

2015 SENATE INDUSTRY, BUSINESS AND LABOR

SB 2225

2015 SENATE STANDING COMMITTEE MINUTES

Industry, Business and Labor Committee
Roosevelt Park Room, State Capitol

SB 2225
1/27/2015
Job Number 22619

- Subcommittee
 Conference Committee

Committee Clerk Signature

Eva Liebelt

Explanation or reason for introduction of bill/resolution:

Relating to health care sharing ministries

Minutes:

Attachment

Chairman Klein: Opened the hearing.

Senator Campbell: Introducing Senate Bill 2225, Health Care Sharing Ministry. Health care ministries are a charitable group of Christians who share medical bills without insurance to those in need. Participants are exempt from the Affordable Care Act so they do not have to purchase insurance. There are twenty eight states that have passed a safe harbor bill, similar to this one. There are currently about 1850 individual participants in North Dakota covered. This bill accomplishes two objectives; number one it defines health care ministries in the North Dakota's code and number two it exempts them from insurance code because they are not insurance but rather a charitable organization.

Senator Murphy: There is how many covered in North Dakota?

Senator Campbell: Seven to eight hundred families and eighteen hundred and fifty individuals.

Senator Murphy: Are they currently illegal?

Senator Campbell: We have an expert that will be testifying and I will reserve that answer for him.

Joel Noble, Alliance of Health Care Sharing Ministries and Samaritan Ministries: Written Testimony Attached (1). (3:58-5:49)

Chairman Klein: You're covering six hundred households in North Dakota. You can cover them without this bill or are you trying to develop some clarity?

Joel Noble: We actually don't cover anybody because we are not insurance. It's not just a matter of language, there is no transfer of risk, there is no guarantee, the members come in

knowing they don't have insurance. It's explicitly stated in all of our material and website. It is a proactive measure. (6:14-7:40)

Chairman Klein: You said the insurance regulators have issues, why don't the insurance companies like you?

Joel Noble: I don't know if the insurance companies like us or not, we are not a threat.

Senator Sinner: There are no obligations to pay anybody's bills, people contribute money, they have a bill and they call you and say I need help? Is there any means testing?

Joel Noble: Exactly. The ministries have guidelines that explain what is publishable and not publishable and it's very similar to things you would be having taken care of by an insurance company. (8:33-9:25)

Senator Sinner: Individuals will send you personal checks to pay your bills, is that taxable to you?

Joel Noble: It's not because it is a gift, as long as no one individual sends more than fourteen or fifteen thousand and thirty thousand for a couple.

Senator Sinner: So as a member you agree to send someone else money?

Joel Noble: Yes, I am agreeing to do it. I am doing it of my own free will. It is not tax deductible.

Senator Miller: How do they prove that they are a member of your ministry?

Joel Noble: The ACA allows for two different avenues. One is to go through the market place exchange and there is a form there and the second, which is the preferable method, is IRS form 8965. It's a single form you fill out.

Senator Miller: Do you as an organization provide documentation that you have to submit with your IRS document?

Joel Noble: The IRS does not require that. (12:27-13:07)

Senator Sinner: Let's go back to my question of large needs.

Joel Noble: The ministry that I am with publishes up to two hundred fifty thousand dollar and then over that there is a separate program the members can participate in. What we found is because of the inflated cost our members are paying three times what is being paid out to an insurance company. Those needs can be negotiated down. (16:45-17:30)

Senator Sinner: The ministry has the ability to help negotiate, in order to access to those records does the person sign a release as part of the claim.

Joel Noble: If they would like their need to be negotiated by a group out of Austin, Texas. They are a group that specializes in helping lower medical bills. Many of our members negotiate their own bills.

Senator Sinner: So how does that Austin, Texas group get paid?

Joel Noble: With the ministries they work with, there is an agreement between them and the ministries that they pay them a portion of the discount they get.

Senator Sinner: It sounds to me that there are some contracts.

Joel Noble: Not between the members and the ministry. The ministries have business partners; we have a contract with the folks that make our web pages, a contract with our AC people but between the ministries and the members there is no contract. (19:01-19:16)

Senator Sinner: The claim form is not a contract in any way?

Joel Noble: No it's just a simple one page where they are listing their medical bills and how we can be praying for them.

Senator Sinner: Asked for a copy of the form.

Joel Noble: Said he could get one that he has filled out.

Chairman Klein: You have to have faith in what we are talking about here. We aren't telling anybody in the law that we are going to pray for you, it's in your comments but that's how this faith based stuff works.

Joel Noble: Yes and I would say as a 501C3, which all the ministries are by requirement of the affordable care act, we do come under the jurisdiction of the attorney general and so there is oversight. It's just not insurance and so it shouldn't be regulated by insurance and that is all the bill is trying to clarify. (24:00-25:15)

Megan Houn, Director of Government Relations, Blue Cross Blue Shield of North Dakota: Written Testimony Attached (2). (26:30-28:37)

Senator Miller: Do you have any other examples of something they're not covering.

Megan Houn: I don't, I am not aware. I can only imagine, we were talking earlier or the gentleman's comment about there is sort of a two hundred and fifty thousand dollar cap. Currently that doesn't cover a lot if you end up with cancer or some sort of grave illness or extenuating circumstance.

Chairman Klein: What I've heard is there are other states that have adopted this sort of language. Have you visited with your counterparts across the country to see how they envision this, are there issues? We probably won't hear about the bad side of this because I am excited about the front side. It's an interesting concept.

Megan Houn: I did text this morning and sent out a couple of questions about that and received a little bit of feedback from American Health Insurance Plans, they don't have a formal position on this but they certainly have a thick file of information that they have amassed. There are several concerns but they are concerned that it should be treated as insurance because that is essentially sort of what it is. (30:00-31:00)

Senator Miller: Why does it cost so much for regular insurance, why can they seem to manage to do this. I know they have a cap of two hundred and fifty thousand but I've been broken up pretty bad and I have never gone over two hundred and fifty thousand and they are charging a penny to your dollar. That's the big question, why are we as American's getting hosed on our insurance cost?

Megan Houn: I think part of the discussion here has to revolve around the fact that ACA requires us as insurers to cover certain benefits. (31:49-34:17)

Ed Moody, Director of Insurance Company Licensing and Examinations with the North Dakota Insurance Department: The department is neutral on the bill. We do feel that it is unnecessary the department has been regulating insurance and insurance companies since we were first legislated to do so and we have relied since 1976 on an opinion by the Attorney General, what is insurance. We have no issues with Health Care Sharing Ministries being considered insurance. We do feel the bill would add confusion to the lay public as it is written. (34:41-36:22)

Chairman Klein: What you are suggesting is what we've been doing in North Dakota has been working fine and this would conceivably muddy the waters just a bit?

Ed Moody: Rather than helping. It might cause more administrative burden for us to make sure those entities meet the requirements of the affordable care act and I don't think that was the intent of the affordable care act.

Chairman Klein: What I heard was you haven't had any issues with the Health Care Sharing Ministries let's leave it alone. The attorney general's opinion?

Ed Moody: It was the attorney general's opinion of 1976 on what constitutes insurance. (37:00-37:29)

Chairman Klein: Closed the hearing.

2015 SENATE STANDING COMMITTEE MINUTES

Industry, Business and Labor Committee
Roosevelt Park Room, State Capitol

SB 2225
2/2/2015
Job Number 22939

- Subcommittee
 Conference Committee

Committee Clerk Signature

Eva Lubet

Explanation or reason for introduction of bill/resolution:

Relating to health care sharing ministries

Minutes:

No Attachments

Chairman Klein: Asked if there was any more work that could be done.

Senator Miller: Moved a do not pass.

Senator Murphy: Seconded the motion.

Chairman Klein: Any discussion?

Senator Campbell: Said he talked with Joe about the bill and he wasn't going to support the do not pass but he agrees with them and thinks the best thing to do is lay low on it. They can do it now anyway so there is really no need for the bill. It's short and simple and Levi kind of agreed as well.

Chairman Klein: In the discussion I thought the insurance commissioner's office said that they recognize them now; they have six hundred families, thirteen hundred people in the state. Do we really want to rock the boat on this and create an issue? The clerk will call the roll for a do not pass on SB 2225.

Roll Call Vote: Yes-5 No-1 Absent-1

Senator Miller will carry the bill.

**2015 SENATE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. SB 2225**

Senate Industry, Business and Labor Committee

Subcommittee

Amendment LC# or Description: _____

Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
 Place on Consent Calendar

Other Actions: Reconsider _____

Motion Made By Senator Miller Seconded By Senator Murphy

Senators	Yes	No	Senators	Yes	No
Chairman Klein	x		Senator Murphy	x	
Vice Chairman Campbell		x	Senator Sinner	x	
Senator Burckhard	x				
Senator Miller	x				
Senator Poolman					

Total (Yes) 5 No 1

Absent 1

Floor Assignment Senator Miller

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

SB 2225: Industry, Business and Labor Committee (Sen. Klein, Chairman) recommends **DO NOT PASS** (5 YEAS, 1 NAYS, 1 ABSENT AND NOT VOTING). SB 2225 was placed on the Eleventh order on the calendar.

2015 TESTIMONY

SB 2225



...because faith, liberty, and charity are essential to effective health care

HEALTHCARESHARING.ORG

**Testimony in Support of SB 2225
Senate Industry, Business, and Labor Committee
January 27, 2015 – 11 a.m.**

Chairman Klein and members of the Senate Industry, Business, and Labor Committee,

Thank you for having me today. My name is Joel Noble and I am from Peoria, IL, and I am here representing the Alliance of Health Care Sharing Ministries and Samaritan Ministries, one of the three national health care sharing ministries. There are over 125,000 households nationwide taking part in health care sharing ministries and that includes over 600 households here in North Dakota.

Health care sharing ministries have been formed to help meet the health care cost needs of members by sharing funds voluntarily among other members of similar beliefs. The monthly amounts, or shares, each member contributes are sent to other members to help pay for their medical expenses and are administered by the health care sharing ministries, who act as clearinghouses for the shares.

Health care sharing ministries do not assume any risk or guarantee payment of medical bills and operate with voluntary cooperative sharing without a contractual transfer of risk. Health care sharing ministries also put a heavy priority on seeking to meet the spiritual and emotional needs of members through prayer and notes of encouragement from member to member.

SB 2225 seeks to accomplish two objectives: first, define what a health care sharing ministry is, and second, make clear that the ministries are not insurance companies. Ultimately, the bill will remove any vagueness that may arise in the future by recognizing that health care sharing ministries do not constitute the transaction of insurance business in North Dakota.

Because of the unique nature of health care sharing ministries, well meaning insurance regulators occasionally attempt to subject HCSMs to the same requirements as insurance companies. It is impossible to meet such standards without destroying the voluntary, ministerial nature of these ministries.

I would ask that you support SB 2225, a bill that will explicitly clarify the nature of HCSMs as ministries, not insurance companies, and avoid any uncertainty. Thank you for your time, and I am pleased to answer any questions you might have.

Joel Noble
Alliance of Health Care Sharing Ministries

S.B. 2225

Senate Industry, Business and Labor

January 27, 2015

Chairman ~~Klein~~ and committee members, my name is Megan Houn and I am the Director of Government Relations at Blue Cross Blue Shield of North Dakota.

BCBSND opposes SB 2225, a bill creating health care sharing ministries, which would offer individual health insurance coverage without having to meet any insurance mandates under federal or state law, and free of any insurance regulation.

It is BCBSND view that under these arrangements, individuals are asked to submit an annual (sometimes monthly) administrative fee along with a monthly "contribution" (read: premium) based on family size in return for the prospect that if that individual or his/her family suffers an illness or injury, the arrangement will cover these health care costs.

This appears to be the very definition of "risk" under the insurance laws and, therefore, meet the definition of transacting the business of insurance under North Dakota law. And these health care sharing ministries have no regulation outside of the taxing authority of the IRS, aimed at regulating the tax-exempt nature of the entity, or oversight under state law, usually aimed at criminal activities such as fraud, theft by deception, etc.

We are also concerned that individuals who enter into these arrangements would be prime candidates for adverse selection, permitting healthy individuals with relatively minor health issues to play up until there are catastrophic health care needs, which are denied at the very time when these beneficiaries need coverage the most.

Proponents of these arrangements argue that these were exempt under federal health care reform and use that exemption as a reason to allow a state to enact legislation permitting it to move forward. In reality, the exemption under health care reform was simply a mechanism for states to determine regulation.

For all of these reasons, BCBSND opposes SB 2225.

Mr. Chair and members of the committee, this concludes my prepared remarks. I would be happy to answer any questions you may have.

Respectfully submitted, Megan Smith Houn