MINUTES

MONTANA HOUSE OF REPRESENTATIVES
53rd LEGISLATURE - REGULAR SESSION

COMMITTEE ON HUMAN SERVICES & AGING

Call to Order: By **CHAIRMAN BILL BOHARSKI**, on February 5, 1993, at 3:00 p.m.

ROLL CALL

Members Present:

Rep. Bill Boharski, Chairman (R)
Rep. Bruce Simon, Vice Chairman (R)
Rep. Stella Jean Hansen, Vice Chairman (D)
Rep. Beverly Barnhart (D)
Rep. Ellen Bergman (R)
Rep. John Bohlinger (R)
Rep. Tim Dowell (D)
Rep. Duane Grimes (R)
Rep. Brad Molnar (R)
Rep. Tom Nelson (R)
Rep. Sheila Rice (D)
Rep. Angela Russell (D)
Rep. Tim Sayles (R)
Rep. Liz Smith (R)
Rep. Carolyn Squires (D)
Rep. Bill Strizich (D)

Members Excused: None

Members Absent: None

Staff Present: David Niss, Legislative Council
Alyce Rice, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing: SB 209, HB 355, HB 315
Executive Action: HB 145

HEARING ON SB 209

Opening Statement by Sponsor:

REP. BRUCE CRIPPIN, Senate District 45, Billings, said SB 209 changes the name of the Board of Optometrists to the Board of Optometry; provides for the purpose of the regulation of the

practice of optometry; revises the meeting requirements of the board; requires that the licensure examination be conducted by the National Board of Examiners in Optometry; revises qualification requirements, reciprocity, and continuing education requirements for the practice of optometry; and revises the disciplinary authority of the board over holders of certificates of registration.

Optometry has changed tremendously in its techniques in the last few years. As a result, the board has recommended the requirement of twelve hours of continuing education for all licensed optometrists.

Proponents' Testimony:

Dr. Paul Kathrein, Board of Examiners in Optometry, said the board is in unanimous agreement on the bill, but is concerned that lines 1 through 4, page 8, section 6, which addresses examinations, have been stricken from the bill. The National Board of Examiners in Optometry has two main parts to the examination. There is a written portion, and a clinical portion. If the written portion is eliminated, half of the examination is eliminated. The board recommends an amendment to SB 209, reinstating lines 1 through 4, on page 8, section 6.

Opponents' Testimony:

None

Informational Testimony:

None

Questions From Committee Members and Responses:

None

Closing by Sponsor:

SEN. CRIPPEN closed.

HEARING ON HB 355

Opening Statement by Sponsor:

REP. HAL HARPER, House District 44, Helena, said HB 355 is a bill that would require the monthly posting of the twenty top-selling prescription drugs prices, as a condition of licensure. The cost of prescription drugs has been rising rapidly. There is wide price discrepancy among brand names for generic drugs between pharmacies that sell these drugs.

Proponents' Testimony:

Roger Scott, Retired, Helena. Written testimony. **EXHIBIT 1.**

Marion Hellstern, Treasurer, Montana Senior Citizens Association (MSCA), Hinsdale, said the association believes that prescription drug prices should be posted in pharmacies the same way as other consumer commodities. Posting of prices would allow consumers to be more informed and heighten their awareness of price differences from pharmacy to pharmacy. Written testimony. **EXHIBIT 2.**

Doris Forkin, Secretary, Montana Senior Citizens Association. Written testimony. **EXHIBIT 3.**

Ethel Bender, President, Montana Senior Citizens Association, District 3, Miles City. Written testimony. **EXHIBIT 4.**

Lloyd Anderson, President, Montana Senior Citizens Association, District 8. Written testimony. **EXHIBIT 5.**

Elsie Lee, Member, Montana Senior Citizens Association, District 5. Written testimony. **EXHIBIT 6.**

Alyce Miller, Montana Senior Citizens Association, District 7. Written testimony. **EXHIBIT 7.**

Margaret Fleming, Member, Board of Directors, Montana Senior Citizens Association, Butte, said in the past, MSCA tried to have prescriptions posted without seeking legislation, so senior citizens could do comparison shopping. Many young citizens also use prescription drugs, and would benefit from this legislation. Greed has become excessive. A survey taken a few years ago, stated for every dollar spent on a drug from a pharmacy, sixty-five cents goes to the manufacturer, five cents goes to the wholesaler, and thirty cents goes to the pharmacy. MSCA has not been able to convince pharmacies to post prescription drug prices.
HB 355 mandates posting the prices of the twenty top-selling drugs. **Ms. Fleming** urged the committee to pass HB 355.

Alice Campbell, Board Member, Montana Coalition for Nursing Home Reform, Missoula. Written testimony. **EXHIBIT 8.**

Vern Bertelson, Montana Legacy Legislature (MLL), said MLL supports HB 355. HB 355 will give the consumer an informed choice of where they will purchase their prescription drugs.

Chet Kinsey, Montana Low Income Coalition (MLIC), said MLIC supports HB 355.

Jim Meldrum, Montana Independent Living Project, Helena. Written testimony. **EXHIBIT 9.**

Melissa Case, Montana Nursing Home Coalition (MNHC), said MNHC supports HB 355.

Ed Sheehy, Local Chapter, National Association of Retired Federal Employees (NARFE) said NARFE supports HB 355.

Sharon Hoff, Montana Catholic Conference (MCC) said MCC supports HB 355.

Elmer Fauth, Montana Senior Citizens Association, said prescription drugs have become a runaway gold mine for pharmaceutical companies. The difference in prices of the same prescription drug, in the same town, is evidence of greed. Pass HB 355 and help stop this greedy runaway gold mine.

Opponents' Testimony:

Mark Eichler, President, Montana State Pharmaceutical Association (MSPA), said MSPA doesn't oppose HB 355 on its merits of high prescription prices. HB 355 doesn't address the issue of cost containment of drugs. Upon request, pharmacists will give the consumer the price of any prescription drug. MSPA doesn't feel it is in the best interest of a consumer to go to multiple pharmacies for their prescription drug. When a consumer purchases three or four different prescription drugs from three or four different pharmacies, the pharmacists cannot monitor the drugs' effect on the individual. MSPA opposes HB 355.

Bonnie Tippy, Executive Director, Montana State Pharmaceutical Association (MSPA). Written testimony. **EXHIBIT 10.**

Informational Testimony:

None

Questions From Committee Members and Responses:

REP. MOLNAR referred to **Ms. Tippy's** testimony that the problem with posting drug prices would be the prices change so fast, and there are so many different types of drugs the board would soon become obsolete. **REP. MOLNAR** asked **Ms. Tippy** if her suggestion that the Governor's Office on Aging perform a monthly survey of the cost of the top-selling prescription drugs, and report the results to the senior citizens, would result in even more obsolete prices. **Ms. Tippy** said there would be a problem with some of the prices being obsolete.

REP. BOHLINGER asked **Ms. Tippy** if it would be better to have the senior community create a list of their twenty most frequently used drugs and have those prices posted. **Ms. Tippy** said the prices would still change on a frequent basis. Pharmacists would still be required to post the prices monthly or lose their licensure. No other health care provider is threatened with license revocation or suspension if the cost of an examination or

other product isn't posted.

REP. BOHLINGER asked **REP. HARPER** if he could establish the stability of a price list for the twenty top-selling prescription drugs. **REP. HARPER** said a price list for the twenty top-selling prescription drugs would help not only the senior citizens, but all consumers. All pharmacists would have to do is check their computers for the drugs and the prices. Pharmacists do not lose their licenses because someone files a complaint. It only comes into play when their licenses are up for renewal once a year.

REP. SQUIRES referred to the testimony that buying several different drugs at several different pharmacies could result in dangerous reaction between the drugs because the pharmacists wouldn't be able to counsel the individual. **REP. SQUIRES** asked **Roger Scott** if this would happen in the senior community. **Mr. Scott** said most senior citizens have a doctor who would prescribe the medicine they are taking. It shouldn't matter how many pharmacies a consumer goes to because the drugs are all being prescribed by the same doctor.

REP. DOWELL asked **Roger Scott** if consumers usually buy their prescription drugs at the same pharmacy or do they occasionally go to different pharmacies for different prescriptions. **Mr. Scott** said he could only speak for himself and he usually goes to the same pharmacy. **Mr. Scott** added if he had access to prices he may do some comparative shopping.

REP. BERGMAN asked **Mr. Scott** if it was common practice for a pharmacy to be high priced on one drug and low priced on another drug. **Mr. Scott** replied that could be the case. When certain drugs are in demand the price goes up. It is usually the manufacturers that increase the prices.

REP. RUSSELL asked **REP. HARPER** how it was decided to have the permissive penalty for revocation of license instead of a monetary penalty. **REP. HARPER** said the purpose of the bill was not to start a battle between the senior citizens or any other group and the pharmacists. The purpose of the bill was to try to do something about the high prices the senior citizens have to pay for prescription drugs. The penalty was not intended to be that punitive. A penalty is needed in order to get the attention of the parties that control the prices of prescription drugs.

REP. SIMON said his wife works in the health care field and knows of many occasions when the physician has asked patients to bring in all medications they are currently taking. Some senior citizens may be going to more than one physician, and taking a variety of medications that don't work well together. **REP. SIMON** said he is concerned about the potential for people putting an emphasis on the price they are paying for drugs, and buying them at three or four different pharmacies with prescriptions written by different physicians. The mixing of drugs without knowing the affects they will have is dangerous. **REP. SIMON** said he

sympathized with the fact that prescription drugs are expensive but is concerned about the health of people that have more than one physician, are taking drugs prescribed by them, and buying them at several different pharmacies. **REP. SIMON** asked **REP. HARPER** how that issue should be addressed. **REP. HARPER** said he didn't think the issue could be addressed in the bill and didn't have a solution.

REP. BOHLINGER asked **REP. HARPER** if he thought posting drug prices would make the pharmacists more competitive, and have a leveling effect on the prices. **REP. HARPER** said he thought it would have a tendency to level out the high prices and would have a beneficial effect.

CHAIRMAN BOHARSKI asked **REP. HARPER** to clarify if there is potential for revocation of pharmacists' licenses. **REP. HARPER** said the renewal of a license can be denied. The license can also be suspended or revoked before the time for renewal. **CHAIRMAN BOHARSKI** said drugs are sold in various dosages and units. He asked **REP. HARPER** how a list could possibly cover all the different dosages and units of a drug. **REP. HARPER** said grocery stores do it all the time by listing the price per unit. Pharmacies should not be the only retail outlet that is exempt.

CHAIRMAN BOHARSKI referred to testimony about pharmacists refusing to give drug prices to people over the phone. **REP. BOHARSKI** asked **Bonnie Tippy** how the board would respond to such a complaint. **Ms. Tippy** said she isn't privy to the complaints that are filed with the state board. **Ms. Tippy** said she is very surprised that pharmacists would refuse to give drug prices over the phone. They do it every day of the week. **CHAIRMAN BOHARSKI** asked **Ms. Tippy** if pharmacists are required by law to give drug price information out. **Ms. Tippy** said she didn't believe pharmacists were required by law to give drug prices to consumers.

Closing by Sponsor:

REP. HARPER said HB 355 is not a price control bill, it is a user freedom of information bill. The confusion that abounds when it comes to pricing, and the possibility of complaints being filed with this legislation, highlights the problems everyone faces when they try to buy some of the high priced prescription drugs. The Legislature cannot control the price of drugs, but this bill will heighten the consumers' awareness of the prices. **REP. HARPER** asked the committee to give favorable consideration to HB 355.

HEARING ON HB 315

Opening Statement by Sponsor:

REP. BRUCE SIMON, House District 91, Billings, said in 1987 there

was a bill that allowed optometrists to use certain drugs for topical use of antibiotics. At that time, the committee decided not to allow the use of corticosteroids in the treatment of glaucoma. HB 315 removes the prohibition from using corticosteroids. Currently, if you have an eye problem, or need glasses, you can go to an optometrist, or an opthomologist. An opthomologist is a medical doctor who specializes in the treatment of the eye. Optometrists are not medical doctors, they are doctors of optometry. The opthomologist is allowed to use any kind of drug they wish. The doctor of optometry is not. Twenty-nine other states, plus the veterans administration hospitals, the military, and Indian health service allow the use of topical steroids by optometrists. One of the reasons for this legislation is to enable people to get affordable and quality health care. Optometrists and opthomologists are not readily available across the state. There are 145 optometrists serving 61 communities in the state. There are 41 opthomologists that provide services to 17 communities, and some of those communities are served only one day a month. There is definitely an access problem for people that need the services of eye care professionals. An optometrist is a professional with background and experience that goes far beyond fitting eye glasses.

Proponents' Testimony:

Dr. Kevin McBride, Optometrist, President, Montana Optometric Association, Billings. Written testimony. **EXHIBIT 11.**

Dr. Ron Benner, Optometrist, Laurel. Written testimony. **EXHIBIT 11.**

Dr. Kent Harrington, Optometrist, Malmstrom Air Force Base, Great Falls. Written testimony. **EXHIBIT 11.**

Dr. Paul Kathrein, Optometrist, Board of Optometry, Great Falls. Written testimony. **EXHIBIT 11.**

The following optometrists stated their names as supporters of HB 315 for the record: **Dr. Bruce Coen, Helena, Dr. Greg Zell, Missoula, Dr. Bill Simons, Helena, Great Falls, Dr. Larry LaRock, Butte, Kim Calnan, Optometry Student, Pacific University, Training at Malmstrom Air Force Base, Great Falls.**

Opponents' Testimony:

Dr. Joe Kupko, Ophthomologist, Hamilton, said the optometrists in the air force always have very strict supervision. Usually the supervision is done by an ophthomologist. At Malmstrom Air Force Base optometrists are allowed to prescribe certain medications, but their charts are constantly reviewed by the head physician of the facility, and the pharmacy and therapeutics committee. Optometrists differ from ophthomologists in internship and residency. The years of supervised clinical training under physicians experienced in the use of these medications is what is

missing. Optometrists have been taught about medications and the medical aspects of the eye, but have not been taught to be physicians. Thirty-one states have optometric therapy bills, but the majority of these were passed prior to 1988 before it was recognized that other people should have input into the approval of the legislation besides the optometrists and the legislators. Since more facts have been available to legislators, many more bills have been defeated than passed. Last year seventeen bills were defeated, and only five passed. Since 1989 only eight have passed nation-wide. In 1991 seventeen were defeated and only three passed. In 1990 none were passed. In addition, states that have passed the legislation, have begun to define strict limits about what medications can be used, the limited length of time they can be used, and mandatory referrals. Twenty states prohibit any optometric therapy. Included among those are California and New York, our most populous states, even though they represent vast medically underserved urban and rural populations. Twenty-two states prohibit the use of corticosteriods in their optometry licensing statutes. If the Montana Legislature wants to conform to the national trend, it would understand all the facts and defeat HB 315.

Dr. Jerry Loendorf, Montana Medical Association (MMA), said medical doctors respect the profession of optometry and work cooperatively with them to provide services to Montana patients. MMA is concerned about the lack of on-the-job training optometrists receive. MMA believes more extensive clinical training is necessary to provide the best service to patients. MMA opposes HB 315.

Dr. Tom Matsko, Ophthomologist, Great Falls, said during his first year as a resident, he noted 2,000 infractions while prescribing eye glasses. That level of training isn't approached in optometric programs. Optometrists don't have to use steriods. There are other topical anti-inflammatory medications on the market which they have access to for their patients. These non-steriod anti-inflammatory medications are effective.

Dr. Steve Weber, Ophthomologist, Montana Academey of Ophthomology MAO, Kalispell, said MAO cannot support a bill that allows optometrists to use corticosteriods because of the safety issue. Written testimony. **EXHIBIT 12.**

Informational Testimony:

None

Questions From Committee Members and Responses:

REP. MOLNAR asked **Dr. Kathrein** if he was aware of any malpractice complaints being filed by ophthomologists on behalf of patients who have been incorrectly treated by optometrists. **Dr. Kathrein** said he has been on the board for ten years and isn't aware of any. **REP. MOLNAR** asked **Dr. Kathrein** how much malpractice

insurance will go up if this legislation is passed. **Dr. Kathrein** said in other states it has not increased at all.

REP. SMITH asked **Dr. McBride** how often corticosteriods would be used in the practice of optometry. **Dr. McBride** said about three or four cases a month would require treatment with the medication.

REP. SAYLES asked **Dr. McBride** if optometrists had equipment available to test the pressure in the back of the eye, to which he replied yes.

REP. MOLNAR asked **Dr. McBride** if optometrists had on-going training requirements. **Dr. McBride** said there are statutes that require twelve hours of continuing education per year. The on-going education that is required is strictly monitored by the Board of Optometry.

REP. GRIMES asked **Dr. Kupco** if the patients of optometrists in Idaho, where they can use corticosteriods, would be at more risk than patients in Montana, to which he replied yes.

REP. GRIMES asked **Dr. McBride** if he had any statistics that compare the safety of patients of optometrists in states that use corticosteriods to the states where optometrists do not use corticosteriods. **Dr. McBride** said some optometrists have been using steroids since 1976. The malpractice rates, which are a measure of how well they are using steroids, and reports to the Boards of Optometry have not indicated that there are safety problems.

REP. SQUIRES asked **Dr. McBride** why the optometrists wouldn't accept the ophthomologists' offer of co-management. **Dr. McBride** said it wasn't offered until three weeks ago. In other states where that has been tried, there have been problems. There is already an effort in cooperation between optometrists and ophthalmologists in most areas that makes that stipulation unnecessary.

REP. SQUIRES asked **Dr. Weber** what he felt was the reason the co-management offer was not accepted by optometrists. **Dr. Weber** said the optometrists don't trust the ophthomologists. There has been bad blood between them the last six years during the legislative sessions.

REP. SQUIRES asked **REP. SIMON** who the person is that is using corticosteriods at present because he is in violation of his practice act. **REP. SIMON** said the optometrist that is with the air force at Malmstrom Air Force Base is using the medication, and under their laws, it is allowed.

REP. BERGMAN asked **Dr. McBride** to comment on the amendments to HB 315 offered by the ophthomologists. **EXHIBIT 13. Dr. McBride** said the one week limitation to refer a patient to a physician is

too short because the patient may not respond to treatment in that amount of time. Optometrists will cooperate and work with ophthomologists when it is appropriate, as they use these medications. To have that stipulation in the bill is unnecessary.

CHAIRMAN BOHARSKI asked **Dr. Weber** to explain the meaning of visual acuity reduced by greater than two lines referred to in the amendment. **Dr. Weber** said the two lines referred to are the two lines on the eye chart. Two lines indicate moderately declining vision. **CHAIRMAN BOHARSKI** asked **Dr. McBride** why optometrists are resisting the amendment. **Dr. McBride** said if there were that kind of drop in acuity, the optometrist would automatically refer the patient to an ophthomologist.

CHAIRMAN BOHARSKI asked **Dr. Simons** to respond to his questions on the amendments. **Dr. Simons** said general practitioners have unlimited use of topical corticosteriods, and these limitations are not applied there, even though their education is much less than optometrists. If there is a decrease in vision, he refers the patient to an ophthomologist before two lines.

CHAIRMAN BOHARSKI asked **Dr. Weber** if the academy opposed the bill unanimously. **Dr. Weber** said there are ophthalmologists that will not oppose the bill because optometrists outnumber them and feel they cannot possibly win.

REP. GRIMES asked **Dr. Harrington** how the amendments would affect his practice. **Dr. Harrington** said state law doesn't affect his practice. Most optometrists feel the amendments are insulting.

REP. GRIMES asked **Dr. Coen** to respond to the amendments. **Dr. Coen** said there are two concerns about the amendment. If ophtholomologists would like to offer the amendment to general practitioners also, optometrists would accept the amendment. If ophthomologists trust general practitioners, who do not have the education optometrists have, they should be able to trust optometrists without an amendment. You can't legislate good care, it occurs in the office.

REP. BARNHART asked **REP. SIMON** if it is common practice in legislation to have one group bring up amendments when another group is trying to get a law passed. **REP. SIMON** said the relationship here is quite unique. This is one of the few practice acts where there have been very specific limitations. The Medical Practice Act for physicians has no such restrictions. It is totally inappropriate that legislators should get to the point of micro-management by writing into the laws these kinds of technical details. Optometrists are referring patients to ophthalmologists when they see deteriorating problems that they are not capable of handling now. **REP. SIMON** said he finds the amendments interesting, especially the part that states the patient shall be referred to a physician licensed under Title 37, chapter 3. Title 37 covers all medical doctors. In other words,

the patient could be referred to a general practitioner. Optometrists have abilities far beyond a general practitioner.

Closing by Sponsor:

REP. SIMON said the ophthalmologists deny there is a turf war with the optometrists. This is a turf issue. The ophthalmologists have moved forward in technology, but don't want the optometrists to change their practice at all. All of the people that are graduating from optometry school today, are taking training for therapeutic drugs, including topical steroids. Optometrists are not asking to become medical doctors. They are asking to use a regiment of drugs within the scope of what they are trained to do. Optometrists have proven their responsible management of the drugs they were allowed to use in 1987. There has not been one complaint lodged against optometrists as a result of the use of those therapeutic drugs. The optometrists that are trained to use therapeutic drugs, should be allowed, under their practice Act, to use these drugs. He asked the committee to support HB 315.

EXECUTIVE ACTION ON HB 145

Motion: **REP. SAYLES MOVED HB 145 DO PASS.**

Motion: **REP. SAYLES MOVED TO AMEND HB 145.**

Discussion: **CHAIRMAN BOHARSKI** explained the amendments. **EXHIBIT 14.**

REP. RUSSELL said when **Rep. Cobb** introduced HB 145 he talked about three levels. The second level dealt with block grants. **REP. RUSSELL** asked **CHAIRMAN BOHARSKI** if the amendments covered only the first level. **CHAIRMAN BOHARSKI** said the expansion of the medicaid program covers level one. The block grants are the statutory appropriations in the amendment, and covers level two.

Vote: Voice vote was taken. Motion **CARRIED** unanimously.

Discussion: **REP. SIMON** said he talked to **REP. COBB** about having a pilot program that would allow for payments to AFDC recipients that spend less than half of the average expenditure for Medicaid during a calendar year. Money would be made available up to $100, and would be paid to the recipients in February if they kept their Medicaid expenditures below a certain level. The recipient must provide proof to SRS that the child has been participating in a wellness program authorized by the statute. **REP. SIMON** said he would like to include this in the bill so a pilot program could be authorized. At present, Medicaid has no controls on usage. The patient has no responsibility towards making payments at the present time. If patients had some

incentive they would be more careful in their usage of Medicaid and would save money.

CHAIRMAN BOHARSKI asked **REP. SIMON** if the language had been drafted, to which he replied no. **CHAIRMAN BOHARSKI** asked **REP. SIMON** if he intended to direct SRS to seek a waiver. **REP. SIMON** said absolutely.

Motion: **REP. SIMON MOVED** amendments be drafted to HB 145, to include a pilot program in two counties to test the Medicaid incentive program for AFDC recipients.

Vote: Voice vote was taken. Motion **CARRIED** 15 to 1. **REP. BARNHART** voted no.

Motion/Vote: **REP. SAYLES MOVED HB 145 DO PASS AS AMENDED.** Voice vote was taken. Motion **CARRIED** unanimously.

Vote: **HB 145 DO PASS AS AMENDED.**

ADJOURNMENT

Adjournment: The meeting adjourned at 7:45 p.m.

Wm E Boharski

WILLIAM BOHARSKI, Chair

Alyce Rice

ALYCE RICE, Secretary

WB/ar

HOUSE OF REPRESENTATIVES

HUMAN SERVICES AND AGING COMMITTEE

ROLL CALL **DATE** 2-5-93

NAME	PRESENT	ABSENT	EXCUSED
REP. BILL BOHARSKI, CHAIRMAN	✓		
REP. BRUCE SIMON, VICE CHAIRMAN	✓		
REP. STELLA JEAN HANSEN,V. CHAIR	✓		
REP. BEVERLY BARNHART	✓		
REP. ELLEN BERGMAN	✓		
REP. JOHN BOHLINGER	✓		
REP. TIM DOWELL	✓		
REP. DUANE GRIMES	✓		
REP. BRAD MOLNAR	✓		
REP. TOM NELSON	✓		
REP. SHEILA RICE	✓		
REP. ANGELA RUSSELL	✓		
REP. TIM SAYLES	✓		
REP. LIZ SMITH	✓		
REP. CAROLYN SQUIRES	✓		
REP. BILL STRIZICH	✓		

HOUSE STANDING COMMITTEE REPORT

February 8, 1993

Mr. Speaker: We, the committee on Human Services and Aging report that House Bill 145 (first reading copy -- white) do pass as amended .

Signed: _____
Bill Boharski, Chair

And, that such amendments read:

1. Title, lines 4 through 18.
Following: "AN ACT"
Strike: the remainder of line 4 through "DATE" on line 18
Insert: "RELATING TO HEALTH AND HEALTH SERVICES; CREATING A HEALTH CARE FUND; DIRECTING THE DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES TO IMPLEMENT EXPANDED FUNDING FOR MEDICAID REIMBURSEMENT FOR MEDICAL SERVICES TO CERTAIN CHILDREN AND WOMEN, USING THE MONEY IN THE FUND; DIRECTING THE DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES TO SEEK A FEDERAL WAIVER; PROVIDING AN APPROPRIATION FOR A HEALTH CARE AUTHORITY; AMENDING SECTION 53-6-131, MCA; AND PROVIDING EFFECTIVE DATES"

2. Page 2, line 20 through page 4, line 2.
Strike: page 1, line 20 through page 4, line 2 in its entirety
Insert: "WHEREAS, the Legislature recognizes the importance of access to health care services in all areas and to all residents of the state; and

WHEREAS, lack of a source of funding is a primary obstacle to providing health care coverage and access to services; and

WHEREAS, health care coverage is currently unavailable to certain children and pregnant women residing in the state; and

WHEREAS, there are over 50,000 Montana children who are not covered by any health insurance program.

Committee Vote:

a health care authority and if the authority determines to require the implementation of a single clearinghouse or single-form health care claims billing system, then the following amounts are appropriated to the department of social and rehabilitation services to support the change to that billing system during the period of July 1, 1993, through June 30, 1995:

Fiscal Year 1994

(July 1, 1993 -- June 30, 1994)

General fund	$ 50,000
Federal funds	150,000
Total	$200,000

Fiscal Year 1995

(July 1, 1994 -- June 30, 1995)

General fund	$ 0
Federal funds	0
Total	$ 0

(3) If Bill No. [LC 144] is passed and approved creating a health care authority, then the following amounts are appropriated to the authority for the purposes of a healthy start pilot program during the period of July 1, 1993, through June 30, 1995:

Fiscal Year 1994

(July 1, 1993 -- June 30, 1994)

General fund	$300,000
Federal funds	0
Total	$300,000

Fiscal Year 1995

(July 1, 1994 -- June 30, 1995)

General fund	$ 0
Federal funds	0
Total	$ 0

NEW SECTION. Section 5. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 17, chapter 2, and the provisions of Title 17, chapter 2, apply to [section 1].

NEW SECTION. Section 6. Severability. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in

all valid applications that are severable from the invalid applications.

NEW SECTION. Section 7. Effective dates. (1) [Sections 1, 3, 5, 6, and this section] are effective on passage and approval.

(2) [Section 4] is effective July 1, 1993.

(3) [Section 2] is effective January 1, 1994."

-END-

EXHIBIT 1
DATE 2-5-93
HB 355

2/5/93
HB 355
Rm 104 3PM

Chairman:

Members of the House Human Services:

My name is Roger Scott. I'm retired & have arthritis. My wife requires the prescription drug Premarin (Estrogen Supplement) & SYNTHROID. My youngest is now a student at MSU - had cancer at age 18. We are familiar with the costs of drugs. The cost of Premarin has tripled since my wife first had it prescribed. There is no generic version as far as we can determine. My wife now gets a generic version of SYNTHROID from National Rx Services, Inc. of Florida at 1/2 the cost she PAID locally.

Many of you have loved ones or friends that are on prescription drugs for asthritis, blood pressure medication, or A PAIN killer, etc., that have encountered extraordinary price increases in the last few years. These price increases have not been across the BOARD — but primarily only to the

more "popular" used prescription drugs. From 1985 to 1991 overall consumes prices grew 21% - prescription drugs grew 66% - Top selling prescription medicines grew 79%

Pharmaceutical firms have argued that such increases are necessary to maintain productive research. Yet these same "popular" prescription drugs cost dramatically less in Canada, Mexico and Europe.

Skilled "detailers" paid by drug companies have been the primary source of info to the nations 550,000 doctors. Typically doctors prescribe expensive brand name drugs rather than cheaper versions that do just as well.

This bill is a first step. It will not correct the price abuse, but it will help the buyer to be informed regarding the less expensive generic

versions, as well as, facilitate shopping around for brand-name prescription drugs whose no generic version is available. It may even encourage Doctors to be more cost conscious in writing prescriptions and pharmacist better informed regarding generic versions that should be available to customers.

EXHIBIT 1
DATE 2/5/93
HB 355

EXHIBIT 2
DATE 2-5-93
HB 355

Montana Senior Citizens Assn., Inc.

WITH AFFILIATED CHAPTERS THROUGHOUT THE STATE
P.O. BOX 423 · HELENA, MONTANA 59624
(406) 443-5341

Mr. Chairman and Members of the Committee:

My name is Marion Hellstern, from Hinsdale. I am Treasurer of the Montana Senior Citizens Association and the director representing Phillips, Valley, Roosevelt, Daniels and Sheridan counties.

The Montana Senior Citizens Association believes that prescription drug prices should be posted in pharmacies just like any other consumer commodity, such as hardware, food, and furniture. Posting prices would enable consumers to be more informed and heighten their awareness that prices vary from pharmacy to pharmacy, often times significantly.

Prescription drugs are a big business in the United States. $28.7 billion were spent on prescription drugs in 1985. $71 billion in 1991. It is projected that by the year 2000 Americans will be spending $102.6 billion. People over 60 years old are 16.6% of the population. Yet they bought 40% of the prescription drugs. Prescription drugs are a major item of expenses for older Americans and their ever increasing costs place a burden on their limited incomes. Medicare does not cover prescription drugs and the majority of Medicare beneficiaries do not have insurance that covers drugs.

I would like to give a little background on the pharmaceutical industry. Between 1980 and 1990, general inflation increased 58%. During the same period, prescription drugs rose by 152%, three times greater. The average price of prescription drugs in 1980 was $20. It rose to $53.76 in 1991. If prescription drug inflation continues to increase the average drug will cost $77.06 in 1995 and $120.88 in 2000, a 600% increase. The drug industry has a profit margin of 15.5%, three times greater than the average Fortune 500 company.

I realize that our local pharmacies are not enjoying these same excessive profits. However, we must take steps to keep the

prices down. One step in that direction is posting prices. Every other retail business posts prices so that their customers can compare prices. It is no more than right that pharmacists post prices for, at least, the most used drugs. For a "free market" to work, it is imperative that customers have ready access to the prices on items. Those pharmacists who oppose posting prices are, no doubt, strong advocates of a "free market system". Do they want a "free market system" for everybody but themselves.

I urge you to vote for HB 355. Thank you.

Sources:

1989 World Almanac, p. 814.

Worst Pills, Best Pills, published by Public Citizens Health Research Group 1988, pages 7 and 11.

Special Committee on Aging, U.S. Senate, Staff Report, "The Drug Manufacturing Industry: A Prescription for Profits" September 1991.

EXHIBIT
DATE 2-5-93
HB 355

Montana Senior Citizens Assn., Inc.

WITH AFFILIATED CHAPTERS THROUGHOUT THE STATE
P.O. BOX 423 - HELENA, MONTANA 59624
(406) 443-5341

TESTIMONY OF DORIS FORKIN
HEARD BEFORE (H) HUMAN SERVICES & AGING
FEBRUARY 5, 1993

A few years back, a prescription drug campaign was initiated in the Flathead. This was to be a pilot project for the state. We did not know, and the pharmacists would not disclose, what the most commonly prescribed drugs were. We had to begin at square one and compile our own list by surveying our members as to what prescriptions they were using, where they were purchased, and the cost. It soon became apparent that there was a wide variation in individual drug prices from pharmacy to pharmacy. When we had compiled a list of commonly used drugs, we attempted to obtain prices for those drugs from all of the pharmacies in the area. Many of the druggists refused to cooperate, saying they were too busy or the prices changed too rapidly, most frequently in an upward direction.

We also approached the pharmacists on the idea of granting discounts to senior citizens. We suggested a 20% discount. A few were will to give 10%.

Since there was little cooperation from the druggists, we urged our

members to comparison shop. This would be much easier to accomplish if prices were posted.

As it now stands, many times people do not ask the price in advance, and when they receive their bill, they are overwhelmed.

EXHIBIT 4
DATE 2-5-93
HB 355

Montana Senior Citizens Assn., Inc.

WITH AFFILIATED CHAPTERS THROUGHOUT THE STATE
P.O. BOX 423 - HELENA, MONTANA 59624
③
(406) 443-5341

Mr. Chairman and Members of the Committee

I am Ethel Bender from Miles City, President of the Montana Senior Citizens Association District 3 and co-chair of the District's Prescription Drug Survey.

I wish to speak about the human side of the high cost of prescription drugs.

Our district conducted a prescription drug price survey in April 1992. We asked pharmacies in Miles City, Forsyth, Baker, Broadus and Jordan for the prices of 18 commonly used prescription drugs by seniors.

When you participate in a survey, as I did, you cannot help but become aware of the tragic consequences of the ever escalating prices. Here are some statistics our survey unveiled:

(1) Nearly one-third of those surveyed spent $100 per month on prescription drugs; some spend more.

(2) Nearly three-fourths have incomes of less than $15,000.

(3) In nearly one in five household, family members have postponed and cut the dosage of prescription drugs because of lack of money.

Is it any wonder that 90% said that they would like to see pharmacies post prices?

The pain and suffering caused by this situation is dramatically illustrated by the article that appeared in the Miles City Star May 1, 1992. (HOLD UP THE PAPER) This article states that Betty Mann, age 73, spends around $400 per month on prescriptions ordered by her doctor for a stomach ailment and high blood pressure. Her income is $600 a month. It takes some kind of juggling for her to survive. Mrs. Mann was so strapped, she was paying for her medicine with credit cards. She said she is having to file bankruptcy on the credit cards.

Even worse is the situation of Eunice Schinderle, 63, whose income is around $500 a month, and who spends $300-$400 a month for

medicine. Mrs. Schinderle said her doctor does everything he can to help with costs including giving her free samples of the prescription drugs when he has them.

An important fact that we uncovered by our survey was the wide variation in prescription drug prices. For example, in Miles City, one drug cost $30 for the same quantity at one pharmacy than at the two others. Do you think that customers were aware they were paying $30 more?

It is clear that not only senior citizens, but others, will benefit by pharmacies posting their prices on the most commonly used prescription drugs. This will allow consumers to comparison shop for prescription drugs the same as they do for other necessities of life.

Thank you and I will appreciate your support for House Bill 355.

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Montana Senior Citizens Assn., Inc.

WITH AFFILIATED CHAPTERS THROUGHOUT THE STATE

P.O. BOX 423 - HELENA, MONTANA 59624

(406) 443-5341

TESTIMONY OF LLOYD ANDERSON
HEARD BEFORE (H) HUMAN SERVICES & AGING
FEBRUARY 5, 1993

Mr. Chairman and members of the committee, my name is Lloyd Anderson. I am president of district 8 for the Montana Senior Citizen Association. I would like to talk about why I am supporting HB 355.

About two years ago, I was having a hard time getting over an illness. Unable to get an appointment with my regular doctor, I made an appointment with a new doctor. The new doctor looked over my medicines and found I was taking a combination of drugs that were dangerous to mix together. After, I was informed by the doctor of the dangerous combination I was taking. I asked my pharmacist about the problem, and he offered no explanation of why he did not inform me of this dangerous mix.

Shortly after this episode, the Helena chapter of MSCA began our prescription drug campaign. I found I could save $15.00 on one prescription by changing pharmacies. After discovering the price differences between pharmacies in Helena, we asked the pharmacies to post their prices. I personally asked the pharmacist at Gibsons six times

to post his prices. After he gave me the run around five times, the sixth time he said "NO."

My experience is not the exception but the rule. The members in Helena asked every pharmacy in town to post their prices on the twenty most commonly prescribed drugs they sell, and all said no.

Thank you Mr. Chairman and members of the Committee.

EXHIBIT 6
DATE 2-5-93
HB 355

Montana Senior Citizens Assn., Inc.

WITH AFFILIATED CHAPTERS THROUGHOUT THE STATE

P.O. BOX 423 - HELENA, MONTANA 59624

(406) 443-5341

TESTIMONY OF ELSIE LEE
HEARD BEFORE (H) HUMAN SERVICES & AGING
FEBRUARY 5, 1993

Mr. Chairman and members of the committee, my name is Elsie Lee. I am the MSCA board member for district 5. I along with my district stand in support of HB 355.

The experience of district 5 has been similar to our other chapters throughout the state. We have asked the pharmacies in our district to post the prices of the twenty most commonly prescribed drugs. The response we received has been one of inaction. One excuse after another of why they would not comply with our request. One rebuttal to our request is " call a pharmacy and ask for the price". MSCA members throughout the state have used this option and have found at times the price that were quoted on the phone was different than the actual cost of the real prescription. The price difference most often was caused by quoting the price of the drug at a lower dosage than prescribed. For some seniors with mobility problems the posting of prices would allow friends and family members to comparison shop for them while they were running their own errands.

I would like to thank you for your time and interest.

EXHIBIT 7
DATE 2-5-93
HB 353

Montana Senior Citizens Assn., Inc.

WITH AFFILIATED CHAPTERS THROUGHOUT THE STATE
P.O. BOX 423 - HELENA, MONTANA 59624
(406) 443-5341

Mr. Chairman and Members of the Committee

I am Alyce Miller from Richey and board representative from the Montana Senior Citizens Association District 2.

I would like to discuss my area's experiences in trying to get pharmacies to post prices. In 1988, District 2 which includes the towns of Sidney, Fairview, Savage, Circle, Richey, Terry, Wibaux and Glendive conducted a prescription price survey. The survey comprised of two parts. The first part asked participants what drugs they purchased and what their monthly prescription drug costs were. The second part asked the pharmacies for the prices of the mostly commonly used prescriptions according to the survey and about the services they provided.

Since more than 90% of the people who participated in the survey indicated they would like to see prices posted, the committees in Sidney and Glendive met with the local pharmacists and asked them to post prices. The pharmacists in Sidney readily agreed. They had no problems with the concept and posted prices. The only town who has done so.

Glendive pharmacists brought up many objections; these same objections have been heard by MSCA members from their pharmacists in the state.

For example: posting prices is unprofessional. I ask what is so unprofessional. Prices are posted for all other items at the drug store.

Another objection: the pharmacists claim that prescription drugs are not commodities like meat and vegetables. The pharmacists like to give counsel to their customers. It's true that pharmacists give advice to their customers. They <u>all</u> give advice and counsel. They all provide the same services. The only differences between one pharmacy and another are prices. And prices do vary sometimes very significantly as we heard in Miles City.

Recently, I decided to try again and asked my pharmacist if he would post prices. I suggested that people would be able to compare prices and be better consumers. He said, "Absolutely not, If they want to know the price of any drug, they can call and we'll be glad to give the price but not to compare prices." I said that many seniors can't afford the high prices and can't buy the drugs they need. He went on to say, "We don't need their trade if they have to shop around where the prices are cheaper." How professional is this attitude?

I know that the drug store business is very competitive. Pharmacists are willing to drop prices for some customers who do shop around. When people are sick, they aren't up to shopping around. They should be able to compare prices informally when they are out shopping for other items, just the way we do for other necessities.

I urge you to pass HB 355. Thank you.

H.B. 355

Testimony for Feb. 5

EXHIBIT 8
DATE 2-5-93
HB 355

Chairman Boharski and members of the committee. My name is Alice Campbell. I am a member of the board of the Montana Coalition for Nursing Home Reform and I reside in Missoula.

I am here to speak in favor of HB 355, the prescription drug bill. Prescription drugs are one of the largest items of expense in senior budgets, so it is important that we be able to shop for the best prices on those prescriptions. When I shop at a grocery store, a store in the mall or any retail outlet, the items have price tags so I can decide which I can afford to buy. Even in drug stores or pharmacies all items except prescription drugs have visible price labels. A few pharmacies do list a number of the most prevalent used prescription drugs and their cost. Seniors used to buying at their favorite pharmacy may be reluctant to question the cost of their prescriptions, altho they might save a considerable amountby buying elsewhere. We seniors believe we should be able to shop for the best prices in prescription drugs the same as we do for groceries. We don't believe it unreasonable to ask that pharmacies post a list with prices of the 20 most prevalent drugs used by seniors.

EXHIBIT 9
DATE 2-5-93
HB 355

February 4, 1993

Member of the Committee. I am James Meldrum. I represent Montana Independent Living Project located in Helena. We serve the southwestern area of Montana. We support HB 355 'posting monthly of twenty selling prescriptive drugs.'

Many of the about 35,000 Montanans who have disabilities are on very limited incomes. We find they must of necessity price shop for their prescriptive drugs. Some of the prescriptive regiments may cost as much as $350 or more each month.

The language in this bill will require the pharmacy to display the cost, and alternative generic names and costs, thus helping the individual who has a disability to achieve the proper medication for the best price possible.

This bill also allows the person with a disability to be more independent, as they can shop the pharmacies, and then make their choices where they desire to purchase the prescription.

We would ask for your support of this bill

Thank You

EXHIBIT 10
DATE 2-5-93
HB 355

TESTIMONY
HOUSE BILL 355

Submitted by The Montana State Pharmaceutical Association
February 5, 1993

Contact: Bonnie Tippy, Executive Director
449-3843

While it is always difficult to oppose legislation which is proposed by senior citizens, the Montana State Pharmaceutical Association, after careful review and study, must strongly urge that this committee not pass HB355.

The problems with the bill draft itself are numerous:

1) WHOSE TOP 20? The bill says that the pharmacy must post a listing of the 20 top selling drugs. What does this mean? Is it by city, by state, by region, country? Is it by dollar volume, number of prescriptions dispensed, by year to date units dispensed? Since this is a senior citizens bill, one would think that many of the top 20 drugs dispensed would be maintenance drugs that seniors use. In fact, very few top 20 drugs are maintenance drugs, so this bill simply does not address the needs. The way it is drafted, it would be up to each individual pharmacy to choose the top 20 as they deemed proper.

2) WHAT QUANTITIES OF THE DRUGS ARE TO BE POSTED? Is it a month's supply, 30's, 100's? What is a months supply? One person may take 2/day which would equal 60 per month, another person may take 4/day, which would be 120 per month.

3) WHICH BRANDS OF WHICH DRUGS? Several drugs come in more than one brand, which is why consumers can get confused. What in this bill guarantees that pharmacies even all carry the same brand of a particular drug, let alone that the posting could possible be consistent from pharmacy to pharmacy?

4) MISCONCEPTIONS ON PRICING AND QUANTITY. Consumers assume that if 50 of a particular drug costs 50.00, then 100 of a particular drug will cost $100. This is not true, and will vary by pharmacy, i.e. Pharmacy A charges 20.00 for 50 of Gluetrol (for diabetes). Pharmacy B charges 22.00 for 50. Pharmacy A charges $39.00 for 100 and pharmacy B charges $38.00 for 100. The consumers assumption would be that the pharmacy that charges $20 for 50 would be less for 100 than pharmacy B, which charges $22.00, when just the opposite is true.

5) HOW ARE THE DRUGS AND PRICES TO BE POSTED? On a readerboard, on a regular 81/2x11? A sign?

6) MONTHLY POSTING WILL NOT HELP. Because of pharmaceutical manufacturers out of control price raising, a monthly posting will often be wrong. The only way to be accurate is to post daily, and do we really want to burden pharmacists with this?

7) IS THE CRIME WORTH THE PUNISHMENT? No other health care provider can have a license suspended or pulled for failing to list the cost of their services. This is a dragonian measure. Here are some examples: Does an optometrist have to list the cost of an exam and eyeglasses? Does an orthopedic surgeon have to list the cost of a hip replacement? Does a dentist have to post the cost of a porcelain crown? Must any provider be subject to license revocation for a failure to physically post prices? No, and pharmacists should not have to either.

8) THE COMPLAINT REVIEW PROCESS AND NEED FOR A FISCAL NOTE. The bill says that the Board can suspend or revoke a license or otherwise punish a pharmacy for failure to post prices, yet the fiscal note does not reflect the increase in State Board activity. With all of the confusion over "top 20" that I have already discussed, it is highly likely that the Board will receive numerous complaints on a continuous basis. Who will have to pay for these complaints and their review process? The pharmacists, through increased licensure fees. The fiscal note should reflect that the Department of Commerce will have increased costs for the Board of Pharmacy.

9) The Board of Pharmacy is given the responsibility for all of this, but no rulemaking authority.

10) THIS BILL IS DANGEROUS. 15% of current hospital admissions are due to adverse drug reactions from under or overutilization, mis-medication, etc. This bill encourages senior citizens to buy one drug at Shopko, another at Bergum, and still another at Gibsons. This means that no one pharmacy has a record of all of the medications that a senior citizen is taking, and cannot accurately review their drug profile. Under a law that Congress passed in 1990 and that the Montana Legislature codified in 1991, pharmacists must now keep records on every patients and counsel them regarding their medications. This is very hard to do if seniors are not utilizing just one pharmacy. Even one intervention that is performed by a pharmacist that prevents a complication leading to a hospital visit would potentially save thousands of dollars and much potential suffering.

Sponsors of this bill should be able to show how this bill will enhance quality of care to senior citizens, how it will save money on prescriptions, and how failure to post pharmaceutical prices is justification for pulling a license. All pharmacies currently provide prices at the counter, by phone, and prices to all segments of the population. It is important to remember that community pharmacy is a very competitive business, and shopping around by phone is very acceptable. One of the chief complaints of the seniors is that they can't get accurate price quotes by phone. With the confusing generic and brand names now used and misconceptons about posted prices, this bill

EXHIBIT 10
DATE 2/5/93
HB 355

would create even more confusion than already exists.

WHAT ARE THE SOLUTIONS? This bill being introduced shows that there are problems with seniors obtaining information about their medications. What are some potential solutions to the problems? We would offer the idea of a committee bill which would require that the Governors Office on Aging perform a survey of, say 20 pharmacies per month. This survey could be done by phone, and the Office could ask for very specific drugs, brands, quanities, etc. Then the Office could average out the costs of these drugs and provide a bulletin to Seniors. Seniors could then compare what their local pharmacy is charging to the average costs. The Montana State Pharmaceutical Association would be happy to work with the Governor's Office on Aging to develop an accurate top 20 list of drugs utilized by senior citizens, and would also encourage our members cooperation with the monthly survey.

While our solution does not answer the problem of the high cost of pharmaceuticals, it would provide seniors with accurate and relevant information. The Senate is now considering a Resolution which directly pinpoints the problem of cost where it belongs -- at the feet of the pharmaceuticaal manufacturers and their discriminatory pricing practices. These pricing practices are making the provision of medications at the retail level extremely difficult, and it is time that Congress acted to control the problem.

There is one final point that we would like to make. Yes, drugs are costly, but drugs save lives and enhance quality of life for senior citizens every day. While we recognize the problems with pricing of these products, let us not forget the truly remarkable role that they play in all of our lives.

MONTANA OPTOMETRIC ASSOCIATION
36 SOUTH LAST CHANCE GULCH, SUITE A • HELENA, MT 59601 • TELEPHONE (406) 443-1160 • FAX (406) 443-4614

EXHIBIT 11
DATE 2-5-93
HB 315

HOUSE BILL 315

The original is located at the Historical Society,
225 North Roberts Street, Helena, MT 50620-1201.
The phone number is 444-2694.

Prepared for the
House Human Services and Aging Committee
February 5, 1993

MONTANA ACADEMY OF OPHTHALMOLOGY

23 S. LAST CHANCE GULCH ▲ HELENA, MONTANA 59601 ▲ (406) 449-2334

EXHIBIT 12
DATE 2-5-93
HB 315

Proposed Amendment Rationale

The Montana Academy of Ophthalmology opposes House Bill 315. We cannot support a bill that endangers public health and safety by allowing optometrists to treat with steroids. Topical steroids may cause glaucoma in up to 20% of patients. Prolonged use of topical steroids also causes cataracts. These are only two of the major safety considerations.

This bill will allow treatment limited to the *anterior segment*. It does not exclude treatment to the anterior segment when *posterior segment* disease is present. The *anterior segment* is basically the front part of the eye -- the cornea, anterior chamber, iris, and lens. Signs of disease of the anterior segment are easier to detect. There is also less likelihood of blindness if there is an error in diagnosis or therapy. Most problems here can be treated with eye drops.

The *posterior segment* is the back part of the eye -- ciliary body, vitreous, choroid, retina, sclera, and optic nerve. Posterior segment disease is very often difficult to detect. There is a high rate of blindness if disease is not accurately treated. Treatment of posterior segment disease requires systemic medications or injections into the eye. Disease here cannot be treated with eyedrops. Mistreatment results in delay in accurate diagnosis, delay in specific therapy, and risk of blindness.

Anterior segment and posterior segment are not independent; neither can function without the other. Disease in one may overlap into the other. We are especially concerned that this bill as written will allow optometrists to treat posterior uveitis, a group of serious diseases that can lead to blindness -- diseases that cannot be treated with drops to the anterior segment.

Here are two examples to illustrate our concern:

Case #1: A man was treated for red eye with topical antibiotics by his Missoula area optometrist. The treatment was limited to the anterior segment with topical antibiotics as allowed by the 1987 expansion of the Optometric Practice Act. But, the patient's disease was in the posterior segment. The disease was acute endophthalmitis, bacterial infection of the posterior segment, the very worst type of posterior uveitis. It causes blindness 100% of the time if not treated immediately with injections of antibiotic into the eye. This patient lost all sight in the eye. This was a posterior segment disease treated with drops to the anterior segment.

Case #2: A twenty-five year old woman was referred to our clinic one year ago by her optometrist. She had a red eye, blurred vision, and cells and flare in the anterior chamber. This looked like a mild case of iritis, which optometrists wish to treat with topical steroids limited to the anterior segment. We detected, with great difficulty, an area of swelling in the

retina, evidence of a posterior uveitis. We ordered lab tests, which established:

1. The infection was due to syphilis.
2. Both retinas were infected. Without specific, timely systemic treatment, the patient would lose her sight.
3. She was three months pregnant.

With high dose, systemic penicillin, the patient regained her eyesight and delivered a healthy baby free of syphilis.

All ophthalmologists have treated syphilis at some point in medical school, internship, residency, fellowship, or private practice. No optometrist has treated syphilis. How many of them have ever diagnosed syphilis? How many have ever ordered a blood test for syphilis? Under this proposed bill, this woman's optometrist could have chosen therapy with topical steroids instead of referring. The result could have been the loss of her vision and her baby.

Optometrists say they don't want to treat posterior segment disease. We agree that they should not. We request that the committee require that they not be allowed the treatment of posterior uveitis.

We offered co-management to the optometrists. Under co-management, local ophthalmologists and optometrists would develop treatment protocols for the use of steroids. Ophthalmologists would give an open prescription for topical steroids to the local pharmacies, and the optometrists could treat the appropriate anterior segment disease without having to call the ophthalmologist or refer the patient. Cases involving loss of vision or complication from steroids would require referral. The optometrists rejected this proposal.

Our remaining option is to amend the bill. If the committee will amend the bill to provide for a measure of public safety, we will withdraw our opposition. Our amendments will give the optometrists what they ask for: authority to treat basic, lower risk inflammations; but, they will also give a measure of safety to the general public. We ask that this bill be amended to:

1. Prohibit optometric therapy of the anterior segment if posterior segment inflammation is present.

2. Require that an optometrist immediately refer a patient on topical steroids whose reduced visual acuity has failed to improve after one week of treatment.

We have proposed specific wording regarding the amendment.

Thank you.

EXHIBIT 13
DATE 2-5-93
HB 315

PROPOSED AMENDMENTS TO
HB 315

1. Page 1, line 5
   Following: "CORTICOSTEROIDS"
   Insert: "UNDER CERTAIN CONDITIONS"

2. Page 2, line 16
   Following: "eye and adnexa."
   Insert: "Topical corticosteroids for ocular treatment in the anterior segment of the eye may not be used if inflammation is present in the posterior segment of the eye. If visual acuity is reduced by greater than two (2) lines and the decrease in visual acuity does not improve after seven (7) days of treatment with corticosteroids, the patient shall be referred to a physician licensed under Title 37, chapter 3."

EXHIBIT 14
DATE 2-5-93
HB 145

Amendments to House Bill No. 145
First Reading Copy

Requested by Rep. Cobb
For the Committee on Human Services and Aging

Prepared by David S. Niss
February 3, 1993

1. Title, lines 4 through 18.
Following: "AN ACT"
Strike: the remainder of line 4 through "DATE" on line 18
Insert: "RELATING TO HEALTH AND HEALTH SERVICES; CREATING A HEALTH CARE FUND; DIRECTING THE DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES TO IMPLEMENT EXPANDED FUNDING FOR MEDICAID REIMBURSEMENT FOR MEDICAL SERVICES TO CERTAIN CHILDREN AND WOMEN, USING THE MONEY IN THE FUND; PROVIDING AN APPROPRIATION FOR A HEALTH CARE AUTHORITY; AMENDING SECTION 53-6-131, MCA; AND PROVIDING EFFECTIVE DATES"

2. Page 2, line 20 through page 4, line 2.
Strike: page 1, line 20 through page 4, line 2 in its entirety
Insert: "WHEREAS, the Legislature recognizes the importance of access to health care services in all areas and to all residents of the state; and

WHEREAS, lack of a source of funding is a primary obstacle to providing health care coverage and access to services; and

WHEREAS, health care coverage is currently unavailable to certain children and pregnant women residing in the state; and

WHEREAS, there are over 50,000 Montana children who are not covered by any health insurance program.

STATEMENT OF INTENT

A statement of intent is required for this bill because 53-6-131 requires the department of social and rehabilitation services to adopt rules establishing fees for enrollment of families in an expanded medicaid program if allowed by federal regulation. The legislature intends that the fees set by the department be sliding monthly fees of at least $10 per child, to a maximum of $360 per family per year."

3. Page 4, line 5 through page 22, line 21.
Strike: everything following the enacting clause
Insert: "NEW SECTION. Section 1. **Health care fund.** There is a health care fund within the state special revenue fund. The purpose of the fund is to provide a continuing source of revenue for health care services and related activities for residents of Montana.

Section 2. Section 53-6-131, MCA, is amended to read:

"53-6-131. **Eligibility requirements.** (1) Medical assistance under the Montana medicaid program may, in the discretion of the department of social and rehabilitation services, be granted to a person who is determined by the department ~~of social and rehabilitation services~~ to be eligible as follows:

(a) The person receives or is considered to be receiving supplemental security income benefits under Title XVI of the federal Social Security Act (42 U.S.C. 1381, et seq.) or aid to families with dependent children under Title IV of the federal Social Security Act (42 U.S.C. 601, et seq.).

(b) The person would be eligible for assistance under a program described in subsection (1)(a) if ~~he~~ the person were to apply for ~~such~~ assistance.

(c) The person is in a medical facility that is a medicaid provider and, but for residence in the facility, ~~he~~ would be receiving assistance under one of the programs in subsection (1)(a).

(d) The person is under 19 years of age and meets the conditions of eligibility in the state plan for aid to families with dependent children, other than with respect to school attendance.

(e) The person is under 21 years of age and in foster care under the supervision of the state or was in foster care under the supervision of the state and has been adopted as a hard-to-place child.

(f) The person meets the nonfinancial criteria of the categories in subsections (1)(a) through (1)(e) and:

(i) the person's income does not exceed the medically needy income level specified for federally aided categories of assistance and ~~his~~ the person's resources are within the resource standards of the federal supplemental security income program; or

(ii) the person, while having income greater than the medically needy income level specified for federally aided categories of assistance, has an adjusted income level, after incurring medical expenses, that does not exceed the medically needy income level specified for federally aided categories of assistance and ~~his~~ the person's resources are within the resource standards of the federal supplemental security income program.

(g) The person is a qualified pregnant woman ~~or child~~ as defined in 42 U.S.C. 1396d(n).

(h) The person is a qualified child, as defined in 42 U.S.C. 1396d(n), and is under 18 years of age or is older than 18 years of age if required by federal law. The department may in its discretion expand the deductions allowed from the income of the qualified child's family beyond the deductions allowed for aid to families with dependent children, as provided in 42 U.S.C. 1396a(r).

(2) The Montana medicaid program shall pay for the premiums necessary for participation in the medicare program and may, within the discretion of the department, pay all or a portion of the medicare deductibles and coinsurance for a medicare-eligible person or for a qualified disabled and working individual, as defined in section 6408(d)(2) of the federal Omnibus Budget

Reconciliation Act of 1989, Public Law 101-239, who:

(a) has income that does not exceed income standards as may be required by the federal Social Security Act; and

(b) has resources that do not exceed standards the department determines reasonable for purposes of the program.

(3) The department may pay a medicaid-eligible person's expenses for premiums, coinsurance, and similar costs for health insurance or other available health coverage, as provided in 42 U.S.C. 1396b(a)(1).

(4) The department, under the Montana medicaid program, may provide, if a waiver is not available from the federal government, medicaid and other assistance mandated by Title XIX of the federal Social Security Act (42 U.S.C. 1396, et seq.), as may be amended, and not specifically listed in this part to categories of persons that may be designated by the act for receipt of assistance.

(5) Notwithstanding any other provision of this chapter, medical assistance must be provided to infants, newborn through 1 year of age, and to pregnant women whose family income does not exceed ~~133%~~ 150% of the federal poverty threshold, as provided in 42 U.S.C. 1396a(a)(10)(A)(ii)(IX) and 42 U.S.C. 1396a(l)(2)(A)(i).

(6) A person described in subsection (5) must be provided continuous eligibility for medical assistance, as authorized in 42 U.S.C. 1396a(e)(5) through a(e)(7).

(7) Notwithstanding any other provision of this chapter, medical assistance must be provided to a child 1 year of age through the month of the child's sixth birthday, whose family income does not exceed 133% of the federal poverty threshold, as provided in 42 U.S.C. 1396a(a)(10)(A)(i)(VI).

(8) The department may require payment of a monthly premium as a prerequisite for services offered under subsection (1)(h) or (7). The premium must be established by department rule and take into consideration the income of the family to whom the payment is charged. Premium payments collected by the department must be deposited in the health care fund created by [section 1]."

NEW SECTION. **Section 3. Appropriations.** (1) If Bill No. [LC 144] is passed and approved creating a health care authority and regional health planning boards, then the following amounts are appropriated to the authority for the purposes of the administration of the authority and the provision of grants to regional health planning boards for wellness programs, preventive care, insurance payments, and coordination of health care services by the regional boards during the period of July 1, 1993, through June 30, 1995:

Fiscal Year 1994

(July 1, 1993 -- June 30, 1994)

General fund	$1,250,000
Federal funds	250,000
Total	$1,500,000

Fiscal Year 1995

(July 1, 1994 -- June 30, 1995)

General fund	$1,250,000
Federal funds	250,000
Total	$1,500,000

(2) If __Bill No.__ [LC 144] is passed and approved creating a health care authority and if the authority determines to require the implementation of a single clearinghouse or single-form health care claims billing system, then the following amounts are appropriated to the department of social and rehabilitation services to support the change to that billing system during the period of July 1, 1993, through June 30, 1995:

Fiscal Year 1994

(July 1, 1993 -- June 30, 1994)

General fund	$ 50,000
Federal funds	150,000
Total	$200,000

Fiscal Year 1995

(July 1, 1994 -- June 30, 1995)

General fund	$ 0
Federal funds	0
Total	$ 0

(3) If __Bill No.__ [LC 144] is passed and approved creating a health care authority, then the following amounts are appropriated to the authority for the purposes of a healthy start pilot program during the period of July 1, 1993, through June 30, 1995:

Fiscal Year 1994

(July 1, 1993 -- June 30, 1994)

General fund	$300,000
Federal funds	0
Total	$300,000

Fiscal Year 1995

(July 1, 1994 -- June 30, 1995)

General fund	$ 0
Federal funds	0
Total	$ 0

NEW SECTION. Section 4. **Codification instruction.** [Section 1] is intended to be codified as an integral part of Title 17, chapter 2, and the provisions of Title 17, chapter 2, apply to [section 1].

NEW SECTION. Section 5. **Severability.** If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid

applications.

NEW SECTION. Section 6. **Effective dates.** (1) [Sections 1, 4, 5, and this section] are effective on passage and approval.

(2) [Section 3] is effective July 1, 1993.

(3) [Section 2] is effective July 1, 1994."

EXHIBIT 14
DATE 2/5/93
HB 145

HOUSE OF REPRESENTATIVES
VISITOR'S REGISTER

Human Services COMMITTEE BILL NO. 315

DATE 2/5/93 SPONSOR(S) Rep. Simon

PLEASE PRINT PLEASE PRINT PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
TOM MATSKO MD 2800 11TH AVE SO GTF	OPHTHALMOLOGY		X
Ron Bennett OD 210 1st Ave Laurel	OPTOMETRY	✓	
~~Nancy Stimpert~~			
Sue Wenger	MOA	✓	
Bethany A. Warner Weber R.D.			X
~~Mt Hosp. Assn~~			
Janet Jaendorf	MT. Med. Ass'n		X
W. Bruce Coen	O.D.	✓	
Helen McKnight	MSCA	✓	
Betty Fiedler	Wy. Sub. Sp	✓	
Anne Gilman	Montana Hemophilia Ass'n	✓	
MARIE CASSIDY	NARFE	✓	
Margaret Fleming	NARFE, Legislative Chair, MSCA	✓	
Lucile Tramuth	AARP Leg Leg.	✓	

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HOUSE OF REPRESENTATIVES
VISITOR'S REGISTER

Human Services COMMITTEE BILL NO. 315

DATE 2/5/93 SPONSOR(S) Rep Simon

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NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Kim CAINAN. 917 3rd Ave N. Great Falls.	Optometry	X	
John A. Kumm, O.D 2916 6th Ave N Great Falls	Optometry	X	
L. Kent Harrington 5006B LOCUST ST GREAT FALLS	Optometry	X	
[illegible] 912 6th Ave Great Falls	Optometry	X	
P.L Kaltwood GT Falls	Bd of Optometry	X	
Kevin W. McBride OD Billings	MOA	X	
Bill Simms OD Billings	MOA	X	
John J. Kuplic OD Hamilton	MOA		X
Gloria Hermanson	MT Academy of Ophth.		X
[illegible] OD Missoula	optometry	X	
Charles Galyon	Galveston S.S.	X	
Larry Laflock	Optometry	X	
[illegible]	Opht		X
~~[illegible]~~			X

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HOUSE OF REPRESENTATIVES
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HOUSE HUMAN SERVICES & AGING COMMITTEE BILL NO. 315

DATE 2/5/93 SPONSOR(S) REP. SIMON

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NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Patty HARless	MSCA (Monarch	✓	
Steve Brown	Mt. Academy of Opth.		X
LOREN B McKERROW	" " "		X
Bruce Bollman MD	" " "		X

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HOUSE OF REPRESENTATIVES
VISITOR'S REGISTER

Human Services COMMITTEE BILL NO. SB 209

DATE 2/5/93 SPONSOR(S) Sen. Crippen

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NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
[illegible]	[illegible]		
John Kuna, O.D 2916 6th Ave N. Great Falls	Optometry	X	
[illegible] OD 512 E Fourth Great Falls	Optometry	X	
L. KENT HARRINGTON 5006B LOCUST ST GREAT FALLS	Optometry	X	
P.L. Kathren O.D. G.Falls	Bd of Optometry	X	
Kevin W. McBride, OD Billings	MOA	X	
[redacted]	[redacted]		
[illegible] 550 N Montana	Helena MOA	X	
[illegible] Kimball, OD Bozeman	Optometry	X	
[illegible] 201 W. Madison Belgrade	Optometry	X	
[illegible] Helena	[illegible]		X
[redacted]	[redacted]		X
[redacted]	[redacted]		[redacted]
[illegible] EVANS	MSCA		X

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HOUSE OF REPRESENTATIVES
VISITOR'S REGISTER

Human Services COMMITTEE BILL NO. SB 209

DATE 2/5/93 SPONSOR(S) Sen. Crippen

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NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Robert Freeman	M.P.A	✓	

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HOUSE OF REPRESENTATIVES
VISITOR'S REGISTER

Human Services COMMITTEE BILL NO. HB 355

DATE 2/5/93 SPONSOR(S) Rep. Harper

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NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
FORREST FERRIS Miles City			
Bethany A. Warner Weber	R.N. SAF	X	[redacted]
Alice Campbell	MCNHR.	X	
MARK EICHLER	MSPA		X
Larry STIMAC	MSCA	X	
HERMAN WITTMAN	NARFE, LEGACY LEG	X	
SHARON HOFF	MT CATH CNFER.	X	
Jennie Coaty	MSCA	X	
Mary Smith	MSCA	X	
[illegible]	MSCA MLC	X	
[illegible]	MILD	X	
[illegible]	Mt. Nurses Assoc.	X	
Cristina Medina	Mt. Low-Income Coalition	X	
Doug Campbell	MSCA	X	

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HOUSE OF REPRESENTATIVES
VISITOR'S REGISTER

Human Services COMMITTEE BILL NO. HB 355

DATE 2/5/93 SPONSOR(S) Rep. Hayne

PLEASE PRINT PLEASE PRINT PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Kate Choken	MT Womens Lobby	X	
Roger K. Scott	Retires	X	
HARLAND J SINK	MTSCHSSOC	X	
Helen Dale	" "	X	
Ruth E. Sink	" "	X	
Ed Sheehy	Retired Federal Employee	X	
[redacted]	[redacted]	[redacted]	
MARION HELLSTERN	MSCA	X	
Lloyd Anderson	MSCA	X	
Bruce Dyson	MSCA	X	
Alyce Miller	MSCA	X	
Ray Miller	MSCA	X	
Dorie Jenkins	MSCA	X	
Ethel Benders	MSCA	X	

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Hilde Dale Evans MSCA X
Melissa Case N.C.N.R X

HOUSE OF REPRESENTATIVES
VISITOR'S REGISTER

Human Services COMMITTEE BILL NO. H.355

DATE 2-5-93 SPONSOR(S) Rep Harper

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NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Verner Bertelsen - Helena	Legacy Legislature	X	
Al Schmitz	NPRC	X	
Ernest O. Redlin Jr.	NPRC		
Roy A Nelson	MSCA Twin Bridges chapter	X	
Ella Nelson	" " "	X	
ED Caplis	MSCA	X	
Elmer Faith	MSCA	X	

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