



**STATE OF VERMONT
OFFICE OF THE ATTORNEY GENERAL**



**Office of The Attorney General
State of Connecticut**

November 13, 2009

The Honorable Patrick J. Leahy, Chair
The Honorable Jeff Sessions, Ranking Member
Committee on the Judiciary
SD-224 Dirksen Senate Office Building
Washington, D.C. 20510-6275

Dear Senators Leahy and Sessions:

The undersigned Attorneys General from the states of Vermont, Connecticut, Massachusetts, Maine, Oregon, Arizona, Iowa, Montana, Florida, and Wyoming support congressional passage of S.1681 and section 262 of H.R.3962, which would repeal the antitrust exemption for health and medical malpractice insurers under the McCarran-Ferguson Act, 15 U.S.C. §§ 1011-1015. The McCarran-Ferguson exemption is a historical anomaly and accident – serving no purpose except to exempt insurers from anti-competitive conduct prohibitions that apply to almost every other industry. While we have joined in the formal National Association of Attorneys General's nearly unanimous endorsement of a broad repeal of McCarran-Ferguson, we are writing to urge the more specific repeal for the health and medical malpractice insurers contained in S.1681 and section 262 of H.R.3962.

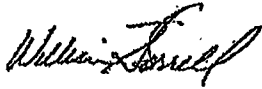
Repeal of the McCarran-Ferguson exemption would enhance competition in health and medical malpractice insurance by giving state enforcers, as well as federal enforcers, additional tools to combat harmful anti-competitive conduct. While the McCarran-Ferguson exemption applies by its terms only to federal antitrust law, many state antitrust enforcers are equally constrained by state statutes or case law requiring adherence to federal antitrust law. States have worked collaboratively with the United States Department of Justice and Federal Trade Commission in cohesive and consistent enforcement of anti-competitive behavior – in many areas except insurance. Consistent, reasoned enforcement of state and federal antitrust laws benefits market participants as well as enforcers by eliminating uncertainty.

The McCarran-Ferguson exemption serves no plausible public interest. Almost 70 years ago, it was enacted to ensure continued state regulatory control over the insurance industry after the United States Supreme Court had ruled that the insurance industry could be subject to federal regulation in *United States v. South-Eastern Underwriters Association*. Since 1977, and most recently in 2007, antitrust experts and enforcers have concluded that repealing the McCarran-Ferguson exemption would result in enhancing competition while allowing standard industry practices necessary for the proper functioning of these markets, such as sharing loss and other insured risk information.

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We urge quick action to repeal the McCarran-Ferguson exemption for health and medical malpractice insurers, making antitrust enforcement the same here as for virtually all other industries, thereby enhancing competition to the benefit of consumers.

Very truly yours,



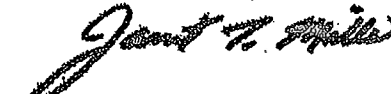
William Sorrell
Attorney General of Vermont



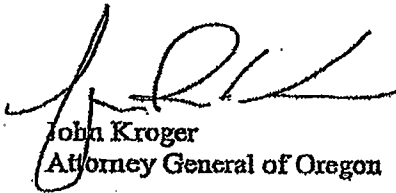
Richard Blumenthal
Attorney General of Connecticut



Martha Coakley
Attorney General of Massachusetts




Janet Mills
Attorney General of Maine



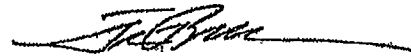
John Kroger
Attorney General of Oregon



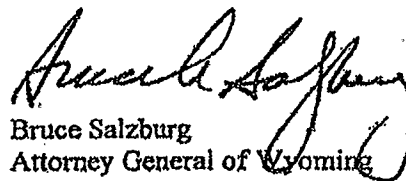
Terry Goddard
Attorney General of Arizona



Tom Miller
Attorney General of Iowa



Steve Bullock
Attorney General of Montana



Bruce Salzburg
Attorney General of Wyoming