

1 State of Arkansas  
2 93rd General Assembly  
3 Regular Session, 2021  
4

# A Bill

SENATE BILL 168

5 By: Senator K. Hammer  
6 By: Representative Gonzales  
7

## For An Act To Be Entitled

9 AN ACT TO MODIFY THE EXEMPTIONS OF CERTAIN ENTITIES  
10 FROM INSURANCE REGULATION; AND FOR OTHER PURPOSES.  
11

## Subtitle

12  
13 TO MODIFY THE EXEMPTIONS OF CERTAIN  
14 ENTITIES FROM INSURANCE REGULATION.  
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18 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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20 SECTION 1. Arkansas Code § 23-60-104 is amended to read as follows:

21 23-60-104. Exceptions – Burial associations – ~~Health-care~~ Healthcare  
22 sharing ministries – Direct ~~primary-care~~ healthcare agreements – Definitions.

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

25 (1) Burial association governed by §§ 23-78-101 – 23-78-119 and  
26 23-78-121 – 23-78-125;

27 (2) Direct ~~primary-care~~ healthcare agreement; or

28 (3) ~~Health-care~~ Healthcare sharing ministry.

29 (b) As used in this section:

30 (1)(A) “Direct ~~primary-care~~ healthcare agreement” means a  
31 written agreement that:

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

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



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

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

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

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

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

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

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

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

30 (C) "Direct ~~primary care~~ healthcare agreement" does not  
 31 mean a health benefit plan or a health maintenance organization as defined in  
 32 § 23-76-102; and

33 (2) "~~Health care~~ Healthcare sharing ministry" means a faith-  
 34 based, nonprofit organization that:

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

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

1 faith;

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

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

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

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

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

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

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

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

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

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36 SECTION 2. Arkansas Code § 23-76-103(c), concerning applicability of

1 laws concerning hospital and medical service corporations, is amended to read  
2 as follows:

3 (c) This chapter does not apply to a:

4 (1) ~~Health care~~ Healthcare sharing ministry as defined in § 23-  
5 60-104(b); or

6 (2) Direct ~~primary care~~ healthcare agreement as defined in § 23-  
7 60-104(b).

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**APPROVED: 3/17/21**