

Stricken language would be deleted from and underlined language would be added to present law.

State of Arkansas  
93rd General Assembly  
Regular Session, 2021

As Engrossed: H2/8/21  
**A Bill**

HOUSE BILL 1404

By: Representative Bentley  
By: Senator G. Stubblefield

### For An Act To Be Entitled

AN ACT TO AMEND THE EXEMPTIONS OF CERTAIN ENTITIES  
FROM INSURANCE REGULATION; AND FOR OTHER PURPOSES.

### Subtitle

TO AMEND THE EXEMPTIONS OF CERTAIN  
ENTITIES FROM INSURANCE REGULATION.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code § 23-60-104 is amended to read as follows:

23-60-104. Exceptions – Burial associations – ~~Health care~~ Healthcare  
sharing ministries – Direct primary care agreements – Noninsurance healthcare  
benefits coverage – Definitions.

(a) The Arkansas Insurance Code and rules promulgated by the Insurance  
Commissioner under the Arkansas Insurance Code do not apply to a:

- (1) Burial association governed by §§ 23-78-101 – 23-78-119 and  
23-78-121 – 23-78-125;
- (2) Direct primary care agreement; ~~or~~
- (3) ~~Health care~~ Healthcare sharing ministry; or
- (4) Noninsurance healthcare benefits coverage provided by a not-  
for-profit membership organization.

(b) As used in this section:

(1)(A) “Direct primary care agreement” means a written agreement  
that:

(i) Is between a licensed healthcare provider and a  
patient or the patient’s legal representative;



(ii)(a) Allows either party to terminate the agreement in writing, without penalty or payment of a termination fee, at any time or after notice as specified in the agreement.

(b) The notice of termination described in subdivision (b)(1)(A)(ii)(a) of this section shall not exceed sixty (60) days;

(iii) Describes the healthcare services to be provided in exchange for payment of a periodic fee;

(iv) Specifies the periodic fee required and any additional fees that may be charged;

(v) May allow the periodic fee and any additional fees to be paid by a third party;

(vi) Prohibits the healthcare provider from charging or receiving additional compensation for healthcare services included in the periodic fee; and

(vii) Conspicuously and prominently states that the agreement is not health insurance and does not meet any individual health insurance mandate that may be required by federal law.

(B) A direct primary care agreement shall provide a written disclaimer on or accompanying an application distributed by or on behalf of an entity offering a direct primary care agreement that reads, in substance:

“Notice: A direct primary care agreement is not an insurance policy, and the select medical services as specified under a direct primary care agreement may not constitute the minimum essential health benefits under federal healthcare laws established by Pub. L. No. 111-148, as amended by Pub. L. No. 111-152, and any amendments to, or regulations or guidance issued under, those statutes existing on January 1, 2017. Medical services provided under a direct primary care agreement may not be covered by or coordinated with your health insurance and you may be responsible for any payment for medical services not covered by health insurance under your insurer’s statement of benefits policy.”.

(C) “Direct primary care agreement” does not mean a health benefit plan or a health maintenance organization as defined in § 23-76-102; ~~and~~

(2) “~~Health care~~ Healthcare sharing ministry” means a faith-

based, nonprofit organization that:

(A) Is tax-exempt under the Internal Revenue Code of 1986;

(B) Limits participation to those who are of a similar faith;

(C) Facilitates an arrangement to match participants who have financial or medical needs to participants with the present ability to assist those with financial or medical needs according to criteria established by the ~~health-care~~ healthcare sharing ministry;

(D) Provides for the financial or medical needs of a participant through contributions from one (1) participant to another;

(E) Establishes contribution amounts for participants with no guarantee of return, assumption of risk, or promise to pay qualified medical needs of the participant or of the medical provider performing the service or services for the participant;

(F) Provides a written monthly statement to its participants that lists:

(i) The total dollar amount of qualified needs submitted to the ~~health-care~~ healthcare sharing ministry; and

(ii) The amount of contribution established for its participants;

(G) Provides a written disclaimer on or accompanying an application and guideline material distributed by or on behalf of the ~~health care~~ healthcare sharing ministry that reads, in substance:

“Notice: The organization facilitating the sharing of medical expenses is not an insurance company and neither its guidelines nor plan of operation is an insurance policy. If anyone chooses to assist you with your medical bills, it will be totally voluntary because participants are not compelled by law to contribute toward your medical bills. Participation in the organization or a subscription to any of its documents should never be considered to be insurance. Regardless of whether you receive a payment for medical expenses or if this organization continues to operate, you are always personally responsible for the payment of your own medical bills.”; and

(H) Transfers or distributes contribution amounts from one (1) participant to match the qualified medical needs of another participant to whom neither the organization nor the sending participant has an obligation or commitment to pay for any qualified medical needs with its own

funds; and

(3)(A) "Not-for-profit membership organization" means a professional association, trade association, or any entity that has dues-paying members that:

(i) Is a qualifying charitable nonprofit organization that has received tax-exempt status under 26 U.S.C. § 501(c)(3), as in effect on January 1, 2021; and

(ii) Exists to serve its members beyond the offer of noninsurance healthcare benefits coverage.

(B) Notwithstanding any law to the contrary, noninsurance healthcare benefits coverage provided by a not-for-profit membership organization is not insurance.

(C) The risk under noninsurance healthcare benefits coverage may be reinsured by an entity authorized to conduct reinsurance business in this state under § 23-62-205.

(D) A not-for-profit membership organization that provides noninsurance healthcare benefits coverage shall file a signed, certified actuarial statement confirming plan reserves annually with the Insurance Commissioner.

SECTION 2. Arkansas Code § 23-76-103(c), concerning applicability of laws concerning hospital and medical service corporations, is amended to read as follows:

(c) This chapter does not apply to a:

(1) ~~Health care~~ A healthcare sharing ministry as defined in § 23-60-104(b); ~~or~~

(2) ~~Direct~~ A direct primary care agreement as defined in § 23-60-104(b); or

(3) Noninsurance healthcare benefits coverage provided by a not-for-profit membership organization as described in § 23-60-104.

SECTION 3. EFFECTIVE DATE. This act is effective on and after January 1, 2022.

/s/Bentley