



State of North Carolina  
Department of Justice

*Roy Cooper, Attorney General*

April 16, 2010

The Hon. Beverly Perdue, Governor  
State of North Carolina  
Capitol Building  
Raleigh, N. C. 27602

VIA: U. S. Mail and Fax

Dear Governor Perdue:

After the recent passage of the Patient Protection and Affordable Care Act, H.R. 3590, I received requests from several elected officials to have North Carolina join a lawsuit filed against the United States of America by a number of state Attorneys General challenging this legislation.

Our attorneys, including the Solicitor General and my General Counsel, have studied the law and the provisions of the legislation that have given rise to the legal action.

After careful consideration, I have concluded that North Carolina will not join this lawsuit. I have attached a memorandum from Solicitor General Christopher Browning which outlines the legal considerations upon which I base this decision. The United States Supreme Court has held that duly ratified acts of Congress are presumed to be constitutional and it is clear that Congress has extremely broad authority under the Commerce Clause of the United States Constitution.

Health insurance reform and access to health care are policy decisions that should be decided by elected representatives, not by appointed federal judges. There is ample time for elected representatives to change this legislation since most of the provisions in question will not take effect until the year 2013.

In the unlikely event that this legal challenge does succeed, any decision will likely affect all of the states, including North Carolina, regardless of whether our state joins.

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The Hon. Beverly Perdue  
Page 2  
April 16, 2010

I would also draw your attention to several provisions of the law that would directly address some of the frequent health insurance complaints my Consumer Protection Division gets from everyday North Carolinians.

The new law will prohibit health insurance companies from refusing to insure people based on preexisting health conditions, as they often do now. It would also prevent insurance companies from removing people from health care insurance policies after they suffer a serious illness or accident. These are important protections for people who have suffered from unfair health insurance provisions and it is feared that these protections may be repealed in the unlikely event the lawsuit succeeds.

Problems with health insurance and health care have led the list of consumer complaints in our office for the past five years. Instead of court fights and exaggerated rhetoric from both sides, it is my hope that state and federal leaders will focus on the real health care challenges people face every day.

My office will continue to carefully monitor this case and review the issues that arise, and please feel free to contact me if you should have any questions.

With kind regards, I am

Very truly yours,



Roy Cooper

RAC/sm

Enclosures