

ENROLLED ACT NO. 75, HOUSE OF REPRESENTATIVES

SIXTY-SIXTH LEGISLATURE OF THE STATE OF WYOMING  
2021 GENERAL SESSION

AN ACT relating to insurance; amending the definition of disability insurance; specifying that the regulation of air ambulance membership organizations and their memberships and plans is not insurance; establishing registration requirements and regulatory standards for air ambulance membership organizations; making conforming amendments; requiring rulemaking; and providing for effective dates.

*Be It Enacted by the Legislature of the State of Wyoming:*

**Section 1.** W.S. 26-43-301 through 26-43-308 are created to read:

ARTICLE 3  
AIR AMBULANCE MEMBERSHIP ORGANIZATIONS

**26-43-301. Definitions; applicability.**

(a) As used in this article, "air ambulance membership organization" means an entity that, in exchange for fees, dues, charges or other consideration, provides:

(i) Discounts to members for the cost of services the organization provides as an air ambulance service company; or

(ii) Access for members to providers of air ambulance services and the right to receive air ambulance services from those providers. For purposes of this paragraph, "air ambulance membership organization" means the entity that contracts with health care providers, individuals, employees, groups, provider networks or other air ambulance membership organizations to offer access to air ambulance services and that determines the fees, dues,

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or charges to air ambulance membership organization members.

(b) The registration requirements of this article shall not apply to:

(i) An air ambulance membership organization that is otherwise subject to the provisions of this title and is required to be licensed under this title;

(ii) A health care provider who provides discounts to patients without any cost or fee of any kind to the patient.

**26-43-302. Air ambulance membership organizations; certificate of registration; application.**

(a) An air ambulance membership organization shall obtain a certificate of registration from the commissioner before operating as an air ambulance membership organization in Wyoming.

(b) An air ambulance membership organization seeking a certificate of registration from the commissioner shall apply on a form created and prescribed by the commissioner. The application shall include:

(i) An application fee not to exceed five hundred dollars (\$500.00);

(ii) Information regarding whether a previous application for a certificate of registration under this article or for a substantially similar certificate under the laws of another state has been denied, revoked, suspended or terminated;

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(iii) Information regarding whether the applicant is currently under investigation or the subject of any pending action and whether the applicant has been found in violation of any statute or regulation in any jurisdiction in the last five (5) years;

(iv) Information sufficient for the commissioner to determine whether the applicant has adequate expertise and experience to operate an air ambulance membership organization and is of good character;

(v) Certification that the applicant has established a dedicated toll-free telephone number for its customers and an internet website that makes available the names and addresses of all current air ambulance providers with which the applicant has contracted directly or through a provider network;

(vi) Proof that the applicant has posted a surety bond and has established a reserve fund as required by W.S. 26-43-305(f).

(c) Upon receipt of an application, the commissioner shall review the application and shall notify the applicant of any deficiencies in the application not later than twenty-one (21) days after receiving the application. Not more than ninety (90) days after receipt of an application containing all required information, the commissioner shall issue a certificate of registration to an applicant that has satisfied all requirements imposed by this article.

(d) A certificate of registration issued under this section shall be effective for one (1) year after the date

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of issuance unless renewed as provided by W.S. 26-43-303(a).

**26-43-303. Certificate of registration; renewal; suspension; revocation.**

(a) Not less than ninety (90) days before a certificate of registration expires, an air ambulance membership organization seeking to maintain its registration shall submit a renewal application on a form prescribed by the commissioner, the annual report required under W.S. 26-43-307(a) and a renewal fee not to exceed three hundred dollars (\$300.00). The commissioner shall renew the certificate of registration for any air ambulance membership organization that is in compliance with the provisions of this article and any rules promulgated pursuant to this article. An air ambulance membership organization may renew its registration for up to one (1) year after expiration of its certificate of registration by paying the renewal fee and a late fee equal to the renewal fee. An air ambulance membership organization shall not enroll new members until their registration is renewed in accordance with this section or a new certificate of registration is approved.

(b) The commissioner may suspend or revoke a certificate of registration after notice and an opportunity for a hearing held in accordance with this article and the Wyoming Administrative Procedure Act if the commissioner has reasonable cause to believe that the air ambulance membership organization:

(i) Is not operating in compliance with the provisions of this article;

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(ii) Has advertised, merchandized or attempted to merchandise its services in a manner that misrepresents its services or capacity for service;

(iii) Has engaged in deceptive, misleading or unfair practices prohibited by the Wyoming Consumer Protection Act;

(iv) Is not fulfilling its obligations as an air ambulance membership organization; or

(v) Would be hazardous to the members of the air ambulance membership organization if continued operation were permitted.

(c) If the commissioner has reasonable cause under subsection (b) of this section, the commissioner shall notify the air ambulance membership organization in writing specifically stating the grounds for suspending or revoking a certificate of registration. The certificate holder may demand a hearing not later than thirty (30) days after receipt of the notice. Any hearing held under this subsection shall be conducted pursuant to the Wyoming Administrative Procedure Act.

(d) Upon reasonable cause shown, the commissioner may suspend the authority of the air ambulance membership organization to enroll new members for a specified period of time not to exceed ninety (90) days. Any suspension under this subsection shall specify in writing any conditions the air ambulance membership organization shall meet before reinstatement of its authority to enroll new members.

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(e) The commissioner may rescind or modify any suspension ordered under this section. Any modification that results in a suspension being extended or additional conditions imposed on an air ambulance membership organization shall not take effect until after notice is given to the air ambulance membership organization with an opportunity for a hearing held in accordance with this article and the Wyoming Administrative Procedure Act.

(f) No certificate of registration of an air ambulance membership organization that has been suspended or revoked shall be reinstated unless requested by the air ambulance membership organization. The commissioner shall not grant the request for reinstatement if the commissioner finds by a preponderance of the evidence that the circumstances for which the suspension or revocation occurred still exist or are likely to recur.

(g) In lieu of a suspension or revocation of a certificate of registration, the commissioner may:

(i) Issue and serve upon an air ambulance membership organization a violation notice that includes the basis for the violation and an order requiring the air ambulance membership organization to cease and desist from engaging in the acts or practices that caused the issuance of the violation notice;

(ii) Impose a civil penalty of not more than one thousand dollars (\$1,000.00) for each violation.

(h) An air ambulance membership organization shall immediately notify the commissioner if a certificate of registration or other substantially similar authorization

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issued in another jurisdiction has been suspended, revoked or not renewed.

**26-43-304. Air ambulance membership organizations; powers and duties of the commissioner; rulemaking; costs.**

(a) The commissioner is authorized to:

(i) Examine or investigate the affairs of an air ambulance membership organization to ensure compliance with the provisions of this article;

(ii) Order any air ambulance membership organization or applicant to produce materials pertaining to air ambulance membership affairs, including any records, books, files, advertising and solicitation materials and any other information necessary to ensure compliance with this article;

(iii) Take statements under oath to determine whether the air ambulance membership organization or an applicant is in violation of the provisions of this article.

(b) An air ambulance membership organization found to have violated any provision of this article after an examination or investigation under this section shall pay all costs and fees associated with the examination or investigation.

(c) The commissioner shall promulgate any rules necessary to carry out the provisions of this article.

**26-43-305. Charges authorized; written agreements required; cancellation of memberships; duties.**

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(a) An air ambulance membership organization may assess a periodic charge and a reasonable one-time application processing fee to its members.

(b) All terms and conditions for memberships of an air ambulance membership organization shall be provided in writing to each member. An air ambulance membership organization meeting the definition specified in W.S. 26-43-301(a)(ii) shall have an agreement in writing with each air ambulance provider offering air ambulance services to its members. The written provider agreement may be entered into directly with the provider or with an entity that hires or represents the provider.

(c) A member of an air ambulance membership organization's plan shall have the right to cancel his membership in the plan at any time. If the member cancels his membership not later than thirty (30) days after purchasing a plan, the air ambulance membership organization shall refund to the member any one-time charges that exceed thirty dollars (\$30.00) and all periodic charges. For purposes of this subsection, cancellation occurs when notice of cancellation is mailed or otherwise delivered to the air ambulance membership organization.

(d) If an air ambulance membership organization cancels a membership for any reason other than nonpayment of charges by a member, the air ambulance membership organization shall issue a pro rata refund of all periodic charges to the member.

(e) An air ambulance membership organization or an agent, broker or marketer who sells memberships for an air



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ambulance membership organization shall disclose all charges for each air ambulance membership organization membership to all prospective members.

(f) An air ambulance membership organization shall:

(i) Post a surety bond with one (1) or more surety companies approved by the commissioner in the amount of five thousand dollars (\$5,000.00) for every one thousand (1,000) members of the organization who are residents of the state of Wyoming or portion thereof;

(ii) Establish a reserve fund at any financial institution approved by the commissioner in the amount of three dollars (\$3.00) for each member currently part of a plan that the air ambulance membership organization offers. The reserve fund shall be for the benefit of the members and to guarantee that any plan the air ambulance membership organization offers continues until all memberships or plans are terminated. No amount shall be required to be deposited for any family members of the plan member's household unless the family members are separately participating or subscribed to the organization's plan. No further deposits shall be required under this paragraph after the total amount of the reserve fund and surety bond required under paragraph (i) of this subsection exceeds two hundred thousand dollars (\$200,000.00).

(g) An air ambulance membership organization shall pay any costs of collection upon a judgment in favor of a plan member and attorney fees in any successful action brought by a plan member.

**26-43-306. Violations; unfair trade practices; penalties.**

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In addition to any penalties and other enforcement of this article, any person who willfully violates any provision of this article may be subject to a civil penalty not to exceed one thousand dollars (\$1,000.00) for each willful violation.

**26-43-307. Reporting requirements; notice to commissioner; penalties.**

(a) Not less than ninety (90) days before expiration of a certificate of registration, an air ambulance membership organization seeking renewal of its certificate of registration shall submit an annual report to the commissioner in a form prescribed by the commissioner. The report shall include:

(i) An updated list of the names and addresses of all air ambulance providers or air ambulance service providers responsible for the conduct of the air ambulance membership organization's affairs along with disclosure of the extent and nature of any contracts or arrangements with those persons, including any possible conflicts of interest;

(ii) The number of members in Wyoming who are enrolled in any membership offered by the air ambulance membership organization;

(iii) A list of any membership agreements currently active or entered into with a governmental entity in Wyoming that provides membership of the air ambulance membership organization to all residents of that governmental entity. As used in this paragraph, "governmental entity" means the governing body of a county or municipality in Wyoming;

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(iv) Any other information related to the air ambulance membership organization as required by the commissioner to ensure compliance with the provisions of this article.

(b) An air ambulance membership organization seeking renewal that fails to file an annual report in the form or before the deadline specified in subsection (a) of this section shall be ineligible for renewal until any deficiency is remedied.

(c) Upon notice by the commissioner, an air ambulance membership organization failing to comply with subsection (a) of this section shall lose its authority to enroll new members or to do business in Wyoming if the violation continues beyond a time specified by the commissioner.

(d) An air ambulance membership organization shall provide the commissioner notice of any change in the organization's name, address, telephone number, address for the principal place of business, mailing address or internet website address not less than thirty (30) days before making the change.

**26-43-308. Advertisements; marketing; required disclosures.**

(a) All advertisements, marketing materials, brochures, air ambulance membership cards, presentations and any other communications of an air ambulance membership organization shall be truthful and not misleading in fact or in implication.

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(b) An air ambulance membership organization advertising or marketing its memberships to Wyoming residents shall:

(i) Submit all written advertisements and marketing materials to the commissioner for review for compliance with this article;

(ii) Not use language in its advertisements or marketing that could reasonably mislead a person into believing that the air ambulance membership plan is insurance;

(iii) Not use language in its advertisements, marketing materials, brochures or presentations with respect to being licensed or registered by a state insurance department or with respect to being provided by a governmental entity in a manner that could reasonably mislead an individual into believing that the air ambulance membership plan is insurance or has been endorsed by the state or any Wyoming governmental entity;

(iv) Not have restrictions on access to air ambulance membership organizations, including waiting periods and notification periods.

(c) An air ambulance membership organization shall make the following general disclosures in writing in bold and not less than twelve (12) point font on the first content page of any advertisement, marketing material or brochure made available to prospective members or the public:

(i) The plan is a membership plan and is not insurance coverage;

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(ii) For air ambulance membership organizations as defined by W.S. 26-43-301(a)(ii), that the range of discounts for air ambulance services provided under the membership will vary depending on the provider and the services offered;

(iii) The toll-free number and internet website address for the air ambulance membership organization where prospective members can obtain additional information about the services offered by the air ambulance membership organization.

(d) An air ambulance membership organization shall provide the disclosures required by subsection (c) of this section orally to any person who makes initial contact with an air ambulance membership organization by telephone.

(e) Before a person purchases a membership from an air ambulance membership organization, the air ambulance membership organization shall mail, give or, with the consent of the person, email to the person a separate document printed in bold and not less than twelve (12) point font that contains the following disclosures:

(i) That the air ambulance membership is not insurance coverage;

(ii) That, if eligible and covered under Medicare, the prospective member may consult with a representative of the Medicare program to determine the extent of applicable Medicare coverage and what the member's payment obligations will be if transported by air ambulance;

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(iii) That the prospective member may be covered by an air ambulance membership organization under a membership provided by a governmental entity;

(iv) A detailed list of all one-time and periodic fees that are and will be charged to the prospective member to join the air ambulance membership organization;

(v) The Wyoming counties served by the air ambulance membership organization;

(vi) That, in an emergency and if the prospective member is outside of the air ambulance membership organization's service area, air ambulance services may be provided by another air ambulance provider or air ambulance membership organization, and the benefits of the air ambulance membership organization that the prospective member is joining may not apply to the services provided by another air ambulance provider, and in such case the prospective member may be responsible for the entire bill;

(vii) That if the member cancels the membership not later than thirty (30) days after purchasing a plan, the air ambulance membership organization will refund to the member any one-time charges paid by the member that exceed thirty dollars (\$30.00) and all periodic charges paid by the member;

(viii) That the air ambulance membership organization may not be the company called in the event of an emergency and that the member may be responsible for the entire bill if a different air ambulance service company provides the service.

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**Section 2.** W.S. 26-1-102(b)(ii), 26-1-104(a) by creating a new paragraph (vii) and 26-5-103(a)(ii) are amended to read:

**26-1-102. Definitions.**

(b) As used in W.S. 26-2-116 through 26-2-124:

(ii) "Person" means as defined in W.S. 26-1-102(a)(xx) and includes all affiliates of the entities referred to in that definition and air ambulance membership organizations as identified in chapter 43, article 3 of this code.

**26-1-104. Applicability of provisions.**

(a) This code does not apply to:

(vii) Air ambulance membership organizations as identified in chapter 43, article 3 of this code, except as otherwise specifically provided in this title.

**26-5-103. "Disability insurance" defined.**

(a) Disability insurance is insurance of any kind on human beings against:

(ii) Disablement or expense resulting from sickness, ~~including subscription or membership plans relating to air ambulance transport services.~~

**Section 3.** The department of insurance shall promulgate all rules necessary to implement the provisions of this act.

ORIGINAL HOUSE  
BILL NO. HB0007

ENGROSSED

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**Section 4.**

(a) Except as provided in subsection (b) of this section, this act is effective July 1, 2021.

(b) Sections 3 and 4 of this act are effective immediately upon completion of all acts necessary for a bill to become law as provided by Article 4, Section 8 of the Wyoming Constitution.

(END)

\_\_\_\_\_  
Speaker of the House

\_\_\_\_\_  
President of the Senate

\_\_\_\_\_  
Governor

TIME APPROVED: \_\_\_\_\_

DATE APPROVED: \_\_\_\_\_

I hereby certify that this act originated in the House.

\_\_\_\_\_  
Chief Clerk