

Senate Public Health

Senate Bill 317 Testimony

SENATE PUBLIC HEALTH, WELFARE & SAFETY	
EXHIBIT NO.	<u>9</u>
DATE:	<u>2-11-05</u>
BILL NO.	<u>SB 317</u>

Tanya Ask,
Blue Cross and Blue Shield of Montana
February 11, 2005

BCBSMT is a health service corporation licensed to do business in the state of Montana. Health service corporations are by definition nonprofit entities existing for the benefit of members and beneficiaries. **We intend to remain a nonprofit health service corporation.**

BCBSMT agrees with premise that **in the event of a conversion**, the value of the nonprofit company being converted to a for-profit would be preserved for the people of Montana through a charitable trust. We have been working with both our regulator, the Montana Insurance Commissioner and staff, and the Attorney General and staff to memorialize that agreement. The Montana Insurance Department has responsibility for regulating our financial condition and business operations. The Attorney General has responsibility for public and charitable assets. For that reason, we agree to the oversight of the Attorney General in the event of a conversion in his capacity as the regulator of public benefit conversions.

We have serious concerns with this bill as proposed because of the breadth of potential normal business activity that could be included in the definition of "conversion transaction." Specific issues will be delineated in a few minutes.

SB 317 goes well beyond the premise of what most Montanans would consider a conversion, and attempts to provide dual oversight of day-to-day operations. The potential result is that Montana's local health companies will be less able to provide health plan innovation. A current example - Medicare Advantage. The Medicare Modernization Act passed by Congress in 2003 allows for Medicare PPO options - combined traditional and Medicare supplement benefits rolled into one. The options would be offered by private insurers. In early December 2004, CMS issued their regulations setting up the Medicare Advantage regions, with coverage to be operational January 2006. Thirteen months. BCBSMT would need to join with other Blue plans in the Rocky Mountain and Upper Midwest to offer this coverage. Such a move would be an expansion of our service area - triggering a conversion review. Such a move would also mean investing with other plans in an entity to offer this coverage - triggering a conversion review. BCBSMT would NOT be converting. BCBSMT would be investing in securities, as both New West and BCBSMT do today. Our mission would remain the same. Our operations would remain the same. Our members would continue to have their claims covered. Business would continue.

The dual regulation and oversight process in bill would make impossible to respond and implement in the timeframe required by CMS.

The bill sponsor, Senator Lind, has offered to work with us on proposed amendments, addressing concerns we have with the breadth of the definition and other bill obstacles to day-to-day operations. We appreciate that offer, and present here a proposed set of amendments, together with a gray bill, so the effect of the amendments can be more easily seen.

The main impacts of the amendments are:

- 1) remove health service corporation business operations from the definition of conversion;
- 2) recognize the evaluation process for determining "fair market value" is subject to an existing set of professional standards conducted by trained professionals;
- 3) insert Title 33, UCC, Securities and MAPA definitions and standards for clarification;
- 4) streamline the regulatory process. SB 317, based on Consumers Union model language, only applies to nonprofit HMOs and HCS, unlike the actual model, which applies to all nonprofit health entities, including hospitals and medical-surgical centers. The appropriate regulatory body for insurance companies is the Insurance Department. All public asset oversight and disposition would remain with the Attorney General.

I understand amendments in this committee, to be adopted, must come from a committee member.

Again, BCBSMT agrees with premise that **in the event of a conversion**, the value of the nonprofit company being converted to a for-profit would be preserved for the people of Montana through a charitable trust. This bill, as written, goes far beyond that concept, and limits the ability of Montana's local health insurers to respond to marketplace demands in a cost-effective and competitive fashion. We urge a "do not pass" on this bill.