

HOUSE BILL NO. 118  
INTRODUCED BY J. BROWN

IN THE HOUSE

JANUARY 9, 1991                   INTRODUCED AND REFERRED TO COMMITTEE  
  ON HUMAN SERVICES & AGING.

  FIRST READING.

JANUARY 15, 1991                   COMMITTEE RECOMMEND BILL  
  DO PASS AS AMENDED. REPORT ADOPTED.

JANUARY 16, 1991                   PRINTING REPORT.

JANUARY 17, 1991                   SECOND READING, DO PASS AS AMENDED.

JANUARY 18, 1991                   ENGROSSING REPORT.

JANUARY 19, 1991                   THIRD READING, PASSED.  
  AYES, 91; NOES, 3.

  TRANSMITTED TO SENATE.

IN THE SENATE

JANUARY 21, 1991                   INTRODUCED AND REFERRED TO COMMITTEE  
  ON PUBLIC HEALTH, WELFARE, & SAFETY.

  FIRST READING.

MARCH 7, 1991                    COMMITTEE RECOMMEND BILL BE  
  CONCURRED IN AS AMENDED. REPORT  
  ADOPTED.

MARCH 9, 1991                    SECOND READING, CONCURRED IN.

MARCH 11, 1991                   THIRD READING, CONCURRED IN.  
  AYES, 48; NOES, 1.

  RETURNED TO HOUSE WITH AMENDMENTS.

IN THE HOUSE

MARCH 16, 1991                   RECEIVED FROM SENATE.

  SECOND READING, AMENDMENTS  
  CONCURRED IN.

MARCH 18, 1991                   THIRD READING, AMENDMENTS

CONCURRED IN.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 HOUSE BILL NO. 118  
 2 INTRODUCED BY J. Brown  
 3

4 A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING A LICENSED  
 5 PHARMACIST TO USE THE SERVICES OF A PHARMACY TECHNICIAN  
 6 UNDER THE TERMS OF AN APPROVED UTILIZATION PLAN; PROVIDING  
 7 FOR TRAINING OF PHARMACY TECHNICIANS; PROVIDING FOR FEES AND  
 8 PENALTIES; AMENDING SECTIONS 37-7-101, 37-7-301, AND  
 9 37-7-323, MCA; AND PROVIDING EFFECTIVE DATES."

10 STATEMENT OF INTENT

11 It is the intent of the legislature that the board of  
 12 pharmacy, to implement [sections 3 through 7], adopt rules  
 13 that, among other issues, describe the functions that a  
 14 pharmacy technician is permitted to perform, including but  
 15 not limited to:

- 16 (1) removing a stock bottle from the shelf and counting  
 17 and pouring the contents into a suitable container under  
 18 direct supervision of a pharmacist;
- 19 (2) typing a prescription label and affixing it to a  
 20 prescription bottle, with a final check and any patient  
 21 counseling performed by the pharmacist;
- 22 (3) entering prescription information into a data  
 23 processing system under supervision of a pharmacist who must  
 24 be able to check all entries;

1 (4) maintaining prescription records, including  
 2 prescription numbers, refill data, and other information on  
 3 the patient profile system;

4 (5) prepackaging unit dose drugs for internal  
 5 distribution. These prepackage unit dose drugs must be  
 6 quarantined together with bulk containers until a pharmacist  
 7 performs a final check and maintains appropriate records.

8 (6) selling nonprescription drugs in their original  
 9 containers without engaging in patient counseling;

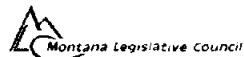
10 (7) receiving and checking in pharmaceuticals,  
 11 including controlled substances, if the pharmacy technician  
 12 initials and dates all invoices with the actual date the  
 13 drugs were received;

14 (8) participating in the biennial inventory of  
 15 controlled substances, provided a pharmacist supervises the  
 16 process. The supervising pharmacist must cosign the  
 17 inventory list with the participating pharmacist and  
 18 pharmacy technician.

19 (9) compounding intravenous solutions if a mechanism  
 20 for verification exists that includes checking of the  
 21 original order, solutions, additives, dosages, and clarity.

22 The legislature also intends that the board adopt rules  
 23 establishing standards for the training required by [section  
 24 5], which must include instruction in:

- 25 (1) orientation to the practice of pharmacy;



- 1 (2) pharmacy terminology and basic pharmaceuticals;  
 2 (3) state and federal laws relating to the practice of  
 3 pharmacy;  
 4 (4) pharmaceutical calculations;  
 5 (5) processing prescription drug orders;  
 6 (6) telephone procedure and communication;  
 7 (7) pharmaceutical compounding, including intravenous  
 8 admixture; and  
 9 (8) use of pharmacy computer systems, if applicable.
- 10 The legislature further intends that the board's rules  
 11 allow a supervising pharmacist to use the services of only  
 12 one technician at a time, except that the pharmacist may use  
 13 two technicians at a time if both pharmacy technicians are  
 14 performing any of the following procedures:
- 15 (1) intravenous admixture and other sterile product  
 16 preparation;  
 17 (2) filling of unit dose cassettes;  
 18 (3) prepackaging; and  
 19 (4) bulk compounding.

20  
 21 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

22 **Section 1.** Section 37-7-101, MCA, is amended to read:

23 \*37-7-101. Definitions. Unless the context requires  
 24 otherwise, in parts 1 through 3 of this chapter, the  
 25 following definitions apply:

- 1 (1) "Board" means the board of pharmacy provided for in  
 2 2-15-1843.  
 3 (2) "Chemical" means medicinal or industrial  
 4 substances, whether simple, compound, or obtained through  
 5 the process of the science and art of chemistry, whether of  
 6 organic or inorganic origin.  
 7 (3) "Commercial purposes" means the ordinary purposes  
 8 of trade, agriculture, industry, and commerce, exclusive of  
 9 the practices of medicine and pharmacy.  
 10 (4) "Continuing education" means professional  
 11 pharmaceutical postgraduate education in the following  
 12 areas:  
 13 (a) the socioeconomic and legal aspects of health care;  
 14 (b) the properties and actions of drugs and dosage  
 15 forms; and  
 16 (c) the etiology, characteristics, and therapeutics of  
 17 the disease state.  
 18 (5) "Department" means the department of commerce  
 19 provided for in Title 2, chapter 15, part 18.  
 20 (6) (a) "Drug" means:  
 21 (i) articles recognized in the official United States  
 22 Pharmacopoeia/National Formulary or a supplement to them;  
 23 (ii) articles intended for use in diagnosis, cure,  
 24 mitigation, treatment, or prevention of disease in man or  
 25 other animals;

1 (iii) articles (other than food) intended to affect the  
2 structure or function of the body of man or other animals;  
3 and

4 (iv) articles intended for use as a component of an  
5 article specified in subsection (i), (ii), or (iii).

6 (b) "Drug" does not include devices or their  
7 components, parts, or accessories.

8 (7) "Intern" means a natural person licensed by the  
9 department to prepare, compound, dispense, and sell drugs,  
10 medicines, chemicals, and poisons under the supervision of a  
11 registered and licensed pharmacist.

12 (8) "Medicine" means a remedial agent which has the  
13 property of curing, preventing, treating, or mitigating  
14 diseases or which is used for this purpose.

15 (9) "Person" includes an individual, partnership,  
16 corporation, or association.

17 (10) "Pharmacist" means a natural person licensed by the  
18 department to prepare, compound, dispense, and sell drugs,  
19 medicines, chemicals, and poisons and who may affix to his  
20 name the term "R.Ph."

21 (11) "Pharmacy" means an established place registered by  
22 the department of commerce in which prescriptions, drugs  
23 requiring a prescription, medicines, chemicals, and poisons  
24 are compounded, dispensed, vended, or sold.

25 (12) "Pharmacy technician" means an individual who

1 assists a pharmacist in the practice of pharmacy pursuant to  
2 an approved utilization plan.

3 ~~{12}~~(13) "Poison" means a substance which, when  
4 introduced into the system, either directly or by  
5 absorption, produces violent, morbid, or fatal changes or  
6 which destroys living tissue with which it comes in contact.

7 ~~{13}~~(14) "Prescription" means an order given  
8 individually for the person for whom prescribed, directly  
9 from the prescriber to the furnisher or indirectly to the  
10 furnisher, by means of an order signed by the prescriber and  
11 bearing the name and address of the prescriber, his license  
12 classification, the name of the patient, the name and the  
13 quantity of the drug or drugs prescribed, the directions for  
14 use and the date of its issue. These stipulations apply to  
15 both written and telephoned prescriptions.

16 (15) "Utilization plan" means a plan under which a  
17 pharmacist may use the services of a pharmacy technician in  
18 the practice of pharmacy to perform tasks that:

19 (a) do not require the exercise of the pharmacist's  
20 independent professional judgment; and

21 (b) are verifiable by the pharmacist.

22 ~~{14}~~(16) "Wholesale" means a sale for the purpose of  
23 resale."

24 **Section 2.** Section 37-7-301, MCA, is amended to read:  
25 "37-7-301. Sale of drugs or medicines unlawful except

1 as provided. Except as provided in [sections 3 through 7],  
 2 it is unlawful for a:

3 (1) ~~It--is--unlawful--for--any~~ person to compound,  
 4 dispense, vend, or sell at retail drugs, medicines,  
 5 chemicals, or poisons in any place other than a pharmacy,  
 6 except as hereinafter provided;

7 (2) ~~It--is--unlawful--for--any~~ proprietor, owner, or  
 8 manager of a pharmacy or any other person to permit the  
 9 compounding or dispensing of prescriptions or the vending or  
 10 selling at retail of drugs, medicines, chemicals, or poisons  
 11 in any pharmacy except by a registered and licensed  
 12 pharmacist or by an intern registered and licensed by the  
 13 department, and under the supervision of a registered and  
 14 licensed pharmacist;

15 (3) ~~It--is--unlawful--for--any~~ person to assume or pretend  
 16 to the title of pharmacist or intern unless such the person  
 17 has a license as such, issued and in force pursuant to parts  
 18 1 through 3 of this chapter;

19 (4) ~~It-is-unlawful-for-any~~ person other than a licensed  
 20 and registered pharmacist or a licensed and registered  
 21 intern under the supervision of a licensed and registered  
 22 pharmacist to compound, dispense, vend, or sell at retail  
 23 drugs, medicines, chemicals, or poisons except as provided  
 24 in parts 1 through 3."

25 NEW SECTION. Section 3. Use of services of pharmacy

1 technician -- utilization plan required -- contents --  
 2 responsibility of pharmacist. (1) In the practice of  
 3 pharmacy, a pharmacist may use the services of a pharmacy  
 4 technician who is:

5 (a) at least 18 years old;

6 (b) a high school graduate or has attained an  
 7 equivalent degree;

8 (c) supervised by the pharmacist; and

9 (d) acting pursuant to the provisions of a utilization  
 10 plan approved by the board or its designee.

11 (2) A pharmacy technician utilization plan must set  
 12 forth:

13 (a) the name and qualifications of the supervising  
 14 pharmacist or pharmacists;

15 (b) the nature and location of the supervising  
 16 pharmacist's pharmacy practice;

17 (c) the name and qualifications of the pharmacy  
 18 technician;

19 (d) a summary of the tasks performed by the pharmacy  
 20 technician and the methods by which a supervising pharmacist  
 21 may verify and document the tasks. "Verify" means the  
 22 personal confirmation by a supervising pharmacist of the  
 23 correctness of the tasks undertaken by the pharmacy  
 24 technician.

25 (e) a description of the training provided by the

1 supervising pharmacist to the pharmacy technician that is  
2 required by [section 5]; and

3 (f) any other information the board considers relevant.

4 (3) The board shall approve a utilization plan if it  
5 determines that the duties to be delegated to a pharmacy  
6 technician are:

7 (a) assigned and supervised by the supervising  
8 pharmacist; and

9 (b) within the scope of the training and competence of  
10 the pharmacy technician.

11 (4) A supervising pharmacist is responsible for the  
12 actions of a pharmacy technician who performs services for  
13 the pharmacist under the terms of a utilization plan.

14 NEW SECTION. Section 4. Preparation and approval of  
15 utilization plan -- revocation of or refusal to renew plan  
16 -- contested case hearing. (1) A supervising pharmacist  
17 shall:

18 (a) prepare the utilization plan under which the  
19 services of a pharmacy technician are used by the pharmacist  
20 and submit a summary of the plan to the board or its  
21 designee for approval;

22 (b) keep on file in the pharmacy a copy of the  
23 utilization plan for inspection by the board or its  
24 designee; and

25 (c) annually review the utilization plan and provide

1 documentation to the board or its designee that the plan  
2 accurately reflects the current use of the services of a  
3 pharmacy technician.

4 (2) The board or its designee shall refuse to approve  
5 or shall revoke or fail to renew approval of a utilization  
6 plan if it does not conform to the provisions of [sections 3  
7 through 7] and rules adopted under those sections.

8 (3) One year after the board or its designee revokes  
9 approval of a utilization plan, the supervising pharmacist  
10 may reapply for approval by complying with the requirements  
11 of [sections 3 through 7] and with rules adopted under those  
12 sections.

13 (4) Before refusing to approve or before revoking or  
14 failing to renew approval of a utilization plan, the board  
15 or its designee shall provide the supervising pharmacist a  
16 reasonable time in which to supply additional information  
17 demonstrating compliance with the requirements of [sections  
18 3 through 7] and with rules adopted under those sections and  
19 the opportunity to request a hearing.

20 (5) If a supervising pharmacist requests a hearing, the  
21 board shall conduct the hearing in accordance with the  
22 contested case procedures in Title 2, chapter 4, part 6.

23 NEW SECTION. Section 5. Training of pharmacy  
24 technician. (1) A supervising pharmacist shall:

25 (a) provide initial training to a pharmacy technician

1 that relates to the tasks the pharmacy technician may  
2 perform pursuant to a utilization plan;

3 (b) assure the continuing competence of a pharmacy  
4 technician through inservice education and training to  
5 supplement the initial training; and

6 (c) prepare and maintain a written record of initial  
7 and inservice training.

8 (2) An initial training program must include on-the-job  
9 practical training and didactic education through a program  
10 approved by the board or its designee that is commensurate  
11 with the tasks a pharmacy technician may perform, prior to  
12 the regular performance of those tasks.

13 NEW SECTION. Section 6. Utilization plan approval fee  
14 -- renewal of approval -- renewal fee. (1) A pharmacist who  
15 uses the services of a pharmacy technician under an approved  
16 utilization plan shall pay to the board a utilization plan  
17 approval fee in an amount set by the board as provided in  
18 37-1-134. Payment must be made when the utilization plan is  
19 submitted to the board and is not refundable.

20 (2) Approval of a pharmacy technician utilization plan  
21 expires 1 year from the date of approval. The board shall  
22 grant renewal of approval upon payment of a renewal fee in  
23 an amount set by the board and documentation as required by  
24 [section 4(1)(c)].

25 (3) The board may adopt fees, as provided in 37-1-134,

1 for other costs associated with implementation of [sections  
2 3 through 7], including the costs of onsite inspection of  
3 the utilization plan and of the record of training required  
4 by [section 5] at the participating pharmacy.

5 (4) The board shall deposit fees received in the state  
6 special revenue fund for use by the board in administration  
7 of [sections 3 through 7], subject to 37-1-101(6).

8 NEW SECTION. Section 7. Auxiliary personnel. To  
9 perform clerical tasks, a pharmacist may use the services of  
10 auxiliary or support personnel who are not considered to be  
11 acting as pharmacy technicians if they do not perform the  
12 tasks of pharmacy technicians.

13 Section 8. Section 37-7-323, MCA, is amended to read:

14 \*37-7-323. Penalty -- enforcement. (1) Any A person,  
15 firm, partnership, or corporation violating any of the  
16 provisions of parts 1 through 3 of this chapter ~~shall be~~ is  
17 guilty of a misdemeanor and upon conviction for each  
18 violation shall be punished accordingly, and ~~any--thereof~~  
19 ~~convicted~~ shall automatically lose any license issued by the  
20 board.

21 (2) In addition to the penalty provided in subsection  
22 (1), the board may withdraw its approval of a utilization  
23 plan previously approved for a supervising pharmacist who:

24 (a) violates any provision of [sections 3 through 7] or  
25 rules adopted under those sections;



1 (b) obtained the approval of the utilization plan  
2 through fraud; or

3 (c) acts in a manner contrary to the terms of the  
4 utilization plan.

5 (3) The board may seek an injunction to enforce the  
6 provisions of subsection (2)."

7 NEW SECTION. Section 9. Codification instruction.

8 [Sections 3 through 7] are intended to be codified as an  
9 integral part of Title 37, chapter 7, part 3, and the  
10 provisions of Title 37, chapter 7, part 3, apply to  
11 [sections 3 through 7].

12 NEW SECTION. Section 10. Effective dates. (1) [Section

13 9 and this section] are effective on passage and approval.

14 (2) [Sections 1 through 8] are effective January 1,  
15 1992.

-End-

## STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB0118, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:


An act allowing a licensed pharmacist to use the services of a pharmacy technician under the terms of an approved utilization plan; providing for training of pharmacy technicians; providing for fees and penalties; and providing effective dates.

ASSUMPTIONS:

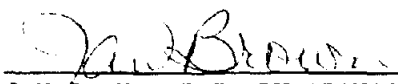
1. The Board of Pharmacy will approve utilization plans for pharmacy technicians.
2. If each of the 650 licensed pharmacists practicing in Montana submit two utilization plans, the department will screen, review and process 1,300 plans per year.
3. An additional two board members will increase the board to five members. Board members are compensated \$50 per day plus travel cost. Total travel cost for the entire board is approximately \$665 per meeting.
4. A screening committee of two board members will meet eight hours per year at a cost of \$50 per day plus travel.
5. Statute implementation will require three pages of rules at a cost of \$70 per page.
6. Additional cost incurred by the Board of Pharmacy will increase the board's administrative overhead cost of 8.77%.
7. The Professional and Occupational Licensing Bureau will need an additional .25 FTE plus operating costs and equipment for the workload increase.
8. Current law is represented by the executive budget recommendation for the Professional and Occupational Licensing Bureau of the Department of Commerce.

FISCAL IMPACT:POL Bureau

	FY 92			FY 93		
	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>
<u>Expenditures:</u>						
FTE	25.43	25.68	.25	25.43	25.68	.25
Personal Services	665,467	669,906	4,439	664,766	669,295	4,529
Operating Costs	184,593	186,262	1,669	177,083	178,352	1,269
Equipment	5,409	7,809	2,400	5,409	5,409	0
Total	855,469	863,977	8,508	847,258	853,056	5,798
<u>Funding:</u>						
Proprietary Fund	855,469	863,977	8,508	847,258	853,056	5,798
<u>Revenue:</u>						
License Fees (02)	135,809	148,809	13,000	135,210	143,010	7,800

  
 ROD SUNDSTED, BUDGET DIRECTOR  
 Office of Budget and Program Planning

1-12-91  
 DATE

  
 JAN BROWN, PRIMARY SPONSOR

1/14/91  
 DATE

Fiscal Note for HB0118, as introduced.

**HB 118**

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a revised Fiscal Note for HB0118, second reading.

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An act allowing a licensed pharmacist to use the services of a pharmacy technician under the terms of an approved utilization plan; providing for training of pharmacy technicians; providing for fees, penalties, and effective dates.


ASSUMPTIONS:


1. The Board of Pharmacy will approve utilization plans for pharmacy technicians.
2. Each of the 650 licensed pharmacists practicing in Montana will submit two utilization plans, which will produce approximately 1,300 plans initially and each year thereafter for review and processing.
3. The Board of Pharmacy currently consists of five members. Personal services per diem increases because two board members will serve on a screening committee and because there will be at least two additional board meetings in the implementing year, with compensation of \$50 per day for the board members.
4. Operating costs increases include three pages of rules at a cost of \$210, board travel of \$665 per meeting, printing of application and license forms and postage of about \$575.
5. The Professional and Occupational Licensing Bureau (POL) overhead and supportive services charges will increase as a result of the additional workload, which will require 0.25 FTE added to the bureau. The board has increased authority to pay for these supportive services in the proposed law operating costs listed below and it also will be necessary for the bureau to have increased spending authority.
6. Current law is represented by the executive budget recommendation for the Board of Pharmacy located within the Department of Commerce.

FISCAL IMPACT:

Board of Pharmacy:

	FY 92			FY 93		
	Current Law	Proposed Law	Difference	Current Law	Proposed Law	Difference
<u>Expenditures:</u>						
FTE	1.00	1.00	0.00	1.00	1.00	0.00
Personal Services	47,111	47,861	750	47,007	47,257	250
Operating Costs	89,296	100,907	11,611	88,785	96,102	7,317
Total	136,407	148,768	12,361	135,792	143,859	7,567
<u>Funding:</u>						
State Special Revenue	136,407	148,768	12,361	135,792	143,859	7,567
<u>Revenue:</u>						
License Fees (02)	135,809	148,809	13,000	135,210	143,010	7,800

  
 ROD SUNDSTED BUDGET DIRECTOR  
 Office of Budget and Program Planning  
 DATE 1-16-91

  
 JAN BROWN PRIMARY SPONSOR  
 DATE

APPROVED BY COMM. ON  
HUMAN SERVICES AND AGING

1 HOUSE BILL NO. 118  
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21 (11) "Pharmacy" means an established place registered by  
22 the department of commerce in which prescriptions, drugs  
23 requiring a prescription, medicines, chemicals, and poisons  
24 are compounded, dispensed, vended, or sold.

25 (12) "Pharmacy technician" means an individual who

1 assists a pharmacist in the practice of pharmacy pursuant to  
2 an approved utilization plan.

3 ~~{12}~~(13) "Poison" means a substance which, when  
4 introduced into the system, either directly or by  
5 absorption, produces violent, morbid, or fatal changes or  
6 which destroys living tissue with which it comes in contact.

7 ~~{13}~~(14) "Prescription" means an order given  
8 individually for the person for whom prescribed, directly  
9 from the prescriber to the furnisher or indirectly to the  
10 furnisher, by means of an order signed by the prescriber and  
11 bearing the name and address of the prescriber, his license  
12 classification, the name of the patient, the name and the  
13 quantity of the drug or drugs prescribed, the directions for  
14 use and the date of its issue. These stipulations apply to  
15 both written and telephoned prescriptions.

16 (15) "Utilization plan" means a plan under which a  
17 pharmacist may use the services of a pharmacy technician in  
18 the practice of pharmacy to perform tasks that:

19 (a) do not require the exercise of the pharmacist's  
20 independent professional judgment; and

21 (b) are verifiable VERIFIED by the pharmacist.

22 ~~{14}~~(16) "Wholesale" means a sale for the purpose of  
23 resale."

24 **Section 2.** Section 37-7-301, MCA, is amended to read:

25 "37-7-301. Sale of drugs or medicines unlawful except

1 as provided. Except as provided in [sections 3 through 7],  
 2 it is unlawful for a:

3 (1) ~~it is unlawful for any~~ person to compound,  
 4 dispense, vend, or sell at retail drugs, medicines,  
 5 chemicals, or poisons in any place other than a pharmacy,  
 6 except as hereinafter provided;

7 (2) ~~it is unlawful for any~~ proprietor, owner, or  
 8 manager of a pharmacy or any other person to permit the  
 9 compounding or dispensing of prescriptions or the vending or  
 10 selling at retail of drugs, medicines, chemicals, or poisons  
 11 in any pharmacy except by a registered and licensed  
 12 pharmacist or by an intern registered and licensed by the  
 13 department, and under the supervision of a registered and  
 14 licensed pharmacist;

15 (3) ~~it is unlawful for any~~ person to assume or pretend  
 16 to the title of pharmacist or intern unless such the person  
 17 has a license as such, issued and in force pursuant to parts  
 18 1 through 3 of this chapter;

19 (4) ~~it is unlawful for any~~ person other than a licensed  
 20 and registered pharmacist or a licensed and registered  
 21 intern under the supervision of a licensed and registered  
 22 pharmacist to compound, dispense, vend, or sell at retail  
 23 drugs, medicines, chemicals, or poisons except as provided  
 24 in parts 1 through 3."

25 NEW SECTION. Section 3. Use of services of pharmacy

1 technician -- utilization plan required -- contents --  
 2 responsibility of pharmacist. (1) In the practice of  
 3 pharmacy, a pharmacist may use the services of a pharmacy  
 4 technician who is:

- 5 (a) at least 18 years old;
- 6 (b) a high school graduate or has attained an  
 7 equivalent degree;
- 8 (c) supervised by the pharmacist; and
- 9 (d) acting pursuant to the provisions of a utilization  
 10 plan approved by the board or its designee.

11 (2) A pharmacy technician utilization plan must set  
 12 forth:

- 13 (a) the name and qualifications of the supervising  
 14 pharmacist or pharmacists;
- 15 (b) the nature and location of the supervising  
 16 pharmacist's pharmacy practice;

17 (c) the name and qualifications of the pharmacy  
 18 technician OR TECHNICIANS;

19 (d) a summary of the tasks performed by the pharmacy  
 20 technician and the methods by which a supervising pharmacist  
 21 may verify and document the tasks. "Verify" means the  
 22 personal confirmation by a supervising pharmacist of the  
 23 correctness of the tasks undertaken by the pharmacy  
 24 technician.

25 (e) a description of the training provided by the

1 supervising pharmacist to the pharmacy technician that is  
2 required by [section 5]; and

3 f) any other information the board considers relevant.

4 (3) The board OR ITS DESIGNEE shall approve a  
5 utilization plan if it determines that the duties to be  
6 delegated to a pharmacy technician are:

7 a) assigned, VERIFIED, and supervised DOCUMENTED by  
8 the supervising pharmacist; and

9 b) within the scope of the training and competence of  
10 the pharmacy technician.

11 (4) A supervising pharmacist is responsible for the  
12 actions of a pharmacy technician who performs services for  
13 the pharmacist under the terms of a utilization plan.

14 NEW SECTION. Section 4. Preparation and approval of  
15 utilization plan -- revocation of or refusal to renew plan  
16 -- contested case hearing. (1) A supervising pharmacist  
17 shall:

18 a) prepare the utilization plan under which the  
19 services of a pharmacy technician are used by the pharmacist  
20 and submit a summary of the plan to the board or its  
21 designee for approval;

22 b) keep on file in the pharmacy a copy of the  
23 utilization plan for inspection by the board or its  
24 designee; and

25 c) annually review the utilization plan and provide

1 documentation to the board or its designee that the plan  
2 accurately reflects the current use of the services of a  
3 pharmacy technician.

4 (2) The board or its designee shall refuse to approve  
5 or shall revoke or fail to renew approval of a utilization  
6 plan if it does not conform to the provisions of [sections 3  
7 through 7] and rules adopted under those sections.

8 (3) One year after the board or its designee revokes  
9 approval of a utilization plan, the supervising pharmacist  
10 may reapply for approval by complying with the requirements  
11 of [sections 3 through 7] and with rules adopted under those  
12 sections.

13 (4) Before refusing to approve or before revoking or  
14 failing to renew approval of a utilization plan, the board  
15 or its designee shall provide the supervising pharmacist a  
16 reasonable time in which to supply additional information  
17 demonstrating compliance with the requirements of [sections  
18 3 through 7] and with rules adopted under those sections and  
19 the opportunity to request a hearing.

20 (5) If a supervising pharmacist requests a hearing, the  
21 board shall conduct the hearing in accordance with the  
22 contested case procedures in Title 2, chapter 4, part 6.

23 NEW SECTION. Section 5. Training of pharmacy  
24 technician. (1) A supervising pharmacist shall:

25 a) provide initial training to a pharmacy technician



1 that relates to the tasks the pharmacy technician may  
2 perform pursuant to a utilization plan;

3 (b) assure the continuing competence of a pharmacy  
4 technician through inservice education and training to  
5 supplement the initial training; and

6 (c) prepare and maintain a written record of initial  
7 and inservice training.

8 (2) An initial training program must include on-the-job  
9 practical training and didactic education through a program  
10 approved by the board or its designee that is commensurate  
11 with the tasks a pharmacy technician may perform, prior to  
12 the regular performance of those tasks.

13 NEW SECTION. Section 6. Utilization plan approval fee  
14 -- renewal of approval -- renewal fee. (1) A pharmacist who  
15 uses the services of a pharmacy technician under an approved  
16 utilization plan shall pay to the board OR ITS DESIGNEE a  
17 utilization plan approval fee in an amount set by the board  
18 OR ITS DESIGNEE as provided in 37-1-134. Payment must be  
19 made when the utilization plan is submitted to-the-board and  
20 is not refundable.

21 (2) Approval of a pharmacy technician utilization plan  
22 expires 1 year from the date of approval. The board OR ITS  
23 DESIGNEE shall grant renewal of approval upon payment of a  
24 renewal fee in an amount set by the board OR ITS DESIGNEE  
25 and documentation as required by [section 4(1)(c)].

1 (3) The board OR ITS DESIGNEE may adopt fees, as  
2 provided in 37-1-134, for other costs associated with  
3 implementation of [sections 3 through 7], including the  
4 costs of onsite inspection of the utilization plan and of  
5 the record of training required by [section 5] at the  
6 participating pharmacy.

7 (4) ~~The~~ IF THE BOARD SETS THE FEES, THE board shall  
8 deposit fees received in the state special revenue fund for  
9 use by the board in administration of [sections 3 through  
10 7], subject to 37-1-101(6).

11 NEW SECTION. Section 7. Auxiliary personnel. To  
12 perform clerical tasks, a pharmacist may use the services of  
13 auxiliary or support personnel who are not considered to be  
14 acting as pharmacy technicians if they do not perform the  
15 tasks of pharmacy technicians.

16 **Section 8.** Section 37-7-323, MCA, is amended to read:

17 \*37-7-323. Penalty -- enforcement. (1) Any A person,  
18 firm, partnership, or corporation violating any of the  
19 provisions of parts 1 through 3 of this chapter shall-be is  
20 guilty of a misdemeanor and upon conviction for each  
21 violation shall be punished accordingly, and ~~any thereof~~  
22 convicted shall automatically lose any license issued by the  
23 board.

24 (2) In addition to the penalty provided in subsection  
25 (1), the board may withdraw its approval of a utilization

1 plan previously approved for a supervising pharmacist who:

2 (a) violates any provision of [sections 3 through 7] or  
3 rules adopted under those sections;

4 (b) obtained the approval of the utilization plan  
5 through fraud; or

6 (c) acts in a manner contrary to the terms of the  
7 utilization plan.

8 (3) The board may seek an injunction to enforce the  
9 provisions of subsection (2)."

10 NEW SECTION. Section 9. Codification instruction.

11 [Sections 3 through 7] are intended to be codified as an  
12 integral part of Title 37, chapter 7, part 3, and the  
13 provisions of Title 37, chapter 7, part 3, apply to  
14 [sections 3 through 7].

15 NEW SECTION. Section 10. Effective dates. (1) [Section  
16 9 and this section] are effective on passage and approval.

17 (2) [Sections 1 through 8] are effective January 1,  
18 1992.

-End-

HOUSE BILL NO. 118

INTRODUCED BY J. BROWN

A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING A LICENSED PHARMACIST TO USE THE SERVICES OF A PHARMACY TECHNICIAN UNDER THE TERMS OF AN APPROVED UTILIZATION PLAN; PROVIDING FOR TRAINING OF PHARMACY TECHNICIANS; PROVIDING FOR FEES AND PENALTIES; AMENDING SECTIONS 37-7-101, 37-7-301, AND 37-7-323, MCA; AND PROVIDING EFFECTIVE DATES."

STATEMENT OF INTENT

It is the intent of the legislature that the board of pharmacy, to implement [sections 3 through 7], adopt rules that, among other issues, describe the functions that a pharmacy technician is permitted to perform, including but not limited to:

- (1) removing a stock bottle from the shelf and counting and pouring the contents into a suitable container under direct supervision of a pharmacist;
(2) typing a prescription label and affixing it to a prescription bottle, with a final check and any patient counseling performed by the pharmacist;
(3) entering prescription information into a data processing system under supervision of a pharmacist who must be able to check all entries;

(4) maintaining prescription records, including prescription numbers, refill data, and other information on the patient profile system;

(5) prepackaging unit dose drugs for internal distribution. These prepackage unit dose drugs must be quarantined together with bulk containers until a pharmacist performs a final check and maintains appropriate records.

(6) selling nonprescription drugs in their original containers without engaging in patient counseling;

(7) receiving and checking in pharmaceuticals, including controlled substances, if the pharmacy technician initials and dates all invoices with the actual date the drugs were received;

(8) participating in the biennial inventory of controlled substances, provided a pharmacist supervises the process. The supervising pharmacist must cosign the inventory list with the participating pharmacist and pharmacy technician.

(9) compounding intravenous solutions if a mechanism for verification exists that includes checking of the original order, solutions, additives, dosages, and clarity.

The legislature also intends that the board adopt rules establishing standards for the training required by [section 5], which must include instruction in:

- (1) orientation to the practice of pharmacy;

THIRD READING

HB 118

AS AMENDED



- 1 (2) pharmacy terminology and basic pharmaceuticals;
- 2 (3) state and federal laws relating to the practice of
- 3 pharmacy;
- 4 (4) pharmaceutical calculations;
- 5 (5) processing prescription drug orders;
- 6 (6) telephone procedure and communication;
- 7 (7) pharmaceutical compounding, including intravenous
- 8 admixture; and
- 9 (8) use of pharmacy computer systems, if applicable.

10 The legislature further intends that the board's rules  
 11 allow a supervising pharmacist to use the services of only  
 12 one technician at a time, except that the pharmacist may use  
 13 two technicians at a time if both pharmacy technicians are  
 14 performing any of the following procedures:

- 15 (1) intravenous admixture and other sterile product
- 16 preparation;
- 17 (2) filling of unit dose cassettes;
- 18 (3) prepackaging; and
- 19 (4) bulk compounding.

20  
 21 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

22 **Section 1.** Section 37-7-101, MCA, is amended to read:

23 **"37-7-101. Definitions.** Unless the context requires  
 24 otherwise, in parts 1 through 3 of this chapter, the  
 25 following definitions apply:

1 (1) "Board" means the board of pharmacy provided for in  
 2 2-15-1843.

3 (2) "Chemical" means medicinal or industrial  
 4 substances, whether simple, compound, or obtained through  
 5 the process of the science and art of chemistry, whether of  
 6 organic or inorganic origin.

7 (3) "Commercial purposes" means the ordinary purposes  
 8 of trade, agriculture, industry, and commerce, exclusive of  
 9 the practices of medicine and pharmacy.

10 (4) "Continuing education" means professional  
 11 pharmaceutical postgraduate education in the following  
 12 areas:

- 13 (a) the socioeconomic and legal aspects of health care;
- 14 (b) the properties and actions of drugs and dosage
- 15 forms; and
- 16 (c) the etiology, characteristics, and therapeutics of
- 17 the disease state.

18 (5) "Department" means the department of commerce  
 19 provided for in Title 2, chapter 15, part 18.

20 (6) (a) "Drug" means:

- 21 (i) articles recognized in the official United States
- 22 Pharmacopoeia/National Formulary or a supplement to them;
- 23 (ii) articles intended for use in diagnosis, cure,
- 24 mitigation, treatment, or prevention of disease in man or
- 25 other animals;

1 (iii) articles (other than food) intended to affect the  
 2 structure or function of the body of man or other animals;  
 3 and

4 (iv) articles intended for use as a component of an  
 5 article specified in subsection (i), (ii), or (iii).

6 (b) "Drug" does not include devices or their  
 7 components, parts, or accessories.

8 (7) "Intern" means a natural person licensed by the  
 9 department to prepare, compound, dispense, and sell drugs,  
 10 medicines, chemicals, and poisons under the supervision of a  
 11 registered and licensed pharmacist.

12 (8) "Medicine" means a remedial agent which has the  
 13 property of curing, preventing, treating, or mitigating  
 14 diseases or which is used for this purpose.

15 (9) "Person" includes an individual, partnership,  
 16 corporation, or association.

17 (10) "Pharmacist" means a natural person licensed by the  
 18 department to prepare, compound, dispense, and sell drugs,  
 19 medicines, chemicals, and poisons and who may affix to his  
 20 name the term "R.Ph.".

21 (11) "Pharmacy" means an established place registered by  
 22 the department of commerce in which prescriptions, drugs  
 23 requiring a prescription, medicines, chemicals, and poisons  
 24 are compounded, dispensed, vended, or sold.

25 (12) "Pharmacy technician" means an individual who

1 assists a pharmacist in the practice of pharmacy pursuant to  
 2 an approved utilization plan.

3 ~~(12)~~(13) "Poison" means a substance which, when  
 4 introduced into the system, either directly or by  
 5 absorption, produces violent, morbid, or fatal changes or  
 6 which destroys living tissue with which it comes in contact.

7 ~~(13)~~(14) "Prescription" means an order given  
 8 individually for the person for whom prescribed, directly  
 9 from the prescriber to the furnisher or indirectly to the  
 10 furnisher, by means of an order signed by the prescriber and  
 11 bearing the name and address of the prescriber, his license  
 12 classification, the name of the patient, the name and the  
 13 quantity of the drug or drugs prescribed, the directions for  
 14 use and the date of its issue. These stipulations apply to  
 15 both written and telephoned prescriptions.

16 (15) "Utilization plan" means a plan under which a  
 17 pharmacist may use the services of a pharmacy technician in  
 18 the practice of pharmacy to perform tasks that:

19 (a) do not require the exercise of the pharmacist's  
 20 independent professional judgment; and

21 (b) are verifiable VERIFIED by the pharmacist.

22 ~~(14)~~(16) "Wholesale" means a sale for the purpose of  
 23 resale."

24 **Section 2.** Section 37-7-301, MCA, is amended to read:

25 "37-7-301. Sale of drugs or medicines unlawful except

1 as provided. Except as provided in [sections 3 through 7],  
2 it is unlawful for a:

3 (1) ~~it is unlawful for any~~ person to compound,  
4 dispense, vend, or sell at retail drugs, medicines,  
5 chemicals, or poisons in any place other than a pharmacy,  
6 except as hereinafter provided;

7 (2) ~~it is unlawful for any~~ proprietor, owner, or  
8 manager of a pharmacy or any other person to permit the  
9 compounding or dispensing of prescriptions or the vending or  
10 selling at retail of drugs, medicines, chemicals, or poisons  
11 in any pharmacy except by a registered and licensed  
12 pharmacist or by an intern registered and licensed by the  
13 department, and under the supervision of a registered and  
14 licensed pharmacist;

15 (3) ~~it is unlawful for any~~ person to assume or pretend  
16 to the title of pharmacist or intern unless such the person  
17 has a license as such, issued and in force pursuant to parts  
18 1 through 3 of this chapter;

19 (4) ~~it is unlawful for any~~ person other than a licensed  
20 and registered pharmacist or a licensed and registered  
21 intern under the supervision of a licensed and registered  
22 pharmacist to compound, dispense, vend, or sell at retail  
23 drugs, medicines, chemicals, or poisons except as provided  
24 in parts 1 through 3."

25 NEW SECTION. Section 3. Use of services of pharmacy

1 technician -- utilization plan required -- contents --  
2 responsibility of pharmacist. (1) In the practice of  
3 pharmacy, a pharmacist may use the services of a pharmacy  
4 technician who is:

- 5 (a) at least 18 years old;
- 6 (b) a high school graduate or has attained an
- 7 equivalent degree;
- 8 (c) supervised by the pharmacist; and
- 9 (d) acting pursuant to the provisions of a utilization
- 10 plan approved by the board or its designee.

11 (2) A pharmacy technician utilization plan must set  
12 forth:

- 13 (a) the name and qualifications of the supervising
- 14 pharmacist or pharmacists;
- 15 (b) the nature and location of the supervising
- 16 pharmacist's pharmacy practice;
- 17 (c) the name and qualifications of the pharmacy
- 18 technician OR TECHNICIANS;

19 (d) a summary of the tasks performed by the pharmacy  
20 technician and the methods by which a supervising pharmacist  
21 may verify and document the tasks. "Verify" means the  
22 personal confirmation by a supervising pharmacist of the  
23 correctness of the tasks undertaken by the pharmacy  
24 technician.

25 (e) a description of the training provided by the

1 supervising pharmacist to the pharmacy technician that is  
2 required by [section 5]; and

3 (f) any other information the board considers relevant.

4 (3) The board OR ITS DESIGNEE shall approve a  
5 utilization plan if it determines that the duties to be  
6 delegated to a pharmacy technician are:

7 (a) assigned, VERIFIED, and supervised DOCUMENTED by  
8 the supervising pharmacist; and

9 (b) within the scope of the training and competence of  
10 the pharmacy technician.

11 (4) A supervising pharmacist is responsible for the  
12 actions of a pharmacy technician who performs services for  
13 the pharmacist under the terms of a utilization plan.

14 NEW SECTION. Section 4. Preparation and approval of  
15 utilization plan -- revocation of or refusal to renew plan  
16 -- contested case hearing. (1) A supervising pharmacist  
17 shall:

18 (a) prepare the utilization plan under which the  
19 services of a pharmacy technician are used by the pharmacist  
20 and submit a summary of the plan to the board or its  
21 designee for approval;

22 (b) keep on file in the pharmacy a copy of the  
23 utilization plan for inspection by the board or its  
24 designee; and

25 (c) annually review the utilization plan and provide

1 documentation to the board or its designee that the plan  
2 accurately reflects the current use of the services of a  
3 pharmacy technician.

4 (2) The board or its designee shall refuse to approve  
5 or shall revoke or fail to renew approval of a utilization  
6 plan if it does not conform to the provisions of [sections 3  
7 through 7] and rules adopted under those sections.

8 (3) One year after the board or its designee revokes  
9 approval of a utilization plan, the supervising pharmacist  
10 may reapply for approval by complying with the requirements  
11 of [sections 3 through 7] and with rules adopted under those  
12 sections.

13 (4) Before refusing to approve or before revoking or  
14 failing to renew approval of a utilization plan, the board  
15 or its designee shall provide the supervising pharmacist a  
16 reasonable time in which to supply additional information  
17 demonstrating compliance with the requirements of [sections  
18 3 through 7] and with rules adopted under those sections and  
19 the opportunity to request a hearing.

20 (5) If a supervising pharmacist requests a hearing, the  
21 board shall conduct the hearing in accordance with the  
22 contested case procedures in Title 2, chapter 4, part 6.

23 NEW SECTION. Section 5. Training of pharmacy  
24 technician. (1) A supervising pharmacist shall:

25 (a) provide initial training to a pharmacy technician

1 that relates to the tasks the pharmacy technician may  
2 perform pursuant to a utilization plan;

3 (b) assure the continuing competence of a pharmacy  
4 technician through inservice education and training to  
5 supplement the initial training; and

6 (c) prepare and maintain a written record of initial  
7 and inservice training.

8 (2) An initial training program must include on-the-job  
9 practical training and didactic education through a program  
10 approved by the board or its designee that is commensurate  
11 with the tasks a pharmacy technician may perform, prior to  
12 the regular performance of those tasks.

13 NEW SECTION. Section 6. Utilization plan approval fee  
14 -- renewal of approval -- renewal fee. (1) A PHARMACY IN  
15 WHICH A pharmacist who uses the services of a pharmacy  
16 technician under an approved utilization plan shall pay to  
17 the board OR ITS DESIGNEE a utilization plan approval fee in  
18 an amount set by the board OR-ITS-DESIGNEE as provided in  
19 37-1-134. Payment must be made when the utilization plan is  
20 submitted ~~to-the-board~~ and is not refundable.

21 (2) Approval of a pharmacy technician utilization plan  
22 expires 1 year from the date of approval. The board OR ITS  
23 DESIGNEE shall grant renewal of approval upon payment of a  
24 renewal fee in an amount set by the board OR--ITS--DESIGNEE  
25 and documentation as required by [section 4(1)(c)].

1 (3) The board OR--ITS--DESIGNEE may adopt fees, as  
2 provided in 37-1-134, for other costs associated with  
3 implementation of [sections 3 through 7], including the  
4 costs of onsite inspection of the utilization plan and of  
5 the record of training required by [section 5] at the  
6 participating pharmacy. THE BOARD MAY DESIGNATE A PRIVATE  
7 ENTITY TO COLLECT THE FEES ADOPTED BY THE BOARD.

8 (4) ~~The IP-THE-BOARD-SETS-THE-FEES,-THE~~ THE board shall  
9 deposit fees received in the state special revenue fund for  
10 use by the board in administration of [sections 3 through  
11 7], subject to 37-1-101(6).

12 NEW SECTION. Section 7. Auxiliary personnel. To  
13 perform clerical tasks, a pharmacist may use the services of  
14 auxiliary or support personnel who are not considered to be  
15 acting as pharmacy technicians if they do not perform the  
16 tasks of pharmacy technicians.

17 Section 8. Section 37-7-323, MCA, is amended to read:

18 "37-7-323. Penalty -- enforcement. (1) Any A person,  
19 firm, partnership, or corporation violating any of the  
20 provisions of parts 1 through 3 of this chapter ~~shall-be is~~  
21 guilty of a misdemeanor and upon conviction for each  
22 violation shall be punished accordingly, ~~and any--thereof~~  
23 ~~convicted~~ shall automatically lose any license issued by the  
24 board.

25 (2) In addition to the penalty provided in subsection



1 (1), the board may withdraw its approval of a utilization  
2 plan previously approved for a supervising pharmacist who:

3 (a) violates any provision of [sections 3 through 7] or  
4 rules adopted under those sections;

5 (b) obtained the approval of the utilization plan  
6 through fraud; or

7 (c) acts in a manner contrary to the terms of the  
8 utilization plan.

9 (3) The board may seek an injunction to enforce the  
10 provisions of subsection (2)."

11 NEW SECTION. Section 9. Codification instruction.  
12 [Sections 3 through 7] are intended to be codified as an  
13 integral part of Title 37, chapter 7, part 3, and the  
14 provisions of Title 37, chapter 7, part 3, apply to  
15 [sections 3 through 7].

16 NEW SECTION. Section 10. Effective dates. (1) [Section  
17 9 and this section] are effective on passage and approval.

18 (2) [Sections 1 through 8] are effective January 1,  
19 1992.

-End-

## 1 HOUSE BILL NO. 118

2 INTRODUCED BY J. BROWN

3  
4 A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING A LICENSED  
5 PHARMACIST TO USE THE SERVICES OF A PHARMACY TECHNICIAN OR  
6 AUXILIARY UNDER THE TERMS OF AN APPROVED UTILIZATION PLAN;  
7 ~~PROVIDING--FOR--TRAINING--OF--PHARMACY--TECHNICIANS;~~ PROVIDING  
8 FOR FEES AND PENALTIES; AMENDING SECTIONS 37-7-101,  
9 37-7-301, AND 37-7-323, MCA; AND PROVIDING EFFECTIVE DATES."

10  
11 STATEMENT OF INTENT

12 It is the intent of the legislature that the board of  
13 pharmacy, to implement [sections 3 through 7 5], adopt rules  
14 that, among other issues, describe the functions that a  
15 ~~pharmacy--technician--is--permitted--to--perform~~ PHARMACIST IS  
16 PERMITTED TO DELEGATE TO A PHARMACY TECHNICIAN OR AUXILIARY,  
17 including but not limited to:

18 (1) removing a stock bottle from the shelf and counting  
19 and pouring the contents into a suitable container under  
20 direct supervision of a pharmacist;

21 (2) typing a prescription label and affixing it to a  
22 prescription bottle, with a final check and any patient  
23 counseling performed by the pharmacist;

24 (3) entering prescription information into a data  
25 processing system under supervision of a pharmacist who must

1 be able to check all entries;

2 (4) maintaining prescription records, including  
3 prescription numbers, refill data, and other information on  
4 the patient profile system;

5 (5) prepackaging unit dose drugs for internal  
6 distribution. These prepackage unit dose drugs must be  
7 quarantined together with bulk containers until a pharmacist  
8 performs a final check and maintains appropriate records.

9 (6) selling nonprescription drugs in their original  
10 containers without engaging in patient counseling;

11 (7) receiving and checking in pharmaceuticals,  
12 including controlled substances, if the pharmacy technician  
13 OR AUXILIARY initials and dates all invoices with the actual  
14 date the drugs were received;

15 (8) participating in the biennial inventory of  
16 controlled substances, provided a pharmacist supervises the  
17 process. The supervising pharmacist must cosign the  
18 inventory list with the participating pharmacist and  
19 pharmacy technician OR AUXILIARY.

20 (9) compounding intravenous solutions if a mechanism  
21 for verification exists that includes checking of the  
22 original order, solutions, additives, dosages, and clarity.

23 ~~The--legislature--also--intends--that--the--board--adopt--rules~~  
24 ~~establishing--standards--for--the--training--required--by--(section~~  
25 ~~517--which--must--include--instruction--in:~~

- ~~{1}--orientation-to-the-practice-of-pharmacy;~~
- ~~{2}--pharmacy-terminology-and-basic-pharmaceutics;~~
- ~~{3}--state-and-federal-laws-relating-to-the-practice--of-pharmacy;~~
- ~~{4}--pharmaceutical-calculations;~~
- ~~{5}--processing-prescription-drug-orders;~~
- ~~{6}--telephone-procedure-and-communication;~~
- ~~{7}--pharmaceutical--compounding--including-intravenous admixture;-and~~
- ~~{8}--use-of-pharmacy-computer-systems;-if-applicable-~~

The legislature further intends that the board's rules allow a supervising pharmacist to use the services of only one technician OR AUXILIARY at a time, except that the pharmacist may use two technicians at a time if both ~~pharmacy-technicians~~ are performing any of the following procedures:

- (1) intravenous admixture and other sterile product preparation;
- (2) filling of unit dose cassettes;
- (3) prepackaging; and
- (4) bulk compounding.

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

**Section 1.** Section 37-7-101, MCA, is amended to read:

"37-7-101. **Definitions.** Unless the context requires

otherwise, in parts 1 through 3 of this chapter, the following definitions apply:

(1) "Board" means the board of pharmacy provided for in 2-15-1843.

(2) "Chemical" means medicinal or industrial substances, whether simple, compound, or obtained through the process of the science and art of chemistry, whether of organic or inorganic origin.

(3) "Commercial purposes" means the ordinary purposes of trade, agriculture, industry, and commerce, exclusive of the practices of medicine and pharmacy.

(4) "Continuing education" means professional pharmaceutical postgraduate education in the following areas:

- (a) the socioeconomic and legal aspects of health care;
- (b) the properties and actions of drugs and dosage forms; and
- (c) the etiology, characteristics, and therapeutics of the disease state.

(5) "Department" means the department of commerce provided for in Title 2, chapter 15, part 18.

- (6) (a) "Drug" means:
  - (i) articles recognized in the official United States Pharmacopoeia/National Formulary or a supplement to them;
  - (ii) articles intended for use in diagnosis, cure,

1 mitigation, treatment, or prevention of disease in man or  
2 other animals;

3 (iii) articles (other than food) intended to affect the  
4 structure or function of the body of man or other animals;  
5 and

6 (iv) articles intended for use as a component of an  
7 article specified in subsection (i), (ii), or (iii).

8 (b) "Drug" does not include devices or their  
9 components, parts, or accessories.

10 (7) "Intern" means a natural person licensed by the  
11 department to prepare, compound, dispense, and sell drugs,  
12 medicines, chemicals, and poisons under the supervision of a  
13 registered and licensed pharmacist.

14 (8) "Medicine" means a remedial agent which has the  
15 property of curing, preventing, treating, or mitigating  
16 diseases or which is used for this purpose.

17 (9) "Person" includes an individual, partnership,  
18 corporation, or association.

19 (10) "Pharmacist" means a natural person licensed by the  
20 department to prepare, compound, dispense, and sell drugs,  
21 medicines, chemicals, and poisons and who may affix to his  
22 name the term "R.Ph."

23 (11) "Pharmacy" means an established place registered by  
24 the department of commerce in which prescriptions, drugs  
25 requiring a prescription, medicines, chemicals, and poisons

1 are compounded, dispensed, vended, or sold.

2 (12) "Pharmacy technician OR AUXILIARY" means an  
3 individual who assists a pharmacist in the practice of  
4 pharmacy pursuant to an approved utilization plan.

5 ~~(12)~~(13) "Poison" means a substance which, when  
6 introduced into the system, either directly or by  
7 absorption, produces violent, morbid, or fatal changes or  
8 which destroys living tissue with which it comes in contact.

9 ~~(13)~~(14) "Prescription" means an order given  
10 individually for the person for whom prescribed, directly  
11 from the prescriber to the furnisher or indirectly to the  
12 furnisher, by means of an order signed by the prescriber and  
13 bearing the name and address of the prescriber, his license  
14 classification, the name of the patient, the name and the  
15 quantity of the drug or drugs prescribed, the directions for  
16 use and the date of its issue. These stipulations apply to  
17 both written and telephoned prescriptions.

18 (15) "Utilization plan" means a plan under which a  
19 pharmacist may use the services of a pharmacy technician OR  
20 AUXILIARY in the practice of pharmacy to perform tasks that:

21 (a) do not require the exercise of the pharmacist's  
22 independent professional judgment; and

23 (b) are verifiable VERIFIED by the pharmacist.

24 ~~(14)~~(16) "Wholesale" means a sale for the purpose of  
25 resale."

**Section 2.** Section 37-7-301, MCA, is amended to read:

**\*37-7-301. Sale of drugs or medicines unlawful except as provided. Except as provided in [sections 3 through 7 5], it is unlawful for a:**

(1) ~~It is unlawful for any~~ person to compound, dispense, vend, or sell at retail drugs, medicines, chemicals, or poisons in any place other than a pharmacy, except as hereinafter provided;

(2) ~~It is unlawful for any~~ proprietor, owner, or manager of a pharmacy or any other person to permit the compounding or dispensing of prescriptions or the vending or selling at retail of drugs, medicines, chemicals, or poisons in any pharmacy except by a registered and licensed pharmacist or by an intern registered and licensed by the department, and under the supervision of a registered and licensed pharmacist;

(3) ~~It is unlawful for any~~ person to assume or pretend to the title of pharmacist or intern unless such the person has a license as such, issued and in force pursuant to parts 1 through 3 of this chapter;

(4) ~~It is unlawful for any~~ person other than a licensed and registered pharmacist or a licensed and registered intern under the supervision of a licensed and registered pharmacist to compound, dispense, vend, or sell at retail drugs, medicines, chemicals, or poisons except as provided

in parts 1 through 3."

~~NEW SECTION. Section 3. Use of services of pharmacy technician utilization plan required UTILIZATION PLAN -- contents -- responsibility of pharmacist. (1) In the practice of pharmacy, a pharmacist may use the services of a pharmacy technician who is:~~

~~(a) at least 18 years old;~~

~~(b) a high school graduate or has attained an equivalent degree;~~

~~(c) supervised by the pharmacist; and~~

~~(d) acting pursuant to the provisions of a utilization plan approved by the board or its designee;~~

~~(1) A pharmacy technician utilization plan must set forth:~~

~~(a) the name and qualifications of the supervising pharmacist or pharmacists;~~

~~(b) the nature and location of the supervising pharmacist's pharmacy practice;~~

~~(c) the name and qualifications of the pharmacy technician ~~OR TECHNICIANS~~;~~

~~(d)(C) a summary of the tasks performed by the pharmacy technician DELEGATED BY THE PHARMACIST and the methods by which a supervising pharmacist may verify and document the tasks. "Verify" means the personal confirmation by a supervising pharmacist of the correctness of the tasks~~

1 undertaken by the pharmacy technician.  
 2 ~~{e}~~ ~~a description of the training provided by the~~  
 3 ~~supervising pharmacist to the pharmacy technician that is~~  
 4 ~~required by {section 5}; and~~  
 5 ~~{f}~~ (D) any other information the board considers  
 6 relevant.  
 7 ~~{3}~~ (2) The board ~~OR ITS DESIGNEE~~ shall approve a  
 8 utilization plan if it determines that the duties to be  
 9 delegated ~~to a pharmacy technician~~ are:  
 10 (a) assigned, VERIFIED, and supervised DOCUMENTED by  
 11 the supervising pharmacist; and  
 12 (b) within the scope of the training and competence of  
 13 the ~~pharmacy technician~~ PERSON TO WHOM THE AUTHORITY IS  
 14 DELEGATED.  
 15 ~~{4}~~ (3) A supervising pharmacist is responsible for the  
 16 actions of a pharmacy technician OR AUXILIARY who performs  
 17 services for the pharmacist under the terms of a utilization  
 18 plan.  
 19 NEW SECTION. Section 4. Preparation and approval of  
 20 utilization plan -- revocation of or refusal to renew plan  
 21 -- contested case hearing. (1) A supervising pharmacist  
 22 shall:  
 23 (a) prepare the utilization plan ~~under which the~~  
 24 ~~services of a pharmacy technician are used by the pharmacist~~  
 25 and submit a summary of the plan to the board ~~or its~~

1 ~~designee~~ for approval;  
 2 (b) keep on file in the pharmacy a copy of the  
 3 utilization plan for inspection by the board ~~or its~~  
 4 ~~designee~~; and  
 5 (c) annually review the utilization plan and provide  
 6 documentation to the board ~~or its designee~~ that the plan  
 7 accurately reflects the current use of the services of a  
 8 pharmacy technician OR AUXILIARY.  
 9 (2) The board ~~or its designee~~ shall refuse to approve  
 10 or shall revoke or fail to renew approval of a utilization  
 11 plan if it does not conform to the provisions of [sections 3  
 12 through 7 5] and rules adopted under those sections.  
 13 (3) One year after the board ~~or its designee~~ revokes  
 14 approval of a utilization plan, the supervising pharmacist  
 15 may reapply for approval by complying with the requirements  
 16 of [sections 3 through 7 5] and with rules adopted under  
 17 those sections.  
 18 (4) Before refusing to approve or before revoking or  
 19 failing to renew approval of a utilization plan, the board  
 20 ~~or its designee~~ shall provide the supervising pharmacist a  
 21 reasonable time in which to supply additional information  
 22 demonstrating compliance with the requirements of [sections  
 23 3 through 7 5] and with rules adopted under those sections  
 24 and the opportunity to request a hearing.  
 25 (5) If a supervising pharmacist requests a hearing, the

1 board shall conduct the hearing in accordance with the  
2 contested case procedures in Title 2, chapter 4, part 6.

3 ~~NEW SECTION. Section 5. Training of pharmacy  
4 technician. (1) A supervising pharmacist shall:~~

5 ~~(a) provide initial training to a pharmacy technician  
6 that relates to the tasks the pharmacy technician may  
7 perform pursuant to a utilization plan;~~

8 ~~(b) assure the continuing competence of a pharmacy  
9 technician through inservice education and training to  
10 supplement the initial training; and~~

11 ~~(c) prepare and maintain a written record of initial  
12 and inservice training;~~

13 ~~(2) An initial training program must include on-the-job  
14 practical training and didactic education through a program  
15 approved by the board or its designee that is commensurate  
16 with the tasks a pharmacy technician may perform, prior to  
17 the regular performance of those tasks;~~

18 NEW SECTION. Section 5. Utilization plan approval fee  
19 -- renewal of approval -- renewal fee. (1) A PHARMACY IN  
20 WHICH A pharmacist who uses the services of a pharmacy  
21 technician OR AUXILIARY under an approved utilization plan  
22 shall pay to the board OR ITS DESIGNEE a utilization plan  
23 approval fee in an amount set by the board OR ITS DESIGNEE  
24 as provided in 37-1-134. Payment must be made when the  
25 utilization plan is submitted to the board and is not

1 refundable.

2 (2) Approval of a ~~pharmacy technician~~ utilization plan  
3 expires 1 year from the date of approval. The board ~~OR ITS~~  
4 DESIGNEE shall grant renewal of approval upon payment of a  
5 renewal fee in an amount set by the board ~~OR ITS DESIGNEE~~  
6 and documentation as required by [section 4(1)(c)].

7 (3) The board ~~OR ITS DESIGNEE~~ may adopt fees, as  
8 provided in 37-1-134, for other costs associated with  
9 implementation of [sections 3 through 7 5], including the  
10 costs of onsite inspection of the utilization plan ~~and of~~  
11 ~~the record of training required by {section 5}~~ at the  
12 participating pharmacy. THE BOARD MAY DESIGNATE A PRIVATE  
13 ENTITY TO COLLECT THE FEES ADOPTED BY THE BOARD;

14 (4) The ~~IF THE BOARD SETS THE FEES, THE~~ THE board shall  
15 deposit fees received in the state special revenue fund for  
16 use by the board in administration of [sections 3 through 7  
17 5], subject to 37-1-101(6).

18 ~~NEW SECTION. Section 7. Auxiliary personnel. To~~  
19 ~~perform clerical tasks, a pharmacist may use the services of~~  
20 ~~auxiliary or support personnel who are not considered to be~~  
21 ~~acting as pharmacy technicians if they do not perform the~~  
22 ~~tasks of pharmacy technicians;~~

23 Section 6. Section 37-7-323, MCA, is amended to read:  
24 "37-7-323. Penalty -- enforcement. (1) Any A person,  
25 firm, partnership, or corporation violating any of the

1 provisions of parts 1 through 3 of this chapter ~~shall be~~ is  
2 guilty of a misdemeanor and upon conviction for each  
3 violation shall be punished accordingly, and ~~any thereof~~  
4 ~~convicted~~ shall automatically lose any license issued by the  
5 board.

6 (2) In addition to the penalty provided in subsection  
7 (1), the board may withdraw its approval of a utilization  
8 plan previously approved for a supervising pharmacist who:

9 (a) violates any provision of [sections 3 through 7 5]  
10 or rules adopted under those sections;

11 (b) obtained the approval of the utilization plan  
12 through fraud; or

13 (c) acts in a manner contrary to the terms of the  
14 utilization plan.

15 (3) The board may seek an injunction to enforce the  
16 provisions of subsection (2)."

17 NEW SECTION. Section 7. Codification instruction.  
18 [Sections 3 through 7 5] are intended to be codified as an  
19 integral part of Title 37, chapter 7, part 3, and the  
20 provisions of Title 37, chapter 7, part 3, apply to  
21 [sections 3 through 7 5].

22 NEW SECTION. Section 8. Effective dates. (1) [Section  
23 9 7 and this section] are effective on passage and approval.

24 (2) [Sections 1 through 8 6] are effective January 1,  
25 1992.