

PUBLIC CHAPTER NO. 1036

SENATE BILL NO. 4014

By Southerland, Norris, Henry, Tate, Kurita, Bunch, Beavers, Johnson, Stanley, Haynes, Black, Burks, Herron, Tracy, Raymond Finney, Berke

Substituted for: House Bill No. 4066

By Curtiss, Sargent, Harry Brooks, Pitts, McManus, Lundberg, Ford, Tindell, Curt Cobb, Bone, Shepard, Shaw, Overbey, Lynn, Favors, Mumpower, Niceley, Matheny, Gresham, Baird, Rowland, Kelsey, Hill, Hawk, DuBois, Maggart, Phillip Johnson, McDaniel, Harrison, Todd, Jim Cobb, Eldridge, Harwell, Litz, Hackworth, Fincher, Hood, Lollar, Hardaway, Dunn, Hensley, Yokley, Coley, McDonald, Bell, Moore, Casada, Campfield, Miller, Mr. Speaker Naifeh, Curtis Johnson, Towns, Ferguson

AN ACT to amend Tennessee Code Annotated, Title 56, relative to health cooperatives.

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

SECTION 1. Tennessee Code Annotated, Section 56-7-2203(24), is amended by adding the following language at the end of the first sentence:

; provided, however, that for purposes of participating in a health group cooperative, a "small employer" includes any person that during the preceding year employed no less than two (2) and no more than fifty (50) eligible employees and otherwise qualifies as a small employer pursuant to this subdivision (24);

SECTION 2. Tennessee Code Annotated, Section 56-7-2203, is amended by adding the following language as a new, appropriately designated subdivision:

() "Health group cooperative" or "cooperative" means a private purchasing cooperative composed of small employers formed under this part;

SECTION 3. Tennessee Code Annotated, Title 56, Chapter 7, Part 22, is amended by adding the following language as a new, appropriately designated section:

§ 56-7-22__.

(a) A health group cooperative of small employers may be formed only for the purpose of obtaining insurance. A health group cooperative shall:

(1) Contain at least one thousand (1,000) eligible employees or have at least ten (10) participating employers;

(2) Establish requirements for membership. A small employer's participation in a cooperative is voluntary, but an employer electing to

participate in a cooperative shall commit to purchasing coverage through the cooperative for five (5) years, unless allowed to terminate participation because of a financial hardship affecting the employer as determined by rules governing termination promulgated by the commissioner. Such rules shall include, at a minimum, that "financial hardship" means the initiation of bankruptcy proceedings or dissolution of the employer. No health group cooperative shall exclude a small employer that otherwise meets the requirements for membership on the basis of a health status-related factor, as defined in § 56-7-2802, in relation to the employee or a dependent of the employee;

(3) Hold an open enrollment period at least once a year during which period eligible employers and eligible employees may join the health group cooperative;

(4) Allow eligible employees and their dependents, upon initial enrollment and during subsequent open enrollment periods, to choose among health insurance plans from the insurer selected by and offered through the cooperative. A person covered by a health insurance plan offered through the cooperative that requires an enrollment period in excess of one (1) year is eligible to choose among available plans upon the completion of the enrollment period;

(5) Offer coverage under all the selected insurers' plans offered through the cooperative to all eligible employees of member small employers and their dependents. Coverage shall be offered to all employees of member small employers and their dependents except as provided in § 56-7-2209(a)(4);

(6) Not assume any risk or form self-insurance plans among its members unless it complies with Title 56, Chapter 26, Part 2; provided, however, that compliance with § 56-26-204(a)(1)(C) shall not be required of health cooperatives; and

(7) Have the option of using any type of rating arrangement with the insurer selected by the cooperative. At the cooperative's discretion, premiums may be paid to the health insurance plans by the cooperative or by member small employers. A health insurance plan offered through the health group cooperative that rates:

(A) Each member small employer separately is subject to the laws governing small employer health insurance; and

(B) The entire group as a whole shall charge each insured person based on a base rate within the health group cooperative, adjusted for case characteristics as permitted by § 56-7-2209 and plan selection, and is subject to the laws governing group accident and health insurance.

(b)(1) The health group cooperative prior to offering any health insurance plan through the cooperative, and annually after the initial offering, shall

register with the department and demonstrate continued compliance with subdivision (b)(2).

(2) The health group cooperative shall be organized as a nonprofit corporation and have the rights and duties pursuant to the Tennessee Nonprofit Corporation Act, compiled in Title 58, Chapters 51-68. On receipt of a certificate of incorporation from the secretary of state, the cooperative shall file written notification of the receipt of the certificate and a copy of the cooperative's organizational documents with the commissioner. The board of directors shall file annually with the commissioner a statement of all amounts collected and expenses incurred for the preceding year.

(c) A small employer insurer may not form, or be a member of, a health group cooperative. An insurer may associate with a sponsoring entity, such as a business association, chamber of commerce, or other organization representing employers or serving an analogous function, to assist the sponsoring entity in forming a health group cooperative.

SECTION 4. Tennessee Code Annotated, Title 56, Chapter 7, Part 22, is amended by adding the following language as a new, appropriately designated section:

§ 56-7-22__.

(a) A health group cooperative shall not be liable for, nor shall a member of the board of directors, the executive director, an employee, or an agent of a cooperative, be liable for:

(1) An act performed in good faith in the execution of duties in connection with the cooperative; or

(2) An independent action of a small employer insurer or a person who provides health care services under a health insurance plan.

(b) A health group cooperative shall not be liable for, nor shall a member of the board of directors, the executive director, an employee, or an agent be liable for a failure to arrange for coverage of a particular illness, disease, or health condition.

SECTION 5. Tennessee Code Annotated, Title 56, Chapter 7, Part 22, is amended by adding the following language as a new, appropriately designated section:

§ 56-7-22__.

A health group cooperative:

(1) Shall arrange for group health insurance plan coverage for small employers who are members of the cooperative by contracting with small employer insurers who meet the criteria established by this part for coverage under group health insurance plans;

(2) Shall collect premiums to cover the cost of:

(A) Group health insurance plan coverage purchased through the cooperative; and

(B) The cooperative's administrative expenses;

(3) May contract with agents to market coverage issued through the cooperative;

(4) Shall establish administrative and accounting procedures for the operation of the cooperative;

(5) May contract with a small employer insurer or third-party administrator to provide administrative services to the cooperative;

(6) Shall contract with a small employer insurer for the provision of services to small employers covered through the cooperative;

(7) Shall develop and implement a plan to maintain public awareness of the cooperative and publicize the eligibility requirements for, and the procedures for, enrollment in coverage through the cooperative;

(8) May negotiate the premiums paid by its members; and

(9) May obtain from the cooperative's selected insurer other ancillary health insurance products and services for its members as are customarily offered in conjunction with group health insurance plans.

SECTION 6. Tennessee Code Annotated, Title 56, Chapter 7, Part 22, is amended by adding the following language as a new, appropriately designated section:

§ 56-7-22__.

(a) A health group cooperative shall contract only with a small employer insurer that demonstrates:

(1) That the insurer or health maintenance organization is licensed and in good standing with the department;

(2) The capacity to administer the group health insurance plans;

(3) The ability to monitor and evaluate the quality and cost effectiveness of care and applicable procedures;

(4) The ability to conduct utilization management and applicable procedures and policies;

(5) The ability to assure enrollees a sufficient number of health care providers, including specialty providers; and

(6) A satisfactory grievance procedure and the ability to respond to enrollees' calls, questions, and complaints.

(b) A health group cooperative shall comply with federal laws applicable to cooperatives and group health insurance plans issued through cooperatives, to the extent required by federal law and this title or rules promulgated pursuant to this title.

SECTION 7. The Department of Commerce and Insurance is authorized to promulgate rules to effectuate the purposes of this act. All such rules shall be promulgated in accordance with the provisions of the Uniform Administrative Procedures Act, compiled in Title 4, Chapter 5.

SECTION 8. For purposes of promulgating rules, this act shall take effect upon becoming law, the public welfare requiring it. For all other purposes, this act shall take effect January 1, 2009, the public welfare requiring it.

PASSED: May 7, 2008



RON RAMSEY
SPEAKER OF THE SENATE



JIMMY NAIFEH, SPEAKER
HOUSE OF REPRESENTATIVES

APPROVED this 28th day of May 2008



PHIL BREDESEN, GOVERNOR