

MINUTES OF THE MEETING
BUSINESS & INDUSTRY COMMITTEE
MONTANA STATE SENATE

March 27, 1987

The forty-second meeting of the Business and Industry Committee was called to order by Chairman Allen C. Kolstad at 10:01 a.m. on Friday, March 27, 1987, in Room 410 of the Capitol.

ROLL CALL: All members were present.

DISPOSITION OF HOUSE BILL NO. 817: Sen. Weeding MOVED STATEMENT OF INTENT TO HB 817 BE ADOPTED, seconded by Sen. McLane. The MOTION CARRIED UNANIMOUSLY.

Sen. Weeding MOVED HB 817 BE CONCURRED IN, seconded by Sen. Williams. The MOTION CARRIED UNANIMOUSLY.

Vice Chairman Ted Neuman assumed the Chair in order that Chairman Kolstad could attend another hearing.

CONSIDERATION OF HOUSE BILL NO. 741: Sen. Tom Hager, District 48, Billings, presented the bill in the absence of Rep. John Harp, chief sponsor of the bill. He introduced Kathy Irigoien from the State Auditor's Office to present the testimony for the bill.

Ms. Irigoien said the bill would increase the state's regulation of health service corporations (Blue Cross/Blue Shield). Presently, these corporations are regulated by the provisions of Title 33, chapter 20.

The bill extends certain other insurance laws to cover the "Blues". Under the bill they would be subject to the following portions of the law: sections 33-17-212 through 33-17-214 which deal with examination for licensure and issuance of licenses; chapter 1 which contains general provisions; chapter 15 which sets forth the requirements for a contract of insurance; chapter 18 which contains the unfair trade practices laws; chapter 19 which deals with insurance information and privacy; and chapter 22 which deals with disability insurance.

She said the new section 10 of the bill requires licensure of health service corporations. The license could be revoked or suspended by the commissioner for violation of the insurance laws.

The bill also revises the fee schedule for health service corporations to raise certain fees and includes fees for examination for licensure, and other licensure fees. (EXHIBITS 1, 2 and 3)

PROPONENTS: Steve Brown, representing Blue Cross/Blue Shield, explained the amendment to the committee. (EXHIBIT 4) They did support HB 741 with the amendment.

Bonnie Tippy, representing the Montana Association of Life Underwriters and the Montana Association of Health Underwriters, said they wished to be on record as being totally in support of the bill. She said they supported the bill in the House, including the premium tax. Even though that has been taken out, she said they still support the bill. She said they had many reasons for supporting the bill but one of the most important reasons was those people who are selling insurance for Blue Cross/Blue Shield should be required to have the same kind of education and licensing as agents who represent other health insurance companies. She urged a do pass recommendation.

Mona Jamison, representing Rocky Mountain Treatment Center in Great Falls, said they supported the bill as originally introduced in the House. She said they felt this bill is a reasonable step in the right direction and urged the committee's support of the bill.

Tom Hopgood, representing the Health Insurance Association of America, said they also supported the bill in the House as it was introduced and still feel it is a good bill. He urged a do pass recommendation from the committee.

OPPONENTS: There were no opponents.

There being no opponents, Sen. Hager closed the presentation on HB 741.

DISCUSSION OF HOUSE BILL NO. 741: There were no questions from the committee. Chairman Kolstad resumed the Chair.

DISPOSITION OF HOUSE BILL NO. 741: Sen. Neuman MOVED ADOPTION OF THE AMENDMENT, seconded by Sen. Walker. The MOTION CARRIED UNANIMOUSLY.

Sen. McLane MOVED HB 741 BE CONCURRED IN AS AMENDED, seconded by Sen. Walker. The MOTION CARRIED UNANIMOUSLY. Sen. Hager will carry the bill in the Senate.

DISPOSITION OF HOUSE BILL NO. 586: Sen. Williams MOVED HB 586 BE CONCURRED IN, seconded by Sen. Meyer. Chairman Kolstad stated that HB 623 has not been taken up on Second Reading as of yet and the two bills relate to each other.

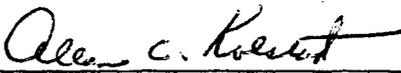
Sen. Neuman stated there could be a coordination clause saying if HB 623 passes there would be no need for HB 586 and it would be null and void. It could also be killed on the floor if it is not needed or send it back to Committee.

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The MOTION CARRIED UNANIMOUSLY. Sen. Williams will carry the bill.

There being no further business, Chairman Kolstad set the next meeting for Tuesday, March 31, 1987.

The meeting adjourned at 10:35 a.m.



SEN. ALLEN C. KOLSTAD, CHAIRMAN

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ROLL CALL

Business & Industry

COMMITTEE

50th LEGISLATIVE SESSION -- 1987

Date 3/27/87

NAME	PRESENT	ABSENT	EXCUSED
ALLEN C. KOLSTAD, CHAIRMAN	✓		
TED NEUMAN, VICE CHAIRMAN	✓		
PAUL BOYLAN	✓		
TOM HAGER	✓		
HARRY H. MCLANE	✓		
DARRYL MEYER	✓		
GENE THAYER	✓		
MIKE WALKER	✓		
CECIL WEEDING	✓		
BOB WILLIAMS	✓		

Each day attach to minutes.

WRITTEN TESTIMONY OF STATE AUDITOR'S OFFICE

HOUSE BILL 741

March 27, 1987

SENATE BUSINESS & INDUSTRY

EXHIBIT NO. 1

DATE 3-27-87

BILL NO. HB-741

I. Purpose/Background

Current Montana law provides that the Montana Insurance Code (Title 33, MCA) does not apply to health service corporations. Weber v. Blue Cross of Montana, 196 Mont. 454 (1982), reh. den. 643 P.2d 198 (1982); 37 Op. Att'y Gen. 151 (1978). The Weber case can, however, be distinguished on the grounds that it is based upon laws and conditions that no longer exist. In addition, the Attorney General's opinion merely states the conclusion that health service corporations are not subject to the Montana Insurance Code. The Attorney General's conclusion is not supported by reason. House Bill 741 addresses the differences in regulation created by Weber and the Attorney General opinion. House Bill 741 makes regulation of health service corporations closer to regulation of other health insurance companies since experience and information in the Montana Insurance Department indicates that there are relatively few differences between the ways a health service corporations and other health insurance companies are operated, eliminating a need for differences in regulation.

II. Explanation of House Taxation Amendments

House Bill 741, as introduced, basically provided that ALL of the Montana Insurance Code, including the premium tax, should apply to health service corporations. The House Taxation Committee amended it to clarify exactly which insurance laws should apply to health service corporations (see section 3, page 4, lines 4 through 12). In addition, the House Taxation Committee removed the premium tax (see former section 5, page 6, lines 9 through 12).

III. Section by Section Explanation

Section 1 clarifies that the Montana Insurance Code applies to health service corporations only as prescribed in the applicability section of the Health Service Corporation Act.

Section 2 provides that the term "insurer" includes a health service corporation only in those insurance laws listed in the applicability section of the Health Service Corporation Act.

Section 3 applies the following laws to health service corporations (see page 4, lines 11 through 12):

33-17-212--insurance agent license examination required.

33-17-213--conduct of insurance agent examination.

33-17-214--issuance of insurance agent license.

Chapter 1--Administration and General Provisions--which, in part, includes laws relating to financial examinations by the Insurance Department (part 4), approval of forms (part 5), and administrative hearings and appeals (part 7).

Chapter 15--The Insurance Contract--which, in part, includes laws relating to required policy provisions (part 3).

Chapter 18--Unfair Trade Practices.

Chapter 19--Insurance Information and Privacy Protection--which already applies to health service corporations but which should nonetheless be listed as applying to them in the applicability section of the Health Service Corporation Act for clarity.

Chapter 22--Disability Insurance (encompasses health insurance that health service corporations sell)--which, in part, includes laws that currently do not apply to health service corporations, e.g., individual policy requirements (part 2) and requirements for certain individual coverages (part 3); and laws that currently do apply to health service corporations, e.g., coverage for mental illness, alcoholism, and drug addiction (part 7); extended health insurance (part 8); medicare supplement insurance minimum standards (part 9); home health care coverage (part 10); and comprehensive health association and plan (part 15).

Please note that, if any provision of the sections and chapters of the Montana Insurance Code listed above conflicts with a provision of the Health Service Corporation Act, the conflicting provision of the Health Service Corporation Act applies (see page 4, lines 13 through 18).

Section 4 provides that health service corporations shall pay for market conduct examinations conducted by the commissioner. Under current law, the Legislature has to appropriate money for those examinations of health service corporations; whereas, other insurance companies already pay for financial examinations that the commissioner conducts.

Section 5 adjusts fees paid by health service corporations to match those paid by other health insurance companies.

Section 6 provides that health service corporation forms must be filed with and approved by the commissioner like other health insurance company forms. Currently, health service corporations are simply required to file their forms before

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using them; whereas, other health insurance companies must obtain prior approval before using their forms.

Section 7 removes the provision that rate increase notices by a health service corporation must include the mailing address of the commissioner since the commissioner has no authority over the rates charged by health service corporations.

Section 8 requires health service corporation enrollment representatives to pass the same examination as other health insurance company agents.

Section 9 provides that health service corporations, like any other health insurance company, must provide conversion rights to a person, his dependents, or family members covered under a health service corporation policy if their eligibility for coverage under the policy ends because the employer discontinued the policy.

Section 10 requires health service corporations to obtain a license, which they are not currently required to do.

IV. Conclusion

House Bill 741 eliminates many of the regulatory preferences for health service corporations contained in current law. It makes regulation of health service corporations more like regulation of other health insurance companies.

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BILL NO. H.B. 741

A health service corporation is a non-profit corporation providing insurance plans for hospital and medical care. Under current law, health service corporations are exempt from many provisions of the Montana Insurance Code and are allowed to do business differently than other health insurance companies. H.B.741 addresses those areas where the Insurance Department feels it is in the consumers' best interest that health service corporations be treated in the same fashion as any other insurance company.

The major consumer protections of H.B. 741 include:

1. Health service corporations would be required to meet many of the same provisions of the Insurance Code as all other insurance companies.
2. The bill assures consumer protections for customers of health service corporations including financial examinations to ensure that the corporation will be financially sound and able to pay all claims, and prompt and fair claims settlements.
3. The bill requires health service corporations, and not the State, to pay the cost of financial and market study examinations. Other insurers already pay those same costs, and this change will remove the expense from the general fund and Montana's taxpayers.
4. H.B. 741 requires that health service corporations obtain a license. Currently, health service corporations are not licensed through the Insurance Department.
5. This legislation requires health service corporation "enrollment representatives" to pass the same examination as agents offering health insurance through other companies.
6. The bill adjusts fees paid by health service corporations to match those paid by health insurance companies.

This legislation WILL NOT:

- *alter the non-profit status of health service corporations.
- *change the financial requirements a health service corporation must establish and maintain in order to do business in Montana.
- *restrict a health service corporation's ability to contract with doctors or hospitals to achieve cost control.

H.B. 741 no longer requires:

- *payment of Montana's premium tax
- *compliance with freedom of choice of practitioner provisions

Summary of Table of Comparisons of
State Laws Regulating Blue Cross/Blue Shield Organizations
Prepared by Montana Insurance Department

The Montana Insurance Department reviewed the regulation of Blue Cross/Blue Shield by 16 states, including Montana, and prepared the attached "TABLE OF COMPARISONS OF STATE LAWS REGULATING BLUE CROSS/BLUE SHIELD ORGANIZATIONS". The table reflects the findings of the survey and bears out the following conclusions:

1. PROFIT STATUS. Blue Cross/Blue Shield is a nonprofit corporation in 13 states (including Montana), a profit corporation in two states (California and New Mexico), and a mutual insurance company in one state (Connecticut).
2. ANNUAL STATEMENT. All of the states surveyed require Blue Cross/Blue Shield to file an annual statement, reflecting its financial situation.
3. TAXATION. Ten of the 16 states require Blue Cross/Blue Shield to pay a premium tax, two states (Montana and Idaho) charge them a subscription fee, and only four states (California, Colorado, Oregon, and Maine) have no tax.
4. UNFAIR TRADE PRACTICES. Every state surveyed, except Montana, requires Blue Cross/Blue Shield to comply with unfair trade practices laws, which means that Blue Cross/Blue Shield may not legally engage in the following (or other) unfair claim settlement practices in those states:
 - a. misrepresent pertinent facts or insurance policy provisions;
 - b. fail to acknowledge and act reasonably promptly upon claims;
 - c. refuse to pay claims without conducting a reasonable investigation of claims arising under insurance policies;
 - d. fail to affirm or deny coverage of claims within a reasonable time after proof of loss statements have been completed;
 - e. neglect to attempt in good faith to effectuate prompt, fair, and equitable settlements of claims;
 - f. force an insured to sue to recover amounts due under an insurance policy by offering substantially less than the amounts the insured ultimately recovers;

- g. attempt to settle a claim for less than the amount to which a reasonable man would have believed he was entitled;
 - h. delay the investigation or payment of claims;
 - i. fail to settle claims promptly
5. MANDATED BENEFITS. Every state surveyed mandated Blue Cross/Blue Shield to cover mental illness, alcoholism, and drug addiction like any other insurance company, except that the coverages mandated for Blue Cross/Blue Shield differed slightly from those mandated for other insurance companies in Colorado and New Mexico.
6. FREEDOM OF CHOICE. Every state surveyed, except Montana, required Blue Cross/Blue Shield to allow its subscribers to choose the type of doctor to treat them.
7. CONVERSION. Every state surveyed required Blue Cross/Blue Shield to offer conversion plans to individuals who cannot be covered under a group plan because their employment or eligibility in the group ends or because their employer discontinues his business.

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EXHIBIT NO. 3
DATE 3-27-87
BILL NO. H.B. 741

TABLE OF COMPARISONS OF STATE
LAW REGULATING BLUE CROSS/BLUE SHIELD ORGANIZATIONS

STATES	PROFIT STATUS	CORPORATE STATUS	FINANCIAL REQUIREMENTS	FINANCIAL REPORTING	TAXATION	UNFAIR TRADE PRACTICES	MANDATED BENEFITS	FREEDOM OF CHOICE	CONVERSION
HOUSE BILL 741	Nonprofit	Health service corp.	\$500,000 or 1 months' average income from dues	Annual stmt	Premium tax-- 2.75%	Must comply	Yes	Yes	Yes
MONTANA	Nonprofit	Health service corp.	\$500,000 or 1 months' average income from dues	Annual stmt	Fee of 50¢/subscriber	No	Yes	No	Yes
ALASKA	Nonprofit	Hospital & medical service company	Less capitalization and surplus than insurance co.	Annual stmt	(Premium less claims) x 6%	Must comply	Yes	Yes	Yes
ARIZONA	Nonprofit	Hospital & medical service company	Same capitalization and surplus as insurance co.	Annual stmt	Premium tax-- 1.7%	Must comply	Yes	Yes	Yes
CALIFORNIA	Profit	Insurance company	Same capitalization and surplus as insurance co.	Annual stmt	No tax	Must comply	Yes	Yes	Yes
COLORADO	Nonprofit	Health service corp.	Surplus cap of 1/3 of previous year's premium	Annual stmt	No tax	Must comply	Yes with subtle changes	Yes with subtle changes	Yes with subtle changes

STATES	PROFIT STATUS	CORPORATE STATUS	FINANCIAL REQUIREMENTS	FINANCIAL REPORTING	TAXATION	UNFAIR TRADE PRACTICES	MANDATED BENEFITS	FREEDOM OF CHOICE	CONVERSION
IDAHO	Nonprofit	Hospital & professional corp.	Same capitalization and surplus as insurance co.	Annual stmt	Premium tax-- 4¢/subscriber/month	Must comply	Yes	Yes	Yes
OREGON	Nonprofit	Health service contractor corp.	Same capitalization and surplus as insurance co.	Annual stmt	No tax	Must comply	Yes	Yes	Yes
UTAH	Nonprofit	Health service corp.	\$400,000 capital \$300,000 surplus	Annual stmt	Premium tax-- 2.25%	Must comply	Yes	Yes	Yes
WYOMING	Nonprofit	Health service corp.	Same capitalization and surplus as insurance co.	Annual stmt	Premium tax-- 1.5%	Must comply	Yes	Yes	Yes
NORTH DAKOTA	Nonprofit	Health service corp.	\$500,000 capital \$100,000 surplus	Annual stmt	Premium tax-- .5%	Must comply	Yes	Yes	Yes
SOUTH DAKOTA	Nonprofit	Medical, surgical, hospital corp.	No deposit; director controls corp. expenses	Annual stmt	Premium tax-- 2.5%	Must comply	Yes	Yes	Yes
CONNECTICUT	Mutual Company	Insurance company	\$1,000,000 capital \$2,000,000 surplus	Annual stmt	Premium tax-- 2%	Must comply	Yes	Yes	Yes

STATES	PROFIT STATUS	CORPORATE STATUS	FINANCIAL REQUIREMENTS	FINANCIAL REPORTING	TAXATION	UNFAIR TRADE PRACTICES	MANDATED BENEFITS	FREEDOM OF CHOICE	CONVERSION
MAINE	Nonprofit	See note below	1-3-month reserve money level	Annual stmt	No tax	Must comply	Yes	Yes	Yes
WASHINGTON	Nonprofit	Hospital & medical service corp.	Less capitalization and surplus than insurance co.	Annual stmt	(Premiums less claims) x 6%	Must comply	Yes	Yes	Yes
NEVADA	Nonprofit	Medical service corp.	Reserve levels fluctuate with policyholder levels	Annual stmt	Premium tax-- 3%	Must comply	Yes	Yes	Yes
NEW MEXICO	Profit	Health care plan	Same capitalization and surplus as insurance co.	Annual stmt	Premium tax-- 3%	Must comply	Yes with subtle changes	Yes with subtle changes	Yes with subtle changes

SENATE BUSINESS & INDUSTRY

EXHIBIT NO. 3

DATE 3-27-87

H.R. 741

SENATE BUSINESS & INDUSTRY
EXHIBIT NO. 4
DATE 3-27-87
BILL NO. HB 741

Amendment to HB 741 third reading (blue) copy

1. Page 4, line 12.
Following: "22"
Insert: ", except 33-22-111"

STANDING COMMITTEE REPORT

MARCH 27, 1987

MR. PRESIDENT

We, your committee on BUSINESS AND INDUSTRY

having had under consideration HOUSE BILL No. 586

THIRD reading copy (BLUE color)

GOULD (WILLIAMS)

MODIFY MARKETING ARRANGEMENTS FOR TABLE WINE

Respectfully report as follows: That HOUSE BILL No. 586

BE CONCURRED IN

~~XXXXXX~~
DO PASS

~~XXXXXXXXXX~~
DO NOT PASS

SENATOR ALLEN C. KOLSTAD, Chairman.

STANDING COMMITTEE REPORT

MARCH 27, 19 37

MR. PRESIDENT

We, your committee on..... **BUSINESS AND INDUSTRY**

having had under consideration..... **HOUSE BILL** No. **741**

THIRD reading copy (**BLUE**)
color

HARP (EAGER)

REGULATION OF HEALTH SERVICE CORPORATIONS

Respectfully report as follows: That..... **HOUSE BILL** No. **741**

be amended as follows:

1. Page 4, line 12.
Following: "22"
Insert: ", except 33-22-111"

AND AS AMENDED,

BE CONCURRED IN

~~XXXXXXXX~~

~~XXXXXXXXXX~~

.....
SENATOR ALLEN C. KOLSTAD, Chairman.

STANDING COMMITTEE REPORT

MARCH 27, 1967

MR. PRESIDENT

We, your committee on BUSINESS AND INDUSTRY

having had under consideration HOUSE BILL No. 817

THIRD reading copy (BLUE color)

GLASER (REEDING)

INDEPENDENT LIABILITY FUNDS FOR SMALL BUSINESS

Respectfully report as follows: That HOUSE BILL No. 817

BE CONCURRED IN

STATEMENT OF INTENT ADOPTED
AND ATTACHED

~~XXXXXX~~
~~DO PASS~~

~~XXXXXX~~
~~DO NOT PASS~~

SENATOR ALLEN C. KOLSTAD, Chairman.

MR. PRESIDENT,

WE, YOUR COMMITTEE ON BUSINESS AND INDUSTRY HAVING HAD UNDER CONSIDERATION HOUSE BILL NO. 817, ATTACH THE FOLLOWING STATEMENT OF INTENT:

STATEMENT OF INTENT
House Bill No. 817

A statement of intent is required for this bill in order to provide a guideline for regulation of independent liability funds. In sections 5 and 17 of this bill, the legislature grants to the commissioner of insurance general rulemaking authority to do the following:

- (1) supply forms for the registration of small business independent liability funds;
- (2) ascertain the inviolability of each independent liability fund;
- (3) ascertain the financial health of each independent liability fund;
- (4) initiate sanctions against independent liability funds that are not secure or viable; and
- (5) to make any other rules and regulations required to carry out the purposes of the Independent Liability Fund Act.

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