

# Texas Business Today

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# Legal Briefs – Winter/Spring 2006


## Attention Employers: You’ve Got New Appeal Rights in Wage Claim Cases Under the Texas Payday Law

During the 2005 general session of the Texas Legislature, a new law (Senate Bill 1408) was passed that substantially broadens the right of appeal in wage claim cases under the Texas Payday Law. Under the old law, which applied to wage claims filed on or before August 31, 2005, the Texas Workforce Commission (TWC) would issue an initial determination regarding whether an employer had to pay additional wages to a wage claimant. Either party then had the right to an appeal hearing before a hearing officer, who would issue a formal written decision. The losing party could then either file a motion for rehearing with the same hearing officer, or else file an appeal in court. There was no appeal of the case to the commission level. The new commission level review offers parties another level of administrative remedy before petitioning the courts.

Starting with wage claims filed on or after September 1, 2005, these cases will be handled very much like appeals in unemployment insurance cases before the TWC. Now, if either the employer or the claimant is dissatisfied with the preliminary order issued by the agency, they may submit a written request for tribunal review within 21 days of the date the order was mailed. The hearing officer who ruled on the initial appeal will serve as the “wage claim appeal tribunal.” Then, either party that disagrees with the appeal tribunal’s decision has 14 days to appeal the decision to the three-member Commission in writing.

After the Commission reviews the record in the case, it will issue a formal ruling of its own, either affirming, reversing, or modifying the appeal tribunal’s ruling. The Commission also has the option of ordering a new hearing to gather additional evidence.

Either the employer or the wage claimant may file a motion for rehearing once the Commission has issued its written ruling, or may file an appeal in court. This expanded appeal procedure will give employers an additional opportunity to have their evidence considered by TWC prior to making a decision on whether to go to court.

For additional information, visit the TWC’s website at [www.texasworkforce.org](http://www.texasworkforce.org), or contact the agency’s Labor Law Section at 1-800-832-9243. 



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## From the Dais Winter/Spring 2006

Dear Texas Employer,

This article builds upon a theme first discussed in “The 10 Commandments of Keeping Your Job” published in the 2<sup>nd</sup>/3<sup>rd</sup> Quarters 1998 issue of *Texas Business Today*. Since then, many Texas employers have told us that they posted the original article on company bulletin boards

and employee break room walls around the state. Due to the increasing competition for good jobs in today’s job market, and the speed with which the workplace and entire industries are changing, we thought it was time to revisit the issue of how employees can show an employer that they are a “keeper” in 2006. 🗝️

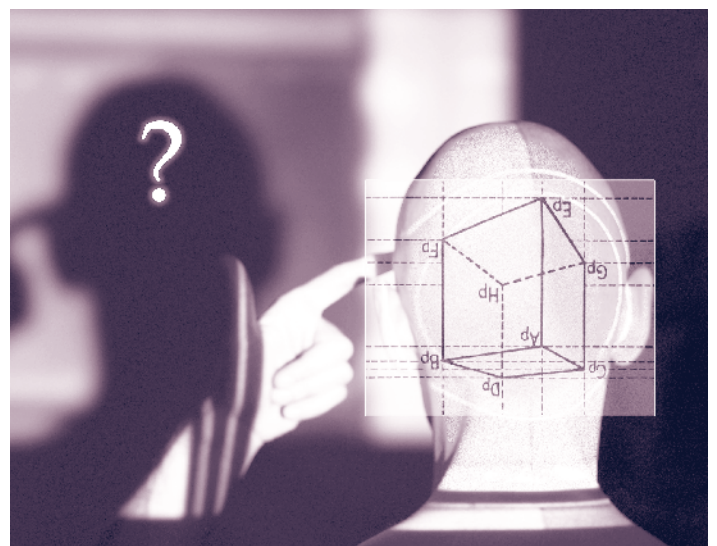
## Avoid Becoming A Castaway in the Modern Workplace: The 10 Commandments

While there are certainly differences in the skills and levels of training needed for success in different jobs and professions, there are some fundamental abilities that seem to be consistent harbingers of a worker’s success – or failure – regardless of the type of work being performed.

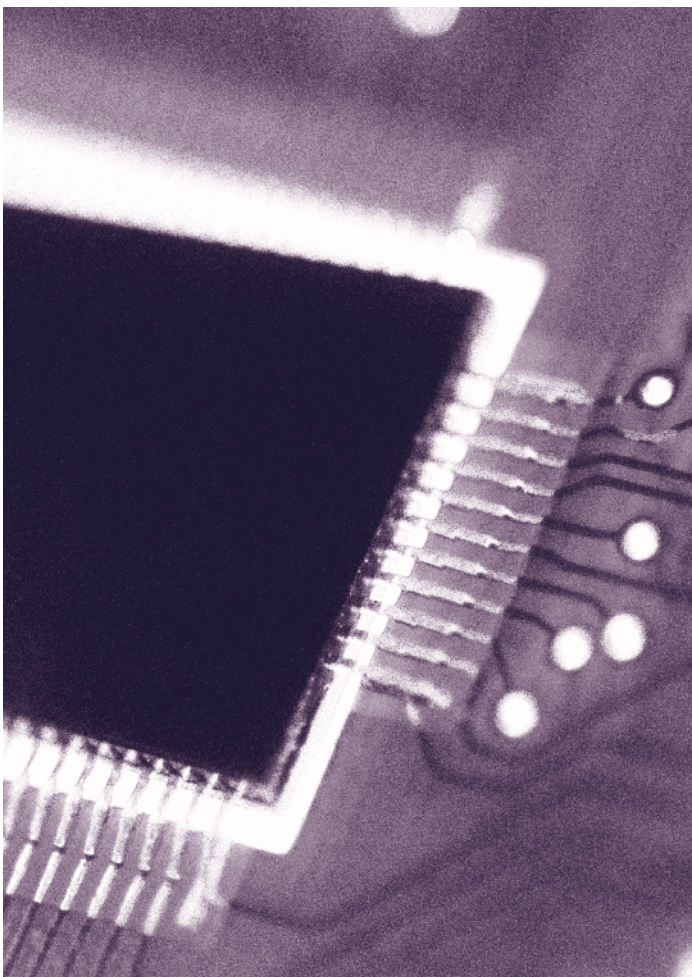
First and foremost, before even considering taking the plunge into the world of full-time, entry level work, a word to the wise: stay in school! It is very clear that Americans need a good education today more than ever. If you aren’t convinced, consider the bottom line. Between 1979 and 2002 (the most recent year for which we have data), the median weekly earnings of American males without a high school degree fell 27%. Translation: during a 23-year period of fairly robust U.S. economic growth, these workers lost more than 25% of their purchasing power and are now substantially worse off than they were in 1979. On the other hand, men with a college education saw their median weekly wage rise by 20% in real purchasing power between 1979 and 2002, and wages for women with college degrees fared even better: their wages were up by 34%. To find and protect your job, develop your skills, get an education, and focus on acquiring a degree, certification or credential in your chosen area.

Another word to the wise: while you’re in school, take as much math and science as possible; it’s one of the best investments you can make in

your future. A recent report from the National Commission on Mathematics and Science Teaching for the 21<sup>st</sup> Century states that “the rapid pace of change in both the...global economy and in the American workplace demands widespread mathematics and science-related knowledge and abilities.” Science, math and technology are widely recognized to provide the cornerstone of economic growth in the U.S. and will continue to do so in the future. As a state and nation, our competitive strength in the world’s economy, and our very standard of living, depends on our ability to invent and innovate in order to produce new products and services. Our ability to invent and innovate clearly depends upon our knowledge of math and science. Make sure you aren’t left behind.



It's just this simple: most jobs in the 21<sup>st</sup> Century will require a strong grasp of math, meaning that the more math you know, the more options you'll have. The importance of math skills in daily life cannot be overemphasized, no matter what you end up doing. Whether your job requires calculating sales tax, making change, prescribing medication, designing buildings, ordering supplies, planning parties or doing surgery, math is going to be a crucial skill. Don't limit your choices for the future by taking only the minimum classes required; chances are you'll spend the rest of your working life trying to play catch up.



Having said that, let's look at what else a successful entry-level worker should be prepared to offer in the 21<sup>st</sup> century.

**1. Learn and use good communication skills and acquire, utilize and share information in a timely and accurate manner.** The ability to communicate is very important; this is

how you express yourself to your supervisors, co-workers, customers, clients and the general public on a daily basis. You must be able to read and comprehend written information well enough to get the job done. Don't be afraid to ask for help or clarification from your supervisor or appropriate co-workers when necessary. Remember names and be a good listener. Speak clearly, avoid mumbling, think before you talk, and organize your thoughts.

**2. Learn how to use technology.** Face it: the jobs worth having in the 21<sup>st</sup> century increasingly depend upon technology of all kinds to get done. In every office, and in more and more "manual" labor jobs, you will find employees using not only computers and the Internet, but telephones, radios, pagers and other far more sophisticated devices to process and handle their jobs most efficiently. Being technologically illiterate is no longer an option. In the future, workers without knowledge of technology will find themselves marooned in the kinds of jobs that are most subject to outsourcing (either to machines or to cheaper outside labor).


**3. Use the skills you have.** Once you are hired, your skills are important to your job - don't be afraid to use them. You may not do your job perfectly at first, but you'll get better with time. View mistakes as learning opportunities. And, don't be afraid to ask questions; they can prevent future mistakes. Show interest in what you are doing and take the initiative. Anticipate problems and needs of management - your bosses will be grateful, even if they don't always show it.

**4. Be willing and flexible enough to learn new skills and embrace the concept of life-long learning.** You must be willing to learn new skills: change is the only constant in today's world. Your job duties will change over time, and you must be willing to change with them. Seize every opportunity to upgrade and learn new skills on your own time. Don't expect your employer to always "send you to be trained."

You own the responsibility as well. Remember: if your job can be done by a machine, it probably will be. Don't allow your skills to become obsolete. And, you may be asked to do some tasks that you dislike. Show that you're mature enough to handle it. Work demands that you are flexible enough to get the job done.

5. **Demonstrate integrity.** Whether it's maintaining the confidentiality of information obtained in the workplace, filling out your time card or dealing with supervisors, co-workers, or customers, your honesty, ethics and integrity should be of the highest caliber at all times. You must be able to work as part of a diverse team to accomplish mutual goals and objectives. Be open and respectful to the opinions, contributions and thoughts of others throughout the organization, regardless of position or background. Avoid backstabbing. Joining in on the office gossip, spreading rumors, and criticizing your boss or the company may seem like an entertaining way to spend an afternoon, but almost everyone has much more respect for people who don't spread stories.
6. **Work at work.** Be sure to take care of personal business on YOUR time. Do not abuse company time, resources or equipment. Whether it's the telephone, the Internet, e-mail, or the company-issued cell phone, remember that these tools are provided for business purposes. You are not being paid to surf the Net, organize your family reunion, or work on your blog at work. Demonstrate your willingness to work and take responsibility for completing your work assignments in a timely, accurate manner to a high standard of quality.
7. **Look the part.** Dress in appropriate clothing for the job. Just because an outfit is suitable for the gym or the beach doesn't mean it's suitable for the workplace (unless you work at the gym or the beach). Likewise, purple hair, nose rings and most spandex outfits don't belong at the vast majority of offices. Make sure your clothes are clean, neat, and freshly pressed. Shine your

shoes and avoid excessive cologne or perfume. Appropriate personal hygiene and cleanliness is also expected.

8. **Show initiative.** Don't stand around and wait to be told what to do. Ask if you can give someone a hand with his or her work; you'll build your reputation as a team player. Try your best; always finish assignments on time, no matter how much you would rather be doing something else. It's always good to have something to show for the time you're being paid to work.
9. **Know and follow the rules.** Employers have rules, policies, and procedures for very important reasons: to give the greatest number of people the best chance of working together well and getting the job done in a safe, efficient manner. Be on time, every time. Whether it's showing up for work, returning from breaks, going to meetings or turning in assignments, timeliness shows that you are dependable. Punctuality really does count. Call in if you know you will be tardy or absent due to illness or an emergency. Most companies treat absences or tardiness without notice much more severely than absence or tardiness with proper notice.
10. **Learn about the business, understand how your work performance can affect the success of the business, and do everything you can to contribute to that success.** Learn about the services and products offered by the company, keep track of changes within the organization, and be flexible enough to adapt to them successfully. Make sure that you are able to address customer/client/patient questions, comments, and complaints with accurate, direct and timely responses and accept and use constructive criticism to continuously improve your job performance. Employees who are known for their helpful suggestions, positive attitudes and valuable contributions are the ones most often remembered favorably at performance evaluation and raise review time. 



## Business Briefs – Winter/Spring 2006

### Work Opportunity Tax Credit and Welfare to Work Tax Credits: An Update

The legislative authority for the Work Opportunity Tax Credit (WOTC) and Welfare to Work Tax Credits (WtW) expired on December 31, 2005. The federal Department of Labor recently stated that employers that hire eligible employees between December 31, 2005 and September 30, 2006 who want to take advantage of either tax credit must still send their requests for certification to TWC in a timely manner. As in past years when Congress allowed these two tax credits to lapse, it is anticipated that the programs will be reauthorized retroactively to January 1, 2006.

If the WOTC and WtW programs have not been reauthorized by September 30, 2006, DOL will provide additional guidance.

What this means is that employers that hired eligible employees and want to take advantage of either tax credit must still send TWC the IRS Form 8850, plus either an ETA Form 9061 or 9062 within 21 days of the first date of employment. TWC will accept the forms, but won't send out the certification of eligibility until the tax credits are reauthorized. *Employers that do not file for WOTC/WtW certification during the hiatus will be denied the credit.*

To monitor the status of these tax credits or for additional information, see [www.twc.state.tx.us/svcs/wotc/wotc.html](http://www.twc.state.tx.us/svcs/wotc/wotc.html).

### Entrepreneurs: What Makes Them Tick?

*Entrepreneur* Magazine and PriceWaterhouseCoopers recently initiated a new survey that should offer some useful insights into what makes entrepreneurs tick. The *Entrepreneurial Challenges Survey* asks business owners to report on the key opportunities and challenges facing their businesses. What keeps them up at night?

According to the survey respondents, the top three concerns are (in order): retention of key workers, developing new products and services, and expansion into global markets. Not surprisingly, 73% also noted that retaining key workers was the primary ingredient in future business success. In terms of big picture concerns, entrepreneurs note that the prospect of an unstable U.S. economy would cause the biggest problems for their companies. Other issues of concern include rising health care costs and a shortage of qualified workers.

The results of the first *Entrepreneurial Challenges Survey* appear in the January 2006 issue of *Entrepreneur Magazine* and can be viewed online at [www.entrepreneur.com](http://www.entrepreneur.com) <http://www.entrepreneur.com>. (Reprinted from the National Dialogue On Entrepreneurship, [www.publicforuminstitute.org/nde](http://www.publicforuminstitute.org/nde) <http://www.publicforuminstitute.org/nde>.)



## Return-to-Work Pilot Program for Small Employers Initiated

To encourage small Texas employers to find ways to return their employees to the job sooner after a workplace injury, a Return-to-Work Pilot Program for Small Employers went into effect on February 22, 2006. The pilot program was included in House Bill 7 passed by the 79th Texas Legislature in 2005 to reform the state's workers' compensation system.

Under this pilot program, employers with two to 50 employees may be eligible to file an application to be reimbursed up to \$2,500 for expenses to bring their employees back to work to perform modified or alternate work within doctor-imposed restrictions. Reimbursable expenses include physical modifications to the worksite, equipment, devices, furniture or tools, and other costs necessary to reasonably accommodate the employee's ability to work within their doctor's restrictions.



For more information about the Return-to-Work Pilot Program for Small Employers, including how to apply to participate, visit the agency's website at <http://www.tdi.state.tx.us/wc/indexwc.html> under "Return to Work" or contact the Division of Workers' Compensation Return to Work Services at 512-804-5000. 🇺🇸

## New Hire Reporting Saves You Money!

Every time you provide information to the State of Texas New Hire Program about your newly hired or rehired workers, not only are you complying with both federal and state law, you are helping state agencies detect and prevent fraud and recover overpayments under various social programs, including unemployment insurance benefits.

Federal and State law require employers to provide information about all new or rehired

workers to the Employer New Hire Reporting Operations Center in the Texas Office of the Attorney General within 20 days of the effective date of hire. They are accessible online at <https://portal.cs.oag.state.tx.us/wps/portal>. That agency's toll free number is 1-800-850-6442. The Texas Workforce Commission also has good information on new hire reporting at [www.twc.state.tx.us/ui/tax/newhire.html](http://www.twc.state.tx.us/ui/tax/newhire.html).

### Why It Makes Good Business Sense to Promptly Report Your Newly Hired or Rehired Workers

Last year, the Texas Workforce Commission prevented and recovered nearly \$8 million in benefit overpayments, thanks to employer participation in the New Hire data crossmatch program. This year, with your help, we can recover even more – dollars that will be returned to the unemployment insurance trust fund to help keep your unemployment insurance tax rates as low as possible.





## Reporting is Easy

You can provide the information by mail, fax, telephone, magnetic tape, diskette, or through the Internet, using online reporting, electronic file transfer (FTP), or downloadable shareware. To learn more, visit <http://employer.oag.state.tx.us/> for details.

## How it Works

The New Hire information employers provide is compiled into a state and nationwide database, where it is compared with lists of people applying for unemployment insurance (UI) benefits or with outstanding overpayments. If a UI claimant's name appears on both lists, the Texas Workforce Commission will investigate and, if the person is either working while claiming unemployment benefits or in default of amounts owed, the agency will take action to stop benefits and recover any overpayments.

## What Information is Required in a New Hire Report?

The good news is that New Hire Reports only ask for information that you either already have or will collect from newly hired workers before putting them on the payroll:

1. Company name
2. Company address
3. Company federal tax ID number
4. Employee's name
5. Employee's social security number
6. Employee's address

## For More Information

For additional information about the State of Texas New Hire Program, how and when to report, contact the Texas Employer New Hire Reporting Operations Center at:

Phone: 1-888-TEX-HIRE (1-888-839-4473)

FAX: 1-800-732-5015

E-mail: [tx@mail.newhire.org](mailto:tx@mail.newhire.org)

Mail: Texas Employer New Hire Reporting  
Operations Center

P.O. Box 149224

Austin, TX 78714-9224

# *Texas Employers Now Have New Options for Cost Savings On Health Care Coverage: How to Learn More*

(Special thanks to the Texas Department of Insurance for providing this important update on several new options with the potential to help Texas employers reduce their health care coverage costs.).

The number of Texans without health care coverage is one of the most serious challenges facing our state. More than five million Texans - 26% of the state's total population - are uninsured. Many of these uninsured Texans can't pay for the medical care they need, which adds to the total cost of the health care system. And, medical





treatment for the uninsured is often far more expensive than chronic, acute, or preventive care of the insured, because uninsured Texans are more likely to seek medical care in an emergency room than in a doctor's office.

Nationally, the cost of employee health coverage to businesses continues to trend upward each year. According to a 2005 Kaiser Family Foundation report, since 2000, health insurance premiums have risen 73%, compared with cumulative inflation of about 14% and cumulative wage growth of 15%.

This rapid rise in health care premiums is placing significant strains on employer-sponsored health care coverage. According to the Kaiser study, the percentage of all firms offering health benefits to their employees has fallen significantly, from 69% to 60%, over the last five years. Considering that most of the uninsured in Texas are employed (66% of adults), and that cost is the most common reason that employers don't purchase health coverage, the importance of giving employers new ways to save money on health care coverage cannot be overemphasized. This is particularly true for smaller businesses: one-third of all uninsured workers are at firms with fewer than 10 employees.



## What's New?

The Governor's Office and the Texas Legislature continue to develop options to address rising health care costs and corresponding increases in health coverage premiums. Broad changes in Texas insurance law are reshaping the state's health-coverage landscape, resulting in a new array of plans and packages on the market. While the solutions are not simple and work is ongoing, several recent measures show promise. In an effort to provide cost savings, the Texas Legislature enacted three bills: Senate Bill 541, which authorized consumer choice health benefit plans; Senate Bill 10, which created health group cooperatives; and House Bill 897, which created small employer health coalitions.

This article will provide a brief overview of each of these options, as well as some background on group health purchasing cooperatives in general.

## CONSUMER CHOICE HEALTH BENEFIT PLANS

The state's Consumer Choice Health Benefits Plan law (SB 541), enacted in 2003, allows health carriers in Texas to offer plans that don't necessarily provide all state mandated health benefits, although carriers must still offer a plan that does. This new flexibility can be especially beneficial to small employers, as it allows them to choose a plan that best suits their needs.

The term "small employer" is a special insurance designation in Texas reserved for businesses that have between two and 50 eligible employees. The law provides some added protections to these businesses, including a 15% annual cap on rate increases due to health factors, a state-enforced guarantee that carriers cannot arbitrarily discontinue coverage, and a cooperative purchasing provision that lets small employers "pool their clout" to negotiate lower rates. "Eligible employees" are defined as those who usually work at least 30 hours per week, are not classified as temporary, part-time or seasonal, and are not already covered by another health plan.

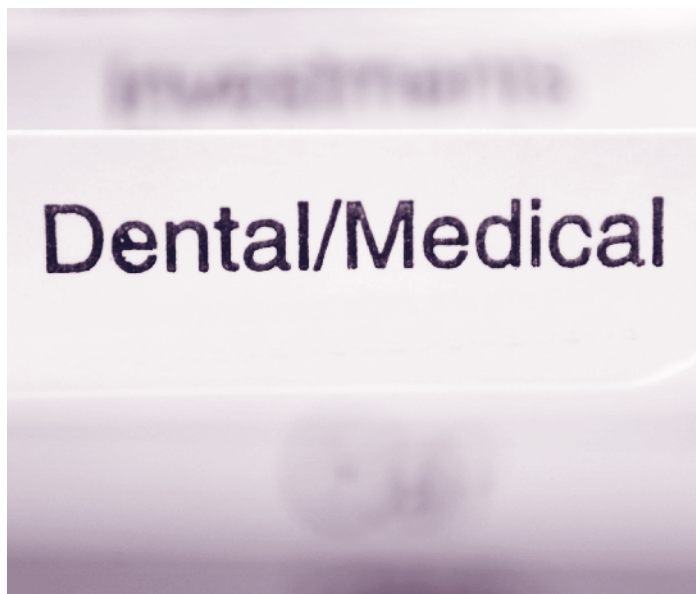
In essence, SB 541 should produce cost savings for these small employers by authorizing health carriers to offer health coverage which does not include certain state-mandated health benefits. The law defines “state-mandated benefits” as legally required coverage that:

- (1) includes coverage for specific health care services or benefits;
- (2) places limitations or restrictions on deductibles, co-insurance, co-payments, or any annual or lifetime maximum benefit amounts; or
- (3) includes a specific category of licensed health care practitioner from whom an insured is entitled to receive care.

However, this bill specifically requires several state-mandated benefits including:

- diabetes treatment
- serious mental illness (covering large employers)
- childhood immunizations and hearing screening
- reconstructive surgery for craniofacial abnormalities of children
- treatment of phenylketonuria
- cancer screenings.

The Legislature included a number of consumer protections in SB 541, including notice and disclosure regarding the differences between these plans and fully-mandated plans.



### The Results So Far

Of the three types of state-mandated benefits, carriers are reporting the largest cost-savings from the second category, the relaxation of limits on cost-sharing. It is true that this category produces more of a cost shifting than a savings. However, passing some of the costs of coverage to employees makes the employer’s premium more affordable. It may also allow an employer to afford a broader scope of coverage – or coverage at all – even though a particular health service or benefit may cost more when an employee uses it.

### FORMING A COOPERATIVE TO BUY GROUP HEALTH-CARE COVERAGE

Texas Insurance Code Chapter 1501 governs employer group health care coverage plans. While most of the chapter deals with issuing coverage to individual small or large employers, it also provides a number of different opportunities for employers to join together to create cooperatives to buy group health care coverage.



Cooperatives are one of three different methods an employer may use to purchase coverage along with other employers (the others are associations and multiple employer welfare associations). Chapter 1501 authorizes three different types of cooperatives, although one form is called a “coalition”. All offer different advantages and restrictions and must comply with certain basic legal requirements.

To help you decide which option may be right for your company, TDI has developed a new web information center devoted to cooperatives at <http://www.tdi.state.tx.us/company/indexlhcoop.html>. This site provides more information about types of cooperatives, forming or joining a cooperative (as well as a list of those cooperatives already registered), and a table comparing the features and attributes of the various cooperative models.



## Getting Started

If a business decides that this is the right option to pursue, forming a cooperative with other employers is the first step. While all members of the cooperative must be employers, generally, insurance agents have helped employers find suitable cooperative partners and comply with the necessary prerequisites.

A word to the wise: before investing the effort and expense required to complete and file the nec-

essary forms with the state to obtain official status, first take the time to determine if the cooperative will be marketable. This includes determining, for those cooperatives not entitled to guaranteed issuance of coverage (meaning those cooperatives that will not limit participation to less than 50 employees), whether a carrier is interested in issuing coverage to you. There’s no point in putting your valuable time, effort, and money into creating a cooperative only to learn that carriers aren’t interested in selling it coverage.

If conditions look favorable, the next step is to create and file the required documents to form a non-profit corporation with the Texas Secretary of State. Spending some time on these documents may forestall potential problems once the cooperative starts doing business. For example, how will the cooperative handle a member employer that is late with premium payment? How will the cooperative decide which offered benefits to accept? How will the cooperative decide on the dollar amount of deductibles and co-payments? These are just a few of the questions that the cooperative’s organizational documents should address.

The Secretary of State (SOS) provides a number of helpful forms, and you may file many of these online through SOS Direct. Forms currently available at <http://www.sos.state.tx.us/corp/forms.shtml> include Articles of Incorporation for a Non-profit Corporation, Change of Registered Agent and/or Registered Office, Name Reservation, and Article 9.01 Report Form. The SOS site also contains other relevant cooperative information at <http://www.sos.state.tx.us/corp/index.shtml>. These resources include a Filing Guide, Filing Options and Aids, Frequently Asked Questions, and a Non-Profit Organization page.

## TYPES OF COOPERATIVES

There are several collaborative models for purchasing health care coverage. The Legislature first authorized private purchasing cooperatives in 1993, but that model has not yet achieved widespread usage. Then, in 2003, the Legislature cre-

ated two new specialized forms of cooperatives: the small employer health coalition (House Bill 897) and the health group cooperative (Senate Bill 10). These two new forms have generated renewed interest – and favorable results – in group health purchasing cooperatives. While the newfound interest in cooperatives has provided renewed attention to 1993-style cooperatives, let’s examine the two newer models first.

### **SMALL EMPLOYER HEALTH COALITIONS**

The small employer health coalition (SEHC) is the cooperative that most resembles a single small employer. Any two small employers may form a small employer health coalition.

An SEHC consists of small employers with 50 or fewer total combined eligible employees. Its primary advantage is that it is treated like any other small employer, meaning the entity has access to guaranteed issuance and renewability of coverage, as well as small employer rate protections.

One of the trends that TDI has observed at meetings with small business owners around the state is that employers with five or fewer eligible

employees say that they are having difficulty not only affording health coverage, but simply finding any available health coverage options. This is a concern which needs to be addressed. However, in the interim, the ability of small employers to link together to buy coverage gives these employer groups sufficient size to make them marketable and enhance availability of health insurance.

### **HEALTH GROUP COOPERATIVES**

In 2003, the Legislature authorized health group cooperatives (HGCs) in HB 10 and refined the concept in SB 805 in 2005. HGCs are the most complex form of cooperative. However, that complexity also brings numerous advantages. Any one person (with the exception of a health carrier) may form an HGC. Unlike other private purchasing cooperatives, an HGC must have at least 10 participating employers to contract with carriers for coverage.

Similar to consumer choice plans, a health group cooperative has the power to design and market a plan that does not include all state-mandated benefits. While the exceptions granted to HGCs differ somewhat from the consumer choice plan exceptions, in addition to having the authority to design its own plan, a health group cooperative may also purchase a consumer choice plan. HGCs are thus the most flexible cooperative form in terms of benefit and plan design.

### **Small Employers**

SB 805 also added a new subset of health group cooperatives entitled to treatment as a small employer. To qualify for this new subset, a cooperative must make an election to limit the total number of eligible employees from all participating small employers to 50 or fewer. The cooperative must make this election at the time of initial formation and file evidence of the election with TDI. Once the cooperative qualifies, it is entitled to treatment as a small employer, including guaranteed issuance, renewability of coverage, and rate protections.





All other health group cooperatives – those consisting of large employers, as well as those consisting of small employers that have not elected to limit membership – are treated as a single large employer. Just as any other large employer, these cooperatives enjoy guaranteed renewability of coverage, but not guaranteed issuance or small employer rate protections.

### Mid-size employers

Reforms to the federal Health Insurance Portability and Accountability Act (HIPAA) guarantee issuance of coverage to small employers, defined as those with two to 50 eligible employees. Implicit in this group sizing is the notion that large employer groups will be able to obtain coverage without needing this guaranteed issuance protection. Sometimes, however, a mid-sized employer (generally defined as having 51 to 150 eligible employees) may have employees with health status factors such that no carrier will offer it coverage. For these employers, the segregation of large employers in the health group cooperative market presents an opportunity to form a group large enough to overcome the health conditions that denied them coverage as single employers.

Since a health group cooperative can create a service area covering the entire state, this niche presents a good opportunity for employers experiencing this problem in different regions to unite to obtain coverage. This type of grouping was not feasible before SB 805, as the law required all health group cooperatives to have small employer members.

### Marketing

One of the goals of HGCs – and one of the reasons they have the potential to grow to large numbers – was to provide a way for entities such as chambers of commerce to form cooperatives for their members, hopefully developing sufficient group size to gain significant negotiating power. The sponsoring entity of an HGC, such as a chamber of commerce, may inform its members about the health benefit plans available under the cooperative.

A word of caution: this authority applies only to members of the sponsoring entity; informing other persons of the cooperative without an agent's license could run afoul of licensing statutes. And, while a health carrier can neither join nor form an HGC, it can assist a sponsoring entity – such as a chamber – in forming one.

### Current Market Status

To date, no carrier has issued coverage to a Texas health group cooperative, but two major carriers are currently preparing to do so. When that occurs, there will be heightened interest from employers who may be eligible to join those HGCs, from other employers who may wish to discuss formation of other cooperatives, and from other carriers that do not wish to cede a competitive advantage.


### 1993 PRIVATE PURCHASING COOPERATIVES

1993 private purchasing cooperatives offer some flexibility and may yet play a role in providing lower cost health coverage. Parties can agree to build many desirable features of the new cooperative models – such as stability incentives – into the contract between the carrier and the cooperative. This type of cooperative can also purchase a consumer choice plan to obtain flexibility in plan design.

### How to Learn More

As part of TDI's ongoing effort to help employers get the maximum benefit from these initiatives, the agency recently developed the Texas Health Options website ([www.texashealthoptions.com](http://www.texashealthoptions.com)) as the first phase of its Health Coverage Awareness and Education Program. The information on the Texas Health Options site is presented so that business owners with specific coverage needs can learn about various options for their particular situation. Other educational public service announcements on the value of health coverage and various health coverage options are planned for the future.

Because premiums, deductibles, co-payments, and benefits can vary widely from plan to plan, it pays to shop around to see if one of these new options is right for your company. Finding the right employee health plan at the right price may still

be a challenge. However, small employers that take the time to search carefully may well find plans that are well suited to their – and their employees’ – needs. 

Option	Eligibility Requirements	Purpose/Coverage
Consumer Health Benefit Plans [Senate Bill 541]	<ul style="list-style-type: none"> <li>Available to ALL group and individual purchasers of health care coverage.</li> </ul>	<ul style="list-style-type: none"> <li>To provide cost savings by offering health coverage that does not include certain state-mandated benefits, but must still be comprehensive enough to provide creditable coverage.</li> <li>Can pass costs of services downstream to enrollees, thus lowering premium costs to employers</li> <li>Required mandates:                             <ul style="list-style-type: none"> <li>Diabetes treatment</li> <li>Serious mental illness</li> <li>Several screenings and preventive care services</li> <li>Reconstructive surgery of children’s craniofacial abnormalities</li> <li>Phenylketonuria* coverage</li> </ul> </li> </ul>
Small Employer Health Coalitions (SEHC) [House Bill 897]	<ul style="list-style-type: none"> <li>For “small employers” with between two and 50 eligible employees, including owners.</li> <li>“Eligible employees” are defined as those who usually work at least 30 hours per week, are not classified as temporary, part-time or seasonal, and are not already covered by another health plan.</li> </ul>	<ul style="list-style-type: none"> <li>Gives these employer groups sufficient size to make them marketable and enhance availability of health coverage</li> <li>Treated like any other small employer, meaning the entity has access to guaranteed issuance and renewability of coverage, including small employer rate protections.</li> </ul>
Health Group Cooperatives (HGC) [Senate Bill 10]	<ul style="list-style-type: none"> <li>10 participating <b>employers</b></li> <li>Most treated as a large employer, but if limited to fewer than 50 eligible employees, treated as a small employer</li> </ul>	<ul style="list-style-type: none"> <li>The most flexible cooperative form in terms of benefit and plan design, any one person, except a health carrier, may form an HGC;</li> <li>Must have at least 10 participating employers to qualify to contract with carriers for coverage</li> <li>An HGC has the power to design and market a plan that does not include all state-mandated benefits and may also purchase a consumer choice plan.</li> </ul>

Chart by Juan V. Garcia

\* A genetic disorder in which the body lacks the enzyme necessary to metabolize phenylalanine to tyrosine. Left untreated, the disorder can cause brain damage and progressive mental retardation.



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