

## Article 49.

### Determination of Jurisdiction over Providers of Health Care Benefits.

#### **§ 58-49-1. Purposes.**

The purposes of this section and G.S. 58-49-5 through G.S. 58-49-25 are: To give the State jurisdiction over providers of health care benefits; to indicate how each provider of health care benefits may show under what jurisdiction it falls; to allow for examinations by the State if the provider of health care benefits is unable to show it is subject to the exclusive jurisdiction of another governmental agency; to make such a provider of health care benefits subject to the laws of the State if it cannot show that it is subject to the exclusive jurisdiction of another governmental agency; and to disclose the purchasers of such health care benefits whether or not the plans are fully insured. As used in G.S. 58-49-5 through G.S. 58-49-20, "person" does not mean the State of North Carolina or any county, city, or other political subdivision of the State of North Carolina. (1985, c. 304, s. 1; 1993 (Reg. Sess., 1994), c. 569, s. 1; 2001-334, s. 18.1.)

#### **§ 58-49-5. Authority and jurisdiction of Commissioner.**

Notwithstanding any other provision of law, and except as provided in this Article, any person that provides coverage in this State for medical, surgical, chiropractic, physical therapy, speech pathology, audiology, professional mental health, dental, hospital, or optometric expenses, whether the coverage is by direct payment, reimbursement, or otherwise, shall be presumed to be subject to the jurisdiction of the Commissioner, unless the person shows that while providing the services it is subject to the exclusive jurisdiction of another agency or subdivision of this State or of the federal government. (1985, c. 304, s. 1; 1993 (Reg. Sess., 1994), c. 569, s. 2; 1995, c. 193, s. 40.)

#### **§ 58-49-10. How to show jurisdiction.**

A person may show that it is subject to the exclusive jurisdiction of another agency or subdivision of this State or the federal government, by providing to the Commissioner the appropriate certificate, license, or other document issued by the other governmental agency that permits or qualifies it to provide those services. If no documentation is issued by that other agency, the person may provide a certification by an official of that agency that states that the person is under the exclusive jurisdiction of that agency. (1985, c. 304, s. 1; 1993 (Reg. Sess., 1994), c. 569, s. 3.)

#### **§ 58-49-12. Exceptions to jurisdiction; health care sharing organizations.**

A health care sharing organization shall not be subject to the jurisdiction of the Commissioner and shall not be considered to be engaging in the business of providing health care benefits as long as the health care sharing organization does the following:

- (1) Maintains nonprofit entity status under the Internal Revenue Code.
- (2) Limits its participants to those who share similar interests as defined by the organization.
- (3) Provides for the financial or medical needs of a participant through contributions from one participant to another in accordance with criteria established by the health care sharing organization.
- (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 organization to the participants.

- (5) Publishes a written monthly statement to all participants that lists the total dollar amount of qualified needs submitted to the health care sharing organization, as well as the amount published or assigned to participants for their contribution.
- (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, as follows:

"NOTICE: The organization facilitating the sharing of medical expenses is not an insurance company and neither its guidelines nor its plan of operation is an insurance policy. Whether anyone chooses to assist you with your medical bills will be voluntary. 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 liable for the payment of your own medical bills." (2011-103, s. 1.)

**§ 58-49-15. Examination.**

Any person that is unable to show under G.S. 58-49-10 that it is subject to the exclusive jurisdiction of another agency or subdivision of this State or of the federal government, shall submit to an examination by the Commissioner to determine the organization and solvency of the person, and to determine whether or not such person complies with the applicable provisions of this Chapter. (1985, c. 304, s. 1; 1993 (Reg. Sess., 1994), c. 569, s. 4.)

**§ 58-49-20. Subject to State laws.**

Any person unable to show that it is subject to the exclusive jurisdiction of another agency or subdivision of this State or the federal government, shall be subject to all appropriate provisions of this Chapter regarding the conduct of its business. (1985, c. 304, s. 1; 1993 (Reg. Sess., 1994), c. 569, s. 5.)

**§ 58-49-25. Disclosure.**

(a) Any production agency or administrator that advertises, sells, transacts, or administers the coverage in this State described in G.S. 58-49-5 and that is required to submit to an examination by the Commissioner under G.S. 58-49-15, shall, if said coverage is not fully insured or otherwise fully covered by an admitted life, accident, health, accident and health, or disability insurer, nonprofit dental, health care, medical, or vision service plan, or nonprofit health care plan, clearly and distinctly advise every purchaser, prospective purchaser, and covered person of such lack of insurance or other coverage.

(b) Any administrator that advertises or administers the coverage in this State described in G.S. 58-49-5 and that is required to submit to an examination by the Commissioner under G.S. 58-49-15, shall advise any production agency of the elements of the coverage, including the amount of "stop-loss" insurance in effect. (1985, c. 304, s. 1; 2021-169, s. 5.)

**§ 58-49-30.** Recodified as G.S. 58-50A-60.

**§ 58-49-35.** Recodified as G.S. 58-50A-65.

§ 58-49-40. Recodified as G.S. 58-50A-70.

§ 58-49-45. Recodified as G.S. 58-50A-75.

§ 58-49-50. Recodified as G.S. 58-50A-80.

§ 58-49-55. Recodified as G.S. 58-50A-85.

§ 58-49-60. Recodified as G.S. 58-50A-90.

§ 58-49-65. Recodified as G.S. 58-50A-95.