

HEALTH CARE SHARING MINISTRIES FREEDOM TO SHARE ACT
(DRAFT, February 2011)

FINDINGS AND PURPOSE

Participants of health care sharing ministries financially assist fellow participants with large medical expenses with a result usually provided by health insurance. Due to their voluntary and ministerial nature, these ministries should be recognized in the insurance code as ministries and not as health insurance companies.

A health care sharing ministry (HCSM) is a health care cost-sharing arrangement among persons of similar and sincerely held beliefs, administered by a not-for-profit religious organization. Those sharing through HCSMs are called participants, and the money sent by participants to other participants to help pay for their medical expenses is called a share. The sharing is accomplished through participants' monthly gifts directed to families in financial distress and not to an insurance reserve fund. In addition to addressing the financial needs of those facing health challenges, HCSMs also seek to help meet spiritual and emotional needs as of part the sense of community which exists among participants.

As of 2010, HCSMs represent over 110,000 individual lives in all fifty states. HCSMs share over \$75 million per year for health care costs.

Since 1981, formalized HCSMs have played a vital role in assisting tens of thousands of individuals emotionally, spiritually, and financially through medical crises and the accompanying expenses.

Since HCSMs engage in voluntary sharing and not a contractual transfer of risk, they are not insurance. The regulatory requirements of insurance, if imposed on HCSMs, would destroy the voluntary, ministerial nature of the organizations. The public good would be served by explicitly acknowledging this through a specific exemption in the state's insurance code to avoid uncertainty and waste of legal expenses.

HCSMs are under the oversight and general regulation of both the Internal Revenue Service and the states' attorneys general since they are 501(c)(3) charities.

Eleven states have already exempted HCSMs from their insurance codes, including Florida, Iowa, Kansas, Kentucky, Maryland, Missouri, Oklahoma, Pennsylvania, Utah, Virginia, and Wisconsin.

This legislation is designed so that the state insurance code specifically recognizes HCSMs as ministries and not insurance, and as not subject to the additional requirements of the state insurance code.

MODEL LEGISLATION

Section 1. Short Title. This Act shall be known as the “Health Care Sharing Ministries Freedom to Share Act.”

Section 2. Exemption of Health Care Sharing Ministries from the Insurance Code.

A. A health care sharing ministry shall not be considered to be engaging in the business of insurance for purposes of this **{insert code, title, chapter, or appropriate description that describes the state’s regulation of health insurance statutes}**.

Section 3. Definitions. "Health care sharing ministry" means a faith-based, non-profit organization that is tax-exempt under the Internal Revenue Code which:

1. limits its participants to those who are of a similar faith;
2. acts as a facilitator among participants who have financial or medical needs and matches those participants with other participants with the present ability to assist those with financial or medical needs in accordance with criteria established by the health care sharing ministry;
3. provides for the financial or medical needs of a participant through contributions from one participant to another;
4. provides amounts that participants may contribute with no assumption of risk or promise to pay among the participants and no assumption of risk or promise to pay by the health care sharing ministry to the participants;
5. provides a written monthly statement to all participants that lists the total dollar amount of qualified needs submitted to the health care sharing ministry, as well as the amount actually published or assigned to participants for their contribution; and
6. provides a written disclaimer on or accompanying all applications and guideline materials distributed by or on behalf of the organization 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. Whether anyone chooses to assist you with your medical bills will be totally voluntary because no other participant will be compelled by law to contribute toward your medical bills. As such, participation in the organization or a subscription to any of its documents should never be considered to be insurance. Regardless of whether you receive any payment for medical expenses or whether this organization continues to operate, you are always personally responsible for the payment of your own medical bills.”

Section 4. {Severability Clause}

Section 5. {Repealer Clause}

Section 6. {Effective Date}