

BUSINESS & LABOR

EXHIBIT NO. 8
DATE 3/4/05
BILL NO. HB 188

Proposed Amendments
House Bill No. 188
Second Reading Copy

Requested by Blue Cross Blue Shield of Montana
Prepared by Greg Gould, BCBSMT

Submitted by Tanya Ask
Blue Cross and Blue Shield of Montana
March 4, 2005

1. Page 47, line 22

Following: section 39

Insert: "NEW SECTION. Section 40. Effective date. [Section 21] is effective July 1, 2005."

Renumber: subsequent section

-END-

Rationale: The current statute allows a covered entity in compliance with the federal HIPAA regulations to continue to operate under those regulations (subject to certain exceptions) until July 1, 2005. Beginning July 1, 2005, the current statute would require a covered entity to conduct a preemption analysis to determine which regulatory scheme (state or federal) controls the operations of the covered entity.

The amendments proposed by section 21 of HB 188 would delay the required preemption analysis to July 1, 2007. However, current HB 188 does not contain an effective date, so its provisions would become effective on October 1, 2005. See §1-2-201(1), MCA. Therefore, if the bill passes as written, covered entities would technically be required to conduct a preemption analysis (and follow state law if more stringent) starting July 1, 2005, until the law changes on October 1, 2005 (to continue to allow use of the statutory exemption until 7/1/07). The proposed amendment would avoid this unintended result by providing that the current HIPAA exemption continues through July 1, 2007 without a temporary 3-month gap.