

State of Arizona
Senate
Fifty-fourth Legislature
First Regular Session
2019

CHAPTER 194
SENATE BILL 1085

AN ACT

AMENDING SECTION 20-2324, ARIZONA REVISED STATUTES; RELATING TO
ACCOUNTABLE HEALTH PLANS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 20-2324, Arizona Revised Statutes, is amended to
3 read:

4 20-2324. Bona fide associations; definitions

5 A. ~~On or before January 1 of each year, every AN association that~~
6 qualifies as a PATH 1 bona fide association ~~shall file a statement with~~
7 ~~the director that certifies that the association~~ IF THE ASSOCIATION MEETS
8 THE FOLLOWING REQUIREMENTS:

9 ~~1. Has been in active existence for at least five years.~~

10 ~~2.~~ 1. Has been formed and maintained in good faith for purposes
11 other than obtaining insurance and does not condition membership in the
12 association on the purchase of insurance that is sponsored by the
13 association.

14 ~~3.~~ 2. Has a constitution and bylaws.

15 ~~4.~~ 3. Insures at least twenty-five members, employees or employees
16 of members of the association for the benefit of persons other than the
17 association or its officers or trustees.

18 ~~5.~~ 4. Does not condition membership in the association on any
19 health status-related factor relating to an individual, including an
20 employee of an employer or a dependent of an employee, and clearly states
21 this in all membership and application materials.

22 ~~6.~~ 5. Makes health benefits plans offered through the association
23 available to all members regardless of any health status-related factor
24 relating to any member of the association or individual eligible for
25 coverage through a member and clearly states this in all membership and
26 application materials.

27 ~~7.~~ 6. Does not make health benefits plans offered through the
28 association available other than in connection with a member of the
29 association and clearly states this in all membership and application
30 materials.

31 B. AN ASSOCIATION QUALIFIES AS A PATH 2 BONA FIDE ASSOCIATION IF
32 THE ASSOCIATION MEETS THE REQUIREMENTS OF 29 CODE OF FEDERAL REGULATIONS
33 SECTION 2510.3-5. AN INSURER ELECTING TO OFFER HEALTH BENEFITS PLANS
34 THROUGH A BONA FIDE ASSOCIATION TO SMALL EMPLOYER GROUPS OF ONE, WHICH MAY
35 INCLUDE SOLE PROPRIETORS OR WORKING OWNERS, IS NOT REQUIRED TO MAKE HEALTH
36 BENEFITS PLANS AVAILABLE UNDER SECTION 20-2304, SUBSECTION A TO SMALL
37 EMPLOYER GROUPS OF ONE IF THE SMALL EMPLOYER IS NOT SEEKING A HEALTH
38 BENEFITS PLAN THROUGH A BONA FIDE ASSOCIATION.

39 ~~8.~~ C. The requirements of section 20-2304, subsection A ~~shall~~ DO
40 not apply to health benefits plans offered by an accountable health plan
41 if the accountable health plan makes this coverage available in the small
42 group market only through one or more PATH 1 bona fide associations.

43 D. THE DEPARTMENT MAY SURVEY INSURERS ISSUING HEALTH BENEFITS PLANS
44 TO DETERMINE THE NUMBER OF HEALTH BENEFITS PLANS ISSUED TO BONA FIDE
45 ASSOCIATIONS IN THIS STATE EACH YEAR.

1 E. THIS SECTION DOES NOT LIMIT OR PROHIBIT THE ISSUANCE OF
2 SELF-FUNDED HEALTH BENEFITS PLANS IN THIS STATE THROUGH A BONA FIDE
3 ASSOCIATION IF THE ASSOCIATION IS ESTABLISHED AND OPERATING IN COMPLIANCE
4 WITH APPLICABLE PROVISIONS OF THE EMPLOYEE RETIREMENT INCOME SECURITY ACT
5 OF 1974. THE DEPARTMENT RETAINS THE AUTHORITY TO INVESTIGATE WHETHER AN
6 ASSOCIATION IS UNLAWFULLY TRANSACTING INSURANCE IN VIOLATION OF THIS
7 TITLE.

8 ~~C. F. As used in~~ FOR THE PURPOSES OF SUBSECTION A OF this section,
9 ~~the term "employees" shall be deemed to include~~ INCLUDES retired
10 employees.

11 G. FOR THE PURPOSES OF THIS SECTION:

12 1. "BONA FIDE ASSOCIATION" INCLUDES PATH 1 BONA FIDE ASSOCIATIONS
13 AND PATH 2 BONA FIDE ASSOCIATIONS.

14 2. "SMALL EMPLOYER" INCLUDES, IF AN INSURER ELECTS TO ISSUE
15 COVERAGE TO SMALL EMPLOYER GROUPS OF ONE:

16 (a) FOR HEALTH BENEFITS PLANS ISSUED THROUGH A BONA FIDE
17 ASSOCIATION, AN EMPLOYER WHO EMPLOYS AT LEAST ONE BUT NOT MORE THAN FIFTY
18 ELIGIBLE EMPLOYEES ON A TYPICAL BUSINESS DAY DURING ANY ONE CALENDAR YEAR.

19 (b) FOR HEALTH BENEFITS PLANS ISSUED THROUGH A PATH 2 BONA FIDE
20 ASSOCIATION, A SOLE PROPRIETOR OR WORKING OWNER.

21 3. "SOLE PROPRIETOR" MEANS A PERSON WHO IS A WORKING OWNER, WHO
22 OWNS A BUSINESS AND WHO DOES NOT OPERATE THE BUSINESS USING ANY TYPE OF
23 ENTITY.

24 4. "WORKING OWNER" MEANS A PERSON WHO A RESPONSIBLE PLAN FIDUCIARY
25 REASONABLY DETERMINES IS AN INDIVIDUAL WHO MEETS ALL OF THE FOLLOWING
26 REQUIREMENTS:

27 (a) HAS AN OWNERSHIP RIGHT OF ANY NATURE IN A TRADE OR BUSINESS,
28 WHETHER INCORPORATED OR UNINCORPORATED, INCLUDING A PARTNER AND ANOTHER
29 SELF-EMPLOYED INDIVIDUAL.

30 (b) IS EARNING WAGES OR SELF-EMPLOYMENT INCOME FROM THE TRADE OR
31 BUSINESS FOR PROVIDING PERSONAL SERVICES TO THE TRADE OR BUSINESS.

32 (c) EITHER:

33 (i) WORKS ON AVERAGE AT LEAST TWENTY HOURS PER WEEK OR AT LEAST
34 EIGHTY HOURS PER MONTH PROVIDING PERSONAL SERVICES TO THE TRADE OR
35 BUSINESS.

36 (ii) HAS WAGES OR SELF-EMPLOYMENT INCOME FROM THE TRADE OR BUSINESS
37 THAT AT LEAST EQUALS THE WORKING OWNER'S COST OF COVERAGE FOR
38 PARTICIPATION BY THE WORKING OWNER AND ANY COVERED BENEFICIARIES IN THE
39 GROUP HEALTH PLAN SPONSORED BY THE ASSOCIATION IN WHICH THE INDIVIDUAL IS
40 PARTICIPATING.

41 Sec. 2. Department of insurance; association health plans;
42 information

43 On or before January 1, 2020, the department of insurance shall post
44 information on the department's public website that summarizes applicable
45 state law and other pertinent information related to association health
46 plans.

APPROVED BY THE GOVERNOR MAY 8, 2019.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 8, 2019.