

BRIAN E. FROSH
Attorney General

ELIZABETH F. HARRIS
Chief Deputy Attorney General

CAROLYN QUATTROCKI
Deputy Attorney General

Writer's Direct Fax No.
(410) 576-6571

Writer's Direct Email:
poconnor@oag.state.md.us



WILLIAM D. GRUHN
Chief
Consumer Protection Division

STATE OF MARYLAND
OFFICE OF THE ATTORNEY GENERAL
CONSUMER PROTECTION DIVISION

Writer's Direct Dial No.
(410) 576-6515

March 11, 2021

To: The Honorable Shane E. Pendergrass
Chair, Health and Government Operations Committee

From: The Office of the Attorney General, Health Education and Advocacy Unit

Re: House Bill 634 (Association Health Coverage Plans): Oppose

The Office of the Attorney General's Health Education and Advocacy Unit (HEAU) submits the following written testimony in opposition to House Bill 634. This bill would remove from the definition of a health benefit plan under Section 11-601 of the Insurance Article "a certificate of health insurance issued or delivered to a Maryland resident under a contract issued to an association located in the State or any other state." This would prevent the Commissioner from regulating out-of-state Association Health Plans (AHPs) that issue certificates to Marylanders. Thus, the Commissioner would not be able to ensure that consumers who participate in these out-of-state AHPs will have the same benefits and protections that Maryland law provides for the small group market. Also, the Commissioner would not be able to review the rates for such plans and determine if the rates are adequate to prevent insolvency. The bill would also allow a chamber of commerce to purchase a group policy allowing formerly unrelated employers to band together to purchase AHPs.

AHPs have a long and notorious history of fraud, mismanagement, and deception. Over decades, Congress has legislated – including through ERISA and the ACA – to protect health care consumers from this fraudulent conduct. While the past Administration sought to relax the federal rules pertaining to AHPs – rules that our Office is currently challenging in *New York, et al v. U.S. Department of Labor* (on appeal, United States Court of Appeals for the District of Columbia Circuit – appeal in abeyance) - regulation of AHPs has been left for the most part with the states, which is good for consumers. We oppose the bill because it would remove AHPs from significant regulatory oversight by the Commissioner and would weaken the small group market to the likely detriment of consumers.

We urge an unfavorable report on the bill.

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