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SB BILL NO. 144

INTRODUCED BY Keating Brookhart Eck Bortone  
Walt Holden

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR THE INCLUSION OF PARTICIPATING OBSTETRICIANS AND GYNECOLOGISTS AS PRIMARY CARE PHYSICIANS; PROVIDING THAT A HEALTH BENEFIT PLAN MAY NOT REQUIRE A REFERRAL FROM A PRIMARY CARE PHYSICIAN AS A CONDITION FOR THE COVERAGE OF THE SERVICES OF AN OBSTETRICIAN OR GYNECOLOGIST; REQUIRING NOTICE TO COVERED PERSONS; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE."

WHEREAS, the specialty of obstetrics and gynecology is devoted to primary and preventative health care of women throughout their lifetime; and

WHEREAS, significant numbers of women view their obstetrician and gynecologist as their primary or only physician; and

WHEREAS, for many women, an obstetrician or gynecologist is often the only physician they see regularly during their reproductive years; and

WHEREAS, a general medical examination was the second most frequently cited purpose for patient visits to obstetricians and gynecologists in 1989 and 1990; and

WHEREAS, obstetricians and gynecologists refer their patients less frequently than other primary care physicians, thus avoiding costly and time-consuming referrals to specialists.

STATEMENT OF INTENT

A statement of intent is required for this bill because [section 7] grants rulemaking authority to the commissioner of insurance. The rules adopted by the commissioner must establish standards for health benefit plans to ensure that:

- (1) obstetricians or gynecologists who wish to accept primary care physician status under health benefit plans may do so as long as they meet other criteria with regard to selection and credentials;
- (2) health benefit plans must permit a covered person to select a participating obstetrician or gynecologist as a primary care physician;
- (3) a covered person who does not select a participating obstetrician or gynecologist as a primary



1 care physician may have direct access to a participating obstetrician or gynecologist for obstetrical and  
2 gynecological services;

3 (4) health benefit plans provide notice of the options to select a participating obstetrician or  
4 gynecologist as a primary care physician or to use self-referral for obstetrical and gynecological services;  
5 and

6 (5) health benefit plans do not surcharge or impose additional deductibles or copayments for the  
7 options in [sections 3 and 4] if other plan services are not similarly surcharged or additional deductibles or  
8 copayments are not imposed.

9

10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

11

12 **NEW SECTION. Section 1. Scope -- purpose.** The provisions of [sections 1 through 8] apply to  
13 all health benefit plans offered to persons who receive health care services in this state. The purpose of  
14 [sections 1 through 8] is to ensure that obstetricians and gynecologists may be participating primary care  
15 physicians under health benefit plans offered to patients who receive health care services in this state and  
16 that persons covered by health benefit plans have direct access to the services of a participating  
17 obstetrician or gynecologist of their choice.

18

19 **NEW SECTION. Section 2. Definitions.** As used in [sections 1 through 8], the following definitions  
20 apply:

21 (1) "Covered person" means a policyholder, subscriber, certificate holder, enrollee, or other  
22 individual who is participating in a health benefit plan.

23 (2) "Health benefit plan" means any individual or group plan, policy, certificate, subscriber contract,  
24 contract of insurance provided by a prepaid hospital or medical service plan, health maintenance  
25 organization subscriber contract, or contract for health care services that is issued, delivered, issued for  
26 delivery, or renewed in this state by a health carrier or publicly funded health care program that pays for,  
27 purchases, or furnishes health care services to covered persons who receive health care services in this  
28 state. For the purposes of [sections 1 through 8], a health benefit plan located or domiciled outside of the  
29 state of Montana is subject to the provisions of [sections 1 through 8] if it receives, processes, adjudicates,  
30 pays, or denies claims for health care services submitted by or on behalf of covered persons who reside

1 or who receive health care services in the state of Montana.

2 (3) "Health carrier" means a disability insurer, health care insurer, health maintenance organization,  
3 accident and sickness insurer, fraternal benefit society, nonprofit hospital service corporation, health service  
4 corporation, health care service plan, preferred provider organization or arrangement, multiple employer  
5 welfare arrangement, or any other person, firm, corporation, joint venture, or similar business entity.

6 (4) "Obstetrician or gynecologist" means a physician who is board-eligible or board-certified by the  
7 American board of obstetrics and gynecology.

8 (5) "Participating obstetrician or gynecologist" means an obstetrician or gynecologist who is  
9 employed by or under contract with a health benefit plan and includes certified advanced practice registered  
10 nurses practicing in collaboration with and under the supervision of the participating obstetrician or  
11 gynecologist.

12 (6) "Primary care physician" means a physician who has the responsibility for providing initial and  
13 primary care to patients, for maintaining the continuity of patient care, and for initiating referrals for  
14 specialist care.

15  
16 **NEW SECTION. Section 3. Obstetricians or gynecologists as primary care physicians.** (1) Each  
17 health benefit plan must include obstetricians and gynecologists as primary care physicians. The health  
18 carrier that provides the health benefit plan shall contract with a sufficient number of obstetricians and  
19 gynecologists to ensure that covered persons have access to the options under this section without  
20 unreasonable delay. An obstetrician or gynecologist may not be required to accept primary care physician  
21 status if the obstetrician or gynecologist does not wish to be designated as a primary care physician. A  
22 health benefit plan must use the same criteria with regard to credentials and other selection criteria for a  
23 participating obstetrician or gynecologist as are usually applied by the health benefit plan with respect to  
24 other physicians who are participating in the health benefit plan.

25 (2) Each health benefit plan must allow a covered person to select any participating obstetrician  
26 or gynecologist of the covered person's choice as the covered person's primary care physician.

27  
28 **NEW SECTION. Section 4. Self-referral for obstetrical or gynecological care permitted.** (1) A health  
29 benefit plan must permit self-referral to any participating obstetrician or gynecologist by a covered person  
30 who has not selected a participating obstetrician or gynecologist as the covered person's primary care

1 physician. This self-referral must be allowed without prior authorization or precertification from the health  
2 benefit plan or the covered person's primary care physician and is for the purpose of receiving any  
3 obstetrical or gynecological examination or care and primary and preventative obstetrical and gynecological  
4 services required as a result of any obstetrical or gynecological examination or condition.

5 (2) The services covered by this section are limited to those services defined by the published  
6 recommendations of the accreditation council for graduate medical education for training as an obstetrician  
7 or gynecologist, including but not limited to diagnosis, treatment, and referral.

8 (3) The participating obstetrician or gynecologist shall comply with the health benefit plan's  
9 coordination and referral policies. The health benefit plan may require the participating obstetrician or  
10 gynecologist to whom the covered person self-refers to discuss with the covered person's primary care  
11 physician any services or treatment the participating obstetrician or gynecologist recommends for the  
12 covered person.

13 (4) Self-referral under this section may not affect the covered person's coverage under the health  
14 benefit plan. It is the intent of this section that a covered person must at all times have direct access to  
15 the services of a participating obstetrician or gynecologist of the covered person's choice under any health  
16 benefit plan.

17  
18 **NEW SECTION. Section 5. Surcharges not allowed.** A health benefit plan may not impose a  
19 surcharge or additional copayments or deductibles upon a covered person who seeks or receives health care  
20 services under [section 3 or 4] unless similar surcharges or additional copayments or deductibles are  
21 imposed for other types of health care services not described in [sections 3 and 4].

22  
23 **NEW SECTION. Section 6. Disclosure.** Each health benefit plan shall disclose in all of its plan  
24 literature, in clear accurate language, the covered person's option to seek the care described in [sections  
25 1 through 8] without preapproval, preauthorization, or referral.

26  
27 **NEW SECTION. Section 7. Rulemaking authority.** The commissioner shall adopt rules necessary  
28 to implement the provisions of [sections 1 through 8].

29  
30 **NEW SECTION. Section 8. Enforcement.** If the commissioner determines that a health benefit plan

1 does not comply with [sections 1 through 8] or that a health carrier has not complied with a provision of  
2 [sections 1 through 8], the commissioner may:

- 3 (1) recommend a correction plan that must be followed by the health carrier;
- 4 (2) institute corrective action that must be followed by the health carrier;
- 5 (3) suspend or revoke the certificate of authority or deny the health carrier's application for a  
6 certificate of authority; or
- 7 (4) use any of the commissioner's enforcement powers to obtain the health carrier's compliance  
8 with [sections 1 through 8].

9  
10 **NEW SECTION. Section 9. Codification instruction.** [Sections 1 through 8] are intended to be  
11 codified as an integral part of Title 33, chapter 22, and the provisions of Title 33, chapter 22, apply to  
12 [sections 1 through 8].

13  
14 **NEW SECTION. Section 10. Severability.** If a part of [this act] is invalid, all valid parts that are  
15 severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its  
16 applications, the part remains in effect in all valid applications that are severable from the invalid  
17 applications.

18  
19 **NEW SECTION. Section 11. Applicability.** [This act] applies to each health benefit plan that is  
20 issued, delivered, issued for delivery, or renewed in Montana on or after October 1, 1997.

21  
22 **NEW SECTION. Section 12. Effective date.** [This act] is effective on passage and approval.

23 -END-

## 1 SENATE BILL NO. 144

2 INTRODUCED BY KEATING, BOOKOUT, ECK, BARTLETT, WYATT, HOLDEN

3

4 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR THE INCLUSION OF PARTICIPATING  
5 OBSTETRICIANS AND GYNECOLOGISTS AS PRIMARY CARE PHYSICIANS; PROVIDING THAT A HEALTH  
6 BENEFIT PLAN MAY NOT REQUIRE A REFERRAL FROM A PRIMARY CARE PHYSICIAN AS A CONDITION  
7 FOR THE COVERAGE OF THE SERVICES OF AN OBSTETRICIAN OR GYNECOLOGIST; PROVIDING  
8 COVERAGE FOR SERVICES PROVIDED BY AN ADVANCED PRACTICE REGISTERED NURSE IN  
9 COLLABORATION WITH THE PARTICIPATING OBSTETRICIAN OR GYNECOLOGIST; REQUIRING NOTICE  
10 TO COVERED PERSONS; AMENDING SECTION 33-31-111, MCA; AND PROVIDING AN IMMEDIATE  
11 EFFECTIVE DATE AND AN APPLICABILITY DATE."

12

13 WHEREAS, the specialty of obstetrics and gynecology is devoted to primary and preventative health  
14 care of women throughout their lifetime; and

15 WHEREAS, significant numbers of women view their obstetrician and gynecologist as their primary  
16 or only physician; and.

17 WHEREAS, for many women, an obstetrician or gynecologist is often the only physician they see  
18 regularly during their reproductive years; and

19 WHEREAS, a general medical examination was the second most frequently cited purpose for patient  
20 visits to obstetricians and gynecologists in 1989 and 1990; and

21 WHEREAS, obstetricians and gynecologists refer their patients less frequently than other primary  
22 care physicians, thus avoiding costly and time-consuming referrals to specialists.

23

24

## STATEMENT OF INTENT

25 ~~A statement of intent is required for this bill because [section 7] grants rulemaking authority to the~~  
26 ~~commissioner of insurance. The rules adopted by the commissioner must establish standards for health~~  
27 ~~benefit plans to ensure that:~~

28 ~~(1) obstetricians or gynecologists who wish to accept primary care physician status under health~~  
29 ~~benefit plans may do so as long as they meet other criteria with regard to selection and credentials;~~

30 ~~(2) health benefit plans must permit a covered person to select a participating obstetrician or~~

1 gynecologist as a primary care physician;

2 ~~(3) a covered person who does not select a participating obstetrician or gynecologist as a primary~~  
3 ~~care physician may have direct access to a participating obstetrician or gynecologist for obstetrical and~~  
4 ~~gynecological services;~~

5 ~~(4) health benefit plans provide notice of the options to select a participating obstetrician or~~  
6 ~~gynecologist as a primary care physician or to use self-referral for obstetrical and gynecological services;~~  
7 and

8 ~~(5) health benefit plans do not surcharge or impose additional deductibles or copayments for the~~  
9 ~~options in [sections 3 and 4] if other plan services are not similarly surcharged or additional deductibles or~~  
10 ~~copayments are not imposed.~~

11

12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

13

14 NEW SECTION. Section 1. Scope -- purpose. The provisions of [sections 1 through 8] apply to  
15 all health benefit plans offered to persons who receive health care services in this state. The purpose of  
16 [sections 1 through 8] is to ensure that obstetricians and gynecologists may be participating primary care  
17 physicians under health benefit plans offered to patients who receive health care services in this state and  
18 that persons covered by health benefit plans have direct access to the services of a participating  
19 obstetrician or gynecologist of their choice.

20

21 NEW SECTION. Section 2. Definitions. As used in [sections 1 through 8], the following definitions  
22 apply:

23 (1) "Covered person" means a policyholder, subscriber, certificate holder, enrollee, or other  
24 individual who is participating in a health benefit plan.

25 (2) "Health benefit plan" means any individual or group plan, policy, certificate, subscriber contract,  
26 contract of insurance provided by a ~~prepaid hospital or medical service plan,~~ MANAGED CARE PLAN,  
27 PREFERRED PROVIDER AGREEMENT, OR health maintenance organization subscriber contract, ~~or contract~~  
28 ~~for health care services~~ that is issued, delivered, issued for delivery, or renewed in this state by a health  
29 carrier ~~or publicly funded health care program~~ that pays for, purchases, or furnishes health care services  
30 to covered persons who receive health care services in this state. For the purposes of [sections 1 through

1 8], a health benefit plan located or domiciled outside of the state of Montana is subject to the provisions  
 2 of [sections 1 through 8] if it receives, processes, adjudicates, pays, or denies claims for health care  
 3 services submitted by or on behalf of covered persons who reside or who receive health care services in  
 4 the state of Montana.

5 (3) "Health carrier" means a disability insurer, health care insurer, health maintenance organization,  
 6 accident and sickness insurer, fraternal benefit society, nonprofit hospital service corporation, health service  
 7 corporation, health care service plan, preferred provider organization or arrangement, multiple employer  
 8 welfare arrangement, or any other person, firm, corporation, joint venture, or similar business entity.

9 (4) "Obstetrician or gynecologist" means a physician who is board-eligible or board-certified by the  
 10 American board of obstetrics and gynecology.

11 (5) "Participating obstetrician or gynecologist" means an obstetrician or gynecologist who is  
 12 employed by or under contract with a health benefit plan ~~and includes certified advanced practice registered~~  
 13 ~~nurses practicing in collaboration with and under the supervision of the participating obstetrician or~~  
 14 ~~gynecologist.~~

15 (6) "Primary care physician" means a physician who has the responsibility for providing initial and  
 16 primary care to patients, for maintaining the continuity of patient care, and for initiating referrals for  
 17 specialist care.

18  
 19 **NEW SECTION. Section 3. Obstetricians or gynecologists as primary care physicians.** (1) Each  
 20 health benefit plan THAT PROVIDES COVERAGE FOR PRIMARY CARE OR OBSTETRICAL OR  
 21 GYNECOLOGICAL CARE must ~~include~~ ALLOW obstetricians and gynecologists TO PARTICIPATE as primary  
 22 care physicians. The health carrier that provides the health benefit plan shall contract with a sufficient  
 23 number of obstetricians and gynecologists to ensure that covered persons have access to the options under  
 24 this section without unreasonable delay IF THERE ARE OBSTETRICIANS OR GYNECOLOGISTS PRACTICING  
 25 IN THE GEOGRAPHIC SERVICE AREAS IN WHICH THE PLAN OPERATES WHO ARE WILLING TO  
 26 PARTICIPATE IN THE PLAN. An obstetrician or gynecologist may not be required to accept primary care  
 27 physician status if the obstetrician or gynecologist does not wish to be designated as a primary care  
 28 physician. A health benefit plan must use the same criteria with regard to credentials and other selection  
 29 criteria for a participating obstetrician or gynecologist as are ~~usually~~ applied by the health benefit plan with  
 30 respect to other physicians who are participating in the health benefit plan. AN OBSTETRICIAN OR



1 GYNECOLOGIST WISHING TO ACCEPT DESIGNATION AS A PRIMARY CARE PHYSICIAN MUST MEET THE  
 2 SAME CRITERIA WITH REGARD TO CREDENTIALS AND OTHER SELECTION CRITERIA FOR A  
 3 PARTICIPATING PRIMARY CARE PHYSICIAN AS OTHER PHYSICIANS WHO ARE PARTICIPATING AS  
 4 PRIMARY CARE PHYSICIANS IN THE HEALTH BENEFIT PLAN.

5 (2) Each health benefit plan must allow a covered person to select any participating obstetrician  
 6 or gynecologist of the covered person's choice as the covered person's primary care physician.

7

8 NEW SECTION. Section 4. Self-referral for obstetrical or gynecological care permitted. (1) A health  
 9 benefit plan must permit self-referral to any participating obstetrician or gynecologist by a covered person  
 10 who has not selected a participating obstetrician or gynecologist as the covered person's primary care  
 11 physician FOR SERVICES COVERED UNDER THE HEALTH BENEFIT PLAN. This self-referral ~~must be~~  
 12 ~~allowed without prior authorization or precertification from the health benefit plan or the covered person's~~  
 13 ~~primary care physician and~~ is for the purpose of receiving any obstetrical or gynecological examination or  
 14 care and primary and preventative obstetrical and gynecological services required as a result of any  
 15 obstetrical or gynecological examination or condition. THIS SELF-REFERRAL MUST BE ALLOWED  
 16 WITHOUT PRIOR AUTHORIZATION OR PRECERTIFICATION FROM THE HEALTH BENEFIT PLAN OR  
 17 COVERED PERSON'S PRIMARY CARE PHYSICIAN, BUT THE HEALTH BENEFIT PLAN MAY REQUIRE THE  
 18 COVERED PERSON TO NOTIFY THE PLAN PRIOR TO SELF-REFERRAL.

19 (2) The services covered by this section ~~are~~ MAY BE limited to those services defined by the MOST  
 20 RECENT published recommendations of the ~~accreditation council for graduate medical education for training~~  
 21 ~~as an obstetrician or gynecologist, including but not limited to diagnosis, treatment, and referral.~~  
 22 AMERICAN COLLEGE OF OBSTETRICIANS AND GYNECOLOGISTS. THE SELF-REFERRAL PERMITTED BY  
 23 THIS SECTION MAY BE LIMITED TO ONE PARTICIPATING OBSTETRICIAN OR GYNECOLOGIST FOR  
 24 OBSTETRICAL CARE AND ONE PARTICIPATING OBSTETRICIAN OR GYNECOLOGIST FOR  
 25 GYNECOLOGICAL CARE OF THE COVERED PERSON'S CHOICE ANNUALLY.

26 (3) The participating obstetrician or gynecologist AND THE COVERED PERSON shall comply with  
 27 the health benefit plan's coordination and referral policies. The health benefit plan may require the  
 28 participating obstetrician or gynecologist to whom the covered person self-refers to discuss with the  
 29 covered person's primary care physician any services or treatment the participating obstetrician or  
 30 gynecologist recommends for the covered person.

1 (4) Self-referral under this section may not affect the covered person's coverage under the health  
 2 benefit plan. It is the intent of this section that a covered person must at all times have direct access to  
 3 the COVERED services of a THE participating obstetrician or gynecologist of the covered person's choice  
 4 under any health benefit plan.

5  
 6 **NEW SECTION. Section 5. Surcharges not allowed.** A health benefit plan may not impose a  
 7 surcharge or additional copayments or deductibles upon a covered person who seeks or receives health care  
 8 services under [section 3 or 4] unless similar surcharges or additional copayments or deductibles are  
 9 imposed for other types of health care services not described in [sections 3 and 4].

10  
 11 **NEW SECTION. SECTION 6. PAYMENT OF COVERED SERVICES PROVIDED BY CERTIFIED**  
 12 **ADVANCED PRACTICE REGISTERED NURSES.** A HEALTH BENEFIT PLAN MAY NOT DENY PAYMENT FOR  
 13 COVERED SERVICES PROVIDED TO A COVERED PERSON UNDER [SECTIONS 3 AND 4] BY A CERTIFIED  
 14 ADVANCED PRACTICE REGISTERED NURSE PRACTICING IN COLLABORATION WITH THE PARTICIPATING  
 15 OBSTETRICIAN OR GYNECOLOGIST. THIS SECTION MAY NOT BE CONSTRUED TO EXPAND THE  
 16 DEFINITIONS OF PARTICIPATING OBSTETRICIAN OR GYNECOLOGIST OR PRIMARY CARE PHYSICIAN IN  
 17 [SECTION 2] TO INCLUDE CERTIFIED ADVANCED PRACTICE REGISTERED NURSES.

18  
 19 **NEW SECTION. Section 7. Disclosure.** Each health benefit plan shall disclose in all of its plan  
 20 literature, in clear accurate language, the covered person's option to seek the care described in [sections  
 21 1 through 8] without preapproval, preauthorization, or referral.

22  
 23 ~~**NEW SECTION. Section 7. Rulemaking authority.** The commissioner shall adopt rules necessary  
 24 to implement the provisions of [sections 1 through 8].~~

25  
 26 **NEW SECTION. Section 8. Enforcement.** If the commissioner determines that a health benefit plan  
 27 does not comply with [sections 1 through 8] or that a health carrier has not complied with a provision of  
 28 [sections 1 through 8], the commissioner may:

- 29 (1) recommend a correction plan that must be followed by the health carrier;  
 30 (2) institute corrective action that must be followed by the health carrier;

1 (3) suspend or revoke the certificate of authority or deny the health carrier's application for a  
2 certificate of authority; or

3 (4) use any of the commissioner's enforcement powers to obtain the health carrier's compliance  
4 with [sections 1 through 8].

5

6 **SECTION 9. SECTION 33-31-111, MCA, IS AMENDED TO READ:**

7 "33-31-111. **Statutory construction and relationship to other laws.** (1) Except as otherwise  
8 provided in this chapter, the insurance or health service corporation laws do not apply to any health  
9 maintenance organization authorized to transact business under this chapter. This provision does not apply  
10 to an insurer or health service corporation licensed and regulated pursuant to the insurance or health service  
11 corporation laws of this state except with respect to its health maintenance organization activities  
12 authorized and regulated pursuant to this chapter.

13 (2) Solicitation of enrollees by a health maintenance organization granted a certificate of authority  
14 or its representatives may not be construed as a violation of any law relating to solicitation or advertising  
15 by health professionals.

16 (3) A health maintenance organization authorized under this chapter may not be considered to be  
17 practicing medicine and is exempt from Title 37, chapter 3, relating to the practice of medicine.

18 (4) The provisions of this chapter do not exempt a health maintenance organization from the  
19 applicable certificate of need requirements under Title 50, chapter 5, parts 1 and 3.

20 (5) The provisions of this section do not exempt a health maintenance organization from material  
21 transaction disclosure requirements under 33-3-701 through 33-3-704. A health maintenance organization  
22 must be considered an insurer for the purposes of 33-3-701 through 33-3-704.

23 (6) The provisions of this section do not exempt a health maintenance organization from the  
24 provisions of [sections 1 through 8]."

25

26 **NEW SECTION. Section 10. Codification instruction.** [Sections 1 through 8] are intended to be  
27 codified as an integral part of Title 33, chapter 22, and the provisions of Title 33, chapter 22, apply to  
28 [sections 1 through 8].

29

30 **NEW SECTION. Section 11. Severability.** If a part of [this act] is invalid, all valid parts that are

1 severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its  
2 applications, the part remains in effect in all valid applications that are severable from the invalid  
3 applications.

4

5 NEW SECTION. **Section 12. Applicability.** [This act] applies to each health benefit plan that is  
6 issued, delivered, issued for delivery, or renewed in Montana on or after ~~October 1, 1997~~ JANUARY 1,  
7 1998.

8

9 NEW SECTION. **Section 13. Effective date.** [This act] is effective on passage and approval.

10

-END-

## 1 SENATE BILL NO. 144

2 INTRODUCED BY KEATING, BOOKOUT, ECK, BARTLETT, WYATT, HOLDEN

3  
4 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR THE INCLUSION OF PARTICIPATING  
5 OBSTETRICIANS AND GYNECOLOGISTS AS PRIMARY CARE PHYSICIANS; PROVIDING THAT A HEALTH  
6 BENEFIT PLAN MAY NOT REQUIRE A REFERRAL FROM A PRIMARY CARE PHYSICIAN AS A CONDITION  
7 FOR THE COVERAGE OF THE SERVICES OF AN OBSTETRICIAN OR GYNECOLOGIST; PROVIDING  
8 COVERAGE FOR SERVICES PROVIDED BY AN ADVANCED PRACTICE REGISTERED NURSE IN  
9 COLLABORATION WITH THE PARTICIPATING OBSTETRICIAN OR GYNECOLOGIST; REQUIRING NOTICE  
10 TO COVERED PERSONS; AMENDING SECTION 33-31-111, MCA; AND PROVIDING AN IMMEDIATE  
11 EFFECTIVE DATE AND AN APPLICABILITY DATE."

**THERE ARE NO CHANGES IN THIS BILL AND IT WILL NOT BE  
REPRINTED. PLEASE REFER TO SECOND READING COPY  
(YELLOW) FOR COMPLETE TEXT.**

## 1 SENATE BILL NO. 144

2 INTRODUCED BY KEATING, BOOKOUT, ECK, BARTLETT, WYATT, HOLDEN

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5 OBSTETRICIANS AND GYNECOLOGISTS AS PRIMARY CARE PHYSICIANS; PROVIDING THAT A HEALTH  
6 BENEFIT PLAN MAY NOT REQUIRE A REFERRAL FROM A PRIMARY CARE PHYSICIAN AS A CONDITION  
7 FOR THE COVERAGE OF THE SERVICES OF AN OBSTETRICIAN OR GYNECOLOGIST; PROVIDING  
8 COVERAGE FOR SERVICES PROVIDED BY AN ADVANCED PRACTICE REGISTERED NURSE IN  
9 COLLABORATION WITH THE PARTICIPATING OBSTETRICIAN OR GYNECOLOGIST; REQUIRING NOTICE  
10 TO COVERED PERSONS; AMENDING SECTION SECTIONS 33-22-101 AND 33-31-111, MCA; AND  
11 PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE."

12  
13 WHEREAS, the specialty of obstetrics and gynecology is devoted to primary and preventative health  
14 care of women throughout their lifetime; and

15 WHEREAS, significant numbers of women view their obstetrician and gynecologist as their primary  
16 or only physician; and

17 WHEREAS, for many women, an obstetrician or gynecologist is often the only physician they see  
18 regularly during their reproductive years; and

19 WHEREAS, a general medical examination was the second most frequently cited purpose for patient  
20 visits to obstetricians and gynecologists in 1989 and 1990; and

21 WHEREAS, obstetricians and gynecologists refer their patients less frequently than other primary  
22 care physicians, thus avoiding costly and time-consuming referrals to specialists.

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26 ~~commissioner of insurance. The rules adopted by the commissioner must establish standards for health~~  
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28 ~~(1) obstetricians or gynecologists who wish to accept primary care physician status under health~~  
29 ~~benefit plans may do so as long as they meet other criteria with regard to selection and credentials;~~

30 ~~(2) health benefit plans must permit a covered person to select a participating obstetrician or~~

1 gynecologist as a primary care physician;

2 ~~(3) a covered person who does not select a participating obstetrician or gynecologist as a primary~~  
 3 ~~care physician may have direct access to a participating obstetrician or gynecologist for obstetrical and~~  
 4 ~~gynecological services;~~

5 ~~(4) health benefit plans provide notice of the options to select a participating obstetrician or~~  
 6 ~~gynecologist as a primary care physician or to use self-referral for obstetrical and gynecological services;~~  
 7 and

8 ~~(5) health benefit plans do not surcharge or impose additional deductibles or copayments for the~~  
 9 ~~options in [sections 3 and 4] if other plan services are not similarly surcharged or additional deductibles or~~  
 10 ~~copayments are not imposed.~~

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12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

13

14 **NEW SECTION. Section 1. Scope -- purpose.** The provisions of [sections 1 through 8] apply to  
 15 all health benefit plans offered to persons who receive health care services in this state. The purpose of  
 16 [sections 1 through 8] is to ensure that obstetricians and gynecologists may be participating primary care  
 17 physicians under health benefit plans offered to patients who receive health care services in this state and  
 18 that persons covered by health benefit plans have direct access to the services of a participating  
 19 obstetrician or gynecologist of their choice.

20

21 **NEW SECTION. Section 2. Definitions.** As used in [sections 1 through 8], the following definitions  
 22 apply:

23 (1) "Covered person" means a policyholder, subscriber, certificate holder, enrollee, or other  
 24 individual who is participating in a health benefit plan.

25 (2) "Health benefit plan" means any individual or group plan, policy, certificate, subscriber contract,  
 26 contract of insurance provided by a ~~prepaid hospital or medical service plan,~~ **MANAGED CARE PLAN,**  
 27 **PREFERRED PROVIDER AGREEMENT, OR** health maintenance organization subscriber contract, ~~or contract~~  
 28 ~~for health care services~~ that is issued, delivered, issued for delivery, or renewed in this state by a health  
 29 carrier ~~or publicly funded health care program~~ that pays for, purchases, or furnishes health care services  
 30 to covered persons who receive health care services in this state. For the purposes of [sections 1 through

1 8], a health benefit plan located or domiciled outside of the state of Montana is subject to the provisions  
 2 of [sections 1 through 8] if it receives, processes, adjudicates, pays, or denies claims for health care  
 3 services submitted by or on behalf of covered persons who reside or who receive health care services in  
 4 the state of Montana.

5 (3) "Health carrier" means a disability insurer, health care insurer, health maintenance organization,  
 6 accident and sickness insurer, fraternal benefit society, nonprofit hospital service corporation, health service  
 7 corporation, health care service plan, preferred provider organization or arrangement, multiple employer  
 8 welfare arrangement, or any other person, firm, corporation, joint venture, or similar business entity.

9 (4) "Obstetrician or gynecologist" means a physician who is board-eligible or board-certified by the  
 10 American board of obstetrics and gynecology.

11 (5) "Participating obstetrician or gynecologist" means an obstetrician or gynecologist who is  
 12 employed by or under contract with a health benefit plan ~~and includes certified advanced practice registered~~  
 13 ~~nurses practicing in collaboration with and under the supervision of the participating obstetrician or~~  
 14 ~~gynecologist.~~

15 (6) "Primary care physician" means a physician who has the responsibility for providing initial and  
 16 primary care to patients, for maintaining the continuity of patient care, and for initiating referrals for  
 17 specialist care.

18  
 19 **NEW SECTION. Section 3. Obstetricians or gynecologists as primary care physicians.** (1) Each  
 20 health benefit plan **THAT PROVIDES COVERAGE FOR PRIMARY CARE OR OBSTETRICAL OR**  
 21 **GYNECOLOGICAL CARE** must ~~include~~ **ALLOW** obstetricians and gynecologists **TO PARTICIPATE** as primary  
 22 care physicians. The health carrier that provides the health benefit plan shall contract with a sufficient  
 23 number of obstetricians and gynecologists to ensure that covered persons have access to the options under  
 24 this section without unreasonable delay **IF THERE ARE OBSTETRICIANS OR GYNECOLOGISTS PRACTICING**  
 25 **IN THE GEOGRAPHIC SERVICE AREAS IN WHICH THE PLAN OPERATES WHO ARE WILLING TO**  
 26 **PARTICIPATE IN THE PLAN.** An obstetrician or gynecologist may not be required to accept primary care  
 27 physician status if the obstetrician or gynecologist does not wish to be designated as a primary care  
 28 physician. A health benefit plan must use the same criteria with regard to credentials and other selection  
 29 criteria for a participating obstetrician or gynecologist as are ~~usually~~ applied by the health benefit plan with  
 30 respect to other physicians who are participating in the health benefit plan. **AN OBSTETRICIAN OR**



1 GYNECOLOGIST WISHING TO ACCEPT DESIGNATION AS A PRIMARY CARE PHYSICIAN MUST MEET THE  
 2 SAME CRITERIA WITH REGARD TO CREDENTIALS AND OTHER SELECTION CRITERIA FOR A  
 3 PARTICIPATING PRIMARY CARE PHYSICIAN AS OTHER PHYSICIANS WHO ARE PARTICIPATING AS  
 4 PRIMARY CARE PHYSICIANS IN THE HEALTH BENEFIT PLAN.

5 (2) Each health benefit plan must allow a covered person to select any participating obstetrician  
 6 or gynecologist of the covered person's choice as the covered person's primary care physician.

7

8 NEW SECTION. Section 4. Self-referral for obstetrical or gynecological care permitted. (1) A health  
 9 benefit plan must permit self-referral to any participating obstetrician or gynecologist by a covered person  
 10 who has not selected a participating obstetrician or gynecologist as the covered person's primary care  
 11 physician FOR SERVICES COVERED UNDER THE HEALTH BENEFIT PLAN. This self-referral ~~must be~~  
 12 ~~allowed without prior authorization or precertification from the health benefit plan or the covered person's~~  
 13 ~~primary care physician and~~ is for the purpose of receiving any obstetrical or gynecological examination or  
 14 care and primary and preventative obstetrical and gynecological services required as a result of any  
 15 obstetrical or gynecological examination or condition. THIS SELF-REFERRAL MUST BE ALLOWED  
 16 WITHOUT PRIOR AUTHORIZATION OR PRECERTIFICATION FROM THE HEALTH BENEFIT PLAN OR  
 17 COVERED PERSON'S PRIMARY CARE PHYSICIAN, BUT THE HEALTH BENEFIT PLAN MAY REQUIRE THE  
 18 COVERED PERSON TO NOTIFY THE PLAN PRIOR TO SELF-REFERRAL.

19 (2) The services covered by this section ~~are~~ MAY BE limited to those services defined by the MOST  
 20 RECENT published recommendations of the ~~accreditation council for graduate medical education for training~~  
 21 ~~as an obstetrician or gynecologist, including but not limited to diagnosis, treatment, and referral.~~  
 22 AMERICAN COLLEGE OF OBSTETRICIANS AND GYNECOLOGISTS. THE SELF-REFERRAL PERMITTED BY  
 23 THIS SECTION MAY BE LIMITED TO ONE PARTICIPATING OBSTETRICIAN OR GYNECOLOGIST FOR  
 24 OBSTETRICAL CARE AND ONE PARTICIPATING OBSTETRICIAN OR GYNECOLOGIST FOR  
 25 GYNECOLOGICAL CARE OF THE COVERED PERSON'S CHOICE ANNUALLY.

26 (3) The participating obstetrician or gynecologist AND THE COVERED PERSON shall comply with  
 27 the health benefit plan's coordination and referral policies. The health benefit plan may require the  
 28 participating obstetrician or gynecologist to whom the covered person self-refers to discuss with the  
 29 covered person's primary care physician any services or treatment the participating obstetrician or  
 30 gynecologist recommends for the covered person.

1 (4) Self-referral under this section may not affect the covered person's coverage under the health  
 2 benefit plan. It is the intent of this section that a covered person must at all times have direct access to  
 3 the COVERED services of a THE participating obstetrician or gynecologist of the covered person's choice  
 4 under any health benefit plan.

5  
 6 NEW SECTION. Section 5. Surcharges not allowed. A health benefit plan may not impose a  
 7 surcharge or additional copayments or deductibles upon a covered person who seeks or receives health care  
 8 services under [section 3 or 4] unless similar surcharges or additional copayments or deductibles are  
 9 imposed for other types of health care services not described in [sections 3 and 4].

10  
 11 NEW SECTION. SECTION 6. PAYMENT OF COVERED SERVICES PROVIDED BY CERTIFIED  
 12 ADVANCED PRACTICE REGISTERED NURSES. A HEALTH BENEFIT PLAN MAY NOT DENY PAYMENT FOR  
 13 COVERED SERVICES PROVIDED TO A COVERED PERSON UNDER [SECTIONS 3 AND 4] BY A CERTIFIED  
 14 ADVANCED PRACTICE REGISTERED NURSE PRACTICING IN COLLABORATION WITH THE PARTICIPATING  
 15 OBSTETRICIAN OR GYNECOLOGIST. THIS SECTION MAY NOT BE CONSTRUED TO EXPAND THE  
 16 DEFINITIONS OF PARTICIPATING OBSTETRICIAN OR GYNECOLOGIST OR PRIMARY CARE PHYSICIAN IN  
 17 [SECTION 2] TO INCLUDE CERTIFIED ADVANCED PRACTICE REGISTERED NURSES.

18  
 19 NEW SECTION. Section 7. Disclosure. Each health benefit plan shall disclose in all of its plan  
 20 literature, in clear accurate language, the covered person's option to seek the care described in [sections  
 21 1 through 8] without preapproval, preauthorization, or referral.

22  
 23 ~~NEW SECTION. Section 7. Rulemaking authority. The commissioner shall adopt rules necessary~~  
 24 ~~to implement the provisions of [sections 1 through 8].~~

25  
 26 NEW SECTION. Section 8. Enforcement. If the commissioner determines that a health benefit plan  
 27 does not comply with [sections 1 through 8] or that a health carrier has not complied with a provision of  
 28 [sections 1 through 8], the commissioner may:

- 29 (1) recommend a correction plan that must be followed by the health carrier;  
 30 (2) institute corrective action that must be followed by the health carrier;

1 (3) suspend or revoke the certificate of authority or deny the health carrier's application for a  
2 certificate of authority; or

3 (4) use any of the commissioner's enforcement powers to obtain the health carrier's compliance  
4 with [sections 1 through 8].

5  
6 **SECTION 9. SECTION 33-22-101, MCA, IS AMENDED TO READ:**

7 **"33-22-101. Exceptions to scope.** Parts 1 through 4 of this chapter, except 33-22-107,  
8 33-22-110, 33-22-111, 33-22-114, 33-22-125, 33-22-130 through 33-22-132, 33-22-243, ~~and~~  
9 33-22-304, and [sections 1 through 8] do not apply to or affect:

10 (1) any policy of liability or workers' compensation insurance with or without supplementary  
11 expense coverage;

12 (2) any group or blanket policy;

13 (3) life insurance, endowment, or annuity contracts or supplemental contracts that contain only  
14 those provisions relating to disability insurance as:

15 (a) provide additional benefits in case of death or dismemberment or loss of sight by accident or  
16 accidental means; or

17 (b) operate to safeguard contracts against lapse or to give a special surrender value or special  
18 benefit or an annuity in the event that the insured or annuitant becomes totally and permanently disabled,  
19 as defined by the contract or supplemental contract;

20 (4) reinsurance."  
21

22 **SECTION 10. SECTION 33-31-111, MCA, IS AMENDED TO READ:**

23 **"33-31-111. Statutory construction and relationship to other laws.** (1) Except as otherwise  
24 provided in this chapter, the insurance or health service corporation laws do not apply to any health  
25 maintenance organization authorized to transact business under this chapter. This provision does not apply  
26 to an insurer or health service corporation licensed and regulated pursuant to the insurance or health service  
27 corporation laws of this state except with respect to its health maintenance organization activities  
28 authorized and regulated pursuant to this chapter.

29 (2) Solicitation of enrollees by a health maintenance organization granted a certificate of authority  
30 or its representatives may not be construed as a violation of any law relating to solicitation or advertising

1 by health professionals.

2 (3) A health maintenance organization authorized under this chapter may not be considered to be  
3 practicing medicine and is exempt from Title 37, chapter 3, relating to the practice of medicine.

4 (4) The provisions of this chapter do not exempt a health maintenance organization from the  
5 applicable certificate of need requirements under Title 50, chapter 5, parts 1 and 3.

6 (5) The provisions of this section do not exempt a health maintenance organization from material  
7 transaction disclosure requirements under 33-3-701 through 33-3-704. A health maintenance organization  
8 must be considered an insurer for the purposes of 33-3-701 through 33-3-704.

9 (6) The provisions of this section do not exempt a health maintenance organization from the  
10 provisions of [sections 1 through 8]."

11

12 **NEW SECTION. Section 11. Codification instruction.** [Sections 1 through 8] are intended to be  
13 codified as an integral part of Title 33, chapter 22, and the provisions of Title 33, chapter 22, apply to  
14 [sections 1 through 8].

15

16 **NEW SECTION. Section 12. Severability.** If a part of [this act] is invalid, all valid parts that are  
17 severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its  
18 applications, the part remains in effect in all valid applications that are severable from the invalid  
19 applications.

20

21 **NEW SECTION. Section 13. Applicability.** [This act] applies to each health benefit plan that is  
22 issued, delivered, issued for delivery, or renewed in Montana on or after ~~October 1, 1997~~ JANUARY 1,  
23 1998.

24

25 **NEW SECTION. Section 14. Effective date.** [This act] is effective on passage and approval.

26

-END-

## 1 SENATE BILL NO. 144

2 INTRODUCED BY KEATING, BOOKOUT, ECK, BARTLETT, WYATT, HOLDEN

3  
 4 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR THE INCLUSION OF PARTICIPATING  
 5 OBSTETRICIANS AND GYNECOLOGISTS AS PRIMARY CARE PHYSICIANS; PROVIDING THAT A HEALTH  
 6 BENEFIT PLAN MAY NOT REQUIRE A REFERRAL FROM A PRIMARY CARE PHYSICIAN AS A CONDITION  
 7 FOR THE COVERAGE OF THE SERVICES OF AN OBSTETRICIAN OR GYNECOLOGIST; PROVIDING  
 8 COVERAGE FOR SERVICES PROVIDED BY AN ADVANCED PRACTICE REGISTERED NURSE IN  
 9 COLLABORATION WITH THE PARTICIPATING OBSTETRICIAN OR GYNECOLOGIST; REQUIRING NOTICE  
 10 TO COVERED PERSONS; AMENDING SECTION SECTIONS 33-22-101 AND 33-31-111, MCA; AND  
 11 PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE."  
 12

13 WHEREAS, the specialty of obstetrics and gynecology is devoted to primary and preventative health  
 14 care of women throughout their lifetime; and

15 WHEREAS, significant numbers of women view their obstetrician and gynecologist as their primary  
 16 or only physician; and

17 WHEREAS, for many women, an obstetrician or gynecologist is often the only physician they see  
 18 regularly during their reproductive years; and

19 WHEREAS, a general medical examination was the second most frequently cited purpose for patient  
 20 visits to obstetricians and gynecologists in 1989 and 1990; and

21 WHEREAS, obstetricians and gynecologists refer their patients less frequently than other primary  
 22 care physicians, thus avoiding costly and time-consuming referrals to specialists.  
 23

## 24 STATEMENT OF INTENT

25 ~~A statement of intent is required for this bill because [section 7] grants rulemaking authority to the~~  
 26 ~~commissioner of insurance. The rules adopted by the commissioner must establish standards for health~~  
 27 ~~benefit plans to ensure that:~~

28 ~~(1) obstetricians or gynecologists who wish to accept primary care physician status under health~~  
 29 ~~benefit plans may do so as long as they meet other criteria with regard to selection and credentials;~~

30 ~~(2) health benefit plans must permit a covered person to select a participating obstetrician or~~

1 gynecologist as a primary care physician;

2 ~~(3) a covered person who does not select a participating obstetrician or gynecologist as a primary~~  
 3 ~~care physician may have direct access to a participating obstetrician or gynecologist for obstetrical and~~  
 4 ~~gynecological services;~~

5 ~~(4) health benefit plans provide notice of the options to select a participating obstetrician or~~  
 6 ~~gynecologist as a primary care physician or to use self-referral for obstetrical and gynecological services;~~

7 and

8 ~~(5) health benefit plans do not surcharge or impose additional deductibles or copayments for the~~  
 9 ~~options in [sections 3 and 4] if other plan services are not similarly surcharged or additional deductibles or~~  
 10 ~~copayments are not imposed.~~

11

12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

13

14 **NEW SECTION. Section 1. Scope -- purpose.** The provisions of [sections 1 through 8] apply to  
 15 all health benefit plans offered to persons who receive health care services in this state. The purpose of  
 16 [sections 1 through 8] is to ensure that obstetricians and gynecologists may be participating primary care  
 17 physicians under health benefit plans offered to patients who receive health care services in this state and  
 18 that persons covered by health benefit plans have direct access to the services of a participating  
 19 obstetrician or gynecologist of their choice.

20

21 **NEW SECTION. Section 2. Definitions.** As used in [sections 1 through 8], the following definitions  
 22 apply:

23 (1) "Covered person" means a policyholder, subscriber, certificate holder, enrollee, or other  
 24 individual who is participating in a health benefit plan.

25 (2) "Health benefit plan" means any individual or group plan, policy, certificate, subscriber contract,  
 26 contract of insurance provided by a ~~prepaid hospital or medical service plan,~~ **MANAGED CARE PLAN,**  
 27 **PREFERRED PROVIDER AGREEMENT, OR** health maintenance organization subscriber contract, ~~or contract~~  
 28 ~~for health care services~~ that is issued, delivered, issued for delivery, or renewed in this state by a health  
 29 carrier ~~or publicly funded health care program~~ that pays for, purchases, or furnishes health care services  
 30 to covered persons who receive health care services in this state. For the purposes of [sections 1 through

1 8], a health benefit plan located or domiciled outside of the state of Montana is subject to the provisions  
 2 of [sections 1 through 8] if it receives, processes, adjudicates, pays, or denies claims for health care  
 3 services submitted by or on behalf of covered persons who reside or who receive health care services in  
 4 the state of Montana.

5 (3) "Health carrier" means a disability insurer, health care insurer, health maintenance organization,  
 6 accident and sickness insurer, fraternal benefit society, nonprofit hospital service corporation, health service  
 7 corporation, health care service plan, preferred provider organization or arrangement, multiple employer  
 8 welfare arrangement, or any other person, firm, corporation, joint venture, or similar business entity.

9 (4) "Obstetrician or gynecologist" means a physician who is board-eligible or board-certified by the  
 10 American board of obstetrics and gynecology.

11 (5) "Participating obstetrician or gynecologist" means an obstetrician or gynecologist who is  
 12 employed by or under contract with a health benefit plan ~~and includes certified advanced practice registered~~  
 13 ~~nurses practicing in collaboration with and under the supervision of the participating obstetrician or~~  
 14 ~~gynecologist.~~

15 (6) "Primary care physician" means a physician who has the responsibility for providing initial and  
 16 primary care to patients, for maintaining the continuity of patient care, and for initiating referrals for  
 17 specialist care.

18  
 19 **NEW SECTION. Section 3. Obstetricians or gynecologists as primary care physicians.** (1) Each  
 20 health benefit plan THAT PROVIDES COVERAGE FOR PRIMARY CARE OR OBSTETRICAL OR  
 21 GYNECOLOGICAL CARE must ~~include~~ ALLOW obstetricians and gynecologists TO PARTICIPATE as primary  
 22 care physicians. The health carrier that provides the health benefit plan shall contract with a sufficient  
 23 number of obstetricians and gynecologists to ensure that covered persons have access to the options under  
 24 this section without unreasonable delay IF THERE ARE OBSTETRICIANS OR GYNECOLOGISTS PRACTICING  
 25 IN THE GEOGRAPHIC SERVICE AREAS IN WHICH THE PLAN OPERATES WHO ARE WILLING TO  
 26 PARTICIPATE IN THE PLAN. An obstetrician or gynecologist may not be required to accept primary care  
 27 physician status if the obstetrician or gynecologist does not wish to be designated as a primary care  
 28 physician. A health benefit plan must use the same criteria with regard to credentials and other selection  
 29 criteria for a participating obstetrician or gynecologist as are ~~usually~~ applied by the health benefit plan with  
 30 respect to other physicians who are participating in the health benefit plan. AN OBSTETRICIAN OR

1 GYNECOLOGIST WISHING TO ACCEPT DESIGNATION AS A PRIMARY CARE PHYSICIAN MUST MEET THE  
 2 SAME CRITERIA WITH REGARD TO CREDENTIALS AND OTHER SELECTION CRITERIA FOR A  
 3 PARTICIPATING PRIMARY CARE PHYSICIAN AS OTHER PHYSICIANS WHO ARE PARTICIPATING AS  
 4 PRIMARY CARE PHYSICIANS IN THE HEALTH BENEFIT PLAN.

5 (2) Each health benefit plan must allow a covered person to select any participating obstetrician  
 6 or gynecologist of the covered person's choice as the covered person's primary care physician.

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8 NEW SECTION. Section 4. Self-referral for obstetrical or gynecological care permitted. (1) A health  
 9 benefit plan must permit self-referral to any participating obstetrician or gynecologist by a covered person  
 10 who has not selected a participating obstetrician or gynecologist as the covered person's primary care  
 11 physician FOR SERVICES COVERED UNDER THE HEALTH BENEFIT PLAN. This self-referral ~~must be~~  
 12 ~~allowed without prior authorization or precertification from the health benefit plan or the covered person's~~  
 13 ~~primary care physician and~~ is for the purpose of receiving any obstetrical or gynecological examination or  
 14 care and primary and preventative obstetrical and gynecological services required as a result of any  
 15 obstetrical or gynecological examination or condition. THIS SELF-REFERRAL MUST BE ALLOWED  
 16 WITHOUT PRIOR AUTHORIZATION OR PRECERTIFICATION FROM THE HEALTH BENEFIT PLAN OR  
 17 COVERED PERSON'S PRIMARY CARE PHYSICIAN, BUT THE HEALTH BENEFIT PLAN MAY REQUIRE THE  
 18 COVERED PERSON TO NOTIFY THE PLAN PRIOR TO SELF-REFERRAL.

19 (2) The services covered by this section ~~are~~ MAY BE limited to those services defined by the MOST  
 20 RECENT published recommendations of the ~~accreditation council for graduate medical education for training~~  
 21 ~~as an obstetrician or gynecologist, including but not limited to diagnosis, treatment, and referral.~~  
 22 AMERICAN COLLEGE OF OBSTETRICIANS AND GYNECOLOGISTS. THE SELF-REFERRAL PERMITTED BY  
 23 THIS SECTION MAY BE LIMITED TO ONE PARTICIPATING OBSTETRICIAN OR GYNECOLOGIST FOR  
 24 OBSTETRICAL CARE AND ONE PARTICIPATING OBSTETRICIAN OR GYNECOLOGIST FOR  
 25 GYNECOLOGICAL CARE OF THE COVERED PERSON'S CHOICE ANNUALLY.

26 (3) The participating obstetrician or gynecologist AND THE COVERED PERSON shall comply with  
 27 the health benefit plan's coordination and referral policies. The health benefit plan may require the  
 28 participating obstetrician or gynecologist to whom the covered person self-refers to discuss with the  
 29 covered person's primary care physician any services or treatment the participating obstetrician or  
 30 gynecologist recommends for the covered person.



1 (4) Self-referral under this section may not affect the covered person's coverage under the health  
 2 benefit plan. It is the intent of this section that a covered person must at all times have direct access to  
 3 the COVERED services of a THE participating obstetrician or gynecologist of the covered person's choice  
 4 under any health benefit plan.

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 6 **NEW SECTION. Section 5. Surcharges not allowed.** A health benefit plan may not impose a  
 7 surcharge or additional copayments or deductibles upon a covered person who seeks or receives health care  
 8 services under [section 3 or 4] unless similar surcharges or additional copayments or deductibles are  
 9 imposed for other types of health care services not described in [sections 3 and 4].

10  
 11 **NEW SECTION. SECTION 6. PAYMENT OF COVERED SERVICES PROVIDED BY CERTIFIED**  
 12 **ADVANCED PRACTICE REGISTERED NURSES. A HEALTH BENEFIT PLAN MAY NOT DENY PAYMENT FOR**  
 13 **COVERED SERVICES PROVIDED TO A COVERED PERSON UNDER [SECTIONS 3 AND 4] BY A CERTIFIED**  
 14 **ADVANCED PRACTICE REGISTERED NURSE PRACTICING IN COLLABORATION WITH THE PARTICIPATING**  
 15 **OBSTETRICIAN OR GYNECOLOGIST. THIS SECTION MAY NOT BE CONSTRUED TO EXPAND THE**  
 16 **DEFINITIONS OF PARTICIPATING OBSTETRICIAN OR GYNECOLOGIST OR PRIMARY CARE PHYSICIAN IN**  
 17 **[SECTION 2] TO INCLUDE CERTIFIED ADVANCED PRACTICE REGISTERED NURSES.**

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 19 **NEW SECTION. Section 7. Disclosure.** Each health benefit plan shall disclose in all of its plan  
 20 literature, in clear accurate language, the covered person's option to seek the care described in [sections  
 21 1 through 8] without preapproval, preauthorization, or referral.

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 23 ~~**NEW SECTION. Section 7. Rulemaking authority.** The commissioner shall adopt rules necessary  
 24 to implement the provisions of [sections 1 through 8].~~

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 26 **NEW SECTION. Section 8. Enforcement.** If the commissioner determines that a health benefit plan  
 27 does not comply with [sections 1 through 8] or that a health carrier has not complied with a provision of  
 28 [sections 1 through 8], the commissioner may:

- 29 (1) recommend a correction plan that must be followed by the health carrier;  
 30 (2) institute corrective action that must be followed by the health carrier;

1 (3) suspend or revoke the certificate of authority or deny the health carrier's application for a  
2 certificate of authority; or

3 (4) use any of the commissioner's enforcement powers to obtain the health carrier's compliance  
4 with [sections 1 through 8].

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6 **SECTION 9. SECTION 33-22-101, MCA, IS AMENDED TO READ:**

7 "33-22-101. **Exceptions to scope.** Parts 1 through 4 of this chapter, except 33-22-107,  
8 33-22-110, 33-22-111, 33-22-114, 33-22-125, 33-22-130 through 33-22-132, 33-22-243, and  
9 33-22-304, and [sections 1 through 8] do not apply to or affect:

10 (1) any policy of liability or workers' compensation insurance with or without supplementary  
11 expense coverage;

12 (2) any group or blanket policy;

13 (3) life insurance, endowment, or annuity contracts or supplemental contracts that contain only  
14 those provisions relating to disability insurance as:

15 (a) provide additional benefits in case of death or dismemberment or loss of sight by accident or  
16 accidental means; or

17 (b) operate to safeguard contracts against lapse or to give a special surrender value or special  
18 benefit or an annuity in the event that the insured or annuitant becomes totally and permanently disabled,  
19 as defined by the contract or supplemental contract;

20 (4) reinsurance."

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22 **SECTION 10. SECTION 33-31-111, MCA, IS AMENDED TO READ:**

23 "33-31-111. **Statutory construction and relationship to other laws.** (1) Except as otherwise  
24 provided in this chapter, the insurance or health service corporation laws do not apply to any health  
25 maintenance organization authorized to transact business under this chapter. This provision does not apply  
26 to an insurer or health service corporation licensed and regulated pursuant to the insurance or health service  
27 corporation laws of this state except with respect to its health maintenance organization activities  
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29 (2) Solicitation of enrollees by a health maintenance organization granted a certificate of authority  
30 or its representatives may not be construed as a violation of any law relating to solicitation or advertising

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2 (3) A health maintenance organization authorized under this chapter may not be considered to be  
3 practicing medicine and is exempt from Title 37, chapter 3, relating to the practice of medicine.

4 (4) The provisions of this chapter do not exempt a health maintenance organization from the  
5 applicable certificate of need requirements under Title 50, chapter 5, parts 1 and 3.

6 (5) The provisions of this section do not exempt a health maintenance organization from material  
7 transaction disclosure requirements under 33-3-701 through 33-3-704. A health maintenance organization  
8 must be considered an insurer for the purposes of 33-3-701 through 33-3-704.

9 (6) The provisions of this section do not exempt a health maintenance organization from the  
10 provisions of [sections 1 through 8]."

11  
12 **NEW SECTION. Section 11. Codification instruction.** [Sections 1 through 8] are intended to be  
13 codified as an integral part of Title 33, chapter 22, and the provisions of Title 33, chapter 22, apply to  
14 [sections 1 through 8].

15  
16 **NEW SECTION. Section 12. Severability.** If a part of [this act] is invalid, all valid parts that are  
17 severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its  
18 applications, the part remains in effect in all valid applications that are severable from the invalid  
19 applications.

20  
21 **NEW SECTION. Section 13. Applicability.** [This act] applies to each health benefit plan that is  
22 issued, delivered, issued for delivery, or renewed in Montana on or after ~~October 1, 1997~~ JANUARY 1,  
23 1998.

24  
25 **NEW SECTION. Section 14. Effective date.** [This act] is effective on passage and approval.

26 -END-