

1 S.103

2 Introduced by Senator Lyons

3 Referred to Committee on

4 Date:

5 Subject: Health; health insurance; association health plans

6 Statement of purpose of bill as introduced: This bill proposes to require health
7 insurers offering health benefit plans to associations to classify each employer
8 member of the association based on the employer's size for purposes of
9 determining applicable premium rates. It would also expand to large group
10 plans an existing prohibition on including brokers' fees in the premiums for
11 health insurance plans in the individual and small group market.

12 An act relating to calculating premium rates for fully insured association
13 health plans

14 It is hereby enacted by the General Assembly of the State of Vermont:

15 Sec. 1. 8 V.S.A. § 4079a is amended to read:

16 § 4079a. ASSOCIATION HEALTH PLANS

17 (a) As used in this section, ~~“association;~~

18 (1) “Association health plan” means a policy issued to an association; to
19 a trust; or to one or more trustees of a fund established, created, or maintained
20 for the benefit of the members of one or more associations or a contract or plan

1 issued by an association or trust or by a multiple employer welfare
2 arrangement as defined in the Employee Retirement Income Security Act of
3 1974, 29 U.S.C. § 1001 et seq.

4 (2) “Fully insured health benefit plan” means a health benefit plan
5 provided by a health insurer that is licensed to do business in Vermont and that
6 complies with section 3368 of this title, subdivision 4079(2) of this title, and
7 29 U.S.C. § 1144(b)(6)(D).

8 (3) “Health insurer” has the same meaning as in 18 V.S.A. § 9402.

9 (b) For an association offering a fully insured health benefit plan, a health
10 insurer shall:

11 (1) classify members of the association that are small employers with
12 100 or fewer employees as small groups for rating purposes and shall include
13 them in its small group risk pool; and

14 (2) classify members of the association who are individuals or sole
15 proprietors as individuals for rating purposes and shall include them in its
16 individual risk pool.

17 (c) The Commissioner shall adopt rules pursuant to 3 V.S.A. chapter 25
18 regulating association health plans in order to protect Vermont consumers and
19 promote the stability of Vermont’s health insurance markets, to the extent
20 permitted under federal law, including rules regarding licensure, solvency and
21 reserve requirements, and rating requirements.

1 value whatsoever as inducement to insurance or in connection therewith, or
2 any renewal thereof, ~~which~~ that is not specified in the policy.

3 (c) No insured person under a group insurance policy or party or applicant
4 for group insurance shall directly or indirectly receive or accept or agree to
5 receive or accept any rebate of premium or of any part thereof ~~or all or any part~~
6 ~~of any agent's or broker's commission thereon~~, or any favor or advantage, or
7 share in any benefit to accrue under any policy of insurance, or any valuable
8 consideration or inducement, other than such as is specified in the policy.

9 (d) Nothing in this section shall be construed as prohibiting ~~the payment of~~
10 ~~commission or other compensation to any duly licensed agent or broker; or as~~
11 ~~prohibiting~~ any insurer from allowing or returning to its participating
12 policyholders dividends, savings, or unused premium deposits; or as
13 prohibiting any insurer from returning or otherwise abating, in full or in part,
14 the premiums of its policyholders out of surplus accumulated from
15 nonparticipating insurance, or as prohibiting the taking of a bona fide
16 obligation, with interest not exceeding six percent per annum, in payment of
17 any premium.

18 (e) ~~An insurer that pays a~~ No insurer shall pay any commission, fee, or
19 other compensation, directly or indirectly, to a licensed or unlicensed agent,
20 broker, or other individual ~~other than a bona fide employee of the insurer in~~
21 ~~connection with the sale of a group insurance policy shall clearly disclose to~~

1 ~~the purchaser of such group policy the amount of any such commission, fee, or~~
2 ~~compensation paid or to be paid, nor shall an insurer include in an insurance~~
3 ~~rate for a group insurance policy any sums related to services provided by an~~
4 ~~agent, broker, or other individual. A health insurer may provide to its~~
5 ~~employees wages, salary, and other employment-related compensation in~~
6 ~~connection with the sale of health insurance plans, but shall not structure any~~
7 ~~such compensation in a manner that promotes the sale of any particular health~~
8 ~~insurance plan or plans over other plans offered by that insurer.~~

9 Sec. 3. 33 V.S.A. § 1811 is amended to read:

10 § 1811. HEALTH BENEFIT PLANS FOR INDIVIDUALS AND SMALL
11 EMPLOYERS

12 (a) As used in this section:

13 (1) “Health benefit plan” means a ~~health insurance policy, a nonprofit~~
14 ~~hospital or medical service corporation service contract, or a health~~
15 ~~maintenance organization health benefit plan offered through the Vermont~~
16 ~~Health Benefit Exchange or a reflective silver plan offered in accordance with~~
17 ~~section 1813 of this title that is issued to an individual or to an employee of a~~
18 ~~small employer policy, contract, certificate, or agreement offered or issued to~~
19 ~~an individual or to an employee of a small employer by a registered carrier to~~
20 ~~provide, deliver, arrange for, pay for, or reimburse any of the costs of health~~
21 ~~services. The term includes plans offered through the Vermont Health Benefit~~

1 Exchange and reflective silver plans offered in accordance with section 1813
2 of this title, but it does not include coverage only for accident or disability
3 income insurance, liability insurance, coverage issued as a supplement to
4 liability insurance, workers' compensation or similar insurance, automobile
5 medical payment insurance, credit-only insurance, coverage for on-site
6 medical clinics, or other similar insurance coverage in which benefits for
7 health services are secondary or incidental to other insurance benefits as
8 provided under the Affordable Care Act. The term also does not include stand-
9 alone dental or vision benefits; long-term care insurance; short-term, limited-
10 duration health insurance; specific disease or other limited benefit coverage;
11 Medicare supplemental health benefits; Medicare Advantage plans; and other
12 similar benefits excluded under the Affordable Care Act.

13 (2) "Qualified health benefit plan" means a health benefit plan that
14 meets the requirements set forth in section 1806 of this title.

15 (3) "Registered carrier" means any person, except an insurance agent,
16 broker, appraiser, or adjuster, who issues a health benefit plan and who has a
17 registration in effect with the Commissioner of Financial Regulation as
18 required by this section.

19 ~~(3)(A) Until January 1, 2016, "small employer" means an entity which~~
20 ~~employed an average of not more than 50 employees on working days during~~
21 ~~the preceding calendar year. The term includes self-employed persons to the~~

1 ~~extent permitted under the Affordable Care Act. Calculation of the number of~~
2 ~~employees of a small employer shall not include a part-time employee who~~
3 ~~works fewer than 30 hours per week or a seasonal worker as defined in 26~~
4 ~~U.S.C. § 4980H(c)(2)(B). An employer may continue to participate in the~~
5 ~~Exchange even if the employer's size grows beyond 50 employees as long as~~
6 ~~the employer continuously makes qualified health benefit plans in the Vermont~~
7 ~~Health Benefit Exchange available to its employees.~~

8 ~~(B) Beginning on January 1, 2016, "small~~

9 ~~(4) "Small employer" means an entity which that employed an average~~
10 ~~of not more than 100 employees on working days during the preceding~~
11 ~~calendar year. The term includes self-employed persons to the extent~~
12 ~~permitted under the Affordable Care Act. The number of employees shall be~~
13 ~~calculated using the method set forth in 26 U.S.C. § 4980H(c)(2). An~~
14 ~~employer may continue to participate in the Exchange even if the employer's~~
15 ~~size grows beyond 100 employees as long as the employer continuously makes~~
16 ~~qualified health benefit plans in the Vermont Health Benefit Exchange~~
17 ~~available to its employees.~~

18 (b)(1) To the extent permitted by the U.S. Department of Health and
19 Human Services, an individual may purchase a qualified health benefit plan
20 through the Exchange website, through navigators, by telephone, or directly
21 from a registered carrier under contract with the Vermont Health Benefit

1 Exchange, if the carrier elects to make direct enrollment available. A
2 registered carrier enrolling individuals in qualified health benefit plans directly
3 shall comply with all open enrollment and special enrollment periods
4 applicable to the Vermont Health Benefit Exchange.

5 (2) To the extent permitted by the U.S. Department of Health and
6 Human Services, a small employer or an employee of a small employer may
7 purchase a qualified health benefit plan through the Exchange website, through
8 navigators, by telephone, or directly from a registered carrier under contract
9 with the Vermont Health Benefit Exchange.

10 (3) No person ~~may~~ shall provide a health benefit plan to an individual or
11 small employer unless the plan complies with the provisions of this section,
12 and no person shall provide a qualified health benefit plan to an individual or
13 small employer unless the plan complies with the provisions of this subchapter.

14 (c) No person ~~may~~ shall provide a health benefit plan to an individual or
15 small employer unless such person is a registered carrier. The Commissioner
16 of Financial Regulation shall establish, by rule, the minimum financial,
17 marketing, service, and other requirements for registration. Such registration
18 shall be effective upon approval by the Commissioner of Financial Regulation
19 and shall remain in effect until revoked or suspended by the Commissioner of
20 Financial Regulation for cause or until withdrawn by the carrier. A carrier
21 may withdraw its registration upon at least six months' prior written notice to

1 the Commissioner of Financial Regulation. A registration filed with the
2 Commissioner of Financial Regulation shall be deemed to be approved unless
3 it is disapproved by the Commissioner of Financial Regulation within 30 days
4 of filing.

5 * * *

6 Sec. 4. EFFECTIVE DATE

7 This act shall take effect on passage and shall apply to all health benefit
8 plans issued, offered, or renewed for coverage after that date, beginning with
9 plans for the 2020 plan year.