

OFFICE OF THE GOVERNOR
STATE OF MONTANA

BRIAN SCHWEITZER
GOVERNOR



JOHN BOHLINGER
LT. GOVERNOR

April 8, 2011

The Honorable Mike Milburn
Speaker of the House
State Capitol
Helena, MT 59620

The Honorable Jim Peterson
President of the Senate
State Capitol
Helena, MT 59620

Dear Speaker Milburn and President Peterson:

In accordance with the power vested in me as Governor by the Constitution and the laws of the State of Montana, I hereby veto House Bill No. 30 (HB 30), **"AN ACT EXEMPTING A HEALTH CARE SHARING MINISTRY FROM REGULATION AS A DISABILITY INSURANCE COMPANY OR POLICY; DEFINING "HEALTH CARE SHARING MINISTRY"; AND AMENDING SECTION 33-1-102, MCA."**

I issue this veto because I believe this legislation authorizing health care sharing ministries to operate in Montana exempt from Montana's insurance codes and without any regulatory oversight raises an array of very serious consumer protection concerns. Under HB 30, health care sharing ministries would be authorized to operate in a regulatory vacuum with no accountability. These ministries are *not* health insurance, but, unfortunately, and the reason they run contrary to consumer interests is that participants rely on them with a false sense of security as a substitute for their health insurance needs, unaware of the pitfalls and liabilities to which they are exposing themselves.

HB 30 establishes three minimal and undefined requirements for health care sharing ministries. It requires the ministries to: 1) provide participants a monthly list of "needs" submitted to the ministry and the actual amount "published" or "assigned" to participants, without defining those terms; 2) conduct an annual audit that is available to the public upon request; and 3) include a disclaimer on all applications, or, alternatively, distribute the disclaimer with any guidelines it distributes. The disclaimer required under HB 30 speaks volumes, but its placement and size are not subject to regulation, rendering it ineffective. These are the *only* legal requirements that would be imposed upon health care sharing ministries should HB 30 become law. HB 30 does not even establish an enforcement mechanism to ensure these three minimal requirements are followed.

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Most profoundly, unlike insurance companies, health care sharing ministries are not required to have reserve funds to pay claims. As such, participants have no assurance of protection or recourse from the ministries in the event they have health needs and expenses. In 2007, the Montana State Auditor took legal action to protect a Montana consumer who was denied coverage by a ministry for health care expenses resulting from heart surgery. In that case, a Montana jury found the ministry to have committed fraud, violated Montana's Unfair Trade Practices Act, inflicted emotional distress, and failed to pay claims in a timely manner.

I also offer a word about the relationship between HB 30 and the federal health care reform act. The federal law exempts individuals participating in a health care sharing ministry from the individual mandate requirement, however certain conditions not contained in HB 30 must be satisfied for the federal exemption to apply. For example, the ministry must have been in existence and sharing medical expenses since December 31, 1999. Additionally, the ministry must allow members to retain their membership even after they develop a medical condition. Because these requirements are absent from HB 30, a participant in a ministry operating in Montana under HB 30 would not necessarily be exempt from the individual mandate requirements of the federal law.

Finally, I note the irony of the fact that proponents of HB 30 presented the bill as a mechanism for Montana consumers to fulfill the requirements of the federal health care reform act, while taking every opportunity throughout this legislative session to vote to reject the federal law and even prohibit its enforcement by Montana government.

In the end, my opposition to HB 30 lies in the fact that I believe it is contrary to the interests of Montana consumers. Health care sharing ministries offer no guarantees of protection when the time comes to pay members' health care costs, and we all know that health care coverage is an essential need of Montanans. While some individuals may garner some benefit from these ministries, when weighing the benefits against the pitfalls on the scale of consumer protection, I believe the balance clearly tips against sanctioning the marketing of health care ministries in Montana exempt from our state's insurance codes.

For these reasons, I respectfully ask that you sustain my veto of HB 30.

Sincerely,


BRIAN SCHWEITZER
GOVERNOR

cc: Legislative Services Division