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February 17, 2021

To: The Honorable Delores G. Kelley
Chair, Finance Committee

From: Patricia F. O'Connor, Health Education and Advocacy Unit

Re: Senate Bill 543 (Insurance - Health Care Sharing Ministries - Exemption):
Oppose

The Office of the Attorney General's Health Education and Advocacy Unit (HEAU) opposes Senate Bill 543. This bill would provide a broader exemption from insurance regulation than current law to entities that contend they are not health insurers, but for marketing purposes purport to provide broad coverage and pay claims similar to health insurers. The HEAU submits that more, not less, regulation of such entities is required because consumers have predictably been harmed in Maryland and other states when these entities fail to pay claims.

To qualify as health care sharing ministries in Maryland the entities must meet the requirements for a religious exemption under Md. Code Ann., Ins. 1-202(a)(4), or be subject to regulatory enforcement. Alieria Healthcare Inc. is currently engaged in litigation with the Maryland Insurance Administration (MIA) which issued an order revoking the company's insurance producer license on February 27, 2020.

According to the MIA's press release:

"[T]he order states that the company was actively trying to sell an unauthorized health insurance plan in Maryland, in violation of state law and an earlier consent order between MIA and the company.

The current license revocation order was the culmination of an MIA investigation that

began in 2016. In October 2017, MIA issued an initial order finding that Alieria Healthcare was in violation of several sections of the Maryland Insurance Code. The MIA and Aleira Healthcare entered into a voluntary April 2018 consent order, which found that the health care sharing ministry operated by the company did not meet the requirements for a religious exemption.

In the 2018 consent order, the company agreed to “permanently cease the sale, solicitation or operation in Maryland of the Unity Healthshare Ministry plan and any other plan” that did not meet the qualification for a religious exemption.

In a June 2019 written affirmation, Alieria Healthcare told the MIA that it had not sold products that would violate Maryland law or the consent order. But in March, an MIA investigator was contacted by an Alieria Healthcare representative, who attempted to sell her a membership in another health ministry product.

Alieria Healthcare’s “failure to comply with the terms of a consent order and its continued solicitation of memberships in an unauthorized insurance plan demonstrates that it does not meet the standard of trustworthiness and competence required of an insurance producer,” the order states.

In addition to the license revocation, the MIA has also ordered Alieria Healthcare to pay an administrative penalty of \$11,000.”

(emphasis added).

<https://insurance.maryland.gov/Pages/newscenter/NewsDetails.aspx?NR=2020249>

On March 10, 2020 the California Department of Insurance issued a Cease and Desist order against Alieria Healthcare and Trinity Healthshares, Inc. “for violating California law by misleading California consumers regarding their products and transacting insurance business without a certificate of authority from the Insurance Commissioner.” The Department warned consumers that “these misleading lookalike health plans marketed as “health care sharing ministries” do not comply with California laws to protect consumers [and that these] plans were marketed as cheaper alternatives to traditional coverage when, in reality, they do not provide comprehensive coverage for pre-existing conditions and other coverage as required by state and federal laws.”

<http://www.insurance.ca.gov/0400-news/0100-press-releases/2020/release026-2020.cfm#:~:text=The%20Cease%20and%20Desist%20Order,connection%20with%20any%20insurance%20transactions.>

On November 19, 2020 the Washington Insurance Commissioner's action against Alieria Healthcare ordering the company to stop selling health insurance illegally was upheld after the company appealed. According to the press release:

"[The Commissioner] took action against Alieria and its partner, Trinity Healthshare, Inc. (Trinity) in May 2019 after an investigation revealed that since August 2018, the companies sold 3,058 policies to Washington consumers and collected \$3.8 million in premium. Trinity agreed to [the] order.

"Alieria and Trinity promised to provide people with coverage when they needed it only to leave consumers with huge medical bills," said [the Commissioner]. "I'm taking action today to send a message to all scam artists – if you harm our consumers, you will pay heavily.

"Shopping for health insurance can be very stressful – especially if you have to worry about being ripped off. True insurance companies have to meet rigorous standards before they can sell coverage to consumers. These companies are hiding behind a federal and state exemption that exists for legitimate health care sharing ministries and using it to rake in profit across the country on the backs of vulnerable consumers."

Alieria, an unlicensed insurance producer in Washington, administered and marketed health coverage on behalf of Trinity HealthShare. Trinity represents itself as a health care sharing ministry. Such ministries are exempt from state insurance regulation only if they meet statutory requirements. If so, they do not have to meet the same consumer protections guaranteed under the Affordable Care Act. This includes providing coverage for anyone with a pre-existing medical condition.

A legal health care sharing ministry is a nonprofit organization whose members share a common set of ethical or religious beliefs and share medical expenses consistent with those beliefs.

[The Commissioner's office] received more than 20 complaints from consumers. Some believed they were buying health insurance without knowing they had joined a health care sharing ministry. Many discovered this when the company denied their claims because their medical conditions were considered pre-existing under the plan.

"Real health care sharing ministries can offer a valuable service to their members," [the Commissioner] said. "Unfortunately, we're seeing players out there trying to use the exemptions for legitimate ministries to skirt insurance regulation and mislead trusting consumers. I want these outfits to know we're on to them and we will hold them accountable."

[The Commissioner's] investigation into Alieria found:

- It sold insurance without a Washington insurance producer license
- It represented an unauthorized insurer, Trinity
- It operated an unlicensed discount plan organization

[The Commissioner's] investigation into Trinity found that it failed to meet key federal and state requirements:

- Trinity was formed on June 27, 2018, without any members. Federal and state laws require that health care sharing ministries be formed before Dec. 31, 1999, and their members to have been actively sharing medical costs.”

<https://www.insurance.wa.gov/news/aliera-ordered-pay-1-million-selling-illegal-health-insurance>

This bill would add a new exemption to current law that proponents presumably believe would more effectively foreclose regulatory efforts to protect consumers from acts and omissions like those sanctioned by regulators in Maryland, California and Washington in actions against Alieria Healthcare and Trinity. The HEAU opposes any expansion of the current legal exemption based on the pattern of repeated legal violations as documented in regulatory orders and evidenced by a recent complaint to the HEAU from a consumer who believed he was purchasing an ACA compliant plan from a broker only to later learn that he purchased a “health sharing ministries” plan that did not cover his needed care. Should the bill’s proponents contend they offer consumers an affordable alternative to traditional insurance, we urge the committee to see that for the false promise it is, given the trail of unpaid claims, adverse credit reports, and debt collection actions consumers have suffered due to health care sharing ministries.

We urge an unfavorable report from the committee.

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