an inherent conflict of having a sharing plan that emphatically demonstrates it is not insurance and gives notices to that effect but turns around and creates consumer confusion by having an insurance agent sell the membership.

Sharing plan employees helping members negotiate down the health care costs quoted by providers for the care of the members is an important service to members who are severely ill and cannot do it themselves. CHM looks for members to participate in the negotiation process when possible but it is not required. CHM strongly supports the public policy behind the concept that employees or other persons that are negotiating for discounts for sharing plan members should absolutely not be incentivized with respect to the amount of reductions negotiated or otherwise have a personal interest in the outcome of such negotiations.

Finally, the bill seeks to prohibit incentives for administering a sharing plan. CHM has no incentives for the management team that relate to production or any other aspect of administering CHM's operation for the members. CHM supports the concept of prohibiting such incentives. But salaried employees that have no incentive programs should not be included. The CHM amendment clarifies that simply paying a salary is not included in the public policy prohibiting incentive tied to production of new members, or any other aspect of sharing operations.

Background:

Prior to 2014 no health sharing plan was using insurance agents to enroll prospective members; it was unheard of and unthinkable at the time. The primary reason was very clear – sharing plans were adamant that “They are not insurance!” Sharing plans are non-profit charities whose mission is to help others pay for each other’s health care expenses as part of a religious community. Using a for profit marketing program such as commissioned insurance agents to sell access to a non-insurance non-profit’s membership is a conflict and contradictory to accepted non-profit best practices.

Policy Position:

Since its founding in 1982, CHM has been opposed to use of insurance agents to market and solicit the public for the purpose of enrolling prospective members. CHM doesn’t use insurance agents, doesn’t pay commissions to employees for production of new members. CHM does not advertise nationally. CHM does make presentations at Christian conventions and other similar events. Most prospective members come to CHM by word of mouth of existing CHM members.

It is disingenuous and misleading for a sharing plan to emphatically claim it is not insurance and then turn right around and use insurance agents and pay them a commission to solicit and enroll prospective members.

We feel that this is inherently a conflict and risks dangerous consumer confusion to have prospective members sitting in an insurance agent’s office being sold on a religious health sharing plan. The commission amounts that sharing plans using insurance agents have paid are quite high and serve to strongly incentivize agents as compared to their traditional insurance offerings in their office.

Consumers are trusting insurance agents to sell them insurance, plans that are guaranteed. The reality of the differences between sharing plans and insurance is often lost among consumers who choose a HCSM recommended by an agent. Nearly all of the consumer complaints CHM has heard reported in the media or in other state legislative hearings have traced back directly to those sharing plans that are using insurance agents. CHM believes this is not a coincidence as the frequency of the correlation is compelling. The same trend has carried over into the reports of consumer abuse and consumer complaints reported to various state insurance departments and state attorney generals across the country. CHM has found the numerous documented abuses to be of serious concern and **CHM is supportive of legislation such as SB 1041 which helps to clean bad actors and bad practices out of sharing plans.**

Also, there is a fundamental problem with non-profit sharing plans paying commissions: every dollar that a health care sharing member contributes is being reduced to pay a commission. So, in this highly incentivized, for profit marketing model used by more than half of the sharing plans it results in substantially less dollars available for sharing members’ needs. **SB 1041 if amended with our proposed language would help return health care sharing plans in Connecticut to their original intent: non-profit, charitable work to help like-minded members share their health care costs as part of a religious community.**

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For these reasons, CHM opposes the use of insurance agents by any health care sharing plan. CHM also opposes any plans use of incentivization of employees that relates to production, amounts of medical bill reductions, or management, beyond their salary, having incentives tied to membership growth and/or the negotiated reduction of amounts due on medical bills. **We urge the committee to support the clarifying amendment and pass SB 1041.**

(18) "State" means any state, district, or territory of the United States.

(19) "Subsidiary" of a specified person means an affiliate controlled by the person directly, or indirectly through one or more intermediaries.

(20) "Unauthorized insurer" or "nonadmitted insurer" means an insurer that has not been granted a certificate of authority by the commissioner to transact the business of insurance in this state or an insurer transacting business not authorized by a valid certificate.

(21) "United States" means the United States of America, its territories and possessions, the Commonwealth of Puerto Rico and the District of Columbia.

Sec. 2. (NEW) (*Effective October 1, 2021*) (a) For the purposes of this section, "health care sharing plan" means an arrangement of members that encourages its members, or an affiliation or network of individuals that encourages such individuals, to cover, in whole or in part, the medical, health care, assisted living or prescription drug costs, or wellness expenses, of other such members or individuals.

(b) Notwithstanding any provision of the general statutes, no person shall receive a fee or anything of value in exchange for:

(1) Selling or soliciting a health care sharing plan for a resident of this state;

(2) Negotiating a health care sharing plan on behalf of a resident of this state; or

(3) Administering a health care sharing plan that includes a resident of this state.

(c) THE PROVISION OF SUBSECTION (b) OF THIS SECTION DOES NOT APPLY TO (1) A SALARIED PERSON EMPLOYED BY THE SHARING MINISTRY WHO DOES NOT RECEIVE ANY FORM OF COMMISSION, COMPENSATION OR OTHER VALUABLE CONSIDERATION BASED ON ENROLLING OF NEW MEMBERS AND (2) A NEW MEMBER REFERRAL PROGRAM

PROVIDING CREDIT FOR EXISTING MEMBERS OF THE SHARING MINISTRY SO LONG AS THE PROGRAM IS LIMITED TO CREDIT FOR NO MORE THAN TWELVE NEW MEMBERS ANNUALLY.

[(c)] (d) Any violation of this section shall be deemed an unfair method of competition and unfair and deceptive act or practice in the business of insurance under section 38a-816 of the general statutes, as amended by this act.

Sec. 3. Section 38a-816 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2021*):

The following are defined as unfair methods of competition and unfair and deceptive acts or practices in the business of insurance:

(1) Misrepresentations and false advertising of insurance policies. Making, issuing or circulating, or causing to be made, issued or circulated, any estimate, illustration, circular or statement, sales presentation, omission or comparison which: (A) Misrepresents the benefits, advantages, conditions or terms of any insurance policy; (B) misrepresents the dividends or share of the surplus to be received, on any insurance policy; (C) makes any false or misleading statements as to the dividends or share of surplus previously paid on any insurance policy; (D) is misleading or is a misrepresentation as to the financial condition of any person, or as to the legal reserve system upon which any life insurer operates; (E) uses any name or title of any insurance policy or class of insurance policies misrepresenting the true nature thereof; (F) is a misrepresentation, including, but not limited to, an intentional misquote of a premium rate, for the purpose of inducing or tending to induce to the purchase, lapse, forfeiture, exchange, conversion or surrender of any insurance policy; (G) is a misrepresentation for the purpose of effecting a pledge or assignment of or effecting a loan against any insurance policy; or (H) misrepresents any insurance policy as being shares of stock.

(2) False information and advertising generally. Making, publishing, disseminating, circulating or placing before the public, or causing,