

Atlantic Corporate Center  
2317 Route 34, Suite 2B  
Manasquan, NJ 08726  
732-201-4133  
CHIEF EXECUTIVE OFFICER: Thomas B. Considine



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## **National Council of Insurance Legislators (NCOIL)**

### **Medical Expense Sharing Registration Model Act**

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***\*\*\*Draft Proposed by Christian Care Ministry as an alternative to the NCOIL Health Care Sharing Ministry Registration Model Act Proposal\*\*\****

***\*Sponsored by TBD***

***\*Discussion Draft as February 29<sup>th</sup>, 2020. To be discussed during the Health Insurance & Long Term Care Issues Committee on March 7<sup>th</sup>, 2020***

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#### **Section 1. Title**

This Act shall be known as the “[State] Medical Expense Sharing Registration Act.”

#### **Section 2. Purpose**

The purpose of this Act is to accommodate and protect residents of [State] who desire to participate in a medical expense sharing program by (i) establishing operational requirements for such programs and (ii) providing for the registration and reporting of qualifying programs in [State].

#### **Section 3. Definitions**

A “health care sharing ministry” means a nonprofit organization that is described in 26 U.S.C. 5000A(d)(2)(B)(ii) and that has received a certification letter from The Center for Medicare

and Medicaid Services.

A “medical expense sharing program” means (a) any health care sharing ministry or (b) any program that (i) facilitates the payment of certain medical expenses incurred by program members using funds contributed by the members on a regular basis in amounts determined by the organization, all in accordance with program criteria adopted by the organization operating the program or its members, and (ii) provides no transfer of risk to, or legal obligation to pay by, the members or the organization with respect to any such medical expenses incurred by any member.

#### **Section 4. Operational Requirements**

##### **(A) Notice**

Any organization operating a medical expense sharing program in this State shall provide on or accompanying all new member applications and program guidelines materials distributed by or on behalf of the organization to residents of this State a written disclaimer that states, in substance:

#### **NOTICE**

The organization facilitating the sharing of medical expenses is not an insurance company, and neither this program’s guidelines nor plan of operation constitutes an insurance policy. Whether anyone chooses to assist you with your medical bills will be totally voluntary, as neither this program nor any other member will be compelled by law to contribute toward your medical bills. As such, this medical expense sharing program should never be considered to be insurance. Whether you receive any payments for medical expenses and whether or not this medical expense sharing program continues to operate, you are always personally responsible for the payment of your own medical bills. If your participation in this program ends, state law may subject you to a waiting period before providing coverage.

*Drafting Note: This notice should be harmonized to reflect any existing notice requirement that may exist for medical expense sharing programs in the given state.*

##### **(B) Member Acknowledgement**

Any organization operating a medical expense sharing program in this State shall require any representative or other person authorized to solicit or enroll members in such program to obtain from any new or returning member applicant a written disclosure containing the information set forth in section 4(A) and signed by such applicant either in hard copy or electronic format.

##### **(C) Annual Audit**

Any organization operating a medical expense sharing program in this State shall conduct an

annual audit that is performed by an independent certified public accounting firm in accordance with generally accepted accounting principles and that is made available to the public by providing a copy upon request or by posting on a page on the organization's website that is accessible to the public.

(D) Member Reporting

(1) Any organization operating a medical expense sharing program in this State shall provide to each member of such program a monthly statement listing the total dollar amount of medical expenses incurred by the program's members that were shared by the program's members in the prior month.

(2) Any organization operating a medical expense sharing program in this State shall disclose to each of its members each month either (a) the percentage, calculated on a quarterly basis, of the membership's contributions that were used to meet members' medical expenses, or (b) the portion of contributions made by such member in the prior month that was or will be used for other members' medical expenses.

(E) No Deceptive Practices

Any organization operating a medical expense sharing program in this State shall (a) not engage in any practice in violation of Chapter \_\_\_ of the [State] Consumer Protection Law and (b) not make, issue or circulate, or cause to be made, issued or circulated any statement or publication that materially misrepresents the terms or conditions of the medical expense sharing program.

(F) Use of Name

Any organization operating a medical expense sharing program in this State shall not operate such program under any name other than the name submitted to the [Insurance Commissioner] pursuant to section 5(A)(1).

**Section 5. Registration**

(A) Registration

An organization operating a medical expense sharing program in [State] shall register with the [Insurance Commissioner] by submitting to such [Insurance Commissioner] the following information or materials not less than thirty days after such organization commences operation in [State] and prior to March 31 of each subsequent year in which the organization continues to operate in the State:

(1) The name of the medical expense sharing program, the name of organization's CEO and, if different, the name of an individual in the organization serving as a key contact for the organization, as well as such individual's mailing address, email address and phone number, and the organization's web address for general inquiries;

- (2) If the organization is a health care sharing ministry, a copy of the organization's letter from The Center for Medicare and Medicaid Services of the U.S. Department of Health and Human Services certifying that the organization satisfies the requirements of 26 U.S.C. 5000A(d)(2)(B)(ii);
- (3) A copy of the organization's most recent audited annual financial statements;
- (4) A copy of all new member application forms and program guidelines used by the organization in the prior calendar year;
- (5) The total number of members of the organization's medical expense sharing program resident in [State] as of the end of the prior calendar year, the total dollar amount of funds contributed on a regular basis in amounts determined by the organization by [State] resident members in the prior calendar year, and the total dollar amount of medical expenses incurred by [State] resident members in the prior calendar year that were shared by the program's members;
- (6) A filing fee as determined by the [Insurance Commissioner] in an amount not exceeding \$[100.00];

(B) Administration

The [Insurance Commissioner] shall have the authority to promulgate forms to facilitate the annual medical expense sharing program registration and to establish a filing fee for such registration as permitted under section 5(A)(6).

(C) Publication

The [Insurance Commissioner] may publish the information submitted by each organization operating a medical expense sharing program for registration pursuant to section 5(A).

**Section 6. Enforcement**

(A) Noncompliance

The [Insurance Commissioner] may impose a fine of not more than \$[\_\_\_\_\_] on, and may issue a cease and desist order to, any organization operating a medical expense sharing program in [State] if such organization provides false information to the [Insurance Commissioner] or has not satisfied the requirements of Sections 4 and 5 this Act. This section shall not preclude the imposition on any organization of any other fines or remedies authorized under any other applicable law.

(B) Insurance Code

A health care sharing ministry shall not be subject to any otherwise applicable section of the [State Insurance Code].

**Section 7. Effective Date**

This Act shall take effect on [DATE].